



Section C

Environmental health

C1 - 2 Noise nuisance

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C1: Noise nuisance

Street trading – amplified music – records

Mr Sinclair complained that a council failed to take effective action to control a statutory noise nuisance being caused by a street trader.

The circumstances

1. The street trader used amplified music on his stall in a market beside Mr Sinclair's property.
2. Mr Sinclair said that, as he worked night shifts in his job as a journalist, he needed to sleep during the day and was unable to do so, and that his partner and their child were also unable to sleep. He said that the noise was, at times, so loud that it drove him and his family from their sitting room, and that, at such times, they could not hear the television or listen to music without turning the volume up, and they could not hear each other speak.

What the Ombudsman found

3. Investigation showed that Mr Sinclair made many telephone calls to the council to complain about the noise, but the vast majority of the calls went unrecorded, despite the fact that the council had asked him to telephone when a nuisance was occurring so that it could be witnessed.

4. The Ombudsman said that the failure to have in place a proper system of recording telephone complaints of nuisance was maladministration. The Ombudsman also found that the council had insufficient sound recording equipment to enable it to cope with complaints when its two machines were found to be faulty.
5. The council did finally serve an abatement notice on the stallholder, but failed to monitor the situation properly for a number of months. It finally took effective action to work with the stallholder to modify the levels of amplified music he used. But this took far too long and Mr Sinclair and his family suffered from noise nuisance for 18 months longer than they should have done.
6. Mr Sinclair said the council only took a serious interest in his case after he complained to the Ombudsman. He had a sense of utter despair when the council was doing nothing to help.

Outcome

7. The council reviewed and changed its procedures, and agreed to pay Mr Sinclair £750.

(Report 00/A/18451)

C2: Noise nuisance

Dog kennels – failure to investigate site history

Mr Mitchell, Mr Fowler and Mr Owen complained that a council failed to take effective action about noise nuisance.

The circumstances

1. They all lived close to dog boarding kennels. They complained about the noise of dogs barking, particularly at night.

What the Ombudsman found

2. The Ombudsman found that the actions of the council in response to the complaints of noise nuisance were, in the main, reasonable and comprehensive. Steps were taken to visit the site, investigate the problem, gather evidence and consider legal action.
3. But the Ombudsman was critical of the environmental health department's failure to discover the existence of a planning condition requiring dogs to be locked in at night. This was the problem time for noise, and the environmental health officer knew that the dogs had 24-hour access to the outside runs. She

said she sometimes checked planning permissions in other cases such as industrial units, but did not think of it in this case.

4. The Ombudsman said that the failure to check the relevant planning history of the site was maladministration.
5. The maladministration caused the complainants injustice. When the condition was enforced that did bring some improvement. That improvement should have been achieved much sooner than it was.

Outcome

6. The Ombudsman recommended the council to pay £500 to each of the complainants to compensate for the unnecessary noise nuisance they endured, and for their time and trouble in pursuing their complaints with the council and with him.

(Report 01/B/7750 et al)