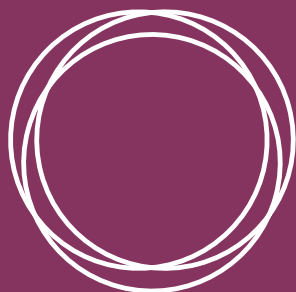
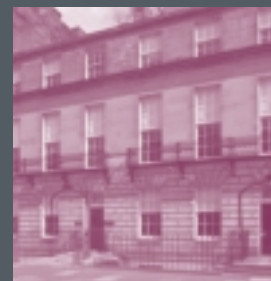
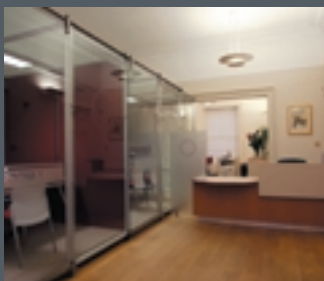
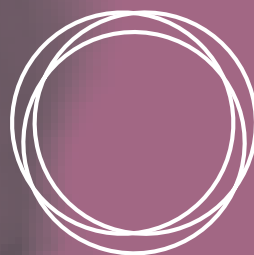


access

Annual Report 2003–2004



SCOTTISH
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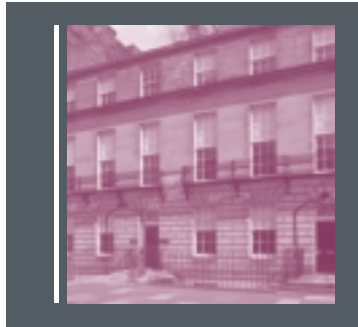


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The Scottish
Public Services
Ombudsman
provides an open
accountable and
accessible
complaints system



a welcome from



SCOTTISH
PUBLIC
SERVICES
OMBUDSMAN

the Ombudsman

Access for all

This Annual Report covers the first full year of operation of the office of the Scottish Public Services Ombudsman. It has been an exciting and eventful year marked by our move to new premises in November 2003 and the employment of new staff from January 2004. We have also implemented our new complaints handling process supported by a newly designed IT system and by a whole new staffing structure. In other words it has been a time of substantial change as we continue to develop the service in line with the aspirations that informed our founding legislation.

Our first Annual Report, published last year after just six months of our existence, outlined the initial steps we had taken to merge the offices of the former public service Ombudsmen in Scotland. While that report concentrated on what we had done to prepare the way to **OPEN** the new combined service, this report highlights our aim to improve **ACCESS** to our service for all members of society.

This theme is drawn from the key principles that inform the work of the office;

to be open, accountable and accessible in providing the service

to be independent, free and fair in responding to complaints

to raise awareness of our service and promote good practice by Scottish public services.

Our aim is to build and deliver a modern complaints handling process that meets these principles and the needs of those who use our service.

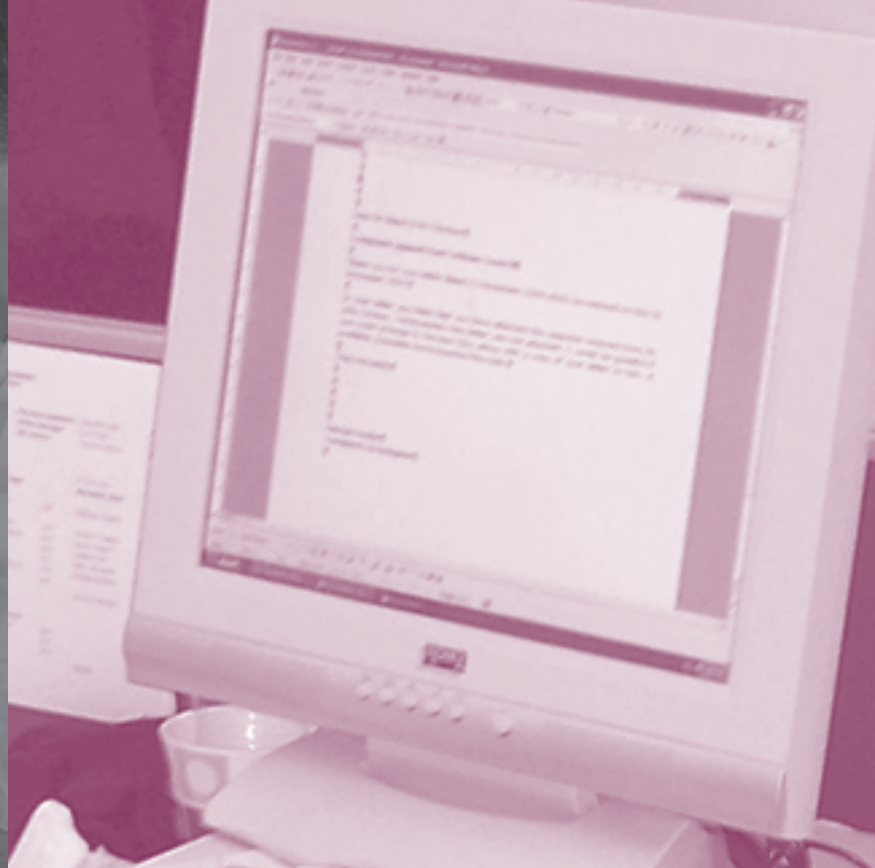
It is worth recording that Scotland has led the way in Britain in creating a 'one-stop-shop' for handling complaints about public services. Our work covers the extensive range of services delivered by providers of health, social care, and housing as well as all of the services delivered by local government and the enterprise networks. Having one office that can deal with all of these areas and the joint delivery of services through Joint Futures and Community Planning, is a big step forward in simplifying what is a complex arena for members of the public. By reducing the confusion and enhancing understanding of our role it will be possible to provide improved access for people who experience problems in the delivery of public services.

In setting our objective of improving access we have tried to address the barriers that often deter people from complaining about public services or frustrate them if they do complain. In meeting this objective an important aspect of our work is to provide advice and guidance to the different bodies who deliver public services across Scotland. We want to help reduce the possibility of problems occurring and ensure good handling of complaints when things do go wrong. This implies a more proactive role for us in working with bodies under our jurisdiction.

