

Local Government, Housing and Planning Committee
Tuesday 10 December 2024
34th Meeting, 2024 (Session 6)

Scottish Public Services Ombudsman

Introduction

1. The purpose of this paper is to provide information to inform the Committee's scrutiny of the Scottish Public Services Ombudsman (SPSO) and her [Annual Report for 2023-24](#).
2. The Committee will take evidence today from—
 - Rosemary Agnew, Ombudsman;
 - Andrew Crawford, Head of Improvement, Standards and Engagement; and
 - Judy Saddler, Head of Investigations Public Sector Complaints
3. In addition to publication of its Annual Report, the [SPSO also provided a written submission](#) to support the Committee's scrutiny as well as [a six-month update](#) on its work since the publication of the report.

Background

4. The SPSO is the final stage for complaints about most public services in Scotland. This includes services provided by—
 - councils,
 - the NHS,
 - prisons,
 - housing associations,
 - government agencies and non-departmental public bodies,
 - most water and sewerage providers and
 - colleges and universities.
5. The SPSO also has a role in reviewing, and potentially reversing, decisions made regarding applications to the Scottish Welfare Fund. It also became the independent national whistleblowing officer for the NHS in 2021.
6. The Scottish Public Services Ombudsman Act 2002 sets out the SPSO's powers and duties which cover three distinct areas of statutory functions—
 - The final stage for complaints about most devolved public services in Scotland including councils, the health service, prisons, water and sewerage providers, Scottish Government, universities and colleges;
 - Specific powers and responsibilities to publish complaints handling procedures, and monitor and support best practice in complaints handling;
 - Independent Review Service for the Scottish Welfare Fund (SWF) with the power to overturn and substitute decisions made by councils on Community

Care and Crisis Grant applications. SPSO decisions on SWF matters are binding on councils and must be implemented.

7. The SPSO is funded by the Scottish Parliament Corporate Body (SPCB), although it functions independently. The 2002 Public Services Ombudsman Act requires the SPSO to report annually to the Scottish Parliament on the exercise of his or her functions.
8. Further information can be found in the SPICe briefing which is attached as an annexe.

Written submissions and oral evidence

9. The Committee previously issued a call for written views about the SPSO. Eighteen responses were received and [can be accessed on the Committee's website](#).
10. The Committee then took oral evidence from two panels of stakeholders at its meeting on 26 November. The [official report of that meeting](#) is available online.
11. A brief summary of key points raised, both in written submissions and oral evidence is provided in the attached SPICe briefing.

Annual Report 2023-24

12. The introduction to the SPSO's Annual Report provides the following list of achievements during the reporting year—
 - We made great progress on reducing the time taken to allocate new public service complaint cases, this was despite an increase in new complaints of 33%. At the end of the year, non-priority cases were taking 14—16 weeks.
 - We achieved a 21.5% increase in output for public service complaints. This jump in productivity meant we significantly reduced the number of older cases.
 - We met 100% of our performance targets for the Scottish Welfare Fund (SWF) review service.
 - We saw an increase in INWO investigations, and ran a very successful Speak Up Week programme along with many other stakeholders across the NHS.
 - Our Engagement and Communication team continue to develop our outreach and engagement programme working with all areas of the organisation.
 - We saw an increase in the volume of advice and guidance to members of the public and to public bodies. We have reviewed, refreshed and produced a range of resources.
 - Our corporate services team continues to provide shared services for other Parliamentary office holders, as well as supporting all of the other SPSO teams.
 - We developed and piloted child friendly complaints principles and guidance.

- Our work with public bodies under our support and intervention policy to drive good complaints handling continued, and is contributing to wider improvements in complaint handling.
- We are constantly reflecting on our own processes and have embraced agile working approaches to drive efficiency; this is essential as complaint numbers increase, but the number of permanent staff remains static.

Expected themes

13. The Committee is expected to wish to explore some of the following themes in evidence with the Ombudsman—

- Volumes of complaints, waiting times and statistics;
- Independence, neutrality and expertise;
- Ombudsman powers and remit;
- International best practice and performance indicators;
- Parliamentary scrutiny.

Conclusion

14. The Committee is invited to consider the information above in its evidence session with the SPSO.

**Committee clerks,
December 2024**



Local Government, Housing and Planning Committee
Tuesday 10 December 2024
34th Meeting, 2024 (Session 6)

Scottish Public Services Ombudsman (SPSO)

Today's session will focus on the [SPSO's 2023-24 Annual Report](#), with the panel comprising Rosemary Agnew, Ombudsman, Andrew Crawford, Head of Improvement, Standards and Engagement (SPSO) and Judy Saddler, Head of Investigations Public Service Complaints (SPSO).

