

## SPSO decision report

**Case:** 201603996, Fife Council  
**Sector:** local government  
**Subject:** policy/administration  
**Outcome:** upheld, recommendations

### Summary

Mr C complained about the council following an investigation they carried out into fly tipping near a property owned by a trust he was responsible for. He advised that he had recently instructed roof repairs to the property, which he told us had been completed and the waste properly disposed of in a skip procured by his roofing contractor. However, shortly after this, some roofing material was illegally left on council-owned land, near where the skip had been.

Mr C advised that he contacted the council officer responsible for the investigation after a note was posted into the property in question. He said that the council officer immediately accused him of dumping the materials in question and refused to accept his attempts to refute the allegations, threatening to serve a fixed penalty notice if he did not arrange for the material to be immediately removed.

On investigation, we found that the council officer had failed to carry out the investigation in line with council policies and procedures, which stated that enforcement action should only be taken if the council were in possession of two signed witness statements or conclusive evidence found within the dumped waste. From the evidence we saw, the council officer had acted on one informal report from a neighbour in the area, and that this report did not place the blame directly onto Mr C, but on the contractor who attended to collect the skip.

We also considered that Mr C had presented clear arguments to support his innocence, including offering photographic evidence and a copy of a signed contract confirming that the roofing contractor was responsible for disposing of all waste generated by the repairs. According to the council's policies, their officer should have then contacted the contractor to discuss the matter further. Instead, he repeatedly threatened Mr C with a fixed penalty notice until Mr C arranged for the waste to be removed.

Further to this, we were critical that the council had failed to identify these errors, both when investigating Mr C's complaint to them and in response to our enquiries. We upheld Mr C's complaint.

### Recommendations

We recommended that the council:

- apologise to Mr C for the failings identified;
- discuss these findings with the council officer in question to identify the root cause of the failings identified and take suitable steps to address this;
- explain why these failings were not identified as part of their own investigation; and
- carry out a thorough audit of similar investigations to ensure the proper procedures are being followed.