



Governance and Audit Committee – 15 July 2015

Annual letter from Local Government Ombudsman

Purpose of report

To consider the annual letter from the Local Government Ombudsman to East Northamptonshire Council.

Attachment(s)

Appendix A: 2014/15 LGO Annual Letter to ENC

Appendix B: Anonymised decision notices for upheld complaints.

1.0 Background

- 1.1 The Local Government Ombudsman (LGO) produces an annual letter setting out statistics about complaints relating to this council that have been referred to the LGO. For several years the council had no complaints upheld but one complaint was upheld in 2013/14. Section 2 of this report covers the complaints upheld this year.
- 1.2 Last year the LGO also introduced an Annual Review of Complaints, which, as well as providing statistics for each English local authority, also includes case studies that give an insight into how the LGO helps individuals who have experienced problems, and shows the type of changes and improvements that can be brought about as a result of LGO's investigations. (See Section 3).

2.0 2014/15 Annual Letter

- 2.1 The full text of the letter can be found at Appendix A. The number of complaints referred (19) is in line with a generally rising trend of complaints being made and referred nationally, and above the previous annual range for this council of between 4 and 14 in any one year. A list of all the complaints together with a summary of the complaint and outcomes can be found by visiting the LGO website and searching Ombudsman's' Decisions at: <http://www.lgo.org.uk/decisions/search> .
- 2.2 Best practice in complaints handling includes ensuring that people find it easy to find information about how to make a complaint about their council and the council making people aware that could refer their complaint to the LGO. The effectiveness of a council's response on both these issues will affect the number of complaints referred to the LGO so it is difficult to make meaningful comparisons between authorities in relation to the volume of complaint. The LGO indicated that having a significant proportion of complaints relating to planning services is a typical pattern for rural district councils.
- 2.3 Only 15-30% of complaints referred to the LGO are subject to a full investigation. Most will not receive more than a preliminary request for information from the council as they may be requests for advice, premature (in that the complainant won't have exhausted the council's complaints process) or they fall outside the LGOs remit.
- 2.4 The number of complaints which generate a detailed investigation each year has previously ranged between 1-5. In these cases the LGO will usually request any records of the complaint and original issue held by the council together with responses to specific questions. In 2014/15 6 complaints were referred for investigation but it should be noted that 3 of the complaints were related to one property and shared many common points.

- 2.5 In 2014/15 4 complaints were upheld by the ombudsman, 3 of which were the linked complaints identified above and one was the case previously reported for 2013/14. (The discrepancy arises because of a change of reporting time periods from calendar year to financial year). The LGO will consider a complaint upheld when they find some fault in the way the council acted, even if it has agreed to put things right during the course of the investigation or had accepted it needed to remedy the situation before the complainant approached the LGO.
- 2.6 In the case of the three new complaints, the LGO upheld the complaints because of criticisms about the process of handling the complaint that was criticised. However the LGO felt that the council had not significantly disadvantaged the complainant by the way the complaint was handled and no compensation payment or other remedial action has been required (unlike the complaint reported as upheld last year). Appendix B presents the anonymised decision reports produced by the LGO for the complaints that was upheld in 2014/15
- 2.7 Since these complaints were upheld, the council has reviewed its overall complaints process, simplifying the stages and introducing a centralised monitoring process. The aim of this review is to both improve the response to customers and focus on internal learning from complaints.

3.0 2014-15 Annual Review of Complaints

- 3.1 In its second annual review the LGO noted a generally static level of complaints referred to them. The report also highlighted the LGO report Not in My Back Yard: Local People and the Planning Process which was considered as part of the review of the ENC complaints process and a joint project with the LGA which produced an e-learning package and workbook for councillors in relation to council complaint handling. (The full annual review document can be found at: <http://www.lgo.org.uk/downloads/special%20reports/2182-Local-Gov-Report-2014-15-final-.pdf>)

4.0 Equality and Diversity Implications

- 4.1 There are no equality and diversity implications arising from this report.

5.0 Legal Implications

- 5.1 There are no legal implications arising from this report.

6.0 Risk Management

- 6.1 Failure to manage complaints effectively not only reduces the opportunities to learn from the information they provide but also could have a negative impact on the council's reputation and increase costs via compensation payments. The review of the complaints process will help reduce this risk.

7.0 Financial Implications

- 7.1 There are no new direct financial implications arising from this report.

8.0 Constitutional Implications

- 8.1 There are no constitutional implications arising from this report.


9.0 Corporate Outcomes

- 9.1 A effective complaints process with regular monitoring activity and learning to improve processes contributes to the corporate outcome of High Quality Service Delivery

10.0 Recommendation

- 10.1 Councillors are recommended to note this report and request a similar report be produced annually.

[Reason: to meet the terms of reference of this Committee to receive external regulatory body reports and to demonstrate best practice in making reports available to councillors and the public.]

Legal	Power: Local Government Act 1974				
	Other considerations:				
Background Papers:					
Person Originating Report: Sharn Matthews, Monitoring Officer ☎ 01832 742108 ✉ smatthews@east-northamptonshire.gov.uk					
Date: 30/6/15					
CFO 1.7.2015			MO		CX

Appendix A

18 June 2015

By email

Mr David Oliver
Chief Executive
East Northamptonshire Council

Dear Mr Oliver

Annual Review Letter 2015

I am writing with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2015. This year's statistics can be found in the table attached.

The data we have provided shows the complaints and enquiries we have recorded, along with the decisions we have made. We know that these numbers will not necessarily match the complaints data that your authority holds. For example, our numbers include people who we signpost back to the council but who may never contact you. I hope that this information, set alongside the data sets you hold about local complaints, will help you to assess your authority's performance.

We recognise that the total number of complaints will not, by itself, give a clear picture of how well those complaints are being responded to. Over the coming year we will be gathering more comprehensive information about the way complaints are being remedied so that in the future our annual letter focuses less on the total numbers and more on the outcomes of those complaints.

Supporting local scrutiny

One of the purposes of the annual letter to councils is to help ensure that learning from complaints informs scrutiny at the local level. Supporting local scrutiny is one of our key business plan objectives for this year and we will continue to work with elected members in all councils to help them understand how they can contribute to the complaints process.

We have recently worked in partnership with the Local Government Association to produce a workbook for councillors which explains how they can support local people with their complaints and identifies opportunities for using complaints data as part of their scrutiny tool kit. This can be found [here](#) and I would be grateful if you could encourage your elected members to make use of this helpful resource.

