

## SPSO decision report

**Case:** 201104656, Stirling Council  
**Sector:** local government  
**Subject:** policy/administration  
**Outcome:** some upheld, recommendations

### Summary

Mr C was unhappy with the council's handling of his planning application to convert a disused farm steading to provide five houses. He said they pursued two separate breach of condition notices in respect of land contamination without seeking the agreement of their planning panel, contrary to both the published enforcement charter and planning advice on enforcement. He also said that they did not respond adequately to requests for meetings and discussions, that council correspondence was misleading and misrepresentative and that he had to make an unnecessary waiver application. Mr C also said the council unreasonably issued letters of comfort (a document provided to satisfy a buyer that the local authority will not take action to have work remedied) to two property owners whilst at the same time pursuing him for a breach of condition notice for the entire site, and failed to deal with his complaint in accordance with their complaints procedure.

We took independent advice on this case from one of our planning advisers. We did not uphold most of Mr C's complaints, as the adviser took the view that, in general, the council dealt with the planning matters appropriately. He did point out some areas where the council's actions had been less appropriate, for example where, although it was clearly Mr C's responsibility to comply with contaminated land conditions, the council did not take appropriate action to ensure compliance with the conditions before the houses were sold on. The adviser also said that the chief planning officer's failure to refer (in a letter to Mr C) to a letter of comfort for the fourth house was a significant oversight and meant that the letter misrepresented the situation. Although critical of the omission in the council's letter we were not, however, satisfied that this in itself required Mr C to submit a waiver application at that time.

We did uphold Mr C's complaint about the complaints handling, as we found that it would have been reasonable for the chief executive's office to have passed Mr C's complaint to the head of service in order to help move things on rather than telling Mr C to send a further letter himself. It was also clear that the chief executive's reply was sent to Mr C well outwith the timescale in the council's complaints procedure.

### Recommendations

We recommended that the council:

- review their procedures to ensure that, in future, owners of properties subject to a breach of condition notice are properly informed as provided for in Circular 10/2009;
- review their communications between the departments involved to ensure adequate follow-up of planning conditions in future;
- provide Mr C with a written apology for the omission in the chief planning officer's letter; and
- provide Mr C with a written apology for failing to pass his letter of complaint to the head of service and for failing to acknowledge receipt of his letter within the timescale set out in their complaints procedure.