

PETITION PE1163

RESPONSES TO PETITION BY SPSO, AUDIT SCOTLAND AND
THE SCOTTISH GOVERNMENT

SUBMISSION BY PETITIONER

Having carefully read all three responses, I would ask the Committee to consider the undernoted points :

1. SPSO In his response on behalf of the SPSO Mr. Robb has commented on, amongst other matters, my inclusion of the SPSO Reference No. and some details of the complaint made; presumably he infers that I should not have done so. My inclusion of this information was to satisfy the Committee that I was a genuine complainant with a genuine complaint - at the time of submitting the Petition I was not in a position to know that this information would be promulgated further although my approach throughout has been that I have no objection to any of the circumstances being made public, and that remains my position.

Elsewhere in his reply Mr. Robb refers to my "interpretation" of the ORC International Survey of 2007 - the Petition contains data lifted directly from the Report referred to and the figures speak volumes for themselves, without any necessity for "interpretation" or embellishment by me.

In her 2008 Annual Report the Ombudsman chose "Trust" as her theme and decried the apparent collapse of trust by the public in public bodies in Scotland. Whilst agreeing fully with these lofty sentiments I would just point out that the actions and inactions of the SPSO in the period 2002 to the present have if anything exacerbated this collapse of trust. For example, it has emerged following a FOI request by a person unconnected to me that complaints against the SPSO itself were divided into two categories - "service" complaints and "comeback" complaints. Only the former (numbering 147 during this period) were ever reported to MSP's; "comeback" complaints (i.e. complaints about the investigative process, the conclusions drawn and decisions taken) during the same period numbered 641 and have never been reported despite the reporting regime supposedly in place at the SPSO. The failure to report this category of complaint suggests that the SPSO has been in denial to the extent that the true picture of dissatisfaction has been concealed from MSP's. It is worth mentioning, I believe, that the fact of this non-reporting was extracted with some difficulty from the SPSO who are on record as complaining to the "requester" that he/she has made previous FOI requests. A good deal of the SPSO's response is given over to the fact that substantial changes were made in the SPSO's procedures after October 2005, and to the fact that the Fit-for-Purpose Complaints System Action Group have made certain recommendations to Ministers, which may result in an improved and expanded service to those having cause to complain; this does not begin to address the question of the (at least) 641 persons who consider that the SPSO did not properly handle their complaint, either through a presumption in favour of public bodies, ineffectual investigative procedures or sheer inefficiency prior to October 2005.

In my own case, the Ombudsman's "Monthly Commentary" noted that a "finding" had been made and that my complaint against a public body had been partially upheld - this document as the Committee will know has a wide circulation but no legal effect. The "Final Report", however, made no mention of either fact but went on to "commend" the body for doing what it was statutorily bound to do anyway. This has allowed the body in question to ignore the question of maladministration, and to continue as though nothing had happened. I suggest this represents a considerable waste of public resources and is yet a further reason why Audit Scotland's stance is unsupportable.

No reasonable person would expect every complaint to be well-founded or upheld by the Ombudsman, but the figures suggest that the large numbers not upheld or

otherwise dismissed are a statistical improbability in the overall picture.

Mr. Robb offers in his response to provide Committee Members with further details of my specific complaint; it might well serve the interest of all parties were Members to take this offer up and note, amongst other things, the apparently intimate relationship between SPSO staff and staff within the body complained of - something which in itself is not likely to foster a dispassionate examination of the facts.

The SPSO chose to disregard the actions of a public body effectively manipulating the relevant legislation to improve its' performance figures whilst disadvantaging a member of the public, and ignored the possible application of the Disability Discrimination Act to this case - in so doing it precluded me from seeking redress under that Act as it had become time-barred.

2. **AUDIT SCOTLAND** The response from the Auditor General for Scotland is not entirely unexpected, following as it does a well-rehearsed routine. What seems to have been addressed mainly is the possibility that the SPSO will undergo major change in the future both in the way it operates, and in the scope of its' remit. The Petition, on the other hand, seeks to have the SPSO' past operations examined. A promise of better performance in the future is scarcely good reason not to audit past performance, which as I understand it, is what audits are often for.

The breadth of dis-satisfaction with the SPSO, backed up by facts and figures, renders Audit Scotland's perverse disinclination to explore this body unsupportable.

3. **THE SCOTTISH GOVERNMENT** This response might well be a mirror image of Audit Scotland's view of the situation. The smokescreen of FCSAG's recommendations to Ministers seems to be just that - a smokescreen to cover inaction regarding the SPSO's dismal performance since inception and an attempt to sweep under the carpet the disappointment and disillusionment of hundreds, perhaps thousands, of those who have neither the means nor the inclination to seek a Judicial Review.

CONCLUSION The Petitioner requests the Public Petitions Committee to look once more at Audit Scotland's response, and to consider whether a further approach or other action might be taken to bring the operation of the SPSO fully to MSP's attention.