Last year we established a new Councillors Forum. This group, which meets three times a year, brings together councillors from across the political spectrum and from all types of local authorities. The aims of the Forum are to help us to better understand the needs of councillors when scrutinising local services and for members to act as champions for learning from complaints in their scrutiny roles. I value this direct engagement with elected members and believe it will further ensure LGO investigations have wider public value.

Encouraging effective local complaints handling

In November 2014, in partnership with the Parliamentary and Health Service Ombudsman and Healthwatch England, we published *'My Expectations'* a service standards framework document describing what good outcomes for people look like if complaints are handled well. Following extensive research with users of services, front line complaints handlers and other stakeholders, we have been able to articulate more clearly what people need and want when they raise a complaint.

This framework has been adopted by the Care Quality Commission and will be used as part of their inspection regime for both health and social care. Whilst they were written with those two sectors in mind, the principles of *'My Expectations'* are of relevance to all aspects of local authority complaints. We have shared them with link officers at a series of seminars earlier this year and would encourage chief executives and councillors to review their authority's approach to complaints against this user-led vision. A copy of the report can be found [here](#).

Future developments at LGO

My recent annual letters have highlighted the significant levels of change we have experienced at LGO over the last few years. Following the recent general election I expect further change.

Most significantly, the government published a review of public sector ombudsmen in March of this year. A copy of that report can be found [here](#). That review, along with a related consultation document, has proposed that a single ombudsman scheme should be created for all public services in England mirroring the position in the other nations of the United Kingdom. We are supportive of this proposal on the basis that it would provide the public with clearer routes to redress in an increasingly complex public service landscape. We will advise that such a scheme should recognise the unique roles and accountabilities of local authorities and should maintain the expertise and understanding of local government that exists at LGO. We will continue to work with government as they bring forward further proposals and would encourage local government to take a keen and active interest in this important area of reform in support of strong local accountability.

The Government has also recently consulted on a proposal to extend the jurisdiction of the LGO to some town and parish councils. We currently await the outcome of the consultation but we are pleased that the Government has recognised that there are some aspects of local service delivery that do not currently offer the public access to an independent ombudsman. We hope that these proposals will be the start of a wider debate about how we can all work together to ensure clear access to redress in an increasingly varied and complex system of local service delivery.

Yours sincerely



Dr Jane Martin
Local Government Ombudsman
Chair, Commission for Local Administration in England

Local authority report – East Northamptonshire Council

For the period ending – 31/03/2015

For further information on interpretation of statistics click on this link to go to <http://www.lgo.org.uk/publications/annual-report/note-interpretation-statistics/>

Complaints and enquiries received

Local Authority	Adult Care Services	Benefits and tax	Corporate and other services	Education and children's services	Environmental services and public protection	Highways and transport	Housing	Planning and development	Total
East Northants C	0	3	2	0	4	0	0	10	19

Decisions made

Local Authority	<u>Detailed investigations carried out</u>		Advice given	Closed after initial enquiries	Incomplete/Invalid	Referred back for local resolution	Total
	Upheld	Not Upheld					
East Northants C	4	2	0	6	0	7	19

22 May 2014

Complaint reference:
13 004 721

Complaint against:
East Northamptonshire Council

The Ombudsman's final decision

Summary: The Council delayed in progressing action in respect of a breach of planning condition restricting the opening hours of a café. The delay led to uncertainty for a neighbouring resident about whether disturbance he was suffering from the café might have stopped sooner.

The complaint

1. The complainant, whom I shall refer to as Mr B, complains the Council failed to take enforcement action against a café near his home which is opening outside its permitted hours.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)

How I considered this complaint

3. I considered the information provided by Mr B about his complaint. I made written enquiries of the Council and took account of the information and evidence it provided in response. I gave Mr B and the Council my provisional view of the complaint and invited their comments.

What I found

The background to the complaint

4. Since 2006 a café opposite Mr B's home has had permission to open from 9am daily. The Council imposed a restriction on opening before this hour as a condition of the planning consent for the café.
5. In November 2012 Mr B reported to the Council; that the café was opening earlier than permitted. This was causing him a disturbance. The Council says its planning enforcement officer (PEO) met the proprietor of the café to remind them of the condition restricting opening hours.

What happened in 2013

6. In February 2013 Mr B again reported disturbance from the café. He told the Council the café was open from 8am with customers congregating outside from 7.30am. The Council says the PEO again reminded the proprietor about the

conditions, although I have not seen evidence of that action. The PEO visited the café on Wednesday 13 February at 7.45am and found it closed. On Sunday 24 February the PEO returned to the café and found the front of the premises in darkness at 7.40am. However she saw someone leaving the café with a parcel and her view was that the café was operating a takeaway service. She told Mr B this.

7. Mr B continued to report early Sunday morning disturbances to the Council. The PEO visited the café again on 18 March 2013. The Council says the PEO advised Mr B on that date she would be seeking advice from colleagues in Environmental Protection about whether an application for variation of the opening hours restriction would be acceptable to that service. However the PEO did not seek advice from Environmental Protection until 9 July 2014.
8. In the meantime Mr B continued to regularly report Sunday morning disturbance from the café. On 13 June Mr B made a formal complaint to the Council about the lack of action to address the disturbance.
9. On 9 July another neighbour also made a report of early morning disturbance from the café. This prompted the PEO to make her enquiries of Environmental Protection, referred to above, and she contacted both complainants saying she was waiting for advice from Environmental Protection and would then let the complainants know what action she would take. The following day the Environmental Protection officer replied to the PEO saying that it was difficult to give an opinion on whether an application to revise opening hours would be successful given it was not investigating a noise complaint and no statutory nuisance had been determined. The PEO then asked Environmental Protection again on 16 August what its opinion would be if the Council were to receive a formal application but then concluded “Think I know what the answer will be so I will take it from here”.
10. Mr B continued to regularly report Sunday morning disturbance from the café. On 16 August the PEO told Mr B she would be “enforcing the opening hours” at a visit on 22 August by a visit to the shop. It is not clear what enforcement measures the officer was referring to here. The proprietor was not present at the visit and the PEO left a calling card asking for contact. The Council’s records show the proprietor did call the Council on 3 September. On 6 September the PEO told Mr B she would be drafting a breach of condition notice and this would be passed to the legal department for consideration. It is not clear from the evidence I have seen whether this was done. The officer also said the proprietor of the café intended to apply for planning consent for earlier opening and if the Council did receive such an application it would put on hold action on any notice served pending that application being decided. The Council said it would notify Mr B of any application received and he would have the opportunity to comment.
11. On 17 October the Council received a planning application but no fee was paid with it and so it remained invalid. Mr B continued to report disturbance on Sundays in September, October and November.

