

## Scottish Parliament Region: Highlands and Islands

### Case 200600312: Scottish Environment Protection Agency

#### Summary of Investigation

##### **Category**

Scottish Government and Devolved administration: complaint handling

##### **Overview**

The complainants (Mr and Mrs C) were dissatisfied with the handling of their complaints by the Scottish Environment Protection Agency (SEPA) about issues relating to their planning proposals and SEPA's role as a consultee, when the complainants' application was determined by the planning authority and taken to appeal.

##### **Specific complaints and conclusions**

The complaints which have been investigated concern the actions of a SEPA Panel, which looked into:

- (a) unacceptable time taken and lack of communication in addressing a contamination complaint (*partially upheld*);
- (b) inconsistency in delivering information to the Planning Authority and the Scottish Executive Inquiry Reporters Unit<sup>1</sup> (*not upheld*); and
- (c) failure by SEPA to meet the terms and conditions of their Service Charter (*not upheld*).

##### **Redress and recommendations**

The Ombudsman recommends that SEPA:

- (i) take action to issue Mr and Mrs C with a formal apology for the failure to inform them properly, from the outset, of the remit of the Panel's investigation and its progress, including implementation of their recommendations;
- (ii) review their investigation process to ensure that, in future, all parties will be made fully aware at the outset of the scope of an investigation, its remit

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<sup>1</sup> now the Department of Planning and Environmental Appeals (DPEA). On 3 September 2007 Scottish Ministers formally adopted the title Scottish Government to replace the term Scottish Executive. The latter term is used in this report as it applied at the time of the events to which the report relates.

- and what can be expected at the conclusion of the process; and
- (iii) take steps to review their policy on redress.

SEPA have accepted the recommendations and will act on them accordingly.

## **Main Investigation Report**

### **Introduction**

1. Mr and Mrs C purchased two plots of land (the site) in 2003, which had the benefit of detailed planning permission for two houses, granted to a previous owner in October 2002 by The Highland Council (the Council). In June 2004, Mr and Mrs C submitted a planning application to the Council for two amended design houses on the site.

2. The Scottish Environment Protection Agency (SEPA) are a statutory consultee to the planning process and, with Roads and Water authorities, are responsible for giving approval to the design and technical content of the surface water drainage proposals for any new development. Nine local residents objected to the planning proposals. Those which were relevant to Mr and Mrs C's complaint against SEPA were that the proposed development would worsen existing flooding problems currently affecting nearby properties and concern that contaminated soil had been imported onto the site.

3. The Council refused planning permission and in June 2005 an agent acting on behalf of Mr and Mrs C (the Agent) submitted an appeal against the decision to the former Scottish Executive Inquiry Reporters Unit (SEIRU) now the Department of Planning and Environmental Appeals (DPEA). In December 2005, SEIRU overruled the planning authority decision and granted (conditional) planning consent.

4. Two months earlier, in October 2005, the Agent wrote to SEPA's Chief Executive and the Chairman about delay and lack of action and formally complained about SEPA's response to the SEIRU on issues concerning drainage and soil contamination. On 26 October 2005, SEPA's Chief Executive responded to the various complaints raised by the Agent and informed him that the matter had been reported to the SEPA Board (the Board) (with copies of the Agent's correspondence) and the Board would consider how the matter had been handled.

5. The Agent's brief for Mr and Mrs C was concluded with the granting of planning consent under appeal in December 2005 (paragraph 3). Mr and Mrs C wrote to the Chief Executive of SEPA on 1 February 2006 requesting that SEPA's response to unanswered issues raised by their Agent (see paragraph 4) should be addressed to them.

6. The Chief Executive of SEPA sent a detailed response to Mr and Mrs C on 23 February 2006, expressing regret that there were unresolved issues but stating that he hoped that, with his further reply, the matter could now be drawn to a conclusion. He noted that they had written separately to SEPA's Chairman and told them he had copied his reply to him. He confirmed that the Chairman of SEPA would be responding directly to them in due course. He concluded with reference to the planning appeal which had been determined in their favour and suggested that SEPA's submissions to the SEIRU were 'actually supportive to your case'. Mr and Mrs C copied in the Chairman with their response to the Chief Executive of SEPA, in which they commented that they were awaiting the Board's deliberations (see paragraph 4) and hoped that 'you will make changes to your culture and ensure nobody else suffers the trauma borne by my wife and myself over the past 18 months.'