One barrier which prevents people complaining is a common perception that it will do no good or, worse, that someone who complains will be penalised in their future dealings with a public body. Research evidence shows that people form their trust and confidence in public services from their direct experience of the way they are treated by those who deliver services. They are also influenced by the way staff respond when things do go wrong and whether or not they are provided with explanations. Further, they look for evidence that the organisation has learned from any mistakes it has made.

Another barrier is confusion about how to complain to a public body and the process that will be followed if a complaint is made. We have been encouraged to note that many public bodies are reviewing and improving their complaints processes. This is a development that we welcome. However, we are of the view that there is scope for greater consistency across the public sector. The current differences in systems and processes present a particular problem for the handling of complaints that arise when more than one agency has been involved in delivering a service. But even within sectors of the public service marked differences can be observed.

We see our role as being part of a wider process of improving governance and the delivery of good public services. We look forward to working with others to achieve this aim.



access to us

Most public services are well delivered most of the time. One of our key aims is to work with public bodies to help them to continue to improve standards so that the likelihood of complaints arising is reduced.

But if things do go wrong or misunderstandings arise it is important that public bodies have good systems for dealing with complaints and that users of their services know how to access those systems. Again, we are keen to work with public bodies to promote good complaints handling practice. If complaints cannot be resolved with the body concerned then it is crucial that people know they can raise their concerns with an **independent, free and fair** Ombudsman service which is as easy to access as possible.

We have not only addressed this in making our premises more accessible but in designing our procedures and practices with members of the public in mind. We also aim to make our service accessible to people working in bodies under our jurisdiction should they want to raise issues with us.

When people first contact the office, either by telephone, letter, email or in person, they will receive a response from a member of our front line staff in the Assessment Team. In responding to enquiries from the public our staff give advice, sign-post other organisations that might be able to help if we are not able to do so, explain the stages of a public body's complaints process as well as the scope of our role and jurisdiction, and if necessary, provide information on the key things to bear in mind in pursuing a complaint. They also offer advice and general guidance to staff from bodies under our jurisdiction.

Making a complaint

- Always try to resolve your complaint informally with the body concerned first
- If you have not been able to get the matter resolved, ask how you go about submitting a formal complaint

Handy hints

- Follow each step of the organisation's complaints procedure
- Put your complaint in writing and mark your letter 'Formal Complaint'
- If you have difficulty expressing yourself in writing, ask a friend, family member or an outside agency for help
- Keep a record of events, copies of letters and emails sent and received; make a note of telephone conversations and the name of the person you spoke to
- Write clearly and concisely and be clear about why you are dissatisfied
- Be clear about what you would like to happen as a result of making the complaint
- Stay calm – when calling (in person or by telephone), jot down beforehand the points that you would like to raise; when writing, make sure that you have included all relevant points
- Be sure of 'the end of the road' of the formal complaints procedure
- If you remain dissatisfied after you have received the final response, then you may wish to consider submitting a complaint to: The Scottish Public Services Ombudsman



SCOTTISH
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Welcome

The Scottish Public Services Ombudsman Act 2002 created a modern complaints service based on the devolution principles of power-sharing, accountability, access and participation, and equal opportunities. It provides a 'one-stop-shop' for members of the public making complaints about public services. The Ombudsman is Professor Alice Brown who is assisted by three part-time Deputy Ombudsmen: Eric Drake, Carolyn Hunt and Lewis Shand Smith.

■ HOME PAGE

- ABOUT SPSSO
- WHAT CAN WE DO FOR YOU?
- WHAT DO YOU NEED TO DO?
- WHAT WILL WE DO?
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- WHAT DO YOU THINK OF OUR SERVICE?
- OUR BLOG
- FREEDOM OF INFORMATION

GAELIC
GÀIDHLIG
繁體中文
العربية
الاسموية

What's New

Route Map

Audit Scotland has produced a guide to complaining about Public Services in Scotland on behalf of Scottish complaints handling agencies.



ANNUAL REPORT
2014-15

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help

access to us

Our literature can be made available in other languages and other formats. It is also possible for those who cannot submit a complaint in writing to do this orally. We want to do more to support those who may be difficult to reach or who find particular problems in accessing our services – for example:

Phone

Most of the enquiries that come to the Ombudsman's office are by telephone. Telephones, especially mobile phones, are being used more and more as the first point of contact with organisations like us. They provide a key link especially for people who do not have permanent homes. We believe that the first point of contact is a crucial one and that it is important that members of the public have the opportunity to speak direct to a member of staff when they telephone us. We have, therefore, recruited new front line staff who are skilled in responding to requests for further information and to potential complaints. If further or more technical advice is needed, callers are put through to a Complaints Investigator.

To make our service accessible to all, we can arrange for a translator to facilitate telephone calls from people for whom English is not their first language.

Email

The development of new technology has had an impact on the way in which a growing number of people get in touch with us. In moving to a single site office in November 2003 we took the opportunity to install a new IT system with email facilities. The office receives a number of enquiries by email each day and it is possible for people to submit complaints to us online and to send attachments of relevant documents for us to consider. However, we do require a signature from the complainant if we decide to take their complaint further.

For people with access to a computer this is an important new development which makes our service easier and quicker to access.

Website

Our website is a key tool in providing information about the work of the Ombudsman's office. We will, therefore, continue to review it regularly and develop this facility. We currently include details of our jurisdiction and role, complaints that we have handled, our outreach activities and other news items. We will continue to use the website as a way of informing members of the public about our policies and standards, highlighting guidance and principles in relation to good administration and complaints handling, and providing other relevant information.

Our office

In our Annual Report last year we explained that the offices of the former Ombudsmen were located in three different sites in Edinburgh. Following an independent review that included consultation with staff, a survey of the geographical distribution of complaints received, and the evaluation of different location options, it was decided that we would locate our new office in the centre of Edinburgh. We were successful in identifying suitable premises in Melville Street that have good public transport links.

