

## SPSO decision report

**Case:** 201202304, Aberdeenshire Council  
**Sector:** local government  
**Subject:** policy/administration  
**Outcome:** some upheld, recommendations

### Summary

Mrs C complained that a Local Review Board (LRB) set up to consider an appeal against refusal of a planning application was not properly constituted; that the minutes of the LRB meeting did not accurately reflect the what happened at the meeting; that the council did not adequately investigate her complaint about this; and that the council did not take appropriate action on the failings that their investigation found.

After taking independent advice from one of our planning advisers, we found that the LRB had been properly constituted under transitional arrangements put into place by the council. It took place about a month after an election at which some elected members who were trained to sit on LRBs were not returned to office or had retired. The transitional arrangements allowed all members who were trained to sit on the LRB, regardless of the ward they represented or whether there was more than one representative from a ward. We found that these arrangements were reasonable and that the LRB was both quorate (the required minimum number of people were there) and competent. Mrs C had also expressed concerns that the investigation into her complaint was conducted by a council employee, who might be biased in favour of their employer. Our investigation found the investigation was reasonable and appropriate and found no evidence of bias. We also found that the council took appropriate and robust remedial action where failings were identified.

We did, however, uphold the complaint about the minutes of the meeting. These did not adequately reflect the information placed before the LRB or its decision. The meeting considered 14 separate applications, and the background papers ran to over 4,000 pages. The documentation for this particular application accounted for over half those pages, within which were 293 objections either to the original application or to the appeal. These were not indexed and no mention of them was made in the minutes. It was, therefore, not clear what the members knew, did not know or discussed at the meeting, which is unacceptable. The minutes also referred to planning permission being granted but then referred to a condition that had to be complied with 'before planning permission is granted', which was confusing and inappropriate. Our adviser was concerned that some conditions were so poorly worded that they gave no idea of what was to be expected, and would not have been enforceable. Finally, the condition upon which approval was dependent required the agreement of a third party over which neither the applicant nor the council had any control. Our adviser said this was inappropriate and did not comply with national guidance on the work of LRBs.

### Recommendations

We recommended that the council:

- consider re-convening the LRB.