

Local Government  
**OMBUDSMAN**

**Further report**  
on an investigation into  
complaint no 01/B/03243 against  
Plymouth City Council

19 July 2005

**The Oaks No 2, Westwood Way, Westwood Business Park, Coventry CV4 8JB**

1. On 28 November 2002 I issued my report on a complaint by 'Mr Greaves' that the Council had failed to control the activities of a flying school that operates from Plymouth Airport. I concluded that there had been maladministration by the Council which had led to injustice to Mr Greaves.
2. I considered that the Council, as leaseholder for the airport, had powers to control certain activities there and, in my view, responsibilities to local residents to try to minimise intrusive noise as far as possible.
3. Previous reports relating to the airport had set out the view my predecessors and I had taken about the issue of training flights at weekends. I had concluded in 1997 that there had been maladministration on the Council's part in allowing by default additional weekend training activity, which could cause nuisance to local residents. At that time, and based on the information then available, I had concluded that the injustice was minimal in that the additional flights had formed only a small proportion of the overall number of flights. Since that time, however, it seemed to me that there was well-documented evidence that flights which were incontrovertibly 'training flights' even by the limited definition adopted by the Council were taking place frequently at weekends. The noise-monitoring regime adopted by the Council had established that these flights could, and occasionally did, cause unreasonable nuisance or annoyance.
4. In 2002 the Council said that it had operated since 1996 "as if the flying school can take advantage" of a provision in the lease which said that the operators should:

"Make every endeavour to ensure that as soon as practicable weekend training shall not be undertaken at the Demised Premises unless flying training programmes are dislocated through bad weather or other abnormal circumstances."
5. The Council had provided no evidence of a formal decision to that effect, of any corresponding instructions having been given to officers, or indeed of any reason behind its stance. In addition, the Council said that it was impracticable to monitor whether the weather conditions during the week had caused dislocation of the training programme. It offered no evidence that it had ever attempted to do so. Essentially, the Council was saying that, since 1996, it had done nothing to prevent training flights taking place at weekends; and that it did not intend in the future to enforce the relevant provisions of the lease.
6. In my view, the Council had failed to get to grips with the problem of noise from training flights. It had had no proper strategy or procedures in place when I had previously reported on the subject and, instead of seeking to resolve the problem since then, it had simply decided to ignore the restrictions in the lease. In the absence of a formal change in Council policy, made in the light of full monitoring information about the environmental impact of weekend training

flights, I believed that its failure to enforce the lease to reduce the impact on residents of the airport's training activities arose from inattention and neglect, and that is maladministration.

7. In 2002 I could no longer conclude, as I had in my 1997 report, that training flights were *de minimis*, since Mr Greaves had provided evidence (confirmed by the Council's own records) that on some days as many as 100 training flights could take place. I concluded, therefore, that Mr Greaves had suffered injustice as a result of the Council's maladministration, in the form of intrusive noise.
8. Mr Greaves had pursued his complaint vigorously over a number of years but it seemed to me that the Council had failed to investigate his concerns as it should have. This served to compound the injustice Mr Greaves suffered. I commended the actions of one Council officer who had conducted noise-testing, but, in my view, the fact that the Council had not seen fit to provide, out of its own funds, the equipment needed for him to fulfil his role in monitoring airport noise was indicative of the low priority the Council had given to the complaints of local residents.
9. I therefore found that the maladministration had led to injustice to Mr Greaves. To remedy the injustice, I recommended that the Council should:
  - a) make Mr Greaves an *ex gratia* payment of £500 per year for each year since the beginning of 2001 to represent the avoidable intrusive noise he suffered;
  - b) continue to make a payment of the same amount for each succeeding year that the problem remains unresolved unless, in the meantime, there was a formal change in the policy and Mr Greaves was given an opportunity to comment on any such proposed change;
  - c) make Mr Greaves an *ex gratia* payment of £250 for his time and trouble in pursuing the complaint with the Council and me;
  - d) take whatever steps it deems necessary to regulate the weekend operations of the flying school.
10. Since I issued my report in November 2002, this matter has been reported on by officers to the Council Cabinet at a number of its meetings; I have pressed the Council for action, and have raised the matter during a meeting with the Council's Chief Executive; but the Council has not taken any steps which, in my view, resolve the problem and remove the injustice to Mr Greaves.
11. In June 2004 the Council issued a "reasonable direction" to the airport operators requiring:

“Training flights scheduled for weekdays, which have been disrupted by bad weather or abnormal circumstances to be undertaken only when it is not practicable for them to be re-arranged for a weekday. No other training flights to take place at the weekends.”

12. The Council has not, however, enforced this direction effectively, and an officer’s report to the Council’s Cabinet meeting in February 2005 said:

“Clearly, aside from weekend flying [by the flying school] there are other equally contentious issues to be negotiated and agreed within the new Operating Conditions [currently being negotiated for the airport]... It is therefore intended to drive forward on these other matters returning again to the issue of weekend flying training at a future stage in the negotiations.”

13. In June 2005 the Council’s lead officer for airport matters told me:

“... our Legal team is instructed to advise on the (best) options available to enforce the necessary environmental improvements through the lease, which, contrary to common belief, are less straightforward to exercise compared to measures under the Environmental Protection legislation. I am also charged with pursuing enquiries with the Civil Aviation Authority regarding permitted uses / operating hrs / environmental regulation to identify any additional potential to bring further pressure to bring about environmental improvements for neighbours. Such enforcement action would of course be subject to formal authorisation by our Members.”

14. The officer has also said that monthly meetings are to be held between Council officers and representatives of the airport authorities and users, including the flying school.
15. Section 31 of the Local Government Act 1974 provides that if an Ombudsman is not satisfied with the Council’s response to an adverse report he shall make a further report. As the Council has not remedied the injustice I identified, I now call upon it to reconsider the matter, to enforce the direction, and to take whatever other action is open to it through the terms of the lease in order to do justice to the complainant.
16. The Council has at various times considered different ways in which the direction might be enforced. I commend for consideration by the Council the option of offering to pay the operator compensation for restricting or terminating the activities of the flying school.

17. Until the Council has taken effective steps to regulate the operations of the flying school, it should continue to make annual payments of £500 to Mr Greaves.

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