

SPSO decision report

Case: 201807257, Aberdeen City Council
Sector: Local Government
Subject: policy / administration
Decision: upheld, recommendations

Summary

Mrs C complained that the council had failed to take reasonable enforcement action over breaches of planning control by the operator of a café. Mrs C said that the council had been aware of these breaches for an extended period of time and that the breaches included a failure to comply with the conditions of the café's planning permission. Mrs C said this was unreasonable, and that the council had failed to respond adequately to her complaints.

We received independent advice from a planning adviser. We found that the council had been aware of the breach of planning control for an extended period. The council had correctly stated they had a broad discretion to determine whether it was in the public interest to take enforcement action. However, we noted that there was no evidence of the enforcement investigations undertaken by the council, nor was there any evidence that they had assessed the progress being made by the café to regularise the planning situation. The council had, therefore, failed to comply with its own planning enforcement charter.

We found that the council had acted unreasonably by failing to record its planning enforcement activity. It had also failed to respond appropriately to Mrs C's complaint. We upheld Mrs C's complaints.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mrs C for the failure to take reasonable steps to investigate breaches of planning control and for the failure to handle Mrs C's complaint reasonably. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.

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

- Ensure accurate recordings of the actions taken by the council during planning enforcement investigations are taken, including the outcome of any informal negotiations.
- Staff should be reminded of the importance of accurate record-keeping.

In relation to complaints handling, we recommended:

- Council staff should be able to identify accurately the substantive issues contained within a complaint, and the appropriate application of time constraints.

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.