

26 September 2008



Dear [REDACTED]

Service delivery complaint

I am writing to let you know the outcome of your complaint about our service. I see that you have expressed your concern that the complaint has been passed to me. It is, however, our current practice that the Manager responsible for overseeing the work of the Complaints Investigator responds to such complaints. If you are unhappy with my response you may request a further review of my decision by writing to the Ombudsman.

In responding to your letter, I am dealing only with the period from 21 August 2007, the date on which the initial draft report was issued. I do, of course, appreciate that the previous long delay in completing the investigation report (which was the subject of your earlier service quality complaint) has a significant bearing on your further complaint. I do not underestimate the concern and frustration that the combined events have caused you.

In your letter, you complain about the further delay in issuing the final report and concluding the investigation process, and explain that you believe that the delay has prejudiced the outcome of your complaint. In responding to this, I have reviewed the complaint file and have discussed the case again with [REDACTED], the Complaints Investigator. I apologise again for the time that it has taken to finalise this investigation. As I explained to you when we met, this does not meet the standard of service that we want to deliver. Unfortunately, the nature of our work is such that things can happen for which we have not planned, which have an impact on our timescales. In this case as you are aware there were some unforeseen complications in the finalisation of the report, and it was also affected by a backlog of work being referred to our [REDACTED] adviser, [REDACTED]

[REDACTED] sought advice from and we had discussions with [REDACTED] after [REDACTED] submitted their comments on the initial draft report. Substantial changes were made to the report as a result of this, all of which took time during which [REDACTED] was handling a full portfolio of cases. Clearly, however, we have again taken too long to bring this investigation to a conclusion. Although a significant part of the delay was due to the workload of the [REDACTED] adviser, I believe that we should have ensured higher priority for your complaint and that we should have kept you more clearly updated on the position. I therefore uphold your service delivery complaint about delay and apologise most sincerely on behalf of the SPSO for the further delay in finalising the investigation report.

The management team here is currently looking at ways in which we can speed up our process of obtaining [REDACTED] advice, and I will be using your case as an example in taking this forward. I have also drawn my comments to [REDACTED]'s attention and asked her to reflect on them for the future.

I appreciate that, as you explain in your letter, much of your dissatisfaction lies in the fact that the original report upheld the majority of your complaint, whereas the revised report does not. Clearly and understandably this has caused you considerable frustration. We issue reports in draft so that factual inaccuracies or any misapprehensions can be corrected. We can receive substantial comments from either party involved. In this case, the draft report was changed after [REDACTED] sent us several pages of comment, and after our current [REDACTED] adviser gave [REDACTED] advice on this. I entirely understand why you feel this has prejudiced the outcome of your complaint, but it is not possible to predict what the outcome would have been had the [REDACTED]'s comments been seen by the adviser who provided us with initial advice. Our decision to change the report was not taken lightly, and earlier issue of the report would not necessarily have meant a different outcome. I therefore do not uphold this element of your complaint.

I am happy to discuss this letter with you. However, please note that I will be out of the office until Wednesday 8 October. If you do wish to discuss it, please contact [REDACTED] ([REDACTED]) to suggest a suitable date and time so that she can put this in my diary. If you are not satisfied with my response to your service delivery complaint, then your next and final step is to write to the Ombudsman. You should do this within 4 weeks of receiving my response letter. Your letter to the Ombudsman should set out your reasons for disagreeing with my decision. The Ombudsman will look at your reasons and decide whether your complaint is justified.

I would also take this opportunity to update you on the current position with your complaint. We have received comments on the amended draft report from you and [REDACTED] and these are with [REDACTED] for review and comment. I have asked him to deal with these as quickly as possible in the circumstances, but I have not yet had an estimated response date. I will pursue this with him. We intend to publish the report when we have received that comment, and once [REDACTED] and I have discussed the outcome with our Director of Investigations, Eric Drake. Again, I offer my very sincere apologies for the long delay in finalising this investigation and report.

Finally, I would confirm that we are handling separately the specific information requests in your letter of 9 September, under Data Protection/Freedom of Information provisions. The person responsible for responding to you is [REDACTED]. She will be in touch with you as soon as possible with her reply.

