

Local Authority's Trespass Notice unreasonable in circumstances

Legislation	Ombudsmen Act 1975
Agency	Local Authority
Ombudsman	Leo Donnelly
Case number(s)	448892 (previously unpublished)
Date	2017

Local Authority issued Trespass Notice for two years at sports stadium—Ombudsman noted serious misconduct on part of complainant to warrant action but trespass sanction extreme—complaint sustained and Council implemented Ombudsman's recommendations

The complainant claimed that a two-year trespass notice served against him on a popular sports ground in the city, was unreasonably harsh. The notice was served following allegations made against him by a Council employee. The notice was issued under a Council policy, which included stages of sanctions for negative conduct. The notice was the most extreme sanction available under that policy.

The Ombudsman accepted that the Council could have ranked the complainant's conduct as serious misconduct (at the lower end) but that in the circumstances, imposing the most extreme sanction under the policy, a two-year ban, was unreasonable in the circumstances.

When considering the reasonableness of imposing the two-year ban, the Ombudsman considered the conduct in this case and the mitigating circumstances. The Ombudsman agreed that a plan to manage the transition at the end of the ban and reducing the contact (and conduct) between the complainant and the employee was a reasonable step for the Council to take if the trespass notice were to be lifted. The Ombudsman accepted that the Council would be entitled to ensure that the outcomes and consequences were clear, measurable, achievable and not unduly onerous.

The complaint was sustained. The Ombudsman recommended: terminating the trespass notice from a prescribed date; taking all reasonable steps to ensure that the employee did not

contact or communicate with the complainant; amending the trespass notice policy so that where a trespass notice is appropriate, a blanket two-year trespass period is not automatically triggered; and that the provisions of training to staff on the amended policy.

The Council agreed to implement these recommendations.

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