

SPSO NEWS

October 2016

Monthly news from the Scottish Public Services Ombudsman

Today we are laying 43 reports before the Scottish Parliament, including one full investigation report about the NHS. This overview contains:

- managing casework
- survey reminder
- key issues in today's reports
- the launch of the NHS complaints procedure
- progress in social work complaints
- local government, housing and further education network updates
- training events
- a report from our Scottish Welfare Fund team.

Ombudsman's Overview

Managing the complaints we receive

Last month (in September), we received 414 complaints. We determined 376 complaints and of these we:

- gave advice on 218 complaints
- considered 102 complaints at our early resolution stage
- decided 56 complaints at our investigation stage

We made a total of 126 recommendations.

We said in our consultation on our draft strategic plan that extending our timescales was one of the options we would have to consider if resources remained static. With reluctance, we have introduced a holding bay as a measure to manage our caseload. This is the first time we have had to do this since 2009, and reflects the ongoing rise in case complexity.

We are continuing to work to our key performance indicators, monitor the position closely and identify further efficiency gains by working with public authorities to support improvements in their complaints handling. However, over the longer term and as previously highlighted, we may need to make more significant changes in our approach to the kind of complaints we are able to investigate in full.

Authorities survey

As highlighted last month, we have a new survey for public authorities, through which we are gathering feedback about our service. Like our complainant satisfaction survey, it is based on our service standards. We are keen to encourage as many authorities as possible to respond and are grateful to those who have already done so. If you have received a survey from us, there is still time to fill it in (until 29 October) and we would welcome hearing about your experience of SPSO.

Key casework outcomes

NHS matters

Consent, complaints handling: today's full investigation report ([201508020](#)) concerns a woman who injured her finger while at work on a dairy farm. She consented to surgery which she was told would be a partial amputation. However, a different procedure was carried out involving a new type of dressing. The board were unable to explain why this had happened, instead maintaining that the woman had undergone the appropriate surgery. The independent advice we received was that the failure to perform a partial amputation had significantly prolonged the healing process and it was clear from what the woman had told staff that her primary motivation was to return to work as soon as possible.

The woman had asked to speak to the board's complaints team to make a formal complaint whilst still on the ward, but told us that no action was taken. She made a formal complaint later. We found that the investigation that the board had carried out had failed to identify the lack of records supporting the woman's consent as a concern and had failed to obtain a statement from the doctor responsible for documenting this and performing the surgery explaining his actions. Their complaint response had misrepresented the records of the woman's interactions with medical staff and failed to address her concerns about the financial impact of the surgery.

I upheld the complaint and made seven recommendations including a review of the consent process. I asked the board to review their complaint investigation to identify areas for improvement and ensure compliance with their statutory responsibilities, and I asked them to apologise to the patient, acknowledging that the surgery was not the one that she wished to have carried out.

Mental health assessment for prisoners: Two of today's decisions concern mental health in the prison environment. In one case ([201507715](#)) we were critical of the lack of evidence of a comprehensive and structured assessment of the man's mental health, and made two recommendations to address this. In the other case ([201508695](#)) we were concerned about a lack of a team approach to assessing a man and making a joint decision on his risk of harming himself. In this case we asked the board to ensure that relevant staff are aware of the specific approach to self-harm which puts 'at risk' prisoners under individualised risk management arrangements.

Housing matters

Failure to make reasonable adjustments: A housing association failed to carry out adjustments for a man who has a disability which heightens his sensitivity to noise. Our investigation ([201508205](#)) found that an early offer of support had been made, but that this had not been repeated despite clear indications that the man was struggling to manage various aspects of his tenancy. We also found no evidence that the association had carried out a detailed assessment of his support needs to ensure that they were meeting their responsibility to provide suitable support, either internally or through external agencies. We also found that the association had no policies directly relating to the provision of tenancy support, and despite making a number of enquiries on the subject, we were not clear on the extent of the support they aimed to provide to their tenants, either internally or externally, or how and when referrals to these services were triggered. We upheld all aspects of the complaint and made six recommendations for redress and improvement.

