

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

Summary: The Ombudsman will not investigate Ms D's complaint about the way the Council has dealt with her complaints of noise nuisance by her neighbours. Part of the complaint is late and further investigation is unlikely to find fault by the Council.

---

## **The complaint**

1. The complainant, whom I shall call Ms D, says she and her husband have suffered from noise from a generator at her neighbour's property for years. Ms D complains the Council has failed to take any action and the noise is affecting her life.

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

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)
4. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
5. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe it is unlikely we would find fault (*Local Government Act 1974, section 24A(6), as amended*)

## **How I considered this complaint**

6. I considered Ms D's complaint and the correspondence between Ms D and the Council. I sent a draft decision to Ms D and considered the comments she made in reply before I made my final decision.

## **What I found**

7. In May 2015, Ms D contacted the Council to complain she could hear a generator style noise all day and night. The noise was coming from her neighbour's house.

- 
8. The Council visited Ms D and her neighbour and witnessed a 'slight hum' from a fridge. The Council also installed noise monitoring equipment at Ms D's home but this did not detect any significant noise.
  9. The Council visited again in June 2015 and officers installed noise monitoring equipment in January 2016. On each occasion, there was no noise officers could identify as being created by a generator, or that amounted to a statutory noise nuisance. Officers also visited Ms D's neighbours home during this time. As officers had not witnessed a noise nuisance, there was no further action they could take.
  10. Ms D continued to raise complaints throughout 2016, confirming the noise was at the same levels as she had previously reported. As officers had previously visited and considered noise recordings and were satisfied the noise they witnessed was not a nuisance, the Council explained to Ms D it would take no further action.
  11. The Ombudsman will not investigate Ms D's complaints about the way the Council responded to her complaints of noise nuisance prior to January 2018. This is because more than 12 months have passed since the Council explained it would take no further action and the complaint is late. There are no good reasons for the Ombudsman to exercise his discretion and now investigate this late complaint. This is because further consideration of the complaint is unlikely to find fault with the way the Council has made its decisions. Officers made their decisions after visiting Ms D and her neighbour and listening to noise recordings. They have not witnessed a noise nuisance and have explained this to Ms D.
  12. Ms D has continued to raise complaints about the same noise. The Council has confirmed it will not take any further action. This is because Ms D has explained the noise is at the same levels as she has previously reported. The Council has already carried out an investigation of these noises and not witnessed a nuisance. It is therefore not fault for the Council to decline to investigate the same matter.

### **Final decision**

13. The Ombudsman will not investigate this complaint. Part of the complaint is late and further investigation is unlikely to find fault by the Council.

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