

SPSO decision report



Case: 202001625, North Lanarkshire Council
Sector: Local Government
Subject: Policy / administration
Decision: upheld, recommendations

Summary

C is the owner of nurseries which provide childcare. During normal operation, C receives funding to provide an amount of childcare hours to parents without charge as these are funded by the Scottish Government. During the COVID-19 pandemic, the advice was for childcare providers to close their businesses unless they were providing critical childcare for keyworkers. C closed their businesses during this time.

When arranging to reopen their business, C sought advice from the council on whether or not C can or should charge parents for critical childcare. The council told C that critical childcare should be free at the point of delivery and that C should not charge parents, however, they also advised that C could charge in certain circumstances. The council told C that they should use funding they received during the lockdown to cover costs when the nurseries reopened. C felt that the advice they received was in contradiction to advice that they received from the Scottish Government.

C had previously raised a complaint with the council about funded hours (prior to the impact of the pandemic) and, in light of this, when C complained about the advice they were given, the council decided that the complaint should not be investigated via their complaints handling procedure. This office took an early view and asked the council to investigate the complaint and provide a further response. After a further response was issued, C remained dissatisfied and brought their complaint to us.

We found that the advice given by the council was, at times, contradictory and did not appear to be in line with the guidance issued by the Scottish Government. We also found that the council did not appropriately investigate C's complaint at the time it was raised, or when this office asked them to undertake further work.

In light of this, we upheld C's complaints.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for providing unclear and conflicting information about the right to charge parents fees, and for the failure to investigate C's complaint appropriately when it was initially submitted and when asked to do so by this office. 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:

- The council should ensure that advice given is clear, consistent, and in line with the relevant guidance, policy or procedure.

In relation to complaints handling, we recommended:

- The council should ensure that complaints are recognised, logged, and responded to in line with the Model Complaints Handling Procedure (MCHP). When this office asks the council to carry out further work on a complaint, they should ensure that they respond in line with our request. When required to carry out further investigation, the council should ensure that the complaint is logged and responded to in line with the MCHP. If the council is unclear what this office is asking them to do, they should engage with us to clarify prior to beginning any further work. When the council receives complaints about specific members of staff, they should ensure these are investigated in line with the MCHP, paying particular notice to the guidance on investigation and who should investigate/respond to a complaint (i.e. someone not involved in the complaint).

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.