

Local Authority not unreasonable to issue Trespass Notice in the circumstances

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| Legislation | Ombudsmen Act 1975, Trespass Act 1980 |
| Agency | District Council |
| Ombudsman | Dame Beverley Wakem |
| Case number(s) | 389994 |
| Date | June 2015 |

Whether the District Council was reasonable to issue a Trespass Notice to the complainant and whether the complainant was given the opportunity to review the Council's case against her— Ombudsman concludes the action was justified

The complainant was issued a Trespass Notice by a District Council. She complained to the Ombudsman on the basis that she was not given an opportunity, both before and after the issue of the trespass notice, to review and discuss the Council's case against her and to challenge its validity.

The Ombudsman concluded that the complainant was given these opportunities but that the information provided with the complaint appeared to indicate that the complainant chose not to utilise these opportunities and refused to accept or seek to mitigate the Council's concerns about her behaviour on the night in question. The Ombudsman considered that the complainant was provided with an opportunity to comment and persuade the Council not to exercise its powers under the Trespass Act, prior to the notice actually being issued. In any event, the Ombudsman noted that at a meeting with the Council following the evening in question, the complainant was provided with a further suitable opportunity to make detailed submissions directly to senior Council staff and to persuade it to reconsider its decision. The Ombudsman noted that this meeting reinforced the impression that the Council's decision to issue the trespass notice to the complainant was a methodical and considered process designed to efficiently respond to what it perceived to be unacceptable behaviour.

Furthermore, there was no evidence of predetermination on the part of the Council (as alleged by the complainant) when the notice was issued after the meeting. The Ombudsman considered that the issue of a trespass notice at the end of the meeting was properly

authorised as an option that was available to Council staff, should it still be deemed necessary at the conclusion of the meeting with the complainant.

The complainant remained aggrieved by the Council's decision to issue her with a trespass notice 'with little regard to its consequences'. However, the Ombudsman believed that in this situation it seemed that priority rightly lay with addressing the health and safety concerns of staff and also the wider public, over the complainant's access issues. The Ombudsman formed the final opinion that the Council's decision to issue the complainant with a Trespass Notice and the process that it followed were not unreasonable.

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