#### *The Board and their investigation*

7. The Board is appointed by Scottish Ministers, comprising a Chairman, a Deputy Chairman and ten members, including the Chief Executive of SEPA. The Board has ultimate responsibility for SEPA. A panel consisting of three Board members was set up, following a report to the Board in October 2005 from SEPA, which identified that there were issues arising from the unsuccessful planning application on the site which merited more detailed scrutiny. The report recommended that a short life sub committee of the Board (the Panel) should be convened to undertake an internal investigation of issues arising from SEPA's handling of the presence and transfer of allegedly contaminated soil (to the site).

8. The Deputy Chairman of SEPA (the Panel Chairman) wrote to Mr and Mrs C on 9 March 2006. He advised them that the Panel would investigate the complaints they raised with SEPA in their letter of 1 February (and further letter of 5 March 2006): about failure to reply to correspondence; failure to contribute to the costs of an independent analysis; and about SEPA's response to the SEIRU, which they complained differed from the original planning process, when their planning application was determined by the Council. He explained that these issues did not form part of the Panel's original remit, which had 'stemmed from a different avenue of complaints from other parties'.

9. On 7 April 2006, the Panel Chairman informed Mr and Mrs C that the Panel had reported to SEPA's Board on 29 March 2006 and he was writing to

them on behalf of the Chairman and the Board. He concluded with advice that, if Mr and Mrs C chose not to accept the explanations and apologies which were given, they could seek an investigation by the Ombudsman. Mr and Mrs C made a formal complaint to the Ombudsman's office in May 2006 because they were dissatisfied with the outcome and decision not to contribute to the cost of an independent soil analysis undertaken at their request.

10. My decision to investigate Mr and Mrs C's complaint was made with their understanding that I would not be replicating the Board's investigation but would look at any issues which did not form part of that investigation. I would consider SEPA's actions in coming to a decision to refer the matter to their Board; how the investigation was conducted; and, as there were recommendations in the findings which were critical of SEPA's procedures for dealing with service level complaints and a lack of guidance to their staff on how to deal with conflicts of interest, SEPA's response to the Board's recommendations and the steps which were taken to implement these.

11. The complaints from Mr and Mrs C against SEPA which I have investigated concern the actions of a SEPA Panel which looked into:

- (a) unacceptable time taken and lack of communication in addressing a contamination complaint;
- (b) inconsistency in delivering information to the Planning Authority and SEIRU; and
- (c) failure by SEPA to meet the terms and conditions of their Service Charter.

### **Investigation**

12. I interviewed the complainants and the Panel Chairman and obtained comments in writing from SEPA. I have considered relevant reports, correspondence and committee papers and read the SEIRU Reporter (Reporter)'s report on Mr and Mrs C's planning appeal and, for background information, checked both the Planning Advice Note PAN 61: Planning and Sustainable Urban Drainage Systems and 'Drainage Impact Assessment: Guidance for Developers and Regulators', which is published by SEPA on behalf of the Sustainable Urban Drainage Scottish Working Party (SUDSWP). I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr and Mrs C, SEPA and the Panel Chairman were given an opportunity to comment on a draft of this report.

**(a) Unacceptable time taken and lack of communication in addressing a contamination complaint**

13. The timescale from the first complaint to SEPA from a neighbour, alleging contamination of the soil which had been transported to the site, until SEPA provided the final analytical report from the comprehensive soil tests (with confirmation that the soil was not hazardous) was 13 months. The Panel's investigation was conducted over a six month period between October 2005 and March 2006, during which time Mr and Mrs C's planning application was determined under appeal and SEPA carried out a further soil analysis (final results produced in March 2006).

14. At my interview with Mr and Mrs C, they expanded on the reasons for their continued dissatisfaction, despite the Panel's investigation. They stated that they were not satisfied that their complaints were considered fully by the Panel and complained that the investigation appeared to concentrate on the complaints made by the objectors to their planning proposals, who had made allegations that the soil was contaminated. Mr and Mrs C stated that they were not interviewed or visited during the Panel's investigation (the only visit was undertaken by SEPA when someone cleared with them visiting the site to take a soil sample) and were not given an opportunity to comment before the Panel's report was finalised.

