

**SCOTTISH
PUBLIC
SERVICES
OMBUDSMAN**



People Centred | Improvement Focused

Support and Intervention Policy

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Procedure in force from April 2019
To be reviewed by April 2020

Statutory framework and definitions

- 1 This policy sets out how and when we will offer support and/or take intervention action in relation to an organisation under our jurisdiction, in order to fulfil our statutory functions under the following legislation:
 - 1.1 SPSO Act 2002 s12–14 (investigation procedures, including powers to obtain information and documents)
 - 1.2 Welfare Funds (Scotland) Act 2015 s8–10 (SPSO powers to review Scottish Welfare Fund decisions, including obtaining information and documents)
 - 1.3 SPSO Act s16A–16G (compliance monitoring and promotion of best practice in complaints handling)
 - 1.4 SPSO Act s16–17 (powers to lay reports with respect to the Ombudsman’s functions, including special reports where an injustice or hardship has not been remedied following an Ombudsman report and other reports).

- 2 We anticipate the SPSO Act will be updated with new powers to review NHS whistleblowing concerns, which are expected to come into operation in 2020. Following implementation of the National Whistleblowing Standards, we will use this policy to guide how we engage with NHS services in relation to their whistleblowing procedures.

Guiding principles

- 3 This policy is rooted in, and will be applied, in line with our vision and values:

Our Vision:

To be a world-leading, innovative, accessible and trusted organisation that promotes best practice, learning and improvement.

Our Values:

- We work independently and fairly.
- We are people-focused and value integrity and respect.
- We value learning and improvement.

What **is** a support or intervention action?

- 4 A support or intervention action is action taken by SPSO to encourage good practice or address poor performance by an organisation under our jurisdiction in relation to:
- 4.1 the organisation's complaint handling (including learning from complaints)
 - 4.2 the organisation's handling of Scottish Welfare Fund (SWF) reviews, or
 - 4.3 the organisation's engagement with SPSO investigations/reviews¹.

Where casework prompts additional action outside the routine progress of a case (such as following up overdue enquiries or recommendations, or sending a complaint back to the organisation for further investigation), this would come under the policy. A useful question to ask is whether a lapse in good practice or non-compliance by an organisation has prompted additional action and/or resources from SPSO. If so, the action taken is likely to be covered by the policy.

What **is not** a support or intervention action?

- 5 Activity undertaken as part of the **normal progress of casework** under our complaint investigation and SWF functions is not a support or intervention action (for example, making enquiries and recommendations or findings).
- 6 Advice or support provided at an **organisation's request** is not a support or intervention action (for example, requests for tools, generic advice on complaints handling and associated activities or for a visit to the SPSO). Organisations are encouraged to contact SPSO for advice and support, and often informal support can be arranged. Such action will not be taken into account in determining whether to escalate issues under this policy (except potentially as a mitigating factor).

¹ Including complaint and SWF cases.

Principles

- 7 The implementation of this policy will be guided by the following principles:
 - 7.1 We will use data and intelligence from all areas of the SPSO, including casework, Complaints Standards Authority and learning and improvement activity to promote best practice in complaint handling and handling of SWF reviews.
 - 7.2 We will use our legislative powers proactively to minimise delays, other injustice to members of the public, and raise awareness of, or address, issues in the wider public interest.
 - 7.3 We are committed to supporting organisations to address issues proactively, and encourage organisations to contact us to seek support or advice when required.
 - 7.4 We will engage openly and constructively with organisations to address any issues in a supportive and helpful way.
 - 7.5 Organisations will be notified of any issues as early as possible and given a fair opportunity to resolve these themselves.
 - 7.6 When notifying an organisation of an issue, SPSO will aim to provide good practice examples or practical suggestions for improvement.
 - 7.7 When seeking to resolve an issue, we will communicate in the way most appropriate to the issue. This will include by letter and direct (phone or face-to-face) contact (followed up in writing). SPSO will, as far as possible, take the organisation's preferred method of contact into account.
 - 7.8 We will acknowledge good practice by organisations, and take this into account when making decisions under this policy.



When will SPSO take support or intervention action?

