

Scottish Parliament Region: North East Scotland

Case 200602882: Aberdeen City Council

Summary of Investigation

Category

Local government: Neighbour disputes; anti-social behaviour

Overview

Mr and Mrs C complained to the Ombudsman's office that Aberdeen City Council (the Council) had failed to respond appropriately to complaints they made against a neighbour regarding their alleged behaviour. The complaints centred on, but were not exclusively about, noise emanating from their neighbour's property. At the time Mr C, Mrs C and their neighbour were tenants of the Council. In their various complaints to the Council about their neighbour's behaviour, Mr and Mrs C alleged that the Council both failed to document the reports of anti-social behaviour made by them and that, in meetings held with Council Housing Department officials, decisions were not recorded or followed up.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) telephone calls made by Mr and Mrs C to the Council's Neighbour Complaints Unit were either not recorded or not fully recorded (*upheld*);
- (b) records of meetings held with the Council's Housing Department officials were either not recorded or not fully recorded (*upheld*); and
- (c) the Council failed to take appropriate action in response to Mr and Mrs C's complaint of anti-social behaviour (*not upheld*).

Redress and recommendation

The Ombudsman recommends that the Council write to Mr and Mrs C, apologising for the failings identified in this report.

The Council have accepted the recommendation and will act on it accordingly.

Main Investigation Report

Introduction

1. On 15 December 2006 the Ombudsman's office received a complaint from Mr and Mrs C against Aberdeen City Council (the Council) alleging that the Council had not responded appropriately to their complaints about the alleged anti-social behaviour of their neighbour. At that time, Mr and Mrs C had not yet completed the Council's formal complaints process. Mr and Mrs C brought their complaint back to the Ombudsman's office on 6 June 2007, having done so.

2. The complaints from Mr and Mrs C which I have investigated are that:

- (a) telephone calls made by Mr and Mrs C to the Council's Neighbour Complaints Unit were either not recorded or not fully recorded;
- (b) records of meetings held with the Council's Housing Department officials were either not recorded or not fully recorded; and
- (c) the Council failed to take appropriate action in response to Mr and Mrs C's complaint of anti social behaviour.

Investigation

3. In the course of this investigation I considered the relevant correspondence between Mr and Mrs C and the Council. I made an enquiry of the Council, to which they responded, and have considered their response. The Council provided me with a copy of their Neighbour Complaints Unit Operation Guide; Tackling Antisocial Behaviour Toolkit and Estate Management Procedures.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr and Mrs C and the Council were given an opportunity to comment on a draft of this report.

(a) Telephone calls made by Mr and Mrs C to the Council's Neighbour Complaints Unit were either not recorded or not fully recorded

5. Mr and Mrs C alleged that calls made by them to the Council's Neighbour Complaints Unit were either not recorded or that the details of the call were not recorded fully.

6. In the course of making their complaint, Mr and Mrs C submitted a request to have sight of their housing records. This request was processed by the Council under data protection legislation and Mr and Mrs C received a copy of

their records. Having reviewed the Council's records and compared them with their own private records they identified there as being three occasions on which they allege they telephoned the Council's Neighbour Complaints Unit helpline but for which there is no Council record of them having called. There are a further 15 occasions where both sets of records correspond and note a call being logged.

7. According to Mr and Mrs C's own records they telephoned on 28 and 29 June 2006 and 30 September 2006. Mr C detailed the nature of the calls as below.

'30 September 2006. Called to advise of loud music from flat below staff advised they would call out. Called back around ten minutes later to advise had went off again.

29 June 2006. Called [Neighbour Complaints Unit] unit to advise that I had approached the neighbour about the incident the previous morning and that I had been threatened, staff advised they would report the incident and not to approach the neighbour in future.

28 June 2006. Called the [Neighbour Complaints Unit] to report an incident that morning, they said they would make a report to the housing assistant.'

8. The Council's response to the lack of recording of these specific calls is that they cannot explain why Mr and Mrs C allege the calls were made and not recorded. They stated that they believed it to be unlikely an error was made on the three occasions identified by Mr C, particularly as they stated that the issues referred to by Mr C would have been ones which should have been recorded and that similar calls relating to identical issues were recorded on other dates.

