

Citizen Participation and Public Petitions Committee
Wednesday 25 February 2026
5th Meeting, 2026 (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. [The Committee last considered this petition at its meeting on 10 September 2025](#). At that meeting, the Committee agreed to write to the Scottish Public Services Ombudsman.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new written submissions from the Scottish Public Services Ombudsman, Rhoda Grant MSP, and the Petitioner, which are set out in **Annexe C**.
4. [Written submissions received prior to the Committee's last consideration can be found on the petition's webpage](#).
5. [Further background information about this petition can be found in the SPICe briefing](#) for this petition.
6. [The Scottish Government gave its initial response to the petition on 9 June 2025](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 56 signatures have been received on this petition.

Action

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

Clerks to the Committee
February 2026

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.

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: Extract from Official Report of last consideration of PE2161 on 10 September 2025

The Convener: Our final petition for consideration is PE2161, which was lodged by Ivor Roderick Bisset, who had hoped to be with us this morning but is not well enough to be present. The petition calls on the Scottish Parliament to urge the Scottish Government to amend the Scottish Public Services Ombudsman Act 2002 to allow for the complaints period for people with cognitive disabilities to be extended to two years.

Section 10 of the 2002 act sets out the time limits and procedure for complaints. It states:

“The Ombudsman must not 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 the Ombudsman is satisfied that there are special circumstances which make it appropriate to consider a complaint made outwith that period.”

The SPSO website states that special circumstances can include demonstrating a good reason to delay because of health or personal difficulties, such as a defined disability that impacts upon daily living tasks and functioning.

The petitioner had applied for a time extension from the SPSO believing that he would get a reasonable adjustment under the Equality Act 2010, on the grounds that he is neurodivergent. However, his request was rejected.

The Scottish Government’s response shares the SPSO’s position that decisions on special circumstances are made on a case-by-case basis, with guidance available to decision makers. Its submission states that 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 Scottish Government is therefore of the view that the current legislation has a degree of flexibility and offers the SPSO a wide range of discretion in deciding whether to waive the time limit, with any such decision also being subject to the SPSO’s review process.

Edward Mountain MSP has provided a written submission in support of the petition. Mr Mountain believes there should be a separate category to the existing special circumstances category that allows for people with cognitive disabilities to have their complaints considered outwith the 12-month period.

Fergus Ewing: I suggest that we write to the SPSO to ask for further information that it holds on requests for extensions to the 12-month time limit. If that information is unavailable, we should ask for an explanation of how the SPSO can be confident that its policies and processes are working for neurodiverse people, given the issues raised in the petition.

I was made aware by Mr Bisset, whom I commend for lodging the petition, that the process has been difficult for him and has resulted in some pressure and anxiety. That is most unfortunate and would not have arisen had the SPSO exercised the

flexibility that it would surely be reasonable to expect it to exercise. I feel very strongly that that is a fault on the SPSO's part, and it must be called to book. That is what we are here for.

Moreover, the fact that a rejection can be taken to judicial review is phooey. It costs hundreds of thousands of pounds to raise a judicial review. A huge amount of money is involved—massively more than would result from the additional workload for the SPSO if it just exercised flexibility in the first place. I thought that we in Scotland were supposed to be sympathetic to people such as Mr Bisset who have needs related to their neurodiversity. I commend my colleague Mr Mountain for taking the case on, and I hope that we can get some answers from the SPSO to prove that it is not just another unaccountable quango.

The Convener: To be fair to the SPSO, I do not think that it says that cases should go to judicial review; it says that its decisions can be looked at again, and that it affords complainants the opportunity to supply new information.

Davy Russell: It would be interesting to know how many times the SPSO has extended the time limit.

The Convener: I think exactly that, and I am grateful for that suggestion. It was very much on my mind, too.

First, we would ask what the guidance is, because I do not think that it is public. Secondly, we would ask how many times the time limit has been waived in each of the past five years and, on an anonymised basis, what the circumstances were that led to any waivers.

Fergus Ewing: The judicial review point was raised by the Scottish Government on page 8 of the annex to the submissions—that is what I was referring to. You are quite correct that there is a process, but it is the Scottish Government that is pointing to an absurd course of action that nobody in their right mind would dream of taking.