What should have happened

12. It is a matter for the Council to decide whether enforcement action is expedient in the public interest, and it is necessary for the Council to prioritise cases for enforcement. The Council may decide not to take any enforcement action. But it should not let the matter drift without a decision being taken. The planning condition restricting the café’s opening hours was imposed in the interests of neighbouring amenity. The Council told Mr B it was preparing a breach of

condition notice and so it had accepted the café was operating in breach of its consent. Although there are no set timescales for enforcement action, the evidence shows there were periods when no substantive action was being taken to progress this case towards a decision, for example when the PEO decided to seek the view of colleagues in Environmental Protection. The Council's enforcement policy notes that usually when a planning application is received this will delay enforcement action. That may be reasonable where the matter can be progressed to a decision, but the application in this case was never validated as no fee had been paid and the Council's practice is not to pursue fees for six months. As there was an outstanding enforcement issue in this case, the Council's delay in progressing the matter, either by serving a breach of condition notice or by seeking a valid planning application, was fault. The delay means that Mr B has suffered uncertainty about the outcome of the enforcement investigation longer than necessary. The Council notes that Mr B has not reported nuisance from the café since November, but this might justifiably be attributed to the lack of significant substantive action by the Council in the previous months when he was regularly reporting disturbance.

Agreed action

13. In recognition of the uncertainty caused to Mr B, and the time and trouble taken in pursuing this complaint, I recommended that the Council pays him £250 and issues him with a formal apology. In addition I recommended that the Council progresses this case without further delay and keeps Mr B properly updated. The Council has agreed to my recommendations.

Final decision

14. The action recommended above provides a satisfactory remedy for this complaint. I have completed my investigation.

Investigator's decision on behalf of the Ombudsman

Complaint reference:
13 018 260

Complaint against:
East Northamptonshire Council

The Ombudsman's final decision

Summary: The council should have handled better some reported problems about Mr and Mrs D's neighbour's animals. However there was no fault that caused Mr and Mrs D a significant injustice.

The complaint

1. The complainants, whom I shall refer to as Mr and Mrs D, complain the council has failed to deal effectively with problems caused by animals being kept near their home. As a result, the complainants report they are suffering noise nuisance and a loss of amenity. Two other households also complained about these matters so I investigated the complaints together.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. The Ombudsman may decide not to start or continue with an investigation if she believes the injustice is not significant enough to justify the cost of her involvement. (*Local Government Act 1974, section 24A(6)*)
4. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)

How I considered this complaint

5. As part of the investigation, I have:
 - considered the complaint and the documents the complainants provided
 - discussed the issues with Mr D and some of his neighbours
 - made enquiries of the council and considered its comments and documents
 - researched the relevant law and government guidance
 - shared my provisional view with Mr and Mrs D and considered their response.

What I found

6. Mr and Mrs D's neighbour keeps exotic birds and animals and guard dogs to protect them. I have considered the council's handling of Mr and Mrs D's

complaints about this with reference to the council's planning control, environmental protection and licensing responsibilities.

Planning matters

7. I asked the council about various structures Mr Z built for his animals in the last year or so. The council's interim view was that these buildings are 'permitted development' (meaning a planning application is not needed) because of their size and because they do not cover more than half the house's curtilage. The council said it would visit the site to assess this now that Mr Z's recent works are complete. I found no fault in that position and I stated the council should inspect the structures as soon as possible against all the relevant parts of the 'permitted development' rules and update the complainants.
8. At a late stage in my investigation the council told me it had now visited and does not believe there are any outstanding planning matters. This recent development is not part of the events I investigated so if Mr and Mrs D are dissatisfied with the council's new position they can raise this with the council in the first instance.
9. The council believes the animal-related use of outbuildings remains 'incidental' to the enjoyment of the dwelling house so the property's use has not changed in planning terms. Deciding whether an outbuilding's use is 'incidental' involves considering whether it changes the property's character in planning terms. This is a matter of judgement. Residents can legitimately use outbuildings for various purposes without there being a change of use. For example, many people work at home, including in outbuildings, or keep livestock or bees, although their properties' main use remains residential. Here, the council's view is the animals do not change the property from residential use to mixed use. The council is satisfied the animals are for the private enjoyment of Mr Z, the resident.
10. This is a judgement the council is entitled to make and it seems properly reached. So I do not criticise it. The complainants disagree with the judgement but that is not a matter for the Ombudsman.

Statutory nuisances – the council's role

11. Statutory nuisances include noise from premises, any 'accumulation or deposit' and the place or manner an animal is kept if any of these is 'prejudicial to health or a nuisance.' (*Environmental Protection Act 1990, s79*) To be a statutory nuisance, something must be more than annoying or inconvenient. It is for the council to judge if something is a statutory nuisance.
12. If the council decides there is a statutory nuisance, it must either immediately serve an abatement notice or take other steps to persuade the perpetrator to abate the nuisance. If it does the latter, it must serve a notice within seven days if it concludes it will not persuade the perpetrator to abate the nuisance. If, after seven days, the council believes the statutory nuisance still exists, it must serve a notice. (*Environmental Protection Act 1990, s80 (as amended)*) So, within seven days of the council finding a statutory nuisance, the nuisance must either be abated or a notice served. Acting against statutory nuisances is compulsory, unlike, for example, breaches of planning control where councils have discretion.
13. Anyone receiving an abatement notice can appeal to the magistrates' court, which can quash the notice. If an abatement notice stays in force and is breached, the council may prosecute the perpetrator and/or abate the nuisance itself and recover the costs. However a prosecution or attempt to recover costs is only likely to succeed where there is enough recent evidence of a continuing breach.

