

Mr Kenneth Lawrie
Chief Executive
Midlothian Council
Midlothian House
Buccleuch Street
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8 October 2014

Dear Mr Lawrie

Complaints report and statistics for 2013-14

I am pleased to send you our annual local government complaints report, along with statistics about complaints to SPSO about your authority in 2013-14.

This was the first full year of operation of the standardised model complaints handling procedure that was introduced for the local government sector in 2012-13. As you will know, each authority is now required to report and publicise complaints information on a quarterly and annual basis, including annual reporting on how they perform against the agreed performance indicators. The enclosed complaints statistics are part of the detailed complaints picture that your authority is responsible for gathering and publishing and using to benchmark through the local authority complaints handlers network.

As my report shows, 2013-14 saw a 16% rise in complaints about local government compared with the previous year. The issues people brought us were similar to those for previous years, with housing, social work and planning topping the list. One of these areas – social work – is of particular concern to me, because of the length of time it is taking to bring about change. Related to this is the lack of clarity about complaints processes under the integrated health and social care programme. One further policy matter that I would draw to your attention is the Scottish Government's proposal that SPSO may take on a future role as the review body for Scottish Welfare Fund decisions.

I have been pleased to strengthen our engagement with local authorities over the past year through our complaints standards work and also through a new sounding board. The local authority sounding board was set up by joint invitation from the chair of SOLACE and myself. Current members include representatives of SOLAR, ADES, ADSW, Heads of Planning, CIPFA, the Improvement Service and the chair of the local authority complaints handlers' network. It has allowed for frank, two-way discussions about the challenges in local government, and about our role and effectiveness.

This report outlines this and other initiatives we are undertaking as we continue to support the local government sector to improve the quality of their complaints handling, and ensure that the learning from complaints leads to improvements in the delivery of services.

Yours sincerely

Jim Martin
Ombudsman

The explanations below are designed to answer the main questions around these statistics. If you have any further queries, please contact our Casework Knowledge Manager, Annie Shanahan, at ashanahan@spsso.org.uk, or by calling 0131 240 8843.

Statistics

The following tables show the complaints we handled about your organisation in 2013/14. **Table 1** shows complaints **received** by main subject area, both about your organisation and overall in your sector, for the past two years. **Table 2** shows the **outcomes** of the complaints we handled about your organisation for the same period. It also highlights the rate of premature and fully/partly upheld complaints and overall rates for your sector over the past two years. Complaints received are shown ranked from the most received to the least.

Subjects of complaint and outcomes

Tables 1 and 2 provide statistics for two quite different stages of our work. **Table 1** describes the subjects about which we **received** complaints between 1 April 2013 and 30 March 2014. **Table 2** shows information about the **outcomes** of the complaints that we handled over the same period. The two figures are unlikely to tally, especially where complaints numbers are relatively large. This is because at the end of each business year we are still working on some of the complaints received during that year.

Frequently asked questions

What are complaints that are 'fit for SPSO'?

These are complaints that were valid for us to investigate. This normally means that they have gone through the complaints process of your organisation, and are about something that the law allows us to look at.

What does 'determined' mean?

Determined complaints are those that we have looked at and for which we have closed our file. We will have given the person a decision by letter or public report, or will have explained why we couldn't investigate their complaint.

What are 'upheld' complaints?

Upheld and partly upheld complaints are where we investigated, and found that something went wrong. To recognise the validity of the complainant's experience, we uphold complaints wherever we find fault, even if this has already been recognised by the organisation. People come to us for an external, independent judgement and if we find something went wrong it is important for the complainant that we acknowledge this. We also include how the organisation responded to the complaint and any action that they took to put things right. Where an organisation responded well, we may also commend them for acknowledging the mistakes and the action they took to resolve this for the complainant.

All of the complaints in this category were 'fit for SPSO', and we gave a decision on them at the early resolution (ER2) or investigation (INV1 or 2) stages of our process. ER2 and INV1 cases are investigations that ended with us sending you and the complainant a decision letter. We also published a short summary of most of these complaints and their outcomes on our website. INV 2 are cases that meet our public interest criteria and are published in full.

How do you define a premature complaint?

It's a complaint that's been sent to us too early - i.e. before it has completed your complaints process.

Would you ever take a complaint before it completes our process?

Yes, but only where we think the circumstances are appropriate. This only happens in a very small number of cases. The most likely examples would be where we think that you have delayed unreasonably in responding, or where the person who's complained appears to be particularly vulnerable. We normally expect people to complete your complaints process to allow you to respond to the matters raised, and we will normally tell them to contact you if they haven't.

I don't seem to know about all of the complaints that you've counted as premature. Why?

There are several possible reasons. We don't write to you about all the premature cases we receive (see the next question for more information about this). When we refer someone back to the complaints process, you may resolve the problem to the person's satisfaction without knowing that it came to us first.