Background information on the SPSO

The Scottish Public Services Ombudsman is the final stage for complaints about most public services in Scotland including services provided by local authorities, the NHS, prisons, housing associations, government agencies and non-departmental public bodies, most water and sewerage providers and colleges and universities. The body also has a role in reviewing, and potentially reversing, decisions made regarding applications to the Scottish Welfare Fund.

It was established in 2002 after the passing of the [Scottish Public Services Ombudsman Act 2002](#). The Act set up a "one-stop shop" to deal with complaints previously handled by the Scottish Parliamentary Commissioner for Administration (SPCA), the Health Service Commissioner for Scotland (the "Health Service Ombudsman"), the Commissioner for Local Administration in Scotland (the "Local Government Ombudsman") and the Housing Association Ombudsman for Scotland.

The [Policy Memorandum accompanying the 2002 Act](#) states that the intention was to "establish a public sector complaints system which is open, accountable, easily accessible to all and has the trust of the Scottish public".

The current Ombudsman is Rosemary Agnew, who has been in post since 2016. She is due to stand down at the end of March 2025. The recruitment process for a new Ombudsman is now underway.

What does the SPSO do?

The SPSO examines public service complaints and decides whether there has been "maladministration" in the delivery of a service, or failure to deliver a service at all. They do not normally look at complaints before the complainant has gone through

the full complaints process of the body being complained about. Examples of “maladministration” could include:

- unreasonable delay
- rudeness
- failure to apply the law or rules properly.

There may be other failings that are also ‘maladministration’, with the [SPSO website listing](#) things such as bias, neglect, inattention, delay, incompetence and ineptitude.

If the Ombudsman finds failings, they will make recommendations to put things right and avoid such problems arising in the future. Recommendations may include:

- An apology and/or an explanation.
- Practical action, for example if the Ombudsman finds that someone has been treated unfairly, they may advise that the public body review the application.
- Reimbursement of any loss or costs necessarily incurred.
- Other suitable redress, likely to be non-financial.

The SPSO shares lessons from complaints by [publishing its decisions and reports](#).

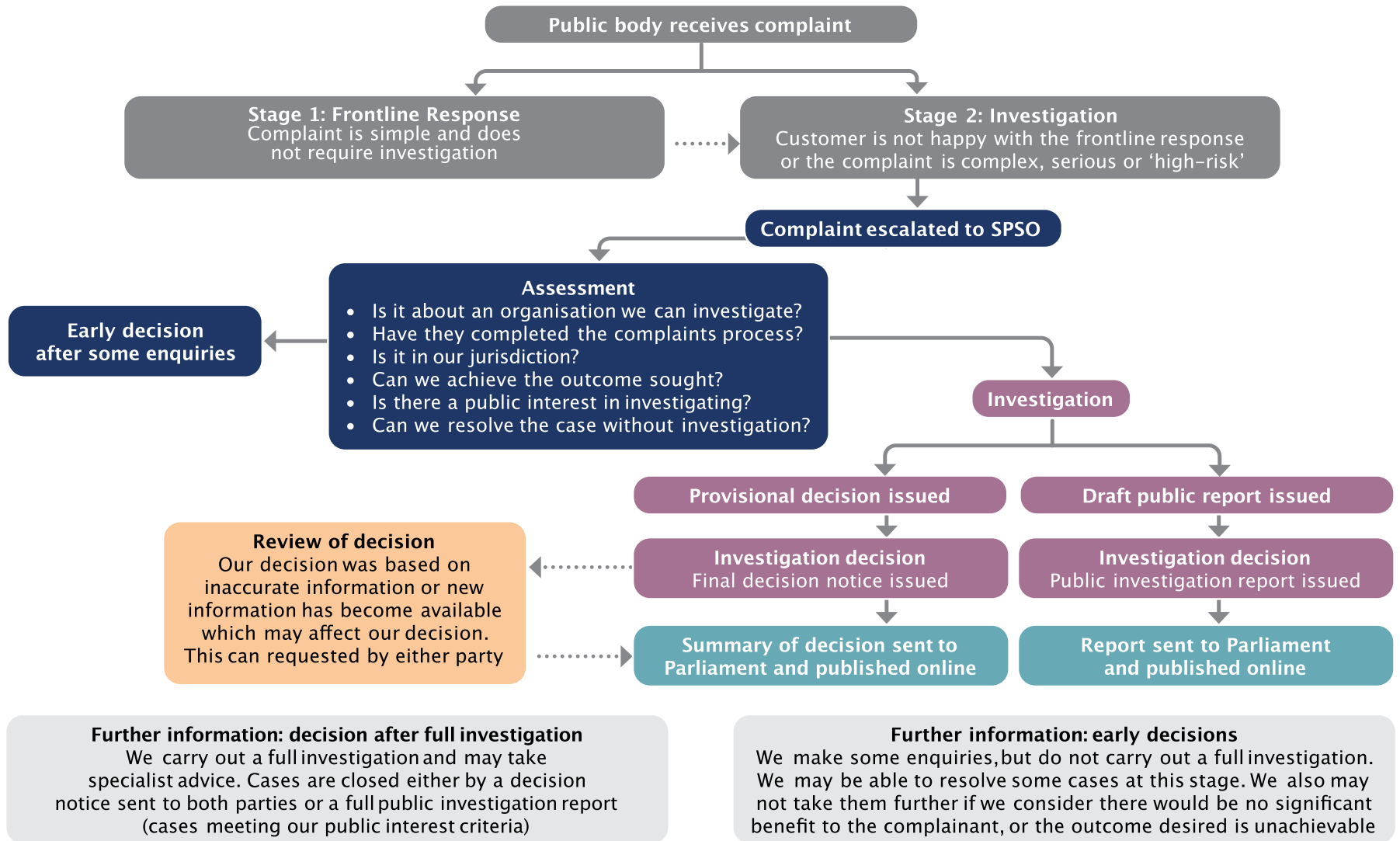
Organisations usually comply with SPSO recommendations, with the Ombudsman following these up. However, if an organisation were **not** to comply, the SPSO can lay a special report before the Scottish Parliament and the Parliament would then decide what action to take. However, since the SPSO was set up in 2002, it has not needed to issue such a report.

