

Independent Service Delivery Complaints Reviewer Annual Report 2015-16

This report covers the first full year for which ICRS has operated as Independent Service Delivery Complaints Reviewer for SPSO.

Our role is to provide a final external stage for complaints about the service delivered by SPSO under its Service Standards. Where complainants have made a service complaint to SPSO and are dissatisfied with the final response, we review SPSO's handling of matters and give our view on whether SPSO has acted in accordance with its Service Delivery Standards. We aim to provide closure for complainants by giving thorough, independent assessments of the issues, and, if we find any service failures, recommendations for appropriate redress. For SPSO we aim to offer constructive feedback and practical ideas for further improvement.

During the year we received 18 referrals and completed 10 reviews. In 8 cases we did not carry out a review – either because the issues were outside our remit or because the complainant decided not to pursue the matter. At the end of the year there were no cases outstanding.

Our findings in the ten cases we reviewed are set out in the table below. A number of the complaints we reviewed related to SPSO investigations which had been very complex, lengthy and challenging and had therefore thoroughly tested the robustness of SPSO procedures and service standards. On the whole the systems and SPSO staff stood up to the challenge, and the majority of complaint issues were not upheld. We were satisfied that SPSO had dealt with matters appropriately in line with its published procedures and service standards. The complaint issues which we did uphold were in three areas:

- Communication on the progress of investigations and service complaints
- Agreeing the issues for investigation
- Perception of bias.

We made a total of 14 recommendations to SPSO. Of these 6 were for a formal apology, and 8 for SPSO to consider whether there was scope for further improvement in three areas of practice – managing expectations regarding progress of an investigation or review, agreeing issues for investigation, and avoiding creating an impression of bias.

We know that SPSO has given careful consideration to our recommendations and we hope that it has found them practical, relevant and constructive.

We are grateful for the opportunity to attend meetings of the Audit and Advisory Committee and to report directly to the Committee on our work.

We should like to express thanks to SPSO staff for the assistance they have provided – supplying files and responding to questions about policy and procedure. Without this support we would have been unable to deliver an effective, timely, service.

	Complaint issues	Issues upheld	Issues partially upheld	Recommendations
1	5	1	0	3
2	6	2	0	2
3	4	0	0	0
4	10	1	1	2

5	1	0	0	0
6	8	1	0	1
7	2	1	1	2
8	3	1	0	1
9	1	1	0	1
10	1	0	1	2
	41	8	3	14

Ms A raised issues (arising from SPSO's consideration of a complaint about A University) about the time taken (nearly 18 months) by SPSO to complete an investigation, and about bias on the part of the complaint reviewer. We noted that SPSO had already apologised for the delay in finalising the matter, but partially upheld the complaint of delay because we found that SPSO had not managed Ms A's expectations as well as it could have done. We did not find any evidence of bias but recognised that Ms A had had genuine concerns about a possible conflict of interest. We recommended that SPSO should remind staff to be aware any factors that may create an impression of bias.

Ms B raised concerns (arising from SPSO's consideration of a complaint about NHS B) about SPSO's communication regarding the issues for investigation, and also about its response to her service complaint. We found that although SPSO had followed its standard procedure for deciding the issues to be investigated, Ms B had remained unclear why some matters had been excluded from the investigation. We felt that SPSO could have done more to reassure Ms B that the points she had raised would be considered, and that the complaint reviewer had not pre-judged certain issues. We recommended that SPSO should offer a formal apology and also consider if there were any extra steps it could take to make sure that complainants understand the role of SPSO in deciding the issues for investigation. We also upheld a complaint of delay in responding to Ms B's service complaint, but were satisfied that an appropriate apology had already been given.

Mr C asked SPSO to investigate a complaint about Directorate C. He was dissatisfied with SPSO's decision on his complaint and asked for a decision review. He then made a service complaint about the time taken to deal with the decision review and the way in which the review itself was handled. ICRS found that there had been delay in completing the decision review but that SPSO had kept Mr C informed of progress and had explained and apologised for the delay.

