

Mr Colin McConnell
Chief Executive
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EH12 9HW

8 November 2013

Dear Mr McConnell

Annual letter 2012/13

This year, for the first time, we are publishing sectoral complaints reports. A copy of the prisons report is enclosed with this letter, and I am also providing some further statistics about complaints to SPSO about SPS in 2012/13.

Like the other sectoral reports we have published, the prisons report contains:

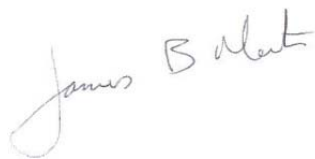
- key complaints figures
- issues and themes arising from the complaints we see
- how we share learning and support organisations to improve complaints handling.

I draw particular attention to two areas relating to complaints handling: concerns about the relatively low numbers of complaints we receive from women prisoners and concerns (already raised in our report published in September about the NHS) about difficulties experienced by prisoners in accessing the NHS complaints process.

The complaints statistics that we enclose should form part of a much more detailed and responsive picture of complaints that your organisation publishes. I anticipate that the statistics we make available here will be useful in helping you demonstrate how you value complaints and use them to drive improvement.

I look forward to continuing to work with you to improve the quality of complaints handling in Scotland.

Yours sincerely



Jim Martin
Ombudsman

In light of feedback received last year, we have expanded our explanations and answered some frequently asked questions. If you have any further queries, please contact our Casework Knowledge Manager, Annie Shanahan, at ashanahan@spsso.org.uk, or by calling 0131 240 8843.

Statistics

The following tables show the complaints we handled about your organisation in 2012/13. **Table 1** shows complaints **received** by main subject area, both about your organisation and overall in your sector, for the past two years. **Table 2** shows the **outcomes** of the complaints we handled about your organisation for the same period. It also highlights the rate of premature and fully/partly upheld complaints and overall rates for your sector over the past two years.

As a result of last year's feedback, we have amended the table showing complaints received. For 2012/13, these are shown ranked from the most received to the least. For comparison, we have added each subject's ranking in 2011/12 to that year's table.

Subjects of complaint and outcomes

The feedback included a number of questions about comparing tables 1 and 2, and we want to make it clear that they provide statistics for two quite different stages of our work. **Table 1** describes the subjects about which we **received** complaints between 1 April 2012 and 30 March 2013, while **Table 2** shows information about the **outcomes** of the complaints that we handled over the same period. The two figures are unlikely to tally, especially where complaints numbers are relatively large. This is because at the end of each business year we are still working on some of the complaints received during that year.

Frequently asked questions

What are complaints that are 'fit for SPSO'?

These are complaints that were valid for us to investigate. This normally means that they have gone through the complaints process of your organisation, and are about something that the law allows us to look at.

What does 'determined' mean?

Determined complaints are those that we have looked at and for which we have closed our file. We will either have given the person a decision by letter or public report, or told them that we can't investigate their complaint.

What are 'upheld' complaints?

Upheld and partly upheld complaints are ones where we investigated, and found that something had gone wrong. In all cases, the complaint was fit for SPSO, and we gave a decision at the Early Resolution (ER2) or Investigation (INV1 or 2) stages of our process. (ER2 and INV1 cases are investigations that end with us sending a decision letter to you and to the complainant). In the majority of these cases we also publish a short summary of the complaint and its outcome on our website. INV 2 are cases that meet our public interest criteria and are published in full.)

How do you define a premature complaint?

It's a complaint that's been sent to us too early - i.e. before it has completed your complaints process.

Would you ever take a complaint before it completes our process?

Yes, but only where we think the circumstances are appropriate. The most likely examples would be where we conclude that you have delayed unreasonably in responding, or where the person who's complained appears to be particularly vulnerable. But this only happens in a very small number of cases. We normally expect people to complete your complaints process to allow you to respond to the matters raised, and we will normally tell them to contact you if they haven't.

I don't seem to know about all of the complaints that you've counted as premature. Why?

There are several possible reasons. We don't write to you about all the premature cases we receive (see the next question for more information about this). When we refer someone back to the complaints process, you may resolve the matter to the person's satisfaction without necessarily knowing that it came to us first.

