

# Petitioner submission of 27 October 2022

## PE1964/B - Create an independent review of the Scottish Public Services Ombudsman

Throughout this petition we refer to the current SPSO, Rosemary Agnew, but the same problems have been reported with all previous Ombudsmen. This petition is not contending that every investigation / decision by the SPSO is flawed, but it is concerning that any are.

Accountability Scotland was formed in 2011 by members of the public who had been harmed by the SPSO. Ever since, traumatised and distressed people have approached us following engagement with the SPSO, many describing deteriorating health as a result of the SPSO exacerbating their ordeal and treating them as if they are the problem.

### **Complaints against the SPSO**

When investigating complaints against itself, the SPSO refuses to address complaints of factual errors it makes, or when evidence directly contradicts their statements and / or decision. Here is a typical response to a complaint against the SPSO: “The remit of the service delivery complaints process... is to investigate complaints about SPSO's service... it is not to take a view on how evidence was assessed and taken into account in reaching a decision.”

The SPSO's refusal to explain why incriminating evidence has been ignored, combined with the wording of The SPSO Act, leaves the SPSO free rein. Contradicting evidence is one of the most common complaints people make against the SPSO.

Additionally, the SPSO need not present evidence that supports its decision, so another common complaint is that it parrots the unsubstantiated claims of the public body, despite evidence proving the opposite to be true.

Unsatisfied complainants can then go to the Independent Customer Service Complaints Reviewer which, similarly, does not look into the SPSO's investigations. It simply assesses whether the SPSO responded appropriately to a service complaint. It cannot question whether the story the SPSO presented is factually correct. This is analogous to deciding whether the table service is polite and efficient, even if the food is rotten.

Finally, the SPSO routinely tells people they can pursue Judicial Review if unsatisfied, yet the cost is prohibitive to almost everyone. There is no one to go to in order to blow the whistle on the SPSO.

### **Need for structural independence**

In 2013 the UK Supreme Court issued a unanimous ruling that questioned Police Scotland's ability to investigate itself and shone a light on what can happen when a service has no oversight at all. (Kevin Ruddy v Chief Constable Strathclyde Police + The Lord Advocate). The public has seen how lives can be destroyed when organisations, such as the police and Post Office, investigate themselves. We contend that the SPSO is no different. It is our understanding that Rosemary Agnew, the current SPSO, recently investigated and cleared a claim that her office bullied complainants.

In another example, Rosemary Agnew in our understanding falsely insisted to a family and Bob Doris, MSP, that statutory policy intended to protect vulnerable children (and violated by a school under investigation) is discretionary – therefore, she argued, the school acted correctly. The SPSO claims it considers complaints that “its staff do not possess the relevant skills and knowledge for the job”, so this fact was included in a service complaint against the SPSO, along with other examples of illogical arguments and false statements. Rather than address the mistakes they made, John Stevenson, Head of Improvement, Standards and Engagement at the SPSO simply explained, “We only employ staff who demonstrate that they possess the relevant skills and competencies for the job.” The SPSO's unwillingness to countenance that they make mistakes – while being confronted with them - is extremely concerning.

### **Witnesses**

The SPSO has no interest in contacting independent witnesses. We have examples of witness testimony supplied as evidence being discounted. Quote from an SPSO investigator prior to an investigation:

“Nor will we be speaking to any potential witnesses”

Meanwhile, they have lengthy contact with the PR departments of the public bodies accused of wrongdoing. This leaves people alone confronting huge organisations - such as councils - who may have a vested interest in maintaining their image. There is no penalty if the organisation hides evidence or even lies. If two opposing sides disagree

about an event in which one was harmed and witnesses can shed light on the matter, should they not be heard?

Finally, examples of statements by members of the public who responded to a survey we conducted on experiences with the SPSO:

“I have given up with this but it will haunt me for the rest of my life.”

“My experience with the SPSO made me lose the will to live.”

“Child protections have been weakened across Glasgow as a result of our complaint.”

“My emotional health has been in decline since the incident and pretty much nose-dived after the SPSO.”

“SPSO added to the damage that had already been done.”