

# SPSO NEWS

**May 2016**

## **Monthly news from the Scottish Public Services Ombudsman**

This month, we are laying reports of 134 decisions about all of the sectors under our remit. We are also highlighting:

- key casework outcomes in decisions laid before the Parliament today
- our new role as independent reviewer of Scottish Welfare Fund decisions
- annual statistics for 2015-16
- our updated guide for MSPs/MPs and Parliamentary staff; and
- the continuing progress towards a model complaints procedure for the NHS, and other updates from the Complaints Standards Authority.

## **Ombudsman Overview**

In March and April, we received 844 complaints. We determined 846 complaints and of these we:

- gave advice on 463 complaints
- considered 250 complaints at our early resolution stage
- decided 133 complaints at our investigation stage

We made a total of 244 recommendations.

As we could not lay reports in April when the Parliament was in recess, there are two months of decisions to report today. Reflecting our growing health complaints caseload, 61% of today's reports are about the NHS, followed by 16% about local authorities.

## **Health casework outcomes**

The main subjects of complaints people bring us about the NHS are:

- concerns about clinical treatment and care
- poor communication with families, or between health care professionals
- missed diagnosis
- poor record-keeping, which can have serious consequences
- lack of provision of informed consent, particularly before surgery
- failings in nursing care.

I am highlighting three health cases today. Case 201500611 is an example of a very poor standard of nursing care, where an elderly woman with dementia developed a pressure ulcer. There were also serious failings in record-keeping and poor communication with her family. Further, the board's significant event analysis (SEA) did not identify and acknowledge serious failings in the woman's care. We made eight recommendations to address the issues we found, including in relation to training in skin and tissue viability care and in conducting SEAs.

The second investigation (201503949) was brought by a woman whose late husband had Parkinson's Disease and dementia, and who complained to us that she was not properly consulted on his treatment plans nor appropriately involved in meetings to discuss his care. We agreed, and made several recommendations to ensure that carers with power of attorney are fully included in decisions so they can look after the interests of patients who no longer have capacity as they have planned to.

The third case (201407063) is a good illustration of where we did not uphold a complaint, but we nonetheless made a recommendation for improvement. The complaint concerned funding for a cancer patient to stay at residential facilities while receiving treatment at a hospital far from his home. We found that the board had provided the funding the patient was entitled to, but we noted that they did not have a formal policy in place setting out their qualification criteria for funded places. We therefore recommended that the board develop and communicate such a policy.

As a general theme, poor complaints handling featured in a significant proportion of today's health cases. The issues ranged from a health board not having a full written complaints procedure in place at the time of the complaint and not appearing to have assisted a patient in progressing her complaint about a GP practice (201500696), to poor complaints handling in relation to a complaint from a prisoner (201500935). Overall, we made recommendations to improve complaints handling (as part or all of a complaint) in 25% of the cases where we made recommendations. The new complaints procedure that we are developing in partnership with the NHS and other stakeholders will seek to ensure that boards can readily identify and address such failings and use the learning from them to improve services.

## **Scottish Welfare Fund**

On April 1 we started our new role as SWF independent reviewer. In preparation for the launch, the SWF review team who joined us in February completed an intensive six week induction programme. This included training from the Scottish Government, COSLA, Child Poverty Action Group (CPAG) and solicitors as well as various internal training sessions. Following consultation, the Statement of Practice and SWF Case Handling Guidance were finalised and published prior to the launch.

## **Engagement and awareness-raising**

Building effective working relationships with SWF teams within councils has been a priority for the team and staff have visited ten councils so far with plans to visit further councils in the coming weeks. This has been useful for gaining a sense of how different councils operate the SWF function and the types of challenges decision makers face day-to-day. We also intend to continue with our SWF local authority sounding board to ensure robust feedback mechanisms are in place between ourselves and councils. The next sounding board meeting is in June.

Engagement with the third sector is also a key strand of our external engagement activity. We spoke at the Welfare Rights Forum in April and held two sessions at events for money advisors in May. We plan to attend the CPAG conference in June where COSLA are already presenting a SWF workshop. Scottish Women's Aid have asked us to speak at a policy day they have planned in June and that month we will also host our next SWF third sector sounding board meeting. We plan to attend further key third sector events throughout the year to raise awareness of our new role and to answer any queries advisors assisting clients with SWF applications and review requests may have. We have also publicised our role to a range of third sector organisations who we know have e-bulletins so that they can send out updates via their distribution lists.

## **Casework outcomes**

One of the main themes emerging from the cases we have considered so far is in respect of exclusions for Crisis Grants. According to the statutory guidance, the number of awards any person should receive in a rolling 12 month period should be limited to three awards unless exceptional circumstances apply. In one such case, an applicant had signed off benefits to take up employment but wasn't due to receive his first wage for 10 days. He had no money for food or electricity and was walking to work, which took an hour each way. The applicant also had multiple vulnerabilities including mental health problems and being accommodated in homeless accommodation. In determining his application and Tier 1 review, the council did not think that the applicant's circumstances were exceptional. We, however, deemed that there was a substantial risk to his ability to sustain employment due to the above circumstances should he not be awarded a grant. Accordingly, we upheld the review and instructed the council to make payment. In another case involving the same section of the guidance, an applicant had lost her wallet having thrown it out with rubbish. While she was a vulnerable person, we considered that she had some resilience as she was receiving family support. Taking this into account, and that this was the second time she had lost her wallet, we agreed with the council and deemed

that the circumstances were not exceptional. We therefore did not uphold her review request.

