

Finance Committee

Public Services Reform (Scotland) Bill

Submission from The Scottish Public Services Ombudsman

I will comment on the Bill as it has been introduced, but I have also seen a copy of the Cabinet Secretary for Finance and Sustainable Growth's letter of 17 July to the Convener outlining the amendments the Scottish Government intend bringing forward at Stage 2. These amendments will be of particular interest to this office, and I hope the Committee will find it helpful at this stage if I also offer some brief comments in general terms about these likely developments.

The PSR Bill as introduced

The Committee has asked for views on the general principles of the Bill and on the following areas in particular:

- **The Scottish Government's overall policy objectives in introducing the Bill and, in particular, whether the Bill is likely to —**

“help simplify and improve the landscape of Scottish public bodies, to deliver more effective, co-ordinated government that can better achieve its core functions for the benefit of the people of Scotland”

The SPSO considers that there is scope to simplify and rationalise the landscape of public bodies to support the effective, efficient delivery of public services and in particular to make them more accessible to the public and simpler to understand. To the extent that the Bill's provisions will achieve these ends, we support them.

- **Whether, in light of the current financial situation, this is the appropriate time to be pursuing both the Bill in particular and the wider public services reform programme?**

There are important issues for the Parliament to consider about whether the long term benefits and potential savings justify the short-term investment required to support the transition. The SPSO would argue that, provided the business case is sound, the impending tightening of the fiscal climate makes the pursuit of efficiencies all the more important.

- **Whether the simplification of public bodies identified in part 1 of the Bill is consistent with the policy objectives of the Bill?**

The SPSO has no comment on the merits of these specific proposals. To the extent that the bodies fall within our jurisdiction, we will want to ensure that appropriate consequential amendments are made to the SPSO's legislation.

- **Whether the order-making powers proposed in part two of the Bill are appropriate in seeking to deliver a —**

“public sector landscape and public sector functions that are proportionate, responsive and efficient.”?

We are aware there have been some concerns expressed about these powers in general and, more specifically, about the inclusion of the Parliamentary-supported bodies in Schedule 3. The SPSO would certainly be concerned if the proposed order-making powers infringed on the important principle of the operational independence of the Ombudsman – the public must be confident that they can bring complaints to an Ombudsman whose decision-making is completely independent and is not subject to any undue influence.

We have noted the proposed safeguards on the use of the powers and the measures in the Bill to ensure consultation and Parliamentary scrutiny of any use of the order-making power. We have also noted that s 91 of the Scotland Act 1998 makes express provision for there to be arrangements for handling complaints about the Scottish Executive/Government and the Scottish Administration – we believe this provision offers an important safeguard to the public, but we would suggest that the wider interests of those seeking an external, independent review of grievances about a local authority, an NHS Board or any other body currently (or prospectively) under our jurisdiction are equally important.

This is of course a matter for the Parliament to decide and, whilst we would clearly wish to ensure that the public interest is properly safeguarded, we believe that the Parliament will be similarly motivated. We will, however, follow the passage of these sections through Parliament with particular interest.

- **Whether the proposed duty on listed scrutiny authorities to secure continuous improvement in part 6 of the Bill is likely to ensure that users of public services are better involved?**

The SPSO considers that is good practice to design the delivery of public services around the needs of users and is supportive of anything that will secure this. We have closely followed the work of the Crerar Review and the action groups that were set up to take forward different aspects of its recommendations. We note that the Government consider these new duties will integrate with existing arrangements for Best Value, equalities and human rights and would welcome this approach. The SPSO works closely with many of the scrutiny bodies to whom it is proposed that these new duties will apply and we anticipate that the only impact on these working relations will be a positive one.

- **Whether the proposals in parts four and five of the Bill are consistent with the five guiding principles recommended by the Crerar Review of**

public focus, independence, proportionality, transparency and accountability?

The SPSO has no comment on the merits of these specific proposals. To the extent that the new bodies will fall within our jurisdiction, we will want to ensure that appropriate consequential amendments are made to the SPSO's legislation. Sections 64 and 90 provide the new health and social care improvement services with complaint handling functions. The relationship to our own current complaint handling role and any future design role will need to be carefully considered and we have already begun a constructive dialogue with the Scottish Government about this. Also, on a technical point, the Care Commission is a body listed in our legislation and the Bill should provide for its removal from our legislation and the inclusion of the new organisation. On this point, it may be helpful to note that the other organisations affected, NHS QIS and SWIA, while not listed in our Act, also come under our current jurisdiction as an NHS special board and an Executive agency.

- **Whether the cost estimates set out in the Financial Memorandum appear to be robust and any comments on the other accompanying documents?**

The SPSO has no comment on the estimates made by the Scottish Government for the provisions in the Bill as it stands. We will, however, be discussing with the Scottish Government their estimates of the financial implications of the amendments they intend to bring forward at Stage 2. Our support for the general thrust of the recommendations made in the report of Douglas Sinclair's Fit for Purpose Complaints System Action Group (the Sinclair Report), and now generally endorsed by Scottish Government, the RSSB Committee, and the Scottish Parliament, has always been conditional on the availability of adequate resources to accompany any new responsibilities for the SPSO, service providers and scrutiny bodies.

Stage 2 amendments

Annex C of John Swinney's letter of 17 July to the Convener outlines the amendments the Scottish Government intend bringing forward at Stage 2. These amendments will cover:

Improvements to complaints handling

Amendments are to be brought forward to implement the recommendations of the RSSB Committee, which endorse the changes to the functions of the SPSO proposed in the Sinclair Report.

Scottish Prison Complaints

The RSSB Committee endorsed the proposal to transfer the functions of the Scottish Prison Complaints Commission to the SPSO and will introduce provisions to this effect in the forthcoming Committee Bill. We note that the Scottish Government will be discussing with the members responsible for

the Committee Bill how best the complaints handling elements can be progressed in a co-ordinated way between the two Bills.

Waterwatch

Although the RSSB Committee did not recommend in favour of the transfer of Waterwatch's complaint functions to the SPSO, we note the Scottish Government's view that the original proposal to transfer Waterwatch's complaints functions to SPSO and advocacy role to Consumer Focus Scotland respectively is a sensible rationalisation, and that the Scottish Government plan to undertake continuing dialogue on this issue and to bring forward relevant amendments at Stage 2.

SPSO comments:

We support Douglas Sinclair's proposals for new arrangements to promote early, local resolution of complaints through better access for the public, more standardised handling procedures, and better support for complaint handlers. We are working closely with the Scottish Government and other interested parties to ensure that the changes are fully aligned with other policy initiatives and to ensure that the resourcing implications of the new arrangements are fully understood.

We also believe that the establishment of the SPSO on a one-stop-shop principle has brought about significant improvements to the way public service complaints are reviewed at their final stage. We are therefore supportive of the further streamlining of the landscape that the forthcoming legislation is likely to bring about.

Conclusion

We hope that these brief comments are of assistance to the Committee and look forward to expanding on our views in the oral evidence session.

Jim Martin
Ombudsman