The Convener: We are grateful to Mr Bisset for lodging the petition. The committee is minded to keep the petition open, and it will proceed as colleagues have variously suggested. Are we content with that?

Members *indicated agreement.*

Annexe C: Written submissions

Scottish Public Services Ombudsman written submission, 15 October 2025

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

Background

Legal restrictions and process

1. The Scottish Public Services Ombudsman Act 2002 sets out a number of restrictions on our powers to investigate, some act as a complete bar and in others we have discretion. The time limit restriction is one where we have discretion, so if a matter is out of time, we may still be able to investigate but we need to find and establish specific reasons to do so, in the wording of the legislation, we need to find that there are “special circumstances”.
2. Our complaint form (both in paper and online) asks complainants when the problem happened and the reason for any delay. This means that this information is proactively sought. In cases where we consider that we need clarification or further information about the reasons for any delay in submitting the complaint, we will also contact the complainant to request this. We also assess the case ourselves for special circumstances – for example if there is clear evidence of delay by the public body, so the member of the public doesn't always have to highlight these.
3. If, having considered all the information available, a decision is made that a complaint is not one where the test of special circumstances is met, this will be explained in full and the complainant will be able to ask for an internal review of that decision. This review process is a non-statutory process and means that individuals can ask for the decision on their complaint to be reviewed directly and personally by the Ombudsman.
4. The Ombudsman will review the decision and can decide to reopen. The person will, again, be able to present any additional reasons why they consider they meet special circumstance, and the Ombudsman will be able to consider those reasons already on file and any other information that they consider is relevant.

Exercising discretion – guidance and approach

5. As well as the review process, which ensures the Ombudsman personally can consider the decision, in order to ensure consistency, we have detailed guidance for complaints reviewers, specifically about the application of the time limit. They also have a tool, a questionnaire which guides them through this process. This

guidance is reviewed regularly, and, at the time of writing, we are currently piloting a revised version of the time bar guidance and tool.

6. The current guidance and approach is available in summary form online and that includes a series of examples available here: [Time limit for making complaints to SPSO | SPSO](#)
7. We look at each decision on a case-by-case basis, but the guidance gives general direction and includes examples. One of the reasons we say we may extend the time limit is where an individual has a disability. While cognitive difficulties are not specifically mentioned, they can meet the legal definition of a disability and would clearly be covered.
8. It is important to stress that people do not need to meet the legal definition of disability, for us to consider adjusting our service or extending the time limit. We have produced guidance on vulnerability for staff, which we also make available publicly to encourage good practice by public bodies.
9. This guidance was designed to ensure not only that we meet our legal obligations to make our organisations accessible but also that we reflect vulnerabilities in our work which may not strictly meet any legal definition, but which may still impact on a person's ability to access the service. The guidance also sets out our commitment to taking a trauma-informed approach. The guidance is available in full here: [VulnerabilitiesGuidance.pdf](#)
10. In addition to the review process, we have a number of other processes that help us to ensure the quality of our work. We have service standards, a quality assurance process, an induction programme to ensure decision-makers are fully aware of our complaints handling guidance and approach before they start to make decisions independently and we have regular training and support, which has included training specifically about the impact of neurodivergence.

Statistics about decisions

11. We report publicly on all decisions made. Last year we made decisions on 5,208 complaints. We log all cases where we do not extend the time bar (i.e. that the decision is out of time and that there were not special circumstances). In 2024-2025 that was 189 cases (4%). To put that in context, nearly 600 cases (11%) were closed because of prematurity, one of our other discretionary tests. We close only a small number of cases on the grounds of being out of time where there were no special circumstances.
12. We do not log the number where we exercise this discretion. This means we cannot say which of the 2,717 cases we took to preliminary investigation or investigation, (these are cases which were not excluded for jurisdictional reasons) were ones where we found special circumstances to extend the time limit.