To enable learning and improvement, we publish reports of investigations on our website. You can search these by authority, date, subject etc by visiting our website: www.spsso.org.uk/our-findings.

Complaints Standards Authority (CSA)

NHS complaints procedure

The Government published the revised procedure, which we developed in conjunction with a wide range of stakeholders, at the start of October. It supports a more consistently person-centred approach to complaints handling across NHS Scotland, and brings the NHS into line with other public service sectors by introducing a distinct, five working day stage for early, local resolution, ahead of the 20 working day stage for complaint investigations. Additionally, the new procedure reflects the broader ambition for the NHS in Scotland to be an open, learning organisation that listens and acts when unintended harm is caused. The procedure complements the new Duty of Candour provisions and the development of a national approach to reviewing and learning from adverse events. It is also complemented by the Apologies Act 2016, which is intended to encourage apologies being made by making it clear that apologising is not the same as admitting liability.

The Government has advised that all NHS bodies including primary care services must ensure that their organisations are ready to implement the revised procedure from 1 April 2017. We are now working with the Government and NHS Education for Scotland to develop a programme of education and awareness raising to support organisations to implement the new procedure.

Social work complaints

Our working group which includes stakeholders from the Government and professionals from across the sector, including third sector organisations, met for the second time earlier this month to refine the developing draft social work model complaints handling procedure (CHP). This group has played a critical part in drafting and quality checking the CHP, to ensure that staff can respond appropriately to the wide range of complaints that may come to them. We are working towards publishing the CHP and associated documents in December 2016 to provide organisations with sufficient time to implement the new procedure from 1 April 2017.

How SPSO will handle social work complaints

The current social work complaints process ends at local authority level with a Complaints Review Committee (CRC). People unhappy with a CRC's outcome can complain to SPSO. Our current role is limited; specifically, it does not allow us to look at the professional judgement relied upon in decisions. As a result of legislative change, CRCs will cease to exist and people will be able to bring their complaints directly to us after they have completed the new local procedure. We will have new powers that allow us to look at actions taken by social workers and consider the merits of social work decisions in terms of professional judgement. This aligns with our current role with health complaints, where we can review clinical judgement.

Over the coming months we will be sharing information about the proposed changes as widely as possible. This will include presentations to representatives from social work services across Scotland, as well as updates through regular news bulletins.

[Our first bulletin is available on our website.](#)

Complaints handling networks

Local Government

The next meeting of the local government complaints handlers network is on 3 November. The Improvement Service is currently in the process of analysing councils' annual complaints performance reports for the year 2015-16 with a view to completing a sector report. They will update their findings in respect of the sector's performance at the meeting and will identify further opportunities to benchmark for improvement. The network will also be updated on the work to develop the new social work complaints procedure. A revised programme of activities will be considered by the network, including ways in which to improve learning from complaints, and the value that can be added by applying SPSO's Complaints Improvement Framework to identify opportunities for improvement.

Further Education

The next complaints handling advisory group meeting will take place on 30 November at the College Development Network in Stirling. The meeting will look at

feedback provided by colleges with a view to establishing if all colleges are using the standardised complaints categories, or whether there is still work to do in this respect.

Housing

The housing complaints handlers network met earlier this month in Glasgow. Agenda items included SPSO's Complaints Improvement Framework, analysis of members' complaints performance, benchmarking, complaints categories, seeking customer feedback, the Scottish Social Housing Charter and the complaints surgery.

For all previous updates, and for more information about the networks and the CSA, visit our dedicated website www.valuingcomplaints.org.uk or email csa@spsso.org.uk.

SPSO Training

Upcoming course (based in central Edinburgh)

Complaint investigation skills (stage 2 of the model CHP): 1-day open course, Tuesday 29 November.

Save the date! Learning Event on the theme of complaints handling practice and ensuring impactful outcomes: 15 March 2017 in central Edinburgh. Further information and booking forms will be available in November.

These are open to staff from all sectors under the SPSO's jurisdiction. For further information see the SPSO Training Unit website www.valuingcomplaints.org.uk/training-centre/open-courses.

