

SPSO decision report

Case: 201701978, Scottish Environment Protection Agency
Sector: Scottish Government and devolved administration
Subject: complaints handling
Decision: upheld, recommendations

Summary

Mr C lives near a recycling centre, and complained about the way the Scottish Environment Protection Agency (SEPA) dealt with complaints of noise and dust coming from there. He complained that SEPA had failed to take appropriate sanctions against the site operators, saying they had been responsible for increased pollution coming from the site for the last few years. SEPA said that they had engaged with Mr C through a number of processes in seeking to address his complaints and concerns. They said that they were actively working to modify the existing licence to include prescriptive noise limits and operator monitoring to demonstrate this.

We took independent advice from an environmental health adviser. They confirmed SEPA's obligations in the circumstances of this case, both as a regulator and a waste management licensing authority. The adviser noted that SEPA had not taken the opportunity to put prescriptive noise levels in the waste management licence at the outset, but had now taken steps to rectify this.

In terms of SEPA's role as regulator, we considered that they generally complied with their obligations in relation to having a policy and framework for enforcement. However, we noted that noise monitoring was not carried out sufficiently and promptly by the regulator. With regard to enforcement, the adviser said that regulators have a duty to act when breaches of regulations or licence conditions are found. We considered that SEPA had met many of their obligations, however, noted that SEPA did not take the opportunity to serve notice for repeated non-compliance. We also found that SEPA took enforcement action of providing advice and guidance to limit noise and dust emissions from the centre; however, they did not serve an enforcement notice to limit noise and dust emissions to an acceptable level. Therefore, we upheld Mr C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr C for failing to take appropriate steps following notifications of noise and dust arising from the recycling centre. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/leaflets-and-guidance.
- SEPA should reconsider the appropriateness of the enforcement action they have taken following notifications of noise and dust arising from the recycling centre, having regard to their policy and procedures, and all the circumstances of this case. Consideration should be given to the current situation, when deciding on what further action to take (if any).

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

- Staff should be clear on the principles underpinning their enforcement policy, and should be confident in identifying instances of non-compliance in which formal enforcement action would be proportionate.

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.