

SPSO decision report

Case: 201300636, The City of Edinburgh Council
Sector: local government
Subject: complaints handling (incl social work complaints procedures)
Outcome: upheld, recommendations

Summary

Mr C complained that the council failed to properly investigate his complaint about the welfare power of attorney (person named in a legal document which appoints them to act or make certain decisions on behalf of the person who has granted permission for this) who was acting for a member of his family.

We took independent advice on this complaint from a social work adviser. The code of practice for local authorities exercising functions under the Adults with Incapacity Act (Scotland) 2000 sets out how a local authority should investigate a complaint about a welfare power of attorney. We found that the council's investigation was not carried out in accordance with the guidance in that code. There was no evidence that they had obtained relevant information and the views of other interested parties before completing their investigation, or that they had asked to see the welfare power of attorney's records.

The council had also received advice that there was no requirement for a welfare power of attorney to abide by the code of practice for continuing and welfare attorneys, and in view of this, they had not assessed the person's actions against this code. We did not consider that it was reasonable for them to disregard the code on this basis, as it sets out good practice, interpretation of the relevant legislation and a standard against which to assess the actions and suitability of an attorney. There was also no evidence that they then used anything else against which to assess the actions of the person Mr C had complained about, and we upheld his complaint about their investigation. We also found that the council delayed in responding to his complaints about their investigation and upheld his complaint about this too.

Recommendations

We recommended that the council:

- issue a written apology to Mr C for the failure to investigate his complaint about the welfare power of attorney appropriately;
- take steps to ensure that the issues he raised have been investigated appropriately; and
- make staff involved in investigating complaints against welfare power of attorneys aware of our findings on the complaint.