9. In my letter of enquiry to the Council I requested a copy of guidance issued to Council staff, setting out in what instances complaints to the Neighbour Complaints Unit helpline should be recorded. The Council's Neighbour Complaints Unit Operation Guide states in paragraph 2.3, that 'In any case, all evidence of antisocial behaviour should be documented, this can include statements from complainers/witnesses, photographic and video evidence'; in paragraph 4.6, that 'All telephone calls to the Helpline will be logged'; and in paragraph 4.7, that 'All calls and incidents reported to the [Neighbour Complaints Unit] Helpline will be communicated in writing to the

relevant GHA or RSL's Housing Assistants as soon as possible together with the action/advice given to the tenant.'

(a) *Conclusion*

10. The Council, in responding to Mr and Mrs C's complaint, indicated that if calls of the nature of those Mr and Mrs C contend that they made, and which they have recorded in their own personal record, were made then this was the sort of issue which should have been logged and recorded by the Neighbour Complaints Unit. In complaints relating to anti-social behaviour, and particularly complaints about excessive noise, the recording of calls was important as telephone calls were the main channel for reporting to the Council. It would also normally have been the starting point for any subsequent investigation. The issue to be considered in seeking to determine this aspect of Mr and Mrs C's complaint is one of whether the calls were made.

11. Mr and Mrs C kept a record of the dates and times when they contacted the Neighbour Complaints Unit to complain about the activities of their neighbour. Having compared this to the records held in their housing records held by the Council, they identified three occasions where there was a discrepancy and they alleged that their calls were not logged. The detail of these calls is outlined in paragraph 7. In responding to my letter of enquiry, the Council stated that they could not explain why, if the calls were made, they were not recorded but also stated that they believed it unlikely that an error was made on all three occasions and raised the question of whether there had been a mistake in the dates quoted.

12. As indicated in paragraph 6, Mr and Mrs C kept detailed records of the occasions and nature of the calls made to the Council's Neighbour Complaints Unit. Of the 18 that they list between 24 June 2006 and 25 November 2006, some 15 do correlate directly with the record kept by the Council. There are none listed by the Council which are not noted in Mr and Mrs C's record.

13. I have noted the detail of Mr and Mrs C's record-keeping and the fact that the majority of the entries directly correlate with those held by the Council. I, therefore, find it difficult to agree with the Council's view that Mr and Mrs C may have been mistaken. Additionally, Mr and Mrs C have also provided evidence extracted from their telephone bills that the three telephone calls detailed in their records but not recorded by the Neighbour Complaints Unit were made to the Neighbour Complaints Unit, although these do not evidence the nature of

the calls made. For these reasons, on balance, I uphold this aspect of Mr and Mrs C's complaint.

(a) Recommendation

14. The Council have outlined the actions they have taken as a result of considering Mr and Mrs C's complaint. These actions are outlined in paragraph 36 of this report. In light of the action already taken by the Council, the Ombudsman does not have any recommendation to make in regard to this aspect of Mr and Mrs C's complaint.

(b) Records of meetings held with the Council's Housing Department officials were either not recorded or not fully recorded

15. In making their complaint to the Ombudsman's office, Mr and Mrs C said they met with Housing Department officials on a number of occasions, to discuss aspects of their complaint of anti-social behaviour. They complained that, on reviewing their housing records, there were instances where meetings held were not recorded and discussions which had taken place at meetings, including requests they had made for assistance and complaints, were not recorded. Mr and Mrs C regarded the nature of these meetings and requests as significant enough to have warranted being recorded and were surprised not to see their inclusion in their records.

16. For example, Mr and Mrs C alleged that a request made by them to the Council to consider whether mediation was an option in relation to their complaint against their neighbour was not recorded or followed up. They advised that the request came during a meeting on 8 September 2006 with a Council Area Housing Assistant (Officer 1) and a member of staff from the Neighbour Complaints Unit (Officer 2). Mr C's record of the meeting contained the following statement:

'I asked about the possibility of getting third party mediation arranged to try and sort out the situation ... [Officer 1] said this would be easily arranged as long as the tenant below would agree to it ... [Officer 1] finished the meeting by informing me that she was going on holiday for a fortnight and that nothing would be done regarding the insulation/mediation until she came back from holiday but to rest assured it would be done on her return.'