Noise nuisance

14. The council believes as noise from animals is usually intermittent, the best way to gather evidence is for the affected person to keep diaries or use recording equipment. An environmental health officer visited Mr Z's property twice and a neighbouring property four times between July 2013 and January 2014 and found either no noise or noise that was not a statutory nuisance. I do not criticise the council's professional judgement about the appropriate type of evidence-gathering, especially as officer visits did not find a statutory nuisance.
15. Mr D complained of noise from the guard dogs in April 2013. The council sent him diary sheets, which he returned in June. The council decided the diaries showed the noise was not unreasonable in duration, frequency, times of day or impact. Mr D explained he was not always at home and he had a hearing problem so had not necessarily noted every noise. However the council can only take account of the evidence provided. It concluded Mr D's diaries were not evidence of a statutory nuisance. So the council did not offer Mr and Mrs D noise recording equipment. The council's judgement here was properly reached based on the evidence it had. So I cannot criticise the judgement, even if Mr and Mrs D disagree with it.
16. Meanwhile, the council carried out further monitoring of the noise experienced by one of Mr and Mrs D's neighbours as the council believed their diaries suggested a more significant problem than Mr and Mrs D had noted. The only statutory nuisance the council found, in October 2013, was some prolonged howling by dogs. The council concluded the noise from the birds and primates and most of the other noise the dogs made were not statutory nuisances. The council based this decision on an officer's professional judgement of evidence from diaries and recordings. I consider the decision was properly reached so I cannot criticise it.
17. In September 2013, Mr D wrote to the council again referring to the noise, among other matters. The council asked him to make contact again if the dog barking situation had changed significantly since his previous complaint. Then in October the council told Mr D it had found a statutory nuisance.
18. Arguably the council could just have asked Mr and Mrs D to keep diaries again in September 2013. However the council was unsure if that letter was a new complaint. Also, the council established soon afterwards that there was a statutory nuisance, which it expected to deal with. So it had less need of Mr and Mrs D's evidence by then. On balance I see no fault on this point that could have affected Mr and Mrs D significantly.
19. On 4 November 2013 Mr Z contacted the council. He described steps he had recently taken to deal with the dogs barking: increasing the height of some fencing, moving some dogs elsewhere on his property, keeping some dogs indoors at night and neutering three dogs. He also said he was going to screen off some of another boundary to prevent the dogs seeing and barking at wild rabbits.
20. At that point the council knew there had been a statutory nuisance but it also knew that Mr Z had subsequently taken actions that might reduce the barking. I do not find fault with the council's judgement that Mr Z's actions might affect the level and type of noise made by dogs. This meant from 4 November 2013 the council could not assume there was a statutory nuisance unless it had up-to-date evidence of this. So the council decided not to serve a notice then and instead to seek evidence of the current situation. In the circumstances it was not at fault for that decision.

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21. The council could have decided there was a statutory nuisance several weeks earlier. It should also have served an abatement notice in the month between finding a statutory nuisance and Mr Z telling it he had taken some steps. The council only had power to defer serving a notice for seven days. However, had the council found a statutory nuisance slightly sooner and served a notice, the notice would have allowed Mr Z time to take steps to abate the nuisance. There might also have been an appeal against the notice. That would have delayed matters further. So, on balance, I am not persuaded these points delayed real progress in terms of changes at Mr Z's property that Mr and Mrs D would have found satisfactory.
 22. The council asked the neighbours who had used the recording equipment to keep diaries again and submit these in two weeks. A few days later, Mr D wrote to the council saying he was aware of its recent exchange with the neighbours. Mr D said the noise problem was continuing. The council replied on 14 November 2013 that it would inspect once Mr Z's works were complete. It offered to pay for mediation. The council did not directly ask for more diary evidence then. However it knew Mr D was aware it had said this was needed. Mr D wrote to the council again on 29 December 2013 saying, 'We are being asked to keep yet more diaries but if the council officers again take no action there is little or no point.'
 23. The council should have asked Mr and Mrs D directly to keep another diary. However, although the council did not ask, Mr and Mrs D evidently knew the council wanted more diaries. Mr and Mrs D declined to submit further evidence anyway. Additionally, even had Mr and Mrs D provided further diaries, I cannot know whether they would have shown evidence of a statutory nuisance. So on balance I do not find any significant injustice to Mr and Mrs D on this point.
 24. One of the steps Mr Z took was moving some kennels from the far side of his property to the side near Mr and Mrs D's boundary. Mr D says this simply moved the nuisance rather than resolving it. This might mean Mr and Mrs D now hear more noise from the dogs. However the council cannot know whether this amounts to a statutory nuisance unless there is evidence. If Mr and Mrs D do not provide evidence, the council cannot really do more.
 25. The council wrote to Mr D in early January 2014 saying it needed diaries and its environmental protection section would ask him to complete these. I have not seen evidence the environmental protection section did then ask. If it did not, it should have. However Mr D knew the council considered more diaries necessary and the evidence suggests he was not willing to provide this. So any failure here did not disadvantage him significantly.
 26. None of the other neighbours provided more evidence. So the council closed the case saying that without the complainants' involvement it did not have enough evidence there was still a statutory nuisance. It is willing to reconsider this if the complainants will provide evidence.
 27. I understand Mrs B and Mr C's frustration. However the council could not serve or seek to enforce an abatement notice without up-to-date evidence a statutory nuisance existed. Without such evidence the courts might well dismiss any formal action. Gathering sufficient evidence can be time-consuming. However in the circumstances I do not find fault with the council's position that it needs such evidence before it can take further action. So I shall not pursue this part of the complaint any further.

Other nuisances

28. Other neighbours complained of odour nuisance, flies and rats from Mr Z's premises. These points do not affect Mr and Mrs D so I shall not cover them here.

Licence to keep dangerous wild animals

29. Mr Z has a licence to keep primates. The birds and dogs need no licence. The council can attach conditions to a licence but only to cover certain points, basically about animal welfare. The council issued the current licence in February 2013, keeping the previous conditions about the number of primates, movement restrictions, insurance and security. At that time, there had been no complaint relating to the licensed animals for over a year. In the circumstances I do not criticise the council for granting the licence or for not altering the conditions.
30. Council officers who visited in October 2013 concluded Mr Z was complying with the licence conditions. I see no fault here, since there was no evidence those conditions were breached. The council was satisfied with Mr Z's explanation of when the enclosures are cleaned out. This judgement was properly reached so, while the complainants can disagree with it, I cannot criticise the judgement.
31. In view of the complaints since 2013, the council will consider if more conditions are needed when the licence is next due for renewal. I note this point but this will be a matter for the council.

