

SPSO decision report

Case: 201508677, Midlothian Council
Sector: local government
Subject: policy/administration
Outcome: not upheld, no recommendations

Summary

Mr C complained that the council had failed to investigate within a reasonable timescale a complaint about his neighbour conducting a business from their home. He also complained that the council had failed to respond to his complaints. He said that the council's decision that there had been no breach of planning control had been made without all the facts required to make an evidence-based decision.

We took independent planning advice which stated that the council could exercise its discretion when deciding whether a breach of planning control had occurred. Additionally, it was not unreasonable for the council to have decided how much weight to give to information submitted by Mr C, as opposed to the evidence gathered by its own offices. We found the council had conducted a lengthy and thorough investigation and whilst there had been delays, these had been due to engagement with government agencies over which the council had no control. We also found the council had reached a reasonable decision based on the evidence available to it.

We found that although the council had responded to Mr C's complaints, it had not done so in a way that made it clear that the response was part of the complaints process, rather than the wider correspondence Mr C was having with the council. The council had recognised this when reviewing their investigation and taken action to address this failure.