

Local Government



This is one of a series of reports through which we are continuing to put key messages, information and analysis of complaints about the local government sector into the public domain.

We expect local authorities to use this report to enhance their learning about the issues the public bring us about council services and about the quality of councils' complaints handling. We anticipate that Parliamentary committees, government departments, regulators and other improvement and scrutiny bodies will use it to identify issues arising from the complaints we see.

Equally, we hope it will prove useful to members of the public, and advice and advocacy groups that represent them, by providing information about the kinds of complaints that are escalated to the SPSO, how we handle them, and how we put things right through our recommendations, where we can.

October 2014

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Ombudsman's introduction

Transforming Scotland's complaints culture

2013/14 marked a sea change in the way councils handle people's complaints about local government services. It was the first year of operation of simplified, standardised model complaints handling procedures (CHP) across all of Scotland's 32 councils. We developed the procedures in partnership with the sector and I would like to put on record again my thanks to the many people and organisations that supported this work.

The new procedures benefit customers – and we are all customers of local authority services – because we know what to expect when making a complaint, with clarity and consistency of stages and timescales. For councils, there are more opportunities for learning and improvement through increased responsiveness, transparency and oversight.

As I do each year, I have sent each chief executive and council leader a letter providing the individual authority's statistics (these letters are available on our website). I expect them to use this information, in conjunction with other complaints data that they are now required to gather and publish under the model CHP, to analyse their complaints handling performance. They should use all this information to assure themselves of the quality of their complaints handling procedures and the tangible learning and improved services that have resulted from handling complaints well.



Volumes and issues

First, the numbers:

- We received 1,750 complaints about local government (almost 40% of our caseload)
- This was 16% more complaints than last year
- The number of premature complaints (complaints that had not completed the council's procedure before they came to us) was down 10% to 40%
- The rate of upheld complaints was 49%, up from 47% last year.

The issues people brought us were similar to previous years with housing, social work and planning topping the list. One of these areas – social work – is of particular concern to me, because of the length of time it is taking to bring about change. The Scottish Government undertook a consultation on a review of social work complaints procedures and we participated in their working group on this throughout 2012/13.

Ombudsman's introduction

At the end of this process, the working group indicated that their recommended options were those that would see local authorities adopt the model CHP for social work complaints, with the SPSO taking on the review stage. Since then, as I have commented elsewhere, the pace of reform has been slow. Back in 2008, Douglas Sinclair highlighted the need for simplification in social work pathways, saying that the complexity of arrangements was putting people off. People – often very vulnerable people – are still having to use those arrangements six years on.

I have also voiced my concern about the time it is taking for coherent complaints procedures to be put in place for services delivered under the integrated health and social care models, where there are conflicting existing legislative-based complaints processes. Again, people using these services can often be vulnerable. They need to know where to turn if things go wrong. The organisations delivering the services and those with an oversight role – the regulators, inspectorates and scrutiny bodies – also need clarity on this and I will continue to push for it.

Looking ahead

As well as our involvement in social work and integrated health and social care complaints systems, SPSO may have a future role as the review body for Scottish Welfare Funds (SWF) decisions. Following their consultation on the permanent arrangements for the SWF, the Government confirmed that they propose we take on this new role. This would mean an unusual extension to our jurisdiction, to include the ability to review and change SWF decisions, and would have a number of consequences, including adaptations to our current remit, processes and procedures.

The Government's proposal is included in the Welfare Funds (Scotland) Bill. Throughout the consultation on this policy proposal, we have not expressed a view on whether this role should come to us. We have emphasised that the SPSO is a

Parliamentary body, and this is a decision for the Parliament to consider in its deliberations on the Bill. We have, however, been in discussions with the Government and Scottish Parliamentary Corporate Body about how we could manage and carry out this work, as well as the logistical issues that we would need to resolve to ensure that we meet customers' needs.

One final important development I wish to highlight are our customer and local authority sounding boards. The customer sounding board includes representatives of different public sector user groups including Age Scotland, Alliance Scotland, a prison visiting committee, Citizens Advice Scotland, Consumer Futures, Patient Opinion Scotland, the Scottish Independent Advocacy Alliance and the Tenant Participation Advisory Service Scotland. The local authority sounding board was set up by the chair of the Society of Local Authority Chief Executives and myself. Members include representatives of local authority lawyers, directors of education and social work, heads of planning, the Chartered Institute of Public Finance and Accountancy, the Improvement Service and the chair of the local authority complaints handlers network. I have found that both these boards facilitate valuable two-way discussions that are frank and insightful, and provide mutual benefit in sharing expertise and knowledge. I am very grateful to all the members for their time and input.

As well as detail about our contributions in the complaints handling improvement and policy areas, this report contains statistics and analysis of the complaints people bring us. There are also case studies and recommendations that demonstrate our impact. I hope it will prove a useful learning tool that enhances our effectiveness in the local government sector, and furthers the goal we all share of improving the quality of the services provided to the public.

Jim Martin, SPSO



Casework

Complaint numbers

In 2013/14 we received and dealt with 16% more complaints about local government than in the previous year against an overall increase of 8%.

This was the first full year in which councils operated the new two-stage complaints handling procedures (CHPs) based on the model introduced by our Complaints Standards Authority (CSA).

The increase in numbers may, therefore, be partly a result of people moving more quickly through new complaints processes, and then bringing their complaint to us. It may also reflect greater awareness of complaints as an avenue for dissatisfaction. And it could, of course, simply be a consequence of increased dissatisfaction, perhaps as a result of the changes and cuts made as a result of difficult financial decisions. Most likely, it is a combination of all three reasons.

The vast majority of complaints we received were directly about councils. We received a total of 24 complaints about other bodies in the local government sector, including joint valuation boards, fire and police boards, national park authorities and the arms-length external organisations (ALEOs) that some councils have set up to manage areas such as cultural or leisure services.

Premature complaints

Premature complaints are ones that have not completed the authority's procedure before they come to us. During 2013/14, the percentage of premature complaints that we received about local government dropped from 50% to 40%. Although this is still above the rate across all sectors (which is 34%) we were pleased to see this reduction. Like all public organisations, local authorities themselves have the main responsibility for making sure they direct people to us at the right time. The improvements we have seen in this area may be another consequence of the new CHPs, which included specific guidance about how and when to do this.



What do people complain about?

The top five areas complained about remained the same, with complaints numbers increasing across the board. In 2013/14 social work complaints overtook planning, moving to second place in the table. The biggest increase amongst the top five areas was in education, where numbers rose sharply, from 76 in 2012/13 to 171 in 2013/14. Complaints about finance also rose significantly, from 85 to 172. Increases in the other three top areas was less marked, although these were on larger numbers of complaints. Social work complaints rose by just over 25%, housing complaints increased by almost 24% and the number of planning cases increased by just over 13%. Complaints about recreation and leisure replaced land and property complaints as one of the top ten most complained about areas.

Top areas of local government complaints received 2013/14

Area of complaint	Number of complaints received	As % of all local government complaints received
Housing	446	25
Social work	229	13
Planning	223	13
Finance	173	10
Education	171	10
Roads & transport	119	7
Environmental health & cleansing	98	6
Legal & administration	75	4
Building control	62	4
Recreation & leisure	30	2

There were increases in most of the top subjects complained about. The top five remained the same, with complaints about council tax overtaking those about complaints handling. Complaints about neighbour disputes and complaints handling went down slightly, although we continued to see the issue of complaints handling as a secondary issue in many complaints about other subjects, as we discuss later in this report. Complaints about primary schools appeared in the top ten for the first time, replacing complaints about housing applications, allocations, transfers and exchanges.

