

**Case 200501259: The City of Edinburgh Council**

**Summary of Investigation**

**Category**

Local government: Parking

**Overview**

The complainant raised a number of concerns over the handling of his complaint about access protection markings and the consultation process for the extension of the Controlled Parking Zone (CPZ) in Edinburgh.

**Specific complaints and conclusions**

The complaints which have been investigated are that:

- (a) the Council responses were deliberately unclear and evasive (*not upheld*);
- (b) the Council's letters regarding access protection markings were contradictory (*not upheld*);
- (c) the Council deliberately ignored information Mr C had given about his ability to contact them, to make it difficult for him to contact them (*not upheld*);
- (d) the Council did not respond to his letters in an acceptable time (*upheld*);
- (e) the Council did not keep residents informed of the process by letter (*not upheld*);
- (f) objections to the proposals for the CPZ were not responded to individually (*not upheld*);
- (g) copies of the Report of the Public Hearing into the CPZ were not automatically sent to objectors or residents (*not upheld*);
- (h) the Council did not inform residents of changes to parking regulations in their area at the outset but only in phases as the work went on (*not upheld*);
- (i) the Council's informing of the public via a website was unacceptable (*not upheld*); and
- (j) no reference to Mr C's objections was made in the enquiry report (*not upheld*).

***Redress and recommendations***

The Ombudsman recommends that the Council apologise to Mr C for the delay in responding to his letters and review their processes for acknowledging and responding to correspondence.

The Council have accepted the recommendations and will act on them accordingly.

## **Main Investigation Report**

### **Introduction**

1. On 8 August 2005 the Ombudsman received a report from a man (referred to in this report as Mr C) that The City Of Edinburgh Council (the Council) had not responded adequately to his enquiries and complaints about the extension of the Controlled Parking Zone (CPZ) in Edinburgh and access protection markings in his street.

2. The complaints from Mr C which I have investigated are that:

- (a) the Council responses were deliberately unclear and evasive;
- (b) the Council's letters regarding access protection markings were contradictory;
- (c) the Council deliberately ignored information Mr C had given about his ability to contact them, to make it difficult for him to contact them;
- (d) the Council did not respond to his letters in an acceptable time;
- (e) the Council did not keep residents informed of the process by letter;
- (f) objections to the proposals for the CPZ were not responded to individually;
- (g) copies of the Report of the Public Hearing into the CPZ were not automatically sent to objectors or residents;
- (h) the Council did not inform residents of changes to parking regulations in their area at the outset but only in phases as the work went on;
- (i) the Council's informing of the public via a website was unacceptable;
- (j) no reference to Mr C's objections was made in the enquiry report.

### **Investigation**

3. I have reviewed copies of the correspondence between Mr C and the Council; internal communication from the Council; the Council's consultation leaflets relating to the extension of the CPZ; the Executive Report on the CPZ; the Council's Customer Care Charter; and photographs of the access protection markings on Mr C's street. I visited Mr C's street to see the access protection markings. I have set out my findings of fact and conclusion. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

4. On 10 November 2003, Mr C wrote to the Council to object to the proposed extension of the CPZ. He wrote again on 18 November 2003, after visiting the Council's exhibition about the proposed extension. In this letter,

Mr C complained that a parking space he owned was included in the plans as part of the CPZ. Mr C also pointed out a discrepancy between the plans and the lamp post-mounted notices and asked for clarification and correction of this. Mr C further asked for information on the location of residents only parking bays in his street and on the proposed visitor parking scheme.

5. Having received no reply to these letters, Mr C wrote again on 30 November 2003. On 2 December 2003, the Council sent an acknowledgement letter to Mr C. Mr C responded to this on 5 December 2003, expressing his dissatisfaction.

6. On 18 February 2004, the Traffic Control Manager (Officer 1) replied, indicating that the Council would not include Mr C's parking space in the proposed CPZ as it was not part of a public, adopted road and that the error would be corrected. He also said that Mr C's street was designated as a residential mews and, as such, there would not be formal parking bays. Permit holders would be expected to park in a manner that would not obstruct others. The letter finally said a report detailing the response to the significant volume of correspondence received by the Council and recommendations on how to proceed was likely to be submitted to the Council Executive in the spring.

