

# Ombudsman's Commentary

MAY 2009 REPORTS

## Summaries of Investigation Reports

We laid eight investigation reports before the Scottish Parliament today. Two relate to the health sector, one to a housing association and five to local government.

### Case determinations

Investigation reports are public documents which we lay before the Parliament. The vast majority of complaints are resolved without the need for a public investigation report. In April we determined a further 50 complaints after detailed consideration, in a number of them making recommendations for improvement.

## case summaries

### Health

#### **Clinical treatment; diagnosis; supervision**

Grampian NHS Board  
(200801545)

Miss C raised a number of concerns about the care and treatment that her late father, Mr A, received before his death. Mr A's GP referred him to hospital for tests, as Mr A had been suffering from hoarseness for four to five months. No evidence of malignancy was found and Mr A was discharged to the care of his GP Practice. However, he was subsequently diagnosed with laryngeal cancer. The cancer was treated but Mr A later died from secondary disease. I upheld the complaint that the Board did not provide reasonable care and treatment to Mr A after his GP referred him for hoarseness. I said that he was dismissed prematurely and that further investigation should have been carried out. I made a number of recommendations about improved practice in such cases, including that the Board ensure that all clinical staff are aware that

persistent hoarseness should be taken to be a symptom of cancer of the larynx unless proved otherwise, that such cases should be dealt with urgently and that during examination and treatment a senior practitioner should be directly involved and that junior staff should be adequately trained and supervised. I also recommended that the Board review the way in which Mr A's procedure was carried out to see if there are any lessons that can be learned from it, and consider further investigating cases where there appears to be no evidence of a tumour, yet symptoms continue. Finally I recommended that the Board apologise to Miss C for the failings identified in my report.

#### **Diagnosis; record-keeping; supervision**

Grampian NHS Board  
(200802067)

Mrs C raised a number of concerns about the care and treatment provided to her by staff in an Accident and Emergency department, where she was

misdiagnosed and discharged. She collapsed and was readmitted a few hours later suffering from bacterial meningitis and septicaemia, both of which have had consequences on her long-term health. I upheld Mrs C's complaint that the Board failed to properly monitor and record her condition and to supervise the actions of junior staff. I recommended that they audit, or provide evidence of a recent audit of, the quality of clinical documentation (particularly discharge documentation) in A and E, and that they stress to staff there the importance of documenting consultation outcomes and requests for senior review. I recommended that they review their practice in relation to how unattended patients can summon staff assistance. Finally I recommended that the Board use the events of this case to remind frontline staff of the importance of an early diagnosis of meningitis and use this case in teaching for new clinical staff.

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## case summaries

### Housing Association

#### Repairs and maintenance; complaints handling

Ark Housing Association Ltd (200602445)

Mr and Mrs C were tenants of the Association. When the Association carried out renovation work to neighbouring apartments, Mr and Mrs C complained that their property sustained substantial internal and external damage. Although the Association held a Committee hearing, then took action to repair the damage and to reimburse Mr and Mrs C, the couple were unhappy that all repairs were not then completed in good time. I upheld this complaint as, although the Association eventually took commendable action to resolve the situation, the disruption around and the completion of repairs to Mr and Mrs C's property took far longer than anticipated. I did not, however, uphold a complaint about the Association's communication. I recommended that the Association refund part of Mr and Mrs C's rent for the further 14 month period during which they were waiting for the repairs to be completed, and that the Association review the case to see if procedures could be improved to avoid this happening to anyone else in future. I also recommended that they apologise to Mr and Mrs C for the disruption and inconvenience experienced.

### Local Government

#### Finance: non-domestic rates; communication; policy/administration

South Lanarkshire Council (200801890)

Mrs C owned a property that she let commercially. She was unhappy that the Council awarded her tenant

empty property relief, after she herself had been awarded it, and while the tenant continued to use the premises for storage purposes. She further complained that she was not told about this, and only became aware when the Council began to pursue her for monies she did not owe. I found that the Council had failed to tell Mrs C that the relief had been awarded to the tenant and that there was misleading/missing information on the Council's application form. I partially upheld Mrs C's complaints about the Council's decision making process as I found they did not make reasonable enquiries to inform their decisions when classifying a property as 'empty' or 'unoccupied'. I recommended that they discuss this with the Scottish Association of the Institute of Revenues, Rating and Valuation, before reviewing their procedures and providing further guidance to staff. I further recommended that they review and amend their application form and rating notices. I did not uphold the complaints about the awarding of the relief to the tenant, or the Council's pursuit of Mrs C for the balance they said she owed. However, in view of the fact that the Council agreed to review their procedures, and their acknowledgement of the poor customer service she had received, I recommended that they write off these monies.

#### Social Work: Policy/administration; complaints handling

Dumfries and Galloway Council (200601182)

Mr C raised concerns about the actions of the Council in preparing social work reports and how they dealt with his complaint about those

actions. I partially upheld the complaint that the Council did not handle enquiries appropriately, to the extent that they did not give Mr C an earlier opportunity to assess the factual accuracy of a report, but did not make any recommendations. I did not uphold his complaint about their handling of his concerns as I found that Mr C himself had the opportunity to access the relevant complaints process, but eventually chose not to do this.

#### Confidentiality; complaints handling

North Ayrshire Council (200702097)

Mr C raised a number of concerns about Council Trading Standards officers, alleging that there was a breach of confidentiality by one of them providing incorrect information to the press about Trading Standards' involvement in a dispute Mr C had with a customer. Mr C said that Council Officials did not respond adequately to him when he complained about this, and also that they lied to him about contact with the journalists. He considered that there had been an abuse of power on the part of the Council. I upheld the complaint about the Council's complaint handling, but not the allegation that they lied to him about staff contact with journalists. As during the course of the investigation I made informal recommendations to the Council about their processes, which were acted upon, I had no further recommendations to make.

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## Local Government

### Social Work: Complaints handling

East Dunbartonshire Council  
(200600993)

Mrs C and her daughter, Ms B, complained to the Council about care services provided to Mrs C's parents. Mrs C and Ms B then raised a number of concerns about their complaint, and eventually complained to me that the Council failed to handle it properly. I upheld the complaint and recommended that the Council reflect on their handling of this, and on the specific communications failings identified in my report, and that they remind staff of the importance of

effective communication. I also recommended that they apologise to Mrs C and Ms B for these failings.

### Planning: Handling of application; policy/administration Renfrewshire Council (200702891)

Ms C complained on behalf of a local Action Group about the way in which the Council handled a planning application and granted permission for a security fence on part of a former Royal Ordnance Factory site. I did not uphold the majority of Ms C's complaints as I found that the Council had generally acted appropriately, and I did not

reach a finding on her complaint that there was no need for a security fence, as I concluded that this was not appropriate for me to determine. I partially upheld one complaint – that the Council granted planning permission for the fence contrary to an undertaking they gave to an Examination in Public (EiP) – to the extent that the Council did not clearly communicate to the EiP their intentions about that particular application. I recommended that the Council apologise to the Action Group for not clearly communicating this to the EiP.

## 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.

**Jim Martin, Ombudsman, 20 May 2009**

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)**

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