Top subjects of local government complaints received 2013/14

Policy/administration	272
Housing repairs and maintenance	184
Planning – handling of application (complaints by opponents)	114
Council tax	101
Complaints handling, including social work complaints procedures)	79
Primary school	72
Neighbour disputes and anti-social behaviour	62
Social work – child services and family support	59
Local housing allowance and council tax benefit	48
Parking	48



Key figures in local government complaints 2013/14

We received **1,750** complaints and dealt with **1,747***

The rate of upheld complaints was **49%**, up from 47% last year, but just under the year's overall rate across all sectors of 50%

The rate of complaints coming to us too early dropped from 50% to **40%** compared to last year, although it is still higher than in other sectors (the overall rate is 34%)

People who received advice, support and signposting **1,220**

Cases decided after detailed consideration pre-investigation **294**

Complaints fully investigated **233** with **227**** cases publicly reported to the parliament

We made **259** recommendations for redress and improvement

* There is some carry forward each year.

** Some cases published in 2013/14 will have been handled in 2012/13. In a small number of cases, we do not put information into the public domain, usually to prevent the possibility of someone being identified.

Issues in local government complaints

This section highlights the areas and subjects we receive the most complaints about. We illustrate some areas with key case studies, and there are more examples in the case studies section.

Subjects covered here are:

- Housing
- Social work
- Planning
- Schools
- Policy and administration
- Environmental health and cleansing
- Complaints handling
- Scottish Welfare Fund

Housing

25% of the complaints we received about local government during 2013/14 were about housing-related issues, and the number of housing complaints reaching us increased by almost 24%. Most were about housing repairs (184), followed by neighbour disputes and anti-social behaviour (62). Even where a local authority has disposed of their housing stock, as many have done, people may still complain to them about related issues, such as anti-social behaviour.

An example of an anti-social behaviour case was where a couple experienced noise disturbance from neighbours (case 201202396). Although council officers visited the house, their visits did not coincide with times when there was much noise and the officers said it was not noisy enough to be classed as antisocial. The council tried to provide some further noise monitoring and to arrange mediation, but these did not resolve the problem.

Housing: key case study

Failure to remedy full loss after wrong information given about right to buy

A man and his wife had lived in his parents' council house for many years. When his father died in 2007, the man became the tenant and wanted to apply to buy the house under the modernised right to buy scheme. He was told he had to wait five years to do so and, when he asked about this again in 2011, he was told twice that the previous advice was correct.

The council had separately decided that they wanted to designate the area as having 'pressured area status' which would suspend the right to buy under the modernised scheme. Councils can do this where there is a serious lack of social rented housing in an area, and they think that people exercising their right to buy may make this worse. They consulted on this, and then put the status in place in February 2012. From then, if the council want to sell a house, they had to ask Scottish government ministers for permission.

The man then found out that he could have applied to buy his home as soon as he became a tenant, and complained that the council gave him the wrong information. They upheld his complaint; and eventually agreed that they would make the case to Scottish ministers for consent to sell it to him at his maximum discount, with an allowance for the rent he had paid since March 2011. The man asked us to look into his complaint because he thought that that this was not enough and that the rent allowance should be given from when he became the tenant. We upheld his complaint, and recommended that when the council asked for the consent they calculate the cost including an allowance for all the rent he had paid up to the date when a sale was completed. We also said that if ministers did not consent to the sale, the council should make him an ex-gratia payment of the rent paid from 2007, to reflect his financial loss.

[Case 201204866](#)



The couple were clearly badly affected by the problem but for the council to do more they needed evidence, both of the noise itself and that it was at a level that would be considered anti-social. We recognised this, and found that the council had done what they reasonably could. They had not, however, fully explained their anti-social behaviour policy to the couple and did not record the outcome of their complaints. We took the view that if the council had communicated better, the couple would have had to make far fewer complaints. We said that the council should look at how they handled the complaints and improve this for the future, and should remind staff of the importance of following up complaints of anti-social behaviour and of clearly recording their decision on each complaint brought to them.

A case where housing repairs were an issue was where a woman complained about the council's repairs service (case 201105521). We found that some appointments had not been kept but that this had not been entirely down to the council. In terms of the quality of the repairs themselves, we found that over 18 months the woman had reported many unsatisfactory repairs and problems with the repairs service. The council did not appear to have a record of these, although they had recognised that some repairs took too long and had highlighted this to their staff. We upheld the woman's complaint, and made recommendations including that the council apologise, make sure that staff understand what they need to do, and ensure that all reports are in future logged on the system.

There are further examples of housing issues in the case studies section later.

Social work

The main issues raised with us in complaints we received during the year were about caring for vulnerable adults, the capacity of individuals to make decisions for themselves, and the operation of and access to Complaints Review Committees (CRC). CRCs are part of the statutory social work complaints review process, and have greater powers than we do to question social workers' decisions. Where a CRC has been held, we would look at their handling of the complaint or the way in which they dealt with the concerns of the person making the complaint.

In one case we looked at, a woman had difficulties in sorting out her father's care package (case 201200400). She complained to us about a number of problems, including the information she was given and about delays. We found that there was delay in holding a CRC, in providing a form and in replying to her, for which we said they should apologise. And in another case a woman was unhappy with the way that social work services handled matters stemming from an incident with her daughter (case 201003985). She said that they had not given her all the relevant documents before they held a CRC about this. We said that the council should apologise, as they had not given her these before the CRC met.

This year we also saw an unusual example where a council rejected the recommendations of a CRC. A man was unhappy when his daughter's home care charges increased (case 201204665). He said that the council had applied a lower earnings threshold than council members had approved. A CRC recommended that he should be refunded but the council disagreed. Our investigation found that the council did, in exceptional circumstances, have the discretion to reject recommendations made by a CRC. While this is something a council can do, they should only do so exceptionally and we would expect them to be able to demonstrate that they have considered this very carefully.

When a CRC is not held, we will look at what social workers have done but we are limited and cannot look as closely as a CRC could. The key case study in this page is an example of a complaint we looked at where a CRC was not held.

Other social work cases we saw included one where a man with severe learning difficulties was receiving 24-hour support at home from a care provider (case 201003393). After one of his carers administered a drug with a sedative effect, the man fell down a flight of stairs. He was seriously injured, and died some time later. His sister was unhappy with the investigation of the incident and, although we didn't uphold all her complaints, we found that the Scottish Government had since provided guidance to local authorities about such investigations.

The guidance said that councils should carry out significant case reviews into all critical incidents. As the council received the care provider's report into the incident after that guidance was published, we said that, in the circumstances, it would have been reasonable for the council to have conducted one of these reviews to find out whether there were lessons to be learned or improvements in practice needed. Finally, a man complained about what social work staff did in relation to his son (case 201301614). We found that the council's letters were unclear about how appeal requests would be dealt with and that they did not respond to a specific question. We told them that they should apologise, and make sure that, in future, the information in their replies is clear.

Social work: key case study

Failure to assess needs and wishes of person with limited capacity

When a man's late aunt was discharged from hospital to a nursing home, he said social workers did not give her the chance to visit it, or to choose a home. He also said that they did not ask her independent advocate and her family for their views. We don't usually investigate such complaints, as these are normally considered by a complaints review committee (CRC), who have greater powers than we do to question social workers' decisions. In this case, however, the council decided that a CRC was not appropriate, so we looked into the complaint, with independent advice from an adviser with significant experience in older people's services.

