

SPSO decision report

Case: 201306042, North Lanarkshire Council
Sector: local government
Subject: complaints handling
Outcome: upheld, recommendations

Summary

Mrs C complained that the step at the gated footpath access to her house was broken by a contractor who was working for the council. Mrs C said the damage occurred while the contractor was replacing street lighting on the public footway outside the house.

Mrs C lodged a claim for the damaged step with the council. The council referred the claim to the contractor as they said it appeared from the information Mrs C had supplied that responsibility for the damage lay with the contractor. The council explained they had a contract with the contractor which required the contractor to have in place their own insurance. The council also stated that an indemnity clause in the contract meant that the council were not liable for any damage caused by the contractor and were not required to investigate matters that had been passed to third parties to manage in terms of the contract. The contractor subsequently rejected Mrs C's claim.

Mrs C complained to the council. We considered, from the evidence supplied to us, that it was reasonable for the council to have referred Mrs C's claim to the contractor and that the investigation of the claim and its outcome were a matter for the contractor. However, we also considered this did not absolve the council from addressing the concerns Mrs C had raised in her complaint about the alleged failure of the contractor in communicating with her. We found that no proper consideration had been given to whether Mrs C was still pursuing a claim for damages or making a complaint and that a lack of communication and coordination within the council had led to an unreasonable delay in the investigation of Mrs C's complaint. For this reason we upheld the complaint.

Recommendations

We recommended that the council:

- apologise to Mrs C for the delay in dealing with her complaint; and
- review their processes in relation to complaints handling in cases where more than one council department is involved; and where claims have been made against their contractors.