

**PE1076/D**

Frank McAveety MSP  
Convener  
Public Petitions Committee  
The Scottish Parliament  
Edinburgh  
Eh99 1SP

9 January 2008

Dear Frank,

**PETITION PE1076**

Thank you for your letter of 5 December on behalf of the committee seeking the views of the Scottish Parliamentary Corporate Body (SPCB) on petition 1076 from Mr D Whittet calling for the Parliament to set up an Appeals Tribunal to review final decisions by the Scottish Public Services Ombudsman where any complainer requests.

By way of background, the Scottish Public Services Ombudsman Act 2002 provides in Schedule 1, paragraph 2(2) that in the exercise of her functions the Ombudsman is not subject to the control of any member of the Parliament, the Scottish government or the SPCB. The SPCB's role in relation to the Ombudsman is primarily to provide the financial resources necessary for the Ombudsman to operate effectively and to set the terms and conditions of her appointment.

The question of whether there should be an Appeals Tribunal established is a matter of policy and we would suggest therefore more for the Scottish Government and the wider Parliament to consider and legislation would be required to make any such change.

At present, complaints should be dealt with by the public authorities against which the complaint has been made. Mechanisms should also be in place within each authority to for an appeal to be made by the complainer against any decision taken at this stage of the process. It is only after this process has been completed can the complainer, if they remain unsatisfied with the outcome of their complaint, refer the matter to the Ombudsman who makes a determination. The establishment of a further appeals mechanism would therefore add an additional layer to the process and would probably have cost implications.

The Committee will be aware that the Crerar Review of Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland has recently reported on the

outcome of its review. The report was debated in Parliament on 3 October 2007, and one of the key issues highlighted was around complaints handling. Following on from that debate, we are aware that the Government is actively looking at the wider picture of complaints handling in Scotland and the Committee may therefore wish to await the outcome of this work, and the subsequent parliamentary deliberations.

I hope this is helpful to the Committee.

Yours sincerely

**ALEX FERGUSSON**