

# **MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE SCOTTISH PUBLIC SERVICES  
OMBUDSMAN**

**AND**

**THE SCOTTISH SOCIAL SERVICES  
COUNCIL**

## **1. Introduction**

The purpose of this Memorandum is to set out the functions of the Scottish Public Services Ombudsman (SPSO) and the Scottish Social Services Council (SSSC) and to describe the arrangements for co-operation and communication between the two bodies in relation to handling complaints and the promotion of good administrative practice.

## **2. Functions of the Parties to this Memorandum**

### **2.1 SPSO**

The SPSO has the functions set out in the Scottish Public Services Ombudsman Act 2002 (the 2002 Act). 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 on the part of an authority within the SPSO's jurisdiction, providing that the matter complained about is one which 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). This list includes local authorities and the Scottish Social Services Council (SSSC).

The functions of the SPSO include raising awareness of its service and promoting good administrative practice by Scottish public services. The SPSO aims to work in partnership with public services across Scotland to help prevent complaints and to help public services improve their complaint handling processes.

### **2.2 The SSSC**

The SSSC is an Executive Agency of the Scottish Government, established by the Regulation of Care (Scotland) Act 2001 (the 2001 Act). Their role is to increase the protection of people who use social services, to raise standards of practice and to increase public confidence in the sector. SSSC has a duty to promote high standards in the conduct and practice of social service workers and in their education and training.

They are responsible for

- setting up registers of key groups of social service staff
- publishing Codes of Practice for social service workers and employers
- regulating the training and education of the workforce
- promoting education and training
- undertaking the Skills for Care and Development function (which is currently delegated to SSSC by the Scottish Government)

The SSSC has the statutory responsibility for ensuring that social service workers registered with it are (i) of good character and (ii) satisfy such requirements as to competence or conduct as it may by rules impose. The SSSC may:

- grant an application for registration conditionally or unconditionally;
- impose, remove or vary conditions on registration;
- remove an entry from the register;
- grant or refuse requests for variations of conditions;
- approve courses.

### **3. Requirements relating to Complaints**

#### **3.1 SPSO**

Section 22 of the 2002 Act (Information about right to make a complaint) requires a listed authority (which includes the SSSC and employers of social services workers in which the SSSC has an interest) to take reasonable steps to publicise the application and effect of the 2002 Act. This 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 the final response to a complainant who may be entitled to complain to the SPSO.

#### **3.2 The SSSC**

The SSSC publishes Codes of Practice from time to time laying down the standards of conduct and practice expected (i) of social service workers and (ii) of employers of social service workers. The SSSC has a duty to investigate allegations of misconduct against a registered social worker or registered social service worker or concerns about their fitness to practise, and if necessary remove them from the register.

### **4. Complaints about Listed Authorities**

In general, the SPSO considers individual complaints that have not been resolved through the complaints procedure of a listed authority. The SPSO cannot investigate complaints relating to personnel issues.

The SSSC will not normally intervene in complaints between an individual and a listed authority. However, if the SSSC is notified of a very serious allegation against a social services worker, it may carry out an initial investigation to determine whether it needs to take any action and will investigate allegations of improper conduct. Any concerns related to improper conduct by local authorities or social service employers may be raised with Audit Scotland, the Care Commission, the Social Work Inspection Agency or Social Care and Social Work Improvement Scotland, or any such future bodies which are created to carry out their functions.

### **5. Complaints about the SSSC**

The SSSC complaints procedure provides for complaints about the organisation to be made verbally or in writing. The complaints procedure can be accessed at <http://www.sssc.uk.com/About+Us/What+we+do/SSSC+Complaints+Procedure/SSSC+Complaints+Procedure.htm>

As an Executive Agency of the Scottish Government the SSSC is under SPSO jurisdiction. Therefore, the SPSO may investigate a complaint made by a member of the public that they have sustained injustice or hardship as a result of maladministration or service failure by or on behalf of the SSSC. The SPSO will not normally consider a complaint until the SSSC complaints process has been invoked and exhausted. If the SPSO, after considering a complaint about the SSSC, decides

not to conduct an investigation, it must send a statement of reasons to the SSSC (amongst others). After conducting an investigation of a complaint, the SPSO must send a report of the investigation to the SSSC (amongst others) and the report must be laid before the Scottish Parliament.

It has been agreed that the Chief Executive of the SSSC will be the liaison person for complaints received by the SPSO about the SSSC.

## **6. Consultation and Co-operation**

The SPSO and the SSSC agree that where the functions and actions of one body affect the functions and actions of the other, they will consult and co-operate 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 where this will inform and improve the work of each party.

Within available resources, the SPSO and the SSSC 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 methods of working of each.

## **7. Exchange of Information between the Parties**

The SSSC will advise the SPSO in writing or by email about any relevant information or changes to its functions or details. The SPSO will assist the SSSC, wherever possible, in discharging its function. However, legislative restrictions on both parties relating to confidentiality and disclosure of information put limits on the information that can be shared.

Where a public report from either SPSO or the SSSC is of mutual interest, the report will be shared and discussed with the other body.

## **8. Public Information and Information to Other Organisations**

Before issuing any guidance, publicity and information to the public or other organisations about complaints functions, each party will consider the extent to which it would assist the other 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.

## **9. Liaison Meetings and Monitoring/Review of this Memorandum**

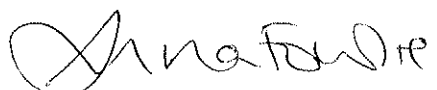
SPSO and the SSSC's representatives may meet as required to consider matters of mutual interest arising from their respective functions. SPSO and SSSC representatives will liaise as required to review the operation of this Memorandum of Understanding. Where problems in the operation of this Memorandum are identified by either party they will seek to resolve them quickly and informally. If this is not possible, the Ombudsman and the Chief Executive will take responsibility for achieving a mutually acceptable resolution. Their decision will be final.

Signatures to the Memorandum



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