



What to do if you have a complaint about the way your objection to a planning application has been handled

We provide a free, independent and impartial service for dealing with complaints about public services in Scotland. You may feel that an organisation has provided a poor service, delivered a service badly or failed to provide a service. If this has caused you hardship or injustice, we may be able to look into your complaint. We can normally only deal with complaints if you have already gone through the complaints procedure of the organisation that provided the service.

This leaflet tells you what you can do if you have a complaint about how your objection to a planning application has been handled. It also explains what we can and cannot do.

We strongly recommend that you read our leaflet along with the Scottish Government's 'Guide to the Planning System in Scotland'. The guide explains the particular words and terms used in planning, and provides helpful background information. There's information about where to get this on page four.

Information about planning

A planning authority is the organisation that can approve or turn down a planning application. In most cases, this is the local council. National Park authorities also have planning powers.

Planning laws in Scotland changed in 2009. This means that some practices have changed, for example:

- Planning officers, rather than a committee of the planning authority, now deal with a larger proportion of applications
- A new local review body of the authority deals with appeals against decisions made by planning officers on 'local development' applications (such as alterations to an individual house)
- The size and range of minor developments that do not need specific planning permission from the planning authority has increased. This is known as 'permitted development', and includes home extensions, private garages etc.

- The planning authority are now responsible for telling neighbours that a planning application has been made.

What can I do if I'm unhappy with a planning decision?

An objector to a planning application has no right to appeal against a decision that's been made. Your opportunity to influence the decision lies in the objections and representations that you make to the planning authority before the decision is taken.

What can I do if I have a problem with the service I've received?

If you are unhappy with the service you've received, rather than with the decision that was made, you should first report the problem to the planning authority. They will consider your concerns and they should try to deal with them.



SPSO freephone **0800 377 7330**

I reported the problem and am still unhappy. How do I complain?

You should normally complain to the planning authority if they have still not dealt with the matter after you reported it. This doesn't just mean telling staff about the problem. It means making a formal complaint telling the authority that they have not sorted it out. You should approach them direct and ask for details of their complaints procedure.

Please remember that planning authorities often have more than one stage in their complaints procedure. We usually expect you to have gone through all the stages before we will look at your complaint. This gives the authority the chance to try to put things right. If you're still unhappy after going through their complaints procedure, or if the time they're taking to look into your complaint is unreasonable, you can complain to us.

You have to see the planning process through to completion before complaining to us that something has gone wrong in it. We can't look at complaints about something that *may* happen.

You should normally make your complaint to us within twelve months of realising that you think the planning authority have done something wrong.

What we can look into

We can look into how planning authorities administer planning applications. They must make sure they keep to the Planning Acts and other legal regulations and take all relevant issues into account when they consider an application.

We can look at how they handled applications for new developments, and for changes in the way land and existing buildings are developed and used. We can also look at how they handled applications that cover listed buildings, control of advertisements and enforcement action. We can consider whether a planning authority's actions under these procedures were appropriate.

By law, planning authorities have to prepare development plans as a guide to future development. They must use these and Scottish Government planning policy documents to make their decisions. Planning authorities, however, make decisions on a wide range of planning

matters, not all of which are clearly covered by a development plan. They have the right to decide on all of these as they see fit. This is called 'exercising their discretion'. We cannot usually get involved in an authority's exercise of this discretion, and we cannot change their decision.

We can look at whether officers or a committee from a planning authority followed the right procedures when they made their decision. However, it's for the authority to judge how important each relevant point of the case is when they're making their decision. To do this they should follow their development plan, unless other factors that are 'material' to planning say otherwise. You can get more information about this in the 'Built Environment' area of the Scottish Government website at www.scotland.gov.uk.

Here are some examples of the main areas we may be able to look at:

- failure to publicly provide relevant information on planning applications
- incorrect or misleading information from planning officials
- failure to consider relevant objections to an application (this does not, however, mean the authority have to agree with those objections)
- incorrect or misleading information in a committee report
- not following a correct procedure when making a decision on an application, such as:
 - not taking the relevant development plan into account
 - not taking a 'material' planning consideration into account
 - a local review body not taking relevant information into account when making a decision
 - failing to take or to consider taking enforcement action against the developer where a development has no planning permission and needs it, or where a development is in breach of existing planning permission
- Handling the complaint poorly or inappropriately

We could also look at a complaint that the Scottish Government's Directorate of Planning and Environmental Appeals (DPEA) didn't act properly, or didn't deliver a service properly. This would be relevant where a planning decision was appealed to them and where, if they failed to act properly, this caused you hardship or injustice. But it's important for you to remember that we can't question a decision the DPEA made unless we have evidence that something has gone wrong in the way they took it; and that we can't change their decision.

