

Report by the Local Government Ombudsman

**Investigation into a complaint against
Rossendale Borough Council
(reference number: 15 011 613)**

8 June 2017

The Ombudsman's role

For 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

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Contents

Report summary.....	1
Introduction	2
Legal and administrative background	2
How we considered this complaint.....	2
Investigation	2
Conclusions.....	3
Decision	5
Recommendations	5

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mr X - the complainant acting on behalf of his daughter

Mrs Y - the complainant's daughter and applicant for a hackney carriage driver's licence

Report summary

Hackney carriage driver licensing

Mr X complains on behalf of Mrs Y that the Council delayed in processing Mrs Y's application for a hackney carriage driver's licence. He also complains the Council failed to deal with his complaint properly.

Finding

Fault found causing injustice and recommendations made.

Recommendations

We recommend the Council pays Mrs Y £350 in recognition of the uncertainty, anxiety, frustration and financial loss she experienced, and the unnecessary time and trouble she has been put to.

We also recommend the Council identifies and reviews any other complaints received in relation to delays in processing taxi licence applications under its previous policy. Should the Council identify other applicants in similar circumstances to Mrs X, who are able to evidence a significant injustice, the Council should consider how to remedy this.

As required by the Local Government Act 1974 the Council must:

- a. Lay this report before the Council;
- b. Consider the report and its recommendations; and
- c. Within three months of receiving the report, notify us of the action which it has taken or proposes to take in response.

Introduction

2. Mr X complains the Council took too long to process Mrs Y's application for a hackney carriage driver's licence and as a result Mrs Y was not able to work and support her family. Mr X also complains that when he raised the issue of delay with the Council it refused to deal with his complaint.

Legal and administrative background

3. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this report, we 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. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (Local Government Act 1974, sections 26(1) and 26A(1))

How we considered this complaint

4. We have produced this report following the examination of relevant files and documents.
5. We have given the complainant and the Council a confidential draft of this report and invited them to comment. We had a telephone conference with the Council to discuss its views. We took the comments received from the Council and Mr X into account before the report was finalised.

Investigation

6. Mrs Y had been offered paid employment as a hackney carriage driver with a local taxi company. This offer was subject to her obtaining a hackney carriage driver's licence from the Council. Mrs Y applied for a hackney carriage driver's licence on 26 May 2015.
7. The Council processed Mrs Y's application and issued a licence on 16 September 2015. Mrs Y started work for the taxi company the following week.
8. Mr X complained to the Council about the time taken to issue the licence. He states other neighbouring councils issue licences in a matter of days while the Council took 16 weeks to issue Mrs Y's licence. Mr X states the Council's delay in issuing a licence prevented Mrs Y from working and as a result she has suffered a financial loss.
9. The Council considered Mr X's complaint was a repetition of a complaint he had previously made in his own right about a delay in issuing his own hackney carriage driver's licence. It advised Mr X it had already responded to these concerns and the position remained the same.
10. Mr X was not satisfied by the Council's response and asked for his complaint to be reviewed. As the Council maintained its position Mr X has asked us to investigate his complaint.

11. In responding to our enquiries the Council states that at the time Mrs Y submitted her application the Council had a backlog of applications. The Council is not able to establish the number of applications pending at the time, but has confirmed it received 11 applications on the day Mrs Y submitted her application. The Council states that all of these 11 applications were processed on 16 or 17 September 2015.
12. The Council states the backlog was due to a significant increase in the number of new applicants, particularly from applicants outside the Council's controlled area. It states the reason for this is a 2008 court judgement which clarified that once a vehicle has been licensed as a hackney carriage it is a hackney carriage for the duration of that licence, irrespective of where it is currently located. It can therefore be used for pre-booked purposes in any district in England and Wales.
13. While the application backlog was at its highest the Council states it allocated additional resources to deal with it. Since this time the Council states it has increased its staffing in the licensing unit and set times at which it will accept calls. This allows officers the time to process applications.
14. In February 2016 the Council revised its policy for the Licensing of Hackney Carriage Drivers and Vehicles. This revision introduced some pre-requisite assessments and mandatory training. It also introduced an Intended Use Policy. Under this policy any applications for a new hackney carriage vehicle licence where there is no intention to use the vehicle predominantly within the Borough of Rossendale are refused.
15. The Council considers it has acted within the legislative framework. There is no statutory time limit in which to process applications. It deals with them on a first come first served basis. The Council has also raised concerns about the potential impact on public safety if it were required to determine all applications within a certain timeframe.

