

PE1964/M: Create an independent review of the Scottish Public Services Ombudsman

Scottish Government submission, 13 June 2024

Thank you for your email of 17 May 2024 regarding Petition PE1964, which seeks to create an independent review of the Scottish Public Services Ombudsman (SPSO).

Your letter asks for the Scottish Government's view on undertaking a review of the SPSO in light of the Ombudsman's comments before the Local Government, Housing and Planning Committee. The Ombudsman in her evidence stated that she believes that there should be a review to establish whether the Scottish Public Services Ombudsman Act 2002 (the "2002 Act") remains fit for purpose.

At present, the Scottish Government remains of the view that an independent review of the SPSO, including a review of whether the 2002 Act is still fit for purpose, is not required.

The SPSO has been in operation since October 2002, but during that time its functions and scope have evolved and extended beyond its initial remit. It now deals with four separate areas of work – final stage complaints about most devolved Scottish public services; complaints regarding NHS whistleblowers; applications for reviews of Social Work Fund decisions; and specific powers and responsibilities to publish complaints handling procedures and support best practice in complaints handling across the public service landscape. Over time some important roles have been added to its areas of responsibility and it cannot be said that the SPSO's powers and responsibilities have remained static since the SPSO began operating.

Our earlier submissions of 26 October 2022 and 9 February 2023 outlined the safeguards, processes and external scrutiny that the SPSO is subject to (these include but are not limited to reviews by Audit Scotland; an obligation to report annually to Parliament; the publication of a Strategic Plan every four years; being subject to Data Protection legislation, Freedom of Information legislation and Environmental Information Regulations). In reaching our view that an independent review of the SPSO is not required, we are also conscious of the independence of the Ombudsman as set out in legislation, and the Scottish Parliament's role in scrutinising the work of the Ombudsman, which is done primarily through the Local Government, Housing and Planning Committee.

We would also restate that we currently do not have the available resources or capacity to initiate and take forward an independent review. This is due to existing commitments and competing priorities for legislative change.

As noted in our previous submissions, if the Committee felt that an independent review was required, the Scottish Parliament could commission such a review of its own volition. If such a review were to be commissioned, the Scottish Government would of course engage as appropriate.

Civil Law and Legal System Division