



Briefing for the Public Petitions Committee

Petition Number: [PE1594](#)

Main Petitioner: Richard Burton, on behalf of Accountability Scotland

Subject: Specification of 'lying' as an example of public maladministration

Calls on the Scottish Parliament to urge the Scottish Government to amend the Scottish Public Services Ombudsman Act 2002 to define maladministration in such a way that formalises the Crossman Catalogue as a source of examples and adds lying to the list of examples.

Background

[Accountability Scotland](#) campaigns for transparent public accountability in Scottish governance. Accountability Scotland's expertise covers a wide range of subjects including experience in assisting complaints to local authorities and the Scottish Public Services Ombudsman ([SPSO](#)) and in drafting petitions to the Scottish Parliament.

The SPSO was established by the [Scottish Public Services Ombudsman Act 2002](#). SPSO looks into complaints about public services in Scotland where a member of the public claims to have suffered injustice or hardship as a result of maladministration or service failure.

SPSO provides guidance on [what maladministration means](#) noting that the SPSO Act (2002) does not give a definition of maladministration. The SPSO provides examples of issues covered by maladministration:

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

The SPSO highlights that other failings may also fall under the heading of maladministration. The most quoted definition is that of a Cabinet Minister, Richard Crossman, who in 1967 who listed "bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude and so on". This list is sometimes referred to as the Crossman Catalogue.

However, as a judge (Lord Denning) noted in 1979 “ and so on would be a long and interesting list, clearly open-ended, covering the manner in which a decision is reached or discretion is exercised ...”.

The [Scottish Public Finance Manual](#) (SPFM) references maladministration and provides a [definition](#). The SPFM definition includes the examples cited by Crossman and further examples such as “knowingly giving advice which is misleading or inadequate”.

The petition suggests that public bodies inadvertently giving false information may be covered by incompetence or ineptitude (both cited by Crossman). However the petition suggests that these words “do not apply to deliberate lying.”

The petition acknowledges that including a definitive catalogue of examples of maladministration would be “unsatisfactory” as it could be “inadvertently incomplete”.

The petition suggests lying should be included, as an example of maladministration, citing complaints associated with the Chief Executive Officers (CEOs) of organisations. The petition states that information may be passed to CEOs that is “accepted as true” and that “CEOs might be more assiduous in checking facts if the passing on of lies were itself maladministration.”

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05 January 2016

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