

Scottish Parliament Region: Mid Scotland and Fife

Case 200501052: Fife Council

Introduction

1. On 23 October 2005 the Ombudsman received a complaint from a man (referred to in this report as Mr C) about Fife Council's (the Council) handling of his complaint against a Councillor's (Councillor 1) perceived interference in a planning application submitted by Mr C.

2. Mr C submitted a query to Councillor 1 about his involvement in a planning application which Mr C had submitted. He failed to receive an answer and so Mr C complained to the Council. Councillor 1 told the Council that he could find no record of Mr C's email to him. The Council did not uphold Mr C's complaint but did refer him to this office.

3. The complaint from Mr C which I have investigated is:

- (a) that the Council did not properly investigate the complaint brought by Mr C against Councillor 1;
- (b) that Mr C should have been referred to the Standards Commission for Scotland (the Commission) so that he could pursue his complaint against Councillor 1.

4. The Ombudsman is unable to investigate the complaint against Councillor 1 as this is within the remit of the Commission (see Annex 2).

5. Following the investigation of all aspects of this complaint I came to the following conclusion:

- (a) Upheld, see paragraphs 10 to 15;
- (b) Upheld, see paragraphs 16 to 18.

6. Specific recommendations the Ombudsman is making resulting from this investigation are that the Council should:

- i. apologise to Mr C for not following the correct course of action to investigate the email which he claimed to have sent;
- ii. ensure that staff are reminded to inform all complainants of the relevant steps to follow to pursue their complaint. The existence of bodies such as the Commission should be pointed out at the appropriate stage of the complaint.

7. The Council have accepted the recommendations in this report and confirmed that, in the future, anyone complaining about the conduct or actions of an elected member would be referred to the Commission.

Investigation and findings of fact

8. The investigation of this complaint involved obtaining and reading all relevant documentation which included correspondence between Mr C and the Council and also the Council's complaint file. I also made written enquiries to the Council.

9. I have set out, for the heads of Mr C's complaint, my findings of fact and conclusions. Where appropriate, recommendations are set out at the end of the sections dealing with individual heads of complaint. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council have been given the opportunity to comment on a draft of this report.

(a) Failure to properly investigate Mr C's complaint against Councillor 1

10. Mr C made a formal complaint against Councillor 1 as he had not received a reply to his email to the Councillor asking about his perceived interference in Mr C's planning application. Councillor 1 was asked about Mr C's email and said he had never received it. An email response was sent by the Chief Executive on 14 October 2005 saying that, for this reason, the complaint could not be upheld.

11. On the 14 October 2005 Mr C sent the Chief Executive a copy of his email to Councillor 1, but the Chief Executive stood by his previous decision in a letter of 19 October 2005 ending the complaints procedure.

12. In response to my enquiries the Chief Executive stated that another member of staff had conducted the investigation as he and his Team Leader

were on holiday at the time. The Chief Executive also acknowledged that the correct course of action would have been to have asked the IT staff to trace the receipt of Mr C's email.

(a) Failure to properly investigate Mr C's complaint against Councillor 1: Conclusions

13. The Council have acknowledged that there was a breakdown in procedure and that their IT staff should have been contacted in order to attempt to trace Mr C's email. I uphold this complaint as I am of the view that the action taken by the Council in this matter was insufficient.

14. The Ombudsman recommends that the Council should apologise to Mr C for their failure to investigate his complaint properly. It is also recommended that a reminder should be given to staff that it is important to look into complaints properly and to respond fully, as well to give full and correct advice to complainants.

15. The Ombudsman requests that the Council notify her when these recommendations have been implemented.

(b) Failure to refer Mr C to the Commission at the suitable stage in the complaints process

16. Although a reference was made to the Commission during the process, no such reference was made when the complaint was determined. In his email of the 14 October and his letter of 19 October the Chief Executive told Mr C that the next step was to contact this office.

(b) Failure to refer Mr C to the Commission at the suitable stage in the complaints process: Conclusions

17. The Council have recognised that they should have referred Mr C to the Commission rather than the Scottish Public Services Ombudsman (SPSO). I uphold this complaint.

18. The Ombudsman recommends that it be reinforced to Council staff that complainants should be directed towards the Commission in cases where they might have an involvement. Staff should additionally be reminded of the roles of bodies such as the Commission and the SPSO, and the situations in which they can become involved in complaints.

Further action

19. As noted in paragraph 7, the Board have accepted the Ombudsman's recommendations and will act on them accordingly.

30 May 2006

Explanation of abbreviations used

Mr C	The complainant
Councillor 1	The Councillor who was the subject of Mr C's original complaint to Fife Council
The Commission	Standards Commission for Scotland
SPSO	Scottish Public Services Ombudsman

Description of the work of the Commission

The Commission's main task is to ensure that standards of ethical conduct are maintained across local authorities and public bodies and to deal with complaints of misconduct against individual members.