Alternatively, the person may, after we've told them they need to go through your process, decide not to take it further. People often bring us issues that are premature, but that are also outwith our jurisdiction, or where they're asking for an outcome that we can't achieve. When we reply, we'll tell them that we're not looking at it because it's premature, but we also explain that even if they go back through your process, it's unlikely we'd take the complaint up because of the other issue. For example, if they're asking us to change a planning decision or if it's a personnel-related matter we'd explain that we couldn't do that at all, whether or not they went through your process. It's then for the complainant to decide what to do next.

When do you tell us about premature complaints?

We determine many of these very quickly (within one or two days of receiving them). This normally happens where the complaint has clearly come to us too early and there's little or no information with it. We record these on our computer system, but don't open a file. In most cases we simply return the letter explaining that they've sent us the complaint too soon and that they need to complain to you. We don't normally tell you about these, and we usually have only minimal information about the complaint ourselves.

In cases where the person has sent us information, but the complainant doesn't appear to have completed your complaints process, we'll open a paper file. We'd normally then write to you explaining that the matter has come to us too soon, and we've told the person to take the complaint back to you. We then close our file, which we can reopen if the person completes your process and brings the complaint back to us.

Can you provide a more detailed breakdown of the premature complaints received for my organisation?

We can provide numbers and general categories of complaints received prematurely. These are broken down into two areas – complaints that do not appear to have been made to you at all, and those that have started but not completed your process. (We don't record which point in your process they've reached – usually we don't know this.) We can usually identify the department and the subject matter involved, but at this early stage categorisation may not be accurate because of the lack of detailed information.

The categories of complaints on your letter don't match those in our records - does this mean that our statistics are wrong?

We have our own method of categorising the complaints we receive, which is not based on those of any particular organisation. If you would like an explanation of a particular category, please contact us.

Scottish Prison Service Complaints Received

Subject Group	2012-13	rank
Security, Control and Progression	59	1
Privileges and Prisoners Property	51	2
Communication and Records	38	3
Work, Education, Earnings and Recreation	25	4
Health, Welfare and Religion	22	5
Leave from Prison (Including Home Detention Leave)	21	6=
Physical and Personal Environment	21	6=
Discipline	11	8
Admission, Transfers and Discharge	9	9
Out Of Jurisdiction	6	-
Subject Unknown	55	-
Total	318	

Subject Group	2011-12	rank
Security, Control and Progression	65	1
Privileges and Prisoners Property	51	2
Communication and Records	45	3=
Health, Welfare and Religion	45	3=
Physical and Personal Environment	25	5
Work, Education, Earnings and Recreation	23	6
Leave from Prison (Including Home Detention Leave)	22	7
Admission, Transfers and Discharge	18	8=
Discipline	18	8=
Supervision Levels	2	10
General Enquiry	1	-
Subject Unknown or Out Of Jurisdiction	70	-
Total	385	

Scottish Prison Service Complaints Determined

Stage	Outcome Group	2012-13	2011-12
Advice	Matter out of jurisdiction (discretionary)	1	4
	Matter out of jurisdiction (non-discretionary)	10	26
	No decision reached	67	74
	Outcome not achievable	3	4
	Premature	46	54
	Total	127	162
Early Resolution 1	Matter out of jurisdiction (discretionary)	4	5
	Matter out of jurisdiction (non-discretionary)	25	14
	No decision reached	29	44
	Outcome not achievable	5	13
	Premature	16	25
	Total	79	101
Early Resolution 2	Fully Upheld	12	9
	Partly Upheld	10	8
	Not upheld	72	88
	No decision reached	2	4
	Total	96	109
Investigation 1	Fully Upheld	3	0
	Partly Upheld	3	2
	Not upheld	6	13
	No decision reached	3	1
	Total	15	16
Investigation 2	Fully Upheld	2	0
	Partly Upheld	0	1
	Not Upheld	0	0
	No decision reached	0	0
	Total	2	1
Total Complaints		319	389

Total Premature Complaints	62	79
Premature Rate	19.4%	20.3%
Fit for SPSO Total (ER2, Inv 1 & 2)	113	126
Total uphold/partly upholds	30	20
Uphold Rate	26.5%	15.9%