

## **The Ombudsman's final decision**

Summary: Mrs X complained the Council has failed to take sufficient action when she reported anti-social behaviour from her neighbour. We find the Council was at fault for its communication with Mrs X and its delays in reviewing the file and deciding how to proceed. This has caused Mrs X distress, frustration and uncertainty. The Council has agreed to our recommendations to apologise to Mrs X, make a payment to her and implement a service improvement.

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## **The complaint**

1. Mrs X complained the Council has failed to take sufficient action when she reported anti-social behaviour (ASB) from her neighbour. She says the Council's faults have caused severe distress, upset and anxiety for her and her family.

## **The Ombudsman's role and powers**

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused significant injustice, or that could cause injustice to others in the future we may suggest a remedy. (Local Government Act 1974, sections 26(1) and 26A(1), as amended)
3. We cannot investigate complaints about the provision or management of social housing by a council acting as a registered social housing provider. (Local Government Act 1974, paragraph 5A schedule 5, as amended)
4. If we are satisfied with an organisation's actions or proposed actions, we can complete our investigation and issue a decision statement. (Local Government Act 1974, section 30(1B) and 34H(i), as amended)

## **What I have and have not investigated**

5. My investigation covers matters from December 2023 to December 2024. I have investigated the Council's use of its general ASB powers under the Anti-Social Behaviour, Crime and Policing Act 2014 and its powers under the Environmental Protection Act 1990. I have not investigated the actions of the Council in its role as a landlord for the reasons set out in paragraph three above. However, I have referred to it, where necessary, to provide context and an understanding of the Council's actions.

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## **How I considered this complaint**

6. I considered evidence provided by Mrs X and the Council as well as relevant law, policy and guidance.
7. Mrs X and the Council had an opportunity to comment on my draft decision. I considered any comments received before making a final decision.

## **What I found**

### **Anti-social behaviour**

8. Councils have a general duty to tackle ASB. But ASB can take many different forms; and when someone reports a problem, councils should decide which of their powers is most suitable. They may approach a complaint as part of their duties as a social landlord, where the alleged perpetrator is a council tenant (although we cannot investigate the council's actions as a social landlord) and/or using their powers under the Anti-social Behaviour, Crime and Policing Act 2014 (The 2014 Act).
9. The 2014 Act introduced new powers for agencies involved in tackling ASB. Councils may apply to the Courts for a civil injunction or issue a community protection notice (CPN). A CPN requires the behaviour to stop and, where appropriate, require the recipient to take reasonable steps to stop it happening again. Not complying is an offence and may result in a fine or a fixed penalty notice. Councils must issue a community protection warning (CPW) in advance of a CPN.
10. The statutory guidance which accompanies the 2014 Act sets out some early and informal interventions which may be used to address ASB. This includes verbal and written warnings, mediation and acceptable behaviour contracts.

### **The anti-social behaviour case review (formerly known as the Community Trigger)**

11. The 2014 Act introduced a way to review the handling of complaints of ASB. This is the anti-social behaviour case review, which was previously known as the 'Community Trigger'. When a person asks for a review, relevant bodies (which may include the council, police and others) should decide whether it meets the local threshold. Relevant local bodies should agree their review threshold, but the ASB statutory guidance says this should be, at a maximum, that a complainant has made three reports of ASB within six months.

### **Statutory nuisances**

12. Under the Environmental Protection Act 1990 (EPA), councils have a duty to take reasonable steps to investigate potential 'statutory nuisances'. Activities a council might decide are a statutory nuisance include noise from premises or vehicles.
13. For the issue to count as a statutory nuisance, it must:
  - unreasonably and substantially interfere with the use or enjoyment of a home or other property; and/or
  - injure health or be likely to injure health.
14. There is no fixed point at which something becomes a statutory nuisance. Councils rely on suitably qualified officers to gather evidence. Officers may, for example, ask the complainant to complete diary sheets, fit noise-monitoring equipment, or make site visits.

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15. Once evidence gathering is complete, a council will assess the evidence. It will consider matters such as the timing, duration, and intensity of the alleged nuisance. Officers will use their professional judgement to decide whether a statutory nuisance exists.

### **What happened**

16. This chronology provides an overview of key events and does not detail everything that happened.
17. Mrs X owns her house. The neighbour involved in this complaint is a Council tenant. Mrs X has experienced ASB from her neighbour for a while. An environmental health officer (EHO) wrote to the neighbour in December 2023 and said it had received complaints about an accumulation of waste and harmful smells from drug use. The EHO also contacted Mrs X in January 2024 and asked her to complete log sheets of the ASB.
18. Mrs X emailed the EHO. She said she was completing the nuisance log for excessive drug use. She said the smell from the drug use was coming into her house. She also said was trying to use its noise app, but the quality was poor. She said she would record the noise on her phone.
19. The EHO visited Mrs X's neighbour a few days later. She emailed Mrs X after the visit and said she made a referral to the Council's estate management department about waste accumulation, noise and smells. Mrs X replied and provided a nuisance log sheet and some videos of the noise. The officer responded and said she would review the log sheet. She said she could not hear anything on the videos.
20. Mrs X emailed the EHO in early February and said provide some further evidence of the noise. The EHO reviewed the recordings and noted it was unclear whether the behaviour was ASB or general noise from daily living. She contacted Mrs X and said the Council would need to install noise monitoring equipment to assess the noise further. She also encouraged her to report any illegal activities to the police. Mrs X said she would have a think about whether she wanted it to install noise monitoring equipment.
21. The EHO contacted Mrs X a couple of weeks later and asked how she wished to proceed. Mrs X said she was not feeling well, and she had decided against the noise monitoring equipment. The EHO told Mrs X to contact her if she changed her mind. The EHO also sent an email to the Council's estate management team about the issues.
22. Mrs X sent several emails to two Council officers about the ongoing ASB. She did not receive a response.
23. Mrs X complained to the Council in May about a lack of correspondence and action. The Council responded to the complaint in June and said an officer would contact her to discuss the issues further. It said the officer she was emailing was out of the office. It was sorry she did not receive an out of office automatic response.
24. A housing officer called Mrs X and spoke to her about the ASB. She drew up an ASB action plan. She said Mrs X could send her evidence of the ongoing ASB.
25. The housing officer and an ASB officer visited Mrs X's neighbour to discuss the issues. The housing officer also sent several letters to the neighbour about breaching the tenancy agreement.