We wanted to create an environment that was welcoming for those who visited our offices and that did not put physical barriers in their way. After obtaining planning permission and the approval of Historic Scotland we were the first offices in Melville Street to provide a ramp entrance to the front door.



Examples of Conferences and Events

- **Conference for planning support staff.**
- **British & Irish Ombudsman Association conference.**
- **Citizens Advice Scotland conference.**
- **Presentation to Scottish Executive Management Group.**
- **British Council seminar on Leadership in Civil Society.**
- **Developing an Effective Complaints Handling System conference.**
- **Changing to Deliver seminar.**
- **Grampian University Hospitals NHS Trust “Oh No, Not Again” event.**
- **Presentation to Scottish Borders Council.**
- **Scottish Complaints Officers Network AGM.**
- **NHS Complaints Association meeting.**
- **Chartered Institute of Public Finance & Accountancy conference.**
- **Highland and Islands Enterprise Team Leaders’ Forum.**



access to us

We have designed a waiting area for complainants and their families with interview rooms where they can have a discussion with a Complaints Investigator in confidence.



Other facilities such as clear signage, loop hearing, a lift and disabled toilet facilities are available and we will be carrying out general access audits of our premises, including a sensory impairment audit, so that we can identify other improvements.

Outreach

While it is important that we make our premises as accessible as possible, it is equally important that our service is available and accessible to people in different parts of Scotland. We are developing a comprehensive Outreach Strategy to ensure that our location in Edinburgh does not act as a barrier to providing a service across the whole of Scotland. This Outreach Strategy forms a key component of our plans for 2003–2004 and the delivery of

our aim **to raise awareness of our service and promote good practice by Scottish public services.**

Our emphasis for this year has been on providing guidance for bodies that come under our jurisdiction on the key aspects of our legislation, our role and approach to handling complaints as well as the new procedures that flow from our complaints handling process. We are also developing Guidance on the Principles of Good Complaints Handling and Good Administrative Practice. In concentrating first on those who deliver public services we intend to raise their awareness of the changes we are making so that they can provide clearer information and advice for the public in the first instance. For example, our legislation requires that public bodies include information in their literature about the right of individuals to bring complaints to the Ombudsman if they remain dissatisfied with the outcome of the body's process.

In the first instance we have held meetings and given presentations to staff providing public services in the different sectors under our jurisdiction. We have also responded to requests from these bodies and other organisations to speak at conferences and events. In addition we have invited speakers from other organisations to give presentations to staff in our office.

Guidance on the Principles of Good Internal Complaints Handling

An effective internal complaints system will be:

Easy to Access

Fair

Flexible

Ensure confidentiality

Clear and

Timely

Integrated with other systems to provide

Valuable feedback and

Engender trust from service users and staff



Route Map
**Your guide to
complaining about
Public Services
in Scotland**

- Scottish Parliament
- Scottish Executive
and UK Government
- Councils and Police
and Fire Boards
- Other Public Bodies
including Quangos
- Other Statutory
Complaints Agencies

access to us

Working with others

As we have illustrated, it can be effective to work with others in making our service more accessible. In addition to our work with public bodies and organisations such as Citizens Advice Scotland we also hold regular meetings with our counterparts in different parts of the UK, Ireland, Gibraltar and Malta and learn from their experiences of enhancing knowledge, understanding and accessibility of their services. For example, the Gibraltar Ombudsman produces a leaflet designed for children and young people and has been visiting schools and talking to pupils about his role.

While we can learn from the experience of Ombudsmen in other countries it is even more important for us to work with the Auditor General and other Commissioners and office-holders in Scotland such as the newly appointed Commissioner for

Children and Young People, Kathleen Marshall. We will be looking at ways in which we can pool resources to deliver a better service for members of the public. As a starting point we have worked together to produce a Route Map that helps explain the different routes to making complaints both in Scotland and in the UK. This is available on our website at: www.scottishombudsman.org.uk. Copies are also available on request from our office.

Some of the other bodies we work with



what we can do

We can consider complaints that a member of the public has been caused injustice or hardship by:

- Administrative failure
- Failure to provide a service that should have been provided
- Failure in a service provided

what we can't do

But we cannot consider complaints about:

- Properly made decisions
- Most personnel and commercial issues
- UK government departments
- Generally, matters which could be taken to court or a tribunal
- Generally, things that happened more than 12 months ago

accessible processes

When things do go wrong in the delivery of public services, it is not surprising that people are unsure and sometimes confused about how they can register their concern and, if necessary, pursue a complaint. Clarity and simplicity are therefore essential.

Clarity about what we can and can't do

The legislation that established our office – the Scottish Public Services Ombudsman Act 2002 – sets out our powers and jurisdiction. When a member of the public wants to make a complaint to our office about public services one of the first things we have to make clear is what we can and can't do to help them. For example, common misunderstandings are that we can change a decision made by a public body or that we can act on behalf of a member of the public as their advocate in pursuing their complaint.

Our role is to consider whether there has been maladministration (poor administration) or service failure in the delivery of a public service that has caused an injustice or hardship to the person making the complaint. We look at the evidence given to us by the complainant and by the body about which there has been a

complaint. Normally we would expect someone to have raised their complaint first with the body concerned.

If they have not done so then we can provide advice on how to do this. Also we would normally expect them to have raised the matter with us no more than 12 months after they became aware of it. We cannot look at a complaint where someone has the right of appeal to a Minister or a Tribunal or could take the matter to court unless, in the particular circumstances, we think it is unreasonable to expect them to follow that route. We look at each case in detail in order to consider whether we can or can't take it further. If we cannot help then we will tell the complainant why.

While the vast majority of complaints made to our office are received from members of the public or someone acting on their behalf, it is perhaps less well known that bodies under our jurisdiction can also make a 'request' that the Ombudsman investigates a matter.

