

PERTH AND KINROSS COUNCIL**Scrutiny Committee – 10 February 2016****SCOTTISH PUBLIC SERVICES OMBUDSMAN REPORT AND
RECOMMENDATIONS ARISING FROM COMPLAINTS IN 2014/15****Report by Head of Legal Services****PURPOSE OF REPORT**

This report provides information about investigation reports, decision letters, and recommendations published by the Scottish Public Services Ombudsman (SPSO) during 2014/15 and also presents summarised information about the complaints received and determined in total by the SPSO about the Council and all other Local Authorities from Financial year 2014/15.

1. BACKGROUND / MAIN ISSUES

- 1.1 The Scottish Public Services Ombudsman Act 2002 and the Public Services Reform (Scotland) Act 2010 give the Scottish Public Services Ombudsman (SPSO) the authority, in defined circumstances, to investigate complaints about Scottish public authorities, including local authorities.
- 1.2 The SPSO reports on complaints in two different ways. If he considers that the complaints he has investigated are of national significance he lays these reports before the Scottish Parliament. All other complaints are reported by decision letters sent to local authorities and published on the SPSO website and can be found at <http://www.spsso.org.uk/our-findings> The SPSO did not issue any reports in relation to Local Authorities during 2014/15.
- 1.3 This report covers the 47 decision letters, (detailing 70 points of complaint) and the 13 recommendations made by the SPSO about the Council published from April 2014 to March 2015.
- 1.4 The SPSO also provides statistical information each year about the complaints received about the Council in comparison to all local authorities. This report analyses any implications arising from the figures for 2014/15.
- 1.5 The Chief Executive receives copies of all SPSO Decision letters and discusses their outcomes and any recommendations made with Executive Directors.

**2. DECISION LETTERS PUBLISHED AND RECOMMENDATIONS MADE BY
THE SPSO BETWEEN APRIL 2014 – MARCH 2015**

- 2.1 The tables below list the decision letters published by the SPSO in regard to complaints made against Perth & Kinross Council between April 2014 and March 2015, and the complaints upheld or not upheld by the SPSO during the same period.

- 2.2 The Ombudsman closed a number of cases after starting his initial investigation, concluding that they could not be taken forward. Reasons for closure vary, for example insufficient information supplied by the complainant, the matter being outwith the SPSO's remit or the complaint had not been through the Council's own complaints process.
- 2.3 In 2014/15 the Council dealt with 100 Stage 2 complaints containing 407 points of complaint at the final stage of its complaints process. This compares to 95 complaints containing 327 points of complaint during 2013/14.

The SPSO issued decision letters for approximately 15% of these cases in 2014/15 compared with 25% during 2013/14.

Case Ref.	Description	Complaint Points	Complaint Points Upheld
N/A	Complaints to the SPSO not duly made or withdrawn	3	Closed by SPSO
N/A	Outcome of complaints not Achievable by the SPSO	8	Closed by SPSO
N/A	Out of SPSO jurisdiction	5	Closed by SPSO
N/A	Premature complaints to SPSO	16	Closed by SPSO
201201733	HCC – Client Charging Issue	1	1
201300398	TES – Planning (Preservation Orders)	5	0
201300746	ECS – Special Needs Issues	2	0
201301000	TES – Planning Application	4	1
201301805	HCC – Tenancy Issues	1	1
201301935	TES – Enforcement Issues	2	0
201302093	HCC – Antisocial Behaviour	1	0
201304169	TES – Planning Application	3	1
201304322	TES – Planning Application	2	0
201304742	HCC – Staff Issues	5	0
201305119	TES – Planning Application	4	0
201305247	HCC – Right To Buy Issues	3	1

201306068	TES – Parking Issues	2	0
201401593	ECS – School Issues	1	1
201404075	HCC – Statutory Repair Notices	2	0
	Total	70	6

2.4 The SPSO are still investigating 2 cases which were started in 2014/15. To date, these cases have been in progress for 182 and 230 working days.

2.5 Of the 6 complaints upheld by the SPSO in 2014/15, 1 had already been upheld by the Council.

SPSO	2012/13	2013/14	2014/15
Complaints Upheld	25	15	6
Complaints Not Upheld	36	21	32
Complaints Closed	9	17	32
TOTAL	70	53	70

2.6 There is no pattern or common factor arising from the upheld complaints which would indicate any change in practice is required, other than continuing to try to improve the overall quality of the Council's complaints handling and responses.

