

**EVIDENCE TO THE REVIEW OF SPCB SUPPORTED BODIES
COMMITTEE FROM AILEEN CROSBIE**

I would submit the following statement regarding my experience in dealing with

THE SCOTTISH PUBLIC SERVICES OMBUDSMAN

I battled with the SPSO for Four and a Half years regarding a simple complaint made against the NHS.

At this point I think it best that I briefly describe how the SPSO dealt with my complaint. They called for all my Medical Records, of which very few were relevant to my complaint, and then sent them to the Parliamentary and Health Ombudsman in London with a short series of questions asking for their advice. The Parliamentary and Health Ombudsman felt he was inadequate to answer these questions and commissioned a report from an External Professional Adviser (EPA) who eventually replied.

The battle was protracted because my complaint went through the above process and at the end of it the Investigation Branch decided that there was no complaint to answer. The reasons given were so pathetic I appealed to the Quality Manager highlighting the total inadequacy of the investigation. The Quality Manager appeared to agree with me because he ordered another investigation to be carried out and the above process was repeated with another EPA.

The result of this second investigation was the same and I won another appeal to a second Quality Manager, who spoke to me and agreed with my complaint but was not able to overrule a decision of an Investigation Manager. She referred it to the SPSO herself, Prof Brown. Prof Brown was not persuaded by her Quality Manager and referred it her Deputy in charge of the Investigation Group for further investigation. Eventually after much prompting he inevitably refused my complaint giving further and even more pathetic reasons. I appealed to Prof Brown directly who denied my appeal and she instructed that my file be closed and that no further correspondence should be entered into.

I have a long and detailed correspondence with the SPSO and have attached one letter to show the attitude of the SPSO and to confirm what I have said above.

In a letter from Prof Brown she stated that she considered my complaint had been investigated. As such she should have laid a report before Parliament. In a letter dated 30th July 2008 to Alex Ferguson I asked for his help in persuading Prof Brown to publish this report. She refused him on the grounds that when the complaint was lodged it was not classed as an investigation and therefore there was no requirement to do so. It was disappointing that Alex

Ferguson accepted this statement. I did expect him to apply a little more pressure in spite as he made it quite clear that the Scottish Parliament had no locus to intervene with the Ombudsman.

The purpose of the above is to give the background to the following submissions.

Submissions

1) It is absolutely essential that the personnel of the SPSO have knowledge and experience of the subject they are expected to deal with.. This should enable them to make better decisions. It should also prevent them having to consulting outside organisations, incurring this additional expense, which must be quite considerable' and to speed up the whole process. In my own case it was quite obvious they had no medical knowledge and no knowledge of the NHS.

2) The submissions of the complainant are completely ignored. All statements and recollections of the complainant are dismissed. Investigating Officers made no effort to "consider the concerns" expressed by the complainant.

3) Any decision made by an Investigating Officer appears to be inviolate. Management appear to be prepared to go to any lengths to justify a bad decision and not to reconsider and admit they were wrong.

4) At no time is the complainant consulted. The SPSO is not really concerned to speak to the complainant and certainly not to be clear as what the complainant wishes to accomplish. An Investigating Officer does not have to explain to the complainant how he intends to proceed nor get some form of agreement that this will satisfy the complainant.

5) The Ombudsman is able to publish their report without fear of contradiction. There is no right of reply. I have no doubt that any report laid before Parliament on my case would not have withstood public scrutiny.

Final Comments

In my dealings with the SPSO I formed the impression that it was an enthusiastic amateur organisation. It was totally lacking in profession expertise, openness and transparency, and the determination to carry out the ideals and objectives written up on their website. With the passing of Professor Brown I hope a successor can be found who will have the insight and energy to drive this organisation forward to meet its objectives as detailed on its website. I do not see this successor coming from within the organisation. Goodness knows how the present organisation will cope with complaints about the water industry and the Scottish Prison Service.

Many of the points I have raised can be dealt with by adequate training and good management. There has to be a management policy to be more open

and transparent and a willingness to communication with the complainant. However there are two items which I do think this committee should reconsider.

- 1) The Scottish Parliament's ability to supervise and assess the performance of the SPSO. No public service organisation should have the complete and utter freedom that the SPSO has been given.
- 2) There must be a "right of reply" available to the complainant, even if it is only the ability to make comments as part of the report the SPSO lays before Parliament

Thank you for the opportunity to make this submission. I hope it is relevant and you find it informative

Aileen E Crosbie RGN, OHNC, HVD,.BA Comm. Health
06 January 2009

SUPPORTING DOCUMENT

SPSO
4 MELVILLE STREET
EDINBURGH
EH3 7NS

FAO Professor Brown, SPSO

Your Reference 200401158

Dear Professor Brown.

Thank you for your letter of 17 March stating you intend writing to Lothian NHS Board on points I have made. I find this most encouraging.

Turning to Para No 1 of your letter you write

“While I appreciate your strong feelings on this matter, I have already explained, as have my colleagues, why the SPSO are unable to uphold your complaint in the way you wish.”

My representation of my case is not motivated by strong feelings but by an expectation of receiving justice based on the facts outlined in my complaint. You write that your colleagues are unable to uphold my complaint. This is not correct. Mr [redacted]’s first rejection of my complaint was itself rejected by Mr [redacted], the then Quality Manager, who instructed him to try again. His second effort was again rejected, this time by Ms [redacted], Mr [redacted]’s successor as Quality Manager. Mr [redacted]’s effort was, as I pointed out to you, extremely flawed, and you have found it necessary to conduct your own review.

My letter of 25 February pointed out to you the facts of my case. These directly contradict your conclusions. You maintained that that there was no failure on Dr [redacted]’s part to diagnose my condition whereas I maintain he did not make the slightest attempt to make a diagnosis. **If you think he did make a diagnosis please inform me what his diagnosis actually was and where I can find it documented in the evidence you have obtained.**

Dr [redacted], who did give me a diagnosis, noted my medical history and symptoms, noted the physical tests he performed and noted his diagnosis in his notes of my consultation. This is standard practise in the medical profession. **Only if you can indicate to me exactly where and what Dr [redacted]’s record of his diagnosis is, and how he made it, can I accept that my complaint should indeed be rejected!**

SPSO, and yourself in particular, have never attempted to answer any of the questions I have asked or reply to any of the points I have made. If you could do that, you would unequivocally be able to reject my complaint, and I would be able to accept your decision. You have always rejected my version of

events. If you could accept what I have said has a grain of truth in it, you would have no option but to uphold my complaint. I hope you will be fair enough to reconsider your decision!

Yours faithfully

Aileen E Crosbie