

Written submission from the Scottish Public Services Ombudsman, 23 January 2025

SPCB Supported Bodies Landscape Review Committee

I refer throughout this document to other documents. I have not attached them or included links but would be very happy to provide them.

Measures, outcomes and improvements

The committee asked:

- how do you measure and demonstrate outcomes?
- how are these outcomes selected and prioritised?
- what improvements could be made to this process?

Measures

What we measure

Like all public bodies, the SPSO is subject to statutory reporting measures. For SPSO, these fall broadly into two areas:

- corporate performance relating to how we run the organisation, for example health and safety, climate change, equalities and financial reporting, etc., and
- performance in relation to the delivery of statutory functions as Ombudsman, INWO and Review of SWF Applications (as explained in the introduction).

This response focuses on the second of these two areas, (although I touch on corporate performance in relation to shared services later in this submission).

Reporting on 'Ombudsman functions' includes the following (which are not mutually exclusive).

- SPSO's performance in how we handle Public Service Complaints (PSC), Whistleblowing Complaints (WBC), and Scottish Welfare Fund reviews (SWF reviews)
- reporting on our monitoring and promotion of complaint handling at local level,
- which in turn supports public service improvement both in relation to individual public bodies subject to complaints, and across the public sector through sharing learning from casework, support activity, stakeholder engagement and direct intervention

I will not list everything we measure and report on in this document but instead provide a flavour of our approach.

Performance and quality indicators

We report against key performance indicators. These are largely data and statistically based (e.g. X cases in Y days). There are KPIs for every business area. Their value lies in being indicative of 'what' we have done and how long it took us. They are also a vehicle to examine and explain trends over time.

Other indicators are more qualitative, and give context to, and explanation of the statistical measures. These include reporting on performance when viewed through a quality and accountability lens. For example, outcomes from our internal quality assurance, examining data from reviews of decisions (such as how often a review results in a decision being changed, and internal audit (carried out by an external audit company, particularly in relation to corporate functions).

Benchmarking against other organisations. For example, complaints volumes, responding to Freedom of Information Requests, and HR data.

Demonstrating outcomes and impact

This is again, a mix or combination of statistical, qualitative and explanatory information. For example (again, just a flavour)

- The outcomes of PSC and WB complaints, e.g. not investigated for jurisdictional reasons; upheld/ not upheld/ partly upheld.
- The outcome of SWF reviews, e.g., changing a Council decision
- The number and type of recommendations with an explanation of what that might indicate about public services.
- Summaries of case investigations (not reported in a full public report) which include a brief overview of the issue, outcome and details of recommendations made.
- Detailed reports of PSC and WB complaints investigations where there is significant wider learning, and it is in the public interest.
- Summaries of Scottish Welfare Fund cases where I see trends or have concerns.

While individual casework demonstrates impact for individuals, the wider impact comes from how we use it ourselves. Two significant areas of policy and activity in this respect are my Support and Intervention Policy¹ and Data Strategy.

¹ The Support and Intervention Policy sets out when we use our statutory powers to promote improvement by encouraging good practice or addressing poor performance by an organisation under our jurisdiction. It offers clarity to public bodies regarding what to expect from us, how and when.

My data strategy (which is constantly evolving) helps us identify themes, trends and gaps. The way we have used this is:

- to inform us about where we should direct our limited support and training resources to support wider learning and improvement in complaints and SWF applications handling at local level.
- to inform us where we may need to take more directive action under complaints standards and oversight powers (in line with my Support and Intervention Policy).
- to identify and report on themes and issues identified through casework. E.g. my recent Spotlight report on the SWF and the impact of the High Most Compelling criteria.
- to identify and inform where I should focus stakeholder engagement to promote and drive improvement.

My annual report and account is also a key vehicle in reporting on the performance and impact of delivery of statutory functions.

