

## SPSO decision report

**Case:** 201300499, Argyll and Bute Council  
**Sector:** local government  
**Subject:** handling of application (complaints by applicants)  
**Outcome:** some upheld, recommendations

### Summary

Mr C, who is a solicitor, complained on behalf of a client (Mr A) that the council acted unreasonably when they included a note on planning permission issued in response to Mr A's planning application. The note said that the building referred to in the application was not a dwelling house. Our investigation found that, in stating an opinion on a legal interpretation, the note went further than normal informative notes. Although this was a view that the council were entitled to hold, we found that it was not appropriate to communicate it in such a note, and we found that they had acted unreasonably in doing so.

Mr A's representatives subsequently discussed the note with the council. Mr C said that they were told that the note could not be removed. Mr C then wrote to the council and said that he had been instructed to raise proceedings for judicial review. The council obtained legal advice from their solicitors. After considering the legal advice, the council removed the note. However, Mr C complained to us that the council had failed to engage with Mr A's representatives properly, which meant that they had to raise proceedings for judicial review before the council agreed to remove the note. Mr C said that they had incurred costs of over £8,000 and wanted the council to reimburse them. We did not, however, uphold this complaint. We found that under the planning regulations there were remedies available to remove the note, of which Mr A's professional advisers would have been aware. They could have pursued these rather than applying for judicial review. We also considered that the council had not been given a proper opportunity to consider the matter before the judicial review proceedings were started.

### Recommendations

We recommended that the council:

- issue a written apology to Mr A for inappropriately including the note in the planning permission; and
- confirm to the Ombudsman that they have learned lessons from this case and will ensure that in the future, notes of this nature will not be included in planning permission.