

Citizen Participation and Public Petitions Committee  
Wednesday 5 March 2025  
4th Meeting, 2025 (Session 6)

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

### Introduction

**Petitioner** Accountability Scotland

**Petition summary** Calling on the Scottish Parliament to urge the Scottish Government to create an independent review of the SPSO, in order to:

- investigate complaints made against the SPSO;
- assess the quality of its work and decisions; and
- establish whether the current legislation governing the SPSO is fit for purpose.

**Webpage** <https://petitions.parliament.scot/petitions/PE1964>

1. [The Committee last considered this petition at its meeting on 15 May 2024](#). At that meeting, the Committee agreed to write to the Scottish Government and the Scottish Parliament Finance and Public Administration Committee.
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 a new written submission from the Scottish Government which is 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 26 October 2022](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 36 signatures have been received on this petition.
8. The [Local Government, Housing and Planning Committee](#) undertakes annual scrutiny of Ombudsman, Regulators, Commissions and Commissioner accountable to the Committee.

9. As part of its work this year, the Committee held a call for views on the Scottish Public Services Ombudsman, took evidence from stakeholders (including Accountability Scotland) and then took evidence from the Scottish Public Services Ombudsman.
10. In a recent letter, the Local Government, Housing and Planning Committee wrote to the Scottish Public Services Ombudsman to set out its observations and recommendations following its work. [Information about the Local Government, Housing and Planning Committee's work on the SPSO can be found on the Scottish Parliament website.](#)
11. Since this petition was last considered, the [SPCB Supported Bodies Landscape Review Committee](#) was established. Its remit is to consider, review and report on the Scottish Parliamentary Corporate Body (SPCB) supported bodies landscape in accordance with the Parliament's resolution of 31 October 2024 and develop a clear strategic framework to underpin and provide coherence and structure to the SPCB supported bodies landscape by the end of June 2025, including:
  - a) creating effective accountability and scrutiny mechanisms
  - b) formalising strengthened criteria for creating new supported bodies; and
  - c) identifying and addressing any barriers to sharing services and offices.
12. [The SPCB Supported Bodies Landscape Review Committee took evidence from the SPSO, Rosemary Agnew, at its meeting on 6 February 2025.](#)

## **Action**

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

**Clerks to the Committee  
February 2025**

## **Annexe A: Summary of petition**

### **PE1964: Create an independent review of the Scottish Public Services Ombudsman**

#### **Petitioner**

Accountability Scotland

#### **Date Lodged**

7 September 2022

#### **Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to create an independent review of the SPSO, in order to:

- investigate complaints made against the SPSO;
- assess the quality of its work and decisions; and
- establish whether the current legislation governing the SPSO is fit for purpose.

#### **Previous action**

We have met Bob Doris, MSP and Sir Paul Grice (of the Scottish Parliament).

We have met the SPSO, presented evidence of what, in our view, were false statements and contradictions of statutory policy, evidence and witnesses. The SPSO states it can choose which evidence it uses.

In November 2014 the Public Petitions Committee suggested a review of the activity of the SPSO, but the Local Government and Regeneration Committee argued a review of their work was premature at that time.

#### **Background information**

Since its inception in 2002 there has been no independent oversight of the SPSO, despite mounting complaints against it. The SPSO has always investigated all complaints against itself.

Almost every online review gives it the lowest rating, with common themes of bias, illogical arguments and evidence being ignored or contradicted.

Cases handled by the SPSO include children harmed in schools or other settings, medical negligence, mistreatment of the elderly and those in prisons, wrongful dismissals and loss of business. They can be highly sensitive cases with serious implications for the individuals and families involved, and for communities if services are at fault and their failings continue unchecked.

The Scottish Public Services Ombudsman Act 2002 states:

“The procedure for conducting the investigation is to be such as the Ombudsman thinks fit.”

Based on our reading, the wording of the Act allows the SPSO to cherry-pick evidence, ignore witnesses and repeat the public body’s unsupported claims. The SPSO does not address why evidence of wrongdoing can be ignored.

The aim of this petition is to protect the public and improve the delivery of justice and public services in Scotland.

## **Annexe B: Extract from Official Report of last consideration of PE1964 on 15 May 2024**

**The Convener:** Our next petition is PE1964, which was lodged by Accountability Scotland. It calls on the Scottish Parliament to urge the Scottish Government to set up an independent review of the Scottish Public Services Ombudsman in order to investigate complaints made against the SPSO, to assess the quality of its work and decisions, and to establish whether the current legislation governing the SPSO is fit for purpose.

We have considered the petition before; colleagues may remember the submissions. The petitioner has brought to our attention the fact that the ombudsman stated her support for a review of the legislation governing the SPSO during the Local Government, Housing and Planning Committee's scrutiny of the SPSO's annual report. Her view is that the current legislation is not

“as adaptable as it should be, for the different ways of delivering services and making complaints.”—[Official Report, Local Government, Housing and Planning Committee, 5 December 2023; c 16.]

It is worth noting that while the ombudsman has stated her support for a review of the legislation, the petitioner is also calling for an investigation into complaints made against the SPSO and an assessment of the quality of its work. From different starting positions, the ombudsman and the petitioner are seeking such a review.

We are aware, and it is important to note, that the SPSO's functions are independent of the Scottish Parliamentary Corporate Body—which met the ombudsman recently—ministers and MSPs to ensure that there is no interference in the decisions that are made.

We are in the slightly unusual position that there has never been a review of the ombudsman. In previous evidence, there was an expectation that a review would take place at some point of the way in which the arrangements are structured. The Government seems reluctant to undertake the review that the petitioner would like, but the ombudsman herself is quite open to the idea that a review should take place.

I wonder whether Mr Torrance has a burning suggestion for us.

**David Torrance (Kirkcaldy) (SNP):** In the light of the ombudsman's comments, would the committee agree to write to the Scottish Government to ask whether it will consider undertaking a review of the Scottish Public Services Ombudsman Act 2022?

**The Convener:** Are we content to do that?

**Fergus Ewing:** I add to that suggestion, with which I agree, the fact that any review must be an independent review. It cannot be done by the SPSO, nor should it be done by the Scottish Government. It should be done by somebody who is entirely independent.

Given that we are supposed to be in a time of fiscal difficulty and pressure, I respectfully ask whether the public get any gain from having an SPSO. That is no imputation on the professionalism of the SPSO, but it is restricted in its powers and remedies. I no longer recommend to any constituents that they go to the SPSO because, first, those who go to the SPSO do not get anywhere; secondly, they do not get a result; and, thirdly, they often end up even more fed up than they were in the first place because they feel that the whole process is, frankly, pointless.

Those sound like harsh words, but should we not be looking to see whether we can prune back some of the public money that is spent on such things and put it into the health service, for example?

**The Convener:** Given what you have said, I wonder whether we might also draw the petition to the attention of the Finance and Public Administration Committee, which is currently undertaking a formal inquiry into office-holders, as part of which it is looking at the whole sweep of the office-holding positions. I know that the corporate body is due to give evidence to that committee, and I have previously—on behalf of the corporate body—raised issues of concern that the corporate body has had when I have presented the Parliament's budget to the Finance and Public Administration Committee. It might be useful for that committee to be aware that the petition exists and that the ombudsman herself is keen on a review, although the Government does not seem minded to pursue one.

Are members content that we take that approach?

**Members *indicated agreement.***

## **Annexe C: Written submission**

### **Scottish Government written submission, 13 June 2024**

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

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

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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**