17. The file note of the meeting on 8 September 2006 written by Officer 1 does not mention there being any discussion around the possibility of mediation

being attempted. On 21 November 2006 a further meeting took place between Mr and Mrs C and another Housing Assistant (Officer 3). Mr C's personal minute of the meeting recorded that Officer 3 stated that no request had ever been made for third party mediation. Mr C responded by stating that, by this stage, he was of the view that the matter could not be resolved by mediation.

18. Mr and Mrs C also alleged that they complained about the Neighbour Complaint Unit during the meetings on 8 September 2006 and 21 November 2006 but that this complaint was not recorded. Mr C's record of the meeting of 8 September 2006 stated that he:

'Told them of the incident on the 17 August regarding the noise the neighbour was making in what sounded like a [tele]phone call. I advised them of the condescending way in which ... [a member of the Neighbour Complaint Unit staff (Officer 4)] spoke to myself and told them that staff should reserve judgement on a situation until they had witnessed it and not before. [Officer 2] told me that I had refused a call out, to which she was told that if she was spoken to in the manner in which [Officer 4] had spoken to me you would not have requested a call out either. I also told them I was not happy with what they classed as excessive noise during previous call outs and asked how noisy a noise had to be to be excessive, no real answer was given just that it was at the discretion of the staff.'

19. Officer 1's file note of this meeting, written on 11 September 2006, refers to it taking place on 8 September 2006 after Mr C wrote complaining of 'what they felt was a poor response from the [Neighbour Complaints Unit]'.

20. Mr C's record of the 21 November 2006 meeting contains the paragraph, '[Officer 3] confirmed that corroboration was obtained on the night of 6 November. We asked how come it went from permissible level to non permissible level after we asked for them to call the noise team to get an accurate reading. [Officer 3] did not answer, but said she would find out what was reported that night and would put a note in our file about our concerns regarding [Neighbour Complaints Unit] staff.'

21. Officer 3's file note of the 21st November 2006 meeting does not contain any reference to a complaint against or the complainant's concerns about the Neighbour Complaint Unit staff.

22. Additionally, Mr and Mrs C also maintain that they met with Officer 3 on 8 February 2007 for 30 minutes but that no record of that meeting is contained in their housing records.

23. In responding to my letter of enquiry the Council stated that, in relation to the meeting on 8 September 2006, this meeting was in response to Mr and Mrs C's complaint about poor service provided by the Neighbour Complaints Unit and not specifically about any member of staff. The Council explained that the purpose of the meeting, in their view, was to explain the importance of gathering evidence and the role of the Neighbour Complaints Unit in achieving this. The Council contend that there was evidence that Mr and Mrs C had reported incidents after they had taken place and, on occasion, significantly later. The Council also stated that Mr and Mrs C had reported incidents for recording purposes only and had made calls to the Neighbour Complaints Unit to cancel visits. During the meeting the importance of Mr and Mrs C reporting incidents while they were occurring was stressed, if satisfactory evidence was to be obtained. The Council's file note of the meeting did refer to Officer 2 referring to, 'on the occasions that [Mr C] did call, and they [the [Neighbour Complaints Unit]] visited, they were unable to witness the noise he had complained about, therefore, making it difficult for them to progress with his complaint'. The file note also refers to the reason the meeting was called, stating 'The visit was arranged in response to a letter of complaint received from [Mr and Mrs C] with regard to their neighbour ... and what they felt was poor response from the [Neighbour Complaints Unit]' but does not record in any greater details Mr and Mrs C's concerns about the Neighbour Complaints Unit.

24. In relation to mediation, the Council responded that mediation and sound insulation would have been regarded as possible options for assisting in the resolution but that whether or not these measures were raised at the meetings on 8 September 2006 or 21 November 2006 is debatable. The Council stated that neither of the Housing Assistants quoted by Mr and Mrs C, Officer 1 and Officer 3, were now in post and so the Council were unable to confirm or deny the validity of Mr and Mrs C's contention that they raised these matters during the meeting.

