



The Scottish Parliament  
Pàrlamaid na h-Alba

## **Local Government, Housing and Planning Committee**

Rosemary Agnew  
Scottish Public Services Ombudsman  
By email

**Tuesday 25 February 2025**

Dear Rosemary,

### **Scottish Public Services Ombudsman – Local Government, Housing and Planning consideration 2024/25**

The Local Government, Housing and Planning Committee has previously undertaken annual consideration of the Scottish Public Services Ombudsman's Annual Report. On 25 June 2024, we agreed to undertake more in-depth scrutiny this year and issued a call for views on the operation of the SPSO.

I thank you and your colleagues for giving evidence to us on 10 December last year. This followed an evidence session with stakeholders.

The Committee has considered the evidence provided and agreed to write to you with its observations. These are included in the annexe to this letter.

As you prepare to demit office, the Committee also takes the opportunity to recognise your contribution in the role of Ombudsman. In addition to the below queries, you are invited to provide any additional reflections you may have on the role or office that may support the Committee's future scrutiny and the quality of the service provided by your successor.

I request this by 21 March 2025. I have copied this letter to the Presiding Officer as Chair of the Scottish Parliamentary Corporate Body and the Conveners of the SPCB Supported Bodies Landscape Review Committee, the Citizen Participation and Public Petitions Committee and the Finance and Public Administration Committee.

Yours sincerely,

**Ariane Burgess**

**Convener, Local Government, Housing and Planning Committee**

Contact: Local Government Committee, The Scottish Parliament, Edinburgh, EH99 1SP. Email [localgov.committee@Parliament.Scot](mailto:localgov.committee@Parliament.Scot). We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

## Annexe to letter

# Evaluation of the work of the Scottish Public Services Ombudsman

The Committee considered the performance of the Scottish Public Services Ombudsman (SPSO) and how this is evaluated and improved.

The Committee was told that in general, the function and mandate of the office of the Scottish Public Services Ombudsman (SPSO) was necessary and viewed positively.<sup>1</sup> We heard of academic consensus on the structure and the operation of the SPSO.<sup>2</sup>

The current Ombudsman, Rosemary Agnew, drew the distinction between the operation of the Ombudsman within current legislative parameters and the successful delivery within those powers of any given incumbent.<sup>3</sup>

The most recent annual report<sup>4</sup> shows the following on key performance indicators—

- It met one out of three Key Performance Indicators (KPIs) for complaint handling (on dealing with advice stage complaints);<sup>5</sup>
- It met 100% of KPIs for role of independent reviewer of the Scottish Welfare Fund.

We also note the difference between evaluation of overall performance of the SPSO and the experience of individuals who make complaints. **We appreciate the time taken by individuals to share their experiences with us and their feedback on where improvements could have been made. These are incredibly valuable to our work.**

## International Comparisons

It was suggested by Professor Chris Gill of the University of Glasgow that the SPSO was leading among ombudsman functions around the UK.<sup>6</sup> The SPSO noted, however, that this was no longer the case citing modernising legislation in Wales and Northern Ireland which included “own initiative powers”.<sup>7</sup>

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<sup>1</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 2 and 21

<sup>2</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 2

<sup>3</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 20

<sup>4</sup> Scottish Public Services Ombudsman (2024). [Annual Report and Financial Statements 2023-2024](#)

<sup>5</sup>The KPIs which were not met were: PI-2 95% of early resolution public service complaints decided or moved to more complex investigation stage within 70 working days and PI-3 85% of public service complaints investigated and decided 46% within 260 working days

<sup>6</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 2

<sup>7</sup> Written submission from the [Scottish Public Services Ombudsman](#)

We heard views on how international counterparts outperformed the SPSO on KPIs such as time taken to consider cases.<sup>8</sup> The differing powers of ombudsmen was noted as being a key factor when drawing comparisons, however.<sup>9</sup>

