

Complaint reference:
17 005 052

Complaint against:
Kent County Council

The Ombudsman's final decision

Summary: The Ombudsman will not investigate this complaint about the refusal of free school transport for the complainant's child. It is unlikely an investigation would find fault in the way the panel made its decision.

The complaint

1. The complainant, whom I will call Mr C, complains:
 - His request for free school transport for his daughter was unreasonably refused and
 - His appeal was unfair. Mr C says he could not present a proper case as the Council had not explained he needed to present his extenuating circumstances to enable the panel to override the Council's policy.

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*)
3. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)

How I considered this complaint

4. I considered Mr C's complaint, the papers considered by the appeal panel and correspondence between Mr C and the Council. I gave Mr C an opportunity to comment on my draft decision.

What I found

5. Mr C applied for free school transport for his daughter. The Council turned down his application. It said the school his daughter was attending was not the nearest appropriate school. The Council's policy is that, to be eligible for free school transport, a child must attend their nearest appropriate school and live more than three miles from it.

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6. Mr C appealed the Council's decision. At the appeal panel he argued the walking route to the school was not safe, he had moved since applying for school for his daughter. He noted the nearest appropriate school was over three miles from his home. The panel turned down the appeal. It considered Mr C's case was not strong enough to outweigh the additional cost of providing free transport.
 7. Mr C complained to the Ombudsman. He said the panel had not asked if he had any extenuating circumstances to justify overriding the policy. Mr C said the Council had not made clear that he had to present such a case.
 8. The Ombudsman will not investigate Mr C's complaint because it is unlikely we would identify fault on the Council's part. When Mr C applied for school transport he ticked the box that said he had read the Council's the Home to School Transport Guidance. The Council also provided a web link to the policy when it refused his application. The policy says the appeal panel would "look at the [appellant's] specific circumstances to determine whether they are sufficiently strong to enable them to use their discretion to make an exception [to the policy]."
 9. The Council has applied its school transport policy and there is no indication of fault in the way in it did so. An appeal panel then considered the case. It decided that the original decision to refuse free school transport was correct and there were no exceptional circumstances to justify allowing the appeal. Appeal panels are entitled to make their own judgements on the evidence before them. The Ombudsman cannot criticise a decision which is properly made or intervene to substitute an alternative view.

Final decision

10. The Ombudsman will not investigate this complaint. It is unlikely an investigation would find fault.

Investigator's decision on behalf of the Ombudsman