

SPSO decision report

Case: 201508016, The City of Edinburgh Council
Sector: local government
Subject: statutory notices
Outcome: some upheld, recommendations

Summary

A mutual boundary wall between Ms C's property and another property was the subject of a statutory repair notice issued by the council. The notice required the wall to be demolished and re-built.

No action was taken until two years later, when the council notified Ms C and other owners that they had 14 days to indicate whether they were undertaking the work to the wall before the council would do so. Ms C said that despite informing the council that she and the other owners would do so, the council did not adhere to the timeline and instead instructed their own contractor to carry out the work. The council said they were unable to trace any record of contact from Ms C about this. Given the conflicting evidence and the period of time that had elapsed, we were unable to conclude what had occurred and to conclude definitively when the work began. We also considered it was the responsibility of Ms C and the other owners to have ensured that the council knew that she and the other owners intended carrying out the work to the wall. Therefore we did not uphold this aspect of Ms C's complaint.

However, we considered that certain aspects of the council's administration of the notice in relation to the appointment of the contractor, how the share of the costs of the work had been apportioned and a delay in providing Ms C with a copy of the final account was unsatisfactory and had caused her to reasonably question the cost of the work charged to her. On balance we therefore upheld this aspect of Ms C's complaint and recommended that the council apologise to her. However, we were unable to conclude that the final account for the work was incorrect.

In reaching our decision, we took into account that an independent resolution complaints panel review had concluded that the invoiced account was correct and that owners had only been invoiced for the amounts they were liable for.

Ms C also complained that she had not received a satisfactory response from the council to her enquiries and concerns in relation to the notice. We found that there was a lack of evidence about what occurred prior to a certain point. However, we considered the action taken by the council thereafter, taking account of the available evidence, to have been reasonable and so we did not uphold this aspect of Ms C's complaint.

Recommendations

We recommended that the council:

- apologise to Ms C for the failings identified in the administration of the notice.