



resolving disputes
restoring confidence
rebuilding trust

Annual Report 2007 – 2008

SPSO Scottish
Public
Services
Ombudsman

vision

Our vision is of enhanced public confidence in high quality, continually improving public services in Scotland which consistently meet the highest standards of public administration – we aim to bring this about by providing a trusted, effective and efficient complaint handling service which remedies injustice for individuals resulting from maladministration or service failure.

values

We aim to be:

- > courteous, considerate and respectful of people's rights;
- > independent, impartial, fair and expert in responding to complaints;
- > accessible to all, and responsive to the needs of our users: complainants and service providers;
- > collaborative in our work with service providers, policy makers and other stakeholders;
- > open, accountable and proportionate about our work and governance, ensuring stakeholders understand our role and have confidence in our work;
- > a best value organisation which is efficient, effective, flexible and makes good use of resources; and
- > best practice employers with well trained and highly motivated staff.

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The Ombudsman's role is to secure justice for the individual, support learning for the service provider and drive improvement in public services. In achieving these aims, our overall contribution is a powerful one, that of rebuilding trust and enhancing people's confidence in public services.

Professor Alice Brown
Scottish Public Services Ombudsman

Ombudsman's Introduction

I write this Introduction to the Annual Report for 2007–08 in the closing months of my appointment as Scottish Public Services Ombudsman. In June 2008 I informed the Presiding Officer of the Scottish Parliament that it was my intention to stand down at the end of March 2009. I am, therefore, taking this opportunity not only to look back but also to signal some of the opportunities and challenges that will face my successor.

Whilst there is always room for improvement, I believe that as an office we have made enormous advances in creating a modern complaints handling service that is seen as a model in the UK and beyond. It has not been an easy task, and I am very grateful to current and former staff who have worked so hard to build a professional and responsive service dedicated to helping those who turn to us when they feel let down by public service providers. We have also worked to help providers improve public services through supporting them in establishing systems to handle complaints effectively and cultivate an attitude and culture where complaints are valued.

In this Annual Report you will find a review of the impact of our service over the past year and our main outreach activities. The casework section details the number of people we have helped, and provides statistics about our performance. For the first time, to enhance the accountability and transparency of our operations, we include contributions from the Chair of our Audit Advisory Committee and a summary of our financial performance. In line with previous years, there are separate chapters devoted to each of the sectors about which we receive complaints, and this year sees two additional sections, one containing personal reflections from our outgoing nurse adviser and one discussing the implications of our first judicial review.

The focus of my Introduction is to highlight some of the key strategic issues with which the SPSO has engaged over the year and which are likely to impact on the future. But before doing so, it is worth reflecting on the past. From our first day of opening in October 2002, our aims were to fulfil the

Parliament's aspirations of creating a 'one-stop shop' for complaints about public services that was more accessible and approachable than its predecessors; also to work in partnership with bodies under our jurisdiction with the common aim of promoting good administration and improving the delivery of public services. We can justifiably claim success in achieving these aims and, as I discuss below, many of the changes that we called for in terms of further simplification of complaints handling processes and the governance landscape in Scotland are likely to come into effect in the years ahead.

There is evidence too that there has been a shift in culture within the whole range of organisations that deliver public services with complaints increasingly being seen as a positive opportunity to learn from the public about their experiences as users of services and to drive up improvement. This contrasts with the rather negative and defensive approach that we sometimes encountered in the early years. So while complaints may not yet be wholeheartedly embraced as 'jewels to be treasured' rather than 'duels to be fought', responding to and handling complaints well is now more likely to be viewed as 'good business' in the public sector and a key part of the wider improvement agenda.

However, as the investigations of complaints by my office show, there is more still to be done, particularly as some of the same problems continue to persist. For example, there are issues that recur in health complaints together with growing concern about a lack of dignity in the provision of care and treatment especially to the most vulnerable patients. Planning cases too form a large proportion of complaints to the SPSO and are rooted in ongoing discontent or disagreement with the planning process and its outcomes. These types of cases, while significantly different in substance, often have a common theme in that they are a result of a breakdown in trust in the relationship between the service user and the service provider where the complainant may no longer have faith in or feel they can depend on public services. Addressing such issues is central to the work of an ombudsman.

Ombudsman's Introduction

Rebuilding trust

That is why I have chosen *trust* as the theme of this year's Annual Report. My experience over the past six years is that an ombudsman has a crucial role to play in rebuilding the relationship between users and providers of public services when something has gone wrong. We frequently refer to our purpose as being 'justice for the individual, learning for the service provider, improvement in public services'. In achieving these aims, our overall contribution is a powerful one, that of rebuilding trust and enhancing people's confidence in public services. The link between trust and the delivery of public services is captured in a quote from the Tenth Report of the Committee on Standards in Public Life:

Public trust is a pillar of public life. It is concerned with perceptions of honesty but is also about confidence and satisfaction with the outcomes of service delivery. Bridging the gap between values held by the public and their perception of official behaviour is a major challenge facing public bodies.

Tenth Report of the Committee on Standards in Public Life

It is important too that the public have trust in my office. My aim has been to ensure the integrity of the role of ombudsman, in order to maintain the faith that people have in us as an independent and impartial final stage complaints resolution service. With this in mind we have continually taken steps to enhance our performance, our governance and our accountability and to learn from those who use our office in order to improve our own standards of service.

Our governance and accountability

Over my term of office, I have sought to ensure that our governance arrangements are sound, and that we are appropriately accountable to the Scottish Parliament, without any compromise of my independence. In June 2007, the SPSO's Audit Advisory Committee held its inaugural meeting. This body is charged with supporting me (as Accountable Officer) and the Executive Board in monitoring the adequacy of our governance and control systems. It offers objective advice on issues concerning the risk, control and governance of the SPSO and the associated assurances provided by audit and other related processes. I am most grateful for the support and advice that the members of the Committee have given me and my colleagues over the past year.

In addition to publishing the Annual Report, I present its key findings to the Scottish Parliament's Local Government and Communities Committee. In October 2007, my office held a series of events for MSPs in the Parliament to promote informed awareness of the SPSO's functions. Last year we issued a special Guide for MSPs and Holyrood staff, outlining our role and remit, and inviting the Parliament to use the outcomes of our investigations to inform their legislative scrutiny. We produced similar material for Councillors in local government following their election to office in May 2007.

Listening to users of our service

We strive to be a learning organisation and we have actively sought feedback from users of our service. In February 2008, we published the findings of our first survey of users' views and in light of the feedback, we committed to actions to improve our service – progress on these, and more detail about the survey are provided in the casework section of this report.

Contributing to strategic developments

In addition to the day-to-day task of leading the SPSO and investigating complaints, I have been closely involved in several external developments that have significant implications for the future of our service.

Ombudsman's Introduction

Complaint handling in the future

Complaint handling was examined within the context of a wider review of Regulation, Audit, Inspection and Complaint Handling of Public Services in Scotland conducted in 2006-07 by Professor Crerar¹. I discussed the work of this Scrutiny Review in last year's Annual Report. Following the publication of Professor Crerar's report in September last year, the Scottish Government set up five Action Groups to examine the recommendations in detail. The Fit-for-purpose Complaints System Action Group, chaired by Douglas Sinclair of the Scottish Consumer Council, took forward the recommendation in the Review that there should be a wider role for the SPSO. The Sinclair Group's Report² was presented to the Cabinet Secretary for Finance and Sustainable Growth in July 2008 and contained 33 recommendations, 18 of which have direct implications for the SPSO. The key recommendations which would impact on our role are: first, the proposal that the Ombudsman should be given an explicit role as the 'design authority' for complaint handling across public services in Scotland; and second, that the concept of the 'one-stop shop' for complaints be extended so that the SPSO takes over responsibility for handling complaints that are currently dealt with by other external review bodies. Ministers are expected to give their response in November 2008 with a view to draft legislation being proposed in early 2009.

If the 'design authority' role is agreed by Ministers, the SPSO would be in a position to advance the Valuing Complaints initiative we have promoted for a number of years. The general principles of Valuing Complaints have already been endorsed by the Sinclair Group. This would also facilitate the introduction of standardised complaint handling systems across local government and the care sector as well as other areas of the public service, again something that the SPSO has advocated for a number of years.

Administrative justice

Complaint handling was linked to, and examined as part of, the Scrutiny Review. However, it is important not to lose sight of an ombudsman's role as a key component of the administrative justice system. Public sector ombudsmen are described in a recent paper by the Law Commission³ as 'a vital part of the system for administrative redress'. The paper identifies ombudsmen as one of 'the four broad pillars' of administrative justice, and we have sought over the past year to strengthen and clarify our role in that process. I am an ex-officio member of the Scottish Committee of the Administrative Justice and Tribunals Council, and established with that body an Administrative Justice Steering Group in December 2006. This initiative had the support of the then Scottish Executive; this support has continued under the new Scottish Government. Part of the Group's remit is to consider the impact of the Tribunals, Courts and Enforcement Act 2007 on the administrative justice system in Scotland.

The Group has commissioned research and is producing two documents: the first, on the Options for the Future Administration and Supervision of Tribunals in Scotland, was published in October 2008⁴. It will be followed by a second stage of work and a report on the administrative justice system as a whole. It will aim to define and scope administrative justice; outline the aims and objectives of administrative justice; evaluate existing redress mechanisms; and set out conclusions and a possible way forward for Scotland.

¹ *The Crerar Review*, September 2007
www.scotland.gov.uk/Topics/Government/PublicServiceReform/IndependentReviewofReg/latest-news/

² *Fit For Purpose Complaints System Action Group – Report To Ministers*, July 2008
www.scotland.gov.uk/Topics/Government/PublicServiceReform/IndependentReviewofReg/ActionGroups/ReporttoMinisters

³ *Administrative Redress: Public Bodies and the Citizen*, July 2008

⁴ *Options for the Future Administration and Supervision of Tribunals in Scotland*, October 2008, published by the Scottish Consumer Council

Ombudsman's Introduction

Leading the way in the UK and internationally

It is not only in Scotland that ombudsmen have been reviewing their place in the administrative justice framework. The British and Irish Ombudsman Association (BIOA), of which I am an elected member of the Executive Board, seeks to maintain the integrity and effectiveness of ombudsman schemes throughout the UK and Ireland.

A 'first' for our office – and indeed for Scotland – was the decision by BIOA to host its Annual Meeting in Edinburgh in May 2008. The Cabinet Secretary for Justice, Kenny MacAskill, gave the opening address in which he paid tribute to the work of the SPSO. Mr MacAskill highlighted how Scotland led the way in bringing together complaints about all public services under one roof ('the progressive articulation of the one-stop shop', as he put it) and spoke of the vital part the Ombudsman plays in the interface between administrative justice and public service delivery.

International audiences have also shown interest in the Scottish model. I was asked to give a presentation in Copenhagen in November 2007 and I also spoke at an international conference of ombudsmen in Ghent, Belgium, in April 2008. We have continued too to provide support for the Ombudsman's office in Malawi. What this demonstrates is that the Scottish experience of creating the 'one-stop shop' and developing new processes and procedures fit for the 21st century is considered to be of value to others.

Looking to the future

It has been a tremendous honour to be the first Scottish Public Services Ombudsman. Over the six years since I was appointed I have had the privilege of setting up the office of the SPSO in line with the aspirations of the Scottish Parliament and leading it through improvements in its accessibility, internal complaints handling process, communications, outreach, structure and governance. There is evidence too, across the public sector, that handling complaints well, and learning from them, are now seen as integral to the delivery of high quality public services and part of a culture of service with the user at its heart. I am very proud of this legacy and what my office has achieved over the years.

Looking to the future, there are new opportunities for the SPSO to develop our place in the governance framework of Scotland. The office of ombudsman is a crucial part of the democratic system and should be at the core of a country's constitutional arrangements. In 2009 when the future role of the SPSO is being debated by MSPs this will coincide with the 200th anniversary of the setting up of the very first office of ombudsman in Sweden in 1809. The reason why Sweden decided to create the office of ombudsman nearly two hundred years ago is just as relevant today, namely that members of the public should be able to bring their concerns about government departments to an office-holder who is independent of the government and parliament and who can look at the complaint impartially. More recently, in 1999, Scotland agreed procedures and founding principles for the Scottish Parliament in line with the recommendations of the Consultative Steering Group⁵. Some ten years on, there is now a new opportunity for parliamentarians to look at the whole architecture of governance that underpins the work of the government, parliament and public services, and to decide on the appropriate framework for a country of around five million people.

My successor will have the important job of leading this next significant stage in the development of the SPSO. I can hand over the reins in the certain knowledge that all those who work for the SPSO will continue their commitment to deliver a first class complaint handling system. I would like to take this opportunity to thank all of them most sincerely for their support over the years, for their professionalism and dedication in fulfilling the important work that they do and for being such excellent colleagues. It has been a great pleasure to work with them and I will forever be grateful to them.

I am confident that the office will go from strength to strength under the leadership of a new Ombudsman and I wish everyone well for the future.



Professor Alice Brown
Scottish Public Services Ombudsman

⁵ *Shaping Scotland's Parliament*, December 1998
www.scotland.gov.uk/library/documents-w5/rcsg-00.htm

Making a Difference

By David Robb, Director of Policy and Development

Helping the public – securing justice for the individual

In 2007–08, we responded to 4,661 enquiries and complaints. In the vast majority of cases, we were able to quickly resolve the issue raised, by giving advice to people about how to pursue their complaint with service providers or, if we examined or investigated the complaint, by providing information and explanations about what happened. We published reports about 390 complaints (an increase of 24% over the previous year), and of these 55% were fully or partially upheld and 45% were not upheld.

The complainant is at the heart of what we do. We aim to be independent, impartial, fair and expert in responding to complaints and we work to make our procedures simple and clear, and to ensure that we are accessible to everyone who approaches us with an unresolved dispute. Our aim is to level the playing field, so that any service user who has a valid complaint that they cannot sort out with the organisation concerned can be assured that their concerns will be listened to by us and, where appropriate, investigated. If the SPSO finds that something has gone wrong, the Ombudsman will usually make recommendations to redress the matter, as far as possible putting the person back into the situation they would have been in had the problem not arisen.

