



# Ombudsman's Commentary

NOVEMBER 2008 REPORTS

I laid 11 investigation reports before the Scottish Parliament today. Five relate to the health sector, four to the local government sector, one to higher education and one to a Scottish public authority.

## Ombudsman's Overview

In our Annual Report, which we issued last month, we describe the ways in which our work impacts on people's lives and contributes to improving public services. Our aims are to secure justice for individuals who bring us their complaints and to support learning for organisations through disseminating the lessons from our considerations and investigations.

Another vital element of our role is to give support and guidance to service providers about effective complaint handling. This aspect is particularly pertinent given the Scottish Government's recent response to the recommendations made by the Fit-for-purpose Complaints System Action Group which was set up following the Scrutiny Review.

We were pleased that the Government has backed the Group's recommendation that standardised complaint handling systems be introduced across public services and, as a priority, in the local government sector. As I state in my Annual Report, there is now evidence that there has been a shift in culture within the whole range of organisations that deliver public services. Complaints are increasingly being seen as a positive opportunity to learn from the public about their experiences as users of services and to drive up improvement. We welcome the opportunity to work with the sectors to support them in instilling efficient complaints processes and to promote a culture of service among frontline staff, with early, local resolution of complaints being the goal.

We also welcome the setting up of a new Parliamentary Committee to review bodies that are supported by the Scottish Parliamentary Corporate Body, which include the SPSO. The remit of the Committee is *'to consider and report on whether alterations should be made to the terms and conditions of the office-holders and the*

*structure of the bodies supported by the SPCB; to consider how any proposals for future arrangements should be taken forward, including by way of a Committee Bill, and to make recommendations accordingly'*.

In our response to the Scrutiny Review (published on 18 December 2007), we suggested the following objectives against which any proposals for reforming public service complaint handling should be tested. In our view, the resultant system should secure:

- improvements in the quality of service delivered by complaint handlers;
- improvements in public confidence in complaint handling; and
- efficiencies and economies of standardisation and scale.

We will be suggesting that the new Committee consider these principles as a framework for examining the architecture of governance underpinning the work of frontline and final stage complaint handlers. We look forward to providing what assistance we can, and working in partnership where appropriate, as the Committee, the Government and the Parliament decide the future landscape of scrutiny and administrative justice in Scotland.

**Professor Alice Brown, Ombudsman** 19.11.2008

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## NOVEMBER 2008 REPORTS

### case summaries

The reports are summarised below and the full reports are available on the SPSO website at <http://www.spsso.org.uk/reports/index.php>

#### Further and Higher Education

##### **Higher Education, teaching and supervision, complaint handling** University of Glasgow (200603520)

Ms C complained about several aspects of the University's administration and supervision during her period of study. I did not uphold complaints about the viability of her research topic, the changing of her status, or the conduct of review meetings and the complaints process. I did uphold her complaint that the supervision of her PhD was inadequate, but only to the extent that the University, having identified and dealt with shortcomings during the handling of her complaint, did not then apologise to Ms C for them. I recommended that the University formally apologise to Ms C for a standard of supervision that fell short of that to which she was entitled.

#### Health

##### **Community Dental Services, clinical treatment** Fife NHS Board (200601144)

Mrs C raised a number of concerns, alleging that a community dentist fitted a denture which had been incorrectly prepared. (The complainant's own dentist had ordered the preparation of the denture.) She was also unhappy about the clinical decision that was taken to proceed with treatment. I upheld her first complaint as the treatment plan showed that the denture fitted was not what had been ordered or discussed and, given this, the community dentist should have delayed treatment. I partially upheld Mrs C's second complaint as it was clear that although she signed a consent form, Mrs C was asked to make her decision under difficult and stressful circumstances without a proper chance to consider all the options. I recommended that the Board take a

number of measures to prevent such an event recurring, and that they ensure that Mrs C receives a full apology for the distress and discomfort she experienced as a result of the treatment.

##### **Oncology, communication** Lanarkshire NHS Board (200703087)

Mrs C said that a consultant told her in a letter that she was currently 'cured' of the cancer with which she had been diagnosed. When the cancer later recurred she complained that the consultant had not communicated the prognosis to her appropriately. I upheld the complaint as I found that through his choice of words the consultant failed to manage Mrs C's expectations appropriately. I recommended that the Board apologise to Mrs C for this.

##### **Clinical treatment, hygiene, staff attitude** Lothian NHS Board (200603419)

Mr C had spinal surgery but suffered complications that left him with nerve damage and limited mobility. He complained that the Board failed to perform his spinal surgery correctly (as two of the screws placed in his spine were initially malpositioned, requiring two further operations), that hygiene standards were poor and that staff were unprofessional in their dealings with him. There are known risks with spinal surgery, and Mr C was aware of these beforehand. I did, however, uphold his complaint about surgery as when problems were first noted after the initial operation, no diagnostic scan was carried out. I recommended that the Board introduce a policy of carrying out such scans before further surgery is contemplated. I also upheld the complaint about hygiene, in respect of the availability of clean linen, and recommended that the Board remind staff of the procedure to be followed. I made no finding on the complaint about staff attitude as there was insufficient evidence to do so.

