

Citizen Participation and Public Petitions Committee  
Wednesday 10 September 2025  
13th Meeting, 2025 (Session 6)

## PE2161: Extend the time period for complaints through the Scottish Public Services Ombudsman for neurodivergent people to two years

### Introduction

**Petitioner** Ivor Roderick Bisset

**Petition summary** Calling on the Scottish Parliament to urge the Scottish Government to amend the Scottish Public Services Ombudsman Act 2002 to allow for a two-year complaints period for people with cognitive disabilities.

**Webpage** <https://petitions.parliament.scot/petitions/PE2161>

1. This is a new petition that was lodged on 8 May 2025.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. Every petition collects signatures while it remains under consideration. At the time of writing, 53 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered.
6. The Committee has received submissions from the Scottish Government and Edward Mountain MSP which are set out in **Annexe C** of this paper.

### Action

7. The Committee is invited to consider what action it wishes to take.

**Clerks to the Committee**  
**September 2025**

## **Annexe A: Summary of petition**

**PE2161: Extend the time period for complaints through the Scottish Public Services Ombudsman for neurodivergent people to two years**

### **Petitioner**

Ivor Roderick Bisset

### **Date Lodged**

8 May 2025

### **Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to amend the Scottish Public Services Ombudsman Act 2002 to allow for a two-year complaints period for people with cognitive disabilities.

### **Previous action**

I have raised this issue with my local MSP, Edward Mountain, and outlined my deep concern and frustration. He supports my resolve to raise a petition and bring forward an opportunity to discuss this matter in Parliament.

### **Background information**

I applied for a time extension from the SPSO believing I would get a reasonable adjustment under the Equality Act on account of my neurodivergence and was rejected. I am aware of similar issues and anxieties from my local autism community and local services, where I have established that this practice is quite common.

Many neurodivergent people struggle with executive functioning, including adhering to strict deadlines. The time restriction creates an unfair barrier to justice, preventing valid complaints from being heard. We are being excluded from the SPSO by design. Allowing additional time for us would promote accessibility, fairness, and equal treatment under the law.

The SPSO has no record of what types of disabilities are granted 'exceptional circumstances'. I feel their policy is unreliable. I don't think the service is transparent or understands the massive impact being 'timed bar' has on the neurodivergent community. My intention is to have a Scottish wide protection of inclusion to stop this practice.

## Annexe B: SPICe briefing on PE2161



### Brief overview of issues raised by the petition

The petitioner is calling on the Scottish Parliament to urge the Scottish Government to amend the Scottish Public Services Ombudsman Act 2002 to allow for a two-year complaints period for people with cognitive disabilities.

They had applied for a time extension from the Scottish Public Services Ombudsman (SPSO), believing that they would get a reasonable adjustment under the Equality Act 2010, because the petitioner is neurodivergent. However, this request was rejected.

The petitioner suggests that the time limit for complaints creates a barrier to justice.

### Scottish Public Services Ombudsman (SPSO)

The [SPSO](#) has four statutory functions under the Scottish Public Services Ombudsman Act 2002:

1. 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.
2. Specific powers and responsibilities to publish complaints handling procedures, and monitor and support best practice in complaints handling.
3. 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
4. Independent National Whistleblowing Officer for the NHS in Scotland (INWO) – from 1 April 2021 – final stage for complaints about how the NHS considers whistleblowing disclosures and the treatment of individuals concerned.

### Time limit for making complaints to SPSO

The SPSO website provides details of [time limits](#) for making complaints.

Generally, the time limit is 12 months from the incident, but the SPSO has discretion if there are 'special circumstances.' This is not defined in the [Scottish Public Services Ombudsman Act 2002](#). [Section 10](#) of the Act covers time limits and procedures for complaints.

The SPSO website says that they may take complaints beyond the 12-month time limit in special circumstances, which include whether the complainant can show that they had good reason to delay because of health or personal difficulties, "such as a

defined disability (physical or mental) that impacts upon daily living tasks and functioning.”

The SPSO does not normally consider there to be special circumstances where:

- the delay has arisen because of action or inaction on the part of the complainant, unless they can show that there is good reason for this
- the complainant knew they had cause to complain but chose to delay making the complaint to the public body (for example, where they chose to use a route other than the body’s complaints process to take the matter forward).

If someone does submit a complaint outside the 12-month period, they must send it with a clear explanation of why the complaint was delayed in reaching the SPSO.

The SPSO website states:

“It is for the SPSO to decide whether the specifics of the case mean that there are ‘special circumstances’.”

## **Equality Act 2010**

### **Disability definition**

The SPSO may consider complaints outside the time period if the individual has a ‘defined disability.’ There are no details given of what this might include, except that it can be physical or mental and impacts on daily living tasks and functioning.