To help prevent complaints from coming to our office too early and to promote local resolution, we also developed a leaflet for members of the public giving clear advice on how to make a complaint about a public service in Scotland.

Improving public services – feeding back the learning

Each month we lay investigation reports before the Scottish Parliament. The reports are accompanied by the Ombudsman's Commentary summarising the reports and it is distributed to over 1,100 stakeholders. We use the Commentaries to highlight specific issues that have arisen from the investigations and where the Ombudsman has recommended that action be taken. A summary of the issues covered in 2007–2008 is on the next page.

As well as providing redress for the individual, the Ombudsman makes hundreds of recommendations each year to improve policies, procedures and practices within individual bodies. The recommendations aim to redress the particular problem that arose, and to ensure that such problems do not recur with that body. We publicise the recommendations in our Commentaries and also use other platforms such as presentations, seminars, training events, our website and newsletters, so that the learning from complaints is spread throughout the sectors.

There are also some cases which require the involvement of national bodies. For example, in the chapter on health we explain how a complaint about deep vein thrombosis led to Scotland-wide changes, and we also highlight action taken by the government to improve guidance about NHS Continuing Care. In the local government chapter we describe the implications of our investigation into problems surrounding the implementation of the Free Personal Care policy.

Improving public services – better complaint handling

We promote and support good complaint handling through sharing best practice and disseminating guidance on our Valuing Complaints website⁶, which encourages service providers to foster a responsive and learning culture that recognises the benefits of complaints. We believe that such an approach will in turn enhance confidence and satisfaction in public service organisations and the services they deliver.

Each of the sectoral chapters in this Annual Report contains a section highlighting relevant outreach and partnership initiatives, and below we detail a number of office-wide projects that we carried out over the past year. Our involvement in outreach and partnership work has several aims and usually consists of working towards one or more of the following goals:

- supporting and guiding public bodies in improving their complaint handling practices;
- raising informed awareness of our role and remit; and
- making sure that our work complements that of other offices.

Redress and Recommendations

Key messages from the Ombudsman's 2007 – 08 Commentaries

(Parliament was dissolved during the Elections in April 2007, so no reports were laid that month).

May 2007 Newly elected MSPs and Councillors informed of the role of our office and the material contained in the investigation reports.

June 2007 Focused on complaints about Continuing Care and broader policy issues including an urgent need to review the Scotland-wide guidance on NHS funded Continuing Care which was issued more than 11 years previously. [New guidance has since been issued by the Scottish Government].

July 2007 Highlighted the significant work that is done when we consider and make determinations on complaints without a formal investigation – work that is less visible but no less important.

August 2007 Identified recurring themes in health complaints, namely poor communication with patients and their families, poor record-keeping, poor quality of nursing care, and issues of obtaining consent for treatment. Noted our concern that there are still patients, especially the elderly and those with mental health problems, who are not receiving nursing care of a sufficiently high standard.

September 2007 Covered Free Personal Care payments made by Councils and our call on the Scottish Government to review the guidance on the application of the Free Personal Care policy and guidance on the determination of 'ordinary residence'. Also discussed the fact that a high number of complaints about local government relate to planning issues and drew attention to our new leaflets with advice for the public about making planning complaints.

October 2007 Reported on the Judicial Review of a decision on one of our investigation reports into a complaint about funding for personal care of an elderly man.

November 2007 Highlighted the issue of inappropriate removal of patients from practice lists in the NHS. We asked the NHS Boards concerned to review their policies and procedures to ensure that they are in line with NHS regulations and best practice.

December 2007 Discussed the positive side of complaint handling where an individual member of the public is listened to, their complaint is taken seriously and looked into and, where merited, action is taken. We drew attention, however, to the small minority of complainants whose behaviour towards staff or the service may be unacceptable and highlighted two investigations where this issue had arisen. We referred to the need for public bodies to have a clear policy in place and made reference to the SPSO's Unacceptable Actions Policy which bodies may find useful in dealing with difficult behaviour by some complainants.

January 2008 Once again highlighted the value that our office can add in dealing with enquiries and complaints at the pre-investigative stage. We gave information about our response to the Crerar Review and the Ombudsman's involvement in the Government's Action Group on complaint handling (the Sinclair Group).

February 2008 Drew attention to reports that contained many recommendations aimed at improving complaints handling processes by providers of public services across all the sectors under our jurisdiction. Once again highlighted concerns about complaints regarding nursing care and drew on a specific health case to illustrate one of the tests we use when investigating cases that involve clinical judgement.

March 2008 Two key issues highlighted: the lack of guidance on the issue of privacy in planning cases; and giving an apology if things have gone wrong as a means of providing redress especially with regard to health cases.

Making a difference

Working in partnership

We do not work in isolation – many other organisations have an important part to play in helping us deliver on our strategic objectives. One means of improving cooperation and communication with others with whom we are in regular contact is through Memoranda of Understanding, which aim to complement and strengthen our relationships. We signed several new MoUs over the past 18 months: with the office of the Scottish Charity Regulator and the Office of the Ombudsman of Malawi in May 2007, the General Medical Council in July 2007 and the Scottish Housing Regulator (formerly Communities Scotland) in June 2008. In May 2008, we revised our existing MoU with the Mental Welfare Commission.

We held meetings with the newly established Equality and Human Rights Commission and the Scottish Commission for Human Rights, to ensure

that our roles are complementary. The creation of the new Scottish Legal Complaints Commission, which began its work on 1 October 2008, also provides opportunities for mutually beneficial collaboration. For example, we have given support by participating in a Working Group set up to make plans for the new body, training for staff, providing advice on HR policies and exploring opportunities for sharing the development of ICT. As an office we continue to identify opportunities for working in partnership and sharing services with other similar organisations.

Finally, we have taken steps to strengthen our links with organisations that have a close relationship with users of public services, such as Citizens Advice Scotland and the Scottish Consumer Council. Since our office was established, we have promoted a vision of user-focussed public services, and sought to widen our contact with less advantaged and more vulnerable groups through advocacy groups that already have links in place with those communities.

Key facts and figures for 2007 – 08

- > We received **4,197** enquiries and complaints – a decrease of around 1% on last year
- > We resolved a total of **4,661** enquiries and complaints – an increase of 10% on last year
- > We dealt with **1,780** enquiries – helping people decide whether to pursue a complaint, and directing them to the right place
- > We reached decisions on **2,881** complaints
- > **390** cases were investigated and reported to the Scottish Parliament – **24%** up on last year
- > **49%** of cases were determined within 2 weeks; **72%** within 14 weeks; and **88%** within 52 weeks;
- > Our open caseload at the end of the year was **444** – down from 922 a year earlier

Casework trends and performance

By Eric Drake, Director of Investigations

The enquiries and complaints we received

We received 4,197 new cases (i.e. enquiries and complaints) in 2007–08. As in all previous years, local government enquiries and complaints formed about half of the caseload – this is unsurprising, as Councils are involved in the day-to-day provision of services to all the citizens of Scotland. Again, as in previous years, the NHS formed the next largest section of the caseload followed by Housing Associations (Registered Social Landlords or RSLs).

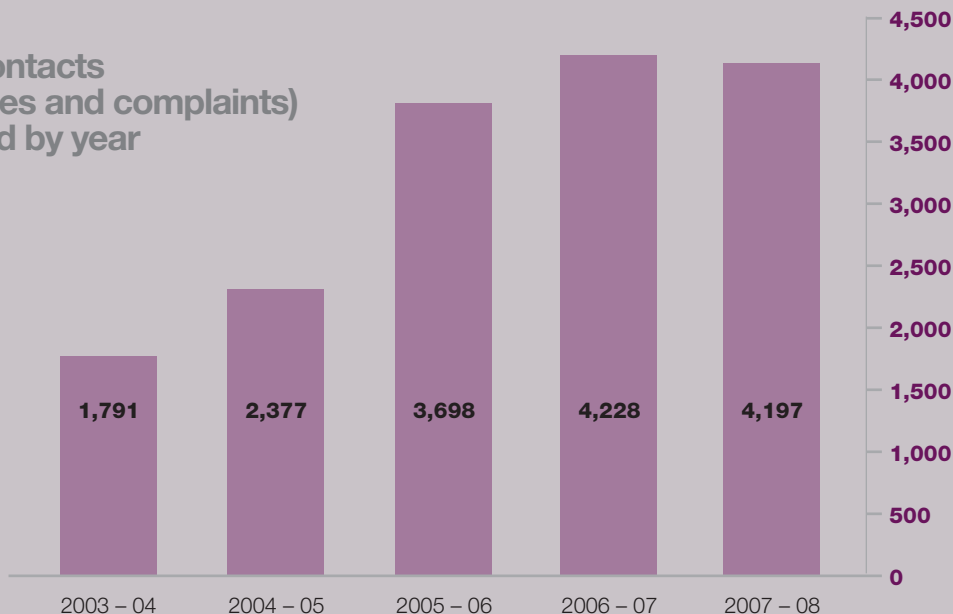
For the first time since the SPSO was established in October 2002, the number of cases coming in reached a plateau. The 4,197 new cases represented a decrease of just under one percent compared with the 4,228 received in the previous year.

It is a little early to be sure about the significance of this change. It may be that it is an indicator that more complaints are being resolved by bodies themselves. However, figures for complaints received at the start of 2008–09 appear to have increased again and we will need to monitor trends over a period and analyse the data in detail before we can safely draw any firm conclusions.

Enquiries and complaints – changed definitions

To help us do this, during 2007–08 we made a number of refinements in our statistical recording. From 1 April 2007 we have classified approaches to us as enquiries or complaints on the basis of whether the person making the approach was simply looking for information or wanted us to take action in respect of their concerns. This change means that figures now more clearly reflect the reasons why people approach us, and take less account of the means by which we are contacted. However, it does make for some difficulties in drawing comparisons involving breakdowns between enquiries and complaints in previous years (overall the composition of case numbers has not changed). To allow some high-level comparisons to be made we have adjusted the previously published 2006–07 figures so that some enquiries received then have now been re-classified as complaints. All relevant charts in this Annual Report have a footnote explaining the position – for a full explanation see Appendix 1. More detail on the numbers of enquiries and complaints received can be found in Appendix 2.

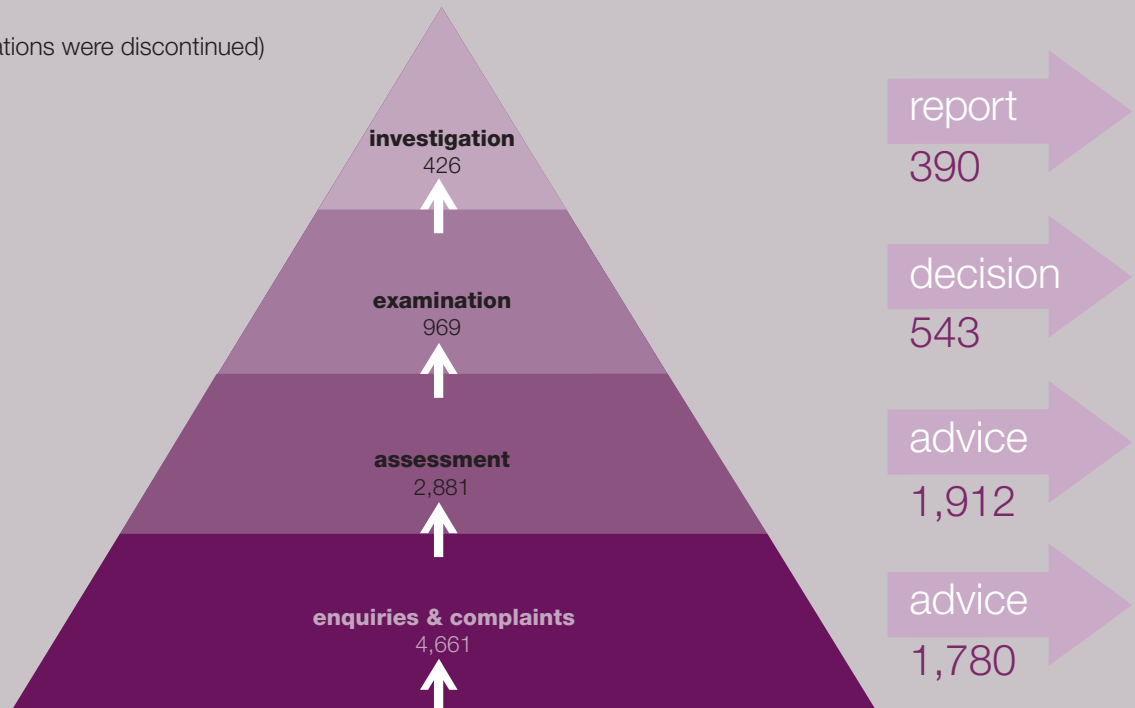
Total contacts (enquiries and complaints) received by year



Casework trends and performance

Complaints resolved at assessment, examination and investigation stages 2007 – 08

(36 investigations were discontinued)



How we dealt with enquiries and complaints

In 2007–08 we responded to a total of 4,661 enquiries and complaints – 10% more than the year before.

Enquiries

In 2007–08 we answered 1,780 enquiries, giving advice mostly by telephone. Our front office staff deal with the wide variety of concerns that are brought to us each day by people who visit our office (we are open to the public during normal opening hours), or who make contact by phone, text or email. The issues range from the relatively minor such as support in making a complaint about a dripping tap or advice about who to contact regarding high utility bills, to sensitive conversations with distraught people who have lost a loved one in hospital and are concerned about the treatment or care the patient received. Our front office staff play a vital role in quickly helping people find the assistance they are seeking, and, where the SPSO is not in a position to help, in guiding them to organisations better placed to do so.

Complaints

In 2007–08, we made decisions on 2,881 complaints, an increase of 14% on the previous year's figure of 2,533 (again, comparisons are qualified by the recording changes outlined above).

1 Assessment

All complaints we receive are assessed to determine firstly whether we are the right people to help – in other words, whether they are about a service provider and a matter which, by law, we can investigate. If a complaint appears to be within our jurisdiction, the next question to be asked is whether we can consider it now – normally we can only investigate a complaint if the organisation itself has been given a full opportunity to consider and respond to it. Sometimes we need more information from the complainant to come to a view on these matters. In 2007–08 we reached decisions on 1,912 complaints at the assessment stage. Well over half of these were premature (i.e. the complaint had not exhausted the organisation's complaints procedure). In these cases we were able to provide the people making the complaints with detailed advice about how to pursue them with the service provider concerned.

