



MEMORANDUM OF UNDERSTANDING
BETWEEN
THE SCOTTISH PUBLIC SERVICES OMBUDSMAN
AND
THE FIRE SERVICE INSPECTORATE IN SCOTLAND

September 2015

Purpose of Memorandum of Understanding

1. The purpose of this memorandum of understanding (MoU) is to outline the functions of the Scottish Public Services Ombudsman (SPSO) and the Fire Service Inspectorate in Scotland (HMFSI), and to describe the arrangements for co-operation and communication between the two organisations in relation to their respective functions, handling complaints and the promotion of good administrative practice.
2. Each organisation will take steps to ensure that their staff are aware of what is in the MoU. They will keep staff updated about it, and about the responsibilities it places on each individual member of staff.
3. This memorandum of understanding (MoU) aims to:
 - a) Secure cooperation and the exchange of information between the SPSO and HMFSI subject to any legal constraints, including the need to respect personal or commercial confidentiality;
 - b) Foster mutual understanding and effective relations generally between the organisations;
 - c) Secure consistent treatment of matters which affect them both;
 - d) Ensure an open and transparent relationship between the organisations.

Role and function of the SPSO and HMFSI

SPSO

4. 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. 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.
5. 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.
6. The office holders within HMFSI are 'listed authorities' under the jurisdiction of the SPSO. The SPSO may investigate a complaint about HMFSI provided the complaint meets the criteria set out in the 2002 Act.

HM Fire Service Inspectorate

7. The statutory basis for HMFSI is derived from sections 43A to 43G of the Fire (Scotland) Act 2005. The principal function of the Inspectorate is to provide independent, risk based and proportionate professional inspection of the Scottish Fire and Rescue Service. It supports the Service in delivering its functions, to promote improvement in the Service and to give assurance to the Scottish public and Scottish Ministers that the Service is working in an efficient and effective way.

8. HMFSI also provides advice to Ministers, either through the submission of reports or, on an ad hoc basis, working directly with officials. HMFSI provides policy support to officials on issues relating to specialist technical knowledge. We are mindful of the potential conflict between policy formation through our advisory role and our independent scrutiny role, and generally speaking we will avoid giving advice where this would carry the potential of being seen to undermine our impartiality as an Inspectorate. Occasionally, HMFSI provides advice to other parties such as the Health and Safety Executive and the Crown Office and Procurator Fiscal Service. Where advice is given in these circumstances, the Inspectorate is acting independently and is not representing the views of Scottish Ministers. We will consider the circumstances of each request but have taken the view that in order to safeguard our independence, we should not be part of an investigation team in a situation that may lead to criminal proceedings against, or the imposition of a civil penalty on, the SFRS or its staff.

9. The Chief Inspector has a statutory determination duty under section 67 of the 2005 Act to make independent determinations in respect of non-domestic fire safety disputes.

Complaints procedures and requirements to publicise complaints

10. 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 168 allows the Ombudsman to create a model complaint 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.

11. 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.

Consultation and co-operation

12. The SPSO and HMFSI agree that where the functions and actions of one body might affect, or be relevant to, the functions and actions of the other, they will consult and cooperate together in order to fulfil their respective functions as fully, effectively and efficiently as possible. This co-operation will include the sharing of appropriate information and maintaining effective communication. This will take into account the legislative restrictions on transfer of information which may apply. Within available resources, the SPSO and HMFSI will invite representation from the other party to project teams, work groups etc. where both parties believe there would be advantage in joint working. The two parties will encourage formal and informal contacts between their staff to raise awareness of the roles, responsibilities and the methods of working of each.

Sharing information about complaints

13. The SPSO will assist HMFSI, wherever possible, in discharging its scrutiny function. The SPSO will provide HMFSI with statistical and qualitative information about complaints relating to the SFRS, where appropriate. However, legislative restrictions relating to confidentiality and disclosure of information put limits on the information that can be shared. The SPSO will only provide information relevant to any engagement or activity if it has particular concerns, or evidence of good practice relating to a complaint or complaints handling. The regularity of the provision of information is also dependent on the number of complaints received.

Public information and information to other organisations

14. Before issuing any guidance, publicity and information to the public or other organisations about any aspect of their current or proposed functions relating to complaints, each party will consider the extent to which it would assist the other in the effective and efficient discharge of its functions if mention were made of that organisation and its functions. Where relevant and possible, each party will invite the other to participate in any conferences, seminars or workshops it organises.

Resolving disagreements

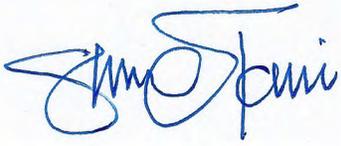
15. Where either party identifies problems in operating this MOU, it will seek to resolve them quickly and informally. If this is not possible then the Ombudsman and the Chief Inspector will take responsibility for achieving a mutually acceptable resolution.

Review

16. Representatives of HMFSI and the SPSO will meet as required to consider any matters of mutual interest arising from their respective responsibilities.

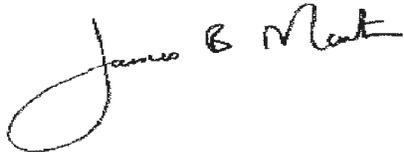
17. HMFSI and the SPSO will keep this agreement under review. Either party may suggest amendments to the MoU.

Signed on behalf of Her Majesty's Fire Service Inspectorate

A handwritten signature in blue ink, appearing to read 'Steven Torrie', with a stylized, cursive script.

Steven Torrie Chief Inspector

Signed on behalf of the Scottish Public Services Ombudsman

A handwritten signature in black ink, appearing to read 'James B Martin', with a stylized, cursive script.

Jim Martin Ombudsman