

To: Audit, Risk and Scrutiny Board

On: 15 November 2021

Report by: Director of Finance & Resources

**Heading: Scottish Public Services Ombudsman (SPSO)
Annual Report 2020/21**

1 Summary

- 1.1 The Scottish Public Services Ombudsman (SPSO) has issued her 220/21 annual report. The report is available on the SPSO's website at <https://www.spsso.org.uk/annual-reports>
 - 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.
 - 1.3 The health sector was the sector about which the SPSO received most complaints (34%) from a total of 3,130 complaints and enquiries, with local authority cases receiving the second highest number of 951 (30%), which was a reduction of 1% from last year.
 - 1.4 The statutory functions of the Ombudsman, together with a look at the complaints process and a look forward to the coming year are set out within the SPSO's report.
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2 Recommendations

- 2.1 That the SPSO's 2020/21 Annual Report be noted; and
 - 2.2 That it be noted of the 31 complaints against Renfrewshire Council determined by the SPSO in 2020/21 none went to public investigation.
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3 Background

3.1 SPSO Role and Function

The SPSO has a wide remit which covers a variety of functions and services. There are three distinct statutory functions:

- the final stage for complaints about most devolved public services in Scotland;
- powers and responsibilities to publish complaints handling procedures and monitoring and supporting best practice in complaints handling; and
- independent review service for the Scottish Welfare Fund with the power to overturn and substitute decisions made by councils on Community Care and Crisis Grant applications.

4 Complaints Overview

4.1 The report advised that in 2020/21 the SPSO saw a decrease in overall caseload compared with the previous year. Nationally, in 2020/21 the SPSO received 3,130 complaints and enquiries (4,226 in total when including complaints carried over from last year) compared with 4,332 in the previous year. There were 4,188 in 2018/19 and 4,125 in 2017/18.

4.2 Of the 3,120 complaints handled, 420 went to full investigation compared to 588 in 2019/20, 1,056 were about the health sector and 951 complaints were about local authorities. As in previous years, the health sector continued to account for the largest proportion of cases received in 2020/21.

4.3 Of the 420 complaints investigated, the SPSO upheld or partly upheld 58% of complaints. It was noted that this was the fourth year in a row that the uphold rate had remained stable.

4.4 The Ombudsman acknowledged that there had been a significant impact for SPSO on closure rates during the first part of the year as a result of the lockdown, contributing to the overall lower output than the previous year. In line with Scottish Government guidance, SPSO moved to home-working for the majority of their team. They however ensured that their complaints service continued to function throughout, but it took several weeks to equip all staff fully to be home-based. This led to an impact on productivity during the year during the transition to home working and reflected in the drop in case closures and the lower output in the first quarter.

4.5 Of the investigations completed in Scotland as a whole, 7 cases were reported in full as public investigation reports (which was the same as 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.

4.6 The actual number of premature complaints received fell along with all other areas of complaint (a premature complaint is one that has not been considered by the public body first). However, for the first time in a number of years the proportion of premature complaints within their overall caseload grew slightly (by 1%). Against a backdrop of good progress over several years, the increase reflected the fact that some public bodies found it challenging to meet the timescales set out in the Model Complaints Handling Procedures during the pandemic. The SPSO intimated that they issued advice to public bodies by letter and on their website about how to approach these challenges which allowed public bodies to continue to communicate well with service users even where they were unable to meet timescales, giving reasons and anticipated timescales.

Complaints Determined

4.7 No complaint details for specific organisations are included in the report. However, information was received separately from the SPSO, indicates that the number of complaints determined by the SPSO relative to Renfrewshire was 31 in 2020/21 compared with 47 in 2019/20 and 47 in 2018/19. A copy of the SPSO investigation reports relative to the two cases where the decision was “some upheld” are attached as appendices.

Stage	Outcome Group	Renfrewshire Council
Advice	Discretion – alternative action proposed	0
	Organisation not in jurisdiction	0
	Premature	5
	Subject matter not in jurisdiction	0
	Unable to proceed	6
	Total	11
Early Resolution	Cause and impact test not met	0
	Discretion – alternative route used or available	0
	Discretion – Insufficient benefit would be achieved by investigation	4
	Discretion – alternative action proposed	1
	Discretion - Good complaint handling	10
	Discretion – referred back	0
	Member of the public test not met	0
	Premature	0
	Right of appeal to court/tribunal/Scottish ministers	0
	Subject matter not in jurisdiction	1
	Time limit (s 10)	0
	Unable to proceed	1
	Total	17
Investigation	Fully upheld	0
	Not upheld	1
	Some upheld	2
	Total	3
Total Complaints		31

Complaints Received

- 4.8 Of the 34 cases that were received in 2020/21 relative to Renfrewshire, the main subjects of these are as follows, with 2019/20 figures in brackets. The subjects are the SPSO's and may not relate directly to the way Renfrewshire Council services are organised: Education 2 (6); Environmental Health & Cleansing 6 (12); Finance 6 (8); Housing 9 (7); Legal & Admin 2 (1); Personnel 2 (0); Planning 2 (4); Roads & Transport 1 (5); Social Work 2(7); Subject Unknown/Out of Jurisdiction 1 (4); and Welfare Fund – Community Care Grants 1 (0)
- 4.9 It should be noted that received and determined numbers do not tally as complaints determined include cases carried forward from previous years.
- 4.10 The SPSO will not generally consider a complaint unless the complainer has gone through the Council's complaints procedure fully. In 2020/21 the Council received 6,179 complaints, compared with 7,924 in 2019/20. The annual report on the Council's complaints was considered at the last meeting of the Board held on 25 October 2021.

