

## SPSO decision report

**Case:** 201204806, Aberdeen City Council  
**Sector:** local government  
**Subject:** repairs and maintenance  
**Outcome:** not upheld, recommendations

### Summary

A wall between Mrs C's property and neighbouring properties was in need of repair and Mrs C asked a builder to attend to this. However, the council stepped in and said planning consent was needed for the work, which was in a conservation area. It also turned out that the council were partly responsible for the wall. Mrs C complained that the council unreasonably failed to notify her that they were part owners of the wall, failed to repair and maintain it, and required Mrs C's builder to undertake extra work on it at significantly more cost to her.

We took independent advice from our planning adviser on this case. He explained that it was for Mrs C to clarify the ownership of the wall before starting work, by taking her own legal advice or contacting the council's legal department. It was also for her to obtain listed building consent to demolish and rebuild the wall. The adviser said that he would not expect a planning officer dealing with a general phone call about the condition of a wall to know that the council were part owners of it.

We did not uphold Mrs C's complaints. There was no documentary evidence of any phone contact between her and the council about the condition of the wall during the time she was complaining about. The council said that they were unaware that it was in a poor condition, and we took the view that they could not, therefore, be expected to have arranged for it to be repaired or rebuilt.

The council acknowledged that they were part owners of the wall and were liable for some of the costs of repairs and maintenance. Any dispute about this was, however, a private matter between Mrs C and the council and was not something we could consider. It was clear from the advice we obtained that once they knew there was an issue with the wall, the council were entitled, in their role as planning authority, to take steps to ensure that it was rebuilt in accordance with the relevant conservation area and listed building requirements. It was also clear that Mrs C authorised the builder to act on her behalf in these negotiations and so any work was done with her consent. We did make a recommendation as we found that the council had no records of what happened after Mrs C complained.

### Recommendations

We recommended that the council:

- ensure that, in future, the council keep records of action taken by their officers in response to planning complaints.