**The Committee would welcome further information on how the SPSO interacts with other ombudsmen and requests further details and examples of collaboration and sharing of best practice in the UK and internationally.**

## **Performance - data**

We heard there is a lack of performance data, both internally generated and promoted and externally evaluated.<sup>10</sup> It was suggested that the SPSO could make more data available for scrutiny.<sup>11</sup>

## **Increased in the number of complaints**

There has been a rise in the number of complaints received by the Ombudsman.<sup>12</sup> We heard this could be an indicator of improvements to, and awareness of, the complaint system.<sup>13</sup> However, it was also suggested this could be symptomatic of worsening public services.<sup>14</sup> The Ombudsman said it could be indicative of increased dissatisfaction with public services.<sup>15</sup>

Research to confirm what is actually represented by the increase was proposed, including by the Ombudsman.<sup>16</sup> She further supported the idea of a single source of data on complaints across the public sector.<sup>17</sup> This may also help to identify trends and impact.

## **Data on the impact of complaint handling**

Professor Tom Mullen of the University of Glasgow considered it difficult to assess the overall impact of the resolution of complaints. He said that while statistics on individual cases are published, it is hard to see what impact this is having on the public sector cultural and systemic flaws.<sup>18</sup> It was also thought that public services responding to the SPSO were taking minimal corrective action rather than considering whether a particular case was indicative of a wider issue.<sup>19</sup>

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<sup>8</sup> Written submission from [Leeann Cross](#)

<sup>9</sup> Written submission from [Aberdeenshire Council](#) and [Scottish Public Services Ombudsman](#)

<sup>10</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 8 and 13 and written submission from [Prof. Tom Mullen and Prof. Chris Gill](#)

<sup>11</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 3 and 13

<sup>12</sup> Scottish Public Services Ombudsman (2024). [Annual Report and Financial Statements 2023-2024](#)

<sup>13</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 8

<sup>14</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 26

<sup>15</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 5

<sup>16</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 8 and 13 and [Official Report](#), 10 December 2024, Col 5

<sup>17</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 18

<sup>18</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 3

<sup>19</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 4

## Customer satisfaction

Some responses to the Committee’s call for views on the work of the SPSO were complimentary about the focus on customer satisfaction.<sup>20</sup> However, some expressed dissatisfaction with the service provided.<sup>21</sup>

We heard the SPSO no longer uses external assessment of customer satisfaction and that results of internal assessment are no longer published.<sup>22</sup> An externally assessed system with transparent results was deemed to be the “gold standard”.<sup>23</sup> Furthermore, we heard that comprehensively gathering and publishing such information would be in the interest of the SPSO to ensure a full picture of its performance is available.<sup>24</sup>

The Ombudsman told us surveys had been paused due to low response rates. She said this work would be relaunched, along with service user forums.<sup>25</sup> Further detail on this pilot was provided.<sup>26</sup>

Paul Blaker of Accountability Scotland said customer satisfaction surveys were only provided to those complainers who went through the full investigation process.<sup>27</sup> Andrew Crawford of the SPSO said the organisation received positive unsolicited feedback.<sup>28</sup> However, this raises questions as to why any feedback is “unsolicited”.

**The Committee is of the view that the performance of the Scottish Public Services Ombudsman cannot be effectively scrutinised and improved without access to further data.**

**The Committee recommends the SPSO should instigate a programme of externally verified customer satisfaction data for all stages of investigation. The Committee believes all of those who engage with the SPSO should be offered the chance to provide feedback on their experience and the results of this should be publicly available for analysis.**

**We welcome the indications from the SPSO that such work is underway and look forward to hearing proposals for the improvement of response rates.**

## Cases reaching investigation stage

The latest annual report shows that for the year 2023-24, the number of cases that progressed to a full investigation was 4%.

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<sup>20</sup> Written submission from [Aberdeenshire Council](#)

<sup>21</sup> Written submissions from [Dougie Wilson](#) and [Robert Martin](#).