7. Mr C wrote again to the Council on 22 October 2004, complaining that he had heard nothing further. Having not received a response, Mr C followed-up this letter on 5 December 2004 and 29 December 2004.

8. On 10 January 2005, Officer 1 wrote in reply to Mr C's letters. He pointed out that a Council Executive meeting in July 2004 had decided that a Public Hearing should be held to address the concerns raised. The arrangements for this meeting were detailed in the letter and Mr C was assured that his objections would be taken into account. Officer 1 informed Mr C that objectors had been written to three times during 2004 and apologised that he had been omitted. The Programme Officer for Public Hearings (Officer 2) had been contacted and, she would contact him promptly regarding the Hearing.

9. Mr C emailed Officer 2 on 18 January 2005; expressing his displeasure at the length of time he had waited for a response; requesting copies of the letters written to objectors during 2004; and confirmation that his objections had been accurately recorded and were being acted upon. He also pointed out that he was unable to make private telephone calls during the working day. Having not

received a response, Mr C followed up this email on 23 January 2005.

10. Mr C received an email from Officer 2 on 24 January 2005. This confirmed that Mr C's objection would be taken into account; noted that the volume of correspondence received on the issue had made individual responses to objectors impractical; acknowledged that copies of the letters sent to objectors during 2004 would be sent; and enquired as to whether Mr C intended to participate in the Public Hearing.

11. Mr C replied by email on the same day that he could not decide whether he would participate in the Public Hearing until he had received the information he requested and objected to Officer 2 responding by email rather than by letter. Mr C followed this up with an email of 16 February 2005, as he had not yet received the promised information from Officer 2.

12. Officer 2 wrote to Mr C on 17 February 2005, enclosing copies of the letters sent to the objectors in 2004. Officer 2 apologised for the delay in responding and included further information about the Public Hearing.

13. On 15 April 2005, Mr C wrote to Officer 1 asking why access protection markings had been painted in his street; why no line had been painted in front of his parking space; and what restrictions the Council were proposing to enforce in the area immediately in front of his parking space. Having not received a response, Mr C followed up this letter on 2 May 2005. Having still not received a response, on 12 May 2005 Mr C wrote to the Chief Executive of the Council asking whether the delay in response was acceptable.

14. The Chief Executive wrote a memo to the Director of City Development (Officer 3) on 19 May 2005, requesting that a response be made to Mr C. The Chief Executive also wrote to Mr C on that day, informing him that the matter had been raised with Officer 3, who would respond to him.

15. Officer 3 wrote to Mr C on 31 May 2005. Officer 3 said that the access protection markings were 'advisory only' markings, to raise awareness of the presence of private accesses and repeated much of the information already provided by Officer 1 (see paragraph 6). It was noted that updates on the progress of the proposed CPZ and the outcome of the Public Hearing would be published on the Council's website. Mr C was provided with telephone numbers for an area network manager and the Traffic Control Manager. An apology for

the delay in replying was also offered.

16. Mr C replied to Officer 3 on 7 June 2005. He said he felt his enquiry for information in his letter of 15 April 2005 had not been answered and this made him anxious that the Council intended to annexe his parking space. Mr C also stated that he was unable to make private telephone calls during the working day and insisted that all correspondence be carried out in writing. Finally, Mr C stated his belief that it was unacceptable for information to be published on the Council's website and that he would expect to be informed by letter of issues affecting his street. Having not received a response, Mr C followed up this letter on 22 June 2005.

17. On 30 June 2005, having still not received a response, Mr C wrote a formal complaint to the Chief Executive. Mr C complained that he had received inadequate responses from Officer 1 and Officer 3 and that access protection markings had been painted without consultation of the residents of his street.

18. On 4 July 2005, Officer 3 wrote to Mr C in response to his letter of 7 June 2005. Officer 3 expanded upon his reply of 31 May 2005, stating that the access protection markings had been provided in response to requests from some residents and that markings had only been provided where there was a modified kerb to allow access to a driveway. An email address was provided as an alternative to telephone contact. Finally, Officer 3 assured Mr C that all objectors would be informed by letter of the Council's decision on the proposed extension of the CPZ.

