



Memorandum of Understanding

**For co-operation between the Scottish Public Services Ombudsman and
Healthcare Improvement Scotland**

July 2013

1. Purpose of the Memorandum of Understanding

1.1 The purpose of this memorandum is to set out the arrangements for co-operation and communication between the Scottish Public Services Ombudsman (SPSO) and Healthcare Improvement Scotland (HIS) in relation to complaints about services provided by or on behalf of the National Health Service in Scotland (the NHS) and to clarify the responsibilities of the two bodies

2. Responsibilities of the parties to the Memorandum of Understanding

2.1 The SPSO has the functions set out in the Scottish Public Services Ombudsman Act 2002 ("the 2002 Act"). These include raising awareness of its service, promoting good administrative practice by Scottish public services and leading the development of simplified and standardised complaints handling procedures across the public sector. They also include investigating and reporting on complaints that maladministration, failure to provide a service or failure in a service by NHS organisations and any body providing NHS services (including GPs, dentists, pharmacists and opticians) has caused injustice or hardship to a member of the public. The SPSO aims to work in partnership with public services across Scotland to help prevent complaints from arising and to help public services to improve their complaint handling processes.

2.2 The SPSO can consider complaints from members of the public who claim to have sustained injustice or hardship as a result of maladministration or service failure by an authority within the SPSO's jurisdiction. The matter complained about must also be one that the SPSO is entitled to investigate. Schedule 2 of the 2002 Act lists the authorities that come within the jurisdiction of the SPSO ('listed authorities'). Complaints to SPSO need to first have been made to the listed authority concerned and have completed their complaints process.

2.3 HIS is a listed authority under the jurisdiction of the SPSO. The SPSO may investigate a complaint about HIS provided the complaint meets the criteria set out in the 2002 Act. Liaison for complaints made to SPSO about HIS will be with Christine Hill, Complaints Officer.

2.4 Healthcare Improvement Scotland is a health body formed on 1 April 2011. It was created by the Public Services Reform (Scotland) Act 2010.

The responsibility of HIS is to help NHSScotland and independent healthcare providers deliver high quality, evidence-based, safe, effective and person-centred care; and to scrutinise those services to provide public assurance about the quality and safety of that care. The impact of this work focuses on the 6 dimensions of quality (safe, effective, person centred, efficient, timely and equitable) which are internationally recognised as crucial to people when delivering care.

3. Complaints procedures and requirements to publicise complaints

3.1. Section 16A of the 2002 Act requires listed authorities to have in place a complaints procedure which complies with the Complaints Handling Principles approved by Parliament in February 2011. Section 16B allows the

Ombudsman to create a model complaints handling procedure for a sector. Subsequent sections deal with how a listed authority would be informed such a procedure applies and the enforcement action the Ombudsman may take in the event of non-compliance. Section 16G places obligations on the Ombudsman to share best practice and to monitor complaint handling trends.

3.2. Section 22 of the 2002 Act (Information about right to make a complaint) requires a listed authority to take reasonable steps to publicise the application and effect of the 2002 Act. It includes in particular, the right conferred by the 2002 Act to make a complaint, the time limit for doing so and how to contact the SPSO. This information must be included in, or provided with, any document published by the listed authority that contains information about the services it provides to members of the public, or about how it deals with complaints. The information must also be included in any response to a complainant who may be entitled to complain to the SPSO.

4. Functions of the Memorandum of Understanding

4.1 The SPSO and HIS recognise that their respective roles are distinct and different but believe that both roles can be enhanced by effectively working together. This memorandum of understanding sets out how we propose to do this by:

- Setting out arrangements for co-operation.
- Setting out arrangements for liaison and effective working in dealing with complaints related to serious service failures where there may be overlapping jurisdiction.
- Setting out arrangements to help complainants who contact HIS.
- Setting out arrangements to work together to inform the public and other bodies of the respective roles of both organisations.
- Setting out arrangements for monitoring and periodic review of the Memorandum.

5. Consultation and Co-operation

5.1 The SPSO and HIS agree that where the functions and actions of one organisation affect the functions and actions of the other, they will share appropriate information, maintain effective channels of communication consult each other and generally co-operate together in order to inform and improve the work of the bodies and enable them to fulfil their respective responsibilities as fully, effectively and efficiently as possible.

5.2 Within available resources, HIS and SPSO will invite representation from the other bodies to project teams, work groups etc where both bodies believe there would be advantage in cross-representation.

5.3 The two bodies will encourage formal and informal contacts between their staff to raise awareness of the roles, responsibilities and methods of working of each.

6. Liaison on Complaints and Serious Service Failures

6.1 SPSO and HIS recognise that certain issues may be submitted (or may be capable of being submitted) to both organisations. In these circumstances, the bodies undertake to liaise as far as possible having due regard to the requirements on each to comply fully with relevant data protection and confidentiality obligations. SPSO will alert HIS to potential serious service failures such as where a series of complaints has been made against a particular hospital or other service provider.

7. Information for Complainants contacting NHS HIS

7.1 From time-to-time, HIS may receive complaints from members of the public concerning aspects of the provision of, or lack of, NHS services within any of the NHS Board areas. In terms of the NHS Complaints Procedure and the HIS Establishment Order, HIS has no role in dealing with such complaints. Where such complaints are received, the complainer will be advised to contact the NHS Board concerned and given the necessary contact details. Wherever such information is given, the complainer will be advised of their right to refer the matter to the SPSO if they remain dissatisfied with the handling of their complaint.

8. Public Information and Information to Other Bodies

8.1 Before issuing any guidance, publicity and information to the public or other agencies about any aspect of their current or proposed responsibilities, each organisation will consider the extent to which it would assist the other in the effective and efficient discharge of its responsibilities if mention were made of that organisation and its responsibilities. Where appropriate and possible the two organisations will issue such guidance, publicity and information jointly.

8.2 Where appropriate and possible each organisation will invite the other to participate in any conferences, seminars or workshops it organises.

9. Confidentiality

9.1 Both organisations will respect the confidential nature of the information shared between them. Both SPSO investigation reports and HIS review reports are public documents. Where a report from either SPSO or HIS is of mutual interest, the report will be shared and discussed with the other body.

10. Monitoring and Review of Memorandum of Understanding

10.1 SPSO and HIS representatives will meet at least every two years to review the operation of this Memorandum of Understanding. A report will be jointly presented to the Board of HIS by the Chief Executive and the Ombudsman or their representative.

10.2 Where problems in the operation of this Memorandum are identified by either party they will seek to resolve them quickly and informally. If this is not possible the Chief Executive of HIS and the Ombudsman will take responsibility for achieving a mutually acceptable resolution. Their decision will be final.



Jim Martin
Scottish Public Service Ombudsman



Mr John Glennie
Chief Executive
Healthcare Improvement Scotland