2.7 The Council has accepted all 13 recommendations made by the Ombudsman in connection with complaints against the Council. The recommendations and the actions taken by the Council are listed in Appendix 2

2.8 With the implementation of the new Complaints Handling Procedure (CHP) on 1 April 2013 there is now only one investigation stage. This means that there is greater capacity within the complaints system to cope with increases in complaint numbers. Each Service has its own complaints investigators who undertake most investigations. The Corporate Complaints Team undertake investigations for those complaints that service senior managers have been involved in; require an independent element or a service is experiencing a high volume of investigations. In addition there are nearly 200 officers who have been trained as Investigating Officers in addition to their own roles and who can be asked to undertake a complaint investigation.

2.9 The Corporate Complaints Team ensure that the SPSO Decision letters are circulated to the relevant Service and all the officers who were involved in the original complaint. The team also note the completion date of the

recommendation and ensure that a response is issued to the SPSO within the required time scale.

3 STATISTICAL INFORMATION FOR 2014/15 AND COMPARISON INFORMATION FROM 2013/14

- 3.1 Appendix 2 shows the number of complaints received by the SPSO during 2014/15 both about the Council and about all local authorities. The figures are split by the SPSO's reporting categories.
- 3.2 In 2014/15 the SPSO received 28% less complaints about the Council than the previous year compared to an overall increase in all local authority complaints of 7%.
- 3.3 Most of the SPSO's figures for the Council are within the range of the national average for local authorities. There are several categories where the Council has no recorded complaints, although low national percentages for these categories make it likely that no complaints would be recorded for any given authority.
- 3.4 Three areas - Social Work, Environmental Health & Cleansing, and Finance - show figures lower than the national averages. In 2013/14 there were three areas which were lower than the national averages, Housing, Social Work and Finance.
- 3.5 Three areas – Planning, Housing, and Education show a percentage higher than the national figures. In 2013/14 Planning had a significantly higher percentage and Education a higher percentage than the national figures.

The cases making up these figures have been looked at to identify any underlying pattern or cause. The reason for each complaint is different and no systemic problems were identified.

- 3.6 As can be seen, the SPSO received a total of 10 complaints about the Council relating to planning issues. This compares to 20 in the previous year and is a reduction of 50%.

A total of 2,062 planning applications and a total of 363 objections to these applications were received during 2014/15. This compares to 2.75% of the objections and 0.48% of the planning applications. When viewed this way the number of complaints is not particularly significant.

This conclusion is supported by the SPSO only upholding 2 (9%) of the complaints.

- 3.7 The SPSO also provided information about the numbers of premature complaints they received about local authorities; that is complaints which had not been through the authority's complete complaints process. For the Council, 32% (23% from previous year) of the complaints were premature, which compares to a national average of 41%.

- 3.8 For local authorities overall, the SPSO issued 898 decision letters compared to 850 from the previous year and no reports were issued during 2013/14 or 2014/15. Please note that due to a change in how the SPSO records outcomes the Decision Letter total has changed from that detailed in the 2013/14 Annual Report.

4 SPSO ANNUAL REPORT

- 4.1 The SPSO publishes an Annual Report. The report for 2014-2015 can be found here
http://www.spsos.org.uk/sites/spsos/files/communications_material/annual_report/SPSOAnnualReport2014-15.pdf

This report describes the performance of the SPSO during the year. It also explains that the complaints handling procedure (CHP) is driving up standards and that most Local Authorities are now reporting more consistently and regularly on their complaints.

However the Ombudsman points out that he upholds 50% of complaints that he investigates, all of which have already been investigated by the authority concerned. This work is reported on in more detail in the report.

5. PROPOSALS

There are no proposals in regard to this report.

6. CONCLUSION AND RECOMMENDATIONS

The information about the SPSO findings provides an opportunity to reflect on the effectiveness of the Council's service delivery and complaints handling. The SPSO provides an independent complaints service for the public and, as such, will always receive some complaints about the Council. It is encouraging that the number of complaints upheld by the SPSO has declined and that there is no discernable pattern in the complaints received.

The recommendations from the SPSO were all given appropriate consideration by senior management and action taken as soon as operationally possible.

It is recommended that the Scrutiny Committee:

- (i) Note the position regarding investigation reports and decision letters published about complaints against the Council.
- (ii) Note that all recommendations have been accepted by Council Officers and that appropriate action has been taken in all other cases.
- (iii) Note the comparative information about complaints received by the Ombudsman in 2014/15.