Yours sincerely

[REDACTED]
[REDACTED]

15 October 2008

CONFIDENTIAL
Helen Eadie MSP
25 Church Street
Inverkeithing
Fife KY11 1LG

Dear Ms Eadie

Complaint against [REDACTED]
[REDACTED]

Thank you for your letter of 8 October 2008 on behalf of your constituent, [REDACTED]

[REDACTED] has raised concerns with you over the length of time his case was with us before the final SPSO report was laid before the Scottish Parliament on 17 September 2008. He has also raised concern that such a wait may discourage individuals in the future in pursuing their cases further with the SPSO.

We first received [REDACTED]'s complaint in September 2006 and I can readily understand his concern at the delay in investigating and reporting on his complaint. I agree that our investigation into this complaint took too long and both [REDACTED] and I offer [REDACTED] our personal apologies for this.

Complaints about [REDACTED] can take longer than some others to investigate, because of the need to obtain professional advice where issues of [REDACTED] are involved, as in this case. However, I am afraid that the main reason the investigation took too long was workload pressure. The office experienced a sharp increase in caseload between 2005/06 and 2007/08 and, although during 2006/07 we made a case for additional funding to the Parliamentary Corporate Body, it was not until 2007/08 that we received the resources to enable us to recruit additional staff. The situation was such that [REDACTED] along with her colleagues, was carrying an excessive caseload during this period and as a result, unavoidably, backlogs developed. I regret that [REDACTED]'s complaint was one which was adversely affected by this situation.

On a more positive note, the additional resources which we were allocated in 2007/08 have meant that we have recruited additional staff and we have now mostly cleared the backlog that had built up. We have also made changes in our handling systems, which have meant that we are now able to process cases much faster when they first arrive in our office. I have enclosed a copy of our recent performance update, which details the time taken to determine complaints in 2007/08. In particular, 49% of complaints were determined within two weeks; 72% within 14 weeks and 88% within one year. There is still a small proportion of older cases in our system. There are also some cases where, for example because of the complexity of the case, throughput time can be longer and the time taken between

registration and determination exceeds 12 months. However, we are committed to improving the speed with which we deal with complaints and are making steady progress in this regard.

I hope this is of some assistance but if you wish to discuss further any of the issues I have covered in this letter I, or my colleagues, would be very happy to meet with you to do that.

Yours sincerely

[Redacted signature]

DD telephone: [Redacted]
Email: [Redacted]

Investigations by the Scottish Public Services Ombudsman are to be carried out in private, in terms of the Scottish Public Services Ombudsman Act 2002. Accordingly, this correspondence must not be made publicly available. This does not affect the rights of recipients to seek legal advice in relation to this complaint. Where appropriate, recipients are also reminded of their obligations under the Data Protection Act 1998 in relation to the processing of personal and sensitive personal data.

31 October 2008

CONFIDENTIAL

Dear [REDACTED]

Service Delivery Complaint

I refer to your letter of 8 September in which you state your wish to lodge a complaint with regard to the standard of service you have received from my office. Can I apologise sincerely for the delay in providing a response to your letter.

As you are aware, your original complaints about [REDACTED] were the subject of an investigation by [REDACTED] and the report was laid before the Scottish Parliament in August 2007. One of your complaints was upheld and it was recommended that [REDACTED] apologise to you. [REDACTED] accepted our recommendations and, as we have explained in previous correspondence, we are satisfied that they have complied with these recommendations.

You remained dissatisfied and submitted a further complaint form to this office on 17 July 2008. In her letter to you of 1 August 2008, [REDACTED] explained that as the substance of your concerns had already been covered by our investigation, it was not possible for us to look into these matters further. She also said that the case was now closed with the laying of the report.

There were other issues that you raised relating to [REDACTED]

This point was covered by [REDACTED] in her letter to you of 1 August. She also outlined the situation with regard to the matter of [REDACTED].

In terms of your service complaint, I see from your file that you said you were satisfied with the way that our Investigator, [REDACTED], handled your original complaints. However, you have expressed your dissatisfaction with the response received from [REDACTED] on 1 August which you consider was unacceptable. Having read [REDACTED]'s letter I have concluded that she addressed the points you raised and attempted to explain clearly why it was not possible for this office to re-open your case. I also understand that [REDACTED] has tried at all times to be accessible to you both on the telephone and in person and to treat you fairly. I, therefore, do not uphold your service complaint against [REDACTED].

