

To: Audit, Risk and Scrutiny Board

On: 21 January 2019

Report by: Director of Finance & Resources

Heading: Scottish Public Services Ombudsman (SPSO) Annual Report 2017/18

1. Summary

- 1.1 The Scottish Public Services Ombudsman (SPSO) has issued her 2017/18 annual report. The report is available on the SPSO's website at www.spsso.org.uk
 - 1.2 The SPSO is the final stage for complaints about councils, the National Health Service, housing associations, colleges and universities, prisons, most water providers, the Scottish Government and its agencies and departments and most Scottish authorities. Local government remained the sector about which the SPSO received most complaints, 1,478 (29%) from a total of 5,029 complaints and enquiries, with the National Health Service again receiving the second highest number of 1,406 (28%).
 - 1.3 This year the SPSO advised that her standards team would be working to assess the effectiveness of developing the NHS model complaints handling procedures in place cross the public sector in Scotland. The SPSO has also introduced a strategic risks register for her service to reflect on strategic risks and how they impact on, and integrate with, operational risks and delivery of the SPSO business plan. She highlighted resources as her chief risk but advised that the backlog of cases had been cleared in December 2017.
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2. Recommendations

- 2.1 That the SPSO's 2017/18 Annual Report be noted; and

- 2.2 That it be noted of the 48 complaints against Renfrewshire Council determined by the SPSO in 2017/18 four were investigated, three were partly upheld and one was not upheld.
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3. **Background**

- 3.1 The report advised that in 2017/18 the SPSO saw an increase in overall caseload compared with the previous year. Nationally, in 2017/18 the SPSO received 5,029 complaints and enquiries, compared with 5,586 in the previous year. There were 4,125 complaints handled compared to 4,182 in 2016/17 and 904 enquiries compared to 1,404 enquiries in 2016/17.
- 3.2 Of the 4,125 complaints handled, 734 went to full investigation compared to 804 in 2016/17, 1,406 were about the health sector and 1,478 complaints were about local authorities. Of the 734 complaints investigated, the SPSO upheld or partly upheld 58.8% of complaints compared to 54% in 2016/17. Of the investigations completed, 23 cases were reported in full as public investigation reports (compared with 21 the previous year). Typically, public reports cover more serious complaints, often with wider significance to other organisations and which may be more complex and resource intensive. None of these related to Renfrewshire. The SPSO made 1,192 recommendations for redress and improvements to public services compared to 1,379 in 2016/17. The proportion of complaints that reached the SPSO before completing authorities' procedures (premature complaints) dropped again from 28% to 24%.
- 3.3 No complaint details for specific organisations are included in the report. However, information is received separately from the SPSO, in their annual letter, which indicates that the number of complaints received by the SPSO relative to Renfrewshire was 48 in 2017/18 compared with 47 in 2016/17 and 56 in 2015/16.
- 3.4 It should be noted that received and determined numbers do not tally as complaints determined include cases carried forward from previous years.
- 3.5 The SPSO will not generally consider a complaint unless the complainer has gone through the Council's complaints procedure fully. The Board receives an annual report on the Council's complaints performance.
- 3.6 In 2017/18 the Council received 6,098 complaints, compared with 6,364 in 2016/17. The annual report on the Council's complaints will be submitted to a future meeting of this Board.
- 3.7 During the period of the report the SPSO determined 48 complaints relative to Renfrewshire compared with 49 in 2016/17 and 52 in 2015/16. Of the 48 complaints determined by the SPSO during 2017/18, four were investigated, three were partly upheld and one was not upheld. SPSO decision reports relative to the three partly upheld complaints are attached as appendices to this report. The SPSO has accepted that the actions taken by the Council have addressed the recommendations contained in the three investigations reports and all three cases have now been closed.

<u>Outcome</u>	<u>2017/18</u>	<u>2016/17</u>	<u>2015/16</u>
Premature	18	16	28
Out of jurisdiction	6	10	10
Withdrawn	10	7	9
No outcome	5	4	2
Resolved	2	1	0
Not upheld	1	1	2
Fully upheld	0	3	0
Partly upheld	3	1	1
Proportionality	3	6	0
Total	48	49	52

- 3.8 The main subjects of complaints received in Renfrewshire during the period are as follows, with 2016/17 figures in brackets. The subjects are the SPSO's and may not relate directly to the way Renfrewshire Council services are organised: Housing 9(9); Education 0(5); Social Work 8(5); Finance 8(5); Roads & Transport 4(7); Legal & Admin 8(2); Planning 2(3); Environmental Health & Cleansing 6(5); Economic Development 0(2); Personnel 1(0); and Subject Unknown 3 (4).
- 3.9 The report advised that the NHS had implemented a model complaints handling procedure which meant that all Scottish public services now take the same two-stage approach to complaints handling. Integration Joint Boards (IJBs) must also have a complaints handling procedure which complies with the principles approved by the Scottish Government in 2011. To support IJBs the SPSO developed a model complaints handling procedure template during 2017/18. When this is adopted in full by IJBs, they will be compliant.

Implications of the Report

1. **Financial** - None
2. **HR & Organisational Development** - None
3. **Community Planning** – None
4. **Legal** - None
5. **Property/Assets** - None
6. **Information Technology** - None

7. **Equality & Human Rights** – The recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** – None
9. **Procurement** - None
10. **Risk** - None.
11. **Privacy Impact** – None
12. **COSLA Implications** - None

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SPSO decision report

Case: 201604136, Renfrewshire Council
Sector: local government
Subject: policy/administration
Decision: some upheld, recommendations

Summary

Ms C complained to the council about a decision taken to refer a concern about her child (child A) to the social work department. The referral occurred after the head teacher of child A's primary school became aware of an incident that was considered to be a potential welfare concern to the child. The head teacher separately called Ms C and child A's father (Mr B) and asked them both to attend a meeting. A meeting was not arranged and the head teacher then decided to refer the concern to social work. The reasons given for this decision were that the incident gave rise to a potential welfare concern to child A and that the parents refused to attend a meeting.

