



## **Local Government and Regeneration committee – Call for Questions for the Scottish Public Services Ombudsman (SPSO)**

### **Clerks Paper on Questions Received**

#### **Introduction**

1. On 29 October 2014 the Local Government and Regeneration (LGR) Committee issued a public Call for Questions to be put to the Scottish Public Services Ombudsman (SPSO). The Call for Questions closed on 8 December 2014 with 11 submissions. The LGR Committee will take evidence from the SPSO at its meeting on Wednesday 7 January 2015.
2. This paper has collated and consolidated the varying sources of submissions into one document. The Questions have been separated into two sections. Section one contains the questions which come within the criteria set for submitted questions, whereas Section two encompasses those questions received which do not fit the criteria.
3. Some editing of the questions has been undertaken by the Clerks, generally to delete unnecessary commentary originally included and make the question clearer. Members are invited to note the questions that have been received and use any they consider appropriate. All questions within the first section not asked will after the meeting be forwarded to the SPSO for a written response.

#### **Section One – Questions**

##### **Question 1**

Why are there timebars for bringing complaints? The film 12 Years a Slave showed that these are unfair for someone in captivity.

##### **Question 2**

What percentage annually of 'requests for reviews of the Ombudsman decision' have been rejected by Jim Martin since he became the Scottish Public Services Ombudsman?

##### **Question 3**

Can Mr Martin explain his understanding of the SPSO's legal obligations to the people of Scotland?

##### **Question 4**

Can Mr Martin explain whether there is a difference of opinion between SPSO and the Scottish Parliament over what constitutes 'maladministration' and 'a breach of planning control', have any steps been taken to rectify this situation if it exists?

**Question 5**

How does Mr Martin justify putting MSPs at risk of triggering complaints to the Standards Commission when they are made aware of injustices caused as a result of maladministration and service failure, and the SPSO fails to address these?

**Question 6**

Could the SPSO have highlighted maladministration within City of Edinburgh Council Planning Dept. since his appointment as Ombudsman?

**Question 7**

What steps has Mr Martin taken to improve the public's confidence in the SPSO's ability to provided the 'trusted, effective and efficient complaint handling service' mentioned in his vision?

**Question 8**

What Service Level Agreements are in place and how does the Ombudsman monitor these to ensure the public is receiving the high level of service expected from the SPSO?

**Question 9**

Are the SPSO's SLA's available to the public thus allowing them to judge for themselves if they have received the expected level of service or not?

**Question 10**

Your model complaints handling procedures recommend that Stage 2 public body complaint investigators discuss the complaint they are investigating with the complainant. Why is it not part of your own procedure for SPSO complaints investigators to discuss the complaint with the complainant?

**Question 11**

Your procedures allow for the public body to comment on the complaint, but the complainant is not asked to comment on the public body's response and so does not have the opportunity to rebut arguments put. Does this non-symmetrical approach benefit the public body and how do you justify this?

### **Question 12**

Your systems include additional quality checks for complaints resulting in recommendations (generally upheld complaints), but no extra check for a not-upheld decision (unless it is seen as unusually complex). How do you justify giving extra protection to the body which is not given to the complainant?

### **Question 13**

When a public body gives information which is shown by other evidence to be inaccurate or misleading do you criticise the public body for this in order to encourage accurate responses and increase the likelihood of fair and correct decisions in the future?

### **Question 14**

You summarise complaints into agreed Heads of Complaints and send only these to the body for comment. This means that the body will not necessarily know the detail of the complaint – particularly if the substantive complaint was not dealt with appropriately. Why not give the body the full information?

### **Question 15**

Your website shows no quantitative information since 2010 about customer satisfaction (e.g. percentage very satisfied, satisfied, dissatisfied and very dissatisfied). Why have you stopped collecting this data and do you intend to collect in again in the future? If so when?

### **Question 16**

Last year you indicated a new complaints satisfaction survey was being planned, when will that take place and report?

### **Question 17**

You recently sought help from the Samaritans in order to improve your treatment of complainants. What did you learn from them and how has it improved the conduct of your investigators?