<sup>22</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 10 and 38

<sup>23</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 10 and 13

<sup>24</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 14

<sup>25</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 19

<sup>26</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 18

<sup>27</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 38

<sup>28</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 3

This low figure was not thought necessarily reflective of the efficacy of resolution.<sup>29</sup> However, we heard there is need for more information on this and "...whether that is undermining the ombudsman's task of finding systemic improvements as well as resolving individual grievances."<sup>30</sup> The Ombudsman told us:

"...we are able to process more complaints in a different way, but that means that, on paper, it looks as though not as many complaints are being carried forward for formal investigation. However, what we are doing is far more targeted and a much better use of resources. It is clear that, over the past three or four years, the uphold rate for our statutory investigations has gone up, because we are focusing on the complaints on which we think we can make the most difference or in which there is a public interest."<sup>31</sup>

Judy Saddler of the SPSO told us much was achieved at pre-introduction stage but this was not publicised.<sup>32</sup> She spoke of "reflective learning" taking place within organisations. Rosemary Agnew stated "I think that an initiative in that area would help even more"<sup>33</sup> but later said the learning from this stage had been captured.<sup>34</sup>

It is not clear from these remarks the extent to which interventions made at the pre-investigation stage, and their outcomes, are structured, recorded and evaluated. It was said "quite a lot"<sup>35</sup> is being achieved and this represents "...significant impact outcomes for complainants".<sup>36</sup> However the basis for this is not clear to the Committee. The extent to which these interventions are improving public body performance and complaint handling is also unclear.

**The Committee requests details of the action taken at pre-investigation stage, how this is recorded and the outcomes this has achieved, including where available feedback from complainants.**

**The Committee also seeks details of the evaluation of this activity and how this has contributed to improvements within the SPSO and wider public sector (including specific examples).**

## Neutrality

It was mooted there was no objective data to support assertions the Ombudsman acts partially towards public authorities.<sup>37</sup> However, we also recognise this is not the experience of some complainants.<sup>38</sup>

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<sup>29</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 12

<sup>30</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 12

<sup>31</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 7

<sup>32</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 4

<sup>33</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 4

<sup>34</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 17

<sup>35</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 4

<sup>36</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 17

<sup>37</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 9

<sup>38</sup> Written submission from [Robert Martin](#) and [Andrew Harvey](#)

Some thought the Ombudsman failed to adequately pursue public bodies for information, relied on the complaints process of public bodies and accepted assurances of improvement without confirming this to be the case.<sup>39</sup>

The lack of expertise in the office of the SPSO to consider complex technical detail (such as medical information) was also highlighted as a potential area where there was undue reliance on the word of public bodies.<sup>40</sup>

While we heard that experience will be viewed through the lens of knowledge of the powers of the Ombudsman<sup>41</sup>, we were concerned to hear of evidence being ignored and complaints being inadequately investigated.<sup>42</sup>

Rosemary Agnew said the SPSO held public bodies to account but that revamped complaint handling principles would support them to "...really start pushing people to show how they are delivering against the principles, and not just asking how they do the process."<sup>43</sup> She described how external expertise is engaged to support consideration of a complaint.<sup>44</sup>

International comparisons highlighted how the SPSO could better communicate its decisions to complainants.<sup>45</sup> We were pleased to hear that the SPSO:

"...recognise how this is communicated is important so that people don't feel ignored or that their complaint has been trivialised. Since we introduced the approach, we have changed the way we communicate decisions to make them clearer and continue to keep this under review."<sup>46</sup>

**If the SPSO is confident bias towards public authorities does not exist, then at best it appears some complainants do not feel they have sufficient data-based justification as to why it has not upheld their complaints. The Committee welcomes the SPSO's acknowledgement it has changed the way it communicates its decisions to complainants and seeks details of the changes that have been made to this and feedback received on the new approach.**

## **Time taken to consider complaints**

The latest annual report states:

