

**EVIDENCE TO THE REVIEW OF SPCB SUPPORTED BODIES  
COMMITTEE FROM MARY C BAXTER AND LOUISA BEVERIDGE**

Dear Sirs,

Please find attached our comments regarding our experiences of using the Scottish Public Services Ombudsman during the last 4 years. We have also cut and pasted a second copy below in case you are unable to open our attached file

We are happy to answer any questions regarding our experiences.

Yours faithfully,

Mary C Baxter and Louisa Beveridge

“True reconciliation does not consist in merely forgetting the past.” - Nelson Mandela

We have had issues with the services from East Dunbartonshire District Council from 2002 to current. We had two areas of complaints.

- 1) *The care our parents received whilst in their own home and***
- 2) *The way complaints were mishandled by the council.***

The Care issues were dealt with in a satisfactory manner by the Care Commission who upheld all our complaints. Complaint handling has never be satisfactorily addressed. The Ombudsman has been involved from June 2004. Have they actually made a meaningful improvement to public services - well no, in fact they have made a poor situation worse.

It is not possible to fool all of the people all of the time. Charles Dickens used the Circumlocution Office to ridicule the processes of government in Little Dorit which was first written c. 1856. 153 years later the Circumlocution Office is alive and well in Scotland only it is currently called the Scottish Public Service Ombudsman. Its not fooling the Scottish people any more than the original.

We have experienced four issues with the Ombudsman’s Office that should be examined in detail.

**What is the remit of the Scottish Public Services Ombudsman?**

**The time scales that the Ombudsman’s Office works to?**

**The quality of the staff at the Ombudsman’s Office**

**The volumes of complaints that are dealt with at the Ombudsman’s Office.**

We received a draft report regarding our complaint date 29 August 2008. We finally understood that the process of the Ombudsman's Office is not to even attempt to investigate past events. No improvements is the accepted outcome. This is all despite the obvious significant cost to the public incurred in preparing this report. The report included a lack of investigative processes, several significant inaccuracies and a deep misunderstanding of certain basic concept including the differences between minutes and notes and the fundamental principles of an **Independent** Review Panel.

### **What is the remit of the Public Services Office?**

We are still not sure - is it to help councils improve services? Is it to apportion blame when individuals fail to carry out their allotted public functions? Is it to assist individuals pursue rightful complaints to an ultimate conclusion? The literature that we have been able to find on line is all rather vague. In our innocence we thought that the Ombudsman's office was a source of arbitration which would hear the case from both sides and then give a clear judgement with succinct and useful recommendations. We fully anticipated that our case would be investigated by a mature, well trained and highly capable individual. **Anything less than these high ideals is a waste of public funds.**

### **The time scales that the Ombudsman's Office works to?**

We first asked the Ombudsman's Office for help 3 June 2004. We were advised to return to the Council because we had not had a CRP Hearing. The Chief Executive of the Council totally misunderstood the process and was advised by the Ombudsman's Office by two letters dated 21<sup>st</sup> July 2004 & 9 August 2004 yet despite the "Power" of the Ombudsman this correspondence did not result in a timely CRP Hearing. From the date of the Ombudsman's letter it took a further **year** before this hearing took place on 4 August 2005. This hearing was only finally arranged **after** we had written to **all** of the elected councillors to see if any of them could actually cause the CRP Hearing to take place. During all this extended period of time we had no further support from the Ombudsman's Office.

We found the CRP Hearing extremely intimidating and yet we could not afford professional assistance. In contrast the Council had their entire administrative Department to make all the arrangements including their legal adviser who is funded by **our** tax pounds. We pay for the oppositions legal adviser yet can't afford our own representation! Finally the judges - three independent retired social workers chosen by the Council that we were complaining against - this does not seem like transparent justice to us.

Despite all of our above noted reservations the CRP found about 90% in our favour and their report was presented to the Social Services Committee on 8 November 2005. We had been previously advised in writing by Council Officials that our response would also be presented to this elected body. It was withheld. We learned it was being withheld during the course of the meeting when the same legal adviser told the councillors it was being withheld - no one ever actually told us that the parameters had changed. This entire

event was omitted from all public records. Please note we were only allowed to attend this meeting as silent observers so we held our silence whilst the entire council machine walked all over us. It is hard to describe the devastation. We had mistrusted the Council from 2002 - to June 2005 and then tried very hard to trust that these administrative employees of the council would be independent. We felt like total fools to have placed our reliance on these individuals who had abused and betrayed us yet again.

