

SPSO decision report

Case: 201702939, East Ayrshire Council
Sector: local government
Subject: neighbour disputes and anti-social behaviour
Decision: upheld, recommendations

Summary

Mr C, an MSP's caseworker, complained on behalf of a constituent (Mr A) that the council failed to appropriately investigate Mr A's reports of noise. Mr A said that renovation works being carried out by his next door neighbour were causing him severe disruption. The council had initially served an abatement notice, setting out legal time restrictions for the hours the works could be carried out. However, Mr A said that he had repeatedly reported that works were ongoing outwith the specified hours and that the council had been unable to attend to witness the noise and enforce the notice. By the time that the council were able to attend out-of-hours, the works were mostly complete, with remaining works taking place during the specified hours.

We took independent advice from an environmental health adviser. We found that the council had no formal policy or procedure relating to the investigation of noise and enforcement of abatement notices. The council said that a policy would not cover the complexity of noise complaints and would restrict their staff from using their professional judgement. The adviser noted that Scottish Government guidance suggests that local authorities should have clear policies and procedures in place to govern the investigation of noise nuisance. The guidance also suggested that those policies and procedures should set out clear timescales for response, along with details for out-of-hours provision. We considered that the council's reason for not having these policies and procedures was unreasonable. We also found that the council had taken too long to attend and investigate Mr A's ongoing reports of noise, both during and outwith normal working hours. Finally, we noted that there were a number of documents missing including records of phone calls made by Mr A and details of the site visits the council did carry out. For these reasons, we considered that the council failed to appropriately investigate Mr A's reports of noise and upheld the complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr A for failing to appropriately investigate his reports of noise. The apology should meet the standards set out in the SPSO guidelines on apology available at <https://www.spsso.org.uk/leaflets-and-guidance>.

What we said should change to put things right in future:

- The council should have a clear procedure for noise management and investigation, in line with the Scottish Government guidance. This will include full details of out-of-hours arrangements and timescales for attendance following noise reports.
- Full records should be made of investigations, which should be made readily available for any complaint investigation.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.