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<sup>39</sup> Written submission from [Robert Martin](#) and [Leeann Cross](#), [Anonymous](#),

<sup>40</sup> Written submission from [Leeann Cross](#)

<sup>41</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 23 and written submission from [Age Scotland](#)

<sup>42</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 22 and 23-24 and [written submission](#)

<sup>43</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 11

<sup>44</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 12

<sup>45</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 25

<sup>46</sup> Written submission from the [Scottish Public Services Ombudsman](#)

“We made great progress on reducing the time taken to allocate new public service complaint cases, this was despite an increase in new complaints of 33%. At the end of the year, non-priority cases were taking 14—16 weeks.”<sup>47</sup>

Some thought there had been improvements in the time taken to consider complaints.<sup>48</sup> Despite this, some still thought response was slow.<sup>49</sup>

It was suggested that further research could be undertaken into the length of time taken to consider complaints.<sup>50</sup> There was a balance to be struck between responsiveness and thoroughness.

The current backlog of complaints was considered to be an issue.<sup>51</sup> Some thought this undermined trust in the process and exacerbated an already stressful, and in some cases, traumatic situation.<sup>52</sup> The focus of resources to ensure timely resolution and response was deemed critical to ensuring public trust in the system.<sup>53</sup>

The Ombudsman acknowledged delays could cause “... frustration, worry and anger”.<sup>54</sup> The SPSO said that budget was focused on “...where the greatest demand is, first contact, (all) complaints, and SWF applications. In this we have limited flexibility and if demand increases, it impacts directly on our capacity to deliver these functions”.<sup>55</sup>

Rosemary Agnew stated that while the number of complaints had risen in recent years, the investigative capacity of the organisation had remained static.<sup>56</sup> She was of the view the organisation had reached the limit of savings to be achieved through efficiency.<sup>57</sup>

**The Committee believes the SPSO must be adequately resourced to ensure its key statutory functions are performed in the context of a rising number of complaints. However, there are clearly a number of areas of the operation of the office which should be reviewed. For example, research into the cause of rising complaints could facilitate a reduction in complaints or expedite consideration of complaints within existing resources.**

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<sup>47</sup> Scottish Public Services Ombudsman (2024). [Annual Report and Financial Statements 2023-2024](#)

<sup>48</sup> Written submission from [West Lothian Council](#)

<sup>49</sup> Written submission from [Dougie Wilson](#), [Robert Martin](#) and [Age Scotland](#)

<sup>50</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 10

<sup>51</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 10 and written submission from [Age Scotland](#)

<sup>52</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Cols 35-36 and written submission from [Leeann Cross](#) and [Anonymous](#)

<sup>53</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 35-36

<sup>54</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 15

<sup>55</sup> Written submission from the [Scottish Public Services Ombudsman](#)

<sup>56</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 8

<sup>57</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 8 and written submission from the [Scottish Public Services Ombudsman](#)

## Accessibility

The Committee was presented with various factors which may present a barrier to individual engagement with the SPSO.<sup>58</sup> Further promotion of the services of the SPSO was considered necessary to extend awareness and use of the system among groups which were underrepresented among complainants.<sup>59</sup> In particular rights based approaches were advocated.<sup>60</sup>

Responses from public bodies highlighted the helpful support and guidance provided by the SPSO to facilitate complaints from specific groups, for example children.<sup>61</sup>

We heard of a need for more support and advocacy services to help people to make complaints about particular services such as education<sup>62</sup> and social care services.<sup>63</sup> Rosemary Agnew said “There is not the same advocacy support available for people to make complaints about care”<sup>64</sup> and later compared this to patient advisory services in the NHS.<sup>65</sup>

The Ombudsman said:

“Value adding work which has greatest impact, such as improving accessibility and driving front-line accessibility, good complaints handling and promoting good practice is severely under-resourced.”<sup>66</sup>

While diversity of complainants was comparatively good, the organisation highlighted concern over lack of complaints from some groups.<sup>67</sup>