15. Mr and Mrs C were disappointed that the Panel did not arrive at a definitive finding on the timescale. They believed that SEPA could and should have resolved the issue of the alleged contamination of the soil at an earlier date and were at fault in not relying on the initial report by SEPA (November 2004) on the soil transferred to the site and its findings, which concluded that it was not contaminated.

16. Mr and Mrs C noted that they only became aware with the Panel's investigation of the extent of the complaints made by their neighbours and SEPA had been at fault in failing to contact them to provide an explanation of the reasons for the delay in resolving the issue of whether the soil was contaminated. They explained that it was due to their concern over the timescale that they commissioned an independent soil analysis from environmental consultants in June 2005 and they were aggrieved that SEPA would not accept the report as an independent and conclusive document. They believed that it would not have been necessary for them to commission the soil analysis in the first place if SEPA had not delayed in carrying out a further test

on the soil (September 2005). In the circumstances, Mr and Mrs C were aggrieved that the Panel agreed with SEPA's decision not to share the cost of the independent report which they obtained (£4,000).

17. I noted from the correspondence and the published report of the Panel's investigation that its scope had widened from the original grounds - which broadly dealt with issues surrounding the soil transfer (in relation to possible conflict of interests for personnel and whether SEPA had acted objectively and transparently) – to allow the investigation of issues raised by Mr and Mrs C. I noted too that Mr and Mrs C were provided with an opportunity to comment on the report after it was submitted to the Board (March 2006) but before publication and that the final report showed that Mr and Mrs C's comments were taken into account, although the Panel did not alter their view or, in one instance, declined to comment.

18. Further, the Panel Chairman wrote to Mr and Mrs C on 7 April 2006 with advice of the Panel's findings as reported to SEPA on 29 March 2006. He informed them that the Panel had noted the length of time taken to determine that the soil transferred to the site was not contaminated, however, it was considered that the number of separate investigations by SEPA were driven by complaints received, one of which had alleged the site was contaminated with asbestos. He explained to them that where matters are (or become) highly contentious, it is very difficult for SEPA to draw a line in its investigation without further aggrieving one party and that SEPA has a duty to investigate or re-investigate any evidence or allegations of contamination. He summed up that the Panel were unsure that the timescale could have been shortened (because of the number of complaints and counter evidence SEPA received) but they were satisfied that SEPA had arrived at the right decisions in relation to the importing of the soil to the site and in determining that it was not contaminated. The Panel recognised, however, that SEPA had failed to communicate with or engage effectively with the interested parties and that this may have resulted in delays.

19. On the costs borne by Mr and Mrs C in commissioning an independent soil analysis, the Panel's finding was that they had commissioned the analysis before entering into correspondence with SEPA and, while it was appreciated that they believed that SEPA would consider providing financial assistance, there was no evidence to support this. The Panel concluded that SEPA's decision not to assist or pay the fees was reasonable but there was

administrative failure in not responding promptly in writing to their correspondence and in not keeping a contemporaneous note of telephone conversations.

20. As part of my enquiries, I asked the Chief Executive of SEPA to comment on Mr and Mrs C's complaint. I asked him, in particular, for clarification on whether the complaints raised by the Agent (see paragraph 4) were part of the original grounds for the investigation to be conducted by the Panel and whether Mr and Mrs C and/or their Agent received advice of the scope of the investigation and then updates as it progressed. The Chief Executive of SEPA responded that the former Clerk to the Board conducted the investigation by reviewing material from three sources: written records; SEPA's operational procedures/guidance given to staff; and interviews with staff.

21. I had noted from the documentation that the Agent was informed in October 2005 that SEPA's Board would be considering how the matter had been handled but did not specify what this would entail. In his comments, the Chief Executive of SEPA clarified that there had been extensive communication with the Agent acting for Mr and Mrs C during September and October 2005 about the need to carry out a further site investigation and obtaining agreement for this work. However, I have not been shown evidence that details of the scope of the investigation or updates on how the investigation was progressing were given either to Mr and Mrs C or the Agent.

