



Ombudsman's Commentary

OCTOBER 2008 REPORTS

I laid 13 investigation reports before the Scottish Parliament today. Six are about the local government sector, four about health, two about higher education and one about a Scottish Government body.

Ombudsman's Overview

This month's reports cover a range of familiar concerns brought to our office by the public. The issues we have investigated include complaints about planning, building control, school transport and complaint handling by local authorities; and diagnosis, care and treatment, communication and complaint handling by hospitals and NHS Boards. We have also investigated a concern about a nursery inspection, and a complaint that a university failed to follow their academic appeal process.

These types of cases, while significantly different in substance, often have a common theme in that they are a result of a breakdown in trust in the relationship between the service user and the service provider. As a consequence of something going wrong, the complainant may no longer have faith in or feel they can depend on public services. Addressing such issues is central to the work of an ombudsman, and I see an essential part of my role as that of rebuilding trust and enhancing people's confidence in public services.

I have, therefore, chosen 'trust' as the theme of this year's Annual Report, which will be published at the end of this month. As I announced in June, it is my intention to stand down in March 2009. Therefore, in what is my final Annual Report as Ombudsman, I take the opportunity not only to look back but also to signal some of the opportunities and challenges of the future.

Professor Alice Brown, Ombudsman 22.10.2008

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case summaries

The reports are summarised below and the full reports are available on the SPSO website at <http://www.spsso.org.uk/reports/index.php>

Health

Referral for second opinion, complaint handling

Greater Glasgow and Clyde NHS Board (200602205)

Mr C complained about a lack of clinical follow-up during the investigation of his ear, nose and throat condition. He said that despite making two written requests he was not offered a referral for a second opinion. He was also unhappy with the Board's handling of his complaint. I did not uphold the complaint about the delay in identifying the symptoms of Mr C's condition, but recommended that the Board remind the consultant involved of the importance of clear communication at such times. I upheld Mr C's other complaints, and recommended that the Board ensure that staff clearly record the outcome of a clinical decision about a second opinion, review their internal procedure for investigating and resolving complaints and consider ways to improve response times.

Nursing care, complaint handling

Lothian NHS Board (200700634)

Mrs C raised a number of concerns about the care and treatment of her late husband in a high dependency unit. I fully upheld a complaint about the poor standard of care and treatment he received while on the unit, particularly in relation to the issue of a leaking line (for the supply of nutrition and insulin). I identified five shortcomings, and recommended that the Board take rigorous measures to address each of these. I did not make further recommendations as the Board had already taken significant steps to address major failures identified in nursing care and record-keeping. I also upheld the complaint that the Board took too long to handle Mrs C's complaint without giving her the chance to refer the matter to the SPSO, although as again the Board had already taken steps to address this I did not find it necessary to make specific recommendations on this aspect.

Oncology, diagnosis, care and treatment, communication, complaint handling

Lanarkshire NHS Board (200501777)

Greater Glasgow and Clyde Health Board (200600202)

Mr C raised a number of concerns about the care and treatment provided to his late mother, Mrs A, at a hospital and an oncology centre. Mrs A, who suffered post-menopausal bleeding, was eventually diagnosed with cancer and underwent a hysterectomy, although the full nature and extent of the cancer was not appreciated before the operation. I fully upheld Mr C's complaints that there was an unacceptable delay in reaching a correct diagnosis and that the decision to operate was incorrect. I recommended that Lanarkshire NHS Board apologise to Mr C for these failures. I did not make any other recommendations as the Board have already used the lessons from Mrs A's case as a driver for significant and far-reaching changes to the way that they now handle such cases. I will, however, copy my report to the Scottish Intercollegiate Guidance Network (SIGN) for consideration in their imminent review of their guideline on post-menopausal bleeding.

I partially upheld Mr C's complaint that the eventual explanation of Mrs A's prognosis was not adequately conveyed to the family and recommended that both Boards apologise to Mr C for this, as well as reviewing the way in which a poor prognosis is in future explained. I also upheld the complaint that Mr C's concerns about the conditions in Mrs A's ward in the hospital were not adequately addressed.

I did not uphold a complaint about the following NHS Board:

Fertility treatment, care and treatment

Forth Valley NHS Board (200601326)

Local Government

Building Control, communications, complaint handling

East Lothian Council (200600448)

Ms C raised a number of concerns about the service provided by the Council's Building Control Department during the construction of her home. She was particularly concerned that they mislaid documentation, causing her delay and additional expense, and that they failed to respond appropriately to her enquiries and complaints. I upheld all of Ms C's complaints, and recommended that the Council improve procedures to prevent documentation being overlooked in future, remind staff of the importance of responding to requests for compensation and review compliance with their complaints procedure so that complainants are kept informed if timescales cannot be met.

Planning, inaccurate information

South Ayrshire Council (200700100)

Three individual complainants raised concerns about the way in which the Council handled a planning application for the erection of a telecommunications mast near their homes. I partially upheld the complaint that the Council provided their Planning Committee and objectors with inaccurate information, to the extent that the available evidence suggests that there were inaccuracies in the way the information about the amended application was visually presented to the Planning Committee. I recommended that the Council apologise to the complainants for presenting inaccurate information, ensure better checks are made on documentation and ensure that, in future, reports to Committee contain information on the history of an application, including any significant changes. I did not uphold a complaint that the Council failed to take appropriate steps to ensure that the development complied with the planning consent granted.