Final decision

32. While the council should have handled some points better, these did not in themselves significantly disadvantage the Mr and Mrs D. So have ended my investigation.

Investigator's decision on behalf of the Ombudsman

Complaint reference:
13 019 886

Complaint against:
East Northamptonshire Council

The Ombudsman's final decision

Summary: The council should have handled better some reported problems about Mr and Mrs E's neighbour's animals. However there was no fault that caused Mr and Mrs E a significant injustice.

The complaint

1. The complainants, whom I shall refer to as Mr and Mrs E, complain the council has failed to deal effectively with problems caused by animals being kept near their home. As a result, the complainants report they are suffering noise nuisance and a loss of amenity. Two other households also complained about these matters so I investigated the complaints together.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. The Ombudsman may decide not to start or continue with an investigation if she believes the injustice is not significant enough to justify the cost of her involvement. (*Local Government Act 1974, section 24A(6)*)
4. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)

How I considered this complaint

5. As part of the investigation, I have:
 - considered the complaint and the documents the complainants provided
 - discussed the issues with Mr E and some of his neighbours
 - made enquiries of the council and considered its comments and documents
 - researched the relevant law and government guidance
 - shared my provisional view with Mr and Mrs E and the other complainants and considered their comments on this.

What I found

6. Mr and Mrs E's neighbour keeps exotic birds and animals and guard dogs to protect them. I have considered the council's handling of Mr and Mrs E's complaints about this with reference to the council's planning control, environmental protection and licensing responsibilities.

Planning matters

7. I asked the council about various structures Mr Z built for his animals in the last year or so. The council's interim view was that these buildings are 'permitted development' (meaning a planning application is not needed) because of their size and because they do not cover more than half the house's curtilage. The council said it would visit the site to assess this now that Mr Z's recent works are complete. I found no fault in that position and I stated the council should inspect the structures as soon as possible against all the relevant parts of the 'permitted development' rules and update the complainants.
8. At a late stage in my investigation the council told me it had now visited and does not believe there are any outstanding planning matters. This recent development is not part of the events I investigated so if Mr and Mrs D are dissatisfied with the council's new position they can raise this with the council in the first instance.
9. The council believes the animal-related use of outbuildings remains 'incidental' to the enjoyment of the dwelling house so the property's use has not changed in planning terms. Deciding whether an outbuilding's use is 'incidental' involves considering whether it changes the property's character in planning terms. This is a matter of judgement. Residents can legitimately use outbuildings for various purposes without there being a change of use. For example, many people work at home, including in outbuildings, or keep livestock or bees, although their properties' main use remains residential. Here, the council's view is the animals do not change the property from residential use to mixed use. The council is satisfied the animals are for the private enjoyment of Mr Z, the resident.
10. This is a judgement the council is entitled to make and it seems properly reached. So I do not criticise it. The complainants disagree with the judgement but that is not a matter for the Ombudsman.

Statutory nuisances – the council's role

11. Statutory nuisances include noise from premises, any 'accumulation or deposit' and the place or manner an animal is kept if any of these is 'prejudicial to health or a nuisance.' (*Environmental Protection Act 1990, s79*) To be a statutory nuisance, something must be more than annoying or inconvenient. It is for the council to judge if something is a statutory nuisance.
12. If the council decides there is a statutory nuisance, it must either immediately serve an abatement notice or take other steps to persuade the perpetrator to abate the nuisance. If it does the latter, it must serve a notice within seven days if it concludes it will not persuade the perpetrator to abate the nuisance. If, after seven days, the council believes the statutory nuisance still exists, it must serve a notice. (*Environmental Protection Act 1990, s80 (as amended)*) So, within seven days of the council finding a statutory nuisance, the nuisance must either be abated or a notice served. Acting against statutory nuisances is compulsory, unlike, for example, breaches of planning control where councils have discretion.
13. Anyone receiving an abatement notice can appeal to the magistrates' court, which can quash the notice. If an abatement notice stays in force and is breached, the council may prosecute the perpetrator and/or abate the nuisance itself and

recover the costs. However a prosecution or attempt to recover costs is only likely to succeed where there is enough recent evidence of a continuing breach.

Noise nuisance

14. The council believes as noise from animals is usually intermittent, the best way to gather evidence is for the affected person to keep diaries or use recording equipment. An environmental health officer visited Mr Z's property twice and a neighbouring property four times between July 2013 and January 2014 and found either no noise or noise that was not a statutory nuisance. I do not criticise the council's professional judgement about the appropriate type of evidence-gathering, especially as officer visits did not find a statutory nuisance.
15. Mrs E complained in June 2013 about noise from the animals. The council asked her to keep diaries, which she returned in July. Two other households gave the council diaries around then. The council concluded one of the neighbour's diaries suggested there might be a statutory nuisance. To gather more evidence so the council could decide this, the council asked to install noise recording equipment in Mr and Mrs E's home and a neighbour's home. Mr and Mrs E declined, saying their house was farther from the animals than was their neighbour's house. The council replied to Mr and Mrs E at the time saying recording from two positions would nevertheless have been useful. Mr and Mrs E did not change their position so the council put recording equipment in their neighbour's home.
16. The first recordings were unreliable so the council re-installed the equipment until early September. In October 2013, after considering the recordings from the neighbours' property, the council found some prolonged howling by dogs was a statutory nuisance. It concluded the noise from the birds and primates and most of the other noise the dogs made were not statutory nuisances. The council based this decision on an officer's professional judgement of evidence from diaries and recordings. I consider the decision was properly reached so I cannot criticise it.
17. On 4 November 2013 Mr Z contacted the council. He described steps he had recently taken to deal with the dogs barking: increasing the height of some fencing, moving some dogs elsewhere on his property, keeping some dogs indoors at night and neutering three dogs. He also said he was going to screen off some of another boundary to prevent the dogs seeing and barking at wild rabbits.
18. At that point the council knew there had been a statutory nuisance but it also knew that Mr Z had subsequently taken actions that might reduce the barking. I do not find fault with the council's judgement that Mr Z's actions might affect the level and type of noise made by dogs. This meant from 4 November 2013 the council could not assume there was a statutory nuisance unless it had up-to-date evidence of this. So the council decided not to serve a notice then and instead to seek evidence of the current situation. In the circumstances it was not at fault for that decision.
19. The council could have decided there was a statutory nuisance several weeks earlier. It should also have served an abatement notice in the month between finding a statutory nuisance and Mr Z telling it he had taken some steps. The council only had power to defer serving a notice for seven days. However, had the council found a statutory nuisance slightly sooner and served a notice, the notice would have allowed Mr Z time to take steps to abate the nuisance. There might also have been an appeal against the notice. That would have delayed matters further. So these points do not necessarily mean there would have been

real progress significantly sooner in terms of changes at Mr Z's property that Mr and Mrs E would have found satisfactory.