Or the person may, after we've told them they need to go through your process, decide not to take it further. People often bring us issues that are premature, but that are also outwith our jurisdiction, or where they're asking for an outcome we can't achieve. When we reply, we'll tell them that we're not looking at it because it's premature, but we also explain that even if they go back through your process, it's unlikely we'd take the complaint up for another reason. For example, if they're asking us to change a planning decision or if it's a personnel-related matter we'd explain that we couldn't do that at all, whether or not they went through your process. It's then for the complainant to decide what to do next.

When do you tell us about premature complaints?

We determine many of these very quickly (within one or two days of receiving them). This normally happens where the complaint has clearly come to us too early and there's little or no information with it. We record these on our computer system, but don't open a file. In most cases we simply return the letter explaining that they've sent us the complaint too soon and that they need to complain to you. We don't normally tell you about these, and we usually have only minimal information about the complaint ourselves.

In cases where the person has sent us information, but the complainant doesn't appear to have completed your complaints process, we'll open a paper file. We'd normally then write to you explaining that the matter has come to us too soon, and we've told the person to take the complaint back to you. We then close our file, which we can reopen if the person completes your process and brings the complaint back to us.

Can you provide a more detailed breakdown of the premature complaints for my organisation?

We can provide numbers and general categories of complaints received prematurely. These are broken down into two areas – complaints that do not appear to have been made to you at all, and those that have started but not completed your process. (We don't record which point in your process they've reached, as usually we don't know this.) We can usually identify the department and the subject matter involved, but at this early stage categorisation may not be accurate because of the lack of detailed information.

The categories of complaints on your letter don't match those in our records - does this mean that our statistics are wrong?

We have our own method of categorising the complaints we receive, which is not based on those of any particular organisation. If you would like an explanation of a particular category, please contact us.

Table 1
Complaints Received by Subject 2013-14

| Subject Group | Midlothian Council | Rank | Complaints as % of total | Sector Total | Rank | Complaints as % of total |
|--|--------------------|----------|--------------------------|--------------|----------|--------------------------|
| Housing | 8 | 1 | 32.0% | 446 | 1 | 25.5% |
| Planning | 3 | 2= | 12.0% | 223 | 3 | 12.7% |
| Education | 3 | 2= | 12.0% | 171 | 5 | 9.8% |
| Social Work | 2 | 4= | 8.0% | 229 | 2 | 13.1% |
| Environmental Health & Cleansing | 2 | 4= | 8.0% | 98 | 7 | 5.6% |
| Land & Property | 2 | 4= | 8.0% | 28 | 11 | 1.6% |
| Legal & Admin | 1 | 7= | 4.0% | 75 | 8 | 4.3% |
| Recreation & Leisure | 1 | 7= | 4.0% | 30 | 10 | 1.7% |
| Consumer Protection | 1 | 7= | 4.0% | 8 | 15 | 0.5% |
| Personnel | 1 | 7= | 4.0% | 7 | 16 | 0.4% |
| Finance | 0 | - | 0.0% | 173 | 4 | 9.9% |
| Roads & Transport | 0 | - | 0.0% | 119 | 6 | 6.8% |
| Building Control | 0 | - | 0.0% | 62 | 9 | 3.5% |
| Welfare Fund - Community Care Grants | 0 | - | 0.0% | 10 | 12= | 0.6% |
| Valuation Joint Boards | 0 | - | 0.0% | 10 | 12= | 0.6% |
| Other | 0 | - | 0.0% | 9 | 14 | 0.5% |
| Welfare Fund - Crisis Grants | 0 | - | 0.0% | 6 | 17 | 0.3% |
| Economic Development | 0 | - | 0.0% | 3 | 18= | 0.2% |
| Fire & Police Boards | 0 | - | 0.0% | 3 | 18= | 0.2% |
| National Park Authorities | 0 | - | 0.0% | 2 | 20 | 0.1% |
| Subject Unknown or Out Of Jurisdiction | 1 | - | 4.0% | 38 | - | 2.2% |
| Total | 25 | - | 100.0% | 1,750 | - | 100.0% |

Complaints as % of Sector

1.4%

100.0%

Complaints Received by Subject 2012-13

| Subject Group | Midlothian Council | Rank | Complaints as % of total | Sector Total | Rank | Complaints as % of total |
|----------------------------------|--------------------|------|--------------------------|--------------|------|--------------------------|
| Housing | 3 | 1= | 14% | 361 | 1 | 24% |
| Planning | 3 | 1= | 14% | 197 | 2 | 13% |
| Social Work | 3 | 1= | 14% | 183 | 3 | 12% |
| Roads & Transport | 3 | 1= | 14% | 73 | 6 | 5% |
| Environmental Health & Cleansing | 1 | 5= | 5% | 60 | 7 | 4% |
| Land & Property | 1 | 5= | 5% | 28 | 9 | 2% |
| Finance | 0 | - | 0% | 85 | 4 | 6% |
| Education | 0 | - | 0% | 76 | 5 | 5% |
| Legal & admin | 0 | - | 0% | 48 | 8 | 3% |
| Building Control | 0 | - | 0% | 26 | 10 | 2% |
| Recreation & Leisure | 0 | - | 0% | 20 | 11 | 1% |
| Other | 0 | - | 0% | 10 | 12 | 1% |
| Consumer protection | 0 | - | 0% | 9 | 13 | 1% |
| Personnel | 0 | - | 0% | 7 | 14 | 0% |
| Valuation Joint Boards | 0 | - | 0% | 6 | 15 | 0% |
| Fire & Police Boards | 0 | - | 0% | 2 | 16 | 0% |
| Economic development | 0 | - | 0% | 1 | 17 | 0% |
| Out Of Jurisdiction | 0 | - | 0% | 20 | - | 1% |
| Subject Unknown | 8 | - | 36% | 293 | - | 19% |
| Total | 22 | | 100% | 1,505 | | 100% |