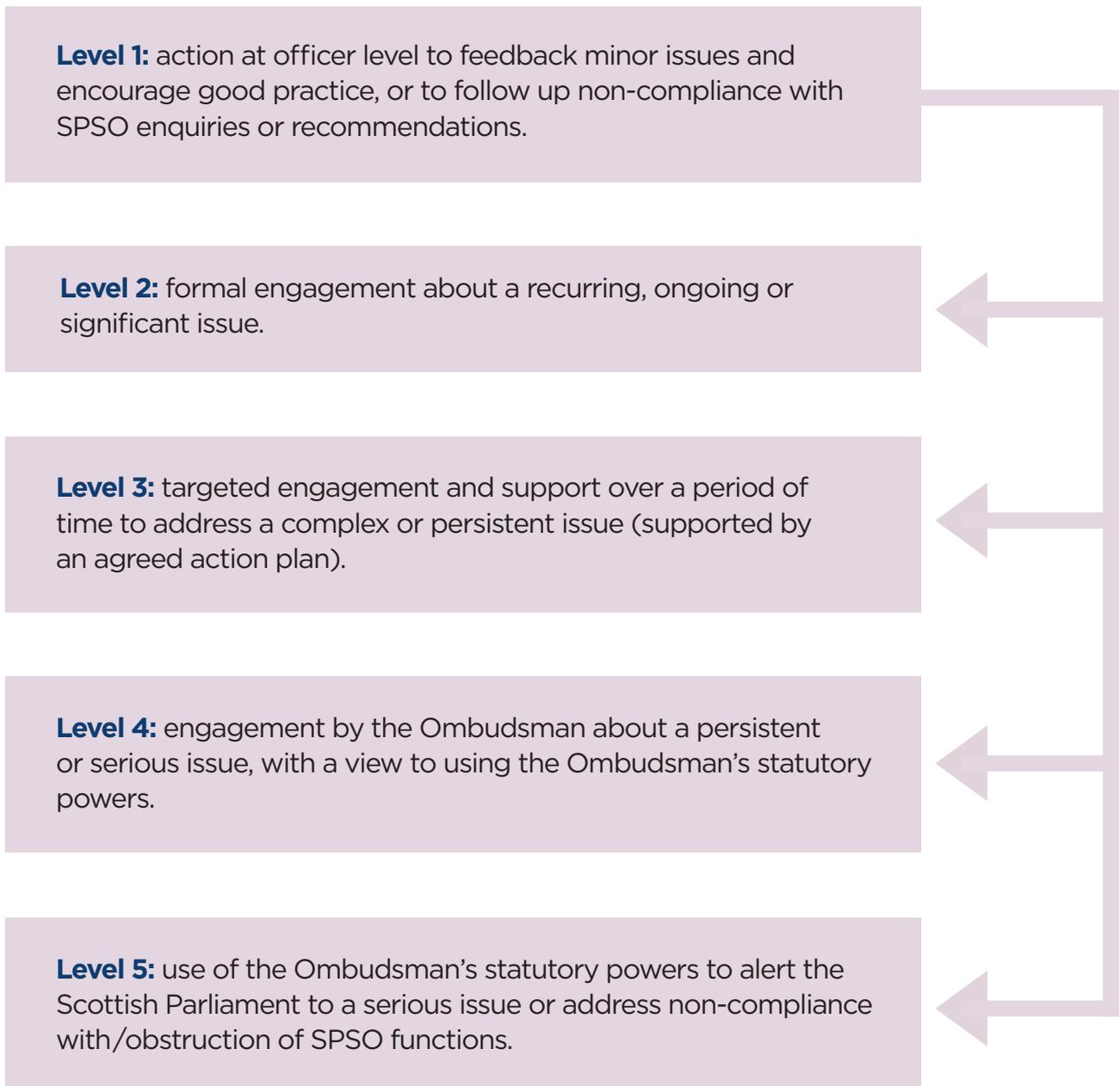
- 8 SPSO will take action under this policy when we identify one-off or recurrent issues with complaint handling (including learning from complaints); handling of SWF reviews; or engagement with us. Examples of the kind of issues which might prompt action are below:

Area	Issues which may prompt support or intervention action
Complaint handling	<p>Non-compliance with the Model Complaints Handling Procedure (CHP). This might include, for example, identification of poor quality communication or failure to signpost to the SPSO.</p> <p>Not meeting good practice standards as reflected in SPSO guidance, for example, our Apology Guidance.²</p> <p>Evidence of poor local complaint handling, for example, an abnormally high proportion of complaints to SPSO are upheld, compared to the sector.</p> <p>Evidence of a lack of learning from complaints, for example, a recurrent theme or trend in complaints upheld by SPSO.</p>
Handling of SWF reviews	<p>Non-compliance or not meeting good practice, as set out in the Scottish Government’s SWF Statutory Guidance. This might include, for example, recurrent concerns noted about accessibility of the service, identification of poor quality communication, or failure to signpost to the SPSO.</p> <p>Evidence of poor review handling, for example, an abnormally high proportion of reviews to SPSO are upheld, compared to the sector.</p> <p>Evidence of a lack of learning from reviews, for example, a recurrent theme or trend in reviews upheld by SPSO.</p>
Engagement with SPSO	<p>Failure to adequately respond to an enquiry or recommendation (or seek an extension) by the deadline.</p> <p>Response to an enquiry is incomplete/relevant information is not shared.</p> <p>Response to an enquiry or recommendation is not open, transparent or proportionate and does not demonstrate a clear willingness to learn from complaints.</p>