Selection and prioritisation of measures

Selection of measures to report against is through balancing a number of factors:

- some are statutory/ mandatory, (usually corporate measures)
- do they enable SPSO to measure and demonstrate performance against delivery of my strategic and business plans?
- is the collection, collation and analysis of the measures proportionate when balancing cost with value added?
- are they necessary to enable us to manage performance internally, and
- do they support wider learning and improvement.

While I report on each area of business, there is a considered approach taken, and measures are kept under review.

Improvements

While I track and report against a range of measures, there are gaps and obstacles that if addressed could enable greater impact.

- The SPCB budgeting process. This limits my ability to demonstrate performance against function and to use my resources flexibly.
- I am constrained legislatively in what information I can make public. My casework reporting is limited to cases where I have begun a statutory investigation. This means my published reports/ summaries are less likely to include cases where we have identified good practice. This is because good

practice is often a positive reason not to initiate a statutory investigation. While we can share this information in general terms (and do), the limitation is not supportive of wider learning, openness and transparency.

- I am limited in what I can share with other organisations to enable both greater learning and more integrated approaches to addressing service user complaints and concerns.
- There is no single national repository for complaints data. While some sectors have a process to collate this (notably health), the SPSO and public bodies generally lack the resource to assess, collate and analyse national data on complaint handling. This means that from an oversight and monitoring perspective, identification of national issues to achieve collective improvement and impact is limited.

The other significant area is not related to measures directly but has significant impact on both outcomes I can achieve and the value I can add; that is the ability to conduct investigations under my own initiative in the public interest. I am limited to investigating the complaints made to me. While I can 'research' emerging themes and trends, without own initiative powers I cannot require organisations (and individuals if necessary) to provide me with information.

Parliamentary Committee Scrutiny

The Committee asked:

- How has Parliamentary committee scrutiny worked in practice?
- how has this impacted performance?
- How could scrutiny be improved and/or standardised?

I appear annually before the Local Government, Housing and Planning Committee. In advance of this, I provide performance information for the Committee in relation to my last laid Annual Report. I also provide a current year-to-date update highlighting progress, significant changes, or development.

My view is this works well and holds me publicly to account in relation to my performance as 'Ombudsman' The Committee, Clerks and SPICE have developed understanding of my role, and the public evidence session demonstrates that they question, challenge and on occasions criticise the SPSO. The Committee may also request additional written updates.

While the approach is professional, it is inquisitorial, and my perception is that they appropriately publicly challenge and hold me to account in overall terms, but I question whether they always have the time and capacity to challenge me as much as they would like to given my broad range of functions. Although that may be a matter for the committee themselves to provide comment on.

While there may be a temptation to encourage other committees (e.g. Health and Care) to scrutinise my performance in specific areas, it is not clear whether the

additional committee time would add value over and above direct ad hoc contact as happens now.

Given the very different remits of the Parliamentary Supported Bodies, there is likely no suitable single scrutiny approach to assess all aspects of performance. There may be scope for Parliament to reflect on how PSBs, specifically as accountable officers, are scrutinised. We are accountable to the SPCB for this element of our performance (including performance against budget and efficiency), assessed against the Scottish Public Finance Manual. Parliament may wish to consider whether such scrutiny would be more appropriately considered for all of us, by the Finance and Public Administration Committee. This would hold us all accountable to a single committee for this part of our work and could provide a more direct link between budgets and organisational governance and management.

Parliament may also wish to consider whether there needs to be a clearer mechanism to initiate reform of PSBs. Despite broad support from the LGHPC, there are a number of areas where reform of my office is now needed, and I have argued for a review of my legislation throughout my term in office but there seems to be no clear Parliamentary route through which this can be easily initiated.

Working with other public bodies

The Committee asked:

- How do you work in practice with other public bodies or services and what are the main barriers faced?
- How can these barriers be overcome to improve efficiency and reduce costs while ensuring that shared services maintain high standards of quality and accountability?

