



Item 16: Local Government Ombudsman report on the London Low Emission Zone

This paper will be considered in public

1 Summary

- 1.1 The Local Government Ombudsman (LGO) has raised concerns with Transport for London (TfL) following the receipt of five complaints from vehicle operators regarding the implementation of new emission standards for the London Low Emission Zone (LEZ) for vans and minibuses in January 2012. Specifically, the LGO raised concerns that some vehicle operators have upgraded their vehicles or purchased new ones to meet the new emission standards when they did not need to do so.
- 1.2 The paper provides an overview of the issue that has arisen in respect of the LEZ, together with a description of TfL's response and the proposed lessons that can be learned from this matter.
- 1.3 On 6 February 2013, the Board was informed by the Commissioner that the LGO had issued a report of the concerns raised and that the matter would be considered by the Audit and Assurance Committee. The Committee considered the LGO's report and TfL's response on 6 March 2013.

2 Recommendation

- 2.1 **That the Board consider the Local Government Ombudsman's report contained in Appendix 1 and note this paper.**

3 Background

- 3.1 On 3 January 2012, new emission standards were introduced for the LEZ and more vehicles were affected, the new standards having been approved by the Mayor on 16 September 2010. Larger vans, minibuses and other specialist vehicles were affected by the LEZ for the first time and have been required to meet a Euro III standard for Particulate Matter (PM) in order to drive within the LEZ without being subject to charge. Rather than pay the charge, vehicle operators have a number of options available to them to comply with the new standards, including purchasing a new or second-hand compliant vehicle or by having a particulate filter fitted to their non-compliant vehicle.
- 3.2 In order to determine whether vehicles were compliant with, or subject to, the new standards, TfL used information on the age, make and model of vehicles held by the Driver and Vehicle Licensing Agency (DVLA). In instances when this information was insufficient, it was supplemented by generic vehicle data supplied by the Society of Motor Manufacturers and Traders.

- 3.3 To ensure motorists were aware of the new standards, throughout 2011 TfL carried out a comprehensive vehicle operator information campaign using a variety of channels of communication. The campaign included a direct mailing (by the DVLA on TfL's behalf) to the registered keepers of some 600,000 affected vehicles. The letter advised that their vehicle was subject to the LEZ and outlined the options available to avoid paying the charge as outlined above.
- 3.4 Following the mailing campaign, TfL was provided with additional information from vehicle manufacturers which confirmed that a small number of certain vehicles previously believed to be non compliant with the new standards were actually compliant and no action was required. Having received this information, TfL updated the LEZ vehicle compliance checker on the TfL website to explain that no action was required in respect of those vehicles.
- 3.5 Having received the communications from TfL, some vehicle operators took action to become compliant with the new standards, by fitting a filter or purchasing a new or second hand compliant vehicle before the information provided by TfL was updated.

4 LGO Report

- 4.1 TfL has received a report from the LGO dated 28 January 2013 following its investigation into complaints from five vehicle operators requesting reimbursement of costs. The report follows discussions between the LGO and TfL regarding those complaints and notes that its recommendations are agreed by TfL.
- 4.2 The LGO found that in cases where a vehicle operator had fitted a filter unnecessarily, the cost of this should be refunded by TfL (these typically cost around £1,500). Where a vehicle operator had purchased a new or second hand vehicle unnecessarily, the LGO advised that TfL should reimburse 15 per cent of the cost of that vehicle. The LGO also recommended that 30 similar complaints, received directly by TfL, be dealt with in the same way.
- 4.3 The LGO has acknowledged that, in writing to vehicle operators, TfL was acting in good faith but stated that, when TfL became aware of new information relating to the vehicles, a second letter should have been sent to the vehicle operators advising the status of the vehicle had changed, rather than just updating the TfL website. The LGO's report concludes, therefore, that there has been maladministration on the part of TfL.
- 4.4 TfL is required, by section 31(2) of the Local Government Act 1974, to consider the LGO report, as the LGO found that the complainants suffered injustice as a result of maladministration.

