

SPSO decision report

Case: 201700758, Fife Council
Sector: local government
Subject: repairs and maintenance
Decision: upheld, recommendations

Summary

Miss C owns a property in a block of four. Some of the other properties in the block were believed to be owned by the council. Miss C complained that work undertaken on her property was not in line with the agreed mandate and that the council failed to provide her with appropriate information in relation to the works.

The council's Shared Repairs - Mutual Owners procedure provides information on the steps to be followed when a repair has been identified as shared with the owner of a private property. The council contacted all owners in Miss C's block giving a quote to paint the exterior of the property. The letter said that it was a notification of shared repair, and it enclosed a mandate which, when signed, indicated agreement to the council taking the lead on the repair. The council ultimately painted the exterior of Miss C's property, but none of the others in her block as the other occupiers had not agreed to the work being carried out. Miss C complained to the council that she only agreed to the work being carried out because she understood that all of the properties in the block were going to be painted. She said that if she had been made aware that the work was not going to be carried out on the whole block, she would not have signed the mandate, and that at no time had she agreed to being the only property to be painted.

The council said that the mandate signed by Miss C was not conditional on the agreement of other owners in the block. We found that the work carried out was not in line with the original mandate, as the original mandate had confirmed Miss C's agreement to shared repairs being carried out. We considered that, when it became clear that the other owners were not going ahead with the work, the council should have checked whether Miss C still wanted to go ahead. During the course of our investigation, it became clear that in fact none of the properties in Miss C's block were owned by the council. Therefore, the council were not in a position to invoke their Shared Repairs - Mutual Owners Procedure. We considered that there had been maladministration at every step in the process, and we upheld both of Miss C's complaints.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Miss C for the work carried out on her property not having been in line with the agreed mandate, ensuring that the apology meets the standards set out in the SPSO guidelines on apology available at <https://www.spsso.org.uk/leaflets-and-guidance>.
- Apologise for failing to provide Miss C with appropriate information in relation to the works, ensuring that the apology meets the standards set out in the SPSO guidelines on apology available at <https://www.spsso.org.uk/leaflets-and-guidance>.
- Apologise for unreasonably following their Shared Repairs – Mutual Owners Procedure in relation to repairs at Miss C's block, despite not owning any properties in the block. The apology should meet the standards set out in the SPSO guidelines on apology available at <https://www.spsso.org.uk/leaflets-and-guidance>.
- Cancel the invoice for the works, or reimburse Miss C for any sums paid in relation to the work carried out

at her property.

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

- The Tenement Management Scheme should be followed appropriately, ensuring that the Shared Repairs - Mutual Owners procedure is not unreasonably followed.
- The Shared Repairs - Mutual Owners Procedure and associated letters should be reviewed, and revised in the event that this is necessary.

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.