Data about our users, disability and neurodivergence

13. We know that many of our users have a disability, and this has been a key driver behind some of the work on vulnerability mentioned above and accessibility improvements noted below. Indeed, last year, 69% of people who answered the question about disability on our monitoring form told us they have a condition that affects their ability to undertake day to day activities. 49% told us that impact was a lot or significant which meets the legal definition of disability in equalities legislation.
14. In the same form, we ask people to select any conditions that affect them (people can select more than one condition) and in response to this more detailed question:
 - 14.1. 1,757 users told us they had at least one condition.
 - 14.2. 4,797 conditions were listed.
15. Mental ill-health is the most commonly noted condition with 1,107 people highlighting that as a condition that affects them, below this is long-term illness at 677 and physical disability was listed by 640 respondents. We follow the definitions in the census, which does not include cognitive difficulties as a category, but it might be interesting for the Committee to know that learning disability was listed by 221 people and learning difficulty by 237 respondents to our form.
16. We also monitor, on an anonymised basis, what reasonable adjustments are being requested and why.
17. In 2024-25, 254 people noted on our forms (either online or on paper) that they may need adjustments. 120 people chose not to divulge the reason, and we do not require people to tell us why they need an adjustment. 46 people told us they may need an adjustment for neurodivergence. Some of this group of people told us they had specific types of neurodivergence (ADHD, Autism, Dyscalculia etc) reflecting the diversity of this population.
18. Not all of those 46 specified a specific adjustment, of those that did the adjustments requested were varied and ranged from preferring simpler communication, struggling with long letters, needing help with forms, needing key information highlighted, having difficulty with numbers, preferring written or verbal communication or needing specific font size, and needing more time to process.
19. As well as making adjustments for individuals, as an organisation, we have a long-standing interest in the impact of neurodivergence on the ability to successfully access and navigate complaints systems. As the Scottish Government response noted we have provided staff with training in this area, particularly around neurodivergence. The most recent was in September 2025 when 34 staff attended a session run by a local Autism charity.

20. We have sought to ensure our service reflects the needs of our users over a number of years in a variety of ways. For example, we have:

- 20.1. made concerted efforts to use simpler, more straight-forward language,
- 20.2. published the vulnerability guidance to help us meet the needs of all users,
- 20.3. proactively ask all users for their contact and communication preferences and any adjustments that will help them to access our service,
- 20.4. increased use of templates that are easier to navigate,
- 20.5. increased the use of video on our website,
- 20.6. focused our training provision on key areas to ensure staff have an understanding of how different conditions may affect users,
- 20.7. empowered staff to make individual adjustments without the need for authorisation.

21. In addition, given the difficulties a number of users have told us they have with written communication, we have asked Parliament and Government to consider changing the legal requirements around written communication in our legislation.

Extending the time limit for neurodivergent people

22. It should be evident from above, that we are keen to ensure our service and the use of discretion available to us does fully reflect the lived experience of neurodivergent people, and indeed all users who may need support to access our service. We have taken and continue to take steps to ensure this. As in all accessibility work, this is an area where we strive to continue to improve and we have considered carefully both the proposal in this petition and, while there are legal restrictions which mean we are not able to comment on individual situations, the experience that lies behind it.

23. We understand the strength of feeling behind the petition, and the need for public services generally to improve the experience of neurodivergent people engaging with them. However, we are not convinced that this proposed change to legislation is the best tool to do so and it may have unintended consequences.

24. As proposed, the petition seeks statutory protection for a single discretionary test for a specific group of users. This means the test would become two-tier where some individuals would have a different time limit to others on the basis of meeting defined criteria. Given this, there would need to be clear definitions and, while at present we rarely require evidence or ask an individual to divulge a specific diagnosis this would likely need to change.

25. The petition makes reference to both neurodivergence and cognitive disabilities. Not everyone who has neurodivergence is disabled. Depending on the framing of

legislation, this means we may need separate evidence of a cognitive disability. This feels both intrusive and unnecessary given an easier solution is to ensure we are using our current flexibility appropriately.

26. We have set out above how we seek to ensure we are exercising our discretion in relation to applying time limit flexibly and consistently taking into account relevant individual circumstances. We are committed to continue to improve our knowledge of neurodivergence and to learn from all feedback. Where it is considered that additional legislation or guidance is needed to ensure that improvement occurs broadly and consistently across the public sector, it is likely to be more effective if undertaken at a national level.
27. Finally, as noted above, our current system does not easily allow for reporting on cases where we have exercised discretion. As the Committee will appreciate changes to our database and practice are not without a cost but, given the petition and comments made by parliamentarians, we are exploring whether we could gather this data in a cost-effective and efficient manner that would allow us to add that information to the data we report regularly to Parliament.