5 TfL Actions

Press Notices

- 5.1 TfL is required by section 30 of the Local Government Act 1974 to make a press announcement in more than one newspaper within two weeks of receiving the report.
- 5.2 TfL placed the notice contained in Appendix 2 in the following newspapers:
- (a) The Metro on Thursday 7 February 2013; and
 - (b) The London Gazette on Thursday 7 February 2013.

Hard Copy of the Report

- 5.3 TfL is also required by section 30 of the Local Government Act 1974 to make a copy of the LGO's report available at one of its offices for a period of three weeks and to provide those who request them with copies, free of charge.
- 5.4 A copy of the report has been made available at Palestra and copies have been provided to anyone who has requested them. A log of such requests has been compiled and is being maintained.

Lessons Learned

- 5.5 As required by section 31(2) of the Local Government Act 1974, TfL is required to consider the report. As part of that consideration, the Audit and Assurance Committee considered this paper and noted that it would be submitted to the Board and that TfL has:
- (a) agreed a proposal with the LGO to provide a satisfactory remedy for the complaints; and
 - (b) considered the lessons that can be learned from this matter and compiled the paper contained in Appendix 3 accordingly.
- 5.6 The lessons learned will be implemented in future, where relevant.
- 5.7 TfL is also required, within three months of the date of receipt of the report, to notify the LGO of the action it proposes to take in respect of it, as set out in the lessons learned report.

6 Financial Implications

- 6.1 TfL has, to date, paid a total of £41,633 to the five complainants who contacted the LGO and 17 of the complainants who contacted TfL directly. One claim has been closed without compensation and twelve complaints remain open pending further information from the vehicle operators concerned. TfL's total financial liability in respect of claims to date is not expected to exceed £55,000.

7 Views of the Audit and Assurance Committee

7.1 On 6 March 2013, the Audit and Assurance Committee considered the LGO's report and TfL's actions in response to that report. The Committee noted that the report would be considered by the Board.

List of appendices to this report:

Appendix 1 – Report on an investigation into complaint numbers 11 019 816, 11 019 916, 11 020 434, 11 021 271 and 12 004 146 against Transport for London.

Appendix 2 – Copy of Press Notice.

Appendix 3 – Lessons Learned Paper.

List of Background Papers:

None

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Report

on an investigation into
complaint nos 11 019 816, 11 019 916,
11 020 434, 11 021 271 and 12 004 146
against
Transport for London

28 January 2013

Investigation into complaint nos 11 019 816, 11 019 916, 11 020 434, 11 021 271 and 12 004 146 against Transport for London

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Key to names used

Mr D The complainant in complaint no 11 019 816
Mr J The complainant in complaint no 11 019 916
Mr S The complainant in complaint no 11 020 434
Mr F The complainant in complaint no 11 021 271
Mr G The complainant in complaint no 12 004 146

S30(3) Local Government Act 1974 requires that I report without naming or identifying the complainants or other individuals. The names used in this report are not the real names.

Report summary

Subject

I received complaints from four van owners, Mr D, Mr S, Mr F and Mr G, and from Mr J who works for a scaffolding company which owned nine vans. The complaints were about the introduction of changes to London's Low Emission Zone. Each complained about information Transport for London had given them which turned out to be inaccurate. Transport for London had said vehicles they owned could not be used in the Zone after 3 January 2012 without paying a daily charge of £100. Failure to pay the charge would result in a penalty of £500. The advice from Transport for London was to take action by either purchasing a new van or by modifying their current vans so that they met the new requirements to be introduced on 3 January 2012.

The information given to each of the complainants was wrong. The vans they owned were either compliant or were not within the scope of the scheme. Each of the complainants replaced their vans when they had no need to do so.

Finding

I find that there was maladministration leading to injustice in each of the five complaints made to me.

I accept that Transport for London carried out research in an attempt to discover which vehicles would be affected by the changes to the Low Emission Zone and made strenuous efforts to inform owners of the changes. But some of the information sent out was wrong and caused vehicle owners unnecessary expense. And when the Authority became aware information it had sent to these owners was wrong it did not take steps which were available to it to give the owners the correct information.

Agreed Remedy

I recommend Transport for London pays compensation to the five complainants and the thirty other complainants who have contacted the Authority about this matter.

Transport for London has agreed to my recommendation.