20. The council asked the neighbours who had used the recording equipment to keep diaries again and submit these in two weeks. A few days later, Mr and Mrs E wrote to the council saying they knew about its recent exchange with the neighbours. Mr and Mrs E reported there were still instances of the dogs howling continually. The council replied on 14 November 2013 that it would inspect once Mr Z's works were complete. It offered to pay for mediation. The council did not directly ask for more diary evidence then. However it knew Mr and Mrs E were aware it had said this was needed.
21. The council should have asked Mr and Mrs E directly to keep another diary. However, although the council did not ask, Mr and Mrs E evidently knew the council wanted more diaries. Mr and Mrs E declined to submit further evidence anyway. Additionally, even had they provided further diaries, I cannot know whether they would have shown evidence of a statutory nuisance affecting them. So on balance I do not find any significant injustice to Mr and Mrs E on this point.
22. None of the other neighbours provided more evidence. So the council closed the case saying that without the complainants' involvement it did not have enough evidence there was still a statutory nuisance. An officer visited Mr Z in January 2014 and judged the changes to the site are likely to have improved the situation. The council emphasises it has not been able to assess definitively if the statutory nuisance still exists. It will reconsider this if the complainants provide evidence.
23. I understand Mr and Mrs E's frustration. However the council could not serve or seek to enforce an abatement notice without up-to-date evidence a statutory nuisance existed. Without such evidence the courts might well dismiss any formal action. Gathering sufficient evidence can be time-consuming. However in the circumstances I do not find fault with the council's position that it needs such evidence before it can take further action. So I shall not pursue this part of the complaint any further.

Other nuisances

24. Other neighbours complained of odour nuisance, flies and rats from Mr Z's premises. These points do not affect Mr and Mrs E so I do not cover them here.

Licence to keep dangerous wild animals

25. Mr Z has a licence to keep primates. The birds and dogs need no licence. The council can attach conditions to a licence but only to cover certain points, basically about animal welfare. The council issued the current licence in February 2013, keeping the previous conditions about the number of primates, movement restrictions, insurance and security. At that time, there had been no complaint relating to the licensed animals for over a year. In the circumstances I do not criticise the council for granting the licence or for not altering the conditions.
26. Council officers who visited in October 2013 concluded Mr Z was complying with the licence conditions. I see no fault here, since there was no evidence those conditions were breached. The council was satisfied with Mr Z's explanation of when the enclosures are cleaned out. This judgement was properly reached so, while the complainants can disagree with it, I cannot criticise the judgement.
27. In view of the complaints since 2013, the council will consider if more conditions are needed when the licence is next due for renewal. I note this point but this will be a matter for the council.

Final decision

28. While the council should have handled some points better, these did not in themselves significantly disadvantage Mr and Mrs E. So I have ended my investigation.

Investigator's decision on behalf of the Ombudsman

Complaint reference:
13 019 888

Complaint against:
East Northamptonshire Council

The Ombudsman's final decision

Summary: The council should have handled better some parts of Mrs B and Mr C's complaints about their neighbours' animals. However there was no fault that caused Mrs B and Mr C a significant injustice.

The complaint

1. The complainants, whom I shall refer to as Mrs B and Mr C, complain the council has failed to deal effectively with problems caused by animals being kept near their home. As a result, the complainants report they are suffering noise and odour nuisance, a loss of amenity and a rat infestation. Two other households also complained about these matters so I investigated the complaints together.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. The Ombudsman may decide not to start or continue with an investigation if she believes the injustice is not significant enough to justify the cost of her involvement. (*Local Government Act 1974, section 24A(6)*)
4. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)

How I considered this complaint

5. As part of the investigation, I have:
 - considered the complaint and the documents the complainants provided
 - discussed the issues with Mrs B and some of her neighbours
 - made enquiries of the council and considered its comments and documents
 - researched the relevant law and government guidance
 - shared my provisional view with Mrs B, Mr C and the other complainants and considered their comments on this.

What I found

6. Mrs B and Mr C's neighbour keeps exotic birds and animals and guard dogs. The council's handling of Mrs B and Mr C's complaints about this relates to the council's planning control, environmental protection and licensing responsibilities.

Planning matters

7. I asked the council about various structures Mr Z built for his animals in the last year or so. The council's interim view was that these buildings are 'permitted development' (meaning a planning application is not needed) because of their size and because they do not cover more than half the house's curtilage. The council said it would visit the site to assess this now that Mr Z's recent works are complete. I found no fault in that position and I stated the council should inspect the structures as soon as possible against all the relevant parts of the 'permitted development' rules and update the complainants.
8. At a late stage in my investigation the council told me it had now visited and does not believe there are any outstanding planning matters. This recent development is not part of the events I investigated so if Mrs B and Mr C are dissatisfied with the council's new position they can raise this with the council in the first instance.
9. The council believes the animal-related use of outbuildings remains 'incidental' to the enjoyment of the dwelling house so the property's use has not changed in planning terms. Deciding whether an outbuilding's use is 'incidental' involves considering whether it changes the property's character in planning terms. This is a matter of judgement. Residents can legitimately use outbuildings for various purposes without there being a change of use. For example, many people work at home, including in outbuildings, or keep livestock or bees, although their properties' main use remains residential. Here, the council's view is the animals do not change the property from residential use to mixed use. The council is satisfied the animals are for the private enjoyment of Mr Z, the resident.
10. This is a judgement the council is entitled to make and it seems properly reached. So I do not criticise it. The complainants disagree with the judgement but that is not a matter for the Ombudsman.

