

Final decision

Complaint ref: 11 012 377

Body in Jurisdiction: London Borough of Haringey

Date: 26 July 2012

The complaint

1. Mr X complains that the Council has failed to take appropriate action in response to his complaints about heavy goods vehicles (HGVs) passing over speed humps. This causes vibrations that are damaging his home.

Background and circumstances

2. There are several speed humps in Mr X's road and one is in front of his home. In October 2010 he complained to the Council about HGVs using the road and causing the houses to shake. The Council wrote to him explaining that it intended to introduce a 7.5 tonne weight restriction in the area including his road and it would use a mobile enforcement unit rather than rely on the Police to enforce the restriction.
3. In February 2011 Mr X asked the Council to reposition the speed hump outside his home because HGVs were driving over it very fast causing his house to shake. The Council replied saying it had no plans to replace the speed humps because they meet Department of Transport guidance. It said they have been in place for many years and it has received no evidence suggesting they were causing damage to homes.
4. The Council also explained that it had limited funds so it concentrates resources on issues affecting areas where there are known accident problems. It said that when it resurfaces Mr X's road it will replace the speed humps with a different type designed to reduce noise and vibration from passing vehicles. But, the Council could not say when it would resurface the road.
5. Mr X complained again in September 2011 and contacted the Ombudsman. We asked the Council to reply to his complaint under its complaints procedure. We did this because the law says we should not normally investigate a complaint unless we are satisfied the Council is aware of the complaint and has had a reasonable chance to respond to it.
6. The Council wrote to Mr X in October 2011. It said it would carry out trial enforcement action in the area including Mr X's street using a mobile enforcement unit. It could not do this until it had installed signs to make the weight restriction enforceable. It also confirmed that it had no plans to reposition the speed humps.
7. The Council completed the enforcement trial in December 2011 and the Council told Mr X it had issued some penalty notices to HGVs breaching the weight restrictions (but not in Mr X's road). HGV drivers could see the enforcement unit at some locations and simply avoided the road while the unit was present. The Council said it is committed to reducing the number of vehicles breaching the weight restriction and the restriction could better be enforced by installing more signs so the mobile enforcement unit could operate in more places. The Council hoped that more signs would be in place by January 2012.

8. Mr X was dissatisfied with the response and complained to the Ombudsman.
9. In response to my enquiries the Council said there were some delays installing some of the signs but it installed the last signs on 19 June 2012. The Council says the new signs comply with the new Traffic Signs (Amendment)(No.2) Regulations and General Directions 2011 because the new signs contain a lower case t rather than a capital T. The Council also says its enforcement team will start to undertake enforcement of the area now all the new signs have been installed.

The law and the Ombudsman

10. Subject to legal restrictions the Ombudsman considers complaints of service failure and administrative fault causing injustice. We consider whether councils have acted reasonably in accordance with the law, their policies and generally accepted standards of local administration. If there has been maladministration the Ombudsman decides whether it caused injustice and any suitable remedy for the injustice. The Ombudsman can decide to start, continue or discontinue an investigation.

Evidence considered

11. I have considered all the information provided by Mr X and the Council. I have also viewed maps of Mr X's road and viewed the area outside his home using Google street view.

Analysis

12. The Council will not remove the speed hump outside Mr X's home because it has not seen any compelling evidence showing passing traffic is damaging homes in the area. It said it would reconsider its position if Mr X provided evidence to show traffic was damaging his home. Mr X arranged for a structural engineer to inspect his home and the report says there is no single cause of the problem although it does acknowledge that traffic movement "*has exacerbated the situation*". The evidence I have seen does not persuade me that the Council has acted unreasonably by refusing to move the speed hump outside Mr X's home.
13. The Council recognises there is a problem with HGVs using the roads around Mr X's home. It imposed a weight restriction on traffic using the area and has used a mobile enforcement unit to enforce the restriction. The trial scheme was not as effective as the Council had hoped but the Council took action to improve its ability to enforce the restrictions by improving the signs and imposing a new temporary traffic management order.
14. I find the Council is taking appropriate action to try to deal with the problem. The Council had difficulties getting funding. It also had to follow legal processes to implement traffic management orders and put up signs to make the restriction legally enforceable. The Council says there are some fixed cctv cameras in the area but it cannot use them to enforce the restrictions on all the roads in the area. This is one reason why the Council is using a mobile enforcement unit.
15. There are practical difficulties in positioning the mobile enforcement unit in some roads (including Mr X's road) because the unit cannot park safely or it is too visible so drivers simply avoid the road while it is there. The Council has erected new signs to extend the area where the unit can operate. It hopes this will allow the enforcement unit to be parked in positions where it can be more effective. Although all the signs were not erected by January 2012 as scheduled, it seems that all the signs have now been installed. The Council's enforcement team will now start to undertake enforcement of the weight restriction in the area. So, I am satisfied the Council is taking action to address the problem.

16. Mr X says that a Council officer told him in late 2011 that the Council would install weight restriction signs in the middle of his road, but such signs have not been erected. I have asked the Council to comment on this. The officer concerned says he does not recall saying this but anyway, erecting signs in such a location would not serve a purpose. This is because, when the motorist would see such a sign they would have already entered the weight restriction area. Due to the conflicting accounts, I cannot say with any degree of certainty what the officer said to Mr X in late 2011. But, I have placed some weight on the Council's comments and the Council's plans of the new weight restriction signage do not include a sign in the middle of Mr X's road. So, the evidence does not suggest the Council was at fault for not erecting a sign in this location.

Final decision

17. There is not enough evidence of fault by the Council to warrant investigating the complaint further. So, I have decided to exercise the Ombudsman's general discretion to discontinue my investigation.

Investigator's decision on behalf of the Ombudsman