### **Contacting us**

Due to the vulnerabilities often experienced by SWF applicants and the fact that many are facing crisis situations it is important that we are accessible and responsive. We have created a dedicated website for the SWF and a freephone number. Applicants can also submit postal applications.

For further information visit <http://www.spsso.org.uk/scottishwelfarefund/> or call 0800 014 7299.

### **Annual statistics 2015-16**

We have published our annual casework statistics. These show:

- how many enquiries and complaints we received overall, by sector (eg health, housing, prisons) and by authority.
- the outcomes of those complaints overall, and by sector and authority.

As highlighted in the introduction, complaints about the NHS comprise a significant part of our workload. 2015-16 saw a 9% increase in health complaints that are 'fit for' us to investigate. Health cases are complex because they often consist of multiple issues and may need specialist advice. This complexity increases SPSO staff handling time and also puts pressure on our resources because of the direct costs of sourcing that professional advice.

You can download the annual statistics at: [www.spsso.org.uk/statistics-2015-16](http://www.spsso.org.uk/statistics-2015-16)

### **Guide for MSPs/MPs and Parliamentary staff**

We have refreshed this leaflet and provided copies to re-elected and new MSPs, and also to MPs of Scottish constituencies. It explains our roles, and contains a Quick Guide to supporting constituents with complaints. It also outlines the key ways we relate to the Parliament including laying investigation reports, submitting evidence to Committees and how we are held to account for our performance. [The guide is available to view online \(PDF, 405KB\)](#)

## Complaints Standards Authority (CSA)

### NHS

Our work on developing a revised NHS model complaints handling procedure (CHP) continues. The most recent meeting of the project steering group, in April, reviewed the progress of each of the three working groups. The draft procedure and public facing information is being updated to take account of comments from the steering group, and from a panel of volunteers convened by the Scottish Health Council. The work of the data recording and reporting group is being finalised, with a final report being prepared for the steering group. Finally, the learning and training group have prepared options to deliver a program of learning events and training materials to support implementation of the model CHP.

Our intention remains for the NHS model CHP to be published during 2016 with implementation by NHS Scotland being introduced from April 2017.

### Local Government

Linda Johnston of North Lanarkshire Council is stepping down from her role as chair of the local government complaints handlers network. Linda took on the role at the network's inception in 2013, and much of its success can be attributed to her and her team who plan organise and support each network event. We are enormously grateful to Linda for her energy and expertise. The new chair will be announced in due course.

### Further Education

The FE advisory group's annual complaints event was held in April. It included an overview of complaints handling performance across the sector for the academic year 2014/15. The main findings were that while the number of complaints received had increased by 8% on the previous year, more were being closed at stage 1 of the procedure. The average time to close complaints at stage 1 was 5.1 working days which is just outset the requirement of 5 working days, however, the average time to close complaints at stage 2 was 19.1 days, which is within the time requirement.

In addition to using performance information to benchmark across the sector, delegates enjoyed an update on the work done by the advisory group to develop categories of complaints, together with sessions on two different complaints management systems and a presentation on the approach to measuring and driving improvements through customer satisfaction feedback. The afternoon session allowed delegates to work in groups to apply the SPSO Quality Improvement Framework across six areas of good practice in complaints handling. The outcome

of this assessment will be used by the advisory group to inform its activities over the next year.

The advisory group provides a forum to identify and share good practice, and look at ways in which learning from complaints can be used to improve the services that colleges deliver. We encourage any college that wants to find out more to contact us at [CSA@spsso.org.uk](mailto:CSA@spsso.org.uk)

## Housing

Arrangements are currently being made for the housing complaints handlers network to meet again in June in Glasgow. If you would like to attend, please contact [anne.fitzsimons@tollcross-ha.org.uk](mailto:anne.fitzsimons@tollcross-ha.org.uk).

## Training Events

Since March, our training unit has, as usual, delivered courses to a wide variety of organisations. These include the Scottish Ambulance Service, Scottish Borders Council, Children's Hearings Scotland, Grampian Housing Association and West of Scotland Housing Association. We are happy to deliver courses in organisations' venues and there is more information in our flyer: **SPSO Training 2016 (PDF, 40KB)**

### Upcoming courses (all based in central Edinburgh)

**Complaint investigation skills (stage 2 of the model CHP):** 1-day open course

Thursday 23 June

Tuesday 29 November

Please note that booking forms for the June course should be returned to us as soon as possible to confirm your place.

**Managing Difficult Behaviour:** Wednesday 28 September

These are open to staff from all sectors under the SPSO's jurisdiction. **Full course details are available on the SPSO Training Unit website.**

For more information and to book spaces, please contact [training@spsso.org.uk](mailto:training@spsso.org.uk)

## Compliance and 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, 18 May 2016**

The compendium of reports can be found on our website:

<http://www.spsso.org.uk/our-findings>

For further information please contact:

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### The 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 for handling complaints about councils, housing associations, the National Health Service, prisons, the Scottish Government and its agencies and departments, the Scottish Parliamentary Corporate Body, water and sewerage providers, colleges and universities and most Scottish public authorities.

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

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 complaints handling in bodies under our jurisdiction.

Communications team: T 0131 240 8849

SPSO website: [www.spsso.org.uk](http://www.spsso.org.uk)

Valuing Complaints website: [www.valuingcomplaints.org.uk](http://www.valuingcomplaints.org.uk)

Contact us: T 0800 377 7330 [www.spsso.org.uk/contact-us](http://www.spsso.org.uk/contact-us)