Complaints can be made about:

- **Enterprise Bodies**
- **Housing Associations**
- **Local Government**
- **NHS including all GPs and Dentists**
- **Scottish Executive Agencies**
- **Scottish Executive Departments**
- **Scottish Parliamentary Corporate Body**

outline of processes

Step One: First Contact

Is it something we might be able to look at?
(If not, advise appropriately)



Step Two: Assessment

Is it definitely something we can look at?
Has the complaint been raised with the public body?
Can we resolve it quickly?



Step Three: Examination

Is there evidence something has gone wrong and
caused injustice or hardship?
Might it be resolved informally?
Or is a formal investigation needed?



Step Four: Investigation



Step Five: Special Report to Parliament

Option if recommendation not accepted

accessible processes

Simplifying our complaints handling process

We have simplified our process for dealing with complaints by identifying five key steps. Most complaints will not go through all five steps. First, our Assessment Team will decide whether a complaint is one that we can consider. If it is, then the second stage is for a Complaints Investigator in the team to gather further information, usually in writing or by telephone, in order to assess the complaint. S/he will then reach a view on whether or not the issue can be resolved easily or whether it is necessary to take the complaint further. If a complaint is not resolved or closed at this stage it will be moved on to one of our Examination Teams where another Investigator will gather further information. This may include making written enquiries of the body complained about, speaking to and, if necessary, meeting with the complainant. The emphasis at this, the third stage of our process, will be on trying to resolve the complaint without the need for a lengthy and stressful formal investigation. A preliminary

view might be reached on whether or not there is evidence of maladministration or service failure that has caused an injustice, with proposals to resolve the matter.

However, if it is not possible to achieve a resolution then the Ombudsman or one of her Deputies will decide to move to the fourth stage and begin a formal investigation. At the end of the investigation a Report is prepared and laid before the Scottish Parliament. If the body does not accept the recommendations in the Report to redress any injustice, then the Ombudsman has the power to lay a Special Report before Parliament. This is the fifth and final step of the process.

At each step we aim to keep the complainant and public body informed of progress. We will share copies of our preliminary view or draft reports (excluding Findings and Recommendations) with them both. Final reports with Findings and Recommendations are sent to both parties on the same day that the Report is laid before the Scottish Parliament.



Timescales

Within 3 working days of your complaint reaching us we will send you an acknowledgement. Within a further 20 working days we will either:

- **Let you know if we are not going to take action and explain why; or**
- **Tell you how we intend to look further into your complaint; or**
- **If we need more information to make a decision, we will tell you what we need. For example, if you have not sent us copies of letters between you and the public body you are complaining about we may need to ask you for copies or for your permission to ask for copies from the body. If your complaint is about medical treatment we may need to ask for your consent to see medical records.**
- **Within a further 20 working days after that, if we have not reached a decision, we will explain why and what further action we are taking. We will then keep you updated at intervals of no more than 20 working days.**



accessible outcomes

We are committed to reporting the outcome of our work, explaining the reasons why we have reached a decision on a particular case, identifying where appropriate what can be done to put things right, and ensuring that lessons are learned from past mistakes.

Decisions explained to both parties

When complaints are made about public services, it is a serious matter both for the complainant and the body concerned. We will explain decisions that we reach at all stages of our complaints handling process.

Openness and transparency in decision-making are important principles that we wish to promote. We will explain the reasons why if we have decided not to pursue an individual complaint or request to our office. If we do take a complaint or request forward, we will explain why we have reached our preliminary view. If we have proceeded to full investigation, we will explain our decision and findings and the recommendations we have made. The aim is to be fair and as open with both parties as possible and to provide full and clear explanations for the decisions we make.

Redress

Redress is action recommended by the Ombudsman to remedy a justified complaint

When things do go wrong in the delivery of public services most people want to understand why and wherever possible want things to be put right. An accepted philosophy of the role of Ombudsmen is that they should try to put the complainant back into the position they would have been in had the maladministration or service failure not occurred. Clearly – and given the range of issues covered by the jurisdiction of the Scottish Public Services Ombudsman – this is much easier to achieve in some situations than in others. Nevertheless, ‘putting things right’ is a central objective of the Ombudsman’s work.

There are different ways of ‘putting things right’ – some focus on the complainant and others relate to a body’s procedures and processes. In bringing our offices together we discovered that there were different approaches and emphases reflecting practice in different sectors. We aim to encourage a more consistent approach to redress across the delivery of public services in Scotland.

Putting things right for the complainant

What we suggest may include

- apology / explanation
- action to mitigate any injustice
- reimbursement of actual loss / costs
- modest payment for time / trouble

Stopping it happening again

What we suggest may include

- changes to procedures
- changes to processes
- staff guidance / training

case studies

Planning

A man complained about a Council's handling of an application to extend the house next door. He felt that the Council had not given proper weight to his objections. We found that although there was some confusion over the processing of the application the Council gave full weight to the man's representations. We did not uphold the complaint.

In another case a man complained about a Council's handling of a complaint about breaches in planning control on a site next to his property. We found that there were shortcomings in the Council's procedures and they failed to follow good administrative practice in their communication with the complainant's solicitors. We recommended that the Council should apologise to the complainant and make him a payment of £750 in recognition of his time and trouble as well as making a number of improvements to their processes.

GP striking-off

A man who was concerned about his mother's medical condition telephoned his GP Practice. The GP he wished to speak to was not available and the receptionist said she would get him to return the call. While the man was unavailable, the GP telephoned the man's wife and said that unless he returned the call later that day he would be removed from the Practice list of patients. The Practice later told the man that the GP had been unhappy with the comments the man had made to the receptionist, that they thought the doctor/patient relationship had broken down and that the man should find a new medical practice.

National guidance about removing patients from GPs' lists makes it clear that these should be rare events and that consideration should be given to other measures, such as meetings with patients, before a final decision is made. That did not happen in this case. We recommended that the Practice apologise to the man and review their procedures. At first they refused to do so. However, they subsequently accepted that they could have dealt with the complaint differently and offered an apology to the family.