Although the man's aunt had limited capacity to make her own decisions, the evidence indicated that she would have been able to say what she wanted to do. We found no evidence that social workers had assessed her needs, looked at what she might want, or asked other people, including her advocate, about this. Hospital staff had suggested that she might find a visit to see a home upsetting, but we did not see why social workers gave this opinion more importance than what the man's aunt might want, or why they thought this might upset her more than moving somewhere that she had not seen or visited. National and council policies said that she should have had a choice of nursing homes, but she did not, and the council had not consulted her nephew about her discharge in line with principle 4 of the Adults with Incapacity (Scotland) Act 2000. We upheld his complaints and said that the council should apologise to him and take action to improve what happens in such circumstances. This included making sure that staff involved in discharging patients from hospital are aware of and are acting in line with the relevant national and council policies.

[Case 201204670](#)



Planning

Most planning complaints came from people who were unhappy about what had happened with a planning application – of the total of 223 complaints about planning, 114 were from people opposed to an application, and 17 were from applicants. We received 15 complaints about how planning authorities dealt with taking enforcement action against unauthorised development. Other issues that featured during the year were neighbour notification, record-keeping, communication between council departments and complaints handling.

Planning is an area where we take independent advice from experts in planning law and practice to help us understand the complaint and come to an informed decision. Our advisers point us towards what is reasonable and what is required when considering and handling such applications. We may make recommendations about the consequences of planning decisions or on the general procedures that planning authorities or other public agencies involved in the planning process use. Our advisers help us ensure that these are appropriate.

Planning authorities are now responsible for neighbour notification – i.e. telling people who may be affected that a planning application has been received. People complain to us when this appears not to have happened, saying that they have not had the chance to comment on or object to an application. They often tell us that they knew nothing about the development, or did not know the extent of it, until work started. In one case, a woman said that the council failed to notify her about amendments to her neighbour's planning application to extend his house and add decking, which impacted on her privacy (case 201202273). We found that they had not notified her, and that they did not seem to have assessed the decking proposal when considering the application.

We said that they should amend their guidelines about notification, review their procedures to make sure that all material elements are properly assessed, and take steps to improve the situation

for the woman and report this back to us. When we followed this up with the council later, they told us that they had offered to arrange for the affected area to be screened.

In another case, a man told us that the council had not notified him about a planning application for a neighbouring property (case 201300814). The first he knew of it was when building materials were delivered. We found that the planning application was submitted around the time that responsibility for notification changed from being the responsibility of the applicant to being that of the council. When the man complained, the council acknowledged that they should have notified him and apologised. They also explained to us that, as a result of the complaint, they had added two steps to their process to prevent this from happening again.

Where the complaint comes from the person who made the application, the issues are very different. We saw complaints from people who felt there was unreasonable delay in reaching a decision on their application, or who were unhappy either with what they were told during the process or because permission had been refused. We also heard from a number of people who were unhappy with the advice they received from the planning authority before they made their application. For example, a man who wanted to build a house had two pre-application meetings with the council's planning officer (case 201204443). He understood from these that his proposals might be viewed favourably, and submitted a planning application. The planning officer then said that there had been a mistake, because of changes to the policies applying to such developments, and that the man's proposals would not be approved. We upheld his complaint as we found that when they met, the planning officer did in fact have enough information to have been able to say then that the development would not be approved, regardless of policy changes. Although we recognised that the man and his architect also had a responsibility to check this out, in the circumstances we thought it was unreasonable to charge him for the planning application or advertising fees. We said the council should reimburse these.

In another case, which we did not uphold, a developer asked the council for pre-application advice about a proposed development (case 201203497). He was told that they thought the principle was worthy of support, but that they could only assess it properly after he submitted an application with full details. When he did this, the planning officer then said there were serious concerns about the proposals as a result of the actual details submitted, and that they would be preparing a report recommending that the application be refused. The man complained to us that their advice was unreasonable and contradictory. After taking independent advice from our adviser, we made some minor criticisms of the pre-planning advice, but did not find that it was fundamentally flawed, or that the issues the council raised in processing the application contradicted the advice.

Another area where issues arise is that of unauthorised development. This is where developers or householders carry out work without planning permission, or do not follow the permission they were given. Planning authorities have legal powers to enforce planning measures, but also have discretion about whether they should take formal enforcement action, depending on the circumstances. They normally try to sort problems out by discussing the situation with the person responsible, as government guidelines say they should do. Planning authorities must publish a charter indicating how they will deal with enforcement matters and keep people informed, and this can lead to complaints that an authority hasn't done enough. One case where this happened was when a man complained that work on a local site had stopped with only one of the planned houses completed, and with key landscaping work unfinished (case 201301570). He felt that the council had failed to take formal action on breaches of planning conditions and that this set a precedent that allowed developers to ignore them.

We found that although the council had mistakenly said that one condition had been met fully when it had not, they had taken enforcement action against the developer on that. Our planning adviser said that the council were correct in saying that they were entitled to decide whether it was an appropriate use of their resources to pursue other breaches. They also had to consider whether enforcement was in the public interest, and take into account government advice that developers affected by the downturn in market conditions for the sale of their houses should not be placed under an additional burden by enforcement action for technical breaches.

Planning: key case study

Request to vary planning permission wrongly handled

A developer applied for permission to vary the planning consent for a development next to a couple's home. Planning officers had decided that they did not need to refer this to the relevant council committee and had approved it themselves, under delegated powers. The couple were unhappy that this happened, as they said it was a material change to the original planning consent. The council accepted that, although the request did not raise new planning issues and more windows in the new extension would overlook the couple's back garden, which they said was not relevant, a corner of the extension had been brought closer to the boundary than suggested by the council's published guidance. Because of this, the request to vary the plans should not have been dealt with in the way it was. We recommended that the council review their criteria for this, confirm that the approved landscaping scheme is in place and confirm that additional screening between the properties mentioned in the scheme is either in place, or is replaced at the council's expense.

[Case 201203766](#)



Schools

Complaints about primary schools appeared for the first time in the list of the ten issues most complained about, jumping from 25 complaints last year to 72 in 2013/14. Many of the complaints brought to us were about subjects that we could not look at, such as direct complaints about discipline or classroom education, both of which the law says we cannot consider. The issues we did take forward were about how these complaints had been handled or whether policies and procedures had been followed when considering issues affecting primary school children. These ranged from how allegations of bullying or assault were handled, to how a complaint about requests for parents visiting a child during the school day was dealt with, and how a consultation about possible school closures was carried out.

School closures feature in the press from time to time, particularly where rural schools are involved, and one complaint we received was about an informal consultation exercise looking at options, including possible school closures and mergers (case 201301098). A woman said that there was an agreed temporary delay in statutory consultations for the closure of such schools, so her local rural primary should not have been included. She was unhappy with the consultation and said financial information had not been properly provided when considering the options. We did not uphold this complaint as the consultation was informal, looking at school premises across the area, and the statutory process would still have to be carried out if closure was recommended. The other issues she mentioned had been correctly handled.

A case that we looked at that involved complaints handling came from a man who felt that a council had not investigated and responded to his concerns that a teacher had discriminated against his child (case 201302885). He complained that the school had allowed the practice to continue and that incidents, and contacts with school staff to discuss his concerns, were not logged. We found that the council had investigated, considered all available evidence and responded to the issues raised, but had not properly recorded incidents and contacts. We said that the council should apologise for this

and make sure that the school understood the importance of keeping proper records. We also investigated a complaint from a woman whose child had been identified as having additional support needs (case 201302050). She thought that the council's investigation into her complaint about her child's treatment was biased and unfair.

