



Ombudsman's Commentary

FEBRUARY 2007 REPORTS

I laid 19 reports before the Scottish Parliament today. Eight relate to the health sector, nine to local government and two to the Scottish Executive and devolved administration. Details of reports on investigations are summarised below. However, in this month's Commentary, I am highlighting the significant amount of complaint handling work that my office carries out that does not reach the full investigation and report stage.

Ombudsman's Overview

Resolving complaints 'appropriately'

The investigation reports that are summarised in my monthly Commentaries are a significant part of the work of the SPSO, but they by no means represent all of the valuable work that we do. In the course of the calendar year 2006, we laid just over 200 investigation reports before the Parliament. I am pleased that some of those reports have been used as a resource by Parliamentary Committees and the Scottish Executive to inform their decisions and policy-making, and we shall continue to devote resources to building the finest investigation team we can.

In addition to investigations, however, my staff also do a huge amount of work that is not so

visible. My front-line staff deal day-in and day-out with queries from the general public and from bodies under jurisdiction about our function and remit, and my investigators consider and determine hundreds of cases each year without those complaints ever reaching the full investigation stage.

In the course of the calendar year 2006, we dealt with over 2200 enquiries and over 1300 complaints were closed by means that did not involve full investigation. This includes, for example, an investigator contacting the body to see if informal resolution was possible.

I believe that early, local resolution of complaints is in the best interests of both the complainant and the organisation that is being complained about. Indeed, the relationship between the parties – which in many cases will be an

ongoing one, for example in the local government and housing sectors – can be strengthened by good complaint handling. There is evidence that a person who feels that they have been listened to and their complaint dealt with fairly often feels more positive about the organisation than they did before the complaint arose.

For listed authorities, my **Valuing Complaints** initiative (see www.valuingcomplaints.org.uk) provides information and advice about good complaint handling. Crucially, it emphasises the importance of 'the learning loop', underlining my belief that organisations that truly welcome, value and use complaints to learn from, inspire and drive improvement will be more successful in delivering public services than those that do not.

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Health

Of the eight complaints about the health sector this month, I fully upheld two complaints, partially upheld three complaints and did not uphold three other complaints.

Clinical treatment and care Dumfries and Galloway NHS Board (200503188)

The complainant raised a number of concerns about his mother's treatment prior to her death. I fully upheld the complaints that the complainant's mother, who had dementia, was inappropriately admitted to an assessment ward when her condition was already known; and that despite her agitated state and her family's request, she was not given any sedation or water. I also found that there was delay in releasing her body for cremation. I recommended that the Board:

- (i) confirm recommendations made about admissions;
- (ii) reinforce to nursing and medical staff the need for good assessment and evaluation for patients with pain and agitation and emphasise the importance of communicating to families;
- (iii) formally apologise to the complainant for their failure to provide his mother with water and for the delay in re-evaluating her medication; and
- (iv) confirm their improved procedures concerning cremation forms and the date when they are introduced.

Clinical treatment and care Greater Glasgow and Clyde NHS Board (200502203)

I fully upheld the complaints that the complainant's wife was given inappropriate care and treatment and that the Board's complaints handling was inadequate. I recommended that the Board:

- (i) monitor compliance of their amended handover procedure to ensure that staff read patient documentation in addition to receiving a verbal report;

- (ii) review their guidance on discharge procedures to ensure that planned care has been provided prior to discharge; and

- (iii) remind staff when receiving letters direct from patients to clarify and record whether the letter is an enquiry or a formal complaint.

Nursing care; communication Lothian NHS Board (200501332)

The complaint was from the mother of a 36-year-old man about his nursing care and the hospital's failure to telephone her when his condition deteriorated even though staff had been advised of current contact numbers. I partially upheld the complaint that staff failed to monitor her son appropriately following an operation he underwent, and my medical advisers highlighted deficiencies in the standard of record keeping and some aspects of monitoring. I fully upheld the complaint that staff did not take adequate action to inform the complainant that her son's condition had deteriorated.

I recommended that the Board:

- (i) undertake an audit of the standards of record keeping and review whether there is a need for training to make staff aware of the role of the Diabetes and Gastroenterology specialist nurses;
- (ii) adopt a process to ensure that current contact details are recorded accurately on admission and, in particular, that when a patient is transferred, the details are reviewed. Secondly that the Board ensures that communication with carers (when a patient's condition deteriorates) is raised with staff as being a key and integral aspect of documentation; and
- (iii) adopt a process by which the nurses allocated to a patient's care on each shift are easily identifiable within the records and that any discussions with those staff as a result of a complaint are routinely documented.

Decision to transfer psychiatric patient

Lanarkshire NHS Board (200502663)

I partially upheld the complaint about the internal transfer of a patient which the complainant claimed was made prior to discussion and on the basis of staffing levels rather than the patient's needs. I recommended that if further reconfiguration is to occur, the Board should review their guidelines, and in particular their communication, individual patient review and risk management policies.

