

**Complaint reference:**  
17 007 535

**Complaint against:**  
Kent County Council

## **The Ombudsman's final decision**

Summary: The Ombudsman will not investigate Mr and Mrs A's complaint that the Council was at fault in refusing their application and appeal for school transport assistance for their daughter. It is unlikely that he would identify fault on the Council's part.

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## **The complaint**

1. The complainants, who I will refer to as Mr and Mrs A, complain that the Council was at fault in refusing their application for school transport assistance for their daughter.

## **The Ombudsman's role and powers**

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe it is unlikely we would find fault. (*Local Government Act 1974, section 24A(6), as amended*)

## **How I considered this complaint**

3. I have considered what Mr and Mrs A have said in support of their complaint and the supporting documents they have provided. I have taken account of their response to my draft decision.

## **What I found**

4. Mr and Mrs A state that their son receives school transport assistance. Although the school he attends is not the closest to his home address, he qualifies because the Council was unable to place him at the school of his parents' choice or a closer alternative.
5. Mr and Mrs A's daughter is due to start school in September 2017. Mr and Mrs A applied successfully for a place for her at the school her brother attends. However, the Council refused their application for transport assistance. It explained why Mr and Mrs A's daughter does not qualify for transport assistance under its home to school transport policy. Mr and Mrs A regard the decision as unreasonable, given that their son is not attending the school of their choice.

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6. Councils have the discretion to consider exceptional circumstances and must have an appeal process by which to do so. Mr and Mrs A appealed against the Council's decision. Their appeal was considered by the Council's appeal panel.
  7. The majority of the panel decided that Mr and Mrs A's case was not so compelling as to warrant using its discretion to award transport assistance. Mr and Mrs A disagree with the panel's decision and identify what they see as fault on the panel's part. They also state that a neighbour's children have been awarded transport in what they regard as identical circumstances.
  8. The Ombudsman will not investigate Mr and Mrs A's complaint because it is unlikely he would identify fault on the Council's part. Mr and Mrs A disagree with the appeal panel's decision. But that does not provide grounds for the Ombudsman to intervene in the absence of evidence of fault.
  9. The record of the appeal hearing shows that Mr and Mrs A were able to make their case and that the panel considered it. They do not believe the Council gave sufficient weight to their case. But that is a matter for the panel, not the Ombudsman. There is no evidence of fault in the way the panel considered the matters before it.
  10. All appeals must be considered individually, and the fact that another appeal was allowed is not indicative of fault in the way Mr and Mrs A's appeal was decided. It is not likely that the alleged factual inaccuracies Mr and Mrs A have identified in the record of the hearing were decisive in the process of reaching a decision and I attach no particular significance to them.
  11. The appeal panel was entitled to make its own judgement on the evidence before it. The Ombudsman cannot criticise a decision which is properly made or intervene to substitute an alternative view.

### **Final decision**

12. The Ombudsman will not investigate Mr and Mrs A's complaint because it is unlikely he would identify fault on the Council's part.

### **Investigator's decision on behalf of the Ombudsman**