

**SCOTTISH
PUBLIC
SERVICES
OMBUDSMAN**

People Centred | Improvement Focused



**INDEPENDENT
NATIONAL
WHISTLEBLOWING
OFFICER**

People Centred | Improvement Focused



Support and Intervention Policy

Procedure in force from April 2019
Reviewed and updated June 2021
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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:
2. SPSO Act 2002 ss12-14 (investigation procedures, including powers to obtain information and documents)
3. Welfare Funds (Scotland) Act 2015 ss8-10 (SPSO powers to review Scottish Welfare Fund decisions, including obtaining information and documents)
4. SPSO Act ss16A-16G (compliance monitoring and promotion of best practice in complaints handling)
5. SPSO Act ss16-17 (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)
6. The Public Services Reform (The Scottish Public Services Ombudsman) (Healthcare Whistleblowing) Order 2020.

Guiding principles

7. This policy is rooted in, and will be applied, in line with our vision and values¹:

Our vision

8. The Scottish Public Services Ombudsman contributes actively and positively to high performing Scottish public services. Recognised for our innovative world-leading approach, we put people and learning at the heart of all we do.

Our values

9. We will be driven by our values
 - Independent
 - People centred
 - Learn and improve
 - Fair

¹ <https://www.spsso.org.uk/about-us>

What is a support or intervention action?

10. 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:
- 10.1 the organisation's public sector complaint handling, including learning from complaints;
 - 10.2 the organisation's handling of Scottish Welfare Fund (SWF) reviews;
 - 10.3 the organisation's engagement with SPSO investigations/ reviews;
 - 10.4 the organisation's handling of whistleblowing concerns relevant to the Independent National Whistleblowing Officer (INWO); or
 - 10.5 Where casework prompts additional action outside the routine progress of a case (such as following up overdue enquiries or recommendations, sending a complaint back to the organisation for further investigation or repeated failures to follow Scottish Government Guidance), 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?

11. The following are **not** support and intervention actions
- 11.1 Activity undertaken as part of the normal progress of casework under our public sector complaint handling, INWO and SWF functions is not a support or intervention action (for example, making enquiries and recommendations or findings).
 - 11.2 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 or whistleblowing concerns 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).

Principles

12. The implementation of this policy will be guided by the following principles:

- 12.1 We will use data and intelligence from all areas of the SPSO, including casework, complaint standards monitoring and learning and improvement activity to promote best practice in complaint handling, whistleblowing concern handling and handling of SWF reviews.
- 12.2 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.
- 12.3 We are committed to supporting organisations to address issues proactively, and encourage organisations to contact us to seek support or advice when required.
- 12.4 We will engage openly and constructively with organisations to address any issues in a supportive and helpful way.
- 12.5 Organisations will be notified of any issues as early as possible and given a fair opportunity to resolve these themselves.
- 12.6 When notifying an organisation of an issue, SPSO will aim to provide good practice examples or practical suggestions for improvement.
- 12.7 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.
- 12.8 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?

13. SPSO will take action under this policy when we identify one-off or recurrent issues with public sector complaint handling (including learning from complaints); whistleblowing concern handling; 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
Public sector complaint handling	<ul style="list-style-type: none"> Non-compliance with the Model Complaints Handling Procedure (MCHP). This might include, for example not keeping the complainant up to date where the response timescales are extended, or failure to signpost to the SPSO. Not meeting good practice standards as reflected in SPSO guidance, for example, our Apology Guidance.² Evidence of recurrent poor local complaint handling, for example, unreasonable delays or an abnormally high proportion of complaints to SPSO about one organisation are upheld, compared to the sector average. Evidence of a lack of learning from complaints, for example, a recurrent theme or trend in complaints upheld by SPSO.
Whistleblowing concern handling	<ul style="list-style-type: none"> Non-compliance with the National Whistleblowing Standards. This might include, for example, not keeping the whistleblower up to date where the timelines for responding to a concern are extended, or failure to signpost to the INWO. Evidence of barriers to people accessing the whistleblowing procedure within an organisation, as indicated by a relatively high volume of premature or anonymous concerns being raised with the INWO from that organisation. Evidence of systemic issues with the support and protection provided to whistleblowers. For example, recurrent failure to assess support needs, or maintain appropriate confidentiality. Evidence of poor local handling of whistleblowing concerns for example, an abnormally high proportion of concerns raised with INWO about one organisation are upheld, compared to the sector average.
Handling of SWF reviews	<ul style="list-style-type: none"> 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. Evidence of recurrent poor review handling, for example, an abnormally high proportion of reviews to SPSO are upheld, compared to the sector. Evidence of a lack of learning from reviews, for example, a recurrent theme or trend in reviews upheld by SPSO.
Engagement with SPSO	<ul style="list-style-type: none"> Failure to adequately respond to an enquiry, a request for information, an instruction to fulfil an SWF award or recommendation (or seek an extension) by the deadline. Response to an enquiry is incomplete/relevant information is not shared. Response to an enquiry or recommendation is not open, transparent or proportionate and does not demonstrate a clear willingness to learn from complaints.

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

14. 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 six levels:

Level 1: informal action at officer level to feedback minor issues and encourage good practice, or to follow up non-compliance with enquiries, findings or recommendations.

