

# SPSO NEWS

**July 2016**

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

Today we are laying 63 reports before the Scottish Parliament. One of these is a full investigation report about the NHS. This overview contains:

- key casework outcomes from today's reports
- a note about our customer sounding board meeting
- Complaints Standards Authority updates on local authority annual complaints reports; social work complaints procedures; FE advisory group and housing complaints handlers network meetings; the NHS complaints procedure
- training events
- an update from our Scottish Welfare Fund team

## **Ombudsman's Overview**

Last month (in June), we received 426 complaints. We determined 386 complaints and of these we:

- gave advice on 192 complaints
- considered 124 complaints at our early resolution stage
- decided 70 complaints at our investigation stage

We made a total of 91 recommendations.

## **Key casework outcomes**

### **NHS matters**

Of the reports we are laying today, 45 (71%) of 63 are about the NHS. This reflects the increasing trend in the volume of health cases brought to us that we can investigate. These are often about clinical treatment, and the full public report we are laying today upholds a complaint about the poor care and treatment of a man who underwent heart surgery (201507563). He said the experience had been painful and distressing and he believed correct procedures had not been followed. The independent advice we received was that the surgery was carried out by a trainee who was not sufficiently competent to perform it, consent was not properly obtained and the operation note was inaccurate. The board had accepted that their patient received an unacceptable standard of treatment. Our investigation, however,

found that they had failed to investigate thoroughly or to deal comprehensively with the failings. We therefore made recommendations to address the issues and to prevent a similar situation recurring, and these can be read in full in the report.

**Delay in diagnosis** is also a frequent subject of complaint. In case 201507589, the independent advice we received was that a brain tumour could have been diagnosed much earlier had prompt follow-up been arranged. We also concluded that the patient should have been told the initial findings of his scan. Although the delayed diagnosis did not significantly impact on the man's treatment, we made several recommendations to the board including that they ensure follow-up in future where there are unexplained abnormalities, and that any unusual scan results are shared with the patient. In another investigation (201508555), we found failings in arranging a blood test that can highlight testicular cancer after scans pointed towards this as a possible diagnosis. In this case, we asked the board to ensure that all relevant clinical information is supplied to the pathology team to help them analyse biopsy samples and to ensure a more proactive approach to referrals. In another investigation (201406219), we found an unacceptable delay in arranging a woman's scan and a failure to offer her a procedure. In this case, the woman had arranged for a private scan and treatment, and, among other recommendations, we asked the board to refund these costs.

**Mental health treatment** – in a complaint (201508582) by a man whose wife completed suicide, we agreed with the board's findings that there was a lack of involvement of the patient's family in her care planning and failings in the referral process. The board had already taken action to address some of the issues they found, and we added to these where we identified remaining gaps. Another investigation (201404055) highlighted the necessity of reviews of care planning and careful documentation of different approaches to care and treatment.

**Dental treatment** – of the seven dental complaints, we found that treatment or care was reasonable in two cases. Following one investigation (201500315), however, we asked the board to improve the process for written consent and to consider producing an appropriate local patient information leaflet for wisdom tooth removal. In another case (201507616), we asked the dentist to review their consent process and, among other recommendations, to refund the patient the cost of treatments.

## **Housing matters**

Common subjects of complaints in the local authority and housing sectors are repairs and maintenance and anti-social behaviour. In one investigation (201508651), we found that a council had taken reasonable steps to investigate and resolve water ingress problems, and that they had offered their tenant temporary accommodation in line with her tenancy agreement. In another case (201508605),

we found that a housing association had responded appropriately to a problem of leaking taps. In another complaint (201507764), we found that there had been some confusion among housing association staff about whether or not their general anti-social behaviour procedure applied to supported accommodation. We ascertained that there was no procedure for supported accommodation, and found this to be unreasonable. We also found a number of communication, record-keeping and complaints handling failures. We made eight recommendations, to redress the situation for the complainant and to prevent the failings happening again.

## **Customer Sounding Board**

Our customer sounding board is made up of representatives of the following organisations – Age Scotland, Alliance Scotland, Citizens Advice Scotland, Patient Opinion, Positive Prison, the Scottish Independent Advocacy Alliance, and Tenant Participation Advisory Service Scotland. The agenda for the meeting held at the end of June included an update on our new learning and improvement unit project, provisional findings from our customer satisfaction survey and proposals for a new customer forum. There was also discussion of our new role as the independent reviewer of Scottish Welfare Fund decisions and our forthcoming role in social work complaints (details in the CSA update below). You can read more about our sounding boards at [www.spsso.org.uk/sounding-boards](http://www.spsso.org.uk/sounding-boards).

## **Complaints Standards Authority (CSA)**

### **Local Government**

We are aware that several local authorities have prepared their annual complaints report for 2015/16 and provided these to SPSO. We would request that those who have not already done so send a copy of their annual complaints report to us at [csa@spsso.org.uk](mailto:csa@spsso.org.uk)

The new co-chairs of the complaints network are currently planning a revised programme of activities for the network. This will prioritise learning from complaints, benchmarking for improvement and the value of applying SPSO's Complaints Improvement Framework. Further details will be provided in the next update.