The public service complaints process

The 2002 Act requires complaints to the SPSO to be made in writing, including using [SPSO’s online complaints form](#). Once a complaint about a public service has been escalated to the SPSO, the Ombudsman must assess whether or not the complaint can or should progress to the investigation stage.

For the relatively few complaints that go to the investigation stage, officers consider relevant evidence, they may take independent specialist advice, and hear the views and opinions of both the complainant and the organisation being complained about. The SPSO then weigh up the evidence and make a decision. As will be discussed in more detail later, only 4% of all cases closed last year got to the investigation stage.

The SPSO annual report provides this useful summary of the complaints process:



New SPSO roles since 2010

Since the 2010 [Public Services Reform \(Scotland\) Act](#), the SPSO is required to lead the development of simplified and standardised complaining procedures across the public sector. The Act gave them the power to **publish model complaints handling procedures** (CHP) and public bodies must comply with these. The Ombudsman's [Complaints Standards Authority](#) supports public bodies to improve their complaints handling.

In 2011, the local authority model complaint handling procedure was published together with [guidance on implementation](#). The model CHP adopted by local authorities includes:

- a uniform two stage procedure for dealing with complaints, with timescales for each stage;
- the use of early resolution methods wherever feasible;
- allocated responsibility for complaint handling in organisations;
- included requirements for recording complaints and publishing complaint data and for reporting on complaint performance;
- provided a definition of 'complaint'; and
- encouraged learning from complaints.

A Local Authority Complaint Handling Network was also set up and is attended by complaint handling staff from local authorities and SPSO staff.

In July 2024, the [SPSO published new complaints handling guidance aimed](#) at helping children and young people.

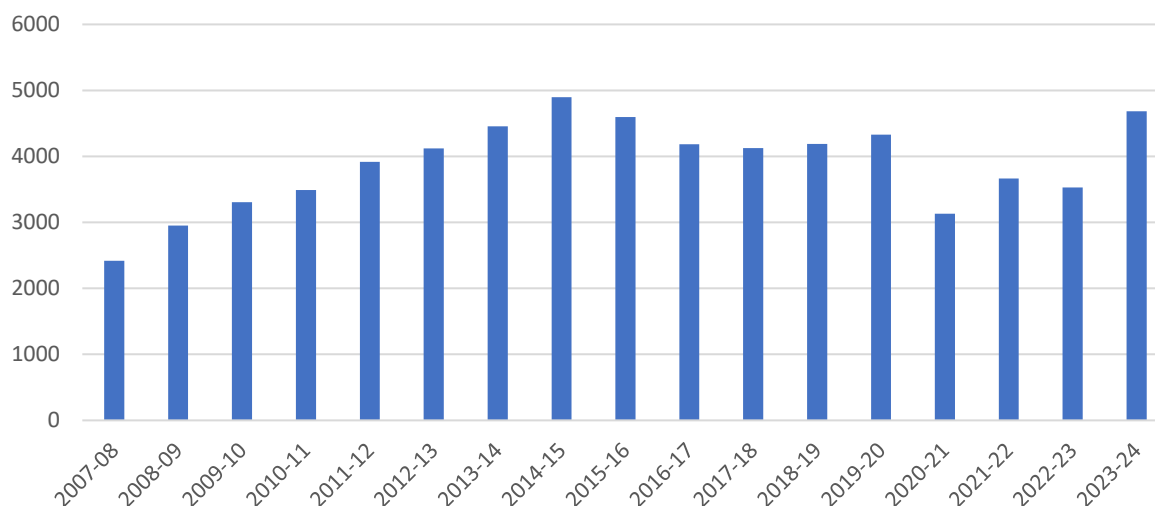
In 2016, the SPSO began its role as the **independent reviewer of the Scottish Welfare Fund (SWF)**. The SPSO carries out independent reviews of decisions that councils have made on three different crisis grants. People looking for a review of decisions made about these funds can call SPSO or complete an online form. It's worth stressing that these cases are dealt with very quickly, usually within days.