Introduction

1. I received complaints separately from five companies and individuals who believed Transport for London had misled them. The Authority had written to them and said vans which they owned would not pass new, more stringent exhaust emissions criteria which were to come into effect in London from 3 January 2012. Transport for London told them if they did not take action they would face charges if the vans entered the Low Emission Zone, and if these were not paid, they would receive penalties. The information given to them was wrong.
2. In each case the complainant said before they found out the information provided by Transport for London was inaccurate they had taken action to ensure the vehicle or vehicles they used in the zone were compliant with the new emission standards. They suffered financial loss because of the needless action taken.

Legal and administrative background

3. For legal reasons, the names used in this report are not the names (apart from the Authority concerned) of the people or companies involved.
4. Under the Greater London Low Emission Charging Order Under 2006, Transport for London is entitled to introduce a charging scheme to encourage the use of less polluting vehicles.
5. Transport for London introduced the Low Emission Zone (LEZ) in February 2008. The LEZ covers most of Greater London. To drive within the zone without paying a daily charge, affected vehicles must meet certain emission standards that limit the amount of Particulate Matter (PM) (a form of pollution) coming from their exhausts.
6. The LEZ emissions standards that apply and which have been adopted by Transport for London are established in European Union Directives controlling emissions from road vehicles.
7. The European standards tightened progressively since the introduction of the Euro 1 standard in October 1994. The latest proposal is that Euro 6 standard should come into effect in September 2014.
8. The LEZ Scheme Order provides the legal basis for the scheme. The document explains that only certain types of diesel fuelled vehicles are affected;
 - the 'body type',
 - the gross vehicle weight,
 - the unladen weight

- the vehicle age and
- the number of seats

are the key characteristics that determine whether a vehicle is within the scope of the LEZ. Transport for London use these criteria to establish if a vehicle is compliant with the scheme.

9. Transport for London announced its proposals for the scheme in 2006. The Authority said it would introduce it in four phases.
10. Phases one and two, introduced in 2008, required lorries and buses to meet the Euro 3 standard to be able to operate within the Zone.
11. Phase three, which affected larger vans and minibuses, was due to be introduced in October 2010. Following a public consultation, the Mayor delayed its introduction to 3 January 2012. This coincided with the introduction of phase four which tightened the emissions standards from Euro 3 to Euro 4 for those vehicles affected by phase one and two.
12. It is the introduction of phase three which has led to the complaints I am considering.
13. The charge for vans which did not meet the phase three standard entering the zone was to be set at £100 per day. The penalty for entering the zone in a non-compliant van without paying the charge was to be £500, reduced to £250 if paid within 14 days.
14. In respect of phase three of the LEZ, Transport for London estimate that around 240,000 vehicles which are subject to this part of the scheme enter the LEZ on a weekly basis. Around 98% of these vehicles comply with the scheme, leaving approximately 4,000 vehicles which currently do not meet the requirements.

Investigation

15. Transport for London decided that for UK registered vehicles, the primary source for the data used for determining whether a vehicle subject to the scheme was compliant would be the DVLA. It was apparent the DVLA did not record in all cases the data which would allow Transport for London to establish if a vehicle was compliant.
16. The Authority chose to use the heaviest known gross vehicle and unladen weight for each specific make and model in deciding whether it was compliant.
17. Transport for London recognised the DVLA could not capture all vehicle characteristics especially in relation to foreign vehicles.

