

# Petitioner submission of 17 November 2022

## Petition 1964/G: Create an independent review of the Scottish Public Services Ombudsman

We would like the opportunity to speak to the Committee.

The Scottish Government has stated that resource constraints, the independent nature of the Ombudsman and Parliament's "role in scrutinising the work of the Ombudsman" prevents them from taking forward an independent review of the Ombudsman "in the near future". It would be helpful if the SG confirmed whether they think an independent review of the SPSO would ultimately be desirable or not, with their reasoning.

In the SG's response, they reiterate the SPSO's own material, assuming it to be reliable. The SPSO presents itself in an excellent light in its own literature. We have evidence to show the SPSO covers up its mistakes at a cost to the public.

### **SPSO complaints process** (see also additional submission, PE1964/B)

If the SPSO clears itself of wrongdoing, unsatisfied people can make a "service complaint" to the Independent Customer Service Complaints Reviewer. The SPSO established the ICSCR itself and chooses who to employ to fill this role, raising questions about its independence. More significantly, the ICSCR does not look into the SPSO's investigations. If an investigation is biased or inadequate, the ICSCR will never know. If the SPSO has ignored evidence that incriminates the public body, that evidence will not be mentioned in the SPSO's report and there is nothing the complainant can do to have it included. As a result, it may look to the ICSCR, or anyone reading the SPSO's report, that they are making a reasonable case. Imagine if witnesses to a murder could not testify that they saw a person stabbing the victim. This is how hamstrung some cases are by the SPSO, and how public services can sometimes commit systematic breaches of policy and negligence without anyone knowing about it, apart from the victims. As the Scottish Government admits in its submission:

["Matters related to SPSO's decisions or basis for those decisions \(including evidence gathered to make that decision\) are not issues within the ICSCR remit."](#)

A complaint reaching the ICSCR may have become unrecognisable, due to false claims and missing facts, including the SPSO wording the complaint themselves. We have seen this used against the complainant, as the SPSO

hide them that evidence of wrongdoing they have supplied is not relevant to the exact wording of the complaint they chose to investigate.

The SG titles a section of its response “**Complaints about decisions made by the Ombudsman**”. In fact, it is forbidden to complain about a decision made by the SPSO. The SPSO claims to conduct reviews under specific circumstances, but we have seen plenty of cases where - despite a complainant sending new evidence which fulfils the SPSO’s criteria and shows breaches of policy, wrongdoing etc - this promise is not kept and a review is flatly rejected.

### **“External review / safeguards”**

The SG cites Audit Scotland and the SPSO’s annual reports to Parliament as safeguards, but neither amount to real scrutiny of the SPSO.

We have met with Audit Scotland and, similarly, their work is not to look into how the SPSO conducts its investigations or makes its decisions - nor do they wish to be drawn into that role.

The SPSO’s rosy annual reports to Parliament are at odds with the public’s perception. While upholding more complaints against itself, it doesn’t mean faulty investigations can be reopened and re-adjudicated. An SPSO Corporate employee says “[we would usually issue an apology... An upheld customer service complaint would not affect the decision made on your public service complaint.](#)” After a faulty investigation, a bad decision still stands.

### **Conclusion**

Allowing the SPSO to continue its work without oversight, despite mounting complaints from the public, is damaging to Scotland and its people, who deserve fair, adequate and effective investigations of their complaints. It takes enormous time and effort to complain to the SPSO and people describe impacts to their health and work during engagement with them. Most people tell us they only do it to prevent the same thing from happening to someone else. They aren’t seeking compensation or for someone to lose a job. They simply want an apology and for the public body to learn from their mistakes and improve.

Taking the SPSO’s word that it is doing a wonderful job, while failing to investigate the public’s concerns will not save resources: it will drain them. It will harm more people and lead to continuing problems in public services, creating ever increasing complaints and requests from the SPSO for additional funding. Many public reviews state that it would be better to remove the SPSO and its funding so it can’t hurt anyone else. Any additional funding should be contingent on the results of a proper independent review of the

SPSO and the legislation by which it is bound. After 20 years of the Ombudsman doing whatever it “thinks fit” it is time to test its fitness.