22. At my interview with the Panel Chairman, he stated that Mr and Mrs C's complaint was not an add-on to an ongoing investigation but originated from, and was based on, written representations from their Agent in 2005 and their own subsequent correspondence with SEPA in 2006. He explained that the Panel sat because the Chief Executive of SEPA decided that there were issues in the way the Agency had managed the previous investigations arising from complaints about the site which should be brought to the Board's attention; and because SEPA was continuing to receive complaints from the Agent and the objectors to the planning proposal. He commented that the Panel's investigation did not include interviewing any external parties – although the Clerk to the Board interviewed SEPA personnel. He considered that this was because the complainants had said everything they wanted to say in their letters. He pointed out also that Mr and Mrs C had an opportunity to comment on the report.



23. When asked about the independent report commissioned by Mr and Mrs C, the Panel Chairman commented that it would have been difficult for SEPA to accept the report's findings, as they were not party to drawing up the remit of the company which undertook the analysis. He added that SEPA had to be seen as an independent body and could not lose that impartiality by contributing to the cost of a report commissioned by someone else. Further, while it may seem to Mr and Mrs C that SEPA should have been robust in standing by the findings of their original report, what was being dealt with was a large quantity of soil; even though one report had not found anything, it was possible that another test provided by a member of the public might uncover a problem. For this reason, the Panel had not been critical of SEPA's actions in carrying out a (final) test in September 2005, as this test was very comprehensive.

24. In response to my query about how the Board responded to the Panel's report, the Panel Chairman commented that the Board accepted the Panel's recommendations and steps were taken to implement these. One of the recommendations was that the Board should respond to the complainants in the case, outlining the concerns that have been identified, the action taken and, where appropriate, apologising for SEPA's management of the complaint process (his letter to Mr and Mrs C of 7 April 2006 refers – see paragraph 18). However, the Panel Chairman agreed that, if Mr and Mrs C had not been given advice of the steps which were taken to implement the other recommendations, he would send a letter to them apologising for not giving them such advice earlier and providing them with details of procedures which had been put in place by SEPA to meet the Panel's recommendations (details of which are at Annex 2).

#### *Addendum*

25. The Board accepted the Panel's recommendations and agreed to take all necessary action to address the concerns raised in their report. SEPA have confirmed that the recommendations were implemented; in particular, the procedures for receiving and investigating service level complaints have been reviewed in conjunction with this office.

#### *(a) Conclusion*

26. Mr and Mrs C were concerned that the Panel did not address their complaints fully but I have seen nothing to suggest that the Panel did not give due consideration to their complaints against SEPA. Where the Panel identified

shortcomings by SEPA, such as failures in communication and note keeping, action was taken to ensure that there would not be a recurrence. Mr and Mrs C may remain dissatisfied that the Panel did not find for them in their allegations about the time taken or the decision not to contribute to their costs; however, I have seen nothing which persuades me that the Panel did not take account of the facts or omitted relevant information in their consideration of the matter and I do not consider, therefore, that there are grounds to merit making a recommendation that SEPA should consider the matter further.

27. However, where I have some criticism is the way the Panel's investigation was handled. Due to the lack of clarification at an early stage on what matters were under investigation - or advice on progress or opportunity to comment on the facts – neither Mr and Mrs C nor the Agent were part of the investigation process and had no involvement until after the report was presented to the Board. In a matter as serious as this was considered to be, warranting the unusual step of setting up an ad hoc panel, it would have been better practice and given a more ordered sense of natural justice if the complainants, whose representations had initiated the process, were made aware at the outset of what this would involve. This might not have made a difference to Mr and Mrs C's disappointment with the Panel's findings, however, for long periods they were not contacted and no provision was made to provide them with confirmation that the Panel's recommendations were being implemented. Their expectations could have been managed better.

28. In these circumstances, I partially uphold this head of complaint. Although I am satisfied that the Panel considered the issues raised, there were shortcomings in the failure to inform Mr and Mrs C properly from the outset of the remit of the Panel's investigation and its progress, including implementation of their recommendations. In any future investigation undertaken, it would be good practice to make the parties involved fully conversant at the outset with what is being investigated; how it will be conducted; and what they can expect at the conclusion of the process. SEPA has recognised that it was remiss not to inform Mr and Mrs C of the action taken in response to the investigation report and the Panel Chairman has assured me that this will be rectified.

(a) *Recommendation*

29. The Ombudsman recommends that SEPA:

- (i) take action to issue Mr and Mrs C with a formal apology for the failure to inform them properly, from the outset, of the remit of the Panel's

investigation and its progress, including implementation of their recommendations; and

- (ii) review their investigation process to ensure that, in future, all parties will be made fully aware at the outset of the scope of an investigation, its remit and what can be expected at the conclusion of the process.