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Local Government

Planning, enforcement

Fife Council (200500581 and 200501941)

Two neighbours complained that the Council did not take appropriate planning enforcement action in respect of a house being built bordering their properties; and failed to properly handle issues about changes to the plans. I upheld the complaint that the Council failed to deal with concerns about the orientation of the house. I recommended that the Council apologise to the complainants for this and for not advising them on how they had since dealt with some of the issues that gave rise to the complaint. I did not uphold complaints about delaying enforcement action, failing to consider the effects of windows in the new building on the complainants' privacy and failing to take action about a patio area. As, however there were inaccuracies in the original labelling of the plan supplied by the developer, I recommended that the Council review their system of dealing with such errors in applications to avoid situations in which members of the public might be misled.

Education, school transport

Aberdeenshire Council (200700989)

Mr and Mrs C raised concerns about the pick-up point for their older daughter's school transport. When they did so the Council told them that their child attends a primary school for which she is not 'zoned', and so they could not provide an alternative pick-up point. Mr and Mrs C complained that the Council did not take adequate steps to ensure that they were aware of which primary school their daughter was zoned to attend, and that the transport implications of this were not explained to them. I upheld the complaint and recommended that the Council provide free transport to Mr and Mrs C's two eldest children in line with the Council's free school transport policy until the end of their primary schooling, and look favourably on future applications for transport for any other siblings.

Education, complaint handling

North Lanarkshire Council (200600638)

Mr C complained that he was dissatisfied with the way in which the Council handled his complaint about a primary school playground incident involving his son and another pupil. I upheld his complaint about the investigation of his concerns and about delay in providing responses to specific requests for information. I recommended that the Council apologise to Mr C for not providing sufficient detail of the investigation and for delay, and that they remind staff of the importance of explaining how they have reached decisions.

I did not uphold complaints about the following Local Authority:

Education, consultation on school closure

The Highland Council (200600622)

Further and Higher Education

I did not uphold complaints about the following:

Failure to follow academic appeal process

University of Abertay, Dundee (200503430)

Although I did not uphold this complaint, I recommended that, to ensure continuing improvement, the University consider keeping records of meetings with students who are being counselled on their academic performance, reflect on the clarity of the wording of their standard resit letter, and consider whether final decision letters at the end of an unsuccessful appeal should give a fuller explanation of why an appeal is not upheld.

Academic Appeal, policy/administration, complaint handling

University of Glasgow (200601938)

Scottish Government and devolved administration

Staff attitude, complaint handling

The Scottish Commission for the Regulation of Care (200602043)

Mrs C, a nursery owner, was unhappy about the attitude of an officer of the Commission during a nursery inspection. She also said that, when she complained, the Commission did not carry out an adequate investigation of her complaint and dismissed her concerns as unsubstantiated. I upheld the complaint about the officer's attitude as I found that on a balance of probabilities there was sufficient evidence to indicate that she had spoken to some staff in an unprofessional manner. I did not, however, make any recommendation about this as the Commission had already told us they were taking appropriate action to keep the issues under review. I partially upheld the complaint about the Commission's investigation into Mrs C's concerns, to the extent that appropriate explanations were not provided about why certain evidence was not considered, and that she was directed to send her complaint to me rather than offered the opportunity to have it considered by the Commission's Review Committee in accordance with their complaints process. I recommended that the Commission take steps to ensure that explanations are provided where appropriate, that they remind staff that the internal complaints procedure should be completed before referring a complaint to me, and that they apologise to Mrs C.

Compliance & Follow-up

In line with SPSO practice, my Office will follow up with the organisations to ensure that they implement the actions to which they have agreed.

The compendium of reports can be found on our website, www.spsso.org.uk

For further information contact:

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SPSO

Scottish
Public
Services
Ombudsman

The Scottish Public Services Ombudsman (SPSO) provides a 'one-stop-shop' for individuals making complaints about organisations providing public services in Scotland.

Our service is **independent, impartial** and **free**.

We are the final stage in handling complaints about councils, housing associations, the National Health Service, the Scottish Government and its agencies and departments, the Scottish Parliamentary Corporate Body, colleges and universities and most Scottish public authorities.

We normally consider complaints only after they have been through the formal complaints process of the organisation concerned. Members of the public can then bring a complaint to us by visiting our office, calling or texting us, writing to us, or filling out our online complaint form.

The Scottish Public Services Ombudsman was set up in 2002, replacing three previous offices – the Scottish Parliamentary and Health Service Ombudsman, the Local Government Ombudsman for Scotland and the Housing Association Ombudsman for Scotland. Our role was also extended to include other bodies delivering public services.

We aim not only to provide justice for the individual, but also to share the learning from our work in order to improve the delivery of public services in Scotland. We have a programme of outreach activities that raise awareness of our service among the general public and promote good complaint handling in bodies under our jurisdiction.

Further details on our website at: **www.spsso.org.uk**

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