

July 2020

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COVID-19 update

For customers

We continue to monitor and follow the latest Scottish Government and NHS Inform guidelines. As such, our office remains closed to visitors.

We are currently offering a limited phone service on 0800 377 7330 and are receiving emails, post and are taking new complaints as normal. We will provide the best service we can, but ask you to be patient with us during this challenging time.

Our Scottish Welfare Fund (SWF) team is available by phone as normal on Freephone 0800 014 7299.

Please read [our website](#) for more detailed customer information.

For public service organisations

While we recognise and appreciate the pressure public services are under, we respectfully remind organisations that it is a legislative requirement for public bodies to comply with the SPSO Model Complaints Handling Procedure (MCHP). They must, therefore, ensure customers have access to complaints procedures during this time.

The MCHP allows for timescales to be extended where appropriate. If you need to extend timescales on some complaints, please ensure customers are kept informed and updated. Don't forget to also keep your website up to date in relation to complaints handling.

If you are experiencing particular difficulties or issues please contact us on CSA@spsos.gov.scot.

Please see [information for public service organisations](#) for information and guidance on complaints handling advice during COVID-19.

Our findings

Complaints

This month we:

- published 95 decision reports available [here](#)
- upheld 49 complaints in full or part
- made 135 recommendations for learning and improvement.

Learning points

When we uphold a complaint, we will make a recommendation to address the failing. Obviously, like public bodies and complainants we would rather there weren't failings in the first place, but where there are and the organisation has taken action as a result of good complaint handling, we like to acknowledge this and share good practice when we see it. For instance, an organisation may already have identified the potential for learning from a complaint and acted upon it so no further remedy from us is necessary.

This month we are publishing a number of such cases where the organisation has already taken positive action as a result of the complaint:

- [201902022](#) – we found that Greater Glasgow and Clyde NHS board had failed to provide a patient with appropriate care and treatment when they suffered from a globe perforation (small hole in the eye ball) following an anaesthetic injection. We upheld the complaint on the basis that the board should have suspected that the patient had suffered a perforation at an earlier point. However, we acknowledged that the board had already discussed this case with the staff involved and had presented the case at a teaching session for future learning.
- [201908081](#) – we found that the Scottish Court and Tribunal Service had failed to provide a clear response to an individual's complaint. We noted that there was a lack of understanding of how complex the procedure may appear to someone who had never been to the tribunal before. We upheld this complaint but made no recommendations as they had already apologised to the complainant and changed their website to ensure information was clearer.
- [201900596](#) – we found that Grampian NHS board unreasonably delayed in arranging surgery for a patient at the gynaecology clinic. We upheld this complaint but made no further recommendations as the board had already apologised for not meeting their treatment time guarantee and had taken a number of steps to reduce their waiting times. This included addressing their referral pathways and seeking to increase their consultant capacity.

Scottish Welfare Fund (SWF) reviews

Statistics

During June we:

- responded to 102 enquiries
- made 75 decisions:
 - 15 community care grants
 - 60 crisis grants
- changed the council's decision on seven (47%) community care grants and 20 (33%) crisis grants
- signposted an additional 74 applicants to alternative sources of assistance, which in most cases was their local council.

Access to first tier SWF review service

This month we received anonymous correspondence stating that managers in a local authority were telling employees not to accept first tier reviews that are not in writing.

This highlighted concerns about the lack of accessibility for vulnerable applicants with no internet access, or other means to submit their review in writing. The correspondence also told how these applicants are often in a very distressed state as a result of their inability to proceed with a review.

While section 9.10 of the SWF statutory guidance outlines that reviews should be in writing, unless exceptional circumstances apply, we would urge councils to apply flexibility to this approach, particularly in the current environment where applicants may be facing more vulnerable situations than normal.

We have previously highlighted to Scottish Government that the regulations should be changed to allow first tier reviews to be made verbally as well as in writing in order to remove unnecessary barriers to the review process.

Case studies

In recent weeks we observed a number of cases where we disagreed with the council's decision to refuse a crisis grant on the basis that the applicant was not in an emergency situation. Related case studies can be found in the searchable directory [on our website](#) under the subject *Definition of an emergency*.

Annual statistics 2019-20

These figures show the number of enquiries and complaints we received and determined in the year 2019-20.

In 2019-20, we:

- received **4,332** complaints - a **3%** increase on the **4,188** received in the previous year.
- received and determined **1,569** enquiries - an **8%** decrease on the **1,707** received in the previous year.
- determined **4,099** complaints:

- 3,511 following detailed consideration pre-investigation
- 588 following an investigation. 66% were about the health sector.
- upheld 58% of complaints.
- made 1,038 recommendations for redress and improvement to public service:
 - 38% for personal redress
 - 49% for learning and improvement
 - 13% about complaint handling

Full information about the statistics for each sector, along with the subjects of complaints, is available [on our website](#).

Independent National Whistleblowing Officer update

At the beginning of 2020 we shared the National Whistleblowing Standards with colleagues across NHS Scotland, and the SPSO started work to support implementation. Unfortunately, the COVID-19 crisis has significantly disrupted this work, as colleagues across the NHS have rightly been focusing on dealing with the pandemic. Given the understandable disruption to normal NHS services, the Scottish Government wrote to all boards on 30 March 2020 to confirm that this programme was one of a number of work programmes that they were pausing.

As NHS services are restarting, we are keen to pick up on the whistleblowing work with boards. We are aware that some boards have already been taking steps since the pandemic to prepare themselves for implementation. We have been working closely with our colleagues in the Scottish Government to ensure that the launch of the INWO and implementation of the Standards comes at a suitable time and takes into account both the pressures caused by the pandemic and the usual pressures the winter season presents.

We expect to announce a revised date for implementation soon, but to be clear, it will NOT be July 2020 as originally advised.

In the meantime, we look forward to hearing the views of NHS boards and supporting them and other stakeholders as they prepare for implementation.

Complainants with vulnerabilities

Access to justice is a key strategic theme for us, driven by our values of being people-centred and fair. Access to complaints services is integral to this, not just in relation to our services but also to stage 1 and stage 2 complaints. We recognise our duties under the Equality Act 2010, to promote equality of opportunity for all. Over and above this, we are mindful of complainant's vulnerabilities and how these can be influenced by situational circumstances linked to the complaint.

We have created guidance for our staff that highlights potential vulnerabilities and provides examples of possible adjustments we can make to our service. We are sharing this guidance as an example of how public bodies can support vulnerable people to access their complaints procedures.

[The guidance is available here.](#)

We welcome feedback and suggestions about it.

The Infected Blood Inquiry

The Infected Blood Inquiry was set up to examine:

- why men, women and children in the UK were given infected blood and/or infected blood products; the impact on their families;
- how the authorities (including government) responded;
- the nature of any support provided following infection; and
- questions of consent; and whether there was a cover-up.

The Inquiry has been in contact with SPSO and we have agreed to share some information relevant to their work. The Inquiry is keen to hear from anyone who may hold evidence or have experience relevant to their work.

More details can be found on their website: www.infectedbloodinquiry.org.uk

Tel: 0808 169 1377

Email: contact@infectedbloodinquiry.org.uk

For further information contact:

Communications team

Email: communications@sps.gov.scot

SPSO Assessment and Guidance team

Tel: 0800 377 7330

Email: www.sps.gov.uk/contact-us

Website: www.sps.gov.uk