It took several months to recover from these events during which time we took further legal advice and returned to the conclusion that we could not afford legal advice so once more we went back to the Ombudsman after a series of unsatisfactory correspondence and one meeting with a senior council official during which time we attempted a reconciliation process but were rebuffed.

Our formal complaint against the process of the CRP Hearing and subsequent actions of the Council were lodge with the Ombudsman on 31 August 2006. The draft report which is now the subject of a formal complaint was sent to us on 29 August 2008. It took **two full years** to write a pleasant, meaningless, sanitised, fairy tale. (Perhaps a more accurate statement is that it would be the subject of a formal complaint if the Ombudsman's Office could receive mail. We first sent a complex mailing to Alice Brown by Recorded Delivery on the 9 December 2008 then by email on 2 further occasions during December 2008. Each time we phoned these mailings had not been received. Finally we hand delivered a copy on 3 January 2009 which has finally been acknowledged. Thus nearly one month and four copies to send a complex 22 page mailing to Alice Brown.

### **The quality of the staff at the Ombudsman's Office**

Our Complaint was assigned to a Complaints Handler. He took far too long to pursue some relatively simple issues. He was unable to comprehend the basic issues. The independence of the CRP had been compromised by actions of the council. The council had confirm in writing that they had taken this action in a letter to the Ombudsman dated 13 September 2006. This letter was clear evidence that the independence of the Complaints Review Panel had been breached. The Ombudsman should have completed the investigation very quickly on receipt of this letter. The only conclusion that we can draw is that the complaints handler did not understand the significance of this major piece of evidence. That he lacked the required skills to carry out his allotted task.

At the start of the CRP Hearing we advised that the meeting was being minuted. We were introduced to a young lady as the minuter. Many months later we were finally told by Council Officials that the meeting had not been minuted. Our complaint was that Council Officials had lied at the start of the CRP Hearing by stating the meeting was being formally minuted. The enormity of this complaint was never understood by the Ombudsman. We told the Ombudsman that we believed that the Panel members considered that the meeting was being formally minuted. We stated that we would accept the witness statements of the panel members. If the panel members said that the meeting had not been formally minuted we would accept their verdict. In

actual fact nothing happened. Some documents were sourced from the council. No personal meetings ever took place between us and the Ombudsman and very obvious basic principles were entirely misunderstood. The final draft report was sent to us on 29 August 2008 with an accompanying letter saying that the author no longer was in that position and that all correspondence should now be address to a newly appointed complaints handler. This new handler could not possibly spare the time to become familiar with the complex details of our original complaints. We wrote a point by point review of the errors, etc in the draft report. This was basically dismissed by the 2<sup>nd</sup> handler. Again we could only conclude she was very poorly qualified to undertake her appointed role. She stated that the difference between notes and minutes was purely semantics! She was rude both on the telephone and in letters.

We have two excellent reports regard our complaints which allow us to benchmarks the very poor quality work undertaken by the Ombudsman

We lodged a complaint with the **Care Commission** on 18 December 2004. Their report was produced on 26 May 2005. This report upheld all our complaints and was the result of a well thought out investigation conducted by a committed and intelligent individual who knew his objective. To establish the problems, establish the truth, where possible, and make practical recommendations. He interviewed family members and many council employees. This work had an end result in view. To try to an ensure that basic mistakes were not repeated and repeated. It took the Care Commission only 5 months to complete a professional investigation and produce a comprehensive series of recommendations.