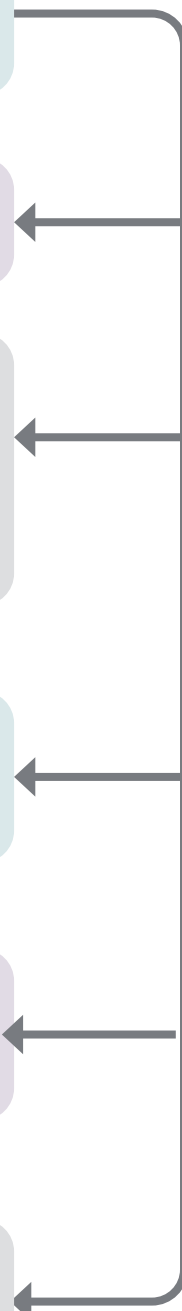
Level 2: contact from our office at team manager level to seek to resolve the issue.

Level 3: formal action by the Head of Public Service Complaints or the Head of Independent National Whistleblowing Officer and Scottish Welfare Fund about a recurring, ongoing or significant issue. This will usually be in writing to the person with senior management/governance responsibility for the issues identified.

Level 4: formal action about a recurring, ongoing or significant issue by the Head of Improvement, Standards and Engagement after consideration of the issue by the SPSO Leadership Team.

Level 5: engagement by the Ombudsman about a persistent or serious issue, with a view to using the Ombudsman's statutory powers.

Level 6: use of the Ombudsman's statutory powers to alert the Scottish Parliament to a serious issue or address non-compliance with/obstruction of SPSO functions.



15. 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.
16. 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).
17. 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 MCHP/National Whistleblowing Standards, evidence of systemic failure to comply with Scottish Government guidance or evidence of systemic complaint/whistleblowing concern handling failures in more than one area).
18. Level 5 or 6 action will not be taken as a first step unless there is a serious failure, with:
 - 18.1 evidence of intentional non-compliance with national guidance or policy; or
 - 18.2 a significant risk of harm to an individual/s.³

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

Evidence

19. We routinely record any concerns noted as part of our day-to-day public sector complaints, INWO and SWF casework. We regularly report on this intelligence, together with themes and trends from our casework data, to a quarterly casework performance meeting and weekly or quarterly leadership team meetings.
20. 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 and whistleblowing concerns handling data, and monitoring of information in the public domain.
21. When taking action under this policy, we will clearly identify the evidence base for any issues identified.

⁴ Including complaint investigations, SWF reviews or whistleblowing cases.

Types of support and intervention action

22. Examples of support and intervention actions we may take include (but are not limited to):

22.1 simple feedback (notifying an organisation about an issue we have identified)

22.2 subject-matter assistance in drafting improvements to a complaint/concern handling procedure or process

22.3 subject-matter assistance in developing tools for complaint handling, whistleblowing concern handling or SWF staff

22.4 SPSO audit of an organisation's complaint responses

22.5 sharing data/intelligence on a recurrent theme in our complaints, to assist the organisation in designing an improvement plan

22.6 frontline staff meetings with SPSO/INWO to discuss issues and share good practice

22.7 visits or short-term secondments or shadowing arrangements

22.8 requiring the production of documents or attendance of witnesses needed for an investigation (under s13 of the SPSO Act)

22.9 petitioning the Court of Session in relation to an obstruction of the Ombudsman's functions (under s14 of the SPSO Act)

22.10 laying a report before the Scottish Parliament under s16 or 17 of the SPSO Act.

23. Further examples of action we may take in particular situations are included in our [Support & Intervention guidance for public bodies](#).

Reporting

24.SPSO will monitor at team level all level 1 and level 2 actions (and this intelligence will help to inform decisions to take higher level action under this policy).

25.SPSO reports externally in our Annual Report, and may also publish reports laid before Parliament, on details of any level 3-6 action taken under this policy. The information we normally include is the organisation involved, the level and type of support and intervention action taken, the reason why we took action and, where appropriate, why the matter was escalated. This information may also include good practice examples of an

organisation working with SPSO to make significant improvements in public sector complaint handling, whistleblowing concern handling or SWF processes.

26.SPSO may publish ad hoc reports from time to time on action taken under this policy.



How to contact us



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

If writing to us, please specify on the envelope if it is for the attention of SPSO, SWF or INWO.

Opening hours: Monday, Wednesday, Thursday, Friday 9am-5pm,
Tuesday 10am-5pm



A freepost envelope can be supplied if this is required.



SPSO freephone	0800 377 7330
SWF freephone	0800 014 7299
INWO freephone	0800 008 6112



SPSO website	www.spsso.org.uk
SWF website	www.spsso.org.uk/scottishwelfarefund
INWO website	www.inwo.spsso.org.uk
SPSO contact form	www.spsso.org.uk/contact-form
SWF contact form	www.spsso.org.uk/scottishwelfarefund/contact-form
INWO contact form	www.inwo.spsso.org.uk/contact-form

Calls to and from SPSO phone lines may be recorded to check the quality of our service and help us do our job to help you. More details are in the privacy notice: **www.spsso.org.uk/privacy-notice**. Please ask if you want to confirm if a call is or is not being recorded or if you would like to know what options may be available to you if you do not wish to be recorded.

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