**The Committee welcomes the SPSO reflections on what can be done to improve the accessibility of the organisation to different groups. Direct engagement with service users was highlighted. The Committee recognises engagement and promotion work requires resources.**

**The Committee would also welcome details of the SPSO’s view on the accessibility of public body complaints processes, including examples of best practice, and its role in promoting widening access to the complaints system across the public sector.**

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<sup>58</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Cols 32, 40-41 and written submission from [Aberdeenshire Council](#), [Age Scotland](#) and [National Carers Organisations](#)

<sup>59</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 17-18 and written submission from [Aberdeenshire Council](#) and [National Carers Organisations](#)

<sup>60</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 19

<sup>61</sup> Written submission from [Moray Council](#)

<sup>62</sup> Written submission from [General Teaching Council for Scotland](#)

<sup>63</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 27-28 and written submissions from [Age Scotland](#) and [National Carers Organisation](#)

<sup>64</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 9

<sup>65</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 12

<sup>66</sup> Written submission from the [Scottish Public Services Ombudsman](#)

<sup>67</sup> Written submission from the [Scottish Public Services Ombudsman](#)



## Recourse

The SPSO complaints procedure includes a non-statutory independent review system. However, we heard that where individuals are dissatisfied with how the SPSO has considered their complaint, their next alternative to seek resolution is legal action.<sup>68</sup> This can be costly and pose other challenges for some groups.<sup>69</sup> An appeal process to the Sheriff Court akin to the Children’s Panel appeal process was proposed by Accountability Scotland.<sup>70</sup>

## External evaluation

The SPSO is an independent office supported by the Scottish Parliament Corporate Body and is subject to scrutiny by the Scottish Parliament. This session, this has been carried out by the Local Government, Housing and Planning Committee.

While some deemed this level of oversight sufficient<sup>71</sup>, it was suggested an independent review of the work of the Ombudsman should be conducted.<sup>72</sup> We note this is the subject of a Petition currently being considered by the Citizen Participation and Public Petitions Committee.<sup>73</sup>

The Ombudsman provided an explanation of the current system of internal and external review, as well as the options for how an independent external review could operate.<sup>74</sup> She noted such a review would be attractive but also noted the costs involved and the importance of defining the remit and outcomes from a review. The role of the independent customer service complaints reviewer was also highlighted.<sup>75</sup>

The SPSO suggested it may be time to reflect on the way the Scottish Parliament scrutinises its work, as local authority complaints no longer represent the majority of the caseload.<sup>76</sup> It was also proposed that the Finance and Public Administration Committee could have a larger role in scrutinising the accountable officer role of the SPSO.<sup>77</sup>

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<sup>68</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 26, 28 and 29

<sup>69</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 28 and 29

<sup>70</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 26

<sup>71</sup> Written submissions from [Aberdeenshire Council](#) and [Moray Council](#)

<sup>72</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 7 and 45 and written submission from [Anonymous](#)

<sup>73</sup> [Petition PE1964 : Create an independent review of the Scottish Public Services Ombudsman](#)

<sup>74</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 20-21

<sup>75</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 19

<sup>76</sup> Written submission from the [Scottish Public Services Ombudsman](#)

<sup>77</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 23 and written submission from the [Scottish Public Services Ombudsman](#)

## Powers of the Ombudsman

While there were expressions of satisfaction with the powers of the Ombudsman<sup>78</sup>, the general view appeared to be these were limited and should be reviewed with a view to extension and modernisation.<sup>79</sup>

The Ombudsman proposed the following areas:

- “Own Initiative Investigations in the public interest;
- The ability to take complaints in any format (not just writing). This also extends to SPSO having to use “in writing” as the predominant form of communication in giving of reasons and in decisions;
- Simplified reporting powers;
- Improved information sharing powers;
- Statutory powers to require information at all stages of the consideration of a case (currently this only applies when we have formally accepted a complaint for investigation under the terms of the SPSO Act).<sup>80</sup>