Casework trends and performance

Sifting premature complaints – Gateway

In April 2007 we refined our arrangements for early identification of complaints coming to our office prematurely. We introduced a small Gateway team who identify premature complaints and guide the complainant through the service provider’s complaints procedure, sometimes contacting the organisation itself for clarification and, where appropriate, seeing if an early resolution to the complaint is possible. This helps promote early, proportionate and local resolution – we encourage the complainant and the service provider to resolve the dispute that has arisen, without there being a need for the complaint to come back to the SPSO. Through this process, we are building our understanding of the reasons for premature complaints, and our knowledge of which organisations are generating the highest numbers of such complaints.

2 Examination

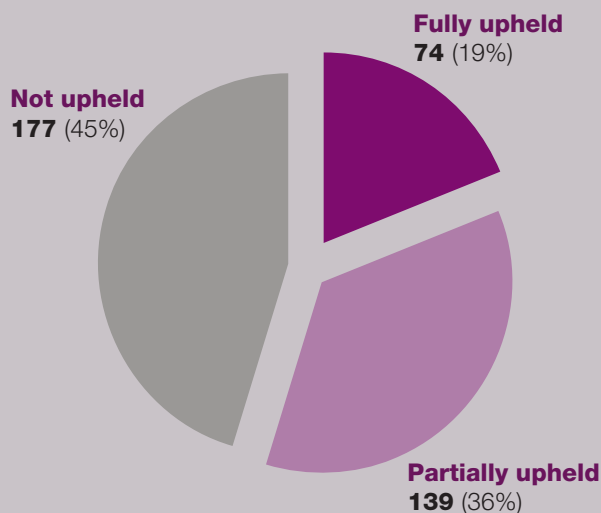
If we do not determine a complaint at the assessment stage it receives further examination. At this stage we consider a range of factors including what the public body concerned has already done to remedy the situation and whether a formal investigation by the SPSO is likely to achieve anything more; whether the evidence to allow us to reach conclusions is likely to be available; and crucially what is the best route for achieving resolution of a complaint. For example, if a tenant is concerned about delay in getting repairs done then a telephone call from the SPSO to the landlord is likely to be a quicker and more efficient way of resolving the complaint than a formal investigation. We also have to consider the wider public interest – both in the efficient and effective use of SPSO resources and in the learning which can be drawn from our investigation of complaints. We reached decisions on 543 cases at the examination stage during 2007–08.

3 Investigation

426 complaints were determined at the investigation stage in 2007–08 and we published 390 investigations – 24% more than in the year before. The chart below summarises the outcome of the cases that moved to the investigation stage.

Complaints are often complex – on average each complaint contains between two and three distinct issues (or ‘heads of complaint’); some complaints may involve many more. It is for this reason that some of our complaints are ‘partially upheld’ – only when we agree that all the issues raised by a complainant are justified will we record the complaint as fully upheld. The reports published in 2007–08 contained decisions on almost 1,000 separate issues.

Published investigation report outcomes 2007 – 2008



Casework trends and performance

Performance against time targets

2007–08 saw major changes in the senior management structure of the office, but otherwise was a period of relative stability in staffing with a turnover rate of 2% compared with 18% in 2006–07. This, together with the completion of the induction period of an additional five investigators who joined in April 2007, has provided a secure platform for improved productivity – against a flat resourcing settlement, the SPSO's outputs in 2007–08 rose significantly.

Since April 2007, we have been measuring our progress against three casework Key Performance Indicators. The following table shows how our overall performance against these targets has improved compared with 2006–07:

	2006–07	2007–08
Complainants receiving a decision within 2 weeks	22%	49%
Complainants receiving a decision within 14 weeks	57%	72%
Complainants receiving a decision within 52 weeks	88%	88%

We are committed to further improvements on our turnaround times, so that disputes are resolved fairly at the earliest opportunity.

Feedback from users of our service

The views that complainants have about our service provide another important measure of our performance and also provide valuable feedback from which we can learn. In 2007–08 we carried out our first comprehensive survey, the results of which were published in February 2008.

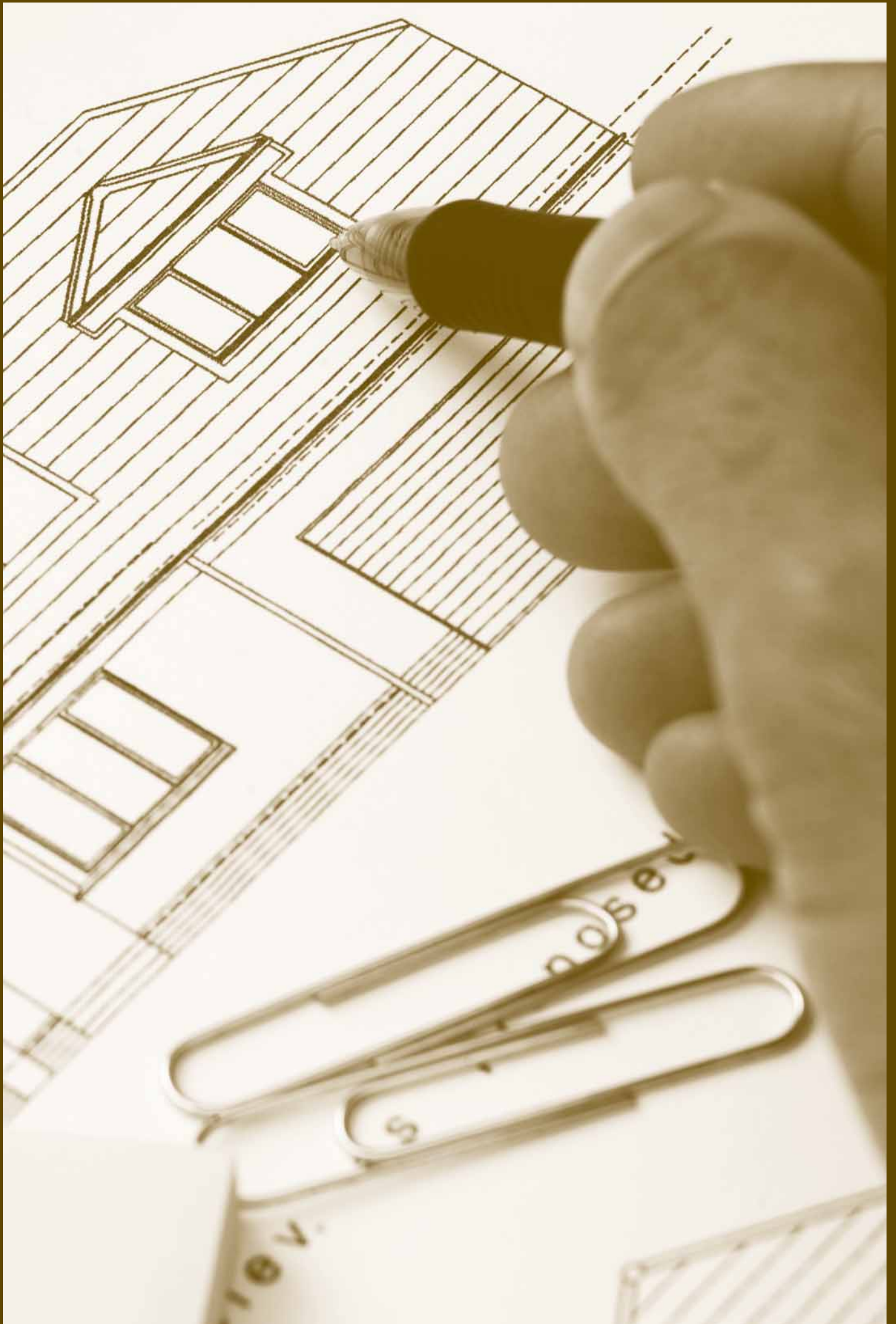
This covered complaints dating back to July 2006, a time when the office was under pressure because of rapid increases in our caseload that were not matched by the same rise in resources. This was reflected in the survey results: many complainants were concerned about the time taken to reach decisions on their cases. The study also showed us that: complainants' understanding of our role and powers was low; many complainants found our consideration and investigation stages lacked empathy; and only a minority felt that their expectations had been met. Similar to surveys carried out by other ombudsman offices, there was a correlation between the outcome of the complaint – whether it was investigated or not and then whether it was upheld or not – and the level of complainant satisfaction.

More positively, the survey showed that awareness of our office was high; there was good feedback about our accessibility; the quality of our website and leaflets and the service we provide at the initial contact stage were highly rated; there were high ratings for clarity of written communication; and satisfaction was higher among recent contacts compared with those whose complaint had been handled under our process before October 2005 when it underwent significant change.

In light of the findings, we have taken action on four main fronts:

- > seeking to better manage complainants' expectations;
- > giving more explanation about why we have considered it appropriate to determine a complaint without a formal investigation;
- > improving the accessibility of our Complaints Investigators; and
- > committing to a rolling survey of complainants to provide regular feedback and spot potential problems early.

The rolling survey of complainants began in August 2008. We also plan to obtain feedback from providers of public services about their views on our office and our dealings with them.



Local Government

Local authorities provide services for everyone in Scotland, often on a daily basis, and the vast majority of these are delivered satisfactorily – indeed, often to a high standard. However, things can and do go wrong, and dealing quickly and effectively with complaints really matters to people. We seek to support the sector in creating a culture in which complaints are valued for providing customer feedback or early warning of services that need attention and in which they are firmly linked with improvement. We believe that this approach is consistent with the significant changes being introduced throughout local government following the agreement of the Concordat with the Scottish Government and the introduction of Single Outcome Agreements.

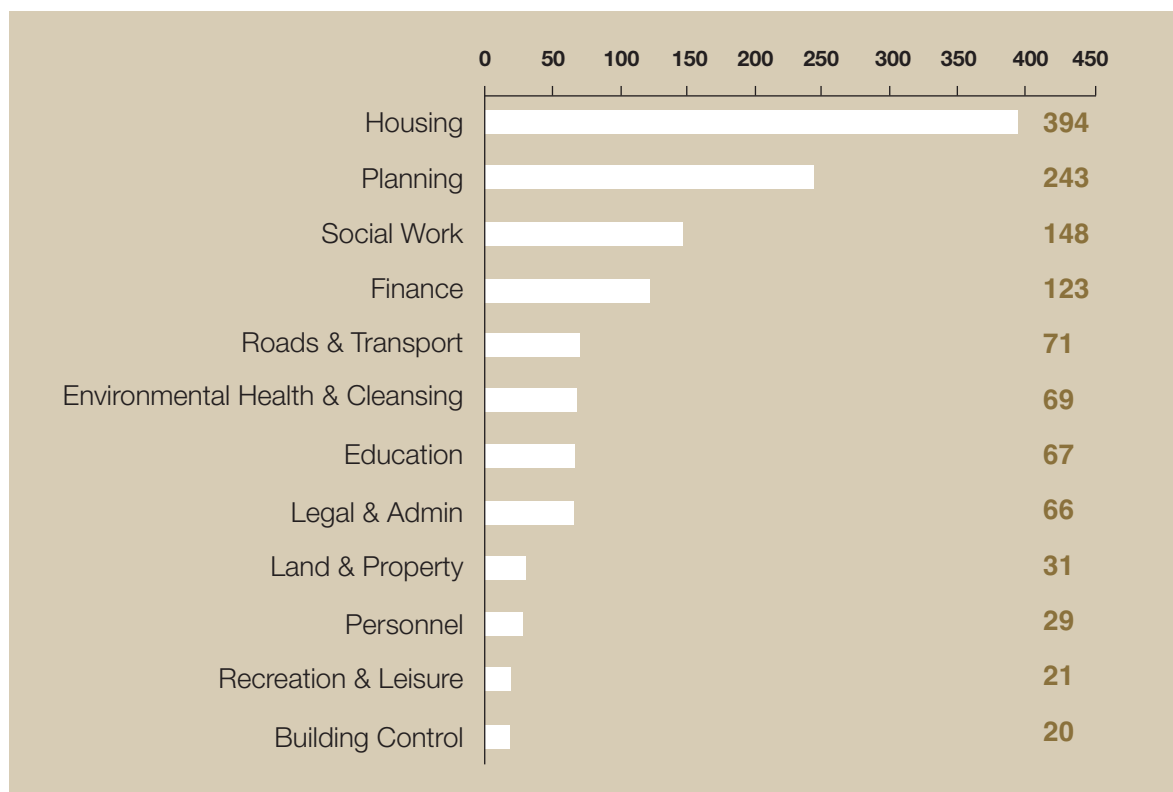
The enquiries and complaints we received

We received 1,329 complaints about local authorities in 2007–08, accounting for 55% of all complaints received (roughly the same percentage as in 2006–07). On average, this equates to 26 complaints per 100,000 population, with individual authority rates ranging from 14 to 39 complaints per 100,000 (excluding the island authorities, where small population bases distort the rates). We also received 565 enquiries about local authorities.

The top 12 subjects complained about are shown in the chart below.

This distribution is broadly similar to previous years, with complaints about housing, planning and social work accounting for over half of the total. Housing complaints are dealt with in more detail in a later chapter.

Local Authority Complaints Received by Subject 2007–2008 (Top 12)



Local Government

What happens to the local authority complaints that come to the SPSO?

In the course of the year, we reached decisions on 1,558 complaints about the sector (this figure includes some carry-forward from the previous year). The table below details what happened to complaints about the sector, relative to other sectors. Of the 167 local authority cases about which we published investigation reports, 85 (51%) were fully or partially upheld, and 82 (49%) were not upheld.

Issues in local authority complaints

Of the 1,558 complaints determined during the year, 760 (49%) were premature (i.e. they had not completed the full complaints process of the Council). As in previous years, this is a very large proportion of the complaints determined. It is unsatisfactory for complainants, and wasteful of resources, for there to be an unnecessary extra loop in the process. We are continuing to analyse the patterns of premature complaints and to work with Councils and other bodies to see how best to address this issue.