Rhoda Grant MSP written submission, 9 February 2026

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

I am writing to formally record my disappointment with the response recently provided by the Ombudsman to Petition PE2161 -: Extend the time period for complaints through the Scottish Public Services Ombudsman for Neurodivergent People.

I believe that their submission fails to acknowledge the core tenets of the petition and instead advocates for the retention of a status quo that is demonstrably failing Scotland's neurodivergent community.

The evidence presented to the Committee suggests a systemic failure to provide equitable access to justice, characterised by the following points:

Despite statutory obligations, the Ombudsman's office appears to maintain a pattern of inflexibility that effectively discriminates against neurodivergent individuals. In the specific case outlined in the submission, the refusal to grant extensions to accommodate cognitive conditions represents a significant compromise of safety and human rights compliance. It is a matter of record that multiple, evidenced requests for extensions were summarily denied, even when supported by:

The Citizens Advice Bureau.

Specialist Autism advocates.

Formal medical certification.

Furthermore, the internal appeals mechanism lacks the necessary independence, as decisions are often reviewed by the same individuals who issued the initial denials, creating a closed loop that precludes genuine scrutiny.

The Ombudsman continues to defend its internal policies in a vacuum, refusing to provide the statistical data required to verify the efficacy of their "exceptional circumstances" policy. By invoking privileged powers under their own Act to withhold information regarding the success rate of neurodivergent applicants, the service effectively operates without accountability.

The Ombudsman's reliance on discursive and diffuse communication creates a disproportionate burden on those with atypical cognitive profiles. For many in the neurodivergent community, who comprise approximately 15% of the Scottish population, this lack of clarity causes acute distress and a breakdown in executive functioning.

When a public body communicates in this way, it creates a system where those who observe the world literally are systematically disadvantaged. The resulting fallout often leads to acute illness and the forced abandonment of legitimate complaints.

The current lack of equilibrium, where the Ombudsman's own missed deadlines carry no penalty while service users are excluded via rigid timelines, highlights a deficit in their system with the neurodivergent community being the ones losing out as a result. The service appears more concerned with the administration of waiting times than with the equitable resolution of serious complaints.

The Ombudsman's service currently lacks the flexibility required to serve the neurodivergent population. To prevent the "re-traumatisation" of vulnerable citizens, we must move toward a system where the law provides robust protection for disability and where public bodies are no longer permitted to "mark their own homework."

In light of the significant evidence of systemic exclusion, I respectfully urge the Committee to review this submission in its entirety. I further request that the Committee ensures this petition remains active following the forthcoming Scottish elections, as the pursuit of a fair and transparent public service for the neurodivergent community remains an urgent priority.

Petitioner written submission, 13 February 2026

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

I respectfully but fundamentally disagree with the Ombudsman's response to my petition. The response fails to engage with the substance of the petition and instead relies on generalised assertions that existing policies are sufficient. My petition does not challenge the existence of policy. It challenges whether that policy operates in practice as a lawful, effective, and accessible reasonable adjustment for neurodivergent people, as required under equality and human rights obligations.

At the core of this petition is a question that remains unanswered:

Is the Ombudsman's extension-of-time policy real, measurable, and accessible — or merely theoretical?

The Ombudsman's response does not provide evidence capable of answering this question.

A policy that never results in accommodation is not a reasonable adjustment.

The Ombudsman asserts that its "exceptional circumstances" policy enables extensions of time for complainants with neurodivergent conditions. However, the evidential record demonstrates that **no amount of evidence ever satisfied this test in practice**, thus making it theoretical only.

In my case, repeated professionally supported requests for additional time were made over a period of a year. These requests were supported by:

- medical evidence,
- autism-specific advocacy,
- Citizens Advice representation, and
- direct interventions by my local MSP, Edward Mountain.

Every request was refused. Every appeal was refused. No alternative adjustment was offered at any stage.

This is not a matter of disagreement over the merits of an individual decision. When repeated, well-evidenced requests — supported by professionals and elected representatives — are refused in every instance, the conclusion is unavoidable: the policy does not function as a reasonable adjustment. It functions as a barrier.

This makes the refusal **structural, not discretionary**.