² While SPSO guidance is not binding (and organisations’ local guidance may differ in some respects), we would expect compliance with the overall standards of complaints handling good practice we publish. This is consistent with s16G of the SPSO Act, which requires us to monitor practice and promote best practice in complaints handling, and requires listed authorities to cooperate with the SPSO in the exercise of this function.

Levels of support and intervention

- 9 We will take a risk-based, proportionate approach to support or intervention action, with an emphasis on early and informal engagement to resolve issues as soon as they arise and a clear escalation process where issues are not resolved. The action we may take falls into five levels:



- 10 Issues will normally be addressed through Level 1 action in the first instance, with escalation to a higher level only where the issue remains unresolved or the organisation does not engage with SPSO's attempts to resolve the issue. In determining whether to escalate an issue, SPSO will have regard to the seriousness of the issue, the past performance of the organisation and any mitigating factors (including previous good practice and/or any additional pressures the organisation is currently facing).
- 11 Level 2 or 3 action may be taken as a first step where the issue is significant or has potential for wider impact, so as to merit early engagement at management level (for example, a refusal to comply with the Model CHP or evidence of systemic complaint handling failures in more than one area).
- 12 Level 4 or 5 action will not be taken as a first step unless there is a serious failure, with:
 - 12.1 evidence of intentional non-compliance with national guidance or policy; or
 - 12.2 a significant risk of harm to an individual/s.³

Evidence

- 13 We routinely record any concerns noted as part of our day-to-day complaint and SWF casework. We regularly report on this intelligence, together with themes and trends from our casework data, to a monthly casework performance meeting and weekly or quarterly leadership team meetings.
- 14 Actions taken under this policy will normally be prompted by issues arising on individual cases⁴ (for Level 1 action) or analysis of recurring issues in our casework data and intelligence (for higher level action). We may also draw on data shared through sectoral complaint handling networks, organisations' published complaints handling data, and monitoring of information in the public domain.
- 15 When taking action under this policy, we will clearly identify the evidence base for any issues identified.

³ Significant one-off issues identified through a complaint investigation would normally be addressed through the investigation report process, and not under this policy.

⁴ Including complaint investigations, SWF reviews or whistleblowing cases.

Types of support and intervention action

- 16** Examples of support and intervention actions we may take include (but are not limited to):
 - 16.1** simple feedback (notifying an organisation about an issue we have identified)
 - 16.2** subject-matter assistance in drafting improvements to a complaint handling procedure or process
 - 16.3** subject-matter assistance in developing tools for complaint handling or SWF staff
 - 16.4** SPSO audit of an organisation's complaint responses
 - 16.5** sharing data/intelligence on a recurrent theme in our complaints, to assist the organisation in designing an improvement plan
 - 16.6** frontline staff meetings with SPSO to discuss issues and share good practice
 - 16.7** visits or short-term secondments or shadowing arrangements
 - 16.8** requiring the production of documents or attendance of witnesses needed for an investigation (under s13 of the SPSO Act)
 - 16.9** petitioning the Court of Session in relation to an obstruction of the Ombudsman's functions (under s14 of the SPSO Act)
 - 16.10** laying a report before the Scottish Parliament under s16 or 17 of the SPSO Act.
- 17** Further examples of action we may take in particular situations are included in our Support & Intervention guidance for public bodies.

Reporting

- 18 SPSO will report internally on level 1 action (and this intelligence will help to inform decisions to take higher level action under this policy).
- 19 SPSO may report externally, either in our Annual Report, or by publishing reports laid before Parliament, on:
 - 19.1 the number and types of level 1 and 2 action taken under this policy
 - 19.2 details of any level 3–5 action taken under this policy. This may include good practice examples of an organisation working with SPSO to make significant improvements in complaint handling or SWF processes.
- 20 SPSO may publish ad hoc reports from time to time on action taken under this policy.



How to contact the SPSO



Scottish Public Services Ombudsman
Bridgeside House
99 McDonald Road
Edinburgh EH7 4NS



Freepost SPSO
(this is all you need to write on the envelope,
and you don't need to use a stamp)



Tel **0131 240 8849**
Freephone **0800 377 7330**



Websites
www.spsso.org.uk
www.valuingcomplaints.org.uk

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