

Council seeks order from Environment Court about noise of bird scare device

Legislation	Ombudsmen Act 1975
Agency	Local authority
Ombudsman	Sir Brian Elwood
Case number(s)	C4555
Date	2000

Council had not enforced noise restrictions with respect to bird scaring devices because of the difficulty in obtaining adequate evidence for enforcement action—following Ombudsman’s investigation, the Council agreed to seek a ruling on the matter with the Environment Court and this action effectively resolved the complaint

The complainants had been subjected to increasing levels of noise from percussive bird scaring devices over several years since the development of vineyards around their home. Despite clear evidence that the complainants were suffering from an unreasonable level of noise it had proved extremely difficult to pinpoint which devices and which vineyards were responsible.

The Council had adopted standards for noise emissions in its new District Plan but considered it difficult to obtain evidence such as would be likely to secure a successful prosecution against any individual. The complainants considered the Council was not addressing their concerns in a reasonable manner.

The Council sought technical and legal advice and, during the course of the investigation, decided to seek an order from the Environment Court enforcing a ban on the use of all percussive bird scaring devices in the immediate vicinity of the complainants’ home. The Council recognised that if its action was unsuccessful there was a risk of substantial costs being awarded against it, but it accepted as a responsible authority it had a duty to take some action to provide relief for the complainants. The Council’s action effectively resolved the complaint.

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