

29 October 2008

Mr Franck David
Assistant Clerk to the Public Petitions Committee
Room TG.01
The Scottish Parliament
Edinburgh
EH99 1SP

Dear Mr David

Thank you for the opportunity to respond to the issues raised in petition PE1163. At the outset I regard it as appropriate to state that the Scottish Public Services Ombudsman (SPSO) has no objection to an audit being carried out by Audit Scotland should they decide that they wish to undertake such an examination. We strive to be a Best Value organisation, and are committed to continuous improvement.

I note, however, that the Auditor General for Scotland, in his letter to the Committee of 7 October 2008, states he does not regard this to be an appropriate time for him to undertake such an examination on account of the ongoing work undertaken by the Scottish Government and the Fit-for-Purpose Complaints System Action Group (FCSAG) established following Professor Lorne Crerar's review of regulation, audit, inspection and complaints handling of public services. The FCSAG group have now reported and made a series of recommendations to Ministers which have the potential to change the remit of the SPSO. Ministers have not, to date, responded. I note that the Convenor of the Petitions Committee outlined this context at the Committee's meeting on 10 June 2008.

Your Committee may be interested in the SPSO's general approach to good governance and continuous improvement. You will be aware that in 2006 the Scottish Parliament's Finance Committee conducted a review of the accountability and governance of the Scottish Parliamentary Commissioners and the SPSO. The SPSO has carefully studied the Finance Committee's recommendations and the Scottish Parliamentary Corporate Body's response. We consider that we are already in general compliance with the appropriate corporate governance requirements – for example by giving the Local Government and Communities Committee an opportunity to scrutinise our performance following the laying of our annual report before the Parliament. We also submit, on a voluntary basis, regular performance reports to the Scottish Parliamentary Corporate Body, and make available more widely a considerable amount of information about our strategic planning and our performance.

The audit submitted to the Auditor General for the year 2006/07 by our auditors, Grant Thornton, stated that the SPSO's governance arrangements operated well and within a generally sound control environment, commensurate with the scale of the Ombudsman's operations. They did, however, note the requirement to establish an internal audit function and to that end in June 2007 our Audit Advisory Committee was established under the Chairmanship of Sir Neil McIntosh. The Audit Advisory Committee assists the SPSO Board and Management Team by constructively challenging our plans and performance reports, with a view to continuously improving our business planning, our operational efficiency and our effectiveness.

Let me turn now to the specific issues raised by Mr Hamilton. Although the petitioner has said that the purpose of raising the petition was not that Audit Scotland would look into the circumstances of his individual complaint he has in fact made substantial reference to that complaint, including providing the SPSO reference (200501297) under which it was considered. As can be seen from information available on our website, that complaint has been the subject of an investigation. That investigation was completed in May 2006 and, as is our normal practice, the full report of it is posted on our website. Generally we cannot comment in public on the detail of an individual complainant's case. However I think it appropriate to record that we do not accept the accuracy of what the petitioner says about the investigation of his complaint and the report on that investigation. Nor do we accept the validity of the general conclusions he draws. I would be happy to provide further details to the Committee if that would be helpful.

More generally, I note that a substantial number of the comments contained on the forum associated with the petition seem to originate from individuals not content with the decisions reached by this or other Ombudsman offices on their complaints. It is the role of the SPSO to determine complaints received from aggrieved members of the public against public service bodies in Scotland. In so doing we will often decide a matter one way or another. Inevitably, we frequently find that the individual or body whom who does not regard the SPSO's decision as being favourable remains aggrieved. A similar point was raised by Robin Harper MSP during the Committee's initial consideration of the petition where he stated:

'It is important to keep in mind that, by the time a complaint comes to the Scottish Public Services Ombudsman, the complainer will have gone through one or two or more complaints procedures. Clearly, it would be unreasonable to expect the Ombudsman always to come to a decision that will please all those who present a complaint...'

I am grateful to Mr Harper for his stating this understanding of the difficulties of determining complaints between two opposing views held by parties but I do also recognise that the service the Ombudsman's office provides to the public and bodies under our jurisdiction can always be improved. For that reason we instigated a comprehensive survey seeking feedback from complainants. Mr Hamilton gives his interpretation of the results in his submission to the Committee. This was referred to by Angela Constance MSP in the report of Committee's initial consideration of the petition.

The full results of the survey 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

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- 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
- Committing to a rolling survey of complainants beginning in August 2008 to provide regular feedback and spot potential problems early.

I trust the information above is of interest to the Committee and will help it reach a conclusion on the petition in question. If I can be of any further assistance in this matter then please let me know.

Yours sincerely,

David Robb
Director of Policy & Development