Complaints determined by sector and outcome 2007 – 2008

Stage	Outcome	Local Authority		Other Sectors		All Complaints	
Assessment	Complaint premature	760	49%	379	29%	1,139	40%
	Complaint out of jurisdiction	154	10%	184	14%	338	12%
	Withdrawn / failed to provide info	178	11%	193	15%	371	13%
	Discontinued or suspended	42	3%	22	2%	64	2%
	Progressed to examination	424	27%	545	41%	969	34%
	Total complaints assessed	1,558	100%	1,323	100%	2,881	100%
Examination	Determined after detailed consideration	240	57%	303	56%	543	56%
	Progressed to investigation	184	43%	242	44%	426	44%
	Total complaints examined	424	100%	545	100%	969	100%
Investigation	Not upheld	82	45%	95	39%	177	42%
	Partially upheld	62	34%	77	32%	139	33%
	Fully upheld	23	13%	51	21%	74	17%
	Discontinued or suspended	13	7%	16	7%	29	7%
	Withdrawn / failed to provide info	4	2%	3	1%	7	2%
	Total complaints investigated	184	100%	242	100%	426	100%

Local Government

There is a striking difference between sectors in the rate of premature complaints (for example, the rate of premature complaints was 69% in the housing association sector and only 18% in the health sector). And there are real variations within sectors too. In local government, for example, the rate for individual Councils ranged between 29% and 69%.

There are different possible explanations for this pattern of premature complaints. However, there may be a link between the accessibility, simplicity and quality of bodies' complaints processes and the incidence of premature complaints to our office. We were pleased to note that the recommendations in Professor Crerar's Independent Review of Regulation, Audit, Investigation and Complaint Handling of Public Services in Scotland (September 2007) endorsed our own call for an integrated, standardised and simplified system of complaint handling across public services, that would promote early resolution. This approach is reflected too in Douglas Sinclair's Report to Ministers from the Fit-for-purpose Complaints System Action Group (July 2008). The Ombudsman was a member of this Action Group, and the SPSO looks forward to working with the Scottish Government, local authorities and other complaint handling bodies in taking forward this and other proposals for simplification and improvement.

As it is each year, the handling of planning applications was one of the main areas of complaint. It is frequently a matter of frustration and disappointment to complainants that it is not normally within the power of the SPSO to stop development or amend planning decisions. Responsibility for making such decisions properly lies with democratically accountable local authorities and there are established appeals procedures in relation to them. When we consider complaints relating to planning applications it is not our role to assess or challenge the merits of decisions. Our function is to judge whether Councils have fulfilled their administrative duties and functions in a reasonable manner. For example, we could look at whether an application for planning permission has been properly administered and whether a planning decision (made by officers acting under delegated authority or by a committee) has been taken in accordance with the relevant Scottish planning legislation and local policies and procedures and related guidance.

The SPSO also receives a number of complaints about privacy and private residential amenity. Privacy is not generally a 'material consideration' in planning law unless the planning authority has adopted formal policies for such matters as, for example, the distance between windows of facing

habitable rooms or angles of shadows. Third parties have a higher expectation of the protection that planning affords than is actually the case but the Scottish Government has no formal guidance on the issue of privacy. We have stated previously that we shall continue to monitor the number of complaints we receive about the issue and, if appropriate, consider what action to recommend to address the problems raised by the lack of formal guidance.

To assist our Complaints Investigators with more complex cases we have an in-house planning adviser. In order to better manage the expectations of complainants who have concerns about planning issues we published leaflets in September specifically relating to that subject. We are grateful to The Highland Council for their help in producing the leaflet, which we hope all planning authorities find useful.

Supporting improvement

Our outreach team carried out a busy programme of activities to support good complaint handling in the sector. We gave presentations to senior management and frontline staff involved in complaint handling in several Councils throughout Scotland. The Ombudsman and Directors also held many casework discussions with Chief Executives and customer services managers to facilitate mutual understanding.

In August 2008, we sent a letter to the Chief Executive of each Council detailing the volume and subject of enquiries and complaints received about their organisation in 2007–08. The letters also provided information about how we had determined complaints and any recommendations we had made. For the first time, we included comparative data to assist Councils in tracking any trends about issues and measuring their complaint handling performance.

Since our inception, we have convened an annual meeting of local authority liaison officers to discuss general issues arising from the complaints that come to the SPSO. Following feedback from our 2007 meeting, we extended the scope of our conference for the June 2008 event. Delegates from 30 local authorities attended a full day of presentations, discussions and practical workshop sessions run by SPSO staff. We were grateful to our speakers and to all the delegates for a stimulating and positive approach to working together to improve complaint handling across the sector.

We will continue to work closely with officials and elected members in all local authorities in pursuit of our shared interest in seeing complaints satisfactorily resolved at the earliest opportunity and in learning the lessons from concerns raised by users of Council services.

Local Government: Case Studies

Housing and council tax benefit Case: 200603376

A man raised a number of concerns about the way in which the Council dealt with an application for Housing and Council Tax Benefit. We partially upheld his complaint that there was a delay in processing the claim for Housing and Council Tax Benefit, upheld the complaint that the Council wrongly denied that they were aware that the person concerned was suffering distress as a consequence of their delay and did not uphold one other complaint. By way of redress, we recommended that the Council consider favourably any reasonable claim for out of pocket expenses that the person concerned may make and apologise to him for their failure to recognise his distress and for their delay in determining his claim.

Roads and Transport: policy / administration Case: 200601959

Mr C raised concerns about the way the Council had consulted on a proposed Traffic Order which restricted waiting and loading on the street where he lived. We concluded that the Council had restricted the opportunities for Mr C to find out about the proposed Traffic Order by the way they gave notice of the proposals. Therefore, Mr C was given less opportunity to raise his concerns about the way the proposals affected his street. We recommended that the Council apologise to Mr C for the shortcomings identified and that a review be undertaken of the way proposed Traffic Orders are notified to reflect the concerns raised in the report, giving particular attention to the wording of advertisements and the notification of residents considered likely to be affected by proposed changes. We noted that the Council had already informed Mr C that they were considering placing all traffic regulation orders on their website and we commended them for this initiative.

Local Government: Case Studies

Handling of planning application, complaint handling Case: 200603583

A man raised concerns in respect of his neighbour's application to the Council to construct an extension at the gable of his house. We partially upheld the complaint that the Council failed to have regard to their Local Plan guidance on privacy and intervisibility of windows in granting planning consent to the application and that they failed to take enforcement action to ensure that an upstairs en-suite bathroom window was provided with obscure glazing. We fully upheld the complaint that the Council delayed unduly in responding to the complainant's concerns. By way of redress, we recommended that the Council apologise to the complainant for the shortcomings, and explore with him and his neighbour the introduction of screening to preserve his privacy from overlooking from his neighbour's downstairs windows.

Planning: Tree Preservation Orders Case: 200600977

Mr C raised a number of concerns about the Tree Preservation Order (TPO) protecting trees on his land and the Council's response, in relation to the site, to a Public Local Inquiry (PLI). We upheld the complaint that the Council had revoked the consent previously granted to Mr C to fell trees covered by a TPO without a valid reason and without informing him of this fact. We also upheld the complaint that the Council gave him erroneous information about the legislation governing TPOs and gave incorrect information to the PLI about the management plan in place for the Scheduled Ancient Monument and trees on Mr C's land. By way of redress, we recommended that the Council apologise to Mr C for the failings identified in the report and also remind staff of the importance of giving accurate information in response to enquiries from members of the public. We further recommended that the Council formally request the necessary information from Mr C on the trees to be felled so that their knowledge on the tree work is up-to-date and that they take steps to investigate how this error occurred and to ensure that officers are in possession of accurate information when responding to a PLI.

Judicial Review and the Ombudsman

On October 17 2007, Lord Macphail issued his Opinion⁷ on an application by Argyll and Bute Council for Judicial Review of a decision by the SPSO on a complaint that the Council had not provided funding for the personal care of an elderly man. This was the SPSO's first judicial review since the office was established in 2002. We comment here, firstly, on some of the key issues in the particular case and then on broader points relating to an ombudsman's place in the administrative justice system.

The Case

Mr C complained that the Council had assessed his elderly father, Mr A, as eligible for Council funding for free personal care but refused to make any payment due to lack of available funds. Mr C had first complained to the Council who advised him that the problem lay with insufficient funding from the Scottish Executive. Mr C complained to the Scottish Executive that there were insufficient funds and was advised that the Council had been given sufficient funds and it was, therefore, the responsibility of the Council to ensure adequate resources were available to meet identified needs. Mr C complained to the SPSO that the Council and the Scottish Executive were both failing to provide a service in line with the expectation created by Government policy.

In the report which was the subject of review⁸, the Ombudsman concluded that there was a statutory duty placed on the Council by the Community Care and Health (Scotland) Act 2002 (CCHSA) to make funding available for the man's already assessed personal care needs from the time the service was being provided. She, therefore, upheld the complaint and recommended that the Council make payments for personal care from the date on which the elderly man received the services he had been assessed as needing.

In his Opinion, Lord Macphail stated that he had 'with reluctance' reached the conclusion that the Ombudsman's decision in determining that there was a statutory duty placed on the Council by the CCHSA was incorrect. He recognised the implications of his Opinion, stating:

'I am acutely aware that my decision means that since the coming into effect of the new regime on 1 July 2002 there has been a widespread misapprehension as to the meaning and effect of the legislation on the part not only of local authorities but also of the Scottish Executive and of persons over 65 in private care homes and their families.'(Para 70)

In Para 103 he stated:

'If the Ombudsman's decision was correct, an issue remained about the adequacy and the method of funding of the policy of free personal care. If her decision was wrong, a wider issue still remained: that CCHSA had failed to capture the policy objective of providing personal care services to all those assessed as needing them, regardless of their means and free of any charge. In either case, difficulties had plainly arisen in the implementation and delivery of that policy. The Ombudsman's role in that connection was not to pronounce definitively on what the law was, or on what the solution should be. Her role, once her investigative jurisdiction was engaged by a complaint, was to inquire into the matter and to report in such a way that the nature of those difficulties – the systemic problems exposed by the complaint – were properly identified and canvassed, so that resolution of those difficulties might be pursued through ordinary political processes.'

We welcomed the Scottish Government's review of the Free Personal Care policy, and were pleased that Lord Macphail's Opinion reinforced the urgency of the review. In addition, we were pleased to participate in a Consortium of Interest established by the Convention of Scottish Local Authorities which aimed to obtain clarity regarding the legislative requirements placed on local authorities and other providers. COSLA went on to play an important role in the subsequent Review by Lord Sutherland, to which the Ombudsman also gave evidence. The Review, published in April 2008, found that the policy of free personal health care was sound, but called for increased funding, greater consistency and transparency, as well as better planning.

⁷ *Opinion of Lord Macphail in Petition of Argyll and Bute Council, Petitioner, against Judicial Review of a Decision of the Scottish Public Services Ombudsman, October 2007*
www.scotcourts.gov.uk/opinions/2007csoh168.html

⁸ SPSO Case ref 200503650, laid before the Parliament in November 2006

Judicial Review and the Ombudsman

The Role and Function of the Ombudsman in Administrative Justice

Lord Macphail's Opinion also helpfully commented on some wider issues concerning the role and powers of the Ombudsman. In common with other public service ombudsmen in the United Kingdom, the Ombudsman can only make recommendations, not binding judgements. The Council argued that there is a strong expectation that public authorities will accept the Ombudsman's recommendations and Lord Macphail said that he had no difficulty in accepting that submission. It is partly because of that strong expectation that we issue drafts of investigation reports to the body subject to complaint, as well as to the complainant. Doing so gives both parties the opportunity to comment on the accuracy and completeness of the report, before it is finalised and laid before Parliament.

One of the arguments advanced on behalf of the Council during the court proceedings was that the SPSO did not accept that it was subject to judicial review. This is not so. It is well established on the basis of cases elsewhere in the United Kingdom that ombudsmen are subject to judicial review both on the application of bodies within their jurisdiction and by those who bring complaints to them. So we entirely accepted that this office is subject to the supervisory jurisdiction of the courts. Indeed, we consider that the knowledge that this office's decisions may be subject to judicial review is an appropriate and useful discipline. We do not, however, think that judicial review was an effective first step for reviewing the issues in this case.

Essentially it seems to this office that the position which was reached after the judicial review process is that issues have been identified which the Scottish Ministers and the Scottish Parliament have to consider. That position could have been reached much sooner and with considerably less cost to the public purse by means of the issue of a special report.

A final concern the Ombudsman has about the use of the judicial review process in cases such as this is the potential impact on those who bring, or may be thinking of bringing, complaints to our office. The Council's petition for judicial review was served on the man who made the original complaint to us – as an interested party. He chose to appear on his own behalf in court and in doing so made the point that some people might be put off from bringing a complaint to the Ombudsman by the thought that this might result in them being named in court proceedings. He argued cogently that key strengths of the Ombudsman system were that it allowed sensitive cases to be investigated in confidence and without cluttering the courts with matters which could be better resolved in other ways. He felt that the judicial review had invaded his family's privacy as well as having wasted the time and resources of the court and of the Ombudsman's office. We must also make the point that the injustice which the Ombudsman identified in her investigation report remains unremedied.