##### **Record-keeping, complaint handling** Tayside NHS Board (200800529)

Mr C complained on behalf of his wife that her medical records were not appropriately updated and resulted in mail being sent to the wrong address. I found that old labels, which should have been destroyed, had mistakenly been used and so I upheld the complaint. As the Board had already taken clear steps to address the problem, I did not find it necessary to make any recommendations. I did not uphold Mr C's complaint that the Board failed to efficiently respond to his complaint, but did suggest that the Board remind staff that complaints should be acknowledged within three days of receipt.

I did not uphold a complaint about the following Practice and NHS Board:

##### **Communication, diagnosis** A Medical Practice, Fife NHS Board (200603874) and Fife NHS Board (200701920)

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### Local Government

#### **Communication, decanting** Perth and Kinross Council (200602790)

Mr and Mrs C lived in a house built on land contaminated by former use as a gas works. The Council sought funding from the then Scottish Executive to decontaminate the land by demolishing and rebuilding the house, and Mr and Mrs C entered into discussions with them about this. These took some time to resolve, and eventually Mr and Mrs C complained that the Council had not responded to their correspondence quickly enough or included them in relevant meetings, and that the Council had failed to efficiently handle arrangements for their decanting and temporary relocation while the work took place. I partially upheld both complaints and recommended that the Council review the circumstances of the complaint with a view to producing guidelines to deal with similar cases in future.

#### **Planning, permitted development, enforcement, complaint handling** Perth and Kinross Council (200603334)

Mr C represents a company that owns the fishing rights on a stretch of river. He complained that the Council wrongly said that decking (erected by the owners of a property on the riverbank) did not require planning permission and that when, after he complained, the Council decided that in fact permission was required, they then failed to take enforcement action against the owners. He also complained about the length of time the Council took to respond to his complaints. I upheld the complaint about the advice given on the proposed decking, as not enough information was known about the proposed structure for the Council's 'standard' advice to be appropriate for this particular proposal. I recommended that in future the Council ensure that planning officers obtain enough information about a proposed structure to be able to give relevant advice. I also upheld the

complaint about the delay in responding and recommended that the Council take steps to ensure a timely response in accordance with their complaints procedure in future. I did not uphold the complaint about enforcement.

I did not uphold complaints about the following Local Authorities:

#### **Planning, enforcement** Argyll and Bute Council (200800541)

#### **Planning** Fife Council (200603296)

### Scottish Government and Devolved Administration

#### **Handling of application** Student Awards Agency for Scotland (200700696)

Mrs C raised concerns about the way the Agency handled her application for student support. After she provided accurate income details she was not awarded the correct level of support as a single parent for several weeks. When she then had to withdraw from the course she was unhappy that she was asked to repay some of the support provided. I upheld her complaint that the delay in correctly assessing and awarding Lone Parents' Grant caused her undue financial hardship, and recommended that the Agency waive the overpayment.

### Compliance & Follow-up

In line with SPSO practice, my Office will follow up with the organisations to ensure that they implement the actions to which they have agreed.

The compendium of reports can be found on our website, [www.spsso.org.uk](http://www.spsso.org.uk)

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# SPSO

Scottish  
Public  
Services  
Ombudsman

The Scottish Public Services Ombudsman (SPSO) provides a 'one-stop-shop' for individuals making complaints about organisations providing public services in Scotland. Our service is **independent, impartial** and **free**.

We are the final stage in handling complaints about councils, housing associations, the National Health Service, the Scottish Government and its agencies and departments, the Scottish Parliamentary Corporate Body, colleges and universities and most Scottish public authorities.

We normally consider complaints only after they have been through the formal complaints process of the organisation concerned. Members of the public can then bring a complaint to us by visiting our office, calling or texting us, writing to us, or filling out our online complaint form.

The Scottish Public Services Ombudsman was set up in 2002, replacing three previous offices – the Scottish Parliamentary and Health Service Ombudsman, the Local Government Ombudsman for Scotland and the Housing Association Ombudsman for Scotland. Our role was also extended to include other bodies delivering public services.

We aim not only to provide justice for the individual, but also to share the learning from our work in order to improve the delivery of public services in Scotland. We have a programme of outreach activities that raise awareness of our service among the general public and promote good complaint handling in bodies under our jurisdiction.

Further details on our website at: **[www.spsso.org.uk](http://www.spsso.org.uk)**

Contact us at

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