I have also seen the copy of the letter dated 26 September 2008 sent to you by [REDACTED]. You have noted on this letter that [REDACTED]. If you require further explanation, I think it would be best to get in touch with [REDACTED] as suggested in the letter. Alternatively, I

note that you can visit different offices in [REDACTED] in person. As requested I return the letter and attachments.

In conclusion, I am sorry that you are unhappy about our service and that you remain dissatisfied with [REDACTED]. However, I regret that there is nothing further that this office can do to assist you.

Yours sincerely

Alice Brown
Ombudsman

4 November 2008

CONFIDENTIAL

Dear [REDACTED]

Service Delivery Complaint

Thank you for your patience in awaiting my response to your Service Delivery Complaint. I had hoped to get a response out to you before I left on holiday but that was not possible.

Before I deal with your complaint in more detail, can I first of all say [REDACTED]

I am sorry too that you are unhappy with the service you have received from us. We try very hard to ensure that complainants feel that, regardless of the decision we make on a complaint, they have had good service from us. This has not happened in your case.

You complain about advice [REDACTED] gave you which you describe as [REDACTED]

My understanding of the situation is that [REDACTED]

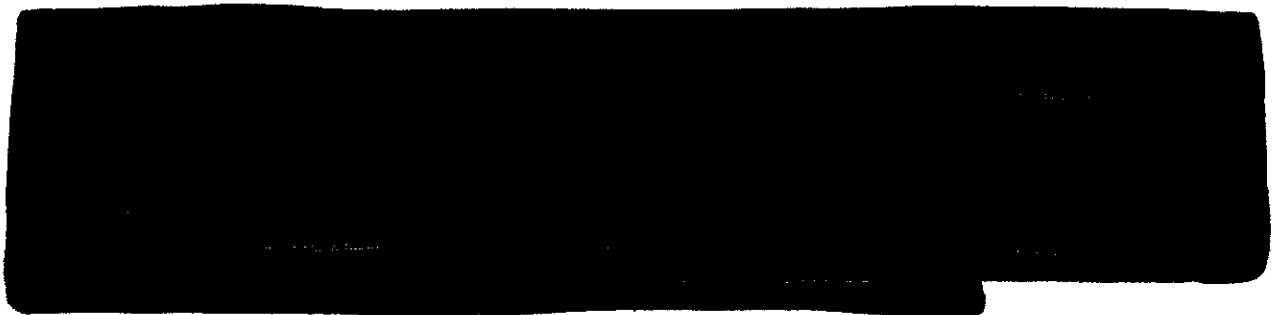
It is clear from the correspondence and from discussions [REDACTED] had with [REDACTED] that [REDACTED]

[REDACTED] Having considered the circumstances of the complaint and, having spoken to [REDACTED], I am quite clear that this is certainly not what his suggestion equated to. Given the seriousness of the allegation you have made about [REDACTED], I want to make it quite clear in this reply that, in my view, [REDACTED] had no intention whatsoever of inciting or advising you to [REDACTED]

You also complain that [REDACTED] 'screamed' at you during your telephone conversation. As I hope you will appreciate, because I did not hear the call and have no tapes to verify what was said, by whom, and how it was said, this is a very difficult complaint for me to determine. I have carefully considered all the points you have made and it is clear you felt you were treated disrespectfully. I am very sorry the call left you feeling that way. I have also examined [REDACTED]'s file note of his telephone conversation and I have spoken to

another Complaints Investigator in my team who sits opposite [REDACTED]. That Investigator says he did not hear [REDACTED] screaming at any point. [REDACTED]'s recollection of the call is that it was conducted in a wholly civilised manner by both you and him. Clearly you and [REDACTED] have differing views of the call and I am afraid that, in the absence of firm evidence, there is nothing further I can add.

You complained that [REDACTED]'s manner during the call was [REDACTED]. Again, without a tape of the conversation or having been present beside [REDACTED] while he spoke to you, I cannot comment on this further personally. While I note all your comments, [REDACTED] refutes the allegation. He considers that his telephone call was conducted in a suitably professional manner. I am sorry you felt humiliated by the call. [REDACTED] has told me that the information he gave you on the call was similar to that contained in his letter of the same date and he does not believe he said anything or made any intimation that would have humiliated you. He certainly had no intention whatsoever of doing so.



Once again, I am sorry that you are unhappy about the service you have received from [REDACTED]. However, I do hope this letter reassures you that I have considered your complaints carefully, always recognising that complaints based on telephone conversations which are not recorded are very difficult to determine.