Ms C said that neither she nor Mr B were able to attend a meeting on the date suggested and that the school was unwilling to arrange a meeting at a convenient time. We found that the school's records did not provide a consistent picture in relation to whether child A's parents were willing to attend a meeting. Based on the evidence available, we were unable to establish whether the parents would have attended a meeting on a different date.

We were critical that the record-keeping in relation to this matter was not as complete as it should have been, and records were not kept in accordance with the council's standard circular, 'Protecting Children and Ensuring their Wellbeing'. We made recommendations in relation to this. We concluded that the decision to refer the concern to social work was one that involved the head teacher exercising their professional judgement based on their assessment of the information available at the time. We also found the correct procedure for the referral had broadly been followed. In view of this, we did not uphold this complaint.

Ms C also complained that the school had unreasonably failed to amend information in child A's educational records. We found that Ms C had complained that the record was inaccurate, but we did not consider that Ms C made a clear request for this information to be removed. We concluded that the council had not failed to take appropriate action in relation to this matter. For this reason, we did not uphold this complaint.

Ms C raised concerns about the council's handling of her complaint. We found that Ms C initially submitted an online complaint to the council, but this had not been logged or acknowledged in accordance with the council's procedure which meant that Ms C had to contact a councillor to progress her complaint. The council acknowledged to us that they had not appropriately responded to Ms C's query about a meeting and we concluded that the council had missed a potential opportunity to resolve (at least part of) the complaint at an earlier stage. We also found that the council had not kept appropriate records of their complaint investigation. We upheld this complaint.

Recommendations

What we asked the organisation to do in this case:

- Provide Ms C with a written apology for the shortcomings in record-keeping and the complaints handling failings, which should comply with the SPSO guidelines on making an apology, available at www.spsa.org.uk/leaflets-and-guidance.

What we said should change to put things right in future:

- Detailed records should be kept in accordance with the procedures within the council's circular 'Protecting Children and Ensuring their Wellbeing'.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.

SPSO decision report

Case: 201603215, Renfrewshire Council
Sector: local government
Subject: advertisement of proposals: notification and hearing of objections
Decision: some upheld, recommendations

Summary

Ms C complained about the redevelopment of a park which backs on to her property. Ms C also complained about how the council responded to her complaints.

Ms C complained that the layout of the redevelopment of the park had changed and that she had not been consulted on this matter. The council explained that the original plans were concept designs only, and that it was normal for the specifics of the design to evolve as the project progressed. Non-material variation permissions were sought for the movement of some park equipment. We took independent advice from a planning adviser. The adviser said that the council's response and explanation were reasonable and was satisfied that the correct permissions had been sought. We did not uphold this complaint.

In relation to Ms C's complaint about the way that the council had handled her complaint, we found that the council had not treated correspondence from either Ms C or her representative as complaints when they should have been. Therefore, we upheld this complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Ms C for not reasonably responding to her correspondence. The apology should meet the standards set out in the SPSO guidelines on apology available at <https://www.spsso.org.uk/leaflets-and-guidance>.

In relation to complaints handling, we recommended:

- The council should be clear about what process to put correspondence into. They should check this with the sender, if they are unsure. Correspondence should be replied to promptly, or the sender should be told why there will be a delay, or why no response will be issued.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.

SPSO decision report

Case: 201702843, Renfrewshire Council
Sector: local government
Subject: policy / administration
Decision: some upheld, recommendations

Summary

Mrs C raised four complaints relating to a charging order (a charging order means that a property could be used to repay a debt) taken over her mother's home by the council.

Mrs C complained that the council failed to advise her that her mother's care would be financed by a deferred payment, with a charging order being taken over the property. Mrs C also raised concern that the council failed to reasonably advise her that the charging order would rank ahead of other chargers. We found that the council wrote to Mrs C advising her that her mother was required to pay for a shortfall in funding, and that this could be covered by a deferred payment with a charging order being taken over the property. We found that the council also wrote to Mrs C to advise her that a charging order was being taken and that the property could not be sold until the council's debt, which was covered by the charging order, was repaid. We also found that the council advised that Mrs C should take independent legal advice on these issues. We did not uphold these two aspects of the complaint.

Mrs C also complained that the council failed to provide her with a reasonable explanation regarding the charges incurred by the council which would be repaid on the sale of the property. Whilst we found that the council had provided information on some issues, we found that they did not explain specifically what Mrs C's mother would be charged for her weekly care. The council also charged Mrs C's mother to discharge the charging order and did not advise her up front that this was a cost she would be required to meet. We upheld this aspect of the complaint.

Recommendations

What we asked the organisation to do in this case:

- Issue an apology to Mrs C for failing to provide her with reasonable information regarding the charges incurred by the council on behalf of her mother that would be repaid on the sale of the property.
- Return to Mrs C the sum of money she paid to discharge the charging order.

What we said should change to put things right in future:

- Ensure that documentation issued to a client or their representative at the outset sets out clearly the costs that the client is responsible for paying either up front or as a deferred payment under a charging order.
- Ensure that the client is notified in advance if they are required to pay the legal fee for the discharge of a charging order.
- Consider whether or not it would be possible to more promptly and proactively alert clients to accruing debt under a charging order.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.