

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

Summary: The Ombudsman will not investigate this complaint about noise and floodlighting at a football pitch near the complainant's property. This is because parts of the complaint are late, and it is reasonable to expect the complainant to have contacted us sooner. The Council has also proposed action which is a reasonable way to respond to the alleged recent increase in noise.

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## **The complaint**

1. The complainant, whom I refer to as Mr B, says the Council has failed to adequately respond to his concerns about the use of an artificial football pitch near his home. In particular, Mr B says:
  - The floodlights around the football pitch cast shadows across his property, and he thinks the Council should install shielding;
  - A noise report produced for the planning application for the pitch was incorrect, because the sensors were placed in the wrong location;
  - The noise from, and swearing by, people using the football pitch has recently increased.

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

2. We investigate complaints about 'maladministration' and 'service failure'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we are satisfied with the actions a council has taken or proposes to take. (*Local Government Act 1974, section 24A(7), as amended*)
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. And 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*)

## **How I considered this complaint**

5. I have considered:
  - Mr B's complaint to the Ombudsman

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- The Council's complaint response letters, dated 18 July 2017, 3 May 2018, 21 June 2018;
  - The Council's response to the Ombudsman's enquiry about Mr B's complaint;
  - Mr B's comments on a draft version of this statement.

## **What I found**

### **Summary of what happened**

6. The Council installed noise recording equipment at Mr B's home in October 2017, but it informed Mr B in November 2017 that the recorded noise did not constitute a statutory nuisance. Mr B questioned the equipment used to make the recordings, and in February 2018 the Council explained why it was satisfied with the calibration of the equipment.
7. The Council also wrote to Mr B in July 2017 to explain why the noise report submitted with the planning application for the development was considered to be acceptable.
8. In response to my recent enquiries, the Council has also explained to me that when the floodlights were installed in 2017, the contractor did not correctly install the light shields below the lamps to reflect light spillage onto the pitch. The Council says Mr B complained about this as at the time, and the shields were then installed in line with what had been approved under the planning application.
9. Finally, as Mr B says the noise from the football pitch has recently increased, the Council has offered to install noise recording equipment at his property again. Any sound recorded will then be analysed to see if there is an increase compared to the previous recordings in 2017. If there is an increase, the Council will assess whether the noise now constitutes a statutory nuisance.

### **Assessment**

10. The 12-month time restriction detailed in paragraph 3 above applies to the parts of Mr B's complaint about the floodlights and the planning application noise report. As I understand it, these matters arose, and were responded to by the Council, in 2017. Yet Mr B did not contact the Ombudsman until April 2019. I am unaware of any reasons why Mr B was prevented from complaining to us sooner, so I do not consider the Ombudsman should investigate these parts of Mr B's complaint.
11. And with regard to the alleged increase in the noise levels, I consider the Council's offer (to install noise recording equipment again) is a satisfactory way to address this part of the complaint. I appreciate Mr B believes the equipment is not calibrated properly, and doubts the Council will take any action following the recordings. But I have no reason to question the Council's professional view that the equipment is working properly, and the Council needs to gather evidence before deciding whether a statutory nuisance is now occurring.
12. With reference to paragraph 2 above, I therefore do not consider the Ombudsman should investigate this part of the complaint either.

### **Final decision**

13. The Ombudsman will not investigate Mr B's complaint. This is because parts of the complaint are late, and the Council has proposed action which is a reasonable way to respond to the alleged increase in noise levels.

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