Complaints as % of Sector

1.5%

100%

TABLE 2
Complaints Determined by Outcome 2013-14

| Stage | Outcome Group | Midlothian Council | Sector Total |
|---|---|--------------------|--------------|
| Advice | Not duly made or withdrawn | 4 | 328 |
| | Out of jurisdiction (discretionary) | 0 | 56 |
| | Out of jurisdiction (non-discretionary) | 1 | 42 |
| | Outcome not achievable | 0 | 129 |
| | Premature | 16 | 659 |
| | Resolved | 0 | 6 |
| | Total | 21 | 1,220 |
| Early Resolution 1 | Not duly made or withdrawn | 0 | 36 |
| | Out of jurisdiction (discretionary) | 0 | 57 |
| | Out of jurisdiction (non-discretionary) | 1 | 110 |
| | Outcome not achievable | 0 | 40 |
| | Premature | 0 | 33 |
| | Resolved | 0 | 18 |
| | Total | 1 | 294 |
| Early Resolution 2 | Fully upheld | 1 | 31 |
| | Some upheld | 0 | 25 |
| | Not upheld | 0 | 50 |
| | Not duly made or withdrawn | 0 | 1 |
| | Resolved | 0 | 4 |
| | Total | 1 | 111 |
| Investigation 1 | Fully upheld | 0 | 20 |
| | Some upheld | 0 | 39 |
| | Not upheld | 0 | 60 |
| | Not duly made or withdrawn | 0 | 2 |
| | Resolved | 0 | 1 |
| | Total | 0 | 122 |
| Investigation 2 | Fully upheld | 0 | 0 |
| | Some upheld | 0 | 0 |
| | Not upheld | 0 | 0 |
| | Total | 0 | 0 |
| Total Complaints | | 23 | 1,747 |
| Total Premature Complaints | | 16 | 692 |
| Premature Rate | | 69.6% | 39.6% |
| Fit for SPSO Total (ER2, Inv1 & Inv2) | | 1 | 233 |
| Total Cases Upheld / Some Upheld | | 1 | 115 |
| Uphold Rate (total upheld / total fit for SPSO) | | 100.0% | 49.4% |

Complaints Determined by Outcome 2012-13

| Stage | Outcome Group | Midlothian Council | Sector Total |
|---|--|--------------------|--------------|
| Advice | Matter out of jurisdiction (discretionary) | 0 | 19 |
| | Matter out of jurisdiction (non-discretionary) | 0 | 40 |
| | No decision reached | 2 | 239 |
| | Outcome not achievable | 0 | 13 |
| | Premature | 13 | 704 |
| | Total | 15 | 1,015 |
| Early Resolution 1 | Matter out of jurisdiction (discretionary) | 0 | 40 |
| | Matter out of jurisdiction (non-discretionary) | 3 | 99 |
| | No decision reached | 1 | 38 |
| | Outcome not achievable | 0 | 26 |
| | Premature | 0 | 46 |
| | Total | 4 | 249 |
| Early Resolution 2 | Fully upheld | 0 | 10 |
| | Partly upheld | 1 | 19 |
| | Not upheld | 1 | 48 |
| | No decision reached | 0 | 4 |
| | Total | 2 | 81 |
| Investigation 1 | Fully upheld | 0 | 16 |
| | Partly upheld | 1 | 63 |
| | Not upheld | 1 | 75 |
| | No decision reached | 0 | 2 |
| | Total | 2 | 156 |
| Investigation 2 | Fully upheld | 0 | 3 |
| | Partly upheld | 0 | 3 |
| | Total | 0 | 6 |
| Total Complaints | | 23 | 1,507 |
| Total Premature Complaints | | 13 | 750 |
| Premature Rate | | 56.5% | 49.8% |
| Fit for SPSO Total (ER2, Inv1 & Inv2) | | 4 | 243 |
| Total Cases Upheld / Partly Upheld | | 2 | 114 |
| Uphold Rate (total upheld / total fit for SPSO) | | 50.0% | 46.9% |

NOTE : 'No decision reached' includes complaints not duly made, withdrawn and resolved