

ANGUS COUNCIL

SCRUTINY & AUDIT COMMITTEE – 25 NOVEMBER 2014

COMPLAINTS RAISED WITH SCOTTISH PUBLIC SERVICES OMBUDSMAN – ANGUS COUNCIL

SHEONA C HUNTER, HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

This report provides information about complaints made to the Scottish Public Services Ombudsman (SPSO) in respect of Angus Council during the period 1 April – 30 September 2014.

1. RECOMMENDATION(S)

It is recommended that the Committee:

- (i) notes the findings of the SPSO; and
- (ii) agrees that the actions taken in respect of the SPSO recommendations are appropriate.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/COPORATE PLAN

This report supports services in the delivery of all outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013 – 2016.

3. INVESTIGATION REPORTS AND DECISION LETTERS – 1 APRIL – 30 SEPTEMBER 2014

This report provides details of all complaints received by the SPSO in respect of Angus Council between 1 April 2014 and 30 September 2014. The SPSO has required the Council to comply with a national complaints handling procedure which was adopted by Angus Council in December 2012 (Report 703/12). The purpose behind a single procedure is to enable councils to compare the number and type of complaints with other local authorities but also to enable councils to learn from complaints and to use them to drive improvement within our service.