19. On 7 July 2005, the Chief Executive wrote to Mr C informing him that Officer 3 had been asked to ensure Mr C received a full response to the issues he had raised. Internal correspondence supplied by the Council indicates that this request was passed to Officer 3, who provided the Chief Executive with his response of 4 July 2005.

20. On 26 July 2005, Mr C wrote to the Chief Executive stating his belief that the only way he would receive a written response from Officer 3 was to enquire via the Chief Executive. Mr C did not believe he had received an answer to the question of why access protection markings had not been painted in front of his parking space. Mr C stated that he expected a written response to a written enquiry and reiterated that, as he was unable to make private telephone calls while at work, it was unacceptable to be expected to call a daytime telephone

number. Finally, he asked that a written explanation be provided by Officer 3 without delay.

21. On 2 August 2005, in the absence of the Chief Executive, the Acting Chief Executive responded to Mr C's letter. Mr C was directed to Officer 3's letter of 4 July 2005, as clearly stating the position that access protection markings had only been made to those accesses where there was a modified kerb. The acting Chief Executive provided full contact details for the Council officer whose telephone and email details had been previously given and said that he considered the information sought by Mr C had been provided. Mr C was advised to contact the Ombudsman if he felt there had been maladministration on the part of the Council.

22. On 8 August 2005, Mr C wrote to the Ombudsman with his complaints. Seeking information and an informal resolution, a Complaints Investigator from the Ombudsman's office contacted the Council in September 2005 and they were advised that Officer 3 or Officer 3's department would reply to Mr C shortly. This information was passed on to Mr C.

23. On 22 September 2005, Officer 3 wrote to Mr C. Officer 3 stated that no access protection marking was painted regarding Mr C's parking space because it was a private parking space and markings had only been provided across driveways adjacent to the public roadway. The letter also contained information about the Council's discussion of the CPZ and that the final decision was likely to be made shortly, following which a general press statement would be made. Mr C was advised that implementation would be undertaken on a zonal basis and residents would be informed individually as to when they would need to apply for parking permits.

24. Mr C responded to this letter on 10 October 2005. He stated that he was confused by the apparent contradiction in the Council's attitude towards his parking space, as his parking space seemed to be considered private in regard to the access protection markings but public in regard to the plans for the extension of the CPZ. Mr C requested that the decision not to paint access protection markings in front of his parking space be reconsidered. Mr C stated his opposition to the notification being made by a general press statement and asserted his belief that residents should be informed individually, in writing, throughout the process.

25. On 17 October 2005, Officer 3 wrote to Mr C in response to his letter of 10 October 2005. Officer 3 noted that there had been some misunderstanding regarding the access protection markings and reiterated that these were advisory only and had been painted only in front of driveways and garages. As Mr C's parking space did not fall into these categories, no access protection marking had been painted in front of it. It was also pointed out that, as an objector, Mr C would shortly be receiving a letter informing him of the Council's decision which had now been made.

26. Mr C responded to Officer 3 on 25 October 2005. Mr C expressed puzzlement at Officer 3's assertion that access protection markings had been painted in front of garages, as the garages surrounding his parking space had not had markings painted in front of them.

27. On 11 November 2005, a standard letter was sent to all objectors, informing them of the Council's decision to make the relevant orders to extend the CPZ. The letter advised that the reasons for this decision were set out in the report to the Executive of the Council and that this was available on the Council's website, at the Council offices in Cockburn Street or by request from a given telephone number. It was stated that work would begin on the extension to the CPZ in April 2006 and should be completed by April 2008 and that updates on progress and the programme of works would be available on the Council's website. A telephone number and email address were supplied for queries regarding objections.

28. On 18 November 2005, Officer 3 responded to Mr C's letter of 25 October 2005. Officer 3 clarified his response about access protection markings, stating that they were provided to indicate the presence of dropped-kerb crossing points, and that the garages adjacent to Mr C's parking space were not accessed in this way.

29. On 23 November 2005, Mr C responded to Officer 1 regarding the letter of 11 November 2005. Mr C expressed his belief that, as he had heard nothing specific from the enquiry about his objection, it had been ignored. He also expressed concern that the Council had made all the relevant orders without informing the affected residents of the decision of the enquiry; requested a copy of the report; expressed his feelings that informing residents by zone was unacceptable; and reiterated his view residents should be informed individually, in writing, throughout the process.

