

Council failed to adhere to conditions to dump refuse on leasehold land

Legislation	Ombudsmen Act 1975
Agency	Local authority
Ombudsman	John Robertson
Case number(s)	C1899
Date	1992

Failure to reduce a smell nuisance

A property owner asked the Ombudsman to investigate a smell nuisance arising from the Council's refuse tip. The background to the matter was that the landowner's property, which overlooked a large and beautiful river terrace, had been subject to smells arising from the close proximity of refuse being dumped near his boundary. Formerly the Council had been in the practice of dumping rubbish at some distance from his property and there had not been a problem. However, three years ago it allowed the use of land adjacent to the complainant's boundary to be the site for all forms of rubbish to be dumped; this included household rubbish, and hardfill.

When the complaint was investigated it was found that the land was leased and there were specific conditions about the use to which the land could be put. One of those conditions was that any rubbish to be dumped in this area was to be hardfill only. It appeared that a breach of the lease had been occurring for three years. The Ombudsman drew this matter to the attention of the Council and it decided to take immediate steps to direct the dumping of all rubbish other than hardfill to the Council's former site some distance from the complainant's property. An access gate to the area next to the complainant's property was locked and a sign was placed next to it directing rubbish to the appropriate refuse site. As the Council had acted quickly to remedy the matter and the complainant was satisfied with the new procedures, the investigation was discontinued.

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