For general information, see our flyer: [SPSO Training 2016 \(PDF, 40KB\)](#).

For more information, and to book spaces, please contact training@spsso.org.uk.

Scottish Welfare Fund

Communications and engagement

Throughout October, we have continued our outreach activity with advice services to ensure that professionals working with SWF applicants are familiar with the Independent Review function. This has included presenting at Rights Advice Scotland's AGM; visiting two Citizens Advice Bureaux and one local authority advice service. Additionally, we have expanded the membership of our third sector sounding board to include Citizens Advice Scotland. Any services who have questions about the Independent Review process or who would like us to visit can contact us by email at swf@spsso.gsi.gov.uk or by calling 0800 0147 299.

Reviews

During September we determined 33 cases which included 16 community care grants and 17 crisis grants. We also allocated 40 new cases which is the highest monthly total since the start of the service in April this year.

Casework Outcomes

In recent weeks we have considered several review requests from applicants who have been assessed as meeting the eligibility and qualifying criteria but have not been awarded all or some of the items that they had applied for on the basis of priority.

In one case, an applicant had applied for a community care grant after being allocated a new tenancy. The council awarded some items but declined a number of other items as they assessed that the applicant did not meet the necessary priority level. Prior to being allocated her property, the applicant had fled violence and subsequently experienced a period of homelessness. Additionally, despite her new property being treated several times by the council, it remained infested with insects. In her review request, the applicant's support worker explained that the need for a freezer and washing machine was immediate and severe as the applicant was unable to leave the property unattended. The curtains were described as being essential for safety and privacy and a sofa was required as the applicant rarely left her home and was socially isolated. The support worker added that it was not

possible to store clothes on the floor due to the infestation so a wardrobe was also required. We gathered further information from the applicant's support worker and also spoke with her housing officer to establish the severity of the infestation. Due to the specific circumstances of this case including severe trauma, the risk of further violence and the severity of the infestation, we upheld the applicant's review request and awarded all items.

In another case, an applicant had applied for a community care grant for a washing machine, double bed and new clothing after suffering severe injuries six months previously. The council assessed that the applicant met the qualifying criteria and awarded a washing machine as her existing one was broken. They did not award the other items as they considered that the priority level was not met. The applicant stated that while she had a single bed, a double bed was required for comfort and support due to her injuries. She also advised that she needed new clothes as a result of losing a significant amount of weight. We contacted the applicant's GP who advised that she had insufficient information regarding the applicant's need for a double bed so was unable to comment. She also provided evidence surrounding the applicant's current and historic weight readings which did not indicate a sudden weight lost. As the council were operating at high priority, we considered that these items should therefore not be awarded and did not uphold the applicant's review request.

Compliance and follow-up

In line with SPSO practice, my office will follow up with the organisations to ensure that they implement the actions to which they have agreed.

Jim Martin, Ombudsman, 19 October 2016

The compendium of reports can be found on our website: www.spsso.org.uk/our-findings.

For further information please contact:

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The Scottish Public Services Ombudsman

The Scottish Public Services Ombudsman (SPSO) provides a 'one-stop-shop' for individuals making complaints about organisations providing public services in Scotland. Our service is **independent, impartial and free**.

We are the final stage for handling complaints about councils, housing associations, the NHS, prisons, the Scottish Government and its agencies and departments, the Scottish Parliamentary Corporate Body, water providers, colleges and universities and most Scottish public authorities.

We normally consider complaints only after they have been through the complaints procedure of the organisation concerned. Members of the public can then bring a complaint to us by visiting our office, calling or writing to us, or filling out our online complaint form.

We aim not only to provide justice for the individual, but also to share the learning from our work in order to improve the delivery of public services in Scotland. Our complaints standards authority promotes good complaints handling in bodies under our jurisdiction.

Communications team: T 0131 240 2974

SPSO website: www.spsso.org.uk

Valuing Complaints website: www.valuingcomplaints.org.uk

Contact us: T 0800 377 7330 www.spsso.org.uk/contact-us