Mr D raised concerns about the way in which SPSO had handled the investigations of a complex series of complaints about the Council D, subsequent decision reviews, and also a number of service delivery complaints. We agreed to investigate a total of ten issues. Two related to the investigation process, five to the decision review process and follow-up correspondence, and three to the response to Mr D's service delivery complaints. We concluded, overall, that SPSO had worked hard to understand and investigate some very complex matters. We found that, in the end, and following a comprehensive decision review, Mr D had been largely satisfied with the outcome. However we upheld one service complaint and partially upheld another. The first of these related to the information provided by SPSO about the grounds on which it is possible to request a decision review. We recommended that SPSO should consider expanding its guidance in this area. The second related to communication about the issues for investigation following a handover from SPSO's Early Resolution team to its Investigation team. We suggested, in the light of Mr D's experience, that SPSO should consider whether it needed to take action to make sure that confidence and understanding are maintained following such a handover.

Mr D also complained that SPSO had failed to follow normal procedure in its publication of a decision report on his complaints. Taking into account SPSO's reasons for publishing complaint summaries and its published information on the procedures followed we concluded that SPSO had been entitled to publish the report in the way it had. We were satisfied in addition that SPSO had carefully considered Mr D's concerns on the subject and had offered an appropriate response.

Mr D also raised concerns about SPSO's handling of an enquiry about an SPSO conference. We looked at the way in which the enquiry had been referred within SPSO and were satisfied that this had been reasonable. We concluded, however, that, overall, Mr D's enquiry had been treated differently from other similar enquiries and that this had been unfair. We recommended an apology. In response to our draft report, as well as apologising to Mr D, SPSO offered him a place at the conference. This was a very welcome response which enabled the matter to be resolved to everyone's satisfaction.

Ms E complained (arising from an investigation by SPSO of a complaint about a GP) that SPSO had not responded appropriately to her requests for help to pursue her concerns about SPSO's decision, and that there had been bias in the way in which matters had been handled. She also complained that SPSO had inappropriately addressed the decision review and service complaint together. We found that SPSO had acted with the best of intentions in combining the decision review and service delivery complaint, but that this had reduced the focus on service delivery issues, and led to Ms E not being informed of the option of referring her service delivery complaint to ICRS. In addition we found that Ms E had received the impression that the reviewer who had dealt with the original investigation had been involved in the decision to combine the decision review and service complaint, and that this could have created an impression of unfairness. We recommended that SPSO should acknowledge the service failures and apologise to Ms E. We also suggested that, in the light of our findings, SPSO should look at its system for logging complaints, and its guidance on the handling of decision reviews and service complaints to see if changes might be needed.

Ms F raised concerns (arising from an investigation by SPSO of a complaint about Council E) about the allocation of a complaint reviewer who had dealt with a previous complaint and also about the tone of a letter from SPSO which responded to a decision review request and a service delivery complaint. We were satisfied that SPSO had acted reasonably in allocating a complaint reviewer who had dealt with a previous complaint, and that it had carefully considered Ms F's concerns about the fairness of the investigation that the reviewer had carried out. We found, however, that the letter which dealt with both the decision review and the service complaint could have done more to recognise Ms F's feelings and to explain SPSO's position. We concluded, in view of this, that it was understandable that Ms F should have found the letter's tone somewhat hostile and defensive. We recommended that SPSO should acknowledge that the letter had caused Ms F to feel this way and should apologise.

Mr G raised concerns (arising out of an investigation by SPSO of a complaint about Council F) about failures by SPSO to respond to emails and delay in responding to a service complaint. SPSO had already accepted that there had been technical problems affecting emails from Mr G, and that there had been delay in responding to his service complaint. We recognised this, but felt that SPSO could have done more to investigate and explain the reason why Mr G had on one occasion received an automated acknowledgement to an email but then no further response. We recommended that SPSO should offer an apology for this specific omission, and should consider taking steps to

ensure that, in cases where it will not meet its 20 day target for responding to service complaints, it contacts the complainant in advance, explaining the delay and giving a revised target for response.

Mr H raised concerns (arising out of SPSO's investigation of a complaint about Glasgow Housing Association) about delays - both in the investigation and in responding to his service complaint – and also the fact that SPSO had not been able to intervene in the way he had hoped. ICRS was satisfied that SPSO had followed published procedures and that the time taken to investigate Mr H's complaint had not been unreasonable, but we partially upheld the complaint because we found that SPSO had taken twice as long at its target timescale to respond to the service complaint. We recognised that SPSO had already offered appropriate apologies for the service failings, but reinforced the recommendation made in Mr G's case regarding responses to service complaints.

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