

SPSO decision report

Case: 201305638, North Lanarkshire Council
Sector: local government
Subject: maintenance and repair of roads
Outcome: not upheld, no recommendations

Summary

Mr C, who is an MSP, complained on behalf of his constituent (Mrs A) that the council were not doing enough to prevent water seeping into her garden and pooling on her path where it met the public pavement. He explained that this caused problems in winter when the water froze, and increased Mrs A's risk of falling. He said that the water was coming from council land, so they should put in additional drains to minimise the seepage.

In responding to the complaint, the council inspected the drains from the property and found no problems. They also inspected the council-owned area of grass beside Mrs A's home and installed a soakaway (a gravel-filled channel or pit that helps manage surface water), although they did not think that very much water was coming into her property from there. The council said they thought that the problem she was experiencing was due to groundwater (water found underground in the cracks and spaces in soil, sand and rock), and pointed out that property owners are responsible for protecting their own property from flooding and for draining their land. They provided advice on what Mrs A could do to improve drainage, and also resurfaced the pavement to reduce the risk of pooling at the entrance to the path. They said, however, that the remaining pooling related to paving slabs on the path itself, and was Mrs A's responsibility.

We checked the council's statutory responsibilities under roads and flooding legislation. Our investigation found that this makes it clear that the home owner is responsible for water collecting in their own property. Having considered the council's responsibilities, and the actions they had already taken to try and improve the situation for Mrs A, we found no evidence of administrative failure in how they handled this.