30. On 30 November 2005, Officer 1 responded to Mr C. In the letter, it was explained that the Public Hearing had not been a mandatory requirement but had been instigated by the Council in order to assist them in their decision making. Officer 1 pointed out that all formal objections to the scheme had been considered by the Reporter. He also explained that, as Mr C's street is designated as a mews, the limit of works to take place would be the erection of signs at the road entry advising of this and reiterated that Mr C's parking space would not be included as part of the extended CPZ.

**(a) The Council responses were deliberately unclear and evasive**

31. Mr C corresponded with various departments and officers of the Council over a period of two years, from November 2003. His initial aim was to clarify information about his private parking space, in relation to the proposed extension to the CPZ. Subsequently, he was concerned about access protection markings which had been painted on his street and why such markings had not been painted in front of his parking space. The Council responded to these questions from 18 February 2004 (see paragraph 6 onwards). It was clear from the initial response that Mr C's parking space was not to be included in the extension to the CPZ. The reason why no markings were made in front of Mr C's parking space was given on 4 July 2005 that the markings were only painted in front of dropped-kerb accesses (see paragraph 18). A letter on 22 September seemed to give a different reason(see paragraph 23) and subsequent letters of 17 October and 18 November clarified that the markings were only provided where the kerb had been modified to provide access (see paragraphs 25 and 28) Mr C was also particularly dissatisfied with the letter he received from the Acting Chief Executive on 2 August 2005 which he felt was offensive in tone and language(see paragraph 21).

*(a) Conclusion*

32. Over the course of a number of letters from 4 July 2005, the Council attempted to explain to Mr C the reason why no access protection markings had been made in front of his parking space. While the letters of 4 July, 17 October and 18 November clearly indicated this because the markings were only provided in front of dropped-kerb accesses, the letter of 22 September did not mention this. This could certainly cause confusion. However, I do not consider the Council's responses to this or any other matter Mr C raised to have been deliberately unclear or evasive. Similarly, I do not consider the Acting Chief

Executive's response, nor any other correspondence Mr C received from the Council to be offensive in tone or language. I, therefore, do not uphold the complaint.

**(b) The Council's letters regarding access protection markings were contradictory**

*Conclusion*

33. As noted in paragraph 32, access protection markings were only made in front of dropped-kerb accesses. A letter to Mr C of 4 July 2005 clearly states this. While a letter of 22 September 2005 does not state this clearly, it does mention the markings are only provided across driveways adjacent to the public roadway. Realising the potential for misunderstanding the Council attempted to clarify the situation to Mr C in the letters of 17 October and 18 November. The letter of 18 November clearly states that the markings have been provided to indicate the presence of dropped-kerb accesses. While potentially confusing, I do not consider these letters to be contradictory. The Council also clarified the reason in subsequent letters and, therefore, I do not uphold the complaint.

**(c) The Council deliberately ignored information Mr C had given about his ability to contact them, to make it difficult for him to contact them**

*Conclusion*

34. Mr C explained his inability to make private telephone calls during the working day to Officer 2 on 18 January 2005, to Officer 3 on 21 May 2005 and to the Chief Executive on 26 July 2005. Subsequent to this, none of these officers gave only telephone contact details to Mr C for any officer or service. The two officers and the Chief Executive all worked in different departments and it was not unreasonable that Mr C's inability to make private telephone calls during the working day was not communicated to other officers. I, therefore, do not uphold the complaint.

**(d) The Council did not respond to his letters in an acceptable time**

35. The Council's Customer Care Charter Guide states: 'we will answer your letters and emails within 10 working days of receiving them, or keep you updated if an answer will take longer'.

*(d) Conclusion*

36. Of 21 letters Mr C wrote to the Council over the period November 2003 to November 2005, 13 were responded to within the stated time and eight were not: those of 10 November 2003 (responded in 19 days), 18 November 2003 (11 days), 5 December 2003 (two letters – 71 days), 22 October 2004 (76 days), 5 December 2004 (38 days), 24 January 2005 (24 days), 15 April 2005 (34 days) and 7 June 2005 (27 days). Accordingly, I uphold the complaint.

