

SPSO decision report

Case: 201201861, Fife Council
Sector: local government
Subject: other
Outcome: not upheld, recommendations

Summary

Mr C complained that the council unreasonably denied him access to their library service. The council had excluded Mr C from their libraries for a year because he had breached their computer use policy by accessing inappropriate websites and because of his attitude towards some members of staff. However, because Mr C had stated that he would not be returning to the library, the council excluded him informally, rather than formally under the relevant legislation. The council then reviewed this at the end of the year and extended the exclusion by another year. After a further year, they reviewed it again and decided that he could have conditional access to a library for an interim period.

The Scottish Public Services Ombudsman Act 2002 says we cannot question a decision that a council was entitled to make (a discretionary decision) where there is no evidence of maladministration (of anything being wrong in the taking of that decision). We can, however, consider whether the council followed the relevant policy or policies. In Mr C's case, the council did not have a policy on informal exclusion from their services, so there was no policy to compare their actions against. We did, however, consider whether they should have formally excluded Mr C from the library under the relevant legislation. We were, however, satisfied that the council were entitled to decide to exclude him from the library and, in view of the fact that Mr C said that he would not be returning to the library anyway, it was reasonable for them to do this on an informal basis.

That said, we found that the council had delayed in reviewing their decision at the end of each year. We found that they should have been more proactive in making these reviews and that their delays could potentially have delayed Mr C's return to the library. We also found that one of their letters should have offered Mr C the opportunity to make representations against their decision to extend the exclusion. Although we did not uphold his complaint, we made recommendations to address these matters.

We also considered whether it was reasonable for the council to impose conditions when they decided that Mr C could return to the library. The council has a duty of care towards their staff and we considered that it was reasonable for them to initially impose the conditions.

Recommendations

We recommended that the council:

- consider whether they should have a policy on excluding members of the public from public buildings whether formally or informally; and
- ensure that letters issued to members of the public about exclusions provide information on how they can make representations against the decision.