18. So Transport for London established a LEZ vehicle registration scheme. This enabled foreign vehicle owners to register their vehicles with Transport for London and enabled any UK registered vehicle owners who may be affected by the LEZ to register or apply for an exemption.
19. Using Transport for London's registration scheme, owners could correct the data supplied by the DVLA. This would also allow the vehicle owner to correct the generic vehicle weight for the make and model initially applied by Transport for London if the particular vehicle was of different weight.
20. The registration scheme also allowed registered owners of vehicles who may be affected by the LEZ to register and apply for the 100% showman's discount, and register data corrections for their vehicle which may not be reflected in the DVLA database. This would remove the need for Transport for London to use the generic vehicle weight data typical of the make and model which Transport for London may have applied to the vehicle.
21. In early 2011 Transport for London embarked on a publicity drive to inform owners and drivers of vehicles which would be affected by the changes to the scheme which would come into effect on 3 January 2012.
22. The publicity campaign included on-street posters, radio advertisements and advertisements in the local, national, trade and European press.
23. Transport for London also decided to send a targeted mail-shot to owners of vehicles which it thought would be affected by the scheme. Transport for London used its traffic monitoring cameras to identify vehicles being driven in the zone which it believed would not meet the LEZ standards being introduced at the start of 2012. The mail-shot contained a leaflet which was specifically targeted at this audience.
24. The Authority contracted the Driver and Vehicle Licensing Agency (DVLA) to send the mail-shot to the owners of these vehicles. For data protection reasons, the DVLA did not identify these owners to TfL, but sent the mail-shot to the owners of those vehicles which TfL had identified had previously entered the zone and whose vehicles were thought to be non compliant.
25. The mail-shot consisted of a letter and a 20 page leaflet which explained how the LEZ operated and the options available for compliance. Transport for London has told my investigator the objective of the letter and leaflet was to explain the standards and to advise the recipient that according to the Authority's records their vehicle did not meet the required standards and was not compliant with the LEZ.

26. There were several mailings over a period of months. The wording of the letter was unequivocal:

“According to our records, your vehicle does not meet the tighter standards. Your vehicle will not meet the new standards if it was first registered as new with DVLA before 1 October 2006, or has a Reduced Pollution Certificate (M) or Low Emission Certificate for an eligible engine or partial filter. The enclosed leaflet explains the options available to meet the standards...”

27. Nothing in the letter suggested the information held by the Authority may be inaccurate or that vehicle owners should carry out their own checks in case the information held was inaccurate.

28. A leaflet, “Are you ready for 3 January 2012?” was sent with the letter. Page 10 contained the following:

How do I know if my vehicle meets the emissions standards?
 You can use the age and weight of your vehicle as indicators. Take a look at the table below. The vehicle types listed do not meet Euro 3 standards. If your vehicle is one of them, you'll need to take action soon if you want to drive within the LEZ from 3 January 2012. See page 14 to find out what you can do.

Vehicle types that will not meet the LEZ emissions standards in 2012		
Vehicle type	Weight	Age
Larger vans; 4x4 light utility vehicles; Motorised horseboxes; Pickups	1.205 tonnes unladen to 3.5 tonnes gross vehicle weight	Registered as new before 1 January 2002
Ambulances; Motorcaravans	2.5 to 3.5 tonnes gross vehicle weight	<i>For GB registered vehicles – You'll find the exact date your vehicle was first registered on your V5C (the official registration certificate)</i>
Minibuses (more than 8 passenger seats)	5 tonnes or less gross vehicle weight	

If your vehicle was first registered as new with the DVLA on or after 1 January 2002, it will meet the Euro 3 emissions standard and you won't need to take any action.

Some manufacturers started producing Euro 3 vehicles before 1 January 2002. To find out more visit tfl.gov.uk/lezlondon

If you're unsure whether your vehicle meets the emissions standards go to tfl.gov.uk/lezlondon or call 0845 607 0009.

29. The leaflet suggested if owners were not sure if their vehicle was compliant they could visit TfL's website and enter the vehicle's registration number (VRN) on a 'compliance checker'. They would then be told if the vehicle was compliant or not. The response reflected the information available to Transport for London at the time. Initially this would have been all the vehicles whose owners had received the mailing.
30. As time passed, TfL became aware that some of the vehicles they had originally believed were subject to the scheme were not because the actual weight of the vehicle was less than it had originally believed. This particularly applied to Ford 55/75 vans which Transport for London had originally believed had an unladen weight in excess of 1.205 tonnes. When it found that some variants had an unladen weight less than 1.205 tonnes, it updated its compliance checker.
31. However if an owner had used the compliance checker prior to it being updated and found from Transport for London's website his vehicle was subject to the LEZ and not compliant with the scheme, there was no reason for him to return to the website and check it for a second time.
32. Complainants have told me that having been informed in the mailing their vehicles were subject to the zone and not compliant with it, and having used the compliance checker and been given the same information, they had no reason to believe they needed to make further enquiries about the suitability of their vehicles.
33. It is my view that once Transport for London became aware that a significant number of owners had been given the wrong information in its mail-shot, it should have used the DVLA a second time to contact these owners to give them the correct information that their vehicles were not subject to the scheme.
34. Over time, generally through word of mouth, vehicle owners became aware that the original information which Transport for London had given them was wrong. They went back to the compliance checker and found Transport for London had changed the information to show their vehicles were compliant or not subject to the zone. When they realised there had been no reason for them to have changed their vehicles, they complained to the Authority. Transport for London rejected their complaints.
35. The total number of complaints made to Transport for London is 35. Five of these complainants were not satisfied by Transport for London's response and made complaints to me.