*(d) Recommendation*

I recommend that the Council apologise to Mr C for this unacceptable delay in responding to his correspondence and review their processes for acknowledging and answering correspondence in order that the situation does not arise again.

**(e) The Council did not keep residents informed of the process by letter**

37. The procedure that must be followed when advertising draft traffic regulations is set out in the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 (The Regulations). Part II of the Regulations relate to procedures before the making of orders. Section 4 gives details of bodies which must be consulted prior to orders being made. It is not required that the general public be consulted. Notwithstanding this, the Council did seek the views of the general public via two consultation leaflets (an informal consultation leaflet in 2002 and a formal consultation leaflet in 2003) and approximately 10,000 items of correspondence were received as a result.

38. Section 5 (1) (a) and (c) of the Regulations indicates that the authority must publish notice of the proposals at least once in a local paper of the area concerned and make available for inspection certain listed documents. The Council published notice of the proposals in The Scotsman on 10 November 2003 and made available the documents in line with the Regulations between 10 November and 1 December 2003.

39. The Regulations state, in Section 17, that, following the making of the orders, notification must be made: (a) to the Chief Constable of the area; (b) to each objector to the orders; and (c) by publication at least once in a local newspaper of the area concerned. The Council complied with these requirements: (a) on 7 November 2005; (b) on 11 November 2005 (see paragraph 27); and (c) in The Scotsman on 28 October 2005.

*(e) Conclusion*

40. Mr C complained that residents were not kept informed of the process by letter, this is clearly correct. However, what I must consider is what should have happened according to the Regulations. The Regulations are clear that consultation and notification, and the methods of these, with residents of the affected areas are at the discretion of the Council. The Council followed the requirements of the Regulations and I do not consider the steps that they took were unreasonable in the circumstances. Therefore, I do not uphold the complaint.

**(f) Objections to the proposals for the CPZ were not responded to individually**

41. Approximately 6,500 objections to the proposals were received and the Council decided that, as it was not practicable to communicate with all of the objectors in detail within the timescales indicated in the Council Charter, the issues would be dealt with via a Public Hearing. This Hearing took place in April and May 2005 and a report was published and presented to the Council Executive in September 2005.

42. Mr C complained that objections to the proposals for the CPZ were not responded to individually. In terms of an individual, tailored response being sent to each objector, this is true. However, the aim of the Public Hearing was to consider the objections and make recommendations as a result. The Report to the Executive of the Council by Officer 3 outlines the Department's recommendations, following consideration of the Report of the Public Hearing. The Report of the Public Hearing is included as Appendix 1 to the Report to the Executive of the Council. Individual objections are not explicitly stated or responded to in the Report of the Public Hearing but all the issues highlighted in individual objections are addressed and responses given. Where appropriate, these are further commented upon in the Report to the Executive of the Council. Section 12 of the Regulations states that: 'Before making the order the authority shall consider all objections made in accordance with regulation 7 and not withdrawn or, where a hearing has taken place the report and recommendation made by the reporter.'

*(f) Conclusion*

43. Again, the Council have fulfilled their statutory duty in terms of the Regulations and also provided a reasonable response to the objections

received. That fact that Mr C is unhappy that he did not receive a personal reply does not indicate that the Council did anything wrong in terms of their obligations. Accordingly, I do not uphold the complaint.

**(g) Copies of the Report of the Public Hearing into the CPZ were not automatically sent to objectors or residents**

44. As indicated above, there is a statutory requirement that objectors be informed of the outcome of the consideration of their objections (Section 17 (a) of the Regulations) and this was undertaken by the Council in letters of 11 November 2005. Mr C was also concerned that the language used in the report was unacceptably complex for the average reader.

*(g) Conclusion*

45. In their letter to objectors the Council gave details of where any person could view the Report to the Executive of the Council (which included the Report of the Public Hearing), online or in hard copy, and how to request that a copy be sent to an individual. I consider this to be a reasonable action on the Council's behalf. I also consider the language used in the report to be appropriate and acceptable, accordingly, I do not uphold the complaint.

**(h) The Council did not inform residents of changes to parking regulations in their area at the outset but only in phases as the work went on**

46. The Council have advised that 'Communication with those affected by the new controlled zones is the subject of a communication strategy that is still to be finalised but will involve sending out letters to premises in the affected areas prior to work commencing and again prior to the start date for each of the zones...the website will also be updated regularly during this process.'

