



To: Audit, Risk and Scrutiny

Board On: 20 January 2020

Report by: Director of Finance & Resources

**Heading: Scottish Public Services Ombudsman
 (SPSO) Annual Report 2018/19**

1. Summary

- 1.1 The Scottish Public Services Ombudsman (SPSO) has issued her 2018/19 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. The health sector was the sector about which the SPSO received most complaints (35%) from a total of 4,188 complaints and enquiries, with a decrease in local authority cases which received the second highest number of 1,301 (31%).
- 1.3 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

- 1.2 That the SPSO's 2018/19 Annual Report be noted; and
 - 1.3 That it be noted of the 47 complaints against Renfrewshire Council determined by the SPSO in 2018/19 two were investigated, one was upheld and one was partly upheld.
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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 2018/19 the SPSO saw an increase in overall caseload compared with the previous year. Nationally, in 2018/19 the SPSO received 5,895 complaints and enquiries, compared with 5,029 in the previous year. There were 4,188 complaints handled compared to 4,125 in 2017/18 and 1,707 enquiries compared to 904 enquiries in 2017/18.
- 4.2 Of the 4,188 complaints handled, 711 went to full investigation compared to 734 in 2017/18, 1,451 were about the health sector and 1,301 complaints were about local authorities. SPSO indicates that the decrease in complaints received about local authorities compared to last year is attributable to a combination of services delivered by Health & Social Care Partnerships for which there has been a large increase in complaints, and effective local complaints handling.
- 4.3 Of the 711 complaints investigated, the SPSO upheld or partly upheld 58% of complaints compared to 59% in 2017/18. The number of investigations completed in 2018/19 remained consistent with 2017/18. In February 2019 they changed their process to include issuing provisional decisions. In order to ensure that performance could be accurately compared to previous years these cases were treated as having been completed even though they were not technically 'closed'.

- 4.4 Of the investigations completed in Scotland as a whole, 14 cases were reported in full as public investigation reports (compared with 16 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 1,160 recommendations for redress and improvements to public services compared to 1,192 in 2017/18. The proportion of complaints that reached the SPSO before completing authorities' procedures (premature complaints) dropped again from 24% to 20% which is a 4% drop for the second year running.
- 4.5 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 determined by the SPSO relative to Renfrewshire was 47 in 2018/19 compared with 48 in 2017/18 and 49 in 2016/17.

Outcome	2018/19	2017/18	2016/17
Premature	10	18	16
Out of jurisdiction	6	6	10
Withdrawn	13	10	7
No outcome	2	5	4
Resolved	5	2	1
Not upheld	0	1	1
Fully upheld	1	0	3
Some upheld	1	3	1
Proportionality	9	3	6
Total	47	48	49

- 4.6 Of the 47 complaints determined by the SPSO during 2018/19, one was upheld, and one was partly upheld. SPSO decision reports relative to the two 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 two investigation reports and both cases have now been closed.
- 4.7 Of the 44 cases that were received 2018/19 relative to Renfrewshire, the main subjects of these are as follows, with 2017/18 figures in brackets. The subjects are the SPSO's and may not relate directly to the way Renfrewshire Council services are organised: Housing 6(9); Education 0(0); Social Work 4(8); Finance 5(8); Roads & Transport 5(4); Legal & Admin 5(8); Planning 3(2); Environmental Health & Cleansing 12(6); Economic Development 0(0); Personnel 0(1); and Subject Unknown 4(3).
- 4.8 It should be noted that received and determined numbers do not tally as complaints determined include cases carried forward from previous years.

- 4.9 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.
- 4.10 In 2018/19 the Council received 8,053 complaints, compared with 6,098 in 2017/18. The annual report on the Council's complaints will be considered at a future meeting of the Board.

5. Looking Forward

- 5.1 The SPSO advised that various delays outside SPSO's control meant that the implementation of the Independent National Whistleblowing Officer role for the NHS Scotland did not happen. A revised go-live date of 1 July 2020 has been advised.
- 5.2 The Ombudsman is required to lay a strategic plan before Parliament every four years. The next strategic plan will be laid in 2020. A draft will be available on their website for comment in early 2020.
- 5.3 The Support and Intervention Policy which provides the framework for how the SPSO supports and take action with public bodies about complaint handling performance went live on 1 April 2019. They are now developing their approach to how to manage and use the data and information to inform their work.