The Report produced by the **Volunteer Complaints Review Panel Members** upheld virtually all of our complaints and was again a very clear examination of the facts as presented to them. The work was undertaken quickly and with integrity. The only issue with this report is that the council took the opportunity to skew it by supplying the panel with inaccurate notes of the CRP Hearing which were presented to the panel as an accurate, public, shared minute of the meeting. (this inaccurate note was only released to the family through the Ombudsman's office 14 months after the CRP Hearing took place)

Because the ombudsman's office **would not write** to the panel members to obtain witness statements regarding the minuting of the meeting we finally decided to undertake this investigation ourselves. We wrote to the 3 panel members on Monday the 2 November 2008. On Saturday 7 November 2008 two had replied stating that they believed that the meeting had been minuted by the young lady introduced as the minuter. (the 3<sup>rd</sup> panel member did not receive our letter)

We achieved, in 6 days, a basic very, very simple investigation; which the ombudsman's office was unable to achieve, in over **two years**.

If other bodies can produce good work; why can't the Ombudsman's Office? Is it because, no one actually wants the truth to be exposed in public? Surely the true remit of the Ombudsman's office is to delay and fudge; until complainants, just finally, give up and go away? Just the way a good Circumlocution Office should operate!

### **The volumes of complaints that are dealt with at the Ombudsman's Office.**

The Ombudsman's Office uses the excuse, that they receive a very large volume of complaints, and because they have finite resources, they are struggling to give each complaint, the time required, to fully investigate. This is not only an excuse; it is a self fulfilling and circular argument. Councils are very well aware of how to play the current system and break rules with scant regard to the consequences; because there are virtually no consequences. Thus, with impunity, Councils frequently behave as though they are above the law; because effectively they are. The ombudsman's office, tinker and play at the very edges and councils know they are the stronger body; and treat complainants with an arrogant lack of respect.

If councils knew, they were overseen by effective arbitration, they would stop behaving quite so arrogantly. Public services would actually improve; and actually serve the public. The current system places all the power, in the hands, of paid public officials: who frequently act as mini tyrants - masters of all they can get away with. Open any Scottish newspaper, on almost any day of the week, and turn to the letters page. The Scottish people are disillusioned with Government; and Local Authorities, in particular. Fix the Ombudsman's Office, and a significant improvement in democracy, would be the result.

### **Summary**

For many Complainants the day they write a formal complaint to the Ombudsman is seen as the end of a traumatic period in their lives. They have disagreed and found fault with a large public organisation; and have lost. They are tired, disillusioned and distraught. Why do people bother to complain? Is it all about compensation? No: that is so easy; so cynical. People complain, because an injustice has occurred; and what they are asking for, is for the issues to be properly investigated, by skilled investigators, within a relatively short period of time; and for a judgement to be made, which actually causes improvements; so that their very, personal and very, miserable experience; was not all in vain.

This is not some simple, academic exercise. There have been many issues presented in the press and media this winter; which have as a central tenant the issue that early complaints were ignored; and finally a child is dead; two daughters have been vilely abused by their father for many, many, years; a child is kidnapped by its own mother, etc, etc, etc.

A complaints system can actually work, if individuals accept, that they are not perfect. Public employees; specifically senior public employees, must accept,

that they work for the public; and not only for their position of power and salary.

An effective, complaints system, should improve public services. The current system, costs a great deal of tax pounds; **and does not work.**

During this 6 year period, in our family, the following events have happened;

- Two beloved parents/grandparents have died;
- One baby has been born;
- One person has had breast cancer and recovered;
- Two people have got honours degrees;
- Careers have been started
- Houses have been bought and sold;
- A profitable business has been established;
- Two well loved dogs and three precious cats have died;
- Happy holidays have taken place;
- Eight children have been cared for, loved and educated;
- Livings have been earned;
- Driving tests passed;
- Family picnics have been enjoyed;
- House have been decorated;
- Gardens tended;
- Training courses undertaken;

And so very much, more. In other words, this family of 13 deeply attached individuals, have carried on living well; whilst the process of trying to improve public services has been a part of our lives. This complaint is in no way our *raison d'être*; just, one more thing, we try to do properly; as good citizens.

Your committee arguments; will be conducted, within; a formal, narrow, legal remit; but if, you do not include, the fundamental needs of government to produce justice for all; you will miss the point of government; which should be to strive, to be human.

***“Every segment of our population, and every individual, has a right to expect from his government a fair deal” - Harry S. Truman***

7 January 2009