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	No
Corporate Plan	No
Resource Implications	
Financial	No
Workforce	No
Asset Management (land, property, IST)	No
Assessments	
Equality Impact Assessment	No
Strategic Environmental Assessment	No
Sustainability (community, economic, environmental)	No
Legal and Governance	No
Risk	
Consultation	
Internal	Yes
External	No
Communication	
Communications Plan	No

3. Consultation

Internal

- 3.1 Each Service's Complaints Co-ordinator was consulted during the preparation of this report

APPENDIX 1

RECOMMENDATIONS MADE BY THE SPSO IN 2014/15

The table below lists the 13 recommendations made by the SPSO in regard to Decision Letters issued against the Council between April 2014 and March 2015.

Case Ref.	Complaint Description	Decision Issued	SPSO Recommendation	Council Action
201201733	HCC Failed to reasonably assess the risk of doorstep cash payments. Upheld by SPSO	30/05/2014	Recommendation 1 The Council issue the complainant with an apology for the failings identified in his complaint. Date by which SPSO recommended action be completed: 30/06/2014 Recommendation 2 The Council discuss with suppliers the possibility of obtaining duplicate receipts for all cash and cheque payments. Date by which SPSO recommended action be completed: 26/10/2013	Apology letter sent. Date action completed by Council: 15/07/2014. Information supplied to SPSO on Council discussions held with relevant parties. Date action completed by Council: 20/10/2014.
201300398	TES 1. A Council Planning Officer acted incorrectly in giving the complainant advice about what type of building would be appropriate for the site. Not Upheld by SPSO 2. The Council failed to act in an open and transparent manner in not disclosing to the complainant that a temporary	02/04/2014	Recommendation 3 The Council consider incorporating in standard responses to pre-application enquiries that the definitive decision on any proposal could only be obtained by submitting a planning application to the authority. Date by which SPSO recommended action be completed: 27/05/2014	Statement incorporated into the 'Pre-Application Guidance Note' and the 'Pre-Application Response letter template' and is a discussion point on each month's Planning Team meeting agenda. Date action completed by Council: 19/06/2014

Case Ref.	Complaint Description	Decision Issued	SPSO Recommendation	Council Action
	Tree Preservation Order (TPO) was being prepared for a tree on your land Not upheld by SPSO 3. The Council's actions in placing a temporary TPO on a tree on your land were unreasonable. Not Upheld by SPSO		Recommendation 4 The Council ensure that the terms they use to describe the TPO process reflect the current TPO Regulations. Date by which SPSO recommended action be completed: 27/05/2014.	Revised 'Assessment of request for a TPO' document produced. Date action completed by Council: 19/06/2014
201300746	ECS The Council did not ensure appropriate support and help was provided to the complainants son at his school. Not upheld by SPSO	23/10/14	Recommendation 5 The Council consider changing their procedures to allow incident reports to be shared with parents. Date by which SPSO recommended action be completed: 17/12/2014.	The Council gave consideration to this recommendation at the Short Life Working Group on Violence and Aggression meeting. Date action completed by Council: 11/12/2014.
201301935	TES 1. The Council acted unreasonably when dealing with the (alleged) problems with the build Not upheld by SPSO 2. The failed to handle your complaint adequately Not upheld by SPSO	17/07/14	Recommendation 6 The Council should conduct a review of their handling of the complainant's project with a view to identifying ways of improving communication between Planning and Building Control and with applicants. Date by which SPSO recommended action be completed: 17/10/2014.	A joint protocol has been developed to confirm lines of communication within the Service. A new declaration has been added to the Building Warrant application form and Scottish Government asked to consider when updating their 'model' form. Date action completed by Council: 07/10/2014.

Case Ref.	Complaint Description	Decision Issued	SPSO Recommendation	Council Action
			<p>Recommendation 7 The Council consider including information regarding the need to consult with the Scottish Environment Protection Agency (SEPA) on planning decisions relating to developments using septic tanks and soak-aways.</p> <p>Date by which SPSO recommended action be completed: 17/10/2014.</p>	<p>Standard clause included in planning consents and guidelines in place in technical Standards to determine when consultation with SEPA required.</p> <p>Date action completed by Council: 07/10/2014</p>
201304169	<p>TES The Council's response to your formal complaint erroneously stated that planning officers had asked you for elevation drawings. Upheld by SPSO</p>	31/07/2014	<p>Recommendation 8 The Council should remind staff of the importance of keeping a record of telephone calls they have with customers.</p> <p>Date by which SPSO recommended action be completed: 21/08/2014</p> <p>Recommendation 9 The Council should review their response to the complaint that officers did make a request to you for drawings showing the elevation of the proposed development, with an apology and correction, or with details of when and by whom such a request was made.</p> <p>Date by which SPSO recommended action be completed: 21/08/2014</p>	<p>The Council does not consider that this to be reasonable in every case but staff have been advised that it should be done in appropriate circumstances.</p> <p>Date action completed by Council: 10/09/2014.</p> <p>Apology Letter sent.</p> <p>Date action completed by Council: 17/09/2014.</p>
201305119	<p>TES 1. The plans and reports of</p>	28/10/14	<p>Recommendation 10 The Council reviews the information on 'loss of outlook'</p>	Review carried out and revised