Diagnosis

Tayside NHS Board (200501624)

I partially upheld a complaint relating to a hospital's assessment of vision, and recommended to the Board that patients with neurological conditions, when initially assessed, should receive a full neurological examination, including the bedside assessment of visual fields. If investigations point to a specific area of brain damage, the medical team should ensure that the appropriate clinical examination has been performed. I also recommended that the Board apologise in respect of the complaint about assessment of vision.

I did not uphold three other complaints in the health sector this month, about the following issues and bodies:

Delay in providing treatment

Tayside NHS Board (200503283)

Discharge from hospital

Tayside NHS Board (200503520)

Diagnosis

Fife NHS Board (200501851)

Although I did not uphold this complaint, I did express concern that the transfer between facilities contributed significantly to the patient's discomfort during his terminal illness and his family's distress both at the time and in the many months they have spent pursuing this complaint. In the report I strongly reinforce the need for action to rectify a poor arrangement in services that is due to be addressed in 2010.

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Local government

Of the nine reports about local government, two were upheld in full, five were partially upheld and two were not upheld.

Delay in acting on breach of planning consent

Highland Council (200503682)

The complaint concerned a breach of planning permission which was acknowledged by the Council but where, the complainant alleged, little action had been taken. I upheld the complaint and recommended that the Council:

- (i) proceed to implement enforcement action without delay and in the event that they fail to achieve compliance, seek to implement an appropriate penalty; and
- (ii) offer the complainant a fulsome and sincere apology, reinforced by a payment to recognise the time and trouble involved in pursuing the matter and making his complaint, and the impact on his home over the years.

Repairs and maintenance of housing stock

The City of Edinburgh Council (200601025)

The complaint concerned the Council's decision to refuse a claim for compensation for damage to a kitchen which had resulted from a leak in an upstairs neighbouring flat. I upheld the complaint and was satisfied that the Council's offer of an apology reinforced by a small payment provided a suitable remedy to the complaint. I have asked the Council to notify me when this action is implemented. Also, that they look into, and address, the reasons for the delay to ensure that these circumstances are not repeated.

Land & property, policy

Dundee City Council (200502249)

The complaint related to the installation of a fire wall by the Council in a property which is partly owned by the

complainant, Mr C. Mr C was aggrieved that the Council had not obtained his consent prior to installing this fire wall. I partially upheld the complaint and recommended that the Council apologise to Mr C for the failings identified in the report.

Information about school closure

West Dunbartonshire Council (200500060 and 200600224)

The complainant, Mr C, complained of receiving misleading information from, and obstruction of information by, the Council during a consultation process on the future of denominational secondary education in his area. I partially upheld the complaint about the provision of misleading information, but did not uphold the other aspects of his complaint. My report states: *'...closures or mergers of schools are contentious issues which generate great strength of feeling. Authorities should remain aware of the need to provide as much information and detail as early as possible in the process. I have noted that, in this case, the Council carried out an early, informal consultation in addition to the statutory consultation required by regulations.'*

Housing repairs

East Dunbartonshire Council (200503264)

The complainants, Mr and Mrs C, raised concerns about the Council's failure to pay for their share of repairs in a four unit property where the Council owned one of the units. They also complained about the length of time taken by the Council to answer correspondence. I did not uphold two aspects of the complaint, but I did find that the Council failed to train its staff and amend its processes in anticipation of the Tenements (Scotland) Act 2004 and that the Council took a long time or failed to respond to requests and correspondence from the complainants. I recommended that the Council:

- (i) should meet the legal costs incurred by Mr and Mrs C in pursuing the issue of the Council's obligations under the Tenements (Scotland) Act 2004;

- (ii) make a further payment to Mr and Mrs C for their time and trouble in pursuing this matter and their subsequent complaint;
- (iii) apologise to Mr and Mrs C for their failure to respond to their enquiries; and
- (iv) take steps to ensure that any enquiries are promptly and appropriately dealt with even if they are received by the wrong department.

Planning application; complaint handling

Inverclyde Council (200502980)

I upheld the complaint that the Council failed to answer questions put to them by the complainants and that correspondence was sent to the wrong address. I made no finding on the complaint that the Council had failed to return telephone calls. I recommended that the Council make a small time and trouble payment to the complainants.

Building warrant application

North Ayrshire Council (200502318)

I partially upheld one aspect of this complaint, namely that the Council failed to deal in a timely manner with non compliance by the builder with the approved access dimensions in the planning consent and I recommended that the Council apologise to the complainant for this failing.

I did not uphold two other complaints in the local government sector this month about the following issues and bodies:

Neighbour dispute & anti-social behaviour

East Lothian Council (200501799)

Complaint handling

East Lothian Council (200502633)

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Scottish Executive and devolved administration

I did not uphold one complaint and partially upheld the other complaint about the Scottish Executive and devolved administration this month.

Provision for future upkeep of private roads and lighting systems

Scottish Prison Service (200401429)

Delay following application for apportionment

Crofters Commission (200401919)

I partially upheld this complaint and recommended that the Commission apologise to the complainant and review their procedures

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.



Alice Brown. 27.02.2007

The compendium of reports can be found on our website, www.spsso.org.uk

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