

**Complaint reference:**  
13 005 970

**Complaint against:**  
London Borough of Brent

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

Summary: The Ombudsman cannot investigate Mr B's complaint about a charging order obtained by the Council. This is because the complaint is about the start or conduct of court proceedings.

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## **The complaint**

1. Mr B says the Council wrongly obtained a charging order to recover a housing benefit overpayment. Mr B also says the Council recently sent him a letter saying he must make arrangements to pay another housing benefit overpayment, even though he still had time to put in an appeal.

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

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and, if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. The Ombudsman cannot investigate a complaint about the start of court action or what happened in court. (*Local Government Act 1974, Schedule 5/5A, paragraph 1/3*)

## **How I considered this complaint**

4. I have considered Mr B's complaint form.

## **What I found**

5. The Council told Mr B it had overpaid him housing benefit. Mr B appealed the decision to the Benefits Tribunal but his appeal was not successful. Mr B says he told the Council he intended to put in an appeal against the Benefits Tribunal's decision. But, the following month the Council obtained an interim charging order to recover the overpayment from Mr B. The Council then obtained a final charging order. Mr B says he has applied to the court to have the charging order set aside.
6. Recently the Council told Mr B it had again overpaid him housing benefit. Mr B says before the deadline for appealing had passed, the Council sent him a letter saying he had not appealed and needed to make arrangements to pay the overpayment. Mr B then put in a review request and an appeal to the Council before the deadline. Mr B says he found these letters upsetting and the Council also wrongly spoke to his father on the telephone about the overpayment.

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7. The Ombudsman cannot investigate complaints about the conduct or commencement of court proceedings. So, I cannot investigate Mr B's complaint about the Council's decision to apply for a charging order.
  8. I have not investigated Mr B's complaint about the letters sent by the Council regarding the recent overpayment of housing benefit. This is because Mr B was not caused a significant injustice by the alleged fault as he was able to put in an appeal against the Council's decision. Mr B also complains about a Council Officer who spoke to his father about the overpayment. But, this does not warrant an investigation by the Ombudsman.

### **Final decision**

9. I have decided not to investigate the complaint because the issues are either outside the Ombudsman's jurisdiction or Mr B has not suffered a significant injustice as a result of the alleged fault.

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