*(h) Conclusion*

47. The Council's plan to adopt an incremental approach and actions combined with the availability of the Report to the Executive of the Council are reasonable given the timescales involved. In addition, the high public and media profile the extension of the CPZ has had and continues to have, in the area affected, does not replace the Council's requirement to inform residents but could reasonably be taken into account. Therefore, I do not uphold the complaint.

**(i) The Council's informing of the public via a website was unacceptable**

48. Mr C complained that the Council published information on their website as a substitute for written communication with residents. However, as noted above, the Council have fulfilled their statutory obligations in this respect.

*(i) Conclusion*

49. As indicated by the scale of the project and amount of correspondence received (see paragraphs 38 and 42) it would not be practicable to inform all residents or households of minor alterations by letter throughout the process. Given that the project would affect householders, businesses, services and visitors alike, it is reasonable to conclude that the most practicable method of providing information on minor alterations to the plans for the extension of the CPZ to the large number of people affected is via a website. Therefore, I do not uphold the complaint.

**(j) No reference to Mr C's objections was made in enquiry report**

50. Mr C objected on 10 November 2003 that he had not been consulted as part of the first consultation process. He said that there was no problem parking in his street and the proposals would, in fact, make parking there more difficult. On 18 November 2003, Mr C further objected that the plans affecting his street were not detailed enough in relation to parking bays and that the proposed Visitor Parking Scheme was impracticable.

51. As already noted, the Council fulfilled its statutory requirements with regard to the extension of the CPZ. This is noted in paragraph 3.3 of the Report of the Public Hearing, and addresses the first point of objection made by Mr C. The Report of the Public Hearing details 12 topics into which the objections received were grouped and addressed. These are listed in paragraph 3.5 of the Report. Mr C's remaining objections have been addressed in topics 1, 3 and 5:

1. the scheme was unnecessary and would offer no significant benefit;
3. the proposed days and hours of control, and the time limits for permitted parking, were inappropriate;
5. the limits on supply and use of Residents' Permits and Visitors' Permits were excessive and would create difficulties for visitors and tradesmen.

*(j) Conclusion*

52. Although not specifically referred to as his complaints, Mr C's objections were adequately responded to by the Council and conclusions offered by the reporter (see Annex 2 for more detail). Where these issues have a significant

impact, they are referred to in the Report to the Executive of the Council (see Annex 2 for more detail). In view of this, I do not uphold the complaint.

*Redress and recommendations*

53. The Ombudsman recommends that the Council apologise to Mr C for the unacceptable delay in responding to his correspondence and review their procedures for acknowledging and responding to correspondence to ensure the situation does not occur again. The Council have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Council notify her when the recommendations have been implemented.

27 March 2007

**Explanation of abbreviations used**

Mr C	The complainant
The Council	The City Of Edinburgh Council
CPZ	Controlled Parking Zone
Officer 1	The Traffic Control Manager
Officer 2	The Programme Officer for Public Hearings
Officer 3	The Director of City Development
The Regulations	The Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999

## Annex 2

### Mr C's objections and references in Report of the Public Hearing (Report 1) and Report to the Executive of the Council (Report 2)

Objection	Paragraphs outlining objection in Report 1	Paragraphs outlining Council response in Report 1	Paragraphs outlining Reporter conclusions in Report 1	Paragraphs relating to objection in Report 2
Mr C had not been consulted as part of the first consultation process	3.3	N/A	N/A	N/A
There was no problem parking in Mr C's street and the proposals would, in fact, make parking there more difficult	3.5 point 1 8.1 passim 8.12 passim	10.1 passim 10.12 passim	11.1 passim (final conclusion at 11.1.6), 11.12 passim	3.1.8
The plans affecting his street were not detailed enough in relation to parking bays	3.5 point 1 8.1.6	10.1.6 (but should be read bearing in mind the information provided to Mr C on 18 February 2004, see paragraph 6 of this report)	11.1.4	
The proposed Visitor Parking Scheme was impracticable	3.5 points 3 and 5 8.3.9, 8.5.6, 8.5.7	10.3.9, 10.5.6, 10.5.7	11.3.5, 11.5.7	3.20c, 3.23, 3.28