Case Ref.	Complaint Description	Decision Issued	SPSO Recommendation	Council Action
	<p>handling were flawed in relation to the orientation of your house to the development site. Not upheld by SPSO</p> <p>2. Planning officers failed to adhere to published guidelines by ignoring Council and BRE guidelines and good practice in not considering the material considerations relating to the overshadowing of your house and garden, and loss of outlook. Not upheld by SPSO</p>		<p>provided to the public, including on the Perth & Kinross website, to ensure that it gives a clear explanation.</p> <p>Date by which SPSO recommended action be completed: 05/01/2015.</p> <p>Recommendation 11 The Council remind staff of the importance of keeping records of all calculations undertaken during the assessment of a planning application.</p> <p>Date by which SPSO recommended action be completed: 28/11/2014.</p>	<p>information produced and website updated.</p> <p>Date action completed by Council: 20/12/2014.</p> <p>Staff advised by email and issue discussed at team meeting held on 01/12/2014.</p> <p>Date action completed by Council: 01/12/2014.</p>
201305247	<p>HCC The Council did not support the complainant about the private water supply to his home. Upheld by SPSO</p>	29/01/2015	<p>Recommendation 12 The Council provide evidence to the Ombudsman that they have taken appropriate steps to provide the complainant, as their tenant, a wholesome water supply.</p> <p>Date by which SPSO recommended action be completed: 30/04/2015</p>	<p>Tests on water supply carried out by Tayside Scientific Services. Results were within legal limits.</p> <p>Date action completed by Council: 23/03/2015</p>
201401593	<p>The Council did not adequately investigate and respond to your complaints about the playground incident involving your son. Upheld by SPSO</p>	23/09/2014	<p>Recommendation 13 The Council apologise for failing to respond effectively to the stage 2 complaint</p> <p>Date by which SPSO recommended action be completed: 23/10/2014</p>	<p>Apology letter sent.</p> <p>Date action completed by Council: 11/11/2014</p>

Complaints Received by the SPSO 2014/15

PKC Service	SPSO Category	PKC				All Local Authorities			
		Complaints to SPSO		%		Complaints to SPSO		%	
		13/14	14/15	13/14	14/15	13/14	14/15	13/14	14/15
Chief Exec / CS	Personnel	0	0	0	0	7	10	0.4	0.6
	Finance	4	3	6.2	6.4	173	174	9.9	9.3
	Legal & Admin	3	0	4.6	0	75	76	4.3	4.0
	Total	7	3	10.8	6.4	255	260	14.6	13.9
ECS	Education	8	8	12.3	17.1	171	174	9.8	9.3
	Recreation & Leisure	0	1	0	2.1	30	24	1.7	1.4
	Total	8	9	12.3	19.1	201	198	11.5	10.7
HCC	Housing	14	16	21.5	34.0	446	468	25.5	24.9
	Social Work	6	1	9.2	2.1	229	253	13.1	13.5
	Total	20	17	30.7	36.1	675	721	38.6	38.4
TES	Building Control	3	1	4.7	2.1	62	61	3.5	3.2
	Consumer Protection	0	0	0	0	8	8	0.5	0.4
	Env. Health & Cleansing	3	2	4.6	4.3	98	148	5.6	7.9
	Land & Property	0	1	0	2.1	28	29	1.6	1.5
	Planning	20	10	30.8	21.3	223	217	12.7	11.5
	Roads & Transport	3	3	4.6	6.4	119	119	6.8	6.3
	Economic Development	0	0	0	0	3	8	0.2	0.4
	Total	29	17	44.7	36.2	541	590	30.9	31.2
Fire & Police Boards		0	0	0	0	3	4	0.2	0.2
National Park Authorities		0	0	0	0	2	3	0.1	0.2
Other		1	0	1.5	0	9	21	0.5	1.1
Welfare Fund - Grants	Community Care & Crisis	0	1	0	2.1	16	26	0.9	1.3
Valuation Joint Boards		0	0	0	0	10	6	0.6	0.3
Subject Unknown or Out of Jurisdiction		0	0	0	0	38	51	2.1	2.7
Total		65	47	100	100	1750	1880	100	100