Communication

We investigated three complaints against the Scottish Executive Environment and Rural Affairs Department from people whose animals were culled during the 2001 outbreak of foot-and-mouth disease. We did not uphold the core complaints which were partly rooted in disagreement with aspects of the Department's policy. It also seemed that the complainants had received inaccurate information from external sources over which the Department had no control. However, we felt the Department might have done more to ensure that accurate information was available. We also criticised the way that the Department responded to correspondence from the complainants.

accessible outcomes

Feedback

Providing redress helps achieve some form of justice for the complainant and may also help them move on from their negative experience. Another element of helping complainants to move on is to ensure that the redress recommended by the Ombudsman is delivered. It is vital too that lessons are learned and fed back into the system. In this way the complainant can be reassured that the same thing is unlikely to happen to anyone else.

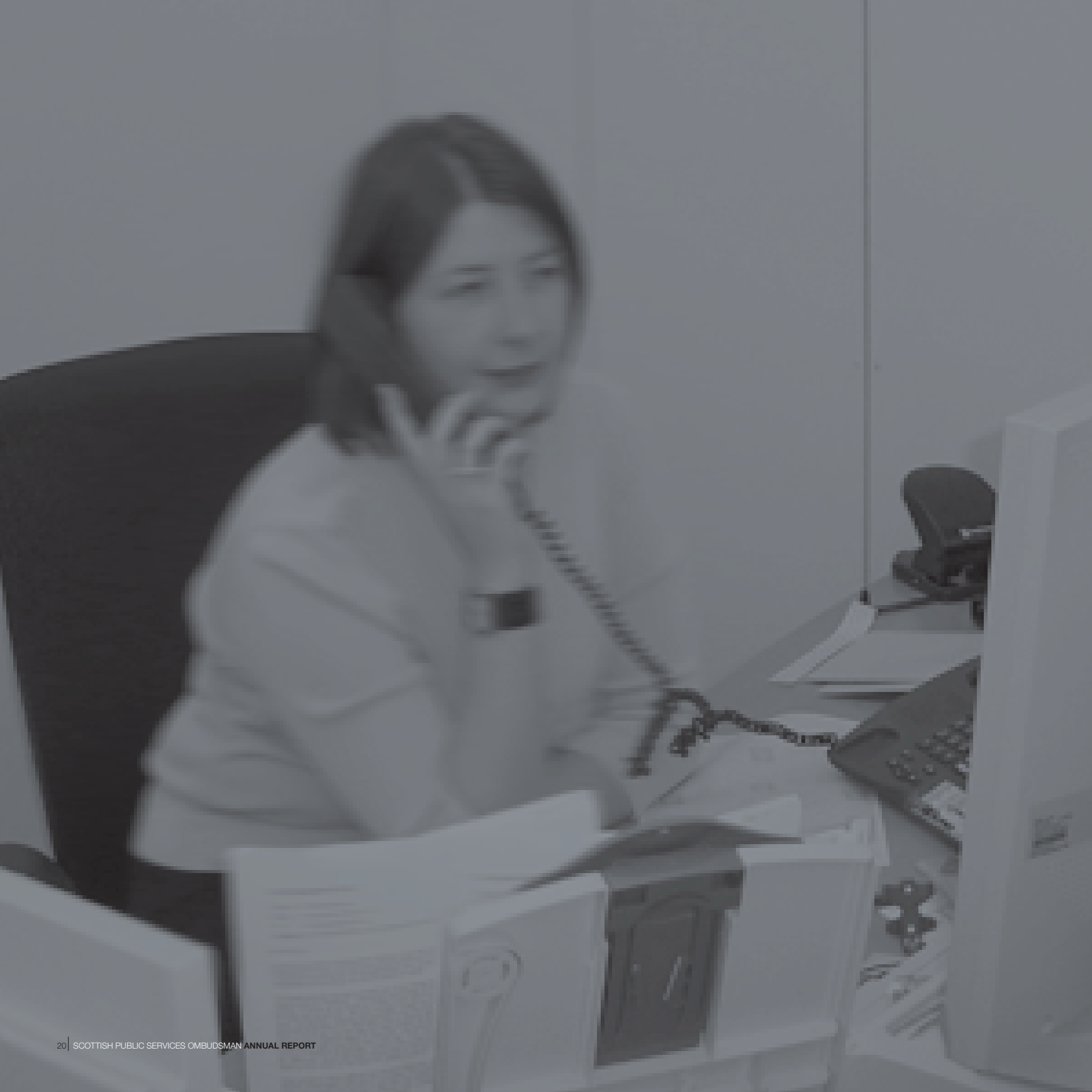
Part of our role is to follow up complaints that have been settled to ensure that lessons have been learned and that steps have been put in place to prevent a recurrence.

We have a number of positive examples where redress has helped put things right and where practice has changed because of a complaint.

case studies

An elderly lady who moved into a care home was entitled to have the costs met by a local authority. But two Councils each argued that they were not responsible for meeting the costs because she had been “ordinarily resident” in the other’s area. When the complaint came to us we persuaded the Councils to split the £4,500 bill on a “without prejudice” basis. We also drew the Scottish Executive’s attention to the loophole which the Councils felt prevented them using an established dispute resolution procedure.

A woman complained that delays by the Scottish Executive Justice Department disadvantaged her in Court action in which she was involved. When we made enquiries of the Department they accepted that failings on their part resulted in significant, avoidable delays. They gave assurances that procedures would be strengthened. They also apologised to the woman and offered her a payment of £1,000 in recognition of her time, trouble and inconvenience.



accessible information

We aim to provide as much information as we can about the work of our office and the complaints that we consider. Individual complaints are treated in strict confidence and we cannot reveal names of those involved. However, we can report on broad issues and trends in the types of cases we handle.

Statistics

This is a transitional year for our office in the recording of complaint statistics. Our last Annual Report included figures recorded by systems set up in the former Ombudsman offices and reflected the way that they had been presented in those offices' Annual Reports.

Our new IT system, introduced in November 2003, was developed to support our new complaints handling process. It will allow us to record and report more fully on complaints received and will provide a benchmark from which trends can be identified in the future.