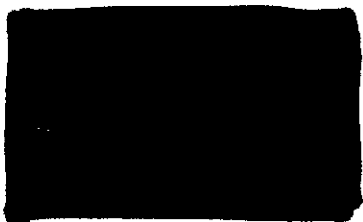
In line with our policy, if you are unhappy with my reply, you have the right to appeal to our Ombudsman, Professor Alice Brown. You should write to the Ombudsman at our usual address, heading your letter 'Service Delivery Complaint' and setting out why you are still unhappy and what you want to happen now.

Yours sincerely

[REDACTED]
[REDACTED]

DD telephone: [REDACTED]

16 December 2008



Dear [REDACTED]

Thank you for your letter of 8 December 2008 in which you complain about the time that it has taken us to deal with your complaint.

I fully acknowledge that it has taken us far too long to reach a decision on your complaint.

The reason for the length of time this has taken is that [REDACTED] is waiting advice from our [REDACTED] advisor. [REDACTED] spoke to the advisor about your complaint on 25 May 2008, when he agreed to write a note about the issues in your complaint.

Our Director of Investigations is reviewing the systems by which we obtain [REDACTED] advice within SPSO and will be making proposals to try to ensure that there are no such delays in future, and I have made him fully aware of your complaint and the delay which you have experienced. However, I fully recognise that this does not make the situation any more acceptable to you.

You also complain that [REDACTED] has not kept you informed about progress with your complaint. Unfortunately, for the reason indicated above there has been no progress since 25 May 2008 because [REDACTED] needs the advice before he can reach a decision. From reading our records I understand that [REDACTED] did tell you this in phone conversations, for example he has recorded that on 17 July 2008 he told you that he would be in touch when he had heard from the advisor, and on 19 September 2008 I also told you this and that I could not say how long it would be before we heard from the advisor.

The situation now is that [REDACTED] has advice from the advisor, and he will be contacting you before Christmas to tell you what he is proposing to do about your complaint.

I have also looked into your comment about the telephone conversation on 5 December 2008. The reason that [REDACTED] could not put you through to either [REDACTED] or to me as his manager was that neither of us was in the office that day. [REDACTED] has recorded that she did tell you that you could speak to me in the next week, or write to our Director of Investigations.

In conclusion, I uphold your complaint that because of the time that has passed we have not provided you with an acceptable level of service, and I apologise for this fact.

If there is anything in my letter you would like clarified please do not hesitate to contact me (please note that our office is closed from 24 December 2008 till 05 January 2009).

Yours sincerely

The signature and contact information are redacted with black bars. There are three distinct horizontal black bars of varying lengths, completely obscuring the text underneath.

22 December 2008



Dear [REDACTED]

Service Delivery Complaint

I refer to your letter of 18 November regarding your dissatisfaction with the service you have received from my office in which you note your disagreement with aspects of the response you received from [REDACTED] in her letter of 26 September 2008. You have, therefore, exercised your right to have the decision reviewed by me.

You state that your complaint is primarily one of delay and the impact this has had on the final outcome of your complaint against [REDACTED]. You also said that you have serious reservations about the comments made by the second [REDACTED] adviser. I have now had an opportunity to review your original complaint file and your service delivery complaints and would comment as follows.

I note that Carolyn Hirst wrote to you on 25 September 2007 upholding your initial service delivery complaint on the grounds of unacceptable delay. In her letter to you of 26 September 2008 [REDACTED] upheld the aspect of your service delivery complaint that covered the further delay you had experienced. An explanation and apologies were given for the failure of our service in this regard to which I would like to add my own personal apology.

The aspect of your complaint that was not upheld by [REDACTED] related to your view that the delay impacted unfavourably on the outcome of your complaint against [REDACTED]. I have read your file and can see why you are unhappy especially as the initial findings in the first draft report you received upheld more aspects than the final version. However, as has been explained to you, draft reports can be changed in the light of additional information or points made by either party. As you are aware, we took further [REDACTED] advice following receipt of [REDACTED] comments on the first draft of the report. It would have been necessary for us to address these comments even if our first [REDACTED] adviser had still been working with us. As stated by [REDACTED] the decision to make changes to the report was not taken lightly.