You should also note that we:

- have no power to change the decision of a planning authority or appeal organisation (only action in the Court of Session can legally reject a decision and force the planning authority to reconsider)
- cannot question a planning authority's decision if there is no evidence that something has gone wrong in the process
- cannot deal with the behaviour of individual councillors in planning matters, as this is usually a matter for the Public Standards Commissioner (their contact details are on page four)
- cannot look at complaints if you have taken, or are taking, legal action about them
- consider that issues of 'privacy and private amenity' are generally not material planning considerations. Authorities may, however, have guidelines that they consider with other factors for the benefit of the 'residential amenity of the wider area'.

And we can't have a member of staff sacked or disciplined.

We understand that this can be complicated so please call us if you want to ask whether your complaint is one that we're likely to be able to look at. A complaints reviewer is always available to talk to you when the office is open. Our opening hours and contact details are at the end of this leaflet.

How we put things right

If we find that something's gone wrong, then as well as putting things right for you we want to try and stop the same thing happening to someone else. That's why some of our decisions and reports also have recommendations. These may include recommending that the planning authority apologise or change their procedures. We may ask them to return the situation to what it would have been if they'd acted correctly in the first place. We will look carefully to see what happened and how you have been affected. Our complaints reviewer will check that the authority carry out our recommendations.

We also make some of our investigations public. We do this to share what we have learnt from complaints and to help improve how public services are delivered in Scotland.

How to complain to SPSO

- Write to us and tell us what happened. It's best to use our complaint form if possible. You can find this on our website at www.spsso.org.uk where you can fill it in online or print it off to complete. Or phone our freephone helpline number **0800 377 7330** and we will send you one.
- Tell us what went wrong, and what you would like to happen to get things put right.
- Send us copies of the main paperwork about your complaint. Please make sure you include the final response you received from the organisation after you complained. It also helps if you send us your original letter of complaint to them.

Can someone else make a complaint for me?

Yes, if you give them written permission. Phone us on **0800 377 7330** and ask for a consent form. You can get help from your local Citizens Advice Bureau, where an adviser can help you fill in a complaint form or complain for you. Your Member of the Scottish Parliament (MSP), councillor, Member of Parliament (MP), or a friend or relative may also be able to help.

More help and advice

Scottish Government

The 'Built Environment' section of the Scottish Government website contains helpful planning information. They provide a useful 'Guide to the Planning System' at

www.gov.scot/publications/guide-planning-system-scotland/pages/1

Website: **www.scotland.gov.uk**

Directorate of Planning and Environmental Appeals (DPEA)

Telephone: **0300 244 6668**

Website: **www.dpea.scotland.gov.uk**

Planning Aid for Scotland

Planning Aid for Scotland is a voluntary organisation that can provide free and independent advice, information, support and training on planning and environmental issues to members of the public and community organisations. They do not, however, make representations to planning authorities about individual cases. Telephone: **0131 220 9730**

Email: **office@pas.org.uk**

Website: **www.pas.org.uk**

Royal Town Planning Institute in Scotland (RTPI)

RTPI is the professional organisation of town planners. Its members are local authority planners and private consultancy planners. If you need a consultant to make representations for you, they can advise you about finding one.

Website: **www.rtpi.org.uk/the-rtpi-near-you/rtpi-scotland**

Public Standards Commissioner

The Public Standards Commissioner is responsible for investigating complaints about councillors, members of devolved public bodies and members of the Scottish Parliament (MSPs) who are alleged to have contravened their code of conduct.

Telephone: **0300 011 0550**

Email: **investigations@ethicalstandards.org.uk**

Website: **www.publicstandardscommissioner.org.uk**

Law Society of Scotland

You may also wish to seek advice about whether there is a legal route for your concerns.

The Law Society of Scotland may be able to help you find a solicitor.

Telephone: **0131 226 7411**

Website: **www.lawscot.org.uk**

We can give you this leaflet in other languages and formats (such as large print or Braille) if you ask.

Contacting us

If you're not sure whether we can look at your complaint, please contact us. You can also call us if you're not sure whether you have gone through the complaints procedure of the organisation you are unhappy with. If appropriate, we'll guide you through that.

We're happy to talk to you. One of our complaints reviewers is always available to discuss your complaint with you.

You can contact us by phone, in writing or by visiting our office. You don't need to make an appointment.

Our address is:

SPSO

**Bridgeside House
99 McDonald Road
Edinburgh
EH7 4NS**

Our Freepost address

is:

FREEPOST SPSO

Opening hours:

**Monday, Wednesday, Thursday,
Friday 9am – 5pm, Tuesday 10am – 5pm**

Freephone:

0800 377 7330

Website:

www.spsso.org.uk

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