Mr D – the complainant in complaint no 11 019 816

36. Mr D works as a painter and decorator. He owned a Ford 55TD van. He says during 2011 he received several letters from Transport for London about the van he used for his business. In the letters Transport for London said the DVLA had confirmed to it that his van did not comply with the new restrictions for the LEZ and so he would not be able to use it within the zone.
37. He said the information given to him in the letters was that his options were to pay a daily fine of £100, get a conversion done to his van which would cost more than it was worth, or buy a new van.
38. He told my investigator that after he had sold his van he found out that it was, in fact, not subject to the LEZ and he could have continued to drive it after the new LEZ requirements had come in to force.
39. He said he had telephoned Transport for London to complain. He was told by an officer that if he could cancel the order for his new van, Transport for London would refund him the £500 deposit he had paid. He told the officer it was too late for him to cancel the order. Transport for London accepts this offer was made but says it was not the Authority's policy at the time and the officer had no authority to make the offer and the advice he had given was incorrect.
40. Mr D says he took the letters he received from Transport for London during 2011 as read and had no reason to believe anything other than he would not be able to use his old vehicle in the LEZ without paying a £100 per day penalty. He says the letters did not say he should check to make sure the information about his van was correct.
41. He says if Transport for London had not given him false information he would not have sold his 'perfectly good van'. He says he is now unnecessarily in debt. He wants Transport for London to explain why it did not write to him immediately it became aware his van was not subject to the LEZ.

Mr J – the complainant in complaint no 11 019 916

42. Mr J is a director of a scaffolding company. He says that in 2011 his company received letters from Transport for London telling him that seven of his company's vans would not be compliant with the changes to the LEZ which were to be introduced in January 2012.
43. As a result of these notifications, his company scrapped and replaced three of the vans in August and September 2011 and part exchanged four others on 1 September 2011. Two other vans were to be replaced in January 2012.

44. On 5 December 2011, after the purchase of seven vans had been completed, he says he found out that Transport for London had, 'changed its mind about the vans, and they were now compliant'.
45. Mr B wrote to Transport for London asking for compensation for the unnecessary expenditure his company had been put to resulting from inaccurate information and advice provided by the Authority. Transport for London refused to acknowledge it was at fault or pay any compensation.

Mr S – the complainant in complaint no 11 020 434

46. Mr S works for a security company and uses his van to get to work. He owned a Ford 75TD van. He received a letter from Transport for London saying that, according to its records, his vehicle would not meet the standards required in the LEZ from January 2012.
47. He says he rang Transport for London to query this information. He says he was told, categorically, his vehicle was over the weight limit of 1.205 tonnes, was subject to the LEZ and would not meet the required standard to drive free of charge within the zone.
48. He had just spent a considerable sum on the vehicle and he feels he effectively lost this money as he had to sell the vehicle at a discount because it could not be used in the zone.

Mr F - the complainant in complaint no 11 021 271

49. Mr F says he received letters in 2011 telling him his Ford Transit van would not be compliant with the revised Low Emission Zone. He says he did what he was told to do by Transport for London in its letters. He says he 'acted quickly', disposed of his old van and bought a new one.
50. When he later found his van was compliant, he complained to Transport for London. In its reply, the Authority said it had originally believed his vehicle had been manufactured with a Euro 2 compliant engine. That was why he had received the letters about his van. However it had later learned from the manufacturer that some later vehicles had been fitted with Euro 3 engines and so were compliant with the zone. Mr F's vehicle was one of these later vehicles and had the Euro 3 engine and so was compliant with the new requirements coming into force in January 2012.
51. Transport for London said that once this information became available to it, the compliance checker on its website was updated and Mr F's van was shown as compliant with the new requirements. The Authority absolved itself from all

blame for the mistake and said it was Mr F's fault for not making further enquiries once he had received the letters from Transport for London.

