

## SPSO decision report

**Case:** 201302441, South Ayrshire Council  
**Sector:** local government  
**Subject:** noise pollution  
**Outcome:** some upheld, recommendations

### Summary

Mr C complained that the council had failed to take reasonable action to protect him and other residents from what he said were excessive levels of noise from a scrap processing yard next to his home. Mr C considered the noise levels were a statutory nuisance and the council had failed to take appropriate action to address this.

We obtained independent advice from an environmental health adviser. The complaints concerning noise levels had been long-standing and ongoing. We accepted that the council had carried out noise monitoring as a result of complaints received about the level of noise coming from the scrap yard since 2011. We were satisfied that the council had determined that a statutory noise nuisance was established firstly in 2011, and then again in 2012 and 2013.

However, the council did not take enforcement action and serve an abatement notice until late 2013. The abatement notice was then suspended. We considered the council could and should have taken earlier action. We were critical of the council's failure to do so and of the significant delay in serving the abatement notice from the time when nuisance was first established in 2011.

The council said that since the abatement notice was suspended they have continued to assess complaints received and have not found there to be any situation which warranted further enforcement action. However, we found it concerning that since the suspension a significant number of complaints about noise have been made. Although the council have said the noise levels were found to be excessive on only two of these occasions, it was unclear why the council have not taken further enforcement action. We considered the council failed to act reasonably in respect of noise nuisance that Mr C experienced at his home and made a number of recommendations to address this.

Mr C also complained about the council's handling of concerns he raised about alleged soil contamination in his garden and at a nearby play park, which he considered had originated from the operations carried out at the scrap yard. We found that the council had carried out sampling which included taking samples of soil and fruit from Mr C's garden. The advice we received from the adviser was that the council had carried out appropriate monitoring and sampling and in respect of the most recent sampling results had taken appropriate advice from public health authorities about these results and in evaluating the risk to human health. These results had found there was not a significant risk to human health and that further investigation was not required. We therefore did not uphold this part of his complaint.

### Recommendations

We recommended that the council:

- apologise for their failure to act reasonably and earlier in respect of noise nuisance Mr C experienced at his home;
- undertake a review of their policies and procedures in relation to noise nuisance, having due regard to the

current guidance and best practice, and to ensure that staff have the requisite competencies in assessing acoustics and noise control;

- ensure our investigation findings are brought to the attention of the relevant staff involved; and
- provide evidence of what action they are taking to continue to monitor noise levels from the scrap yard.