

## SPSO decision report

**Case:** 201701325, South Lanarkshire Council  
**Sector:** local government  
**Subject:** policy / administration  
**Decision:** upheld, recommendations

### Summary

Mr C contacted the council's environmental services about a spillage of domestic heating oil (kerosene) in the area near to his home. Mr C had the spillage completely cleaned from his property but his neighbour did not. Mr C was concerned about the potential for recontamination of his property, and about the smell of kerosene, from his neighbour's land. He contacted the council, asking them to take action to deal with his neighbour's failure to have the spilt kerosene cleaned up. The council said that the clean-up was the insurance company's responsibility. Mr C was not satisfied with the council's response to his concerns and brought his complaint to us.

We took independent advice from an environmental health adviser. We found that Mr C's complaint of smell from the kerosene spillage at his neighbour's property could potentially have been deemed a statutory nuisance. The council were unable to provide us with evidence that they had carried out a robust investigation into Mr C's complaint of smell, to determine if it was valid. Instead, it appeared that the council relied on a report prepared by environmental specialists working for Mr C's insurers, in relation to the clean-up at his property. We also found that what the council told Mr C about the matter was, on occasion, at odds with their internal communication. We upheld Mr C's complaint.

### Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr C for their failure to respond reasonably to his reports of kerosene contamination at a neighbouring property. The apology should meet the standards set out in the SPSO guidelines on apology available at [www.spsso.org.uk/leaflets-and-guidance](http://www.spsso.org.uk/leaflets-and-guidance).
- Carry out a robust investigation into Mr C's reports of kerosene contamination at a neighbouring property, with specific reference to both the potential for recontamination of his property, and smell affecting the reasonable enjoyment of his premises.

What we said should change to put things right in future:

- Share our decision letter with environmental services staff, who should reflect on their handling of Mr C's reports of kerosene contamination at a neighbouring property, with reference to the adviser's observation that nuisance can include having reasonable enjoyment of premises impeded or restricted.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.