The new IT system will not have a full year of operation until the financial year 2004–2005. Because of that, and because the way we now record information differs in some respects from practice in the former offices, it is not possible to make accurate comparisons across years at this stage. For example, Figure 1 shows that we received 1,791 new complaints and enquiries in 2003–

2004. If that is compared with figures in last year's Annual Report, which showed a total of 1,354 new complaints received in 2002–2003, it might be assumed that there had been an increase of nearly a third. That would not be an accurate assumption. Our new complaints handling process is designed to deal with and record **all** complaints and enquiries to us, including those made in person or by telephone. But because the legislation governing some of the former offices only allowed them to consider written complaints they did not necessarily record oral contacts. So the figures for 2002–2003 and 2003–2004 are not directly comparable.

We are considering new options for presenting statistical information about our work. For example, we are looking at whether it would be possible, without breaching individual complainant confidentiality, to post detailed statistics on our website so that those with specific interests could find relevant information. We would welcome feedback from readers of this Report on what would be useful.

In the rest of this section we illustrate some of the broad trends in our casework. Figure 1 provides information on the new complaints and enquiries received in 2003–2004 divided into broad organisation categories.

Figure 1
1791 new complaints and enquiries received in 2003 – 2004

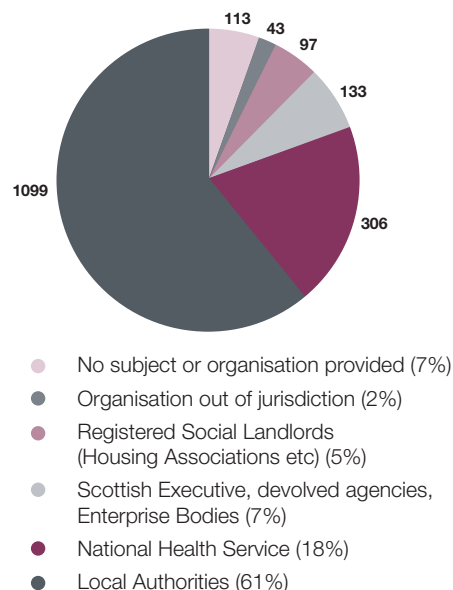


Figure 1 shows that around 9% of the complaints and enquiries we received were either about bodies that are not within our jurisdiction or resulted from a misunderstanding of what we do. We will continue to look for ways of improving public understanding of what we can and cannot do with the aim, among other things, of reducing the number of people who have to be redirected elsewhere.

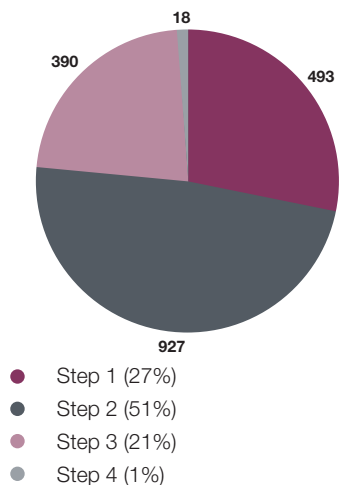
Of the complaints and enquiries which were about bodies within our jurisdiction around 5% were about Housing Associations and other registered social landlords; 7% about the Scottish Executive, agencies such

accessible information

as the Scottish Legal Aid Board and the Crofters Commission and the Enterprise networks; 18% about the NHS; and 61% about local authorities. That complaints about local authorities form the largest element of our caseload is not surprising. They are the only bodies within our jurisdiction which regularly interact with all citizens of Scotland and many of their activities impact directly on peoples' lives.

We reached decisions on 1828 cases during 2003 – 2004 (this included some complaints received during the previous year). Figure 2 shows how the decisions were divided between the Steps of our complaints handling process. Those Steps are explained earlier in this Report. Although the new complaints handling process only came fully into operation in November 2003 we have sought to record cases concluded earlier in the year in a way that allows broad comparisons to be made. Most of these cases have been concluded at Steps 2 and 3 which suggests that our aim of resolving cases informally wherever possible is being met. That is encouraging.

Figure 2
1828 cases concluded in 2003 – 2004



Step 1 (First Contact) of our complaints handling process often involves giving advice and providing sign-posts to other organizations if we are not able to help. Generally speaking we cannot consider a complaint unless it has first been pursued with the body concerned. If someone approaches us before having raised a complaint with a body we will usually explain to them how to pursue a complaint with the body. We describe these complaints as being “premature” and Figure 3 illustrates that over a third of cases concluded at Step 1 fell into this category.

Figure 3
493 cases concluded at Step 1

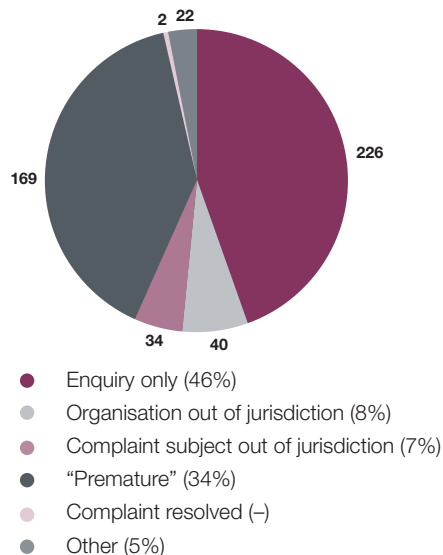
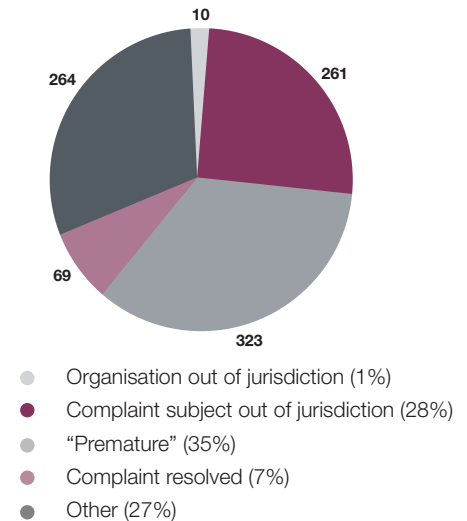