52. Mr F says he sold his old van and bought a second hand van in its place. He says it has cost him "thousands" to replace his old van and bring the new one to a useable standard.

Mr G – the complainant in complaint no 12 004 146

53. Mr G, a builder, became aware that his Mercedes Sprinter vehicle would not be compliant with the requirements of the Low Emission Zone from January 2012 by the general advertising carried out by Transport for London. His vehicle was first registered as new on 1 March 2001 and was therefore assumed to have been fitted with a Euro 2 engine and so not be compliant with the requirements of the zone. However his vehicle had actually been manufactured to meet the Euro 3 standard and was compliant.
54. Transport for London says that once it became aware the vehicle was compliant it updated its compliance checker. It says it was showing the correct information from 9 August 2011.
55. Mr G says this is not the case. He says he checked the website on a weekly basis from 11 August to 12 January 2012, and his van was shown as non-compliant during that whole period.
56. Transport for London has sent me evidence that the vehicle checker on its website was updated on 9 August 2011 to show Mr G's vehicle was Euro 3 compliant

Conclusion

57. It is my view that Transport for London genuinely attempted to let vehicle owners know about the changes which would be made to the Low Emission Zone in January 2012 and how it was likely to affect them.
58. However it is also my view it made several fundamental errors in notifying owners.
 - Prior to commissioning the DVLA to send out notification letters, it did not complete adequate checks with manufacturers about whether vehicles which were manufactured before 1 January 2002 had been fitted out to Euro 3 standard.
 - It was aware that some vehicles of the same type had different unladen weights and this was fundamental to whether they were subject to the LEZ restrictions. It has told me that at the time the DVLA wrote to vehicle owners full

information on the weights of vehicles was not available, was incomplete or not available from the manufacturers. Despite this, it decided to use the heaviest manufactured weight when deciding if a vehicle was subject to the zone. Transport for London believes this decision was reasonable. It may have been a reasonable decision, but for those affected, it was wrong and costly.

- Transport for London did not give sufficiently prominent warnings in its letters, leaflets or website that the information it held may be wrong and it was for the vehicle owner to carry out his own checks on whether his vehicle was subject to the LEZ and if so, whether it was compliant.
- Once it discovered that some owners had been wrongly notified about their vehicles it could have made new arrangements through the DVLA to notify them of the error. It failed to take this action.

Remedy for the injustice

59. Transport for London has agreed to compensate vehicle owners who have suffered financial loss because of the information which it gave them. I have agreed with its general principles for compensation which I will outline here before dealing in detail with the five complaints which have been made to me.
60. In cases where a motorist has fitted abatement equipment unnecessarily, it is my view a fair general approach would be for Transport for London to reimburse the cost incurred in purchasing and fitting of the equipment. This would be subject to verification that the status of a vehicle has changed and evidence from the motorist that equipment has been purchased and fitted. Transport for London will consider goodwill payments on a case by case basis.
61. With regard to those cases where motorists have opted to sell, or scrap, and replace their vehicles rather than fit abatement equipment I have taken into account the vehicles would be about ten or twelve years old and it is likely they would have needed replacement within a relatively short period. While it is clear owners have incurred costs in replacing these vehicles, it is likely the individual or organisation would have incurred these costs in the near future.
62. I also consider that the purchaser of a new vehicle will clearly have gained additional benefits in owning a new vehicle. For example new vehicles are exempt from MOTs for three years, will be more reliable, likely to benefit from a warranty, may have lower insurance and taxation costs and benefit from more economical fuel consumption.
63. The vehicle owner will also now have a tangible asset. But this asset will have depreciated immediately it is put on the road. It is my view Transport for London

should compensate the vehicle owner for this immediate depreciation of his asset.

