

SPSO decision report



Case: 202402009, Falkirk Council
Sector: Local Government
Subject: Repairs and maintenance
Decision: upheld, recommendations

Summary

C complained to the council that they had unlawfully carried out repairs to the communal roof and chimney of a block of properties in which C owned a flat by not seeking permission first. C said they had not received a letter which the council said that they had posted advising of the intended works. C also questioned the council's decision to categorise the repair works as an emergency. C said that the council should have notified other owners when water penetrated the council owned property originally, and before the repair work was carried out.

The council said The Tenements (Scotland) Act 2004 allowed for initial emergency repairs to be completed without the need to consult with other owners. As the contractor subsequently recommended a full roof replacement and chimney removal, the council gave the other owners the opportunity to obtain their own quotes for the work required. As no response was received from C to the letter advising them of the intended works, the work was completed and C was liable for their share of the costs.

We found that it was reasonable for the council to categorise water ingress as emergency work and carry out temporary repairs. However, it was less reasonable to continue to categorise the repairs as emergency work after this, noting that the council did not request a survey until the following year. Having made a temporary repair, the council could have used the time available to consult the other owners to obtain a properly made scheme decision in accordance with the legislation. We also found that there was unreasonable delay in advising the other owners about the extent of the works which were required, and the associated cost. We thereby upheld the complaint

We provided feedback on complaints handling, noting that the council may wish to consider reminding relevant staff about the importance of keeping complainants informed about any delay with the consideration of their complaint, and also about the council's normal practice of placing invoices on hold until an investigation into a complaint has been completed.

Recommendations

What we asked the organisation to do in this case

Apologise to C for the failings identified. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.

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

- The council should have clear procedures in place for when repairs are required to council owned properties in communal buildings, when there is no factor and responsibility for repairs and costs are shared between multiple homeowners. These procedures should be followed to ensure decisions are properly reached.

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.