

## SPSO decision report



**Case:** 202002423, South Lanarkshire Council  
**Sector:** Local Government  
**Subject:** Complaints handling  
**Decision:** upheld, recommendations

### Summary

C reported concerns to the council's environmental services department about smoke pollution over a number of years as a result of their neighbour burning bonfires and a wood-burning stove. C was dissatisfied with the lack of action taken by the council and submitted a complaint. C considered that the council's investigation of their concerns was insufficiently detailed, failed to take account of available evidence, and dismissed factors which C considered important. C also complained that the council's response contained a number of inaccuracies.

We found that the council did not meet the timescales set out in their complaints procedure. However, the complaint was raised and investigated during the COVID-19 pandemic and C was advised from the outset that timescales were being affected. The council also apologised for this delay. We considered the overall time taken to have been understandable in the circumstances. However, we did note that the council failed to communicate to C that their complaint was being considered at stage 2 of the complaints procedure, despite initially advising that it would be reviewed at stage 1 and that C was not provided with updates when they asked.

It is also clear that there was ongoing communication between C and environmental services throughout the investigation period, correspondence sent and received via a councillor on C's behalf and Freedom of Information requests made. This all contributed to an overall confused chain of correspondence.

Generally, we were satisfied that C's complaints were taken seriously and an investigation was carried out before the council's response was issued. However, we found that the investigation sought mainly to respond to the complaint, rather than get to the root cause and attempt to resolve C's dissatisfaction. The council's response to C's complaint reiterated their previously-stated position on whether they considered statutory nuisance had been witnessed. However, C's complaint referred to the way that the officers had reached their decision, and the lack of objective measurement of the problem or use of official monitoring tools and the apparent disagreement as to which legislation was relevant. We considered that the council's response should have explained matters such as why the smoke was not considered to be a statutory nuisance, what would be considered a statutory nuisance, why no equipment was deemed necessary to establish that no nuisance existed, and how the officers assess such situations.

We found no evidence that the council's response to C's complaint was inaccurate, or that a more detailed investigation would have altered the outcome in terms of the environmental services' assessment of C's reports.

C also appears to have been given conflicting explanations as to why video evidence was not considered. However, this was clarified in response to our enquiries. We considered that this highlights the importance of collating a single clear explanation before responding to an individual's enquiry.

Taking all the evidence into account, we found that the council did not reasonably respond to C's complaint. We upheld the complaint.

## Recommendations

What we asked the organisation to do in this case:

- Apologise to C for failing to address some of the issues C raised, that their communication with C regarding the complaints procedure was poor and their general communication was confusing. 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).
- Write to C to provide a more comprehensive response to the outstanding issues we have identified in this decision.

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

- The council should consider how they could have better managed correspondence from C to ensure that, where individuals communicate through multiple channels or across multiple departments on the same issue, all points are responded to fully and consistently.

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.