

SPSO decision report

Case: 201704486, Aberdeen City Council
Sector: local government
Subject: noise pollution
Decision: upheld, recommendations

Summary

Mr C complained about the council's handling of a report of statutory nuisance under the Environmental Protection Act 1990 (the EPA), which he made due to noise coming from a council owned car park adjacent to his home. The council had told him that they did not consider that the nature of the behaviour fell under the remit of the EPA. Mr C was not satisfied with the explanation provided for this and brought his complaint to us.

We took independent advice from an environmental health adviser. They considered that the council's position was unreasonable, confirming that there was a statutory duty to investigate any complaint of statutory nuisance, decide whether a statutory nuisance was occurring and, if it was, serve an abatement notice. Therefore, we upheld Mr C's complaint. However, we noted that the council have now informally investigated the noise report.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr C for failing to adopt or explain a reasonable interpretation of the EPA in relation to his reports of noise. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/leaflets-and-guidance.

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

- The council should accept that they must investigate any complaint of statutory nuisance to establish whether a nuisance exists.

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.