We found that they had investigated the complaint during the school holidays, and had only got information from the head teacher. Instead of explaining this, and postponing the investigation until all parties could be contacted, they decided to go ahead with it. We said they should apologise for this and make sure that in future information for members of the public is fully in line with the content of their complaints handling procedure.

Bullying

Although the law limits what we can do around disciplinary decisions made in schools, we can look at how the organisation involved handled a complaint and whether they had appropriate policies and procedures in place to deal with the issues raised. One of the case studies later in this report focuses on a complaint about an inadequate bullying investigation at a primary school, which we upheld in full (case 201205163). Although some bullying complaints came from students in further and higher education, most of those we saw came from the parents of school children.

In one case that we investigated, a man told us that his son was being bullied at school (case 201301469). He said the council did not investigate this properly and took months to reply, which in the circumstances caused him concern for his son's welfare. Although the council had apologised and had given various reasons for the delays, we agreed that they took far too long to complete their complaints process. They did not send a final response until we contacted them, nearly seven months after he complained, and even then the reply was incomplete. We said that they should apologise for the delay and take a number of steps to improve their complaints handling, share our findings with the staff concerned and ensure school staff are fully aware of the anti-bullying strategy and the investigation process for allegations of bullying.

Casework

In another case, a woman told us that a council had not followed their procedures when her son was bullied, and was not happy about how the school communicated with her (case 201301030). We found that the council had identified and sorted out some issues as a result of her complaint. Although we found that some aspects could have been dealt with better, where procedures were in place they were followed, and school staff took reasonable actions. Although we did not uphold the complaint, to reinforce good practice we said that the council should apologise for the failings they found and look at sending parents of bullies and victims a copy of the council's bullying booklet as a follow-up to bullying incidents.

During the year we were contacted by RespectMe, the Scottish anti-bullying network, who provide advice and support to the public and to public authorities on these issues. They discussed with us their work with local authorities on implementing anti-bullying strategies and policies, how councils approach them for help in carrying out our recommendations, and gave examples of councils where they are currently doing so. We will continue to liaise with RespectMe, and to direct people to them where appropriate for help and support for bullying problems.

We noted in our annual report for 2013/14 that few children and young people complain to us. Usually complaints about bullying at school come to us from a parent of the child or children involved. In July 2013, we gave evidence to a parliamentary committee looking at the possibility of expanding the Children's Commissioner's role in relation to complaints. We pointed out that it can be particularly difficult for a young person to complain and that we hoped that giving the Commissioner this role would allow them to investigate some significant individual issues as well as providing advice and support to young people about how to complain. We liaised with the Commissioner during the year, in particular in sharing information about our role and how we handle complaints.

Finally, it should be noted that in the areas of schools and of bullying we have not publicly reported all the cases we investigated, in order to protect the confidentiality of the complainants and the children involved. For these reasons, where we have published our decision online we are likely to have anonymised the council concerned.



Policy and administration

This subject heading covers areas across the breadth of local government and was most often about how a council dealt with an issue. Examples from this year include complaints about:

- the naming of a property
- how a council handled the management of fuel transfers in a harbour
- school admission arrangements
- charging a tenant for the cost of maintenance and gas checks
- the cost of storing belongings removed from a council property; and
- the way a council handled a compensation claim.

Although we regularly receive large numbers of complaints about policy, we are unlikely to uphold a complaint if the organisation had discretion to decide on the issue, and took the decision properly. For example, we looked at a case where a man made a number of complaints about a building in which he owned a flat (case 201201973). The council also owned flats there, but were not the majority owner. Among other things, the man said that the council had not investigated allegations of anti-social behaviour against one of their tenants, had not enforced parking restrictions and were allowing a business to use the property's residential bin, leading to problems with rubbish spilling onto the street. We found, however, that the council had acted in line with their published policies and procedures and there was no evidence that they not responded to his complaints.

In another case we looked at, private landlords leased properties to tenants introduced to them by the council's social work department (case 201200509). After the tenants left, the properties were in disrepair. The landlords said that the council had told them verbally that they would reinstate the properties to their pre-letting condition when the tenancies ended, but this had not happened. They also complained that the council had withheld information. Our investigation found no evidence of any commitment to supervise tenants or to agree to reinstate the properties at the end of the tenancies. We also found no evidence that the council had withheld information that the landlords were entitled to see.

We see a small number of cases where procedures have not been followed properly in a complaint about policy. An example of this is where a woman complained, amongst other things, that the minutes of a local review board meeting were inadequate (case 201202304). We did not uphold her other complaints but we agreed that the minutes did not properly reflect the large amount of information placed before the board, or their decision. The board had been set up to consider an appeal against refusal of a planning application. Our planning adviser pointed out that some of the planning conditions were poorly worded and would not have been enforceable, and that a condition upon which approval was dependent needed agreement from a third party, over which neither the applicant nor the council had any control. We recommended that the council consider reconvening the board to look at the matter again.

Environmental health and cleansing

Complaints about this area cover a broad range of subjects, including burial grounds and crematoria; public health and hygiene; pollution control and animal care. Almost 40% of the complaints we received in this subject area were about refuse collection and bins, although most of these came to us too early and so we referred the person back to the council.

We have seen some good examples of problems being resolved very quickly after we asked councils about environmental issues. Even where we did not take the complaint very far, in some cases we were still able to help find an informal solution after we contacted the council concerned. For example, a council agreed to take action on our informal suggestions about what they could do in respect of a family's concerns about burial charges. The person who had brought the complaint was happy with what they did, and so we did not take it further. In another case, a council recognised that there was a problem with bins being emptied, and agreed to make the arrangements clearer to the lorry crews. The person who had complained confirmed to us that the problem had been resolved, and again we did not take the case further.

Examples of complaints we looked at in more detail included one from a man who owns a house of multiple occupancy (case 201304436). When he asked the council to uplift bulk waste he was told he had to pay for this, as his premises were commercial. He disagreed, saying that he paid council tax and if his premises were classed as commercial he should have been paying business rates. He said it was three months before the council came back to him about this and he still did not have a satisfactory explanation. We upheld his complaint, although we found that the council had since written to

apologise for the delay and had explained that the information he was given about the charge was wrong. They had arranged for the correct information to be given to call centre staff to ensure that customers are accurately advised in future. We said that they should also apologise to him for the poor service he received, and make sure that relevant staff are reminded of how to deal appropriately with complaints.

Another case we looked at was that where a council built a new entrance area and car park for a local school (case 201103803). A man living close to it found that the new lights shone into his house throughout the night, disrupting his sleep. He felt that the council had not investigated this properly. We found that they had taken his concerns seriously and had tried to minimise the impact on him. At first they changed the hours when the lights operated and, when that did not solve the problem, they surveyed the lights to see if they were causing a statutory nuisance. Although the council's actions did not solve the problem completely, we were satisfied that they had assessed the situation and come to a reasonable decision, taking account of the concerns both of the man and of school staff, who wanted the lights to remain on for safety reasons.



Complaints handling

We received 79 complaints in which the main subject was complaints handling, four fewer than last year. However, in many cases this was also mentioned as a secondary issue to the main complaint. And in yet more cases, even where there was no direct complaint about it, we found that something had gone wrong with the way the person's complaint was handled. Even where everything else in the complaint had been done correctly, we often found problems with complaints handling.

