1. Do you support the new regulations?
Yes.

2. What are your views on Local Authority Complaints Review Committees being replaced?

This removes an obstacle to the alignment or unification of Social Work Complaints Handling with other local authority functions and/or NHS complaints processes. This in turn provides a more transparent, efficient and coherent route for the public to complain about social work matters, particularly if those complaints also relate to health or other local authority functions. As such the advantages for both GCHSCP and the public, outweigh any disadvantages and is to be welcomed.

3. What are your views on the SPSO being given a new role to investigate social work complaints?

Social work complaints are often very complex. They benefit from a thorough and forensic examination by an independent party when they have reached an appropriate stage and it is apparent that the local authority or HSCP has been unable to resolve the matter. This not only assists in bringing the complaint to a clear conclusion but does so in a manner that assures the complainer that their complaint has had a fair and objective consideration.

This function is currently carried out effectively by complaints review committees. However, GCHSCP has no reservations about the ability of SPSO to carry out this role equally effectively and welcomes the new role being assigned to SPSO.

The draft order is however silent on the issue of how this role will be executed. Robust guidance will be required to full express this and carry through the findings of various expert groups who have recommended these changes, most recently the complaints working group led by the Right Reverend Dr Graham Forbes. GCHSCP would welcome in due course the opportunity to comment on any detailed guidance prior to implementation.

4. What are your views on the SPSO being given a remit to consider the professional judgment of social work staff?

It is appropriate that professional social work decisions and judgement is subject to independent scrutiny as it presently is under the complaints review committee system. This ensures public confidence in those decisions and gives the opportunity for otherwise disempowered people to challenge such decisions without recourse to judicial review.
This also removes a further obstacle to the alignment of Social Work and Health complaints on an equivalent basis and is therefore of benefit both to the GCHSCP and our service users.

As above however, the draft order is silent as to how this remit will be expressed in practice and we would welcome any future opportunity to comment in detail on draft guidance around this issue.

In particular, what has been proposed by previous expert groups is that the SPSO should assume powers currently executed by the complaints review committee. It should be noted however that such committees only have the power to make relevant recommendations to the local authority in the form of the relevant social work committee. It is the latter committees that must make the final decision on any changes to be implemented, particularly where resource decisions are concerned. The complaints review committee cannot overturn a professional decision and has no enforceable directive powers.

We would not wish to see the power of professional review extended to SPSO being greater than that currently exercised by the Complaints Review Committee in terms of making findings and recommendations rather than overturning decisions.

We appreciate that the SPSO cannot, in governance terms, be made subordinate to any local authority committee in terms of reporting arrangements and therefore the operation of this power must necessarily be different for SPSO than is the case for complaints review committees. However, the importance of local democratic arrangements cannot be overlooked such that local authority social work committees are bypassed.

In this respect it may be fruitful for the Health and Sport committee to consider the provisions set out at sections 15 and 16 of the Scottish Public services Ombudsman Act in terms of reporting arrangements for the findings of that body. It would be helpful if either legislation or guidance made allowance for a proper period of time for the local authority to consider and respond to SPSO recommendations on questions of social work professional decisions, including the time required to fully consider such matters through the relevant governance structures of the local authority or HSCP, before the SPSO publishes its findings or submits them to parliament.

5. What are your views on how these proposals relate to the approach currently taken to complaints relating to the NHS and the consideration of complaints relating to Integrated Joint Boards?

These proposals are essential to any meaningful move forward in terms of an integrated social work and health complaints process overseen by the IJB, rather than simply improving the coordination of two or three parallel systems.

As such they clearly relate critically to the current review of NHS complaints and development of arrangements for dealing with complaints about the execution of IJB functions.
However, the precise shape of new processes cannot be mapped out until there is further clarity on the details both of how this revised complaints process for social work will be taken forward by SPSO under its new powers and the detailed outcome of the review of health complaints. Questions of timescales and the precise mechanism for distinguishing a complaint that may be informally resolved from one that must be subject to formal investigation remain two of the more challenging issues that need to be properly resolved in detail to allow workable alignment at an operational level.

The fact that the timelines of these processes seemed aligned to reach a conclusion in April 2017 is however grounds for optimism of a smoother transition that would otherwise be the case.