

## SPSO decision report

**Case:** 201902383, East Lothian Council  
**Sector:** Local Government  
**Subject:** policy / administration  
**Decision:** upheld, recommendations

### Summary

C made an application to the council for a row of trees neighbouring their property to be removed or reduced in height under the High Hedge (Scotland) Act 2013. This application was refused, as the council did not consider that the trees constituted a hedge under the terms of the Act.

Following new guidance issued by the Scottish Government in 2019, C contacted the council, as they considered this guidance was relevant to their circumstances and suggested that the trees in question should be considered a hedge. The council did not signpost C into the high hedge process, responding that they did not agree and that the original decision should stand.

C then complained to us, as they considered that the council had not had due regard to the new guidance and because there was an inaccuracy in the council's ongoing position regarding the number of trees present.

We found that the council had failed to follow due process, effectively pre-judging their decision before carrying out investigations into the circumstances, and also considered that the council had failed to reasonably explain their position. The evidence also supported C's claim that the council's assessment of the number of trees present was inaccurate. We upheld C's complaint.

### Recommendations

What we asked the organisation to do in this case:

- Apologise to C for failing to signpost them to their high hedge application process or sufficiently respond to the points C raised with them. The apology should meet the standards set out in the SPSO guidelines on apology available at [www.spsso.org.uk/information-leaflets](http://www.spsso.org.uk/information-leaflets).
- Provide C with details of how they can submit an application, should they wish to do so, along with reassurances that this will be considered on its merits, once those have been reasonably investigated and established.

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

- Access to the high hedge application process should be provided, where requested, and sufficient explanations should be provided when the council are explaining their consideration.

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.