Having reviewed your file, I am of the view that there is no evidence to suggest that the delay in dealing with the complaint impacted on the outcome in terms of the decision made. Further, I have seen no grounds to challenge the advice provided by our second [REDACTED] adviser. I, therefore, do not uphold this aspect of your service quality complaint.

I would like to apologise again for the unacceptable delay in handling your original complaint to us. However, I am satisfied that this did not prejudice the outcome of your complaint and I have now closed your file.

Yours sincerely

Professor Alice Brown
Ombudsman

26 February 2009

Dear [REDACTED]

Service delivery complaint

200702039 - [REDACTED] / [REDACTED] - [REDACTED]
[REDACTED]

In connection with the complaint referenced above, you have raised with the SPSO a formal complaint about aspects of the service you have received. In accordance with our recently revised procedure for dealing with complaints about our service (see enclosed leaflet), your complaint was passed to me for action on 23 January. I have not sought to examine your appeal against the decision we have taken – that part of your complaint is being dealt with by my colleague Mr Eric Drake, Director of Investigations, under a separate process. I am focussing solely on the quality of the service we have provided to [REDACTED] and to yourself.

It appears to me (referring in particular to your e-mail of 10 January to [REDACTED] that you have been unhappy with aspects of the service you have received from [REDACTED] (and, latterly, her manager [REDACTED]), in particular:

- the time taken to progress the complaint;
- the extent to which we have listened to your concerns; and
- the clarity of the explanations we have offered, both of our processes and our decisions.

In passing, I wish to note that I found elements of your correspondence offensive and inappropriate and that repetition of this might invoke use of our unacceptable actions policy (copy enclosed).

I have reviewed the case file and have discussed our handling of your case with [REDACTED] and [REDACTED].

Time taken to progress your complaint

Your complaint was made to us on 28 October 2007 and was acknowledged on 6 November 2007. A letter containing our determination of the complaint was sent on 6 October 2008, almost a full year later. As you will be aware, our examination of the complaint involved a number of requests for information, from [REDACTED] and from [REDACTED] and responses to these requests necessarily incurred delays. [REDACTED]'s FOI request for information also added to the time taken. [REDACTED] endeavoured to keep [REDACTED] updated on the progress of the case and apologised for the delay in her letter to you of 6 October. We aim, however, to issue decisions on whether or not we will proceed with a formal investigation of a complaint within 14 weeks of the receipt of a complaint. Clearly we have failed to meet this target by a

considerable margin and, whilst it is clear to me that some of the time is accounted for by the responses to various requests for information, we have clearly not delivered to you or [REDACTED] the service you should expect. I therefore **uphold** this aspect of your complaint about our service.

Listening to your concerns

We aim to take account of what you tell us. It is clear from my review of your case that you do not consider that we have taken into account all the information that you might have been able to provide. As [REDACTED] explained from the outset, our approach is to gather the information we consider necessary to allow us to reach a decision on the matters we have set out to examine – I consider that over the course of our Investigator's consideration of your complaint she did take account of the information that was considered relevant and necessary for her to reach a conclusion (indeed, in some cases, it was her efforts to secure this information that added to the time taken to complete the work). This aspect of your complaint about our service is therefore **not upheld**.

Clarity of the explanations

We aim to explain our processes and to communicate our conclusions and decisions clearly. In my view, [REDACTED]'s letters to you fully explain our process in appropriate terms. I also consider that our communications about our decisions were clear: in particular, the determination letter issued on 6 October 2008 contains conclusions fully supported by a reasoned account of the evidence that was taken into consideration. I appreciate that you were unhappy with the decision reached, and the time taken, but I do not consider that we have failed to communicate our position clearly. I therefore **do not uphold** this aspect of your complaint about our service.

Summary

Our service has clearly fallen short of one of the standards we set for ourselves and which you should expect to receive. I would therefore like to offer a formal apology for our failure to meet the required level of service in relation to the time taken to progress your complaint.

I have already discussed these matters with the members of staff concerned. A summary report of this complaint will also be communicated to our management team and to our Executive Board so that we can learn from these matters and address any systemic issues that may be identified.

Thank you for raising your concerns with us, as an organisation we are committed to improving our services and feedback like this helps us with this.

Yours sincerely

David Robb
Director of Policy and Development

If you remain unhappy about our treatment of your formal service complaint you may contact Ros Gardner, Independent Service Delivery Reviewer, at PO Box 5454, Newton Longville, Milton Keynes, MK17 0XN. See leaflet for further details.