Figure 4
927 cases concluded at Step 2



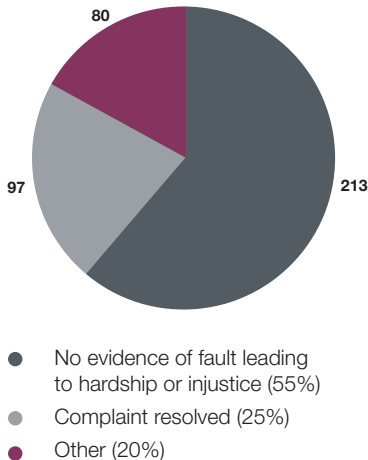
Step 2 (Assessment) is the point in our process where a complaint starts to be looked at in more detail. If it seems that the complaint might be resolved quickly we will try to do that and as Figure 4 illustrates, we were successful in just over 7% of cases concluded at Step 2 in 2003–2004. We hope this percentage will increase as our new process beds in as a speedy resolution can benefit both the complainant and the body complained about.

The law governing our work specifies a number of matters which we cannot look at (such as personnel issues and most contractual matters). Step 2 is the first point at which we are likely to identify cases where one of these jurisdictional restrictions applies. That was so in 28% of the cases concluded at Step 2. But it may not be until there is more detailed consideration of a case at **Step 3** (Examination) that we are clear that jurisdictional restrictions prevent us considering a complaint.

We can also only take action on complaints where there is some evidence that administrative fault or service failure by the body subject to complaint has caused the complainant hardship or injustice. It is often only with the detailed examination of a complaint that takes place at Step 3 that we are able to determine whether there is such evidence. Step 3 is also the point at which we are most likely to have all the information needed to recommend an informal resolution of a complaint and Figure 5 illustrates that this happened in 25% of the cases concluded at Step 3. Again, we hope that percentage will increase.

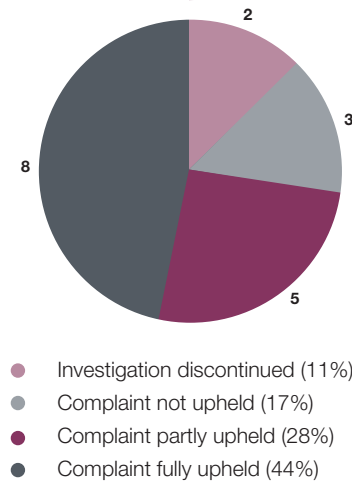
The 27% of cases shown as “other” in Figure 4 (and the 20% in Figure 5) were concluded for a variety of reasons such as complaints being made out of time (generally a complaint should be brought to us within 12 months of the events giving rise to it), a lack of evidence that the complainant had been disadvantaged by shortcomings on the part of the organisation complained against or the availability of a remedy through another route (for example, through the courts).

Figure 5
390 cases concluded at Step 3



Step 4 is the Formal Investigation of a complaint. Our overall approach is to emphasise early, pre-investigation determination and resolution of complaints wherever possible and appropriate. This means that only a small proportion of cases will progress to Step 4, as is illustrated by Figure 6. In some cases, we may discontinue an investigation if, during the course of it, we believe it would be inappropriate to continue. This happened in two cases during 2003 – 2004. On completion of an investigation a report is sent to the complainant, the body subject to complaint and Scottish Ministers. A copy is also laid before the Scottish Parliament. 16 such reports were produced in 2003 – 2004. In 13 of those 16 cases we found the complaint was justified in whole or part.

Figure 6
18 cases concluded at Step 4

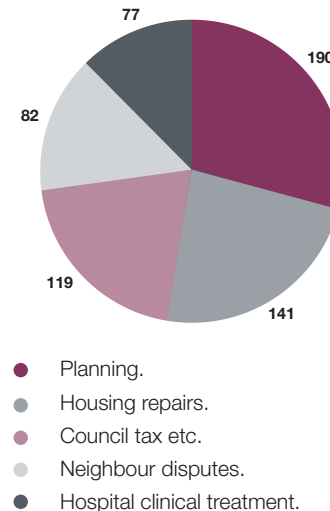


Finally, Figure 7 sets out our top five subject categories of complaint in 2003 – 2004. The largest concerns planning. Mostly these are complaints against local authorities but a proportion

involves the Scottish Executive Enquiry Reporters’ Unit. Why there are so many complaints about planning matters is considered further in the next section.

The second largest category (neighbour disputes) and the fourth (housing repairs) involve both local authorities and registered social landlords; the third (complaints about council tax and other financial matters) relate solely to local authorities. So the top four categories of complaint all involve local authority services. This reflects the fact, noted earlier, that local authority services impact more directly on more people than those of most other organisations. The fifth largest category of complaint involves the NHS. Interestingly, although seeing a General Practitioner is by far the most common form of contact with the NHS, the largest category of NHS complaints to us concerns not GPs but hospital clinical treatment. However, as noted in the next section, we do also get complaints about GPs.

Figure 7
five largest areas of complaint dealt with in 2003 – 2004



accessible information

Cases

More detailed information about the complaints handled by our office are provided on our website. The website includes summaries of key cases as well as summaries and copies of all the reports we have laid before the Scottish Parliament since we came into being in October 2002.

In future years we aim to collate the summaries of cases into Case Digests so that these can be distributed to different sectors of the public service and others with an interest in our work. Not only should this assist in learning lessons from past experience but the cases can be used for training and development of staff.

Trends and issues

We will be able to report more fully on trends and issues when we have been operating our new process for a full year. However, some patterns are already emerging:

‘One-stop-shop’ in action: While the majority of complaints continue to relate to one subject area, the office is now seeing examples of cases that cover more than one area of jurisdiction. For example, long term care for the elderly can involve a number of agencies in delivering the service including health providers, local government and housing associations. For the complainant, the fact that

a complaint about problems in this area can be raised with a single Ombudsman is an example of a clearer and more accessible service.

