

SPSO decision report

Case: 201305519, Midlothian Council
Sector: local government
Subject: neighbour disputes and antisocial behaviour
Outcome: some upheld, recommendations

Summary

Mr C complained that the council did not address or adequately handle his complaints about antisocial behaviour and noise pollution involving neighbours who were council tenants.

At the start of our investigation the council explained that although they had investigated Mr C's complaint, he had not made a formal complaint through their complaints handling procedure. We considered, however, that the council should have applied their complaints handling procedure in the first instance.

In investigating Mr C's complaint about noise pollution, we found that the council had followed the relevant procedures and had dealt with this reasonably, and we did not uphold his complaint. The council's investigation found that the building predated the relevant building regulation and that there was an issue with sound insulation. Although there was no requirement to bring the sound insulation up to modern-day standards, the council agreed to do so, and to share the costs with Mr C. Various options were still being considered when Mr C brought his complaints to us.

In relation to other antisocial behaviour that Mr C complained about, however, which included graffiti on his property, alleged illegal activity and accumulation of rubbish in the garden, we found that the council had not taken reasonable steps to address his concerns. We upheld his complaint, as we were not satisfied that the process for dealing with rubbish had been followed as, although a verbal warning had been given to his neighbour, there was no written warning as detailed in the council procedure. We also did not consider that they had explained their procedure on graffiti to Mr C or advised him to contact the police in relation to alleged criminal behaviour, although we did find that they had recommended he contact the police in relation to any breach of the peace that took place.

Recommendations

We recommended that the council:

- consider taking further action to address the noise transference issue if the agreed works are judged to be unsuccessful;
- take steps to raise awareness of their complaints handling procedure, particularly the definition of a complaint, with the relevant service area staff;
- record Mr C's complaint and provide an apology for failing to use the proper complaints handling procedure in the first instance; and
- apologise to Mr C for their failure to fully address all his concerns about antisocial behaviour and provide him with an assurance that their estates management framework, which includes their procedures for addressing antisocial behaviour, will be followed as appropriate in future.