**(b) Inconsistency in delivering information to the Planning Authority and the former SEIRU**

30. The grounds for Mr and Mrs C's complaint under this heading related to their understanding that the planning appeal was dealt with on the basis of the situation at the time the Council refused their application for planning permission. On this basis, they were unhappy with the actions of the officer who dealt with their appeal because his response on behalf of SEPA to the Reporter did not mirror the advice previously given to the Council. They explained that the planning consent which was granted on appeal was conditional on the provision of a swale<sup>2</sup> but SEPA did not consider a swale necessary when they commented on the original application and, since then, soil had been imported on to the site which reduced the need for a swale.

31. Mr and Mrs C were informed by the Panel Chairman that the Panel had examined their complaint about SEPA's submission to the SEIRU and it was acknowledged that SEPA's original planning response did not suggest a more detailed drainage study would be appropriate. However, between the original planning hearing and the appeal, SEPA had published the guidance document 'Drainage Assessment: A Guide for Scotland' (paragraph 12), on which the later response to the application (at appeal) was based. The Panel agreed that, whilst the appeal response contained more detail than the original response, it was appropriate for it to take the guidance into account, as SEPA 'must always advise on the basis of the most current standards'. The Chairman confirmed this position at interview.

32. I obtained advice on this issue from the DPEA and was informed that Section 48 of the Town & Country Planning (Scotland) Act 1997 confers the right on Reporters to deal with the appeal as if the application had been made to them in the first instance. This means that the role of the Reporter is to look afresh at the application and not simply to review the planning authority's

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<sup>2</sup> A swale is a relatively broad land drainage depression along which storm water flows. Its primary purpose is to hold back flows by decreasing the water velocity using grass or other forms of vegetation.

decision. Throughout the process, be it written submission, hearing or inquiry, parties, which may include statutory consultees, are given the opportunity to make further submissions, which may update their original submission. Reporters' decisions reflect the circumstances pertaining at the time of the decision, not that pertaining in the past, taking into account the material considerations before them.

*(b) Conclusion*

33. The advice I have received on appeals makes clear that the actions of the officer who submitted SEPA's response was consistent with the process and, in the circumstances, Mr and Mrs C's complaint under this heading is not upheld.

**(c) Failure by SEPA to meet the terms and conditions of their Service Charter**

34. In their statement of complaint, Mr and Mrs C said that the worry and stress of SEPA's inaction, apparent internal non communication and failure to communicate with them had completely disillusioned their view of SEPA and they had to complain to the Board before they were treated in a reasonable manner. They were dissatisfied with SEPA's refusal to consider their request for solatium and complained that the Panel failed to have proper regard to their request and to the high stress levels which they complained they had suffered as a result of dealing with a government agency acting outside its charter.

35. SEPA's Service Charter sets out the standards of service that the public can expect to receive in dealing with the body, including to be approachable and professional, respond quickly and efficiently to request for service, correct things promptly when they have gone wrong and learn from complaints. The Panel identified shortcomings in SEPA's systems and procedures: in particular, that the procedure for dealing with service level complaints was flawed; gave little guidance to staff on the process of complaint investigation; and failed to 'deliver the level of service required from a publicly accountable services such as SEPA'.

36. In his comments to me on the complaint, the Chief Executive of SEPA stated that the establishment of the Panel, tasked with investigating concerns that emerged relating to the presence and transfer of allegedly contaminated soils, was a measure of the seriousness with which he and the Chairman of the Board approached the issue. He considered that the scope of the investigation:

1. the chronology of events and the effectiveness of management in

ensuring objectivity and transparency;

2. the nature of guidance given to staff where there might be a conflict of interest;

3. whether there are wider issues in regulatory processes/procedures raised that merit further independent inquiry;

demonstrated that the Board wished to ensure that SEPA were meeting the terms of their Service Charter in being an open and effective organisation and were seeking to address any issues that might be revealed to improve their standards of service, in particular any further guidance that should be provided to staff.

37. The Panel Chairman had commented on this aspect of the complaint when he informed Mr and Mrs C of the Panel's findings. Failings in the way that SEPA had dealt with their concerns were identified and acknowledged and he offered an apology on behalf of the Chairman of the Board and the Board that their complaints were not 'better handled'. He addressed their request for compensation for the distress that they were caused but explained that SEPA were not able to comply with this because it was not within their power to make a payment in such situations.