The SPSO became the Independent **National Whistleblowing Officer (INWO)** for the NHS in Scotland in April 2021. Its [INWO website](#) was launched to help organisations and whistle-blowers with a freephone number, information and advice.

SPSO public service complaints statistics

In 2023-24, the Ombudsman received 4,686 complaints relating to devolved public bodies, 1,159 more than in 2022-23. This represents a 33% increase. The following chart shows how this compares over a 16-year period. We can see that the number of complaints received last year was the highest since 2014-15 and is the second highest annual number since the SPSO was established in 2002:

Total public body complaints received by SPSO, 2007-2024



Source: SPICe analysis of figures from [SPS annual reports](#)

It is noticeable that since the Model Complaints Handling Procedure guidance was introduced in 2011, there has been a significant increase, not a decrease, in the number of complaints progressed to the SPSO.

Of the 4,686 complaints escalated to the Ombudsman last year, the sectors receiving the highest number of complaints were health and local authorities:

Authority sector	2022-23	2023-24	Change	% change
Health	1,193	1,544	+351	+29%
Local Authority	1,051	1,393	+342	+33%
Housing Associations	361	476	+115	+32%
Prisons	253	321	+68	+27%
Universities	208	285	+77	+37%
Scottish Government	174	251	+77	+44%
Joint Health and Social Care	145	210	+65	+45%
Water	68	92	+24	+35%
Other	54	86	+32	+59%
Colleges	20	28	+8	+40%
Total	3,527	4,686	+1,159	+33%

Source: SPICe analysis of figures from [SPS annual reports](#)

This Committee has a particular interest in complaints relating to local authority services. The following table breaks down the local authority figure for 2023-24 by broad service area:

Subject	2022-23	2023-24	Change	Change %
Housing	250	354	104	+42%
Education	140	199	59	+42%
Social Work	124	137	13	+10%
Planning	115	147	32	+28%
Environmental Health & Cleansing	85	128	43	+51%
Roads & Transport	79	145	66	+84%

Finance	77	76	-1	-1%
Legal & Admin	57	63	6	+11%
Subject unknown	43	63	20	+47%
Recreation & Leisure	23	21	-2	-9%
Land & Property	13	20	7	+54%
Building Control	10	15	5	+50%
Economic Development	6	1	-5	-83%
Other	29	24	-5	-17%
Total	1,051	1,393	342	+33%

Source: SPICe analysis of figures from [SPS annual reports](#)

Almost all council service areas have seen increases in the number of complaints relating to them, most notably in the areas of roads, transport, housing, education and environmental health and cleansing.

Complaints closed at assessment stage and the number investigated

The SPSO closed 4,651 complaints during 2023-24, an increase of 822 (+21%) compared to 2022-23. Relatively few of these were progressed to the investigation stage (i.e. the bottom right of the process flowchart above).

When complaints come to the SPSO, a team of reviewers carry out early assessments to check that the matter is one the SPSO is allowed to look at and is in their jurisdiction. For example, they check if the complaint has arrived within 12 months of when the matter occurred, and they also assess whether or not to prioritise the complaint (for more information see the SPSO's [how we handle complaints page](#)). If they decide not to take a complaint further after this early assessment, the SPSO will write to the explainer and explain why.

In 2023-24, around 96% of cases closed by the Ombudsman did not go to the investigation stage. These were not progressed for various reasons. For example, the SPSO considered them out of its jurisdiction, or felt they could not achieve more for the complainant.

There has been a significant increase in the number of cases closed for the reason of “not investigated beyond”. The SPSO provides the following explanation:

Similar to last year, there was an increase in cases closed after investigating at the assessment stage (we also refer to these as cases closed after initial enquiries). In the majority of these cases, it was determined that the [public service] organisation had already investigated and responded reasonably to the complaint and that further investigation by us would not achieve anything more for the complainant (or person affected). We often seek specialist advice to inform this.

