

Delegated Powers and Law Reform Committee
Tuesday, 6th May 2025
15th Meeting, 2025 (Session 6)

Instrument Response

Scottish Elections (Representation and Reform) Act 2025 (Commencement No. 1) Regulations 2025 (SSI 2025/106 (C.10))

On Thursday 24th April 2025, the Committee asked the Scottish Government:

“The instrument appoints 14 April 2025, 1 August 2025 and 1 October 2025 as the days that the provisions listed in the schedule to the instrument will come into force. The schedule specifies which provisions will come into force on each of those dates. The Policy Note to the instrument states “*In general, the approach is to commence most provisions on the latter of those 3 dates*”. In fact, this instrument commences around 2/3rds of its provisions on the earlier two dates, and around 1/3 on the latter date. Following which, only 3 provisions of the Act will remain to be commenced.

It is therefore not the case that most provisions are commenced on the 1 October 2025. Can you confirm whether the instrument meets its policy intention, or whether it is the Policy Note which is inaccurate?

Please also confirm whether any corrective action is proposed, and if so, what action and when.”

On Tuesday 29th April 2025, the Scottish Government responded:

The Government can confirm that the instrument does meet its policy intention. We acknowledge the position on the number of provisions, and that the line quoted in the question should have explained more clearly the Government’s default position to commence the provisions of the Act on 1 October 2025, with provisions commenced on earlier dates only where there is a specific policy driver for that.

The subsequent paragraphs of the Policy Note explain which provisions commence on the earlier dates (14 April and 1 August) and why those decisions were taken. The Scottish Government believes that the overall Policy Note remains helpful to readers, and does not propose to take corrective action, but is grateful for the opportunity to put this on the record.

Document response

Scottish Public Services Ombudsman draft revised Statement of Principles for Complaints Handling Procedures (SPSO 2025/01)

On Wednesday 23rd April 2025, the Clerk asked the Scottish Public Services Ombudsman:

To establish whether this needs to be considered by the Scottish Parliament, we would be grateful for your confirmation of whether or not you consider that the rewording represents a material revision of the statement of principles under section 16A of the Scottish Public Services Ombudsman Act 2002. You will be aware that, as set out at section 16A(10), the Ombudsman may from time to time revise and re-publish the statement of principles, with only those revisions considered material by the Ombudsman requiring parliamentary scrutiny (under subsection (11)).

If you do consider this proposed revision material, I would be grateful if you could set this out expressly in a letter in response to this.

If you do consider the revision to be material, I would also be grateful for confirmation that all the statutory consultation requirements in section 16(7) have been fulfilled, in particular (a) consulting the Scottish Ministers.

On Monday 28th April 2025, the Scottish Public Services Ombudsman responded:

In submitting the SPSO Statement of Complaints Handling Principles (the Principles) to the Scottish Parliament, I considered section 16A(11) of the Scottish Public Services Ombudsman Act 2002 as amended (the Act) in relation to whether the changes made to the Principles are material. There is no definition of material within the Act. My view is that non-material changes would be simple corrections or providing clarity, where necessary. The changes I have made, while not fundamental alterations to the existing Principles, in my view, amount to material changes. I have set out why in more detail below. I did not seek legal advice on this point, as I did not consider it necessary.

Comparing the existing and new versions, the material changes can be seen in how I have worded the updated headline Principles. These now place specific emphasis on learning from complaints; I consider this to be vital and an integral tenet of good complaint handling. The updated Principles stress the importance of effective complaints handling.

In the detailed wording, I have made clear the need for fairness to both the complainant and public body staff; and, in particular, I have introduced language that highlights the importance of a positive complaints handling culture and taking a rights-based approach to complaints. This is much more in line with public service values.

The reason I carried out a consultation was because I view the changes to the wording of the Principles as material, and I believe it is important that the Scottish Parliament supports the concepts of people's rights and person-centeredness in relation to complaints. This is also much more in keeping with how public sector service design is developing.

The Principles are the foundation for the Model Complaints Handling Procedures (MCHPs) that my office issue; they are applied by most public bodies in Scotland. In my view, the MCHPs could be weakened if the updated wording of the Principles is not approved by the Scottish Parliament in line with section 16A of the Act. The power of the Principles, and consequently the MCHPs, stems from their approval by the Scottish Parliament.

Should the Delegated Powers and Law Reform Committee consider and compare the current and updated Principles, and take the view that parliamentary procedure is not required, given the committee's expertise in such matters, the Acting Ombudsman will happily be led by that view.

For ease of reference, the current Principles can be found on the SPSO website here: [SPSO Statement of Complaints Handling Principles](#)

I confirm that, in addition to the public consultation I carried out in line with section 16A(7) of the Act, which was sent to listed authorities and other persons I saw fit, I also sent the Principles to the Minister for Victims and Community Safety (as advised by the Scottish Government), copied to the Cabinet Secretary for Justice and Home Affairs. The Minister responded, thanking me for notification of the consultation and looking forward to hearing the outcome. Scottish Ministers had no other comments beyond this.

Please do not hesitate to contact me if you have any further questions.