

Scottish Public Services Ombudsman (SPSO) on the Draft Public Services Ombudsman (Wales) Bill

About the SPSO

1. The Scottish Public Services Ombudsman (SPSO) is the independent body that investigates complaints from members of the public about devolved public services in Scotland. Under our statutory duties to lead the development and implementation of standardised complaints handling procedures and promote best practice we can also, in the absence of any other statutory provision, set standards for the way these organisations handle complaints.

The Draft Public Services Ombudsman (Wales) Bill

2. We welcome the Bill and the approach it takes to the modernisation of complaints handling in Wales. In this response to the consultation we have not answered all of the questions asked by the Committee but have concentrated on areas where we consider our experience in Scotland may provide a helpful perspective.

Complaints Standards sections

3. In 2010, section 119 of the Public Services Reform (Scotland) Act 2010 introduced a small number of new sections to my legislation. These are replicated in their entirety in the proposed legislation.

4. These sections led directly to the setting up of the Complaints Standards Authority¹. In 2011, the Scottish Parliament approved a set of complaints handling principles, making it clear that this work had public and significant endorsement. Since then, standard models of complaint handling have been put in place across the majority of the public sector. Thousands of public sector staff have been trained to respond better to complaints. And, for the first time, we are beginning to see regular, reliable and comparable data on complaints being published.

5. The Committee has specifically asked for comments on section 38 (b). Our experience of the equivalent Scottish provision is that it has not been problematic. There have been some issues with organisations who have had to operate more than one complaints procedure because of other legislative requirements and would have preferred to have one². However, nothing has prevented them from fulfilling these duties and they have done so. To date, we are not aware of any problems meeting other duties, in particular non-complaint handling duties, such as those under Freedom of Information legislation.

¹ More details about this role can be found at www.valuingcomplaints.org.uk

² For example, there are specific complaints procedures for individual areas of service such as social work which are subject to a separate legislative scheme. Over time we are finding this is being resolved by moves to change those other legislative schemes to our standard model.

6. It is worth noting that this part of the role of the SPSO has never been heavily resourced. At present, we have 1 ½ members of staff and in the early days when more resource was needed it was no more than 3. This small team, working collaboratively with many others across the public services in Scotland have arguably had greater impact on the day to day relationship between the public and public services than any other initiative undertaken by this office. It should though be noted that the resource levels is reflected in the fact that we have taken a phased approach to implementation and could only target sectors when we had the resources to do so. Also it is important to note that our approach to the monitoring role has always been “light-touch” and we have worked with the relevant regulators to include complaints monitoring as part of their regular audit. We also rely on organisations to self-assess. If it is envisaged that the Welsh Ombudsman would undertake a stronger monitoring role or move to implement the new procedures more quickly, that would require additional resource.

Disqualification provisions

7. The Committee has also asked whether the disqualification provisions should be reviewed. The provisions in our own legislation and those of all the Scottish Parliamentary Supported organisations were reviewed by a Committee of the Scottish Parliament in 2009. This led to changes to similar provisions in our legislation and, notably, the restriction on future employment was reduced to one year and the Parliament given the ability to exercise discretion to reduce this further in particular circumstances. The debate about this is set out in the report³. The reasons given for the change were the significant impact the restrictions could have on individuals who held the post of Ombudsman in terms of future employment and the need to balance that against perceived or actual conflicts of interest.

³ Available in full here: <http://archive.scottish.parliament.uk/s3/committees/rssb/reports-09/rssb09-01.htm>.