

SPSO decision report

Case: 201903236, Fife Council
Sector: Local Government
Subject: repairs and maintenance
Decision: upheld, recommendations

Summary

C complained to us about the council, who they had rented a garage from for years. C was concerned that the council had not informed them of the presence of asbestos in the garage, which C only became aware of after repair works were carried out to the roof.

We found that, although the council did not appear to have a legal duty to inform C, they had clear policies on asbestos which committed to '... doing all that is reasonably practicable to prevent exposure of its employees and others to airborne asbestos particulates.' Given this wide-ranging commitment, we considered that the council should have considered notifying C on sign-up, but there was no clear evidence of this.

We also found that there was insufficient record of the initial inspection carried out after C reported the repair required to the roof. This made it difficult to assess whether asbestos containing material had been damaged (which could potentially pose a risk). In the absence of clear evidence that no such material was disturbed, we consider that the council should have notified C of the presence of asbestos when the repair was reported. For these reasons, we upheld the complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for failing to notify them of the presence of asbestos in their garage. 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:

- All inspections involving asbestos containing material should be adequately recorded and tenants should be warned if material is potentially disturbed or damaged.
- The council should consider notifying garage tenants of the existence of asbestos on sign-up.

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.