In some cases, we were able to sort things out fairly quickly. For example, a couple contacted us because they were unhappy about how the council had handled their complaint (case 201304037). We contacted the council, who decided that the complaints should be upheld and the second stage of their complaints process repeated. The couple were happy with this so we did not take the matter further.

In others, we investigated further and in some we upheld the complaint, and made recommendations. In one case, a man told us that the council had not responded to the complaints he made online about water drainage in his street (case 201302783). We found that the council had taken steps to sort out the drainage problem. However, their records gave a confusing picture of how they handled his complaints, and they had not replied directly to him. We said that they should have known that the complaints needed a formal answer, and that they should apologise and review this to learn lessons from how they dealt with it. Another example comes from a woman who applied for 'in principle' permission to build a new house (case 201304192). We found that some of the issues she raised were not addressed. We upheld her complaint, and told the council that they should apologise for this, and send her full responses to all her remaining concerns.

And in another case, which is one of our case studies later in this report, we found that a council had mishandled a woman's claim against a council's insurers for damage caused by work related to a flood prevention scheme (case 201302559).

Now that local authorities are operating a simple, standardised complaints handling procedure, underpinned by principles and standards and supported by guidance and training, we expect the number of complaints to us **about how councils handle complaints** to fall over time. We also expect the nature of those complaints to change. This is because, as councils focus on getting complaints handling right and begin to take ownership of them, including learning and benchmarking, we should start to see mainly intractable, complex complaints rather than straightforward ones. While we appreciate that some people will always bring complaints to us, however good the complaints handling service they have received from the council, we expect that in a culture of continuous improvement we will see an overall reduction.

Scottish Welfare Fund

These complaints came under our jurisdiction as part of a two-year interim arrangement in April 2013. The fund is administered by local authorities so the SPSO became the final point for complaints. Under our powers in 2013/14, we could look at whether a council handled the claim properly, but not whether their decision was correct. While we could not say that they should change their decision, we could, if appropriate, recommend that they reconsider it. As discussed elsewhere, the Welfare Scotland (Funds) Bill currently before the Scottish Parliament suggests that we may have a broader role in these issues in future.

During 2013/14, we received 16 complaints about the fund. We investigated four of these in detail, and fully upheld three. The main issue we identified was that the local authorities concerned were not following Scottish Government guidance on assessing applications. There is a case study about one of these complaints later in this report (case 201302081). In another case, a man applied for a crisis grant, but the council refused as they said he was not receiving a benefit that meant he qualified for it (case 201302081). He asked for a review, but the council did not change their decision. However, we found that they did not answer all the points he raised, and the guidance says that the applicant should understand why a decision has been made. It also says that the key test of whether someone is entitled to a crisis grant is how bad their situation is, not whether they are getting a benefit (that is a test for a community care grant, not a crisis grant). We did not think that the council had considered his application properly and said they should apologise.



Case studies

This is a selection of case studies from investigations we published for 2013/14.

Some illustrate the double injustice that can happen when a poorly delivered service is compounded by poor complaints handling. Other case studies are included to show some of the positive actions that organisations take in response to complaints. To share this good practice, in the report on our website we normally highlight where an organisation has taken such action. Others are included as examples of where organisations have delivered a service and investigated the complaint properly.

These case studies are brief summaries and may not contain all the information we published about the complaints. You can find more information online at www.spsso.org.uk/decision-reports.

Housing: noise transference

Mr C said he was experiencing problems with noise in his house. He said that although the council had installed soundproofing boards there were gaps, and a sound test had shown that there was a weak spot in the living room next to the window. He said the council had told him that his kitchen met the current standards for soundproofing and that his living room was just below the standard, so they were not prepared to carry out any further work.

In response to our enquiries the council said that there were no building regulations on standards for noise transference in older properties such as Mr C's. Although they noted that there would always be an element of day-to-day living noise in such properties, they said they were prepared to arrange for an inspection of the gaps in the boarding and to carry out any necessary repairs. We considered this reasonable and did not uphold the complaint.

Case **201302543**

Road markings: disability parking space

A council had initially marked out a disability parking space close to a man's home but then relocated it. After consulting with other residents, they had decided to move it 15 metres further away. They explained that this was the most appropriate location for the convenience of all users and provided access for blue badge holders and more space for wheelchair users, if this was required. The man complained to us and we checked the legislation about such parking places. We found that, although the council had delayed in starting the consultation, they were entitled to decide to move the space, and they had decided its location in line with the relevant legislation.

Case **201302135**

Anti-social behaviour: noise complaint not properly handled

The council interviewed a woman because they said a noise complaint had been made about her. She complained to us about how they handled this, and also said she had raised some equalities issues with them, but they did not acknowledge or investigate these. We found that the information recorded when she was interviewed was very brief, and that some of the information noted about the complaint was wrong and did not give key details, including the times when incidents were said to have happened. Although she had given her version of events during the interview, we found that the council had not given her proper details of the complaint against her. There was no evidence that she was given the opportunity to read or sign a summary of the interview afterwards. They had acknowledged the equalities issues, but then did nothing to investigate them. We said that the council should write and apologise for all this, and feed back to the staff involved what had gone wrong.

Case **201201407**

Primary school: anti-bullying procedures not followed

A woman told us that her child was being bullied at school but that the school was not doing enough about this. She complained that the council had not made sure that anti-bullying policies and procedures were in place and that the school was following them. When she complained to the council about this, they did not uphold her complaints and she felt that they had not investigated them properly.

In fact, we found that the council had a comprehensive and detailed anti-bullying policy, which said that the school should also have its own policy. However the school had decided not to have one, and the council had not done anything about that. There was little evidence that bullying incidents were logged, and when the school revisited their decision about adopting their own policy they did not engage effectively with parents. We also found that when handling the complaint the council did not refer to their complaints handling procedure and its stages, and did not record the outcomes of a meeting with the woman, or tell her what would happen. We said that they should apologise to her for not making sure that the school followed the anti-bullying policy and procedures and for poor complaints handling. We also said that they should look at how they monitor the implementation of their policy in schools, and take an active role in ensuring that there is proper engagement with parents, pupils and staff on anti-bullying strategies.

Case **201205163**



Case studies

Secondary school: failure to meet additional support needs

A child was exhibiting behaviours that suggested they might have Asperger's syndrome. After an incident in school, the child was referred to an additional needs tribunal. The tribunal said that the council had not made reasonable adjustments under the Equality Act. The child's father then asked for a coordinated support plan, but this took more than eight months to produce. He complained to us that the council did not apply policy and procedures to meet his child's additional support needs.

The guidelines say that a support plan should be provided in four weeks, so the council had taken far too long to provide this at what was a particularly important time in the child's education. We said that they should apologise to the family and show us that staff have been reminded about what they should do when a plan is requested.

Case **201205207**

Scottish Welfare Fund: government guidance not followed

A council refused a man's application for a community care grant from the Scottish Welfare Fund. They had not explained properly that this was because he did not get a benefit that qualified him for the grant and had not met the qualifying conditions. Even when asked for a clearer explanation they did not tell him what information they had considered, what priority his case had or how they had used government guidance. We said that they had not explained this clearly enough and that some of the conditions they applied were very narrow when compared to the guidance. We found, however, that the council had already improved how they handled applications, including their definitions of qualifying categories. They had also agreed they could have explained things better, and had improved their decision letters.