### **Social Work Complaints Procedures**

We are working closely with the Scottish Government, local authorities (including social work professionals), third sector, advocacy groups and other key stakeholders to develop the new model complaints handling procedure (CHP) for social work

complaints. We are also preparing for SPSO's new role in making decisions on the professional judgement exercised on behalf of the local authority.

The first meeting of the project steering group was held earlier this month. It was agreed to set up a smaller working group to help develop the new social work CHP and associated documents. The steering group will have oversight of progress made by the working group and provide high level input.

In preparing for SPSO's new role, we will engage with all relevant partners and stakeholders, including Social Work Scotland, COSLA, SOLAR and local authorities, the third sector and advocacy groups, the Scottish Social Services Council, the Care Inspectorate and the Scottish Government's Integration Team. The steering group will also provide feedback and act as a forum and sounding board on the development of key aspects of our new role.

## **Further Education**

The next meeting of the complaints handling advisory group will be held in August or September this year. Details will be confirmed with members nearer the time. The advisory group has agreed that future meetings will include a complaints surgery to allow colleges to share best practice in regard to complaints handling issues. We encourage any college that wants to know more about the advisory group to contact us at [csa@spsso.org.uk](mailto:csa@spsso.org.uk)

## **Housing**

The housing complaints handlers network met earlier this month in Glasgow. Agenda items included SPSO's Complaints Improvement Framework, analysis of members' complaints performance, benchmarking, complaints categories, seeking customer feedback, the Scottish Social Housing Charter and the complaints surgery.

## **NHS**

Work on preparing the new NHS model (CHP) is moving to the next stage. This includes engagement with NHS Education for Scotland, to provide a programme of activities to support organisations as we move towards the planning for the implementation phase. The model CHP will be implemented by NHS Scotland from April 2017.

For all previous updates, and for more information about CHPs, visit our dedicated website [www.valuingcomplaints.org.uk](http://www.valuingcomplaints.org.uk).

## SPSO Training Events

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

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

Tuesday 29 November

**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 general information see our flyer: **SPSO Training 2016 (PDF, 40KB)**

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

## Scottish Welfare Fund

### Good signposting

The number of applicants approaching SPSO for independent reviews of SWF decisions is steadily increasing: we received 67 enquires in June. Almost half of these approaches, however, were premature (the applicant had either not applied to the fund, not received a decision, not applied for a first tier review or not yet received a first tier decision). From our enquiries, it appears that applicants are largely using councils' websites to get contact information. These generally make it clear that applicants should only approach us for an independent review if they have received their first tier decision. In some instances, applicants are scrolling to the bottom of the webpage where our details are listed and then contacting us prematurely. Some councils could make their contact number more prominent. It is important that clear and accessible information is available to applicants so they can access the appropriate service first time round and avoid unnecessary delays. We will continue to monitor how councils are displaying their contact information and feed back any issues we find.

### Visits

Continuing our engagement activity, we plan to visit three local authority areas in the coming weeks. The visits encompass meetings with advice and advocacy groups as well as council workers, enabling us to raise awareness of the service and expand our knowledge of nationwide provision.

## Casework outcomes

This month we have determined cases where residency has been in question. In one such case an applicant applied for universal credit after completing a college course. He had received his final bursary payment several weeks previously and had no money for food until his first benefit payment five weeks later. The council rejected his crisis grant application on the basis that they could not verify he was eligible to apply to the fund as DWP systems indicated that he was living in a different local authority. We made additional enquiries and confirmed he had in fact been resident in a different local authority but had abandoned his tenancy there several months previously. We also considered that the applicant had advised the DWP about his change of address and was attending the appropriate job centre in the new council area but there had been a delay in the system being updated. In light of the above and the fact that he had no fixed address, we considered he should be treated as being resident in the local authority to which he applied and upheld his review.

In another case, an applicant had applied for a crisis grant as he stated a utility company had taken a double payment from his account, causing him to run out of money. The council rejected his application on the basis that he did not meet the qualifying criteria for an award as his situation was not a great or sudden misfortune and they considered it to be a budgeting issue. While this outlined why the applicant did not meet the criteria relating to a disaster, the council did not address the 'emergency element' of the criteria. It was then necessary for us to consider the priority of the application. However, despite making several attempts to contact the applicant over an extended period of time, we were unable to seek additional information from him regarding his household situation. On this occasion we were unable to gather further detail to help inform our assessment of priority and as such, could only base our decision on the information available. Therefore, while we disagreed with the council's assessment that he was not eligible to apply, we did not uphold the review request.

## 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, 27 July 2016**

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

For further information please contact:

**SPSO**

**4 Melville Street**

**Edinburgh EH3 7NS**

Emma Gray Tel: **0131 240 2974** Email: [emma.gray@spsso.gsi.gov.uk](mailto:emma.gray@spsso.gsi.gov.uk)

## 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 NHS, prisons, the Scottish Government and its agencies and departments, the Scottish Parliamentary Corporate Body, water 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. Our complaints standards authority promotes good complaints handling in bodies under our jurisdiction.

Communications team: T 0131 240 2974

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)