

Case 200501535: Crown Office

Summary of Investigation

Category

Scottish Executive and Devolved Administration: Complaints handling

Overview

The complaint concerned the administrative actions of the Crown Office and Procurator Fiscal Service (COPFS) relating to complaint handling, with specific reference to how COPFS performed against its own service standards and customer feedback policy.

Specific complaint and conclusion

The complaint which has been investigated is that the administrative actions of COPFS relating to their handling of the complaint were inappropriate, limited to how COPFS performed against response timescales in their own service standards and customer feedback policy (*not upheld*).

Redress and recommendation

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. In October 2005 the Ombudsman accepted a complaint from a person who is referred to in this report as Mr C. Mr C made a number of allegations about how he, and his court case, had been dealt with by COPFS. In particular he alleged that: COPFS had suppressed evidence in his court case; that a member of COPFS staff had made inappropriate comments in relation to the court case; that COPFS had not dealt with productions in the court case appropriately; and, that COPFS had not dealt correctly with a counter complaint against his opponent in his court case.

2. Schedule 4(2) of the Scottish Public Services Ombudsman Act 2002 (the Act) states that the Ombudsman must not investigate the commencement or conduct of civil or criminal proceedings before any court of law. With advice from the Ombudsman's legal adviser, I carefully considered whether or not I could look at Mr C's complaints in light of this schedule in the Act. I concluded that my jurisdiction was restricted to the complaint as specified in paragraph 3 and I informed Mr C and COPFS of this position. Mr C said in an email to me in November 2005 that he understood this aspect of the Ombudsman's jurisdiction.

3. The complaint from Mr C which I have investigated is that the administrative actions of COPFS relating to their handling of the complaint were inappropriate, limited to how COPFS performed against response timescales in their own service standards and customer feedback policy.

Investigation

4. Mr C was charged with a Breach of the Peace (Domestic) in November 2004. He pleaded guilty at his trial Diet in May 2005 and was sentenced in July 2005.

5. Mr C provided about 250 pages of evidence, mostly copy correspondence, in support of his complaint. Much of this evidence related to the detail of his objections to the manner in which COPFS handled his court case. On the basis of the parts of Mr C's evidence that were relevant to the complaint as set out in paragraph 3, I made a detailed enquiry of COPFS.

6. COPFS provided a comprehensive response to my enquiry which

included:

- a schedule of correspondence between Mr C and COPFS and copies of key correspondence;
- a copy of the COPFS Customer Feedback Policy, Procedure and Guidance Note from July 2005; and
- a copy of *COPFS Complaints Procedure* written in July 1996.

Mr C's complaint was initially raised directly with COPFS before the introduction of the July 2005 *Customer Feedback Policy, Procedure and Guidance Note*. COPFS sent a copy of the new procedure to Mr C in October 2005 which prompted Mr C to submit his complaint to the Ombudsman.

7. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and COPFS were given an opportunity to comment on a draft of this report.

Complaint: The administrative actions of COPFS relating to their handling of the complaint were inappropriate, limited to how COPFS performed against response timescales in their own service standards and customer feedback policy

8. The only issue within the Ombudsman's jurisdiction in this complaint is whether or not COPFS met their own standards for response times in dealing with correspondence from Mr C.

9. Mr C submitted his initial complaint to the Glasgow Area Procurator Fiscal's Office at the end of May 2006. He was advised that the Crown Office in Edinburgh would deal with the matter and that a copy of his complaint had been forwarded to them. Mr C sent 111 items of email and hard copy correspondence to various COPFS offices and to the offices of the Solicitor General and the Lord Advocate between the end of May 2005 and the end of December 2005. This reached a peak in October 2005 when Mr C sent 31 items, eight of which were on 11 October 2005. These items of correspondence on occasion rehearsed at length complex issues which Mr C had raised previously.

10. COPFS sent their first response to Mr C's complaint in mid-July 2005 and continued to deal with it until a final response was issued in late December 2005. Mr C continued to dispute the COPFS view on his complaint by email and in writing. COPFS wrote to Mr C in early February 2006 to reiterate their

position and notify him that further communications would not be acknowledged. Copies of COPFS responses to Mr C and the schedule of correspondence provided by COPFS show that they responded within the required timescale on all but two occasions. On these occasions, in August 2005 and October 2005, COPFS apologised to Mr C and offered an explanation for the delay.

11. In his complaint to COPFS Mr C raised the possibility of a meeting to discuss his complaint. COPFS declined to meet with him and I note that COPFS are under no obligation to meet Mr C and have explained that they believe that they have answered Mr C's complaint and that, therefore, a meeting was not necessary.

Conclusion

12. Having read the background documents supplied by Mr C on the prosecution and its consequences for him, I understand that this has been a very difficult situation for him. The Ombudsman cannot, however, uphold a complaint simply because the complainant feels aggrieved by what has happened.

13. It is clear that Mr C was frustrated at not being able to pursue his complaint in a manner that he regarded as satisfactory. The evidence I have examined, however, demonstrates that COPFS generally met the response time standards set out in the *Customer Feedback Policy, Procedure and Guidance Note*. Where those standards were not met, in August 2005 and October 2005, COPFS apologised to Mr C shortly after each occasion and offered an explanation for the delay in responding to him. In addition, it is likely that the quantity and complexity of correspondence sent by Mr C to COPFS, as noted in paragraph 9, would have impacted adversely on their ability to respond quickly. On this basis I do not uphold the complaint.

14. I note that COPFS have introduced a new IT system to record, track and analyse customer feedback. This is a positive move which should help to minimise any future delays in responding to correspondence.

23 May 2007

Explanation of abbreviations used

Mr C	The complainant
COPFS	Crown Office and Procurator Fiscal Service
The Act	Scottish Public Services Ombudsman Act 2002

List of legislation and policies considered

Scottish Public Services Ombudsman Act 2002

COPFS Customer Feedback Policy, Procedure and Guidance Note (July 2005)

COPFS Complaints Procedure (July 1996)