

SPSO decision report

Case: 201301163, South Ayrshire Council
Sector: local government
Subject: claims for damage, injury, loss
Outcome: upheld, recommendations

Summary

Mr C said that during gale force winds the boundary wall between a council building and his home collapsed. The debris fell into his garden, damaging his property, and he made a compensation claim to the council. The company who handled this on the council's behalf turned the claim down, and Mr C complained to us that in doing so they followed an unreasonable process. He said that they did not consider all relevant evidence, failed to clearly and consistently explain the reasons for their decision and delayed unreasonably in processing his claim.

Although we found that the company's record-keeping was lacking at some points, we found no evidence that they failed to consider all the evidence required to process the claim. Neither did we find the timescales in processing his claim unreasonable, although they should have written with an update during the early stages. They responded to Mr C's remaining enquiries quite promptly.

The documentation confirmed, however, that the company changed the rationale behind their decision during the course of the correspondence. This would not have been unreasonable if new evidence had come to light. However, we could see no clear reason for the differing explanations. The company made no further enquiries and did not obtain new evidence after issuing their second decision letter, but continued with the change in their reasoning. They also failed to respond to one of Mr C's main arguments in support of his claim, although they had information about this from the council. There was no clear record of the company's actions in response to each of Mr C's communications, or of how this affected their decision-making.

We were also critical because the council did not deal with this under their complaints procedure. The determination of liability would be a matter for the courts. However, a complaint about the administrative handling of a claim falls within the remit of the council's complaints procedure and should have been dealt with through that. Overall, we upheld Mr C's complaint and made recommendations.

Recommendations

We recommended that the council:

- feed back our decision to the staff involved to ensure that such failings do not occur in future;
- ensure that the company record all key actions/communications on their handling of future claims; and
- provide Mr C with a written apology for the failings identified.