

SPSO decision report

Case: 201608411, East Lothian Council
Sector: local government
Subject: control of pollution
Decision: some upheld, recommendations

Summary

Mr C complained to the council about the smell coming from local industrial premises. After monitoring the situation, the council identified a statutory nuisance and issued an abatement notice to the owners of the company concerned. The company did not meet their original compliance date, however, a couple of months later the council confirmed that the problem of odour had been satisfactorily addressed and that as no recent complaints had been made, the company had complied with the notice.

Mr C disagreed that the odour had been addressed and continued to make complaints. He complained to the council about their failure to deal reasonably with his concerns. The council felt that no statutory nuisance remained and that no further complaints had been made. Mr C complained to us that he was unhappy with the council's reply to his complaint and that it contained incorrect information.

We took independent advice from a chartered environmental health officer. We found that the council had taken reasonable action in responding to Mr C's complaints by carrying out full investigations, issuing the correct notices, monitoring the action taken and keeping Mr C updated on the process. While the council subsequently took the view that the statutory nuisance had been remedied, Mr C continued to complain. However, assessment after Mr C's further complaints led the council to confirm that the level of odour was acceptable. Therefore, we did not find the council's response to Mr C's complaint to be unreasonable and did not uphold this aspect of Mr C's complaint. However, in writing to him, the council had said that no further complaints were made after they confirmed the nuisance had abated. This was incorrect in that Mr C maintained his complaints. We upheld this complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr C for providing him with incorrect information. The apology should meet the standards set out in the SPSO guidelines on apology available at <https://www.spsso.org.uk/leaflets-and-guidance>.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.