

SPSO decision report

Case: 201503790, The City of Edinburgh Council
Sector: local government
Subject: public health & civic government acts - nuisances/problems in/around buildings
Outcome: not upheld, no recommendations

Summary

Mr C complained about the council after they forcibly entered his property whilst attempting to stop a leak reported by his downstairs neighbour. After the council turned off the water to Mr C's property, his neighbour reported that the leak had slowed and then stopped.

This led the council to advise that Mr C should seek the services of a plumber to inspect his property for the source of the leak. He did this but the plumber was unable to locate any leak and concluded that the council's assessment that the leak originated in his property was incorrect. As a result of this, the council agreed to waive their recovery of the costs of entering his property but Mr C was unhappy that they refused to pay the insurance excess he had to pay as a result of what he considered to be unnecessary inspection work.

On investigation, we considered that, based on the information available to the council at the time, their assessment that the leak originated in his property had been reasonable. They had followed their procedures in entering Mr C's property and turning off the water, and we found their agreement to waive their recovery of costs to be good practice in the circumstances. We did not deem it to be reasonable to expect them to pay Mr C's insurance excess, as we considered he had a responsibility to ensure that his property was not the source of the leak.