Case **201302081**

Environmental health: noise problems

A couple live beside a site that was chosen for a large school, which has community leisure facilities, including an all-weather pitch and multi-use games area. From the start, the couple were unhappy because of noise, foul language and anti-social behaviour from the leisure facilities. They complained, but told us that the council did not take action to reduce the nuisance and distress they were suffering. We found that the council had apologised and had upheld the majority of their complaints (although only at the second stage of their complaints process). However, the problems had continued and we took the view that the council had not done all they could to resolve them. We said that they should demonstrate what they were doing to implement their policy of zero tolerance of anti-social behaviour and make a decision about installing fencing to reduce the levels of noise affecting neighbouring properties.

Case **201202858**

Complaints handling: insurance claim

When a woman's home was damaged during work on a flood prevention scheme, she made an insurance claim to the council. There were significant delays in handling this, and she complained to us about these and about how her complaint about them was handled. We found that the council had handled her concerns poorly. They had not honoured commitments and assurances, their timescales were largely meaningless, and they did not properly investigate her issues and complaints, which she had set out very clearly. They did not discuss the complaint with her, and did not address the complaints handling issues she raised. They also did not uphold her complaint, which they should have done, had they looked at it properly.

Despite having told her that their procedures needed to be reviewed, the council's response to our enquiries did not say whether they had done this, or planned to do so. We said they should now review these, and that senior management should then assure us that they meet the requirements of our Complaints Standards Authority's model complaints handling procedure for local government. We also said that they should apologise to the woman and update her on what was happening with her claim.

Case **201302559**

Complaints handling

A woman complained to a council that staff refused to provide receipts when she hand-delivered letters to council office reception areas. She did not use email, and wanted a receipt because in the past she said officials had denied receiving correspondence, or important documents had gone missing. She told us that the council did not respond to her complaint. We found that although the council did not have a policy of providing receipts they were considering this as part of an internal review. We thought this was helpful and asked them to let us know the eventual outcome. As they could not, however, explain why the complaint was not dealt with under their complaints procedure, we upheld that element of the complaint. As well as apologising to her, we said they should make sure that arrangements for receiving and acknowledging complaints fully comply with the requirements of the model complaints handling procedure from our Complaints Standards Authority, and ensure that the issues in the woman's letters were dealt with in line with that procedure.

Case **201303185**





Improving complaints standards

A simple, standardised procedure

As we highlight earlier, 2013/14 was the first full year of operation of the new complaints handling procedures (CHPs) in the local government sector. It is to the sector's credit that the 2012/13 implementation stage passed smoothly. This year, we are encouraged by the way that local authorities have moved towards fuller and more consistent reporting, as required under the CHP, providing a basis for benchmarking their complaints performance.

From the outset, our Complaints Standards Authority (CSA), which led the development of the CHPs in partnership with sector representatives, has been clear that compliance with the model CHPs should be built into the existing regulatory framework where possible. The CSA, therefore, set up arrangements with Audit Scotland to ensure that compliance with the model CHP was monitored in line with the Shared Risk Assessment (SRA) and annual audit arrangements. Local authorities are also expected to have appropriate self-assessment arrangements in place to assure themselves that their CHP is operating in accordance with the model CHP. Requirements of the CHP have also been built into the Public Service Improvement Framework.

We have also carried out additional monitoring work on compliance and are pleased with the overall results. In 2013/14, we informally sampled the accessibility of CHPs in this sector. Our findings were positive, with the vast majority compliant, subject to minor amendments which have now been made. We discussed any concerns with the organisations themselves and with the local authority complaints handlers network (see next page).

This adoption of the model CHP across the sector has been welcomed by one of the key architects of the new procedures:

"A key feature of the Crerar Review was to recognise that complaints handling systems should be consistent and effective across local government in Scotland. Many of us move between local authorities in our lifetime and having very different systems to complain about the same services in different local authority areas makes no sense.

It is a great pleasure to evidence the outcomes of the model Complaints Handling Procedures in the local authority sector. I am absolutely confident that quickly we will evidence for the Scottish citizen the benefits of a consistent, standardised and transparent complaints system across all of our local authorities. The office of the SPSO in Scotland is creating models envied and being plagiarised by other jurisdictions and should be congratulated."

Professor Lorne D. Crerar

Reporting and publicising performance

2013/14 will be the first year for which all local authorities issue clear, transparent and consistent complaints information. The CHP requires councils to publish annual complaints statistics and learning against performance indicators. In addition there are requirements to report internally and to publish, on a quarterly basis, information on complaints trends, outcomes and actions taken. The aim of this is to help increase transparency and to demonstrate to customers the value of complaining and that complaints are treated seriously. We carried out some sample monitoring of the requirements to publish quarterly during the year.

The CSA website is at www.valuingcomplaints.org.uk



Improving complaints standards

Again, we were pleased that the vast majority of organisations had measures in place for internal management reporting. However, in some cases this did not follow through to externally publishing the outcomes of complaints. Where we identified problems, we provided support and guidance. We appreciate that this level of reporting is new for most organisations and that it may take time to fully bed in these arrangements.

We discussed the results with Audit Scotland, who were content with our approach to ongoing monitoring of this requirement before initiating any compliance action.

The performance indicators were developed in partnership with the network and are designed to be broadly consistent across all sectors under our jurisdiction. We are continuing to support discussions about how performance indicator information should be presented and benchmarked. The aim is to move towards a greater consistency of reporting on complaints and provide a basis for comparing performance and supporting ongoing improvement.

Sharing best practice

We have also continued to fulfil our duty to monitor, promote and facilitate the sharing of best practice in complaints handling through:

- > supporting public bodies
- > coordinating networks of complaints handlers
- > developing and sharing best practice
- > high quality training.

Advice, support and guidance

A key aspect of our role is to work closely with service providers, regulators and other stakeholders to offer advice, support and guidance about the model CHPs and effective complaints handling. Throughout 2013/14 we continued to provide this support across a range of issues, and responded to over 900 stakeholder enquiries. Many were straightforward requests, but others required detailed advice, guidance and follow-up contact. Close to one third of the enquiries were from the local authority sector, demonstrating that there is an ongoing need for advice on wider aspects of good complaints handling.

Complaints handlers network

The local authority complaints handlers network was established in 2012/13. It is chaired by North Lanarkshire Council and has over 60 members, including SPSO. In 2013/14, the network met four times and all local authorities have been involved in its work. It considered a range of issues including feedback on the operation of the model CHP, performance reporting and indicators. There were sessions about the needs of children in the complaints process and handling education service complaints. A complaints surgery discussion provided the opportunity to share and exchange good practice in complaints handling, including sharing information on learning from complaints and sharing experiences with other public sector bodies, including Police Scotland. The key theme in 2013/14 was benchmarking, with the Improvement Service leading discussions on how best to align the benchmarking of complaints information with their own approach.

In September 2013, the network produced a 'Performance Management Framework for Complaints Handling'. This sets out the network's approach to managing complaints handling performance by outlining the various components of the CHP and how each contributes to the overall process and ultimate aim of improving service delivery. The network also shares examples of good practice and learning from complaints through its online knowledge hub.

The aim of the network is to share good practice, develop tools and guidance, support complaints handling practitioners and provide a forum for benchmarking complaints performance information. The key to its effectiveness is that the network is led by the sector, for the sector, with SPSO as members. Our role is to help facilitate its development, contribute our expertise and ideas and provide support and advice on aspects of good complaints handling and the model CHP.

A word from the chair

Over the course of the year, the network has been proactive in working with the CSA to develop a performance management framework which sits alongside the complaints handling procedure and sets the standard for reporting complaints information across all Scottish local authorities.

Membership of the network continues to grow as complaints practitioners recognise the value of having a learning forum allowing them the opportunity to share best practice, gain 'critical friend' feedback and have an opportunity to discuss issues with peers working in similar environments.