This description is similar to the disability definition in the Equality Act 2010. Section 6 of the Act defines disability as a physical or a mental impairment which has a substantial and long-term impact on a person’s ability to carry out normal day to day activities.

Three medical conditions come under the definition of disability automatically upon diagnosis: Cancer, HIV infection, and Multiple Sclerosis. A person is also “deemed to have a disability” where that person is “certified as blind, severely sight impaired, sight impaired or partially sighted by a consultant ophthalmologist.”

Other disabled people would have to show that they meet the disability definition.

### **Disability Discrimination**

There are six types of [disability discrimination](#):

- direct discrimination
- indirect discrimination
- failure to make reasonable adjustments
- discrimination arising from disability
- harassment
- victimisation.

The petitioner refers to the ‘reasonable adjustment’ duty. This duty requires service providers and employers to make sure that disabled people can access jobs, education and services as easily as non-disabled people. Failure to meet the duty is one type of disability discrimination.

## **Time limits for discrimination claims**

It may be helpful for comparative purposes to show the time limits for claims of unlawful discrimination.

The Equality Act 2010 provides protection against unlawful discrimination to nine protected characteristics, including disability.

If a service user wants to bring a claim against a service provider under the Equality Act, they must start court action (sheriff court) within six months (minus a day) of the alleged unlawful act.

If the claim is outside that time period, the court still has discretion to hear proceedings if it thinks it is just and equitable to do so (s.118(1)(b)).

If an employee, wants to bring a claim against an employer under the Equality Act, they must bring their claim to an Employment Tribunal with three months (less one day) of the alleged unlawful act.

If the claim is outside that time period, the Employment Tribunal still has discretion to hear proceedings if it thinks it is just and equitable to do so (s.123(1)(b)).

## **Scottish Government**

### **Learning Disabilities and Neurodivergence Bill (LDAN Bill)**

In a broader context, it may be helpful to note that the Scottish Government committed to the LDAN Bill in its [Programme for Government 2021-22](#) (September 2021). It said:

“To uphold and protect the rights of people with autism or learning/intellectual disabilities, we will take forward a Learning Disability, Autism and Neurodiversity Bill, with scoping work carried out in 2021-22. We will also provide an independent advocate for people to secure the protections of such a law, through a Learning Disabilities, Autism and Neurodiversity Commissioner.”

The Scottish Government ran a [consultation](#) (December 2023) and published independent [analysis](#) (August 2024).

The consultation said that ‘Neurodivergent people’ generally refers to: people with learning disabilities, people with learning difficulties such as dyslexia, autistic people, and a wide variety of people whose neurology is different by virtue of ADHD, Fetal Alcohol Spectrum Disorder (FASD), and other conditions.

It is recognised that not everyone is comfortable with the term ‘neurodivergence’, particularly people with learning disabilities. The consultation used the term ‘neurodivergent people and people with learning disabilities’ throughout.

The overarching aims of the Bill include:

- Statutory Strategies for Neurodivergence and Learning Disabilities – while there have been national strategies, there is no legislative requirement for national or local strategies specifically for neurodivergent conditions or learning disabilities.
- Mandatory Training in the Public Sector - there needs to be greater awareness, understanding, and training on learning disabilities and neurodivergence.
- Inclusive communications - sharing and receiving information in a way that everybody can understand.
- Data – better data collection and reporting will enable better understanding of the requirements of people with learning disabilities and neurodivergent people throughout their life and build evidence on whether they are able to realise their rights.
- Independent advocacy – this is one way that people can receive help to understand and access their rights.

Despite strong support for the Bill, which was expected to be in the [Programme for Government 2024-25](#), the Scottish Government said it would publish draft provisions this parliamentary year. Maree Todd MSP, the Minister for Social Care, Mental Wellbeing and Sport [wrote](#) to the Convener of the Health, Social Care and Sport Committee on 4 September 2024 and said:

“It is our intention to publish these provisions in order to seek people’s views on our finalised proposals and how the legislation will be framed.”

The Equalities, Human Rights and Civil Justice Committee held two evidence sessions regarding the delay, on [26 November 2024](#) and [3 December 2024](#).

**Nicki Georghiou**  
**Senior Researcher**  
**12 June 2025**

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot)

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

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## **Annexe C: Written submissions**

### **Scottish Government written submission, 9 June 2025**

**PE2161/A: Extend the time period for complaints through the Scottish Public Services Ombudsman (SPSO) for neurodivergent people to two years**

**Does the Scottish Government consider the specific ask of the petition to be practical or achievable?**

The ask is achievable. Amendments to the Scottish Public Services Ombudsman Act 2002 (the 2002 Act) could be made either through primary legislation or delivered by way of an affirmative Scottish Statutory Instrument (SSI) under section 14(1) of the Public Services Reform (Scotland) Act 2010 (the 2010 Act).