Documented pattern of refusal

The following sequence is not disputed:

- Initial request for an extension: refused
- Further request: refused
- Citizens Advice submission requesting an extension: refused
- Autism advocate providing medical evidence: refused
- Medical letters explaining health-related need: refused
- Internal appeal, reviewed by the same individual who made the original decision: refused
- MSP intervention citing impact on health and fairness: refused
- "Independent" review (later confirmed to be internal): refused
- Second MSP intervention consolidating all evidence and representations: refused.

At no point was the cumulative weight of evidence acknowledged. At no point was flexibility exercised. At no point was an alternative reasonable adjustment proposed.

I also hold written confirmation from the original complaint-handling body stating that any time bar would be waived. This assurance was never actioned by the Ombudsman, further undermining claims of flexibility.

This is not an isolated outcome. It is a demonstrable pattern.

Absence of data prevents parliamentary scrutiny

Throughout this process, I sought basic, legitimate information via Freedom of Information requests, including:

- how many neurodivergent complainants are granted extensions under the exceptional circumstances policy; and
- the criteria met when such extensions were granted.

My requests were refused and obstructed at every stage.

The Ombudsman's response to the Petitions Committee relies on broad assurances but provides no **verifiable data** to support his assertion. Without outcome data, neither the Committee nor Parliament can determine whether the policy operates as claimed.

A policy that cannot be evidenced, measured, or independently scrutinised **cannot be relied upon as proof of accessibility or compliance with equality legislation**. Transparency is not optional where statutory bodies exercise discretionary power that determines access to justice.

Disproportionate impact on neurodivergent people

Neurodivergent conditions, including autism, frequently involve impairments in executive functioning, information processing, and intolerance of uncertainty. Systems that rely on opaque processes, shifting rationales, and repeated refusals without clear criteria place a disproportionate burden on neurodivergent complainants.

The Ombudsman's process requires complainants to:

- interpret diffuse and discursive information,
- repeatedly reapply without knowing what threshold must be met, and
- absorb ongoing uncertainty about whether any accommodation will ever be granted.

This is not a neutral process. It predictably and disproportionately disadvantages neurodivergent people and leads many to disengage before their complaints are ever heard. This disengagement is then used to sustain the illusion that existing policies are sufficient.

Equality law requires reasonable adjustments to be **effective in practice**, not merely asserted in policy documents.

Furthermore, Scotland is bound by its obligations under the *UN Convention on the Rights of Persons with Disabilities (UNCRPD)*, specifically Articles 5, 9, and 13. The Convention makes clear that failure to provide effective "reasonable accommodation"

constitutes direct/indirect discrimination, and disabled people must be afforded procedural accommodations to ensure equal access to justice. A policy that exists in theory but never results in accommodation, and whose operation cannot be evidenced through data, cannot satisfy these obligations. The evidential record in this case demonstrates a structural failure to provide effective accommodation, not a series of discretionary decisions.

Lack of independence and imbalance of accountability

The Ombudsman's internal appeals process lacks meaningful independence, with reviews conducted by the same individual or within the same service that made the original decision. This raises serious concerns about procedural fairness and natural justice.

At the same time, the Ombudsman acknowledges that its own missed deadlines carry no sanction, while complainants face absolute time bars. This asymmetry highlights a fundamental imbalance of power and accountability.

A system in which the Ombudsman sets the rules, interprets them, applies them, reviews its own decisions, and refuses to disclose outcome data **cannot be said to be subject to effective oversight.**

The Petitions Committee's role and unresolved issues

The Petitions Committee has significantly more experience than I do in weighing competing claims. However, at present, the Committee appears to have accepted the Ombudsman's assurances without examining whether those assurances are borne out by evidence.

The Committee has not yet considered:

- whether the exceptional circumstances policy ever results in extensions for neurodivergent people;
- whether refusal rates reveal a structural barrier; or
- whether the Ombudsman's approach complies with equality and human rights obligations in practice.

Closing this petition without determining whether the Ombudsman's extension-of-time policy operates as a reasonable adjustment or as a structural barrier would require the Committee to substitute untested assurances for evidence. In doing so, Parliament's scrutiny role would be withdrawn from unresolved equality and human-rights concerns, with the foreseeable consequence of silencing neurodivergent voices and perpetuating their exclusion from access to remedy.