

SPSO decision report

Case: 201608723, Scottish Court and Tribunal Service
Sector: Scottish Government and devolved administration
Subject: handling of application
Decision: upheld, recommendations

Summary

Mr C complained that he was not fully informed about the process for his court case to be heard in his absence. Mr C called the court to advise that his wife would be unable to attend the hearing due to ill health. He said that he was told that as paperwork had been submitted, the case could be heard on the basis of those papers in his absence. The paperwork had not actually been submitted via the correct legal process and therefore, the case was dismissed as there were no attendees and no paperwork to determine the case. Mr C complained to the court service about this, but was informed that they do not record phone calls and therefore did not have evidence of what was discussed when he phoned to advise his wife would not be in attendance. The court service were satisfied that Mr C had not followed the correct process and said it was appropriate that the case was dismissed.

Mr C asked us to investigate the case and we gathered additional information from the court. We noted that they provided content from a 'remarks' field on their case management system which summarised Mr C's call following the hearing and when he wanted to make a complaint. We established that these fields are not used frequently but that information could have been recorded when Mr C called prior to the hearing. We also established that while the court website explained about the process involved in this type of case, Mr C had had his paperwork returned from the court with no indication that he needed to have this served and re-submit. On balance, we concluded this was unreasonable as without any information about the process, it was unclear to Mr C that his paperwork had not been accepted by the court. The content of his call could not be clarified as it was not documented or recorded despite the court having the facility to do so. We upheld the complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr C for failing to fully inform him of the process to have his case heard. This apology should comply with SPSO guidance on making an apology, available at www.spsso.org.uk/leaflets-and-guidance.

What we said should change to put things right in future:

- Applicants should be notified that paperwork needs to be served before being re-submitted prior to the hearing, and that they may wish to seek legal advice in this regard.
- The 'remarks' field should be routinely used to document a brief summary of phone calls when calls relate to matters such as attendance at hearings or the submission of paperwork.

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.