Statutory nuisances – the council's role

11. Statutory nuisances include noise from premises, any 'accumulation or deposit' and the place or manner an animal is kept if any of these is 'prejudicial to health or a nuisance.' (*Environmental Protection Act 1990, s79*) To be a statutory nuisance, something must be more than annoying or inconvenient. It is for the council to judge if something is a statutory nuisance.
12. If the council decides there is a statutory nuisance, it must either immediately serve an abatement notice or take other steps to persuade the perpetrator to abate the nuisance. If it does the latter, it must serve a notice within seven days if it concludes it will not persuade the perpetrator to abate the nuisance. If, after seven days, the council believes the statutory nuisance still exists, it must serve a notice. (*Environmental Protection Act 1990, s80 (as amended)*) So, within seven days of the council finding a statutory nuisance, the nuisance must either be abated or a notice served. Acting against statutory nuisances is compulsory, unlike, for example, breaches of planning control where councils have discretion.
13. Anyone receiving an abatement notice can appeal to the magistrates' court, which can quash the notice. If an abatement notice stays in force and is breached, the council may prosecute the perpetrator and/or abate the nuisance itself and recover the costs. However a prosecution or attempt to recover costs is only likely to succeed where there is enough recent evidence of a continuing breach.

Noise from animals

14. The council believes as noise from animals is usually intermittent, the best way to gather evidence is for the affected person to keep diaries or use recording

equipment. An environmental health officer visited Mrs B and Mr C's property four times and Mr Z's property twice between July 2013 and January 2014 and found either no noise or noise that was not a statutory nuisance. I do not criticise the council's professional judgement about the appropriate type of evidence-gathering, especially as officer visits did not find a statutory nuisance.

15. Mrs B telephoned the council complaining of noise from the primates, birds and guard dogs in April 2013. The council's note of the conversation states Mrs B declined an offer of recording equipment. Mrs B says the council did not offer this. I cannot resolve this conflict so I am not persuaded there is enough evidence the council was at fault on this point. After further contact, the council sent Mrs B noise diary sheets in mid-June 2013, which she returned in July. By then the council had also received diaries from two other residents. The council judged that Mrs B's and Mr C's diary and one other neighbour's diary suggested there might be a statutory nuisance. So it offered them specialist recording equipment to help decide if there was a statutory nuisance. The other neighbour declined.
16. The council installed recording equipment in Mrs B's and Mr C's home for two weeks in July 2013. When analysing the results, the council found the equipment was not always operated in accordance with its advice. The council also realised there was more background noise than normal because of a temporary traffic diversion outside Mrs B's and Mr C's home. So it decided these recordings were unreliable. I see no fault in this judgement.
17. The council therefore reinstalled the recording equipment for another two weeks and collected it on 5 September 2013. The council then had to analyse the recordings. On 2 October it decided:
 - the birds and primates were not causing a statutory noise nuisance;
 - most of the dogs' noise was not loud or prolonged enough to be a statutory nuisance;
 - two instances of dogs howling for long periods were a statutory nuisance.
18. These were professional judgements based on the recordings so I do not criticise them. However I consider the council could perhaps have reached this position slightly sooner. Analysing the recordings necessarily took some time. However the council was concerned enough to install the equipment in mid-July. It was not the council's fault the first recordings were unreliable. But given how long the complaints had been ongoing, I consider the council could have analysed the recordings sooner after 5 September 2013. This means the council could have found a statutory nuisance a couple of weeks earlier than it did. However dealing with such noise nuisance is not necessarily a quick process. In all the circumstances, especially the council's later decision not to take further action for now (see below), I do not consider that a delay of a couple of weeks caused Mrs B and Mr C a significant enough injustice to warrant further action by the Ombudsman.
19. Having decided there was a statutory nuisance, the council had to either serve a notice immediately or allow itself seven days to resolve the nuisance. It decided to do the latter because it believed Mr Z had co-operated with it in the past and as the nuisance was caused by live animals the council considered it reasonable to allow some time to make arrangements that might abate the nuisance. This decision was properly reached based on the council's judgement and experience so I do not criticise it.

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20. The next day a council officer visiting Mr Z's property gave him a letter explaining the dogs barking for extended periods was a statutory nuisance and the council would serve formal notice unless Mr Z abated the nuisance within seven days. The letter asked Mr Z to discuss this with the council. Abating the nuisance means reducing it to a level below a statutory nuisance. It does not necessarily mean stopping all or most of the noise. When the seven days expired, the officer dealing with the matter was away from work for several weeks. I mention this to explain the lack of action till late October, not to excuse this. By 28 October Mr Z had not contacted the council so the council wrote stating it would serve an abatement notice if he did not make contact within seven days.
 21. The law allows only allows one period of up to seven days when the council can defer serving an abatement notice. It does not allow the council to extend this period or to avoid serving a notice if discussions with the perpetrator take over seven days. By 28 October (over two weeks after the seven days ended), the council was not satisfied it had persuaded Mr Z to abate the nuisance, since there had been no discussions with him. Nor did it have evidence the nuisance had abated. I consider the council was at fault for not serving an abatement notice.
 22. Had the council served an abatement notice, the notice would have allowed Mr Z time to take steps to abate the nuisance. Also, Mr Z might have appealed against the notice, which would have delayed matters even further. So in this case I do not believe Mrs B and Mr C were significantly disadvantaged by the council not serving the notice. Nevertheless, I shall draw the omission to the council's attention as it could cause a significant injustice in other circumstances.
 23. On 4 November Mr Z contacted the council. He described steps he had recently taken to deal with the dogs barking: increasing the height of some fencing, moving some dogs elsewhere on his property, keeping some dogs indoors at night and neutering three dogs. He also said he was going to screen off some of another boundary to prevent the dogs seeing and barking at wild rabbits.
 24. At that point the council knew there had been a statutory nuisance but it also knew that Mr Z had subsequently taken actions that might reduce the barking Mrs B and Mr C would hear. Mrs B and Mr C argue these actions have not really improved matters. However I do not find fault with the council's judgement that Mr Z's actions might affect the level and type of noise made by dogs that Mrs B and Mr C would hear. The council had only found a statutory noise nuisance at Mrs B and Mr C's property. This did not necessarily mean the dogs' noise was a statutory nuisance at other neighbours' properties, given the properties' different relationships to the place where the dogs were kept.
 25. This meant from 4 November 2013 the council could not assume a statutory nuisance still existed unless it had up-to-date evidence of this. So the council decided not to serve a notice then and instead to seek evidence of the current situation. In the circumstances it was not at fault for that decision.
 26. In early November and afterwards the council asked Mrs B and Mr C to supply more diaries within a fortnight and also suggested installing recording equipment again. It explained it needed such evidence to establish whether there was still a statutory nuisance. Mrs B and Mr C declined to provide diaries. They argued they wanted matters to improve in the long term, not just for a few weeks. They were also reluctant to keep more diaries because they doubted the council would do anything effective to reduce the noise.