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: 201705217, Renfrewshire Council
Sector: local government
Subject: child services and family support
Decision: some upheld, recommendations

Summary

Mr C complained that the council failed to follow a number of social work procedures. Mr C and his wife (Mrs C) had been foster carers; however, following a child protection investigation (CPI) regarding one of the children they cared for, an investigation was carried out and Mr and Mrs C were deregistered as foster carers. Mr C complained that the council failed to follow procedures in relation to the CPI and the deregistration.

We took independent advice from a social worker. We found that, in relation to the CPI procedures, it was unclear as to whether one or two social workers should conduct interviews with children. We also found that the National Guidance for Child Protection in Scotland was not followed as Mr and Mrs C were not provided with information about the concern at the earliest possibility. There was also not a clear record regarding the risks and benefits of moving the children from the placement. We further found that the CPI took too long to conclude, and that the council did not ensure that Mr and Mrs C were aware of their ability to access independent support and advice throughout the investigation. We upheld this aspect of Mr C's complaint.

In relation to the deregistration, we found that the council had reasonably followed procedures and we did not uphold this aspect of Mr C's complaint. However, we noted that the foster carer agreement documents had not been reviewed or updated throughout Mr and Mrs C's time as foster carers, and we made a recommendation to the council on this matter.

Finally, Mr C complained about the council's handling of his complaint. We found that the council had failed to deal with his complaint in a reasonable manner as timescales were not met, and at various points Mr C was given incorrect information about the complaints process. We upheld this aspect of Mr C's complaint. Given that the council had stated that they were updating the foster carer agreements with a section on complaints, we asked for evidence of this being approved and implemented, but did not make any further recommendations on complaints handling.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr C for failing to reasonably follow procedures in relation to the child protection investigation; and for failing to reasonably follow procedures in relation to complaints handling. The apology should comply with the SPSO guidelines on making an apology, available at: www.spsso.org.uk/leaflets-and-guidance.

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

- It should be clear whether one or two social workers will conduct Child Protection Investigation interviews.
- Actions taken with regards to allegations made in placements should be in line with the National Guidance for Child Protection in Scotland.

- A clear record should be maintained clarifying both the risks and benefits of ending a placement following an allegation, before a decision is taken.
- CPI's should be completed within a reasonable timeframe.
- The council should ensure that foster carers are made aware of their ability to have access to independent support and advice following an allegation.
- The contents of fostering agreements should be reviewed at intervals by the authorities and any proposed changes or additions explained and discussed with carers.

SPSO decision report

Case: 201700213, Renfrewshire Council
Sector: local government
Subject: repairs and maintenance
Decision: upheld, recommendations

Summary

Mr C complained about the council on behalf of his mother (Mrs A) who is a council tenant. Mr C said that her property had been in a state of disrepair with issues including repeated boiler breakdowns, faulty electrics, persistent roof leaks and draughty windows. Mrs A had been reporting and complaining about these issues for a number of years but the council had only recently brought the property up to a reasonable state of repair. Mr C considered that the time taken to repair the property and provide a final response to Mrs A's complaints had been unreasonable.

We found that Mrs A had been complaining to the council, about a number of similar repair issues, for several years. There were a number of repairs mentioned in the complaints correspondence which were not recorded on the council's repair log, meaning it was difficult to assess whether these were completed within a reasonable timescale. The council told us that they did not record the outcomes of their inspections. This meant that it was very difficult to assess the ongoing condition of the property or evidence whether or not the faults being reported persisted throughout the period in question, or only required repair later in the process due to damage or deterioration.

We considered it was likely that there were unreasonable delays on the part of the council. Additionally, the reason we were unable to confirm this was due to insufficient record-keeping. We also found that the council's complaints handling had been unreasonable as they delayed in referring Mrs A to ourselves. Therefore, we upheld both of Mr C's complaints.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mrs A for failing to appropriately handle the repairs to her property and to both her and Mr C for the failures in complaints handling. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/leaflets-and-guidance.

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

- The repair log should be a full and accurate record of all repairs completed.
- A clear record should be made of repair inspections, detailing the inspector's findings.

In relation to complaints handling, we recommended:

- All complaints should be handled and progressed in line with the complaints policy.

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.