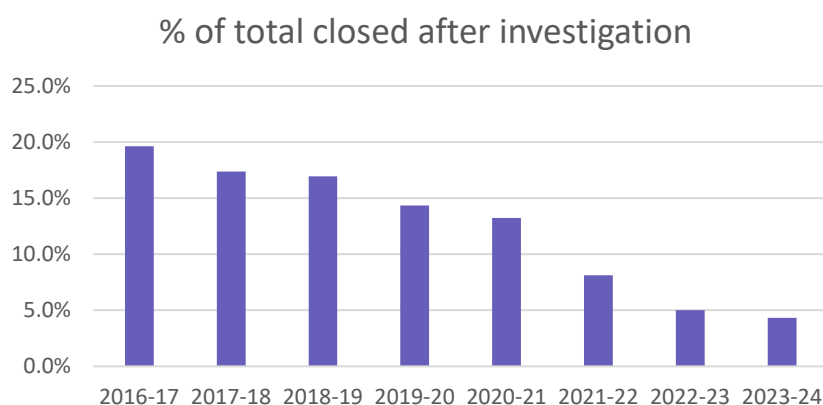
The SPSO believes this trend also “reflects the positive impact of our work on good complaints handling across the Scottish public sector, especially the generally improving quality of local complaint handling”. Whether or not the complainants agree with this assessment is not mentioned in the annual report.

The following table shows that over the tenure of the current Ombudsman, the proportion of complaints closed after investigation has reduced considerably, going from 19.6% of all cases closed in 2016-17 to 4.3% in 2023-24:

	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Closed after initial assessment	3,299	3,492	3,285	3,511	2,756	3,208	3,937	4,450
Closed after investigation stage	805	734	670	588	420	284	192	201
Total closed	4,104	4,226	3,955	4,099	3,176	3,492	3,829	4,651
<i>% of total closed after investigation stage</i>	20%	17%	17%	14%	13%	8%	5%	4%

Source: SPICe analysis of figures from [SPS annual reports](#)

The following chart shows this trend more clearly:



Source: SPICe analysis of figures from [SPS annual reports](#)

According to the [2022-23 Annual Report](#) this is the result of how complaints are handled at the initial stage which means the SPSO carries out fewer detailed investigations:

“...enabling us to focus resources on where we can add the greatest impact and value. This has only been possible because over time model complaints handling has led to improvements in complaint handling by public bodies themselves.

This approach has led to fewer cases progressing to detailed investigation. It has resulted in positive outcomes being implemented for complainants and public bodies at an earlier stage, without the need for an investigation decision to be published. It also means public bodies are recognised for applying the Model Complaints Handling Procedures (MCHPs) appropriately and for carrying out their own thorough investigations, therefore encouraging best practice.”

In addition, the Ombudsman [told the Committee in 2022:](#)

“I do not think that it is fair to put somebody through a long investigation that is likely to have the same result, especially where the public body in question has already identified the learning that needs to be done. What we are seeing is the culmination of the benefits of model complaints handling. It is time for a refresh of the approach, but it is definitely working.”

Last year, the Committee asked the Ombudsman if the public was happy with the SPSO’s focus on early stage resolution. She replied:

“We have revised our approach to customer feedback. Traditionally, we asked for feedback only after we had done an investigation. Clearly, we now have a lot more closure points that mean that we do not proceed any further, so we will relaunch the feedback process next year. The two current indicators are complaints about our service and, probably more so, requests for reviews of initial decisions. Compared with the number of cases that we deal with, the number is very small. It is like everything else: there will be some people who are very unhappy, some who are very happy and those in between. The key is explaining and explaining well”.

Members may wish to explore how the new approach to customer feedback has progressed as there is not too much information on this in the Annual Report.

Funding and staffing

The SPSO is funded by the Scottish Parliament Corporate Body, although it functions independently. It makes an annual budget application to the SPCB which is considered as part of the SPCB’s expenditure plan by the Finance and Public Administration Committee. The SPCB’s final expenditure proposals, which includes the SPSO’s budget, then appear in the annual Budget Bill which is voted on by Parliament.

Funding from the SPCB to SPSO has risen over the last 6 years:

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Funding from SPCB (£m)	4.7	4.8	6.0	6.1	6.8	7.1

Source: [SPCB annual reports](#)

[Writing to the previous Committee in January 2020](#), the Ombudsman stated, “having insufficient resources is an increasing, business-critical risk”. Again, in her more recent [submission sent to the Committee in March 2022](#), she raised the issue of resources and workload:

“Over recent years, the most significant challenges SPSO experienced were rising volumes of complaints cases, with broadly static investigation staff numbers.”