5 Other Developments

- 5.1 In 2019, the SPSO completed a review of their own guidance and model complaints handling procedure. With the Model Complaints Handling Procedure now fully adopted across Scottish public bodies under SPSO's jurisdiction, much of the focus is now on monitoring compliance and supporting improvement.
- 5.2 At the start of the year the SPSO set up and recruited a new Independent National Whistleblowing Officer (INWO) team during lockdown. At that time the implementation date of the INWO role and the National Whistleblowing Standards (the Standards) was still unconfirmed. When the date was delayed from 27 July 2020 to 1 April 2021 it gave them an ideal opportunity to develop training materials, support for implementation and establish their own investigation procedures, ahead of the intended timescales.
- 5.3 The INWO website has now been launched to help organisations and whistleblowers and includes documents to support organisations with internal communications and implementation, guidance to help staff to raise concerns, and it sets out the expectations and requirements under the Standards on managers right up to board level.

6 Looking Forward

- 6.1 The SPSO has a clear strategic direction and an ambitious business plan. It goes into 2021/22 recognising that that the priorities within its business plan will change because of the uncertainty surrounding the progress of the COVID-19 pandemic and lockdown easing.

6.2 The SPSO has also recognised that Covid-19 and lockdown will have long-reaching impacts but is committed to delivering its statutory functions. The report noted that lockdown would impact on all areas of its business for years to come, but it acknowledged that it was important not only to cope with lockdown and keep delivering its business but also to learn for the future in terms of how it investigated, how it worked differently and how it kept its services accessible.

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
13. **Climate Risk** - None

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SPSO decision report



Case: 201903686, Renfrewshire Council
Sector: Local Government
Subject: repairs and maintenance
Decision: some upheld, recommendations

Summary

C was a tenant of the council and requested repairs after reporting issues with damp, leaks and the boiler. When C ended the tenancy they were charged for leaving items in the property. C complained that the council's responses to C's requests for repairs, for recharging them when they left the property and how they communicated were unreasonable.

C reported 90 repairs or faults over a tenancy of many years. With the exception of two occasions, the council responded within timescales as laid out in their repairs policy. Sometimes the fault required multiple attendances (due to access requirements or parts required) and led to the completion time taking longer but the initial response was within the target timeframe. We found that the council's response to C's requests for repairs were reasonable. We did not uphold this aspect of the complaint.

The council responded to C's complaints sometimes verbally, in writing or both. It was good practice to seek practical resolutions to complaints and the council made attempts to do this with bringing forward inspections and arranging tradespeople to attend C's property. We found that not all of the points C raised were responded to when they were first raised as a complaint, requiring C to raise the same point on multiple occasions and in some instances (such as the complaints about communication and previous faulty repairs) not being responded to at all. This was unreasonable.

After the council received C's complaints they responded at the frontline resolution stage five times. The council did not advise C on how they could escalate their complaint as part of these responses after it was clear that C remained dissatisfied. It was unreasonable that the council failed to advise them of how to escalate the complaint. Therefore, we upheld this aspect of the complaint.

Lastly, the council were clear in the information which they provided to C in the tenancy agreement and terminations, that there was a requirement that C remove all belongings from the property after their tenancy ended. Not doing so would result in C being charged by the council for the removal costs. The council followed their process and their actions were reasonable. We did not uphold this aspect of the complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for failing to respond to all of the complaints they raised. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.

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

- The council should advise complainants how to escalate their complaint if they remain dissatisfied.
- The council should respond to all points of complaint raised by a complainant.

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: 201905509, Renfrewshire Council
Sector: Local Government
Subject: kinship care
Decision: some upheld, recommendations

Summary

C became a kinship carer to their family member (A) and complained that the council had failed to provide appropriate and accurate information about kinship care payments and had dissuaded C from applying. C also complained that information about the council's policy on kinship care assistance was difficult to find and the policy provided to them in 2019 was out of date and did not include reference to changes in legislation that took place in 2009 and 2015.

The council said that C was provided with information and advice about kinship care payments, however C had decided not to pursue an application as they did not want to share their financial information.

We found evidence that C did not pursue an application for kinship care payments as they did not wish to share their financial information. We did not find any evidence that C was dissuaded from making an application. We did not uphold this complaint. However, our investigation found that the council's policy on kinship care assistance was significantly out of date and was not updated between 2005 and 2020. Therefore, we upheld this aspect of C's complaint.

Recommendations

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

- The council should consider how they will conduct an audit of all kinship carers known to them (informal/formal kinship carers and those or may or may not have a Section 11 Residency Order) and ensure they were given accurate information and are aware of their rights. If it is found they have not been given the information or assistance they are entitled to, this should be remedied.

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.