

SPSO decision report

Case: 201202013, Scottish Water
Sector: Scottish Government and devolved administration
Subject: damage caused / compensation
Outcome: not upheld, no recommendations

Summary

Mr C's garden was affected by a flood. Three months later there were further problems when sewage started flowing into his back garden. Mr C claimed that the latter incident caused damage to the retaining wall in his back garden. He complained that Scottish Water delayed in identifying the cause of the problem, and that he had been told by an engineer on the job that the problem had arisen because the drainage system was not being maintained. However, when Mr C complained to Scottish Water and submitted a claim for the cost of replacing the damaged wall, his claim was turned down and he was told that the damage was caused by a neighbour's drainage system (the earlier flood) and he would have to pursue the matter with the owner of the property. Mr C disputed Scottish Water's advice that the second incident was due to unforeseen circumstances, unrelated to the damage to his wall.

Our investigation confirmed that there had been two separate incidents, and that Scottish Water had investigated and taken action to resolve both. After the second incident they had cleaned and disinfected Mr C's garden. They had decided that his neighbour's lawn should be replaced, but that as Mr C's back garden was rough ground, no offer should be made to turf it. It was confirmed that Mr C had been advised to submit a claim to replace the damaged wall, but that with this advice he was told that this was not to be taken as an acceptance by Scottish Water of liability because the matter had to be investigated. As the evidence suggested that Scottish Water had considered Mr C's claim, and explained the reasons why it was refused, this came down to a dispute about liability, which is not a matter that we can look into. We cannot establish legal liability, nor can we award compensation. Only a court can look at legal liability between individuals and organisations.