The biggest cost, by far, relates to employment. Staff numbers have grown with each new jurisdiction added to the Ombudsman’s statutory responsibility. The 2023-24 Annual Report shows that the SPSO employed 80 Full-time Equivalent (FTE) people, a rise from 76 in 2021-22 and 71 in 2020-21. According to the 2022-23 Annual Report:

“...the increase in staff numbers reflected the recruitment of additional Complaint Reviewer staff to cover long-term absence and maternity leave, and an additional member of staff to meet increased caseloads in the Scottish Welfare Fund review team as a result of the Self-Isolation Support Grant”.

Average staff remuneration was £53,291 in 2023-24. This is significantly higher than the average public sector pay in Scotland of £37,321 (as presented in this year’s [Annual Survey of Hours and Earnings](#)).

Comparison with some English and Welsh Ombudsmen

There is not an exact equivalent to the SPSO in England and Wales, but there are similar public service ombudsmen. Annual reports include summaries of their complaint handling which provide an interesting comparison with the Scottish situation. The following tables include some of their recent headline statistics:

Local Government and Social Care Ombudsman (England) figures for 2022-23

	Number of cases dealt with	Percentage of total
Dealt with by initial check	6,457	38%
Dealt with by initial investigation	6,205	37%
Dealt with by detailed investigation	4,301	25%
Total cases dealt with	16,963	100%

Of those 4,301 cases that went through a detailed investigation, there was an uphold rate of 74%. This represents 19% of total cases closed.

Source: [Annual Report and Accounts of the Commission for Local Administration in England for the year 2022-2023](#)

Parliamentary and Health Service Ombudsman (England) figures for 2023-24

	Number of cases dealt with	Percentage of total
Decided after initial checks	28,075	76%
Decided after primary investigation	8,140	22%
Decided after detailed investigation	695	2%
Total complaint decisions	36,982	100%

When the Parliamentary and Health Service Ombudsman finds that an organisation has made a mistake, he makes recommendations and provides timeframes for these. Recommendations may include apologies, service improvements and financial compensation. A total of 1,120 recommendations were made in 2023-24, equal to 3% of total complaint decisions made.

Source: [The Ombudsman's Annual report and accounts 2023 to 2024](#)

Public Services Ombudsman for Wales – figures for 2023-24

	Number of cases dealt with	Percentage of total
Closed after assessment	2,739	91%
Closed after investigation	281	9%
Total cases closed	3,020	100%

Of those 281 cases closed after investigation, there was an uphold rate of 65%. However, this represents only 6% of total cases closed.

Source: [Annual-Report-and-Accounts-2023-24.pdf](#)

Here are the Scottish figures for comparison purposes:

Scottish Public Services Ombudsman – figures for 2023-24

	Number of cases dealt with	Percentage of total
Closed after initial consideration	4,450	96%
Dealt after investigation	201	4%
Total cases dealt with	4,651	100%

Of those 201 cases closed after investigation, there was an uphold rate of 72%. However, this represents only 3% of total cases closed.

The Finance and Public Administration Committee’s recent inquiry

The Finance and Public Administration Committee recently completed its inquiry into [Scotland’s commissioner landscape](#). It did not make recommendations on the merits or otherwise of individual Commissioners such as the SPSO. However, it did recommend that a ‘root and branch’ review of the commissioner structure is carried out and completed by June 2025. The report recommended a dedicated Parliamentary committee be formed to undertake this review, and [in early November](#), Parliament voted to accept this recommendation.

The forthcoming review will consider the creation of more effective accountability and scrutiny mechanisms for SPCB supported bodies. It should also commission an evaluation of the effectiveness of SPCB supported bodies to inform the review.

The Finance Committee asks SPCB supported bodies to “set out more clearly in their annual reports how they have fulfilled the functions included in their enabling legislation and what specific outcomes they have delivered, to support more effective scrutiny of their performance by committees”.

FPAC also invited relevant committees, such as the Local Government, Housing and Planning Committee to undertake more detailed scrutiny of the performance of supported bodies (such as the SPSO) once a session.

Summary of submissions to this Committee's call for views

This Committee launched a call for views on 9 September asking for views on the effectiveness of the SPSO and other issues such as the appropriateness of current parliamentary scrutiny and oversight of the SPSO. The Committee received 17 responses which are summarised below:

Is the SPSO allocating its resources effectively to ensure all three statutory elements of its remit are undertaken effectively?

- It was noted by some respondents that the backlog in cases was coming down and this could be a reflection that it is allocating resources effectively.
- At the same time others suggested that the ongoing existence of a backlog reflected an inability to perform its statutory roles effectively.
- A number of individuals reflected on a bad experience with the SPSO.
- It was suggested by some individuals that the SPSO does not have the technical expertise in areas such as healthcare to perform its role effectively.
- At the same time the responses from local authorities suggested that the SPSO was performing its role effectively.

