

SPSO decision report

Case: 201104664, Perth and Kinross Council
Sector: local government
Subject: maintenance and repair of roads
Outcome: not upheld, recommendations

Summary

Mr C complained that the council failed to consider well documented problems with a road when considering his insurance claims for damage to his car. On three occasions Mr C's car had been damaged by potholes and loose chippings on a stretch of the road. The road had been surface dressed by contractors employed by the council in 2010. During the severe weather of winter 2010/2011, the surface dressing had failed. One of the claims was settled, but the council's insurers passed the claim made in April 2011 to the contractor's insurers, who also denied liability and said that the council were responsible for the maintenance of the road. The final claim was made in August 2011 and the council had prepared an internal report which explained that appropriate maintenance inspections and repairs had been carried out at the relevant stretch of road over that time period.

We did not uphold the complaint. We found that the council had taken into account the problems with road surface dressing, and had decided that the contractors were liable for this. We do not reach findings in relation to liability or discretionary decisions (decisions that the council were entitled to take). We did, however, criticise the council for leaving motorists in a position that meant they could not claim against either the council or the contractors as both denied liability, particularly as the council accepted there were problems. We suggested that the council as the local authority may wish to address that situation. We also found that although the August 2011 claim was dealt with appropriately, the April 2011 claim was not, because the council did not prepare an internal report. We made a recommendation in relation to this.

Recommendations

We recommended that the council:

- reconsider Mr C's April 2011 claim.