### Own initiative investigations

We heard the powers of the Ombudsman could be strengthened with a power to initiate investigations.<sup>81</sup> This would allow the Ombudsman to bring together themes of individual complaints and consider these in a strategic, overarching manner.<sup>82</sup> It was noted there are groups who do not access the functions of the Ombudsman and that investigatory powers were necessary to improve outcomes for such groups.<sup>83</sup>

It was thought this could require more resource and a new approach to allocation of that resource.<sup>84</sup> The Ombudsman told us she too considered this a desirable power.<sup>85</sup>

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<sup>78</sup> Written submission from [West Lothian Council](#)

<sup>79</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 21 and 34 and written submission from [Andrew Harvey](#) and [Anonymous](#)

<sup>80</sup> Written submission from the [Scottish Public Services Ombudsman](#)

<sup>81</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 15, 27 and 42-43 and written submissions from [Leeann Cross](#), [Aberdeenshire Council](#) and [National Carers Organisations](#)

<sup>82</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 27

<sup>83</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 16 and [Official Report](#), 10 December 2024, Col 3 (female prisoners)

<sup>84</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 15 and 27

<sup>85</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 3

## **The ability to take complaints in any format (not just writing)**

A further issue of the form in which material is presented arose. We heard the SPSO can only accept complaints in written form.<sup>86</sup> The Committee is concerned this does not reflect the needs of all customers. For example, we heard about digital exclusion presenting a barrier to engagement with the Ombudsman.<sup>87</sup> The Ombudsman said this should be amended.<sup>88</sup> However, the 2002 Act provides that:

“A complaint must be made in writing or electronically unless the Ombudsman is satisfied that there are special circumstances which make it appropriate to consider a complaint made orally.

It is for the Ombudsman to determine whether a complaint has been duly made.”<sup>89</sup>

**The Committee agrees with the need to make the process of making a complaint as easy and accessible as possible, recognising the journey required to get to the point of interaction with the SPSO.**

**However, the Ombudsman already has the power to accept complaints orally in circumstances she considers appropriate. Furthermore, the Ombudsman decides whether a complaint has been “duly made”. The Committee agrees legislative clarity to modernise this provision would be helpful but also asks the SPSO to reflect on what more the office could do within its current powers.**

## **Improved information sharing powers**

It was suggested the Ombudsman should have the power to share information with other organisations.<sup>90</sup> An example of sharing any human rights issue unearthed through investigations with the Scottish Human Rights Commission was offered.<sup>91</sup>

## **Statutory Powers to require information at all stages of a case**

The SPSO said its current power “...only applies when we have formally accepted a complaint for investigation under the terms of the SPSO Act.”<sup>92</sup>

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<sup>86</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 3 and written submission from the [Scottish Public Services Ombudsman](#)

<sup>87</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 31 and 40 and [Official Report](#), 10 December 2024, Col 9

<sup>88</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 3

<sup>89</sup> Scottish Public Services Ombudsman Act 2002, [section 10\(3\) and \(4\)](#)

<sup>90</sup> Written submission from the [Scottish Public Services Ombudsman](#)

<sup>91</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 45

<sup>92</sup> Written submission from the [Scottish Public Services Ombudsman](#)

Examples provided to the Committee appear to show public authorities failing to comply with requests for information.<sup>93</sup> It was suggested the Ombudsman should have the power to compel bodies to provide information needed.<sup>94</sup> The Ombudsman said the SPSO did have such a power (including resource to the Court of Session) but it had not been used "...because organisations have always complied with recommendations to our satisfaction."<sup>95</sup>

We also heard the remit of the SPSO and the organisations which fall with the jurisdiction should be reconsidered.<sup>96</sup>

Review of the powers of the Ombudsman in the 2002 Act and subsequent legislation has been discussed for some time. The Ombudsman has identified areas where she thinks updates are necessary and stakeholders have called for additional powers.<sup>97</sup> The most recent annual report suggests the SPSO "...continued to work with the Human Rights Bill team to promote including powers for the SPSO to undertake Own Initiative Investigations".<sup>98</sup> However, although included the previous year<sup>99</sup>, a Human Rights Bill was not included in the Programme for Government for 2024/25.<sup>100</sup> The legislative vehicle for updating the powers of the Ombudsman is therefore unclear.