### **Question 18**

The distinction between decision letters and investigation reports is fairly clear, but also somewhat arbitrary. To what extent is 'public interest' a matter of topic and to what extent is it a matter of alleged corruption or deliberate maladministration?

### **Question 19**

How many cases in the year involved corruption or deliberate malpractice, real or alleged? What were the most serious examples?

### **Question 20**

Your standardised complaints handling procedures (CHPs) for bodies under your jurisdiction have presumably proved useful, can they not prevent serious maladministration of the sort that involves corruption, cover-ups, whistle blowers, gagging clauses etc. What plans and ideas do you have for combating these?

### **Question 21**

Your “Note of the Customer Sounding Board” of 19 March, paragraph 4, implies that the SPSO needs to learn from similar organisations how to improve service standards. What has been learnt from the Gibraltar ombudsman with his 98% satisfaction rate? What have been the main deficiencies in SPSO’s service standards?

### **Question 22**

The SPSO has published a “Note of the Customer Sounding Board held on 19 March 2014”: Under its previous name Accountability Scotland was invited to act as a sounding board, but never subsequently approached. Who are meant by the SPSO’s “customers” and were complainants included, if not, why not?

### **Question 23**

The SPSO’s “Note of the Customer Sounding Board held on 19 March 2014” includes no conclusions or comments on the performance or methods of the SPSO. Was, if anything learnt from the meeting about these?

### **Question 24**

What do you see as the most important skills and training for SPSO investigators?

### **Question 25**

SPSO investigators have no formal legal training and are therefore in danger of unconscious incompetence in relation to the law. Please indicate how this is addressed and describe the relationships between the SPSO and legal advisers.

### **Question 26**

The Quality Management Standard ISO9001 has been an almost universal requirement for businesses employed by the Scottish government. Why specifically has it not been adopted by the SPSO?

### **Question 27**

Recently the Welfare Reform Committee questioned Mr. Martin on extending his jurisdiction to include welfare. Why should the SPSO be chosen to undertake the new functions, new jurisdiction and new skills required?

### **Question 28**

Page 18 of the Report states: “We re-opened eight complaints in light of new information received (i.e. entirely new and relevant information that we did not have during the original investigation).” How did this come to light and how much of this was information the BUJ should have divulged earlier?

### **Question 29**

Should the SPSO undergo the kind of rigorous, independent investigation of its work which it applies to BUJs?

### **Question 30**

Is there any means by which someone can bring a complaint to the SPSO over service failure in the NHS when records are historical?

### **Question 31**

Has the SPSO done anything towards recommending improvement in GP re-training, including the adoption of new working practices and treatment regimens with particular reference to cancer?

### **Question 32**

How are SPSO investigators skills and knowledge kept up to date?

### **Question 33**

Caseworkers have no medical training yet they are tasked with going through medical records in order to submit a request for clinical advice. Guidelines for clinical advisers state that only evidence ‘tagged’ by caseworkers should be looked at:

How can the SPSO deliver ‘natural justice’ for medical complainants following these procedures?

### **Question 34**

Can the ombudsman explain the procedures used by caseworkers in order to ‘tag’ evidence – why do the SPSO not use the same standards set out by the NHS Code of Practice/Scottish Government on the handling of Medical Records?’

‘What progress has been made by the UK Ombudsman Association in this regard?’

### **Question 35**

Were an SPSO investigator to inform the ombudsman of a conclusion there was a claim of injustice arising from maladministration at the core of a complaint in relation to a Body

Under Jurisdiction not following due process would the ombudsman ensure an investigation report was issued?

### **Question 36**

Can the SPSO investigate complaints about HMIE/Education Scotland inspection reports?  
If not who can?

### **Section Two – Questions**

4. The following questions were also received. In each case they refer to an individual case, are covered by the report, or are covered by earlier questions in this document or the written questions the Committee has submitted.

### **Question 37**

I suggest this be wound up as a 'not fit for purpose' overhead – **Not a question.**

### **Question 38**

How does Mr Martin expect the Scottish people and their MSPs to have any confidence in the SPSO's ability to provided the 'trusted, effective and efficient complaint handling service' mentioned in his vision when they ignore examples of maladministration and failures to provide a service, even when they are confirmed? – **An opinion.**