Conclusions

16. While there is no statutory time frame for processing hackney carriage driver's licences, we would expect the Council to do so in a timely manner as a matter of good administrative practice. We recognise the Council's concern to ensure public safety and would not expect the Council to compromise this in order to meet an arbitrary timeframe. Each application must of course be given proper consideration.
17. But there is no suggestion the delay in issuing Mrs Y's licence was because the Council had any particular public safety concerns about her application or needed further information. As there was no issue with Mrs Y's application documentation we consider 16 weeks is an excessive amount of time to process it and amounts to fault.
18. In reaching this conclusion we are also mindful that this is an unusual case. It is not a case of delay caused by short term staff shortages or unforeseen circumstances which have temporarily affected the day to day running of the licensing department. But rather it is the result of the Council's policy decision not to place restrictions on taxi drivers from outside the borough applying to it for licences. The Council chose to adopt a policy which had the potential to attract high volumes of applicants from across the country and failed

to allocate sufficient resources to manage the resultant demand for its services. We consider this amounts to administrative fault.

19. We recognise the Council has now taken steps to reduce the backlog and improve its processes but consider it should have taken this action sooner. If the increase in applications is due to a court decision in 2008 the Council has had ample time to foresee and address the problem. The Council did not have a written taxi licensing policy or any published procedures outlining how it dealt with various aspects of vehicle and driver licensing until February 2011. When drafting this policy it was open to the Council to restrict the issuing of licences to drivers intending to ply for hire in the borough. But it chose not to.
20. Although applications for hackney carriage drivers' licences reached their peak in 2015, there had also been significant increases in the preceding years.
21. There is also fault in the way the Council considered Mr X's complaint. This complaint relates specifically to the time taken to process Mrs Y's application, and we would have expected the Council to respond to it as such.

Injustice

22. As a matter of administrative good practice we would consider a council should generally be able to deal with a fully completed straightforward application within six weeks of receipt. We have visited the Council's website at various points over the course of our investigation and note the Council has been able to deal with applications in a considerably shorter timeframe. For example on 2 December 2015 the Council's website confirmed it was processing applications submitted just a week earlier, on 25 November 2015. In June and September 2016 it was processing applications submitted three weeks earlier, and more recently, in January 2017 it was processing applications submitted two weeks earlier.
23. Had the Council processed Mrs Y's application within six weeks she would have been able to start work approximately 10 weeks earlier.
24. We recognise that other applicants may also have experienced delay in obtaining a taxi driver licence. Our decision on Mrs Y's complaint does not create a precedent for other complaints, nor does it seek to set a universal standard timescale for the administration of taxi licences. Rather it is our judgement about what would have been reasonable in the particular circumstances of this case. Not all applicants will have been affected in the same way, or be able to demonstrate they have suffered an injustice.
25. Mrs Y's circumstances are unusual as she was not, and did not intend to become, a self-employed taxi driver with potentially irregular or unpredictable earnings. She has provided evidence she had been offered paid employment, once she had her taxi licence. The delay in being able to take up this opportunity has caused Mrs Y uncertainty, anxiety and frustration as well as financial loss. She and Mr X have also been put to unnecessary time and trouble in trying to resolve the matter.

Decision

26. Fault found causing injustice and recommendations made.

Recommendations

27. We recommend the Council pays Mrs Y £350 in recognition of the uncertainty, anxiety, frustration and financial loss she experienced, and the unnecessary time and trouble she has been put to.
28. We also recommend the Council identifies and reviews any other complaints received in relation to delays in processing taxi licence applications under its previous policy. Should the Council identify other applicants in similar circumstances to Mrs X, who are able to evidence a significant injustice, the Council should consider how to remedy this.
29. As required by the Local Government Act 1974 the Council must:
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