Working with other Parliamentary Supported Bodies

Shared services

I define shared services as 'Consolidation of functions that occur separately within PSBs into one single function delivered by one organisation as a service to others.'

Shared services at the moment cover two broad areas, shared accommodation, and shared corporate services.

As the largest of the office holders, I am the leaseholder for Bridgeside House. The service provided to three other office holders includes facilities management, health and safety and budget management. In efficiency terms, shared accommodation delivers the greatest returns as there are knock-on savings related to the cost of running one site rather than four.

This has evolved over time, and my office now provides, in addition, corporate shared services to two office holders. It is broadly the same for both and includes, for example finance administration (not budget management) and HR. While there are modest financial savings, the efficiencies gained depend on perspective. For a

small, organisation they are significant, overall, they are small in the context of the Parliament's budget (as are our collective budgets).

Greater gains come in the efficiency and quality of the service being delivered, because the service offers opportunities for concentrating expertise. For example, a small organisation might employ one person whose role covers HR, finance, facilities and so on. Under the current arrangements, the smaller organisations gain by having access to HR support from a fulltime, qualified HR manager, who has admin support. In reality, the overall cost savings came from being able to utilise SPSO staff with a small increase in admin support, rather than a smaller organisation having to appoint a more senior full-time person.

There are sensitivities to this as the focus is on corporate functions and must not, in any way, compromise our respective independence in the delivery.

The extension of shared corporate services is actively being considered by the office holders, but there are practical issues such as where you have one person with many functions, the organisation can't simply reduce the role. It should also be remembered that sharing a service does not remove costs entirely, and the effort of very modest savings needs to be balanced with the value it gives over time (accepting that when resources are scarce, every effort should be made to reduce costs where possible).

Wider working

SPSO work with a range of external organisations where we can, on areas of mutual interest. This includes the Parliamentary Supported Bodies. That is made more complex for my office because of legislative remits and limitations, such as the ability to share data.

In terms of sharing the wealth of data that I hold about public service performance, I can only share with named bodies for named purposes. This does not include any PSBs. This limits both my ability to support their work and, in turn, my ability to draw on their experience and expertise to support my work. This is not an issue that is limited to other PSBs, I cannot easily share with a public inquiry or with the fiscal service or indeed with any regulator or scrutiny body who is not named.

Creating new Commissioners and Models for Commissioners

The committee asked:

- Criteria were developed by the Session 2 Finance Committee to help guide decisions on whether to create a new commissioner. These criteria (Clarity of Remit, Distinction between functions, Complementarity, Simplicity and Accessibility, Shared Services and Accountability) are considered by the Scottish Government and Members when proposing Commissioner related bills. Are these criteria currently adequate and how could they be improved?
- What should the optimal model and structure for commissioners look like, and what key features should it include?

The criteria established by the session 2 Finance Committee were proposed by the first Ombudsman, Alice Brown, in 2006. While the intent and essence of them is still relevant, the context in which they are applied has changed significantly and there is now an opportunity to update and modernise them.

There are additional criteria that could be considered:

- the function or body should either logically sit with the existing functions of a current PSB, or be a role that requires the direct relationship with Parliament either because of the nature of the role and/ or international standards.
- what is the demonstrable gap in service/ oversight that the role will address.
- what other options for achieving independence from government have been explored and why are they not suitable.

The rationale behind these suggestions is to promote more scrutiny of why other models are not appropriate, or don't exist, rather than defaulting to an PSB when a body requires some independence of government. There is a fundamental difference between a body which requires independence and one which is fulfilling a function that should sit with a Parliamentary body.

While I appreciate setting a standard or optimal model for Commissioners could be seen as a way to support that process, the variety of functions mean that it not something that would be easy to establish. For example, the Ombudsman model is well-established internationally and is one for which there are international standards. A key element of those is the need for the Ombudsman to be accountable for decision-making and that means it is usually an office held by an individual.