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27. The council closed the case saying that without the complainants' involvement it did not have enough evidence there was still a statutory nuisance. An officer visited Mr Z in January 2014 and judged the changes to the site are likely to have improved the situation. The council emphasises it has not been able to assess definitively if the statutory nuisance still exists. It is willing to reconsider this if the complainants will provide evidence.
28. I understand Mrs B and Mr C's frustration. However the council could not serve or seek to enforce an abatement notice without up-to-date evidence a statutory nuisance existed. Without such evidence the courts might well dismiss any formal action. Gathering sufficient evidence can be time-consuming. However in the circumstances I do not find fault with the council's position that it needs such evidence before it can take further action. So I shall not pursue this part of the complaint any further.

Odour and flies

29. Mrs B and Mr C say they suffer unpleasant odours and flies from animal faeces at Mr Z's property. Odours and insects from domestic premises cannot in themselves be a statutory nuisance. However they might indicate other statutory nuisances, such as an accumulation or deposit or animals being kept in such a way as to be a statutory nuisance. The council says it received no formal reports or nuisance diaries about these matters. Odour and flies were mentioned to the council on several occasions in 2013:
- On 10 June Mrs B mentioned animal faeces, which she said had now been cleaned up.
 - On 2 September Mrs B emailed the council mainly about Mr Z's dog getting into her garden (see paragraph 41) but also mentioning 'smells from uncleaned animal faeces.' The council replied the same day that it was dealing with alleged statutory nuisances, 'mainly noise.' Officers later visited Mr Z, who stated he removed animal faeces to skips and then removed the skips. Mrs B argues this does not happen regularly enough.
 - On 10 September, Mrs B telephoned and mentioned flies and other matters. The council's note of the call states it advised Mrs B about statutory nuisance.
30. Between July 2013 and January 2014 council officers visited Mr Z's property twice and the complainants' property four times. The council states its officers never detected odour or flies although some of their visits were in very hot weather when any such problems would have been apparent. A police officer who visited also reported little odour albeit this was in October, not the summer. While Mr Z had advance warning of visits to his property, he had no such knowledge of visits to the complainants.
31. The council told Mrs B in October 2013 it had no evidence to date of odour or flies indicating a statutory nuisance. It asked Mrs B to contact the council if this is a problem in the future so it could investigate.
32. It appears the council properly reached its view that neither officers' visits nor the complainants provided evidence of statutory nuisances related to odour or flies.
33. Arguably the council could have encouraged Mrs B to keep a diary about the claimed nuisance when she made contact in September 2013. However Mrs B had complained about nuisances before and knew what to do if she wanted to pursue this formally with the council. Moreover, the council officer who visited judged there was no statutory nuisance at the time of those visits. That judgement

was properly reached. On balance, this suggests that even if Mrs B had collected evidence, the council would have been unlikely to find any problem amounted to a statutory nuisance. So I shall not pursue this point any further.

Rats

34. Mrs B has found rats in her garden and believes they are coming through holes on her boundary with Mr Z's property. The council believes rats are 'highly likely' to be present in this area anyway and it has treated other nearby properties that do not adjoin Mr Z's property. It says food, water or harbourage can attract rats.
35. Mrs B told the council about rats in June 2013. The council suggested she arrange a rat treatment from the council to establish the source. Mrs B arranged this in September 2013. The council's contractor expressed concern about what conditions on Mr Z's property might be but did not visit there. The contractor did not say what the source of the infestation was, though found no evidence of rat tunnels from elsewhere on Mrs B's property.
36. Two weeks later, council officers visited Mr Z's property to see what he was doing about rats. They found no sign of rats during this visit but Mr Z said he had seen evidence of rats and believed they were coming from other land. Officers knew Mr Z's property might attract rats but were satisfied he had appropriate rat control measures in terms of regular baiting, rat-proofing and animal feed storage. The council suggested some improvements to Mr Z's rat-proofing.
37. The council believes the rats are likely to originate outside Mr Z's property and that Mr Z's measures to control them are sufficient. This view was properly reached based on visiting the area and officers' professional judgements. I cannot criticise a properly reached professional judgement even though Mrs B is entitled to disagree with it.

Licence to keep dangerous wild animals

38. Mr Z has a licence to keep primates. The birds and dogs need no licence. The council can attach conditions to a licence but only to cover certain points, basically about animal welfare. The council issued the current licence in February 2013, keeping the previous conditions about the number of primates, movement restrictions, insurance and security. At that time, there had been no complaint relating to the licensed animals for over a year. In the circumstances I do not criticise the council for granting the licence or for not altering the conditions.
39. Council officers who visited in October 2013 concluded Mr Z was complying with the licence conditions. I see no fault here, since there was no evidence of breaches of those conditions. The council was satisfied with Mr Z's explanation of when he cleans the enclosures. This judgement was properly reached so, while the complainants can disagree with it, I cannot criticise the judgement.
40. In view of the complaints since 2013, the council will reconsider the conditions when the licence is next due for renewal. I note this point but this will be a matter for the council.

Dog escaping into Mrs B and Mr C's garden

41. One of Mr Z's guard dogs got over the fence into Mrs B's and Mr C's garden. The police removed the dog. The council knew the police had asked Mr Z to make the fence more secure. When council officers visited Mr Z several weeks later, he said he was doing this. Mrs B later told the council the fence was now higher 'so I should not be faced with another dog attack in the garden.' As the council knew of

the police's involvement and that Mr Z was following the police's advice, I see no fault in the council not taking further action here.

42. Later, some of the guard dogs butted the fence and seemed to be digging under it into Mrs B's and Mr C's garden. Again the police were called and contacted Mr Z, who reinforced the boundary the next day. This was a police matter, not involving the council.

Final decision

43. While the council should have handled some points better, these did not in themselves significantly disadvantage Mrs B and Mr C. So I have ended my investigation.

Investigator's decision on behalf of the Ombudsman