Health

The enquiries and complaints we received

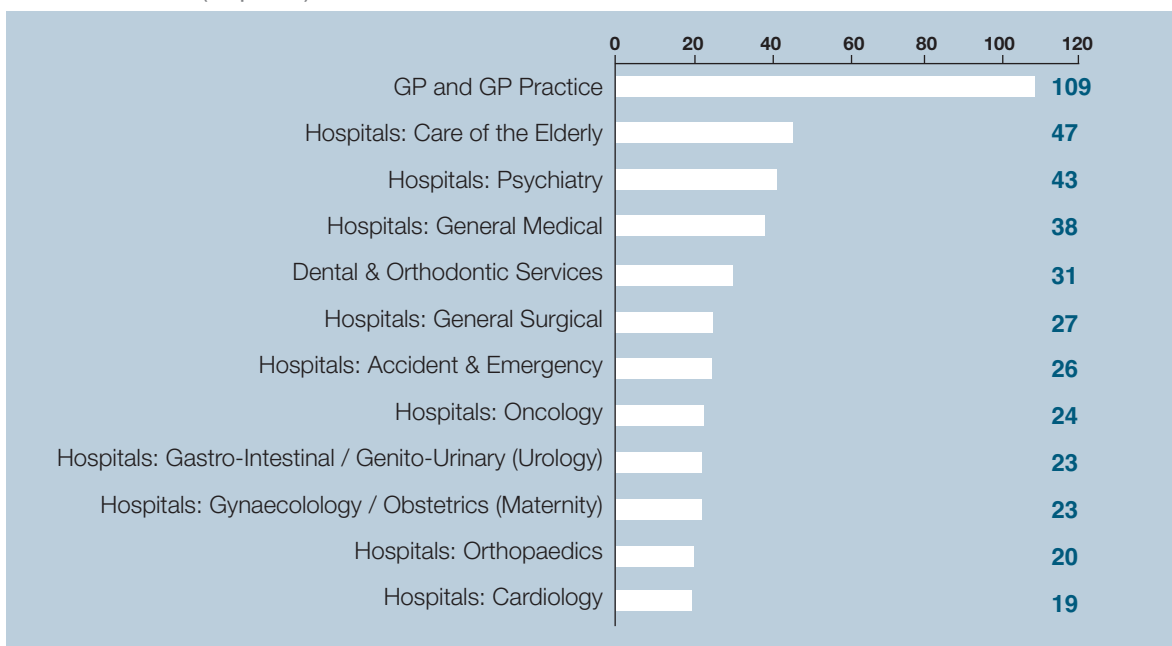
We received 741 enquiries and complaints about the NHS in 2007–08: an 11% decrease compared with the previous year. This is the first time since the establishment of the SPSO that there has been a reduction in the number of the contacts we have received about the NHS. As we have commented earlier in this report in relation to the somewhat smaller decrease in our overall caseload during 2007–08, it is too early to say whether this is a trend or a blip. It is worth noting that in recent years there has also been a decrease in the number of complaints received by the NHS itself⁹. It would be encouraging to see this as an indicator of improved handling of concerns at the front line or of increased trust in the NHS. As we commented in last year's Annual Report in relation to research which the SPSO and the Scottish Health Council had commissioned on NHS complaints, there are high levels of satisfaction with NHS services. However, the research also showed that many people who are not happy with the service they have received from the NHS feel inhibited from complaining for a variety of reasons. So it would be naïve to assume that reductions in complaints to the NHS and approaches to the Ombudsman necessarily indicate increased levels of public satisfaction.

The data need to be carefully monitored and analysed. In this context it is encouraging that the Scottish Government's Health Directorates have commissioned further research on complaints and the SPSO is pleased to be involved in this research.

Of the 741 contacts we received, 142 were enquiries and 599 were complaints. We have explained earlier in this report the changes in the way we define whether contacts are 'enquiries' or 'complaints' and how this affects comparison of figures in each category for 2007–08 and earlier years. What has not changed is that complaints about the NHS form the second largest element of our caseload: 25% in 2007–08 compared with 27% the year before.

Of the 599 complaints received 328 (55%) were about hospital services, 109 (18%) about general practitioners and 31 (5%) about dental and orthodontic services. The remaining 131 complaints covered NHS 24, the Scottish Ambulance Service and a wide range of other NHS services. The percentage breakdown was broadly similar to that in 2006–07. The top twelve categories of complaint are shown in the following table.

Health Complaints Received by Subject 2007 – 2008 (Top 12)



⁹ NHS complaints statistics, http://isd.scot.nhs.uk/isd/complaints-statistics.jsp?pContentID=4424&p_applic=CCC&p_service=Content.show&

Health

What happens to the health complaints that come to the SPSO?

We reached decisions on 785 complaints about the NHS during 2007–08 (including some carry-forward from the previous year). Of these, 89 cases were outside our jurisdiction, 143 were premature and 146 were closed either because the complaint was withdrawn or because the complainant did not respond to a request for further information.

In 211 cases, which underwent detailed examination, we decided that an investigation was not appropriate. We issued 182 investigation reports about the NHS – 48 (26%) of the complaints were fully upheld; 65 (36%) were partially upheld; and 69 (38%) were not upheld. 14 investigations were started but discontinued.

How do we reach decisions on health complaints?

Each complaint is examined carefully by a Complaints Investigator, starting with the information provided by the complainant, but also in many cases collecting additional evidence: clinical records, relevant policies and guidelines and so on. In considering all complaints we seek to establish what happened, what should have happened and, where there is a difference between the two, how that came about.

Our Investigators are selected for their analytical and other skills – they do not generally have clinical backgrounds. So in looking at complaints where clinical judgement is an issue they obtain appropriate clinical advice. In looking at the clinical issues in complaints our advisers seek to reach a view on whether what happened fell within the range of what would generally be regarded as acceptable practice in the particular circumstances.

Issues in health complaints

We commented in last year's Annual Report that poor communication in the broadest sense was a recurring theme and that the quality of nursing care, particularly for vulnerable people, was a concern. We asked our in-house clinical adviser Anne Jarvie to reflect on these issues, particularly in the light of her work with us and as Chair of the external reference group which reviewed the organisation and delivery of care for older people in Lothian. Her comments, which focus on dignity and respect in nursing care, and also the importance of record-keeping, another recurring theme in our investigations, follow this section.

Feeding back the learning

The Ombudsman was invited to address the meeting of NHS Chief Executives in August 2007 and also spoke at the National Clinical Governance Conference organised by the NHS Quality Improvement Service in January this year. In June 2008, she spoke at the conference organised to celebrate the 60 year anniversary of the founding of the NHS. These events, along with the meetings we hold regularly with the Scottish Government Health Directorates, provide excellent opportunities for engagement on a high strategic level with the people and organisations that can bring about the wider changes we seek.

A good example of this arose from a case which was mentioned in last year's Annual Report, involving the sad death of a young woman as a result of deep vein thrombosis (DVT). One of the recommendations we made in our report on the case was that consideration should be given to the need for Scotland-wide guidance on the management of DVT, and that a patient information leaflet should be integrated into any such guidance. To take forward the implementation of this recommendation, the Scottish Government Health Directorates asked NHS Quality Improvement Scotland to commission a stock-take of guidance and audit relating to Venous Thromboembolism (VTE) prevention and treatment in NHSScotland. The resulting report, which was circulated to all NHS Boards in January 2008, revealed variations in the existence of written, up-to-date protocols and policies for the prevention and management of deep vein thrombosis across NHSScotland, and in the availability of patient information materials. In the light of this, the Chief Medical Officer told all NHS Boards to address the requirement for written policies for prevention and management of DVT as a matter of urgency, and to ensure that consistent and accessible patient information is available.

This kind of action demonstrates the way in which individual cases can have a wide resonance when the bodies responsible for improvement respond positively to the recommendations in the SPSO's investigation reports.

Health

A further example of an individual complaint leading to Scotland-wide changes is in relation to Continuing Care. A number of our 2007–08 investigations into complaints that people had not been able to obtain NHS funding for their Continuing Care identified a need to review and clarify national guidance issued in 1996. We brought this to the attention of the then Scottish Executive Health Department. The Scottish Government instituted a review of Continuing Care and in February 2008 published new guidance.

The eligibility criteria have not changed but the new guidance addresses many of the problems which we had identified. There is a revised and expanded process for appealing against a decision to discharge a patient from hospital and a decision not to award Continuing Care funding; a revised process for making and recording a decision not to award Continuing Care funding; and a new process for accessing assessment from the Community.

The power of apology

An initiative that we have been promoting for the past several years is for legislation that would allow public bodies to make an apology without fear of litigation. Meaningful apology is a recommendation we frequently make on health complaints. To those looking on from outside this may appear to be less significant than other recommendations we make, for example for training, changes in practice, or reviews of policy or guidelines to ensure there is no recurrence of the clinical, nursing or complaint handling issue that led to the complaint. However, for the patients or families concerned, an apology is often the key action that they are looking for – a full explanation of what went wrong, a heart-felt ‘I am sorry’ from the individuals who were at fault or from those at the highest levels in an organisation who bear responsibility for what went wrong. Apologising is also a means by which bodies learn, through the process of looking at the part they played in what went wrong and speaking through a letter of apology to the person who was affected.

In short, as we have frequently stated, a meaningful apology can be a very powerful tool in rebuilding trust between health professionals and the public. Our office has produced guidance on the subject, which can be obtained from our website.

We have held productive meetings with MSPs, and the Ombudsman’s lecture in May 2008 (held at the Parliament under the auspices of the Royal Society for the Arts in Scotland) attracted a further wave of interest. Over the past year, we held several meetings with the Medical and Dental Defence Union of Scotland, who are also supportive of such change and the Ombudsman raised the issue in her address to the Royal College of Physicians’ Changing Practice Conference in November 2007.

Health: Case Studies

Supporting improvement

We continued to give presentations and hold meetings with a wide variety of bodies in the health sector, including representatives of Boards across Scotland, the Scottish Ambulance Service and individual GP Practices. In April of this year, our outreach team provided a presentation to the Patient Partnership Forum at the State Hospital in Carstairs. We are always pleased to engage with service providers in this way, as it gives us opportunities to understand the unique situations in which they work, as well as for them to learn about our processes and approach.

A significant improvement in the way people obtain advice about how to complain about the NHS was the development of the new Independent Advice and Support Service (IASS), which was officially launched in September 2007. The IASS is part of the Scottish Citizens Advice Bureau Service and is funded by local NHS Boards. The service aims to support patients, their carers and relatives

in their dealings with the NHS and in other matters affecting their health. Shona Robison, the Minister for Public Health, spoke at the launch, along with the Ombudsman, Kaliani Lyle, Chief Executive of Citizens Advice Scotland and Brian Beacom, Chairman of the Scottish Health Council.

The event also explored issues raised by research commissioned by the SPSO and the Scottish Health Council into 'barriers to complaining' about health services.

We attended the NHS Complaints Association Scotland (NCAS) conference on positive complaints handling in Peebles in June 2008, where we facilitated two mini-workshops entitled 'Complaints: Symptoms and Solutions'. The workshops featured the SPSO DVD which was produced following three seminars on clinical governance that were held in early 2007. It has proved a useful training tool and has been in high demand from nursing colleges and GP Practices.

GP diagnosis and communication Case: 200602086

Two complaints were brought by a mother, Mrs C, on behalf of her son, Mr A. She complained about the treatment that her son received from a GP from an unscheduled care service and also from another GP Practice. Her complaints were that the GPs failed to diagnose that Mr A was suffering from pneumonia and that as a result he had an emergency admission to hospital.

Mr A has communication difficulties and this affected his ability to accurately describe his symptoms. However, we found that his carer provided a reasonable history which, coupled with the GP's examination, should have allowed the GP from the unscheduled care service to make a reasonable diagnosis. We upheld Mrs C's complaint about the GP from the unscheduled care service and partially upheld her complaint about the other GP Practice. We recommended that the NHS Board concerned should share our report with the GPs to reflect on the lessons learned in relation to the importance of chest examination in diagnosing chest disease and the difficulties of assessing patients with communication difficulties and to share the case with their appraisers at annual appraisal if that had not already been done.

Health: Case Studies

Hospital discharge Case: 200500782

We upheld Mrs C's complaint that her late mother, Mrs A, had been inadequately assessed and inappropriately discharged on three occasions by the Accident and Emergency Department of a hospital. We found that there were major failings in the nursing component of the Department's documentation, which failed to show evidence that full nursing assessments had been carried out, and that there was a failure to fully investigate Mrs A's symptoms. We also found that staff did not take Mrs A's home circumstances into account when deciding whether to discharge her from hospital. We recommended that as a matter of urgency, the Board undertake an audit of all nursing documentation, including observation charts in use in the Department and conduct a review of the chest pain protocol.

Mesothelioma Case: 200503196

Mrs C raised a number of concerns about the care and treatment of her husband and his death from mesothelioma. Our investigation established that the clinical management of Mr C was reasonable. He suffered a very aggressive form of an aggressive cancer, and his decline was more rapid than would have been anticipated by medical staff.

However, of great concern was a failure to communicate important information to Mr and Mrs C in a way that would have allowed them to properly consider the implications of Mr C's illness and the options for managing it. Poor communication caused real suffering on the part of Mr and Mrs C and we made several recommendations to address the failings identified in the report.

Nursing care and communication Case: 200500810

This case concerned the care and treatment provided to an elderly man, Mr A, with a long history of manic depressive illness. We upheld his sister's complaint that Mr A's weight loss was not dealt with appropriately and that the response to his falls in hospital was poor. We made several recommendations including a review of how eating and drinking/weight problems are dealt with; a review of care planning in the hospital; implementation of the Board's new policy on patient falls; development and implementation of a policy on the use of restraints in line with Mental Welfare Commission guidelines; and the taking of steps to ensure that the hospital follow the guidelines on pressure sore prevention.

Reflections on NHS complaints

By Anne Jarvie, SPSO clinical adviser September 2005 – April 2008

Clinical advice

The SPSO has in-house clinical advice provided by a GP adviser and a nurse adviser. This means that our Investigators are able to discuss issues face-to-face with the advisers and that the advice received is informed by current knowledge of the NHS in Scotland. In addition, we have an arrangement with the English Health Ombudsman's office that allows us to obtain advice from their panel of clinical advisers. This panel, which now provides advice to ombudsmen in all four countries of the UK, covers a wide range of specialisms.

Our first in-house clinical adviser was Anne Jarvie CBE, the former Chief Nursing Officer in Scotland. She finished working with us in April 2008 and we are grateful to her for the enormous contribution she made. We have been fortunate to secure as her successor an extremely experienced nurse who most recently has been working in NHS Education Scotland and who is continuing in that role while working part-time with us.

In a lifetime devoted to working in the health sector, I have been privileged to see at first hand the commitment of healthcare professionals working effectively in multi-disciplinary teams and providing high quality patient-centred care. It is magic to observe. I believe that NHS staff are there because they want to be there, supporting and caring for people at some of the most vulnerable times in their lives.

