

Report to: Licensing Committee: 20 March 2025

Director Lead: Matthew Finch, Director – Communities & Environment

Lead Officer: Damian Wilkins, Environmental Health & Licensing Manager

Report Summary	
Report Title	Outcome of Local Government & Social Care Ombudsman Investigation
Purpose of Report	To inform Members of the outcome of an investigation where the Ombudsman found fault with the Council
Recommendations	That the Licensing Committee note the report and the lessons learnt.
Reason for Recommendations	Ombudsman investigations which result in the Council being found to be at fault are required to be reported to this committee.

1.0 Background

- 1.1 A resident complained to the Ombudsman that the Council was slow to act in respect of statutory noise nuisance. This was regarding noise levels at a licensed premises in Newark. The Ombudsman refers to the resident as Mr B.
- 1.2 Mr B first complained to the Council about a noise nuisance in July 2022. The actions taken in response to this nuisance are documented in the LGSCO final decision statement, **Appendix 1**.
- 1.3 The outcome of the LGSCO's decision was presented to Audit & Governance Committee in December 2024, in addition to notifying local members and the Portfolio Holder. As this investigation relates to a Licensed Premises it is also being brought to this committee for information.

2.0 Ombudsman Findings

- 2.1 In August and September 2024, the Ombudsman issued draft decisions which Mr B and the Council had the opportunity to respond to. The Council made representations that it had a different interpretation to the Ombudsman regarding a conversation between Mr B and an officer which was central to the final decision findings.

2.2 The Ombudsman considered the responses to the second draft decision and advised that their decision remained unchanged. These are their final findings:

- Despite telling Mr B the initial noise recordings picked up noise which was intrusive to Mr B's property, the Council failed to record its decision making after listening to the July 2023 noise recordings. We expect the Council to follow the Ombudsman's Principles of Good Administrative Practice and to keep sufficient records, so this is fault which caused Mr B frustration, distress and uncertainty.
- The Council delayed in formalising the nuisance investigation following its acknowledgement in July 2023 that noise from the licensed premises was intrusive to Mr B's home. It is not clear why Mr B needed to submit a third noise complaint for the Council to formalise the statutory nuisance investigation. This is fault which caused Mr B frustration, distress and uncertainty.
- From August 2023 the Council took the correct steps to investigate the statutory nuisance and acted without fault once a statutory nuisance was confirmed.
- The Council has since implemented a revised process that will see all complaints starting as a statutory nuisance investigation with its Licensing Enforcement Officer assisting in any informal resolution running alongside the noise investigation.

3.0 Final Decision

3.1 In its final decision, Appendix 1, the Ombudsman found the Council at fault and made the following recommendations to remedy the injustice caused by the faults identified:

- Provide an apology to the complainant for the distress caused by the faults identified.
- Make a symbolic payment to recognise the loss of amenity and delay in formalising a statutory noise investigation between July and August 2023.
- Make a symbolic payment of £150 to recognise the distress and raised expectations caused by conflicting information from the phone call in July 2023.

3.2 The recommendations have been accepted and implemented.

3.3 This decision will be included in the Ombudsman's published figures the year ending 31 March 2025, recorded in the category Environmental Services & Public Protection.

4.0 Lessons Learnt

4.1 When a complaint is upheld, it important the Council learns from it and considers changes to processes, policies etc.

4.2 In this case, a revised process has been implemented. The new process will now ensure that all noise complaints relating to licensed premises are investigated by the Community Protection Team as they would for any other noise complaint, rather than initial investigations being undertaken by the Licensing Enforcement Officers in the first instance. The Licensing Enforcement Officers will be advised that a noise complaint has been received regarding a licensed premises and will be able to continue informal discussions and liaison with the licence holder to try to resolve the issue, running alongside the noise investigation. Where this fails, the noise investigation will continue without any delay.

5.0 Implications

In writing this report and in putting forward recommendations, officers have considered the following implications: Data Protection; Digital & Cyber Security; Equality & Diversity; Financial; Human Resources; Human Rights; Legal; Safeguarding & Sustainability and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

None