

SPSO decision report

Case: 201200720, Crown Office and Procurator Fiscal Service
Sector: Scottish Government and devolved administration
Subject: policy/administration
Outcome: upheld, action taken by body to remedy, recommendations

Summary

Mr C complained to the Crown Office and Procurator Fiscal Service (COPFS) on behalf of his parents (Mr and Mrs A) about a decision taken by a procurator fiscal. Mr and Mrs A had been victims of a crime involving damage to their property. A decision had been made to fine the individual responsible, using a process called Fiscal Fine, but this did not include any provision for the cost of the damage. After Mr C complained to COPFS they decided to make a goodwill payment to Mr and Mrs A for the cost of the damage. Mr C was dissatisfied with this, as he felt COPFS should have paid additional compensation. He felt that they should have ensured that the original fine included a requirement on the individual to pay compensation. He said that the time taken to deal with this, and failures in the handling of his complaints, had resulted in stress and distress for his parents beyond the physical damage to the property.

Mr C's complaint about the fiscal's decision was not something that we could look at, as such decisions are for the body itself to make, provided they do so through the correct process. We did, however, investigate and uphold his complaint about COPFS' complaints handling. This was because they had not responded to specific issues he raised, because there was unreasonable delay in responding and because they dealt with his complaint twice at the same stage of their complaints procedure. We made recommendations, but none about further payment. (We cannot say whether compensation is due, which is a matter for the courts, but we may make recommendations for redress payments.) In this case, in line with our redress policy, we took the view that the failures were not serious enough for us to recommend financial redress.

Recommendations

We recommended that COPFS:

- apologise to Mr C that they did not respond to the question he raised in a letter regarding the provision of the name of the man who had damaged his parents' property to him, that they did not provide any explanation why their response to an email was not made within the timescales set out in their complaints procedure and that two other letters were dealt with at stage one of their complaints procedure;
- remind staff involved in complaints handling of the need to ensure it is always clear, both to complainants and internally, what stage of the procedure complaints are at; and
- remind staff involved in complaints handling of the need to ensure that they keep complainants updated when they are unable to respond to complaints within the published timescales.