A series of speakers from a variety of organisations have attended the network over the course of the year to discuss their own complaints handling journeys, bringing their own experiences to help expand people's knowledge and skills. Many of our local authority members have also taken the opportunity to share casework and we have no shortage of willing participants and topics for discussion.

The network is all about growing skills and knowledge, growing confidence and abilities and shaping the future of complaints handling. One of our most popular items is the 'Complaints Surgery' spot where people feel comfortable discussing wide ranging issues with their peers. Most importantly the network is about 'adding value' to the day job.

Outwith the meetings this year we have developed a knowledge hub to encourage ongoing networking. We are also busy creating a 'learning from complaints' area. I am delighted to be chair of the network and working with the members to ensure continued simplification of the local authority complaints handling procedure.

Linda Johnson, Corporate Service Improvement Manager, North Lanarkshire Council, and chair of the local authority complaint handlers network.



Improving complaints standards

Training

Direct delivery courses

In 2013/14 we delivered a total of eighteen complaint investigation skills courses across eight Scottish councils. These courses relate to second-stage complaints handling under the model CHP, where the council appoints a person to investigate a complaint in detail. This happens because:

- the frontline complaints handling has not resolved the issue; or
- the complaint was initially identified as complex; or
- the complainant asked for it to be escalated straight to this stage.

At the courses council staff discussed what is important to people when they complain, and how to make the experience better for them. Using case studies based on local government experience, they identified and practiced the skills needed for planning and carrying out investigations, evaluating evidence and reaching a decision. They discussed how best to feed back the learning from complaints to avoid mistakes happening again. Other areas they looked at were the importance of effective apology, and ways of managing the difficult behaviour sometimes exhibited by a small minority of customers. This latter subject is regularly raised by people who attend training sessions. In response, we are developing a suite of guidance material to support staff in this area, for roll-out later in 2014.

Feedback from people who took part in the courses was very positive. They told us that they found the exercise of planning and working through a complaint investigation step by step, the use of practical examples and the session that looked at ways of managing behaviour to be

particularly useful. Comments included 'identifying the links between complaints and service improvement was crucial', 'the course should be compulsory for those handling complaints' and there was a 'good emphasis on personal thoughts, feelings and processes'. Attendees also found it helpful to understand more about the SPSO process, the advice we can provide, and our perspective on complaints handling.

E-learning courses

We have continued to promote our e-learning modules for local authorities on frontline complaints handling. These aim to help council staff dealing directly with the public to feel more confident about responding to complaints. They are directed at the skills needed to identify, handle and resolve complaints at the frontline. The eight short interactive modules use case studies and examples, and provide information designed to support staff awareness of the frontline resolution stage of the model CHP and good practice in complaints handling in general.

All our e-learning training materials are free and are available to all public sector organisations.

For more about our training activities, visit www.spsotraining.org.uk

Policy and engagement

This section focuses on our role in sharing strategic lessons from the complaints we see. We do this in part by putting information, including analysis and trends, into the public domain, and by working alongside regulators and other improvement and scrutiny bodies to ensure that they are informed about the concerns people bring us and the recommendations we make.

We see our role as identifying failings and making recommendations that put organisations back on the right track. We see it as the role of other scrutiny bodies to regularly review processes and ensure that organisations stay on that track. To put it another way, our investigation is a red flag that makes the organisation sit up, take notice and make changes; regulators and other improvement and scrutiny bodies carry out green flag checks in a continuous and systematic way that show that the organisation is acting properly.

Given our complaints standards role, and our focus on streamlining complaints processes, we also draw on our experience of people's difficulties in accessing or using complaints processes to comment on changes that would affect users of public services who may want to make complaints. We provide our views through the usual channels such as inquiry and consultation responses and giving oral evidence to parliamentary committees. In key policy areas such as social work, health and social care integration and the Scottish Welfare Fund, these are accompanied by discussions with relevant stakeholders such as the Scottish Parliamentary Corporate Body, the Scottish Government, the Scottish Tribunals and Administrative Justice Advisory Committee, regulators and other improvement and scrutiny bodies, local authority representatives, third sector, advice and advocacy groups.



Policy and engagement

Sharing lessons

We share learning from the complaints we see about local authorities through:

- publishing a significant volume of decisions and statistics on our SPSO website
- annual letters to council chief executives and leaders with details of complaints received and dealt with, along with premature and uphold rates, compared with the previous year. Councils should use this information as part of their assessment of their complaints performance.
- consultation and inquiry responses (eg about the Scottish Welfare Fund, health and social care integration)
- participating in working groups (eg the Government's review of social work complaints)
- conferences, meetings, presentations and visits. In 2013/14, the Ombudsman visited twelve local authorities. He discussed with council leaders and chief executives the importance of using complaints as vehicles for improvement, and the need for senior staff to show leadership in ensuring a person-centred approach and a positive complaints handling culture.

Under the model complaints handling procedure, local authorities are required to report on and consider carefully the learning from the complaints that they handle. We also expect them to look systematically at the cases that are escalated to the SPSO. Although small in number, these cases provide a free, independent and impartial view on their handling of matters and they can be among the most indicative and serious of complaints about a local authority. Through systematically reviewing these complaints, local authorities can reassure themselves that they are aware of any common or systemic concerns and take steps to address them.

As the Ombudsman highlights in his introduction, a significant development in improving our engagement with our customers and the local authority sector in 2013/14 was the setting up of sounding boards. These aim to help us listen to where we can improve, and to discuss general issues separately from the specific cases we look at. The customer sounding board provided valuable feedback and insights into the effectiveness of the information we give people who use our service and about areas such as access and signposting to complaints. More specifically they gave input into initiatives such as our proposed revised service standards and customer feedback survey.

The local authority sounding board was set up by joint invitation from the chair of SOLACE (the Society of Local Authority Chief Executives) and the Ombudsman. Current members include representatives of SOLAR (local authority lawyers), ADES (directors of education), ADSW (directors of social work), Heads of Planning, CIPFA (accountancy in public service), the Improvement Service and the chair of the local authority complaints handlers' network.

Key discussion areas for the sounding board included:

- implementation and operation of the local government model complaints handling procedure introduced by our Complaints Standards Authority
- consistent reporting and benchmarking of complaints performance
- learning from complaints
- aligning the roles of the Improvement Service, the local government complaints handlers' network and others with a role in supporting improvement
- social work complaints
- the Scottish Welfare Fund

For more information visit www.spsso.org.uk/local-government-sounding-board

Redress research

Another area of discussion at both the customer and local authority sounding boards was research we initiated in early 2014 about 'redress', ie what we recommend to put things right. The context for this is that over the years different ombudsman offices within the UK have developed different policies on redress, including a wide range of approaches to financial remedy. We decided to review our policy on financial redress and tendered for research to provide an analysis of the current practice of other public sector ombudsmen with an assessment of the advantages and disadvantages of each approach. We will publish more information about this later in 2014.

Ensuring clarity of complaints pathways

In 2013/14, there were three significant areas of policy focus relating to local government.

Health and social care integration

In our responses to Scottish Government consultations on two areas – self-directed support and delegation of certain local authority functions under mental health and adults with incapacity legislation – we raised the important issue of the need for clarity around complaints. We also highlighted this in our response to the Health Committee's call for evidence about the Public Bodies (Joint Working) (Scotland) Bill.