So the following comments should be read in that context and in the knowledge that complaints are but one of the many sources from which we can draw conclusions on the quality of the service provided by professionals working in the NHS. Unfortunately there are times when the NHS fails to meet the just expectations of patients and families. When, in fact, it could be claimed that the patient's human rights have been ignored especially in relation to dignity, respect and autonomy. We need to apologise for such failures, reflect on what went wrong and learn.

My observation from my work at the SPSO and in Lothian is that core to the dissatisfaction expressed by patients or their relatives is concern about lack of respect afforded by some healthcare staff and the impact this has on the patients' personal dignity. In addition failures in communication including involving patients, and where appropriate their relatives, in care decisions diminishes their autonomy.

Reflections on NHS complaints

Frequently people volunteer their views on the NHS to me and if they are dissatisfied the issues are the same. Failures in the technical aspects of care are criticised from time to time but the level of satisfaction is generally high. It is far more usual for the quality of care to be measured by patients and relatives in line with the human rights principles as stated above. It is the way personal rather than technical care is delivered that seems to be at the heart of patient and public concerns about the NHS where they exist. I, therefore, welcome the Royal College of Nursing's recently launched 'Dignity' campaign, which has this message at its core.

In my Report to NHS Lothian¹⁰, I stated we 'found many examples of achieving high quality technical care. However, care that prioritised the technical aspects of treatment to the detriment of personal care, can make the commitment to person-centred care hollow'. My work with the SPSO provided me with evidence that this statement is echoed in many of the complaints received, is experienced by people of all ages where there is a quality of care failure and occurs across the NHS.

The Scottish Government Health Directorates are currently investing in improving the patient experience in recognition of the evidence that it is possible for an individual to have a good outcome in that their illness is cured or appropriate rehabilitation or palliation is achieved but the experience of care has not been of the patient being treated as an individual worthy of respect, having their dignity protected and being involved in decisions about their care. In other words the outcome is satisfactory but the experience and the lasting memory is of poor care and service delivery.

A further point which is poignant for me and will no doubt ring true with others is that a significant number of complaints are raised by relatives following the death of a loved one. As a nurse I found interviewing these people quite distressing. The most striking thing for me is the impact of perceived or real poor care, especially poor nursing care, on the ability to move through the grieving process. I have met people who are still raw and distressed by the events four or five years on.

Equally I have met very senior healthcare professionals who have not been supported and kept informed throughout the complaints resolution process and who remain vulnerable years later.

I have also seen how things can change. The key ingredients always seem to be the same – appropriate resources, managerial and clinical leadership (that promotes the role of the charge nurse in leading the delivery of care), environmental improvements if needed, a can-do belief and permission to try (and if necessary make mistakes) together with support and encouragement. These can and do lead to improvements, providing the changes are backed with education and training. This is encouraging, and it is where complaints play a vital role in pointing out problems and making recommendations for solutions.

¹⁰ *Final Report of the External Reference Group for Older People*, March 2006
http://www.nhslothian.scot.nhs.uk/aboutus/ourorganisation/nhsboard/meetings/boardpaper/060322_5-1.pdf



Housing

Of Scotland's 2.4 million dwellings, around 25% are in the social rented sector. Six local authorities have now transferred (or are in the process of transferring) their housing stock to housing associations – contributing to a drop in local authority housing to under 350,000 properties as against a rise to over 230,000 in the housing association sector. For this reason, it is helpful to look at some housing information for Councils and for housing associations (Registered Social Landlords – RSLs) together.

Where the issue of trust is concerned, housing is an area where 'rebuilding the relationship' has a particular resonance. Housing services relate closely to the quality of our lives because they concern our immediate environment and our daily interaction with neighbours and communities. A multilayered web of connections and relationships builds up around our homes – and so when something goes wrong, it can have a deeply felt impact on the individuals concerned. Tenants and other users of housing services need to be assured that their concerns will be listened to, and that, if appropriate, changes will be implemented to ensure that mistakes are not repeated.

We know that housing staff take very seriously their obligations to provide a good service, including dealing effectively with complaints. Many of the requests for outreach support and advice that we receive are from individual housing associations and Council housing departments. We value these approaches to us, and the willingness with which housing professionals from a number of areas (senior management, frontline staff, property and maintenance, human resources) engage with our outreach team to cultivate a culture of valuing complaints.

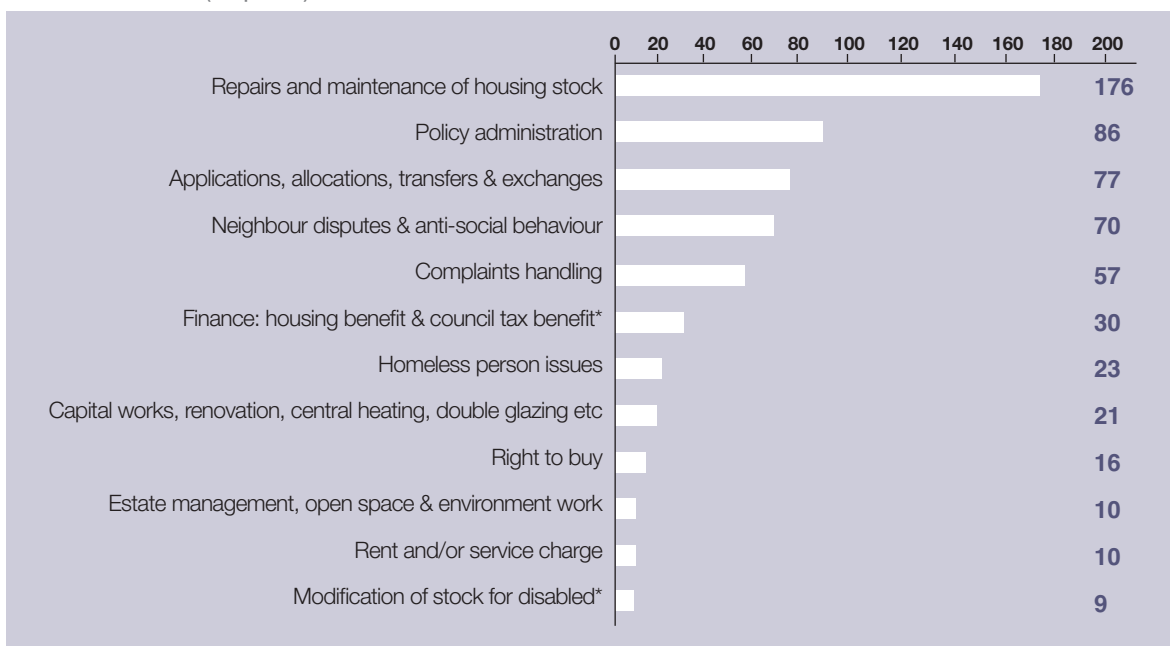
The enquiries and complaints we received

Taking local authority housing and RSL complaints together, we received a total of 243 enquiries and 618 complaints in 2007–08; more than we received about the NHS.

Complaints were received about all of the 32 local authorities and 88 of the approximately 230 RSLs on the register maintained by the Scottish Housing Regulator. Around 60% of the cases were about local authorities, who have just over 60% of the social rented housing stock.

The top twelve categories of complaint are shown in the following table:

All Housing Complaints Received by Subject 2007 – 2008 (Top 12)



* Local Authority only

Housing

What happens to the housing complaints that come to the SPSO?

We reached decisions on 684 housing complaints (for local authorities and RSLs combined) in 2007–08, including some carry-forward from the previous year. This is a 57% increase on last year. Of these, 558 (82%) were determined at the assessment stage (mainly because they had not completed the service provider's complaint process); 76 (11%) at the examination stage; and 50 (7%) were investigated. Of the complaints investigated, four were fully upheld, 23 were partially upheld, 15 were not upheld, and eight complaints were discontinued or suspended.

Issues in housing complaints

We are concerned that complaints about housing continue to generate the highest number of premature complaints to our office. In 2007–08, the rate of premature complaints about the housing functions of Councils was 61% and for housing associations, it was 69%. These rates are considerably higher than for other sectors (for example, in health in 2007–08, the figure was 18% and for non-housing local authority complaints it was 44%). We have been working with the sector to try to establish the reasons for this. In February 2008, together with the Chartered Institute of Housing in Scotland, we undertook a joint study of Council housing departments' complaints processes. The findings demonstrated that there is a great deal of good practice by Councils in making complaining straightforward for members of the public. There are also good examples of how learning is fed back throughout organisations to improve services. However, the survey also revealed key areas for development:

- > training and empowering frontline staff;
- > recording complaints accurately; and
- > using complaints information to drive improvement.

The survey has lessons that apply equally to the Council and the RSL sector and we would encourage all housing bodies to read the research and the suggestions for remedy of problem areas. We highlighted the survey in our summer 2008 issue of *Housing News*, the six monthly newsletter that we produce for the frontline staff of RSLs.

Joint SPSO-CIH survey – key findings¹¹

- > Only 50% of respondents train all staff in complaints handling at induction
- > Only 40% of respondents have complaints as a regular agenda item in meetings attended by frontline staff
- > Only 41% of respondents provide complaints feedback through tenant newsletters
- > 31% of respondents did not record the type of complaints received
- > Only 53% of respondents have procedures in place to help front line staff deal with complaints about contractors.

There have been a number of complaints about the way applications under the Right to Buy have been handled by landlords or about changes to entitlement as the consequence of a move or another change to a tenancy. In a few cases we have been concerned about landlords failing to provide full, timely information to their tenants, particularly when there is a transfer to a different property. Sometimes landlords are not keeping a record that they have supplied this information, and, if they have, are providing it too late for the tenant to be able to consider it properly, and to take appropriate independent advice. Although there may not always be statutory obligations on a landlord to provide this information, we consider that it is good administrative practice to do so, and we would generally expect a landlord to keep written records to verify that tenants have been made aware of the potential changes to their rights.

Housing

Supporting improvement

Our outreach team and Investigations staff carried out a busy programme of activities to support good complaint handling in this important sector. We gave presentations to senior management and frontline staff involved in complaint handling in a number of RSLs. We were particularly pleased to carry out training with Human Resources personnel, since we believe that their role is key to supporting staff and ensuring that good complaint handling is part of induction and ongoing training in the sector, in particular for frontline staff.

Housing Options leaflet produced jointly with Shelter

We also work with the voluntary sector to reach people who may have concerns about housing services. We are often contacted by members of the public who are looking for support in finding a home. This is not a service that we can offer, but we seek to help people by signposting them to an organisation better placed to assist them. In response to such requests about housing, we commissioned Shelter Scotland, the leading housing and homelessness charity, to produce a guidance leaflet. The Housing Options leaflet explains some of the choices available, particularly in the social rented housing sector. We hope that it will help people understand the available alternatives and support them if they wish to expand their search to find a suitable home.

Links with housing bodies

We continued to strengthen our relations with housing bodies such as the Chartered Institute of Housing (CIH) in Scotland, the Scottish Federation of Housing Associations, the Scottish Housing Regulator (formerly Communities Scotland, and with which we signed a Memorandum of Understanding in June this year). With the CIH, we were delighted to take part in their Customer Service Excellence Seminar in August 2008, at which we debated the issues arising from the survey work. We look forward to strengthening these relationships further in the coming year.



Housing: Case Studies

Repairs and maintenance Case: 200400549

The complaint concerned damage to a living room wooden floor during the course of renovation works. The complainant, Mrs C, claimed that the Council refused to replace the floor that allegedly was damaged by water penetration into the living room, caused by Contractors acting on behalf of the Council in the course of a Capital Repairs Programme. The complaint was upheld, and we recommended that in order to restore Ms C's living room to the condition it was in before the flooding occurred, the Council make arrangements to replace the floor and at the same time fulfill their previous offer to Ms C, to replace the living room ceiling and decorate the room.

Housing transfer Case: 200500253

A complaint was referred to us from a Member of the Scottish Parliament on behalf of his constituents, Mr and Mrs C, about the way their application for special case consideration for housing transfer had been handled by the Council. We made no finding on the complaint that the Council lost an earlier transfer application from Mr and Mrs C and upheld the complaint that the Council had delayed unduly in putting their request for special case consideration before the appropriate committee. We did not uphold the complaints that the Council made an inappropriate offer of re-housing after Mr and Mrs C were granted special case consideration or that they unfairly removed their special case status for refusing that offer. By way of redress, we recommended that the Council apologise to the complainants for the delay identified, and take steps to review their record-keeping with regard to special case consideration to avoid recurrence.

Housing: Case Studies

Application for housing Case: 200601420

Mr C, a housing advice officer, complained on behalf of Ms A. Ms A had five children and had been in private rented accommodation. She had been on the list for housing with the Council for some years when she was assessed as unintentionally homeless. Ms A was in temporary Council-owned accommodation for a period before returning to private rented accommodation. Ms A also returned to the general housing list at this time. Mr C complained about a number of aspects of the Council's handling of Ms A's application for housing, including: the standard of temporary accommodation; the Council's decision that Ms A's refusal of permanent accommodation was unreasonable; changes in the Council's allocation policy, which he said disadvantaged Ms A; and the refusal to grant Ms A additional social points once she had returned to the general list. Mr C was also concerned about the way her complaints had been handled and about the way the Council had dealt with Ms A's application for a Discretionary Housing Payment (DHP).

We partially upheld the complaint that the Council mishandled Ms A's application for housing, following her assessment as unintentionally homeless; upheld the complaint that the Council did not respond adequately to Ms A's concerns about this, and did not uphold the complaint that the Council mishandled Ms A's application for a DHP. We made several recommendations to redress the failings identified.

Anti-social behaviour Case: 200500239

The complainant, Mr C, claimed that the Council failed to take appropriate action in response to complaints made by him and his wife regarding the anti-social behaviour of two local residents and failed to consider witness statements and video evidence. We partially upheld the complaint and recommended that the Council apologise to the complainants for failing to formalise their complaint into the Council's Feedback Procedure at the correct time; ensure any future complaints by the couple are dealt with in accordance with current procedural requirements; and ensure that staff involved with complaints of the same or a similar type are adequately trained in current Council procedures.