The SPSO responded to this question by highlighting data from their recent Annual Report. They stated that their statutory functions are predominantly demand-led, and they "have to allocate resources to where the greatest demand is". As such, much of their resource is spent on complaint handling and first contact capacity,

Is it still appropriate and achievable for the SPSO to deliver all three of its statutory functions?

- It was suggested that the SPSO's role in relation to the Scottish Welfare Fund was not a good fit with its other roles and should be re-visited.
- Relatedly, it was noted that there can be a tendency for ombudsman bodies to be used a "dumping ground" for roles a Government is unsure what to do with.
- There was concern from individuals that it is not able to adequately discharge its first role in relation to complaints handling and getting this right should be the focus.
- It was also questioned by individuals what value there is in complaining to the SPSO if its inquiries are effectively tokenistic in their view.
- It was suggested that there should be independent peer reviews of ombudsman every five years.

The SPSO believes that it is appropriate that they deliver all their statutory duties, noting that they actually have four and not three as assumed in the question.

To what extent is the Scottish Public Services Ombudsman discharging its duties to deal with complaints effectively?

- Again it was stressed that there is a need to reduce the backlog of cases.

- It was also suggested that the Performance Indicators are limited and narrow in scope.
- Much of the focus of individuals' responses was on a sense that the SPSO places too much reliance on the bodies it is dealing with.

The SPSO highlights increased productivity and positive impacts relating to their model complaints handling procedures. Their current challenge is they can no longer absorb rises in complaint numbers.

The SPSO also note that they made 496 recommendations last year, most of which related to improvements to public service delivery.

How effectively is the SPSO supporting best practice in complaints handling for bodies and how does this balance with its duties to investigate complaints against those same bodies?

- From an academic perspective, it was suggested that there was a net benefit attached to this role and it had been adopted elsewhere in the UK.
- From individuals' perspectives there were concerns that this role reflected a too close relationship with public bodies.

The resources committed to supporting best practice are only a small proportion of the SPSO's budget. Still, their submission refers to a number of achievements. They also stress that the SPSO's approach has been seen as "industry leading" across the UK.

To what extent is the SPSO performing its duties in a way that meets with international standards for ombudsman and how does its performance compare with ombudsman in other countries?

- There was a mixed response on this question. From an academic perspective, the SPSO is performing well against international indicators.
- Individuals who responded were less favourable and questioned its impartiality and expertise.

The legislation that establishes the SPSO performs well against the Venice Principles which are the accepted standards for Ombudsman schemes. However, the SPSO mention that they do not meet the principles relating to investigating issues under their own initiative. Wales and Northern Ireland have, the Ombudsman argues, more modern legislation including own initiative investigative powers.

Is the SPSO performing its functions in such a way as to encourage complaints from all areas of society? Could more be done to broaden access to the complaints process?

- There was broad agreement that more could be done to broaden access.
- In particular, it was suggested that there would be benefits in having investigatory powers to broaden access for under-represented groups.
- It was also suggested that more could be done to improve the accessibility of the SPSO.

- At the same time, others suggested that there would only be value in broadening accessibility if complaints were to be investigated properly.

The SPSO notes that the demographic of SPSO users has changed significantly over the 22 years since their establishment. They provide interesting statistics showing that the current user base is often more diverse than the Scottish population generally. They also highlight various activities relating to expanding their user base. They mention that SPSO legislation restricts accessibility in the sense that it contains a requirement for complaints to be in writing. According to the SPSO, this could be easily changed with secondary legislation, but the Scottish Government has stated it does not have the resource to include this in the legislative programme.

Is the remit of the SPSO and the delineation of that remit from other bodies sufficiently clear?

- Most responses suggested that more could be done to improve understanding of the SPSO's role as against other bodies.
- For example, it was suggested that from a health perspective more could be done to improve understanding of the different roles of the SPSO and Care Inspectorate.

SPSO considers their remit to be clear but argue that “the landscape in which we operate is increasingly complex”. By that they mean when new commissioner bodies are set up there can be a tendency for legislation to introduce complaints provisions for an individual area or sector. This may lead to a more confusing and multi-layered complaints handling landscape.

Does the SPSO have all the powers it needs to perform its role effectively and how do its powers compare with ombudsman in other countries? Would there be benefit in the SPSO having a power to initiate investigations?

- As noted earlier there was support for the SPSO having an investigatory role like other bodies in Northern Ireland and Wales with a view to improving access.
- At the same time others suggested that adding additional roles when the SPSO is unable to fulfil existing roles would be counterproductive.
- In general there was a sense of a need for more oversight to improve transparency and ensure the SPSO is more accountable.