64. Transport for London has agreed that in general, it will compensate purchasers of new vehicles with 15% of the purchase price of the vehicle. It is my view this is a reasonable settlement of these complaints.
65. Transport for London has agreed that it will deal in a similar manner with the 30 other complaints it has received about these matters. Thirteen of these complaints remain open and it will deal directly with these complainants. It will contact the seventeen complainants whose complaints it has closed and tell them about my decision and the settlement it has reached. Transport for London will deal with these complainants using as a basis the settlement outlined here. If any of these thirty complainants remains dissatisfied with the settlement offered by Transport for London, the Authority will refer the matter back to me so I can make a final recommendation.
66. I will now deal with the individual complaints which have been made to me.

Complaint no 11 019 816 – Mr D

67. Mr D paid £18,400 for a new van. Using the principles outlined above, a payment of £2,760 should be made to compensate Mr D.
68. However I am aware Mr D was replacing a Ford 55TD van. It does not seem to me reasonable that Transport for London should compensate him for the cost of the more expensive van he chose to replace it.
69. A new replacement van on a like for like basis could be purchased for about £10,000. It is my view that it would be reasonable for Transport for London to compensate him for replacing his van at this level and so I consider £1,500 would be appropriate in this case.

Complaint no 11 019 916 – Mr J

70. Mr J's company bought seven new vehicles to replace vehicles which it believed would be subject to the LEZ and not compliant with it. The total cost of these vehicles was £68,481.71.
71. Using the principles outlined above, a payment of £10,270 should be made.
72. But it seems to me that Mr J's company has been put to considerable unnecessary inconvenience because of the problems caused by the incorrect information. Transport for London has offered to make an additional goodwill payment of £750 to compensate for this inconvenience, giving a total payment of £11,020.

73. It is my view this is a reasonable settlement of the complaint.

Complaint no 11 020 434 – Mr S

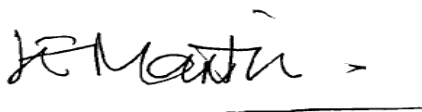
74. Mr S carried out £600 worth of repairs to his old van just before he was told he would not be able to use the vehicle in the LEZ from January 2012. He says he had to sell the van cheaply because it could not be used in the LEZ.
75. He bought a second-hand vehicle to replace his old van. He paid £1,400 for this replacement. He sold his old van for £600.
76. It is my view it is appropriate to vary the principles in this case. Between the money he spent on his old van before he was told (wrongly) it was not compliant, and the purchase of the second-hand van, Mr S spent £2000. Taking into account the sale of his old vehicle he has spent a net £1,400 to remain essentially in the same position as he was before he received the wrong advice.
77. I have agreed with Transport for London that in the circumstances it will pay the complainant £900 compensation.

Complaint no 11 021 271 – Mr F

78. Mr F bought a replacement van, second-hand, for £4,200.
79. Using the principles outlined above, a payment of £630 should be made to settle the complaint.

Complaint no 12 004 146 – Mr G

80. Mr G leased a new van over four years. His total repayments over the four year term are £15,135.
81. Applying the agreed principles, a payment of £2,270 should be made to settle the complaint.



**Dr Jane Martin
Local Government Ombudsman
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28 January 2013



We hereby give notice that the Local Government Ombudsman has issued a report following its investigation of five complaints against Transport for London.

The complaints relate to information TfL provided to vehicle owners about changes to the Low Emission Zone and notifications sent to vehicle owners about how those changes were likely to affect them.

The Ombudsman found that there had been maladministration on the part of Transport for London and this had caused injustice to the complainants.

Transport for London has agreed to take action which the Ombudsman regards as providing a satisfactory remedy for the complaints.

Copies of the report will be available for public inspection for three weeks from 8 February 2013 at the following address:

Transport for London, Palestra, 197 Blackfriars Road, Southwark, London, SE1 8NJ

Anyone is entitled to take copies of the report or extracts from it. Copies will be provided free of charge.

Lessons Learned

1. INTRODUCTION

1.1. Background

On 28 January 2013 the LGO issued a report in respect of five complaints it received regarding the LEZ.

