

## SPSO decision report

**Case:** 201304482, The City of Edinburgh Council  
**Sector:** local government  
**Subject:** policy/administration  
**Outcome:** not upheld, no recommendations

### Summary

Mr C arranged to have work done to his driveway, which also affected the pavement outside his property. He had contacted the council in September 2011, who wrote back with an informal opinion that the work would be classed as permitted development (meaning that planning permission would not be necessary). However, they went on to explain that if Mr C wanted formal confirmation that it was permitted development, he would have to apply for a certificate of lawfulness. They also explained that he would have to apply for this in any event if the work required a separate type of permit because it affected the public road, which it did. Around two years later, Mr C wanted to go ahead with the work and was unhappy when he learned that a certificate of lawfulness would be required, as he felt that the council's letter meant this was not the case. He was also unhappy at the level of detail the council wanted him to send them and complained that they had not properly investigated his complaint about the way a council employee spoke to his wife.

After taking independent advice from our planning adviser, we did not uphold Mr C's complaints. The adviser explained that the council's requirement for a certificate of lawfulness was common practice in most local authorities. He did not consider the council had acted unreasonably, and indicated that the level of detail the council requested was in keeping with what they reasonably required under planning legislation. Although we considered their letter of September 2011 could have perhaps explained the position more clearly, the evidence indicated that there had been no maladministration.

In terms of the council's investigation into their employee's conduct at Mr C's property, we considered that they could have done little more to investigate this, beyond interviewing Mr C's wife (and possibly the contractor who was on site). We recognised that this had been a long-running stressful matter for Mr C and his wife, but we considered the council's approach reasonable in the absence of evidence that would have highlighted inaccuracies in their employee's version of events.