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26. Mrs X continued to send the evidence of ongoing ASB to the housing officer. This included issues about damage to her property.
  27. The Council issued a CPW to Mrs X's neighbour in September. It warned the neighbour to not engage in behaviour that could cause harassment and to ensure offensive smells did not leave their property. Mrs X contacted the housing officer shortly after and said the neighbour had retaliated and caused further damage to her property. She continued to report ASB and excessive noise. She said her neighbour had broken the conditions in the CPW.
  28. Mrs X sent emails to the housing officer chasing an update. The Council assigned a new housing officer to the case. Mrs X sent the new officer continuous emails with evidence of the ongoing ASB. She also asked for updates. The officer said they were working closely with the legal team.
  29. Mrs X referred her to stage two in October. She sent a detailed email about the ongoing ASB and the Council's failure to resolve matters.
  30. The Council issued its final response to Mrs X's complaint in December. It said it worked with the police after she reported the ASB and it had issued a CPW. If there were any further complaints, it would then escalate the matter to the next stage.
  31. The Council assigned a new officer to the case. He provided Mrs X with a link to the ASB case review process. He provided an update on the case and said he would move towards issuing a CPN in the New Year.

## **Analysis**

32. As Mrs X's neighbours are Council tenants, the Council has powers as a landlord to deal with the ASB. After we passed Mrs X's case on for further investigation, the Council started the process of evicting Mrs X's neighbour. The Council's estate management department took the lead with this case, and therefore some of the written and verbal warnings it issued were in its capacity as a landlord. As I have explained in paragraph three of this statement, we have no jurisdiction to consider the Council in its capacity as a landlord. This includes the eviction process and whether the Council properly enforced the tenancy agreement.
33. However, I can consider the Council's use of its general powers to tackle ASB and its overall communication with Mrs X. Mrs X sent several emails to two Council officers in February, March, April and May 2024. She did not receive a response, and the Council did not take any action to deal with her reports of ASB. This is fault. The Council said in response to Mrs X's complaint one of the officers was out of the office. However, there is no evidence the out of office automatic response was on. It is unlikely Mrs X would have continued to email an officer she knew was not at work. The other officer who Mrs X contacted also did not reply.
34. The EHO sent emails to the Council's estate management team about the ASB issues in late January and mid-February 2024. There is no evidence from the file the Council took any action to investigate matters further. This is fault.
35. From June 2024 onwards the Council did take some action and was in more regular contact with Mrs X. It issued the CPW in September after multiple breaches of tenancy. Mrs X reported continuous breaches of the CPW shortly after. Given the amount of information Mrs X reported and the impact the ASB was having on her, the Council should have reviewed the file much sooner and decided whether to issue a CPN. I understand the Council has now done so but it was at fault for the delay.

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36. There were some occasions from September 2024 onwards when the Council failed to respond to Mrs X's emails or did not provide any meaningful updates. This is fault.
37. The Council's missed opportunities to investigate matters sooner and progress the file has caused Mrs X significant upset and distress. She also has some uncertainty about whether the outcome would have been different and the ASB may have resolved sooner but for the Council's delays. The faults with the Council's communication have also caused Mrs X frustration and she was put to the inconvenience of chasing matters up. I have made suitable recommendations to address this injustice.
38. Mrs X says her neighbour has damaged her property. She wants the Council to compensate her for these damages. Negligence and liability for alleged resulting damage are not straightforward matters. Therefore, it is more appropriate for the courts rather than the Ombudsman to decide whether the Council was responsible for the damage to Mrs X's property. Mrs X is free to pursue a claim through the Council's insurers, and if she remains unhappy, she can pursue a claim in the county court.

### **Agreed action**

39. By 1 September 2025 the Council has agreed to:
- Apologise to Mrs X for the injustice caused by fault in this statement.
  - Pay Mrs X £400 for her uncertainty, frustration, upset and distress.
  - Issue written reminders to relevant staff to ensure they are aware they must investigate reports of ASB without unreasonable delay. Staff should also provide regular updates to the person who has reported the ASB.
40. The Council should provide us with evidence it has complied with the above actions.

### **Decision**

41. There was fault by the Council, which caused Mrs X an injustice. The Council has agreed to my recommendations and so I have completed my investigation.

### **Investigator's decision on behalf of the Ombudsman**