38. At interview, the Panel Chairman said that while he was sympathetic to Mr and Mrs C, SEPA were a public body and they do not provide compensation.

*(c) Conclusion*

39. When a situation goes wrong, it is right and proper that the public body against whom a complaint is made takes appropriate action to rectify the failing and ensure that there is no recurrence. Mr and Mrs C complained that SEPA had failed to meet the standards of service set down in their Service Charter and their complaint was upheld. SEPA have confirmed that lessons were learned and the recommendations made by the Panel have been acted on but have not offered redress to Mr and Mrs C in recognition that their complaints were founded.

40. The failings in the service which were the spur to Mr and Mrs C's complaint were addressed before my investigation was undertaken and SEPA accepted that the complaint was justified and took suitable action. However, the complaint under this heading concerns Mr and Mrs C's dissatisfaction that, having acknowledged their failings, SEPA were not prepared to consider a

request for solatium.

41. SEPA have shown that they were prepared to act on complaints about service failure and learn lessons from the Panel's findings but have no mechanism to consider whether redress might be appropriate to their customers who were affected by SEPA's acknowledged failings. Although not specific to this case, in general, we believe that there are situations where it may be appropriate for a public body to consider making a payment to a customer in acknowledgement that they may have expended some time and trouble to pursue their complaint. We recognise that these will be exceptional circumstances and that any sum involved is not compensation but, nevertheless, we consider that some situations make it appropriate, where there is no alternative to setting right what went wrong for the customer. The decision taken is in accordance with SEPA's policy and I do not, therefore, uphold this head of complaint. The Ombudsman recommends that SEPA take steps to review this policy, on the basis that there can be situations where a time and trouble payment is appropriate.

*(c) Recommendation*

42. The Ombudsman recommends that SEPA take steps to review their policy on redress.

43. SEPA have accepted the recommendations and will act on them accordingly. The Ombudsman asks that SEPA notify her when the recommendations have been implemented.

**Explanation of abbreviations used**

Mr and Mrs C	The complainants
SEPA	The Scottish Environment Protection Agency
The Agent	Planning firm acting on behalf of the complainants
The Council	The Highland Council
SEIRU	Scottish Executive Inquiry Reporters Unit
DPEA	Department of Planning and Environmental Appeals
The Board	SEPA Board
Reporter	SEIRU/DPEA Reporter

## Recommendations of SEPA Panel in April 2006 and SEPA's response

### *Recommendations:*

1. Detailed guidance should be issued to all staff on dealing with conflict of interests, whether arising directly during employment or as a result of personal acquaintanceships outside work.

and

2. A means whereby managers can record disclosures by staff of personal interests (whether there is a conflict or not) should be introduced. This should include consideration of how managers might be more pro-active in preventing issues of conflict of interest arising for staff.

Code of Conduct for SEPA staff produced and staff briefed

3. The procedure for receiving and investigating service level complaints should be reviewed and revised to take into account the conclusions of this report. The Panel further recommends that the revised complaints procedure should be subject of Agency Board approval.

Revised complaints procedure introduced with effect from 1 April 2007

4. The Board should be provided with regular reports (quarterly or half-yearly) on complaints received, complaints resolved, complaints outstanding, lessons learned and action taken to address any problems identified.

A report on the complaints dealt with at various stages in the complaints process (including referrals by complainants to the SPSO) included in the Chief Executive's report to each Board meeting. Lessons learned from complaints and the action taken are considered on a case by case basis and significant issues are raised in annual summary presented to the Board.

5. The Audit Committee should consider service level complaints and responses on a regular basis and conduct an audit on compliance with the complaints procedures every two years.

Review to be undertaken in 2008/09



6. All staff who deal with complaints should receive appropriate training in investigation and reporting.

In hand taking account of examples of good practice

7. The Board should respond to the three complainants in this case, outlining the concerns that have been identified, the action taken and, where appropriate, apologising for SEPA's management of the complaint process.

Panel Chairman's letter to Mr and Mrs C of 7 April 2006 (see paragraph 22)

**List of legislation and policies considered**

Town & Country Planning (Scotland) Act 1997