Grant Application

- Please read the following notes on making an application before completing this form:
- note on Scottish Charities
 - note about the partnership
 - notes on making an application

Section A: BASIC INFORMATION

Name of organisation

Contact name

Position in organisation

Address of organisation: address

Scottish Government and Devolved Administration

The administrative action by Departments or Directorates of the Scottish Government, Scottish Government Agencies and the activities of Non-Departmental Public Bodies and other devolved Scottish public or cross-border authorities are generally within the jurisdiction of the SPSO. Bodies in this sector are less involved in direct service delivery than local authorities or health boards and it is, therefore, perhaps not surprising that the levels of complaint activity are considerably lower. Many of the organisations, however, in particular the Scottish Government and some of its agencies, have the responsibility for the formulation of the legislation and policy which provide the framework for the delivery of public services. The SPSO's engagement with these bodies in terms of learning lessons is also, therefore, very important.

The enquiries and complaints we received

We received 67 enquiries and 143 complaints about bodies in this sector this year – this represents around 5% of our total caseload and is a 17% decrease on the total contacts for 2006–07. Complaints were made about a total of 37 organisations, representing a relatively small proportion of the devolved public authorities over which we have jurisdiction. The main areas of concern are shown in the table below.

Financial matters include complaints about legal aid, pensions, awards for students, and the funding of bodies.

In the course of the year, we determined 176 complaints (including some carry-forward from the previous year) of which 152 were resolved without the need for investigation. Of those that were investigated, two were fully upheld, eight were partially upheld and 14 were not upheld.

Scottish Government

69 complaints were received about Departments or Directorates of the Scottish Government or its Agencies – just under half of the total for this sector. 82 complaints were determined (including some carry-over from the previous year), eight of them following formal investigation – none were fully upheld and four were partially upheld.

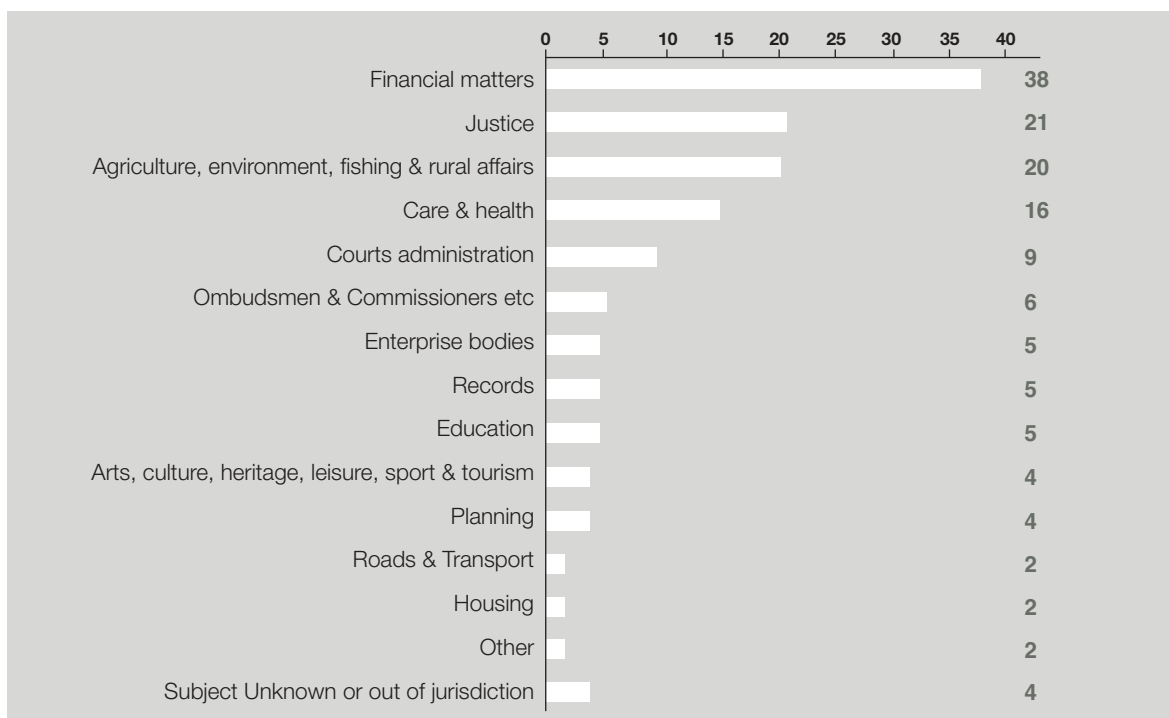
Scottish Public Authorities

For NDPBs and cross-border authorities at arm's length from central government a total of 74 complaints were received. 94 complaints were determined (including some carry-over from the previous year), 16 of them following formal investigation – two were fully upheld and four were partially upheld.

Supporting Improvement

The Ombudsman was invited to address the NDPB Chief Executives' Forum at their meeting in July 2007. The Forum is made up of approximately 30 heads of a wide range of government bodies in fields including health, culture, education and management of the countryside. The Ombudsman led a discussion about how to establish and foster good complaint handling within organisations, and we were pleased to follow up requests made at the meeting for further information and advice on the subject.

Scottish Government & Devolved Administration Complaints Received by Subject 2007 – 2008





Further and Higher Education

Further Education

We received a total of eight enquiries and 19 complaints about 15 further education institutions in 2007–08. The subjects of complaint are listed below, and are similar to the areas about which we received complaints the previous year.

We determined 26 complaints in 2007–08 including some carry-forward from the previous year. Of these, seven resulted in an investigation report. In one case we partially upheld the complaint and in six cases we did not uphold any aspect of the complaint.

Issues in further education complaints

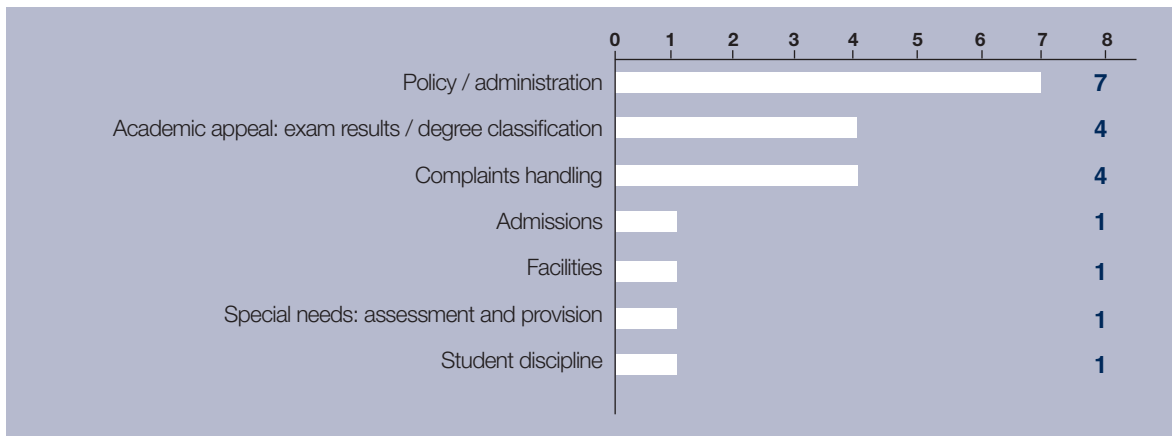
It is difficult to identify trends or themes from the small number of complaints received, but a number of the complaints reported on concerned matters of student discipline. The maintenance of a level of trust is as essential as it is challenging when an educational organisation takes disciplinary action

against a student. To that end, in one case, the Ombudsman made recommendations aimed at ensuring that disciplinary processes contain the necessary safeguards and are proportionate and transparent. In another case, the Ombudsman found examples of good practice and commended a college for their care and sensitivity in handling a complex disciplinary matter.

Supporting improvement

The SPSO has had responsibility for further education complaints since October 2005. We are, therefore, keen to raise awareness of our role among staff and students, and to that end SPSO staff and Executive Board members represented the SPSO at various events in the further education calendar. We attended the Association of Scottish Colleges Conference in June 07. We look forward to strengthening our links with the sector over the coming year.

Further Education Complaints Received by Subject 2007 – 2008



Removal from course Case: 200603730

Ms C, a student at a further education college, complained about the way she had been removed from a course in social care following issues surrounding her placement. We found that, although the College did respond appropriately to Ms C's concerns about her placement, there were flaws in the way in which Ms C was removed from her course. We recommended that the College apologise to Ms C for this and review their guidance and practice on the removal of students from courses to ensure that there are appropriate formal warnings and rights of appeal.

Further and Higher Education

Higher Education

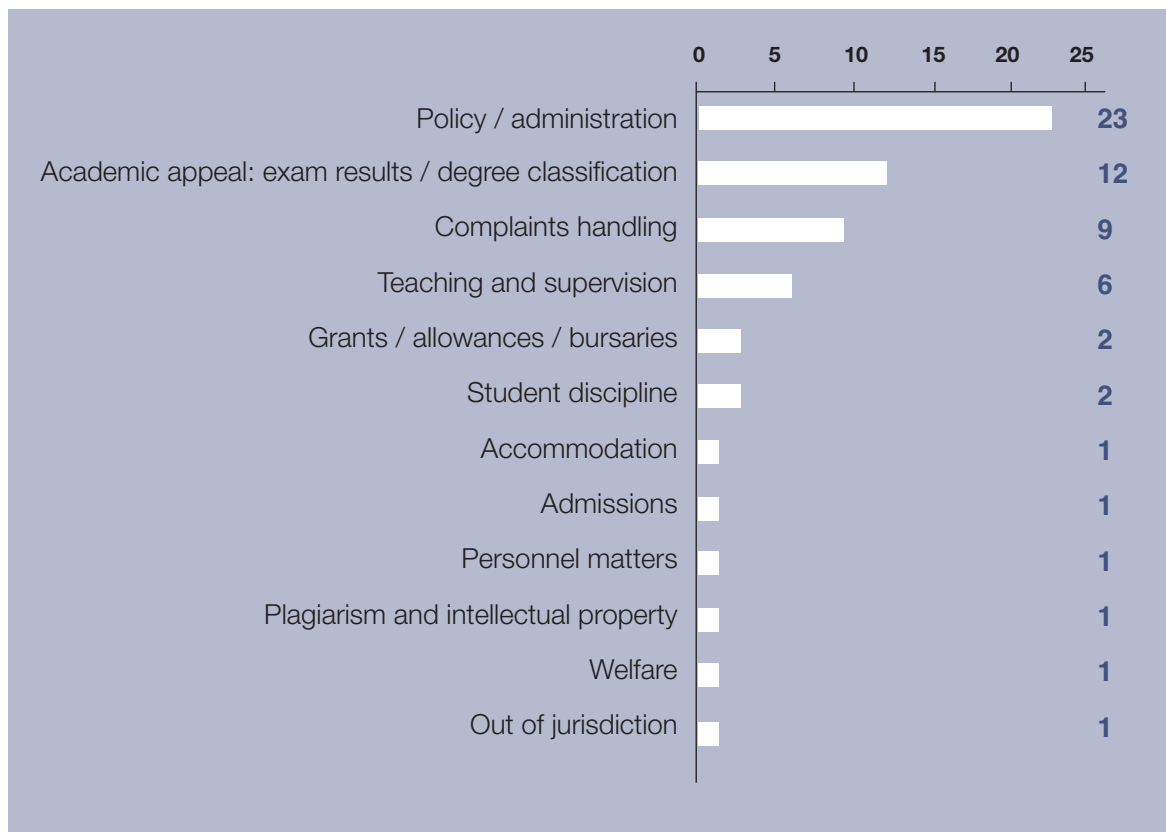
We received a total of 12 enquiries and 60 complaints about higher education in 2007–08. The subjects of complaint are listed below, and are similar to the areas about which we received complaints the previous year.

We determined 65 complaints in 2007–08 including some carry-forward from the previous year. Of these, six resulted in an investigation report. In one case we fully upheld the complaint, in two cases we partially upheld the complaint and in three cases we did not uphold any aspect of the complaint.

Issues in higher education complaints

As with other complaints that are referred to the Ombudsman, complaints about universities are often made by those who feel a loss of trust in a process which was intended to bring a resolution to a dispute. Although the number of complaints referred to the SPSO about higher education is relatively small, a significant proportion of those received concern academic appeals processes. These processes are designed to consider whether the degree award a student has received was correct, based on the examination of specified mitigating factors. Such factors can include circumstances affecting a student’s performance that were not known at the time of the original award or allegations that the assessment process was not fair.

Higher Education Complaints Received by Subject 2007 – 2008



Higher Education

Appeals processes usually involve more than one stage and it is clear that some students find them to be complex and lengthy. However, the Ombudsman has also seen good examples of universities supporting students through their appeal. Although the Ombudsman cannot address issues of academic judgement, which include the assessment of the quality of a student's work, the conduct of the appeals process is sometimes a matter of concern to students. In the last year, the Ombudsman has made recommendations to ensure that universities make clear to students the grounds on which they may appeal and the reasons universities may have for any decision that there are no such grounds. Such clarity is a vital component in maintaining or regaining trust in the system. Another issue that has become clear in the course of this year is that it is sometimes difficult for universities to identify and address complaints that arise during an appeal, but which do not form part of the grounds for appeal. In order to maintain trust in the effectiveness of the process, such complaints should be addressed as quickly and as fairly as possible without introducing unnecessary complexity.

Supporting Improvement

Our Executive Board and staff participated in a wide range of events in the higher education sector. In September 2007 a member of our outreach team spoke at the Quality Assurance Agency for Higher Education 'Complaints and Academic Appeals' Conference in London. We gave a presentation to Dundee University about our investigation process in November 2007 (and would be delighted to be approached by others with similar requests). Two SPSO staff members also attended the European Ombudsmen for Higher Education seminar in London in April 2008, which focussed on issues of justice and diversity and drew on a range of international experience. It was also an opportunity for the SPSO and the Office of the Independent Adjudicator for Higher Education, who hosted the event, to strengthen ties.

We continued our links with the National Union of Students, to whom we are grateful for distributing our newsletter at Freshers' Fairs each September. The newsletter contains advice about the kind of complaints we can and cannot consider about universities and colleges.

Appeals procedure Case: 200502104

Ms C raised concerns that her personal circumstances were not considered by her University when they determined her degree classification. She also complained that her subsequent appeal was not dealt with in line with the University's appeals procedure. We found that the University did not follow their appeals procedure when considering Miss C's case and recommended that they reconsider her appeal giving full consideration to the personal circumstances she presented. We also recommended that the University remind staff involved in minute-taking at examination board meetings to record the rationale for decisions taken at those meetings.