25. Responding to the complaint about the meeting on 8 February 2007 not being recorded (see paragraph 23), the Council responded stating that there was no record of any meeting between Mr and Mrs C and Officer 3 in their housing record, Officer 3's visits book or at the local office. The Council's

investigations revealed that Mr and Mrs C called at the housing office on 1 February 2007, although there are no notes of any discussions held in their file. The Council stated that if this was the meeting Mr and Mrs C referred to and the meeting was in connection to their complaints then a record of any interview should have been retained in their file.

(b) Conclusion

26. Mr and Mrs C allege that there were a number of meetings held between them and members of Council staff that, on reviewing their housing records, were either not recorded at all or that issues that were discussed were not noted.

27. The question under review in the case of Mr and Mrs C's complaint is not to do with the accuracy or interpretation of minutes, which is subjective, but rather that there was no record kept of a meeting on 8 February 2006 at all and that a specific request for assistance was omitted. In the circumstances described in paragraph 15, where records of telephone calls and meetings documenting allegations of anti-social behaviour are crucially important, then the failure to document this is a serious issue.

28. It is my view that, given the detailed nature of the records kept by Mr and Mrs C of the meetings that they allege took place, I have not seen evidence to doubt that their record of meetings attended and the discussions which occurred is equally valid. The Council's response is not that the meetings did not take place but rather that they do not have a record of them having taken place. In these circumstances, and on balance, I uphold the complaint.

(b) Recommendation

29. As indicated in paragraph 36, in their response to my letter of enquiry the Council indicated that Mr and Mrs C's complaint had highlighted potential weaknesses in the Council's practices and that they were addressing certain issues which their consideration of the case had raised. In doing so, the Council had implemented the following practices in relation to meetings:

- standardised reporting format for recording interviews to contain details of options;
- procedures amended to ensure complainants advised when follow-up actions completed; and
- procedures be amended to ensure details of any interviews regarding complaints are confirmed in writing.

30. I am of the view that the implementation of these proposals will ensure that, in future, meetings with other members of the public in relation to complaints of anti-social behaviour are accurately recorded and that they will, consequently, become part of the body of evidence considered by Council staff when assessing complaints about anti-social behaviour. For this reason, the Ombudsman has no recommendation to make in relation to the Council's processes.

(c) The Council failed to take appropriate action in response to Mr and Mrs C's complaint of anti-social behaviour

31. I have also considered the general complaint that the Council failed to take appropriate action in response to Mr and Mrs C's complaint against their neighbour's alleged anti-social behaviour.

32. Mr and Mrs C alleged that on first complaining in June 2006 their then Area Housing Assistant, Officer 5, told them that she would visit the neighbour in question to resolve the issue but that, subsequently, no visit took place. They were then registered with the Neighbour Complaints Unit but believed that their complaints and meetings were not appropriately actioned by the Council and that they have been left to cope with the situation without adequate support.

33. In response, the Council stated that Mr and Mrs C first complained on 15 June 2006 and that they were immediately registered with the Neighbour Complaints Unit. The Council stated that, contrary to Mr and Mrs C's belief, Officer 5 did visit the neighbour. They continued that Mr and Mrs C would not have been entitled to know what discussions took place between the neighbour and Officer 5 but that it would have been reasonable for Mr and Mrs C to have been informed that a visit had taken place. Notwithstanding the fact that the Council have accepted that Mr and Mrs C were entitled to be informed that a meeting did take place, I have requested and been provided with evidence in the form of a file note, that a Council officer did meet with the neighbour to raise the issue of noise emanating from his flat in an attempt to resolve the situation.

34. Paragraph 6 indicated that the Council only had records of 15 of the 18 occasions Mr and Mrs C indicated that they had contacted the Neighbour Complaints Unit. As I accepted that the unrecorded three calls had been made by Mr and Mrs C, that aspect of Mr and Mrs C's complaint was upheld. On the other 15 occasions, however, the Neighbour Complaints Unit did record the call

and I have been provided with evidence in the form of file notes that, where it was appropriate to do so, the Neighbour Complaints Unit either attended in an attempt to gather corroborative evidence of their complaint or were en route to attend when they received another call indicating that the noise had ceased or reduced. The nature of the 15 records on which Mr and Mrs C and the Council concur was detailed and in line with what would be expected of an attempt to garner whether the complaint was genuine and action should be taken to attempt to address the issue.