The powers under section 14(1) of the 2010 Act must improve the exercise of public functions of public bodies and office holders having regard to efficiency, effectiveness or economy and so any amendments made using powers under the 2010 Act would need to be scrutinised to ensure they met those grounds.

Section 26 of the 2010 Act requires that Scottish Minister consult with any organisations or bodies that appears to be affected by any proposals being considered under section 14 of the Act.

Making amendments to the 2002 Act through primary legislation or through the making and laying of any SSI and the consultation requirement comes with cost and resource implications.

**What, if any, action the Scottish Government is currently taking to address the issues raised by this petition and is any further action being considered that will achieve the ask of this petition?**

The Scottish Government is committed to building a country that ensures equality of opportunity for all by embedding equality, inclusion and human rights into everything that we do and recognises the difficulty that statutory time limits can cause neurodivergent people.

The Scottish Government has consulted on the [Learning Disabilities, Autism and Neurodivergence Bill](#) (LDAN) that sets out proposals aiming to ensure that the rights of neurodivergent people, including autistic people and people with learning disabilities, are respected, protected and championed. This is a unique opportunity to help create a Scotland where being neurodivergent or having a learning disability is as accepted as being neurotypical.

While an extension of the time period available for complaints to be made through SPSO for neurodivergent people was not proposed in the Learning Disabilities, Autism and Neurodivergent Bill consultation, the Bill itself is an important opportunity

to raise awareness of the needs of neurodivergent people. The consultation, fully co-designed with people with lived experience via our Lived Experience Advisory Panel (LEAP), covered a wide range of issues that people have told us would make real improvements. It included 'overarching themes' such as independent advocacy, inclusive communications, mandatory training for the public sector, data collection and statutory strategies. There were also 'specific themes', including health and wellbeing, social care, justice, relationships, transport, employment, housing, education, transitions to adulthood, and others.

The next steps for the LDAN Bill will be to continue to develop proposals for an LDAN Bill and to publish draft provisions. These will take into account insights and views gathered through the consultation and a second phase of development with the three Bill advisory panels. It is unlikely that the LDAN Bill will be introduced to the Scottish Parliament before the next election in May 2026.

**Is there any further information the Scottish Government wish to bring to the Committee's attention, which would assist it in considering this petition?**

The SPSO is operationally independent from Scottish Ministers. The 2002 Act states that the SPSO cannot consider a complaint made more than 12 months after the day on which the person aggrieved first had notice of the matter complained of, unless there are 'special circumstances' which make it appropriate for them to consider a complaint made outwith that period. Special circumstances are not defined in the 2002 Act.

The SPSO's website ([Time limit for making complaints to SPSO | SPSO](#)) provides examples of what the SPSO considers when applying the special circumstances test. Special circumstances could be a single factor or a combination of factors. The SPSO's complaint form asks complainants to explain and provide any reasons for a delay in making a complaint while the SPSO also assesses for special circumstances (for example, evidence of delay by a public body).

The Scottish Government understands that SPSO decisions on special circumstances are made on a case-by-case basis, with guidance available to decision makers. If the SPSO decides not to waive the time limit, that decision is subject to the SPSO's review process under which the decision can be looked at again and which provides an opportunity for a complainant to supply new information. The SPSO's decisions are also subject to judicial review.

The SPSO have confirmed that in relation to training they have delivered the following:

- Understanding & Supporting Neurodivergent Applicants - to staff in the Social Welfare Fund Independent Review Service, and Independent National Whistleblowing Officer and SPSO managers.
- Neurodiversity in the Workplace - to all staff as mandatory training.

A session with Autism Initiatives is planned for September 2025, which will be available to all staff.



The Scottish Government is therefore of the view that the current legislation has a degree of flexibility and offers the SPSO a wide degree of discretion as to whether to waive the time limit, with any such decision also being subject to the SPSO's review process.

**Justice Directorate**

## **Edward Mountain MSP written submission, 2 September 2025**

### **PE2161/B: Extend the time period for complaints through the Scottish Public Services Ombudsman for neurodivergent people to two years**

My view on the petition is that there should absolutely be a category for people with cognitive disabilities which allows for complaints to be considered out with the current 12-month period. Moreover, this should be a separate category to the current 'special circumstances' category to the 12-month rule, in relation to the SPSO.

Whilst I have made every effort to assist constituents who have neurodivergent issues, it appears that in this case that the SPSO are not prepared to extend the timeframe from 12 months. My constituent understandably feels discriminated against and I think we need to be more caring to those who are struggling to get their valid complaints heard.

I have learnt a huge amount through the amount of time I have spent with Ivor during the process of assisting him and would ask the Committee to seriously consider how it can influence the increase in time which would make an enormous difference to the lives of people with cognitive disabilities throughout Scotland.