

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
London Borough of Harrow
(reference number: 20 004 346)**

13 November 2020

The Ombudsman's role

For more than 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.

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

Report summary

Housing – private housing disrepair

The Council failed to comply with an agreed Ombudsman action to apologise and pay Mr X £200 following a final decision we made in February 2020 (reference: 17 018 925).

Finding

Maladministration causing injustice and recommendations made.

Recommendations

The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

To remedy the injustice caused to Mr X, within three months of the date of this report, the Council should:

- write to Mr X and apologise to him for failing to carry out the action it agreed in our final decision from February 2020, as well as the apology it had originally agreed to make to him;
- pay Mr X the £200 it agreed following our final decision in February 2020; and
- pay Mr X a further £100 to recognise the frustration and uncertainty caused by its failure to comply with the agreed action following our final decision in February 2020.

We welcome that the Council has accepted our recommendations.

The complaint

1. Mr X complained to us in 2019 that the Council had failed to take appropriate enforcement action against the owner of the property next door to his. Mr X said the property was empty, had overgrown gardens and was in a state of disrepair.
2. We found the Council failed to deal with Mr X's complaint to the Council in August 2018 in line with its enforcement policy and further failed to respond to him at stage 2 of its complaints procedure.
3. We completed our investigation in February 2020 and recommended the Council apologise to Mr X and pay him £200 for the delay, frustration, uncertainty and the time and trouble caused to him. The Council agreed to carry out this action within one month of the final decision.
4. The Council failed to comply with the recommendation we made. This caused Mr X additional frustration.

The Ombudsman's role and powers

5. We investigate 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), as amended*)

How we considered this complaint

6. We produced this report after the Council failed to carry out the recommendation we made in our final decision on Mr X's complaint in February 2020. We considered the impact of the COVID-19 lockdown and we also considered how the Council responded to our emails and correspondence asking it for updates.
7. We gave Mr X and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

Relevant law

Section 215 Notice

8. Section 215 of the Town and Country Planning Act (TCPA) 1990 provides councils with the power to take steps to require land to be cleaned up when its condition adversely affects the amenity of the area. Councils may serve a notice on the landowner which set out the steps they must take to remedy the situation and the time in which they must be carried out. The use of Section 215 notices is discretionary.

What happened

Background to Mr X's original complaint

9. In 2019 Mr X complained to us about the Council's failure to take appropriate enforcement action against the owner of the property next door to his. Mr X said the property was in a state of disrepair and the matter had gone on for a number of years.
10. Mr X complained to the Council's enforcement team in August 2018 about the continued state of the next-door property. We found the Council at fault because it failed to respond to Mr X at all. This caused him frustration and uncertainty and was not in line with the Council's enforcement policy.
11. Mr X formally complained to the Council in January 2019 about the matter. The Council agreed to escalate his complaint to stage 2 of its complaints procedure and respond within 20 working days. It did not respond to him, so he complained to us in August 2019. We found the Council at fault which caused Mr X further frustration, uncertainty and time and trouble bringing the matter to us.
12. Following our investigation, we found the Council had served Mr X's neighbour with a Section 215 notice and that enforcement action was ongoing.
13. In our final decision of February 2020, we recommended the Council apologise to Mr X and pay him £200 to recognise the delay, frustration, uncertainty and time and trouble caused by:
 - its failure to respond to his enforcement complaint in line with its policy in August 2018; and
 - its failure to respond to Mr X at stage 2 of its complaints procedure.
14. The Council agreed to the recommendation and in February 2020 we made our final decision on the complaint.
15. This report deals with events since we decided Mr X's complaint to us in 2019. We have not re-visited the matters which we previously investigated.

What happened after our decision on Mr X's previous complaint?

16. The Council was due to carry out the agreed action by the end of March 2020. However, because the deadline fell around the time we temporarily suspended casework because of the COVID-19 lockdown, we waited before contacting the Council about it.
17. We sent an email to the Council at the end of June 2020 asking it to provide evidence it had carried out the agreed action within four weeks. We received no reply or response.
18. We wrote to the Chief Executive at the end of July 2020 and told him we were still waiting for confirmation the Council had completed the agreed action. We received no reply or response.
19. We wrote a further letter to the Chief Executive in August 2020. We said the Council had had nearly six months to complete what was a relatively straightforward action. We asked it to provide evidence it had complied with the agreed action within one week. The Council responded and said it would forward our letter to the relevant team. However, we received no further response.
20. At the end of August 2020, we checked with Mr X whether the Council had carried out the agreed action. Mr X said he had heard nothing from the Council since our final decision in February 2020.

Conclusion

21. The Council failed to apologise to Mr X and pay him £200 as it agreed to do following our final decision on his previous complaint in February 2020. When a council agrees to take the action we have recommended, it should be accountable and make every effort to comply with it. The Council is at fault for non-compliance with an agreed remedy.
22. We were disappointed to note the Council's failure to respond to our enquiries about its compliance with the remedy. This mirrors Mr X's experiences in 2019 when the Council failed to respond to his complaint.
23. We consider the Council failing to comply with an agreed remedy has caused Mr X further frustration and uncertainty, especially because part of the complaint was about the Council's failure to respond to him in the past. We have recommended a further payment for the additional injustice the Council's non-compliance has caused Mr X.

Recommendations

24. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
25. We welcome that the Council has accepted our recommendations and agreed to:
 - write to Mr X and apologise to him for failing to carry out the action it agreed in our final decision from February 2020 as well as the apology it had originally agreed to make to him;
 - pay Mr X the £200 it agreed following our final decision in February 2020; and
 - pay Mr X a further £100 to recognise the frustration and uncertainty caused by its failure to comply with the agreed action following our final decision in February 2020.
26. Following our draft report, the Council also said it would meet with Mr X to discuss his original complaint further, as outlined in paragraph 1. We welcome this action and consider it further remedies the injustice caused to Mr X as set out in paragraph 23.

Final decision

27. The Council was at fault for not complying with an agreed remedy. This fault caused Mr X further frustration and uncertainty. To remedy that injustice the Council will apologise and pay Mr X a total of £300.