35. The Council's Neighbour Complaints Unit Operation Guide states that, 'When sufficient evidence is at hand to confirm or refute the complaint, action should be taken in order to address the issue. In many instances this will involve the Area team warning the offender ...' In response to my enquiry the Council indicated that on one occasion, 6 November 2006, staff witnessed noise that they regarded as a nuisance and, as result of this, the tenant was interviewed and advice and a warning was given on 30 November 2006. In investigating Mr and Mrs C's complaint, I requested evidence from the Council of the interview and warning given to Mr and Mrs C's neighbour and I am satisfied that what is indicated in the Council's letter is correct. The Council provided me with a redacted file note indicating that this was the case. The note in question was kept in the neighbour's housing records, not Mr and Mrs C's, and, therefore, they were not made aware of the meeting when they requested sight of their housing records.

36. On the general point about the difficulty faced by local authorities in dealing with accusations of anti social behaviour, the Council stated that:

'It is clear that the council and its officers have tried to deal with [Mr and Mrs C's] complaints within the confines of current legislation. The requirement to obtain evidence in dealing within the confines of antisocial behaviour is critical and every effort was made to gather that evidence. Expectations of our citizens that authorities can deal with antisocial behaviour quickly and without the need for corroboration are often unrealistic and this appears in part to be the case here. That aside, this case has identified potential weaknesses in our practices and the following issues are being or are to be addressed.

- the amalgamation of the Neighbour Complaints Unit and Noise Monitoring Team;
- standardised reporting format for recording interviews to contain details of options;

- procedures amended to ensure complainants advised when follow up actions completed;
- procedures to be amended to ensure that irrespective of any visits or interviews made in response to letters of complaint, a written response must be provided; and
- procedures to be amended to ensure details of any interviews regarding complaints are confirmed in writing.'

(c) Conclusion

37. In responding to my enquiry, the Council indicated that they believe Mr and Mrs C may in part have had an unrealistic expectation of the Council's ability to deal with the alleged anti-social behaviour of their neighbour. It is the case, however, that an important role of the Council is to enable the appropriate recording and gathering of evidence. Paragraphs 10 to 13 and 26 to 28 indicate the reasons for my finding that the Council did not, on three occasions, effectively record calls made by Mr and Mrs C to the Neighbour Complaint Unit and, on occasion, did not record sufficient detail of meetings with Council officials and, for those reasons, I upheld those aspects of Mr and Mrs C's complaint. It does not necessarily follow, however, that the complaint of the Council failing to take appropriate action in response to Mr and Mrs C's complaint of anti-social behaviour should, therefore, be upheld. I am satisfied that the Council did take the correct actions in registering Mr and Mrs C with the Neighbour Complaints Unit, once they had complained of anti-social behaviour. The purpose of this was to attempt to gather and corroborate evidence of the alleged anti-social behaviour. Likewise, visits were made to the neighbour and, where it was appropriate, matters were followed up and a warning was given.

38. These actions were in line with their guidance, in that Mr and Mrs C were registered with the Neighbour Complaints Unit on making their first complaint on 15 June 2006 and when sufficient evidence was obtained a warning was issued to the neighbour. In the circumstances, I do not uphold this aspect of the complaint. Although not upholding this complaint, I have noted that on occasion Mr and Mrs C were not informed of the action that had been taken. The Council have accepted that they should have been. However, I am satisfied that the actions set out at paragraph 36 address this point.

General recommendation

39. The Ombudsman recommends that the Council write to Mr and Mrs C apologising for the failings identified in this report.

40. The Council have accepted the recommendation and will act on it accordingly. The Ombudsman asks that the Council notify him when the recommendation has been implemented.

Explanation of abbreviations used

Mr and Mrs C	The complainants
The Council	Aberdeen City Council
Officer 1	Area Housing Assistant covering the area in which Mr and Mrs C resided at the time of their complaint
Officer 2	Member of Neighbour Complaints Unit staff
Officer 3	Area Housing Assistant covering the area in which Mr and Mrs C resided at the time of their complaint
Officer 4	Member of Neighbour Complaints Unit staff
Officer 5	Area Housing Assistant covering the area in which Mr and Mrs C resided at the time of their complaint

List of legislation and policies considered

Neighbour Complaints Unit Operation Guide; Tackling Antisocial Behaviour Toolkit and Estate Management Procedures.