Planning: Planning cases continue to be the largest single category of complaint made to the Ombudsman’s office. However, it is an area where there is a limit to what the Ombudsman can do as most complaints are about the planning decision. The Ombudsman cannot recommend that a decision be reversed, no matter how aggrieved the complainant is, if that decision has been properly reached following the processes and procedures of the local authority. The complaints we receive reflect concerns about the planning system in Scotland that have given rise to pressure for reform. Our experience is that complainants can be confused about the different practices in different authorities, the processes involved in handling planning applications and objections, and their rights to be informed, heard and represented in a planning case. Complainants can perceive injustice if processes are unclear or are not followed, if elected members vote against the advice of planning officials, if decisions are made without the reasons being made explicit, and if there is failure to enforce a planning decision. The SPSO welcomes the Scottish Executive’s plans to introduce a Planning Bill to the Scottish Parliament that is likely to address these concerns.

GP striking off cases: During the year we have received a number of complaints about GPs who it was claimed had acted unreasonably in striking off a patient from their practice list. Three of these cases went to full investigation. The complaint was upheld in two cases and partially upheld in the third. We appreciate the increasing demands made on GPs and the work pressures they are under. However, it is unacceptable that a GP should take such a step without following recommended guidelines and giving a patient the opportunity to change their behaviour if it is causing offence. If we find that the GP has acted unreasonably then we are likely to ask him or her to apologise to the patient.

Poor communication: In so many cases that come to our office poor communication is the root of the problem. This can be particularly serious when it happens in the health sector as it can often have adverse medical consequences. For example, in one case that was the subject of a full investigation, the complaint was that there was unreasonable delay in diagnosing a woman’s bowel cancer. My investigation found that the investigation of the woman’s symptoms was generally appropriate but that at one point delay was caused by a failure of communication between doctors. A consultant surgeon referred the woman to a consultant for a second

opinion. The surgeon assumed the consultant would see the patient before Christmas but her name was added to the normal waiting list which meant that she would not be seen until the following February. Only after representations by the woman's GP did the surgeon become aware of the situation. S/he intervened and arranged for the woman's admission to hospital and for her to be seen by another consultant.

Saying sorry: The cliché 'sorry seems to be the hardest word' is evident in a number of the complaints we receive. From our experience, providing an explanation and an apology at the very beginning when something has gone wrong could prevent a complaint from escalating and sometimes growing out of proportion. This reluctance to apologise has more to do with the attitude and behaviour of staff and the culture of an organisation than it has to do with simply getting the right processes in place. We will be doing more over the coming year to monitor our cases and to draw on the experience of other countries where saying sorry and providing an apology at an early stage has had a positive impact.

Unacceptable actions:

Members of the public have the right to complain about problems

they encounter in the delivery of public services, but they also have responsibilities. A growing trend reported to us by those who work in public services relates to the unacceptable actions of some members of the public. Staff we have spoken to are concerned about the impact that the actions of a few can have on their ability to deliver their service to other members of the public. We experience this ourselves in the Ombudsman's office. When making a complaint we encourage people to:

- Provide timely information in support of their complaint
- Provide accurate information
- Treat staff with respect and courtesy
- Adopt a reasonable and open-minded attitude

We have an agreed policy for dealing with actions that we find unacceptable, such as:

- Aggressive or abusive behaviour
- Unreasonable demands
- Unreasonable persistence

If we think that a complainant is acting unacceptably, we will tell them, send them a copy of our policy and

take appropriate action. Our policy is available on our website www.scottishombudsman.org.uk. Copies are also available on request from our office.



an accessible future

Over the coming year we intend to build on our aim of making our service as accessible as possible to people in Scotland. We will monitor demand and will consider introducing video conferencing facilities. We will progress this aspect of our work as a key objective and develop our Outreach Strategy. We will also develop new ways of making our service more accountable to the public.

Future developments

Our programme of events for 2004-2005 includes a series of Roadshows in the 15 Health Regions in Scotland. Major changes proposed to the NHS complaints process in the coming year will make it possible for people to come to the Ombudsman at an earlier stage. We have prioritised this work to ensure that the health sector is fully aware of the impact of these changes and the role of this office so that they in turn can explain this to members of the public. We will use the opportunity during our visits to the Health Regions to give presentations to local councils, housing associations and enterprise bodies. In addition we will organise meetings with Liaison Officers in Local Government.

We will develop work begun with Citizens Advice Scotland with a view to meeting the needs of bureaux across the country. Having a presence or providing information about our office in their offices is

an effective way of raising public awareness of our role. From the experience gained we can then look at ways of working with other advocacy agencies and consider how best to reach sectors of the population who are likely to find it most difficult to access our service.

We will look at ways in which we can work with other Commissioners to deliver a better service and access different sectors of the community. This will include working with the new Commissioner for Children and Young People so that we are able to respond effectively should some of her enquiries result in individual complaints to our office from children or young people. We will be drawing up further Memoranda of Agreement to allow us to work together with other Commissioners in Scotland.

In addition we will continue to meet with and learn lessons from other Public Sector Ombudsmen in England, Wales, Northern Ireland, Ireland, Malta and Gibraltar. We will participate in the work of the British and Irish Ombudsman's Association and develop connections with other European and international networks.

Improving accountability

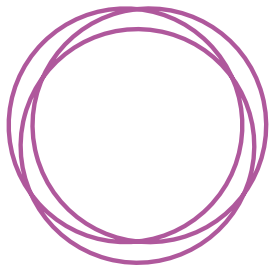
Our key theme for the coming year will be to look at ways in which we can improve the accountability of the service that we offer. This will include developing internal accountability

mechanisms in our handling of complaints and running our office. We will also seek different ways to enhance our external accountability. For example, we will give consideration to carrying out an independent survey of our work and to establishing an external Advisory Group.

We look forward to reporting on this key theme in our next report. In the meantime, should you have any comments on this Annual Report and any suggestions for inclusion in our next report, please do not hesitate to contact us at: **Scottish Public Services Ombudsman, Annual Report Feedback, 4 Melville Street, Edinburgh EH3 7NS**

enquiries@scottishombudsman.org.uk





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