**The Committee believes the powers of the Ombudsman should be reviewed and that legislative change in this area would drive many of the improvements stakeholders, and the SPSO, have called for.**

## Functions of the Ombudsman

The SPSO functions have expanded since the 2002 Act which established the office. These now include:

- Publication of a model complaints handling procedure<sup>101</sup>;
- Independent reviewer of the Scottish Welfare Fund (SWF)<sup>102</sup>; and
- Independent National Whistleblowing Officer<sup>103</sup>.

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<sup>93</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 24 and 29 and written submission from [Anonymous](#)

<sup>94</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 45

<sup>95</sup> Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 14

<sup>96</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 34

<sup>97</sup> Written submission from the [Scottish Public Services Ombudsman](#)

<sup>98</sup> Scottish Public Services Ombudsman (2024). [Annual Report and Financial Statements 2023-2024](#)

<sup>99</sup> Scottish Government (2023). [Programme for Government 2023-2024](#)

<sup>100</sup> Scottish Government (2024). [Programme for Government 2024-2025](#)

<sup>101</sup> Public Service Reform (Scotland) Act 2010.

<sup>102</sup> [Scottish Welfare Fund](#)

<sup>103</sup> [Independent National Whistleblowing Officer](#)

Some thought diversification of the functions of the SPSO had not impacted negatively on performance of core functions.<sup>104</sup> However, some, including the Ombudsman herself, suggested this presented resource issues.<sup>105</sup>

It was considered there was potential for issues with the Scottish Welfare Fund reviewing power. It was particularly noted this allowed for a “binding decision” by the Ombudsman which was at odds with the “...basic principles of ombudsmen, which is that they make recommendations and not binding decisions.”<sup>106</sup>

It was also considered that the Ombudsman function should not be expanded by arising requirements with no other obvious home. Professor Mullen told us “...the ombudsman should be able to focus on its principal functions”.<sup>107</sup>

## **Support improvement of public body complaints procedures**

We heard evidence on how the role of the SPSO included driving improvement in public body complaint handling procedures. West Lothian Council told us the SPSO was accessible for support and guidance, while also maintaining a separation between its roles in sharing best practice and investigation.<sup>108</sup> Aberdeenshire Council were similarly positive about the SPSO work on guidance for public bodies.<sup>109</sup>

West Lothian Council said its own complaints procedure was fulfilling “...its duty of ensuring the complaints process is accessible to all sections of our community”.<sup>110</sup> They said the role of the SPSO in this was limited.

However, public body complaints procedures were described to us as “adversarial” with an imbalance of power in favour of the public body (particularly on information logging).<sup>111</sup>

**The Committee notes the positive tone of evidence from public bodies on engagement with the SPSO and the support provided to improve complaints handling systems. Again, we are concerned at the apparent contradiction between this position and the experience of those seeking to make complaints to public bodies and the SPSO.**

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<sup>104</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 5 and Written submissions from [West Lothian Council](#) and [Moray Council](#).

<sup>105</sup> Written submission from [Leeann Cross](#) and Local Government, Housing and Planning Committee, [Official Report](#), 10 December 2024, Col 8

<sup>106</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 6

<sup>107</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 6

<sup>108</sup> Written submission from [West Lothian Council](#)

<sup>109</sup> Written submission from [Aberdeenshire Council](#)

<sup>110</sup> Written submission from [West Lothian Council](#)

<sup>111</sup> Local Government, Housing and Planning Committee, [Official Report](#), 26 November 2024, Col 31-32