Financial performance

By Niki MacLean, Head of Corporate Services

The SPSO's annual budget application is considered as part of the Scottish Parliamentary Corporate Body's (SPCB) expenditure plan by the Scottish Parliament's Finance Committee and the Scottish Government by 1 March each year. The SPCB's final expenditure proposals (including the SPSO's budget) then appear in the annual Budget Bill which is voted upon by the Parliament.

In 2007–08 we operated on a budget of £3.16 million with a total of 47 staff (full time equivalent) – this equated to 71% of our total net expenditure being spent on staff costs, with over two-thirds of staff being directly involved in case handling. The table below details our major costs over the past three years.

Expenditure Summary

	actual year ended 31 March 2008 £000s	actual year ended 31 March 2007 £000s	actual year ended 31 March 2006 £000s
Staffing costs	2,325	1,958	1,705
Other operating costs			
Property costs*	261	284	377
Professional fees**	195	259	228
Office running costs***	244	262	315
Total operating expenditure	3,025	2,763	2,625
Capital expenditure	28	15	86
Other income	-17	-34	0
Net expenditure for the year	3,036	2,744	2,711

*Including rent, rates, utilities, cleaning and maintenance

**Including professional adviser fees and judicial review costs

***Including ICT, Annual Report and publications and, for 2005–06 accounts, depreciation.

Full audited accounts are available on the SPSO website www.spsa.org.uk.

Governance & Accountability

By Sir Neil McIntosh, Chair of the SPSO Audit Advisory Committee

The Ombudsman, as Accountable Officer for the SPSO, is responsible for ensuring that resources are used economically, efficiently and effectively. The Office is subject to scrutiny by external auditors (currently Grant Thornton who were appointed by Audit Scotland in 2006), as well as through the laying of an Annual Report before the Scottish Parliament. The Ombudsman also gives evidence annually to the Parliament's Local Government and Communities Committee, following the publication of her Annual Report, and holds discussions with the Scottish Parliamentary Corporate Body (SPCB) about her budget submission for the following year.

Recognising the need to demonstrate high standards of governance and accountability, in accordance with Best Value principles, the Ombudsman decided to establish an Audit Advisory Committee (AAC) as a non-executive group to advise her on the discharge of her functions as Accountable Officer.

I was delighted to accept, in June 2007, the position as first Chair of the SPSO AAC. The Committee's purpose and duties are set out in the SPSO Scheme of Control. Our remit is to support the Ombudsman (as Accountable Officer) and the Executive Board in monitoring the adequacy of the SPSO's governance and control systems through offering objective advice on issues concerning the risk, control and governance of the SPSO and associated assurances provided by audit and other related processes. The AAC also provide a source of advice and feedback on SPSO Strategic Objectives and annual Business Plans.

I am very pleased to be joined on the Committee by Baroness Rennie Fritchie (Deputy Chair) and Mr David Thomas. Rennie Fritchie is the former UK Commissioner for Public Appointments and a Civil Service Commissioner. David Thomas is Corporate Director and Principal Ombudsman for the Financial Ombudsman Service. The Committee met three times in 2007–08. A representative from the SPSO's external auditors attends our meetings and advises us in private each time, before we discuss with the Ombudsman and her staff the key operational priorities and risks.

In February 2008 the AAC agreed the appointment of the Audit Section of the Scottish Legal Aid Board as internal auditors under an innovative and cost-effective shared services agreement. The AAC is now fully engaged with its role and is refining the reporting processes, and we look forward to strengthening the effective monitoring of financial and governance policies and procedures.

SPSO Vision, Values and Corporate Strategic Objectives for 2008–2011

The financial year ending March 2008 also marked the end of our three-year Strategic Plan set out in 2005. It was necessary, therefore, to develop our Strategic Objectives for the next three years. For the first time, we took the initiative to establish a Stakeholder Group, representing providers of public services and a wide range of other interests, and comprising heads of many of the organisations with which we interact. Their views and experience helped us to refine our Vision and Values and our Strategic Objectives for 2008–2011. We are grateful to them for taking part in this process and for giving their time and ideas so generously.

The new three-year strategy emphasises how we will work in partnership with others to meet our common goal of resolving disputes and improving frontline complaint handling.

Vision

Our vision is of enhanced public confidence in high quality, continually improving public services in Scotland which consistently meet the highest standards of public administration – we aim to bring this about by providing a trusted, effective and efficient complaint handling service which remedies injustice for individuals resulting from maladministration or service failure.

Values

We aim to be:

- courteous, considerate and respectful of people's rights;
- independent, impartial, fair and expert in responding to complaints;
- accessible to all, and responsive to the needs of our users: complainants and service providers;
- collaborative in our work with service providers, policy makers and other stakeholders;
- open, accountable and proportionate about our work and governance, ensuring stakeholders understand our role and have confidence in our work;
- a best value organisation which is efficient, effective, flexible and makes good use of resources; and
- best practice employers with well trained and highly motivated staff.

Strategic Objectives 2008–2011

Our Strategic Objectives for the next three years are:

- 1 To provide a high quality, independent complaint handling service** – by being accessible and dealing with all enquiries and complaints impartially, consistently, effectively, proportionately and speedily; and producing clear, accurate and influential investigation reports.
- 2 To improve complaint handling by public service providers** – by working in partnership with others to promote early local resolution of disputes and complaints and to promote best practice.
- 3 To support public service improvement in Scotland** – by working in partnership with public service deliverers, policy makers, scrutiny bodies and regulators to feed back and capitalise on the learning from our consideration of enquiries and complaints and to promote good administrative practice.
- 4 To simplify the design and operation of the complaint handling system in Scottish public services** – by working in partnership with others to promote an integrated, effective, standardised and user-friendly system as an integral part of the wider administrative justice system in Scotland; and to promote informed awareness of the role and activities of the SPSO.
- 5 To be an accountable, best value organisation** – by making best use of our resources and demonstrating continuous improvement in our operational efficiency and supporting the professional development of our staff.

Appendix 1

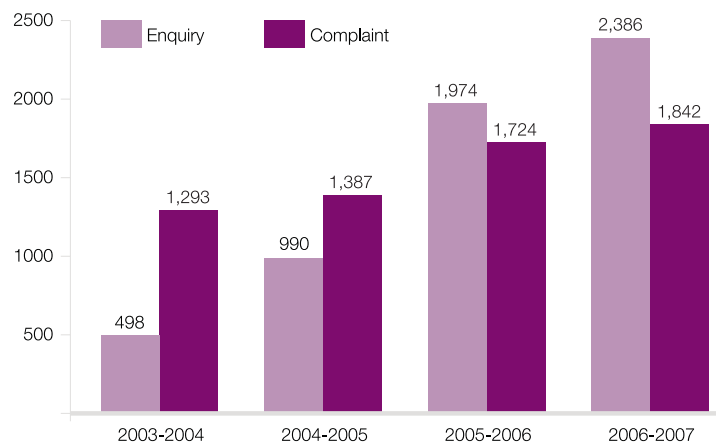
When does an enquiry become a complaint? Changes in statistical recording

We have always drawn a distinction between people approaching us with enquiries and those making complaints. Enquiries are mostly about whether we can consider a complaint about a particular organisation or matter although they can be about a wide range of other things.

Both enquiries and complaints can be made by letter, electronically, by telephone or in person. However, the proportion of enquiries made by

telephone is relatively high. Since the SPSO was established, we have encouraged staff to become more rigorous about recording approaches made to us by telephone so that we can identify trends and take action if, for example, we receive unusually high numbers of approaches relating to particular issues or sectors. The result of this better recording, as is shown in the chart below (which appeared in our 2006–07 Annual Report) is that while in the early years of the office we recorded more complaints than enquiries for 2003–04 and 2004–05; in 2005–06 and 2006–07 the position reversed.

Total enquiries and complaints received by year



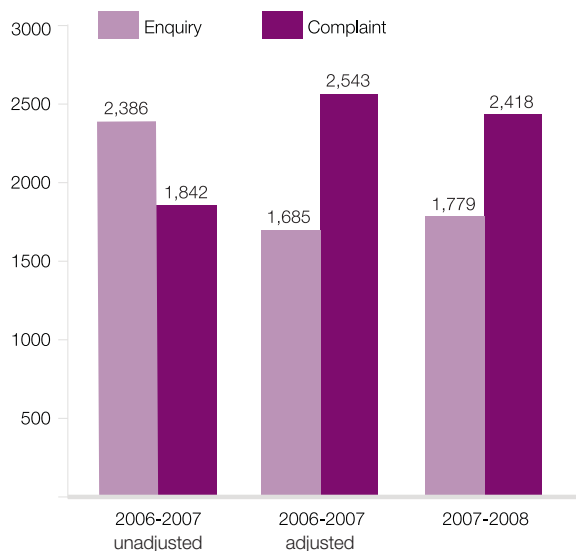
However, when we came to analyse the data about telephone contacts it became apparent that many which had been categorised as enquiries were more accurately complaints. That is, the person making the contact wanted us to look into a specific concern even if they were approaching us too early (because they had not yet complained to the public body concerned) or inappropriately (because the concern was about a body or a matter outwith our jurisdiction).

So from 1 April 2007 we have classified approaches to us as enquiries or complaints entirely on the basis of whether the person making the approach was simply

looking for information (an enquiry) or wanted us to take action in respect of their concerns (a complaint). This change means that figures will in future more clearly reflect the reasons why people approach us. However, it does make for difficulties in drawing comparisons with enquiries and complaints in previous years. To allow some comparisons to be made we have sought to identify which complaints received in 2007–08 would previously have been classified as enquiries. We calculate that there were 740 such cases.

The chart below shows the data for 2006–07 and for 2007–08 with and without the adjustment.

Enquiries and complaints received 2006–07 & 2007–08



Appendix 2

Enquiries and complaints received by sector

Sector:	Enquiry		Complaint		Total Cases	
	2007-08	2006-07*	2007-08	2006-07*	2007-08	2006-07
Local Authority	565	709	1,329	1,432	1,894	2,141
Health	142	201	599	632	741	833
Housing Associations (Registered Social Landlords)	93	117	224	219	317	336
Scottish Government/Executive and Devolved Administration	67	80	143	172	210	252
Scottish Further and Higher Education	20	36	79	61	99	97
Subject Out of Jurisdiction	825	341	23	13	848	354
Subject Unknown	40	114	21	14	61	128
Other (e.g. Outreach enquiries)	27	87	0	0	27	87
Total	1,779	1,685	2,418	2,543	4,197	4,228

* NB: 2006-07 breakdowns adjusted to reflect new definitions

Appendix 2

All cases determined in 2007–08 by sector and outcome

Stage	Outcome	Health	Housing Associations	Local Authority	SG&D	FE & HE	Unknown / OJ	Other	Total	
Enquiry Total		142	94	564	68	20	865	27	1,780	
Assessment	Complaint premature	143	156	760	53	21	6	0	1,139	39.5%
	Complaint out of jurisdiction	89	14	154	41	17	23	0	338	11.7%
	Withdrawn / failed to provide info before investigation	135	19	178	14	12	13	0	371	12.9%
	Discontinued or suspended before investigation	11	2	42	3	4	2	0	64	2.2%
Examination	Determined after detailed consideration	211	28	240	41	23	0	0	543	18.8%
Investigation	Report issued Not Upheld	69	3	82	14	9	0	0	177	6.1%
	Report issued Partially Upheld	65	1	62	8	3	0	0	139	4.8%
	Report issued Fully upheld	48	0	23	2	1	0	0	74	2.6%
	Discontinued or suspended during investigation	11	4	13	0	1	0	0	29	1.0%
	Withdrawn / failed to provide info during investigation	3	0	4	0	0	0	0	7	0.2%
Complaint Total		785	227	1,558	176	91	44	0	2,881	100.0%
Assessment Total		378	191	1,134	111	54	44	0	1,912	66.4%
Examination Total		211	28	240	41	23	0	0	543	18.8%
Investigation Total		196	8	184	24	14	0	0	426	14.8%
Complaint Total		785	227	1,558	176	91	44	0	2,881	100.0%

Note about comparing to previous years:

Please note that we made a change to our logging procedures in April 2007 which has implications for comparing 2007-08 data with previous years.

Of the 1,912 assessment complaints shown above, we estimate that approximately 39% could previously have been classed as enquiries.

There has been no change to cases determined at examination or investigation stages.

For more information please see the full explanation at <http://www.spsa.org.uk/statistics>.

Appendix 2

All cases determined in 2006-07 by sector and outcome (adjusted)

Stage	Outcome	Health	Housing Associations	Local Authority	SG&D	FE&HE	Unknown / OJ	Other	Total	
Enquiry total		168	109	633	70	35	587	103	1,704	
Assessment	Complaint premature	147	179	833	79	23	2	0	1,263	49.9%
	Complaint out of jurisdiction	77	31	202	53	9	17	0	389	15.3%
	Withdrawn / failed to provide info before investigation	122	11	169	15	8	7	0	331	13.1%
	Discontinued or suspended before investigation	3	1	21	4	0	2	0	31	1.2%
Examination	Determined after detailed consideration	76	11	79	17	1	0	0	184	7.3%
Investigation	Report issued Not Upheld	71	10	70	12	6	0	0	169	6.7%
	Report issued Partially Upheld	47	6	45	6	1	0	0	105	4.1%
	Report issued Fully Upheld	16	2	21	2	0	0	0	41	1.6%
	Discontinued or suspended during investigation	8	1	5	0	0	0	0	14	0.6%
	Withdrawn / failed to provide info during investigation	4	1	1	0	0	0	0	6	0.2%
Complaint Total		571	253	1,447	187	47	27	0	2,533	100.0%
Assessment Total		349	222	1,226	150	39	27	0	2,014	79.5%
Examination Total		76	11	79	17	1	0	0	184	7.3%
Investigation Total		146	20	142	20	7	0	0	335	13.2%
Complaint Total		571	253	1,447	187	47	27	0	2,533	100.0%

Laid before the Scottish Parliament
by the Scottish Public Services
Ombudsman in pursuance of section
17 (1) of the Scottish Public Services
Ombudsman Act 2002.

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