

**Complaints about Midlothian Council Services handled by the Scottish Public Services Ombudsman 2015/16****Report by Mary Smith, Director Education, Communities and Economy****1 Purpose of Report**

- 1.1** This report informs Cabinet of the number of complaints submitted to the Scottish Public Services Ombudsman (SPSO) in 2015/16 which related to Midlothian Council services; and identifies any lessons that can be learnt from the outcome of the decisions of the SPSO.

**2 Background**

- 2.1** Complaints are made directly to the Council on a variety of matters which relate to a wide range of services. Each complaint is formally registered and assessed under a set procedure. The complainant will be contacted by the relevant service of the Council with a response. If the complainant remains unsatisfied a further assessment and response is provided, and includes information that if the complainant still remains unsatisfied they can take the matter formally to the SPSO. At its previous meeting the Cabinet approved a report setting out the procedure for reporting complaints progressed to the SPSO.
- 2.2** In 2015/16 the SPSO received a total of 20 such complaints (a reduction from 31 in 2014/15); representing 1.2% of all complaints received by the SPSO in that year. The breakdown by individual Council service is:

Subject Group	Number of Complaints
Housing	8
Planning	5
Social Work	2
Building Standards	2
Finance	1
Welfare fund – Community Care Grants	1
Land and Property	1
	20

A full analysis of SPSO complaints relating to Midlothian in 2015/16 is attached as Appendix 1 to this report.

### 3.0 SPSO Handling and Decisions

- 3.1 In the case of 10 (50%) of the complaints received the SPSO decided them to be premature, in that the Council's complaints procedure had not been fully exhausted prior to the complainant submitting to SPSO.
- 3.2 Of the remainder all but one were determined to be '*not duly made or withdrawn*' or, '*out of jurisdiction*' or, '*outcome not achievable*'. One complaint was partly upheld. The SPSO decision report in relation to this complaint is attached as Appendix 2 to this report.
- 3.3 SPSO complaint 201400946 Midlothian Council:

The following recommendations were received from the SPSO regarding complaint 201400946:

- consider the introduction of a system to confirm with schools that all submitted applications have been;
- logged by the pupil placement department;
- confirm that the difference between deferment and a retained year will be clearly explained in the next revision of their guidance;
- consider the benefits of separating the deferment and retained year application process to avoid confusion in future;
- ensure that accurate information about routes for resolution is provided at an early stage;
- ensure that the reasoning and final decisions reached on such applications are formally recorded; and
- raise awareness amongst staff in the education department of the definition of a complaint and when their complaints handling procedure should be used.

The council have taken the following actions:

- The Admissions policy and procedures have been reviewed.
- The Admissions Policy is now reviewed annually. The updated policy is then shared with relevant school staff to highlight any changes to processes.
- A record of the deferral application is now kept by the school/centre. On receipt of the application centrally, details are now logged by Pupil Placement and an email confirmation of receipt is sent to schools.
- The updated policy now clearly states the difference between deferment and a retained year and the application process for deferment and retained year applications are now separate proforma.
- An updated Complaints procedure was developed to ensure that accurate information about routes for resolution is provided at an early stage. This is now shared annually with relevant school staff.
- In addition to the amended Admissions Policy, we have a robust process in place, we now make sure all applications for deferral or retention are considered by a panel of early years professionals.

This panel includes the School Group Manager Early Years, the Quality Improvement Officer Early Learning and Childcare and the Principal Educational Psychologist or representative. If necessary further information may be requested from the Early Learning and

Childcare setting or/and a visit may be made to the setting by the Quality Improvement Officer Early Learning and Childcare. Decisions regarding the outcome of an application are communicated by letter to the parents/carers within a specified timescale. The parent/carer has the right of appeal if they do not agree with the decision made.

#### **4.0 Lessons to be Learnt**

- 4.1** In addition to the specific issues addressed in paragraph 3.2 above, it is concerning that half of the complaints were identified by SPSO as premature because the Council's complaints procedure had not been completed. Whilst the Council cannot prevent a complainant from submitting to SPSO before these procedures are complete, it would be worthwhile to review the Council's communication with complainants and known prospective complainants, such that they are made as fully aware as possible of the need to exhaust the Council's procedures; so that if the matter is referred on to SPSO, the complainant does not incur the inconvenience and delay of a decision by SPSO not to consider their complaint on the grounds of prematurity.

#### **5.0 Report Implications**

##### **5.1 Resource**

There are no direct resource implications arising from this report.

##### **5.2 Risk**

There is a risk that non-reporting of SPSPD decisions would fail to demonstrate the learning opportunities or potential implications of policy and practice. The proposed action at paragraph 4.1 above would reduce this risk.

##### **5.3 Single Midlothian Plan and Business Transformation**

Themes addressed in this report:

- ☐ Community safety
- ☐ Adult health, care and housing
- ☐ Getting it right for every Midlothian child
- ☐ Improving opportunities in Midlothian
- ☐ Sustainable growth
- ☒ Business transformation and Best Value
- ☐ None of the above

##### **5.4 Key Priorities within the Single Midlothian Plan**

This report does not relate directly to the key priorities within the Single Midlothian Plan, however the proposed action supports the ongoing improvement agenda across a number of the thematic areas.

##### **5.5 Impact on Performance and Outcomes**

Close monitoring of complaints and feedback can highlight opportunities for operational improvements even where the service was initially delivered properly. There will be lessons to be learned where

service failures are identified and remedial action can be taken to ensure that similar mistakes are avoided in the future.

### **5.6 Adopting a Preventative Approach**

The Council is proactively responding to improvement opportunities noted as part of the complaints process.

### **5.7 Involving Communities and Other Stakeholders**

The Council is using SPSO evidence as another form of customer feedback to assist in its responsiveness of service and any necessary re-design for more effective service delivery.

### **5.8 Ensuring Equalities**

There are no equalities issues with regard to this report, although any such matters raised by the SPSO are, and will be, addressed.

### **5.9 Supporting Sustainable Development**

There are no sustainability issues with regard to this report.

### **5.10 IT Issues**

There are no IT issues with regard to this report.

## **6.0 Recommendations**

### **6.1 Cabinet is recommended to:**

- i) note the number of complaints about Midlothian Council services submitted to the Scottish Public Services Ombudsman in 2015/16, and the SPSO's decisions on those complaints;
- ii) note the SPSO decision report in relation to the one complaint against Midlothian Council which was partially upheld and the actions taken in respect of this.
- ii) endorse the action to ensure complainants are fully aware of the need to adhere to the Council's complaints handling procedures prior to submitting a complaint to the Scottish Public Services Ombudsman; and
- iii) refer this report to the Performance, Review & Scrutiny Committee for information.

**Date:** 22 February 2017

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