The report concluded that that there was maladministration leading to injustice in each of the five complaints and recommended that TfL pays compensation to the five complainants in addition to thirty other complainants who had complained directly to TfL.

TfL provided the LGO with a proposal for how the complaints could be resolved, which they accepted.

1.2. Purpose of this document

Under section 31(2) of the Local Government Act 1974, as the LGO found that the complainant(s) suffered injustice as a result of maladministration, TfL is required to consider the LGO report.

As part of that consideration, this paper is intended to identify any events and/or failings that contributed to the LGO's finding and make recommendations on how to manage them in the future to ensure that any similar mistakes are not repeated.

This paper is specific to the issues identified in the LGO's report and is not intended to cover any wider aspects of the implementation of the LEZ.

2. LESSONS LEARNED

2.1. Communications

Description	Recommendation
<p>The content of the letter to vehicle operators, that was to be sent out by the DVLA (on TfL's behalf) as part of the LEZ communications campaign, was substantially altered throughout the review process.</p> <p>The final version that was provided to the DVLA contained too little of the essential information that was intended to convey to the recipients more clearly that it was possible that the information held by TfL was not correct and that they should check with their vehicle manufacturer before taking any action, if they thought this to be the case.</p>	<p>In future, any such key communications that are reviewed by senior stakeholders should be accompanied by a document (e.g. a comments sheet) clearly stating the rationale for including certain information and the risks (if any) of its removal.</p>

Description	Recommendation
<p>TfL decided not to ask the DVLA to undertake a further direct mailing to vehicle operators due to the nature of the agreement in place between the parties at the time, which limited the way in which the data held by the DVLA could be used by TfL.</p>	<p>In any future implementations that require the co-operation of the DVLA, all potential scenarios should be assessed and any agreement with the DVLA should reflect the likely requirements of TfL regarding the use of the data that they hold. If the data cannot be released, then further mitigating actions should be considered.</p>
<p>The vehicle compliance-checker element of the TfL website contained a statement that the information held by TfL might not be 100% accurate.</p> <p>Although this generally had the desired effect (and resulted in some vehicle operators seeking clarification on the status of their vehicles with the relevant vehicle manufacturers), a relatively small number of operators evidently relied on the information provided by the compliance-checker and believed their vehicle to be non-compliant on that basis.</p>	<p>In future, consistent and clear communications should be in place across all channels and if there is any doubt as to the accuracy of information held by TfL, this should be made very clear to avoid any customer confusion.</p> <p>This recommendation was implemented (in relation to the LEZ) soon after the issue emerged.</p>

2.2. Stakeholder Engagement

Description	Recommendation
<p>Stakeholder engagement did not start early enough to identify those vehicle manufacturers who voluntarily installed (Euro III) compliant engines before they were required to do so (so-called “early adopters”).</p>	<p>This exercise needs to be prioritised for early completion in any future implementations where similar circumstances are likely.</p>
<p>Information about ‘early adopters’ was not forthcoming from a number of vehicle manufacturers, which led to delays in updating TfL’s records on vehicle compliance.</p> <p>Not enough focus was placed on the importance of pressing vehicle manufacturers to provide the information requested in a timely manner.</p>	<p>A record of such manufacturers should be created and maintained to ensure robust data is in place.</p> <p>This recommendation has already been implemented.</p> <p>Any future implementations making use of such data should be proactive in chasing down missing data or data anomalies.</p>

2.3. Planning

Description	Recommendation
<p>Too much emphasis and focus was placed on the importance of achieving the January 2012 go-live date, at the expense of earlier key project milestones, specifically around vehicle operator communications.</p> <p>As a result, some key decisions were taken later than was ideal and subsequently caused confusion for some vehicle operators.</p>	<p>Future implementations should include sufficiently detailed planning in all areas at the early stages of the project to identify critical paths and key inter-dependencies, thus avoiding late decision making.</p>

2.4. Governance

Description	Recommendation
<p>Some key decisions that should have been taken at the Project Board were made at a lower (workstream) level, meaning that some of the key issues referred to above were not exposed to the Board until late in the day.</p>	<p>Ensure decisions are made and issues discussed at the correct level. If in doubt, project team members should escalate issues to a more senior forum.</p>