



The Scottish Parliament
Pàrlamaid na h-Alba

(For official use only)
PUBLIC PETITION NO.

PE1405

PLEASE REFER TO GUIDANCE NOTES AT THE BACK OF THIS FORM.

1. Name of petitioner
Andrew Muir
2. Petition title
Review of the Scottish Public Services Ombudsman.
3. Petition text
Calling on the Scottish Parliament to request the Government to carry out urgently an independent “fit for purpose” review of the Scottish Public Services Ombudsman which encompasses opening a public inquiry to collect evidence to scrutinize the high rate of case closures since Mr Jim Martin took office in May 2009.
4. Action taken to resolve issues of concern before submitting the petition
<p>I requested the SPSO to demonstrate its fitness by diligently investigating my complaints to them. However, they refused to investigate my complaints and when I requested that they review the grounds for their initial refusal they again refused.</p> <p>I have approached my MSP. My MSP was concerned about the problem I describe but has no direct power over the SPSO decisions. I have now joined a group which is campaigning for reform of the SPSO.</p>
5. Petition background information
<p>Both the NHS and the Scottish Social Services Council failed to properly investigate my separate complaints so I contacted the SPSO. However the SPSO on each occasion failed to do anything.</p> <p>For the complaint against the NHS, the SPSO initially refused the case, then accepted it on the intervention of Nicola Sturgeon but closed it again when it was submitted to court to meet the 3-year “time-bar” deadline. If the SPSO had accepted and investigated the complaint when it was first submitted the “time-bar” may not have arisen and it may not have been necessary to go to court. The court however decided that because there was no appeal to the Sheriff Principal, the case should be dismissed.</p> <p>The SPSO refused to re-open the case on the grounds that I had had the opportunity to have it resolved in court. However, I did not have that</p>

opportunity as the court refused to accept the case. Therefore the SPSO was wrong to refuse to re-open my case on those grounds, as I am not eligible to have my case resolved in court in light of the court decision. There is no pathway to challenge the SPSO decision other than judicial review. Given the cost involved, the fact it only deals with the SPSO decision, and because it does not resolve the original problem, it is not accessible to most of complainants. Therefore, they are left suffering sustained hardship and service failure.

For the complaint against the Scottish Social Services Council the SPSO refused to look at the complaint at all. Their grounds were that no-one else had upheld the complaint. This means a) that I was denied my right to further my complaint and b) that the prior decisions which I am challenging were used as the grounds to deny me the opportunity to further my complaint.

I am very concerned that complaints closed, like mine, are leaving members of the public suffering extended hardship. It is also of great concern that such complaints may be counted and represented as “early resolutions” in the SPSO published statistics without any evidence presented of the individual complainants’ satisfaction (I refer the PPC to the annual SPSO report statistics). This story is an example of many other complaints that are being rejected by the SPSO leaving members of the public with no access to a fair and proper complaint pathway. I refer the Public Petitions Committee to the rates of complaint-closing since Mr Jim Martin took office in May 2009 which show an increase even over those reported by the SPSO under Professor Alice Brown. Also, I note here that the Parliament has had its attention brought to the wide-spread public dissatisfaction with the SPSO since Professor Brown’s reappointment debate at the Scottish Parliament in 2006.

More recently nine public petitions against the SPSO’s performance were closed by committees of the Scottish Parliament last year. My petition requests from the Parliament to seek evidence on the high rate of closing complaints after Mr Martin took office, hence it ought to receive full consideration and not to be closed simply because other SPSO related petitions, with different requests, were previously closed. There is still no scientific proof that the SPSO is performing to a standard which the Scottish people could be expected to consider satisfactory. My case was dealt under the current Ombudsman and current SPSO procedures; hence it represents an example of the suffering Scottish people still undergo, should they have had to deal with the SPSO. Furthermore, this is evidence that contrary to SPSO statistical claims, closed complaints are not being resolved under the current SPSO regime. Therefore, there clearly requires to be steps taken to examine how the Scottish people are being left after the SPSO rejects their complaints and when they have no other practicable route to follow to resolve their underlying problems.

Eight years after the SPSO was set up it is surely time for an in-depth, independent review to establish how well (or badly) the SPSO is performing. I also believe that there requires to be an on-going independent evaluation of the SPSO performance based on case-handling analysis and genuinely independent measurement of users’ satisfaction. Also, it is my view that small numbers involved in the previously conducted SPSO user-satisfaction

questionnaires make them highly inaccurate and of little value. As well as becoming an effective instrument for the delivery of justice for the people, the SPSO must also deliver value for money. At present the SPSO is failing the people of Scotland badly in both of those respects. I have to say that every single SPSO-user I have come across is firmly of the view that the SPSO's £3 million budget is not being properly spent and this is borne out by otherwise reported wide-scale dissatisfaction with the SPSO. Even considered from a purely funding point of view this has to be of great concern in these times of austerity.

Lack of transparency over the SPSO's operation and level of complainant dissatisfaction with SPSO decisions have to be addressed in the interest of justice. The high rate of closing complaints by the SPSO, as the SPSO's own statistics document states, calls for an urgent "Fit for purpose" review to establish whether public funds of over £3 million per annum are delivering value, in the form of justice, to the people of Scotland. This petition calls for a totally independent public enquiry into the high rate of unsatisfactory complaint-closures by the SPSO and for improvements to be made in order to make the SPSO service suitable for its paymaster, the Scottish people. I request that all members of the public who have had their complaint closed without investigations after Mr Jim Martin took office to have an opportunity to submit evidence on the "resolving" of their underlying problems as the SPSO label them in official statistics and submission by the SPSO

6. Do you wish your petition to be hosted on the Parliament's website as an e-petition?

YES

7. Closing date for e-petition

Three months after opening e-signatures

8. Comments to stimulate on-line discussion

The SPSO closes the majority of submitted complaints and claims to the Parliament this is "early resolution". If you have had a valid complaint to the SPSO rejected please write in this forum and to the Scottish Parliament's Public Petitions Committee about your experience of the SPSO's "early resolution" and other SPSO "resolutions". If you write about your experience with the SPSO it will let the Parliament know this is not simply about an individual mishandled complaint but rather about a systematic problem which should be itself be resolved after 8 years of highly unsatisfactory public service by the SPSO.