The SPSO would like to have powers to conduct “own initiative” investigations.

N.B. Related to this, the [Scottish Government wrote to the Committee](#) in early 2023 stating that it was exploring new own initiative investigation powers for the SPSO as part of its preparation for the a new Human Rights Bill. Members will be aware that this Bill was not included in the 2024-25 Programme for Government with the Scottish Government providing an [explanation to the Equalities, Human Rights and Civil Justice Committee in September](#).

Finally, the SPSO believe that it may be time to look at how the remit of the SPSO has changed: “Local Government complaints are no longer the majority of our work

and while this [LGHP] Committee has always sought to look at the office broadly, it may be time to consider whether scrutiny of the breadth of our work may go beyond the capacity of a subject specific Committee”.

Summary of main points heard on 26th November

The Committee heard from two panels on the 26th November with a range of witnesses including Professor Mullen and Professor Gill from the University of Glasgow, Accountability Scotland, Carers Scotland, Scottish Human Rights Commission and Age Scotland. The following summarises many of the points discussed.

From the academics:

- Assessing the impact of the SPSO is difficult because there is a lack of data. However, any serious effort to collect data could be expensive.
- The academic consensus is that the set-up and operation of the SPSO seems to be a success.
- SPSO data shows “the ombudsman is making a real contribution to detecting good, sound complaints, upholding them and recommending remedies”.
- However, we still don’t know how much maladministration there is across the whole public sector.
- Recent research shows that NHS boards will accept and act on SPSO recommendations, but “in a rather minimalist and grudging fashion”.
- The complaints system has been significantly simplified since 2011 with the SPSO playing an important role in this.
- However, it is difficult to say if complaint handling has improved in quality.
- It is a matter of concern if there is a doubt about neutrality. The perception of independence and neutrality is key to the public trusting the ombudsman.
- Professor Mullen states that “all the evidence suggests that ombudsmen maintain the appropriate level of neutrality in dealing with complaints”.
- On customer satisfaction, it used to be the case that there were regular customer surveys of SPSO’s complainants conducted by an independent research consultancy.
- There used to be more information published about the results of the internal quality assurance processes undertaken by the ombudsman.
- The academics did not see a problem in only 4% of complaints received by SPSO going through the full investigation stage.
- However, they question whether the SPSO can identify systemic weaknesses and recommend systemic improvements if only a small number of complaints go through the full investigation stage.
- According to Professor Gill, the number of bad reviews about SPSO on Trustpilot “might be unrepresentative”.
- Own initiative powers in Wales and Northern Ireland have allowed their respective ombudsmen to investigate homelessness services and services aimed at helping asylum seekers and refugees.
- A trauma-informed approach to complaint handling is a developing area, with the SPSO interested in exploring this area.

From Accountability Scotland, Carers Scotland, Scottish Human Rights Commission and Age Scotland:

- The mandate and functions of the SPSO appear to support Scotland in meeting its international human rights obligations on access to justice.
- Accountability Scotland argue that the SPSO does not adequately or effectively investigate complaints.
- They argue that the SPSO accepts what public bodies tell them “at face value”.
- Accountability Scotland argue that the SPSO is “a toothless tiger” and is unable to get public bodies to answer all the questions posed to them.
- They believe that Scotland could learn lessons from the Gibraltar Ombudsman.
- The SPSO need to have an understanding of how things *should* be done and measure the complainant’s experience against this standard.
- According to Accountability Scotland, the SPSO is not measuring service standards against best practice, otherwise they would not be agreeing so much with public bodies.
- Age Scotland highlighted social care, and they feel that at certain times of the year people are being denied access to care by local authorities.
- The Scottish Human Rights Commission highlighted the difficulty in accessing administrative justice in Scotland: “getting to the final stage of an SPSO complaint is the end of a long, often adversarial and exhausting process”.
- In their opinion, the SPSO has no opportunity “to take a thematic look at that or to raise any own-initiative investigations into the emerging themes”.
- Not all bodies are covered by the legislation that established the SPSO, for example children’s panels.
- The length of time waiting for a decision from the SPSO can “feel a bit never-ending” (according to Age Scotland).
- Accountability Scotland believe that the SPSO has stopped surveying users because the results were unfavourable to them.
- Age Scotland believe that Scotland’s public services have no consistency on the baseline data that should be captured.
- Witnesses believe that the SPSO’s powers should be expanded to enable own-initiative investigations to take place.
- Witnesses also highlighted the risk of “digital exclusion” and language barriers which could prevent or hinder certain groups in accessing the SPSO’s services.

Greig Liddell, Senior Researcher, SPICe, December 2024

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area. The Scottish Parliament, Edinburgh, EH99 1SP www.parliament.scot