

SPSO decision report

Case: 201405142, Perth and Kinross Council
Sector: local government
Subject: noise pollution
Outcome: upheld, recommendations

Summary

Mrs C's home is next to a facility used for outdoor sports within a school campus. Mrs C complained to the council about noise nuisance from three all-weather pitches which can be hired by the public. She was concerned about noise from users shouting and swearing, as well as balls hitting fencing, which could be heard in her home and garden. Mrs C had previously brought complaints about the facility to us under case reference 201202858. As a result of a recommendation made following this earlier investigation, the council had taken measures to reduce the noise from the facility, including erecting a sound-reducing fence. However, in 2013, Mrs C reported to the council that the measures had not worked. The council took further action but Mrs C remained unhappy with the result. She asked us to consider her concerns that the council had failed to take reasonable steps since 2013 to address continued noise nuisance from the facility.

After taking independent advice from one of our advisers, who is an environmental health specialist, we upheld Mrs C's complaint. The adviser commented that the council had not served a notice to the facility after the noise nuisance had been confirmed, and this was not in line with the relevant legislation. The adviser said that, as a result, the council had been left without a statutory means to ensure that the facility took appropriate action to reduce or stop the noise heard at Mrs C's home. We made a number of recommendations to the council about this matter.

Recommendations

We recommended that the council:

- issue a written apology to Mrs C for the failure to timeously issue an abatement notice in line with the relevant legislation;
- ensure that relevant staff are aware of their statutory duties in terms of the requirement to serve abatement notices when a statutory nuisance is confirmed;
- investigate the noise from the campus that is affecting Mrs C's property, including the anti-social behaviour aspect of swearing;
- consider, on the basis of the established situation at Mrs C's home and without further delay, whether an abatement notice should be issued in line with the relevant legislation; and
- consider whether there is any other formal action available to deal with audible swearing, if this issue persists.