We were invited to give evidence to the Health Committee at an October 2013 roundtable event about the role of regulators and complaints bodies in relation to integration. We highlighted the need for the complaints route to be clear and accessible to service users, and for there to be no legislative barriers restricting public bodies in their ability to investigate and respond to complaints in a joined-up way.

Social work

Following their review of and consultation on social work complaints procedures, the Scottish Government indicated that their recommended options were those that would see local authorities adopt the model CHP for social work complaints (but with some flexibility around timescales) and the SPSO taking on the role of complaint review committees, with a remit over professional judgement. This was felt to be the most likely to create a fit-for-purpose complaints system for the future. We supported this option, as it fits with the aim of simplifying the complaints landscape in Scotland and will align social work complaints with wider local authority complaints handling, making things simpler for complainants and organisations alike.

In February 2013, the Government's social work complaints working group reached broad agreement on these future options, subject to further discussion on detail. The working group included SPSO, the Care Inspectorate, the Convention of Scottish Local Authorities, the Association of Directors of Social Work, the Scottish Social Services Council and a number of third sector organisations, including Capability Scotland and Children First.

Following the recommendations of the working group in July 2013, in advance of making a decision on this the Government elected to commission further research on the needs of service users. As we have underlined throughout the lengthy review, consultation and working group process, people using social work complaints procedures are likely to be vulnerable and in need of support and effective, timely decisions. We have also highlighted, on the basis of cases that we have seen, that the current system is failing these vulnerable service users.



Policy and engagement

Scottish Welfare Fund

The Scottish Welfare Fund (SWF) provides day-to-day living expenses to those on low incomes who are in crisis, as well as providing essential household items to those in need. In April 2013, SWF complaints came under our jurisdiction as part of a two-year interim arrangement. The fund is administered by local authorities, so the SPSO became the final point for complaints. Elsewhere in this report, we explain and provide examples of the complaints we received about the fund.

The Government consulted on the permanent arrangements for the fund, including the options for review arrangements. Following the consultation, they confirmed that they propose that the SPSO should take on a new role in reviewing decisions. This would mean an unusual extension to our jurisdiction to include the ability to review and change SWF decisions, and would have a number of consequences, including adaptations to our current remit, processes and procedures.

The Government's proposal is included in the Welfare Funds (Scotland) Bill. Throughout the consultation on this policy proposal, we have not expressed a view on whether this role should come to us. We have emphasised that the SPSO is a Parliamentary body, and this is a decision for the Parliament to consider in its deliberations on the Bill.

Our consultation response highlights that, if we are to take on the role, a number of important issues need to be factored in:

> **Accessibility, simplicity and timeliness**

We appreciate that there will be a need to make decisions quickly and to be fully accessible to people who are more likely to be vulnerable and to have complex and multiple needs than the majority of our current service users. Given this vulnerability, any option must be genuinely accessible by them and it will be particularly important that we have the ability to respond quickly.

> **Reporting and learning**

It is vital that the system of review can demonstrate that it is impartial and transparent. In line with our current systems for public reporting, we will ensure that we make public the information about our performance, and will publish anonymised summaries of decisions to advise people and agencies who are interested and enable them to learn from the cases we see.

> **Complaint vs review**

The proposal would give the SPSO two new powers. These are that we should be able to consider whether the decision is one that should have been made, and to direct the local authority to put in place an alternative decision if we consider a different one should have been made. There are both legal and practical implications of these additional powers.

To prepare for this possible role, we are considering all this with the Government and Scottish Parliamentary Corporate Body, as well as the logistical issues that we would need to resolve to ensure that we meet customers' needs.

See our consultation responses at
www.spsos.org.uk/consultations-and-inquiries

Local Government cases determined 2013/14

Stage	Outcome	Building control	Consumer protection	Economic development	Education	Environmental health & cleansing	Finance	Fire & police boards	Housing	Land & property	Legal & admin	National Park authorities	Other	Personnel	Planning	Recreation & leisure	Roads & transport	Social work	Valuation joint boards	Welfare Fund – community care grants	Welfare Fund – crisis grants	Subject unknown/ out of jurisdiction	Total
Advice	Not duly made or withdrawn	7	1	0	41	24	22	0	118	4	10	0	2	0	26	7	18	28	2	2	2	14	328
	Out of jurisdiction (discretionary)	1	0	0	2	8	5	0	7	0	3	0	2	0	7	3	5	10	2	0	0	1	56
	Out of jurisdiction (non-discretionary)	2	0	0	6	1	3	0	10	3	3	0	0	3	2	2	3	1	0	0	0	3	42
	Outcome not achievable	3	1	1	10	11	14	0	29	2	16	1	0	0	8	3	19	8	1	1	1	0	129
	Premature	15	3	0	54	34	81	2	178	7	21	1	1	2	48	9	39	138	2	3	1	20	659
	Resolved	0	0	0	0	2	0	0	1	1	1	0	0	0	1	0	0	0	0	0	0	0	6
	Total		28	5	1	113	80	125	2	343	17	54	2	5	92	24	84	185	7	6	4	38	1220
Early Resolution 1	Not duly made or withdrawn	4	0	0	5	0	3	0	10	3	1	0	0	0	6	0	0	4	0	0	0	0	36
	Out of jurisdiction (discretionary)	4	0	1	8	3	4	0	7	2	3	0	0	0	13	0	5	7	0	0	0	0	57
	Out of jurisdiction (non-discretionary)	5	2	0	6	4	9	1	18	4	5	0	2	2	31	2	9	8	2	0	0	0	110
	Outcome not achievable	1	0	0	2	1	2	0	15	0	0	0	0	0	10	0	5	3	1	0	0	0	40
	Premature	5	0	0	2	1	3	0	5	0	1	0	1	0	6	0	3	6	0	0	0	0	33
	Resolved	0	0	0	2	2	3	0	6	0	1	0	0	0	2	0	2	0	0	0	0	0	18
	Total		19	2	1	25	11	24	1	61	9	11	0	3	2	68	2	24	28	3	0	0	294
Early Resolution 2	Fully upheld	3	1	0	10	0	1	0	2	0	3	0	0	0	5	0	2	1	0	2	1	0	31
	Some upheld	1	0	0	4	1	5	0	6	1	0	0	0	0	5	1	0	1	0	0	0	0	25
	Not upheld	3	0	0	4	2	7	0	9	2	1	0	0	0	14	0	4	4	0	0	0	0	50
	Not duly made or withdrawn	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1
	Resolved	1	0	0	0	1	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	4
	Total		8	1	0	18	4	13	0	18	3	5	0	0	24	1	6	7	0	2	1	0	111
	Investigation 1	Fully upheld	1	0	0	1	0	0	0	10	0	1	0	0	0	4	0	0	3	0	0	0	0
Some upheld		3	0	0	6	1	3	0	9	0	0	0	0	0	15	0	1	1	0	0	0	0	39
Not upheld		3	0	0	6	3	2	0	15	0	1	0	0	0	22	1	4	2	0	1	0	0	60
Not duly made or withdrawn		0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	2
Resolved		0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Total			7	0	0	13	4	5	0	35	0	2	0	0	43	1	5	6	0	1	0	0	122
Total complaints			62	8	2	169	99	167	3	457	29	72	2	8	7	227	28	119	226	10	9	5	38

Note: There were no local government complaints determined at investigation 2 stage this year

Further information is available at www.sps.org.uk/statistics

SPSO
4 Melville Street
Edinburgh
EH3 7NS

Tel **0800 377 7330**
Fax **0800 377 7331**
Web **www.spsso.org.uk**
CSA **www.valuingcomplaints.org.uk**