

SPSO decision report

Case: 201800032, Falkirk Council
Sector: local government
Subject: road authority as developer / road alterations
Decision: upheld, recommendations

Summary

Ms C complained that the council failed to reasonably consider her personal circumstances when determining her request to tarmac a grass space near her home. Ms C said that the existing layout was difficult for her to access as a wheelchair user and that the council's refusal led her to pay for a section of the pavement outside her home to be tarmacked at her own expense. The council refused to reimburse Ms C for this work on the grounds that the street is a designated shared space which means the street layout is shared equally between pedestrians and motor vehicles. The council held the view that an individual assessment of Ms C's needs was not required and they confirmed that the ramp in the road that Ms C needed to cross to leave her street was within the allowed specifications set out in the relevant regulations. Ms C was unhappy with this response and brought her complaint to us.

We took independent advice from an adviser who specialises in equal opportunities and diversity. We found that the council had appropriately considered that Ms C's street was a shared space. However, we noted that Ms C clearly requested assistance in her application for minor works and we considered that the council should have provided her with the appropriate advice at that stage - that social work could conduct an assessment of need to establish if support or adaptations were required. We concluded that the council should have fully assessed Ms C's circumstances under the Public Sector Equality Duty and the Equality Act 2010. The council failed to recognise these concerns and made a decision that Ms C did not require a reasonable adjustment to be considered without properly assessing her individual circumstances. Therefore, we upheld Ms C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Ms C for failing to consider her personal circumstances when determining her request to tarmac a grass space near her home. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/leafletsand-guidance.
- The council should consider refunding the charge incurred for the Minor Roadworks Consent as a gesture of goodwill for failing to respond appropriately to Ms C's request for assistance on the application. If the council do not consider this would be appropriate, they should provide us with an explanation why.

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

- When a member of the public raises concerns about accessibility to footways on publicly adopted roads, the council should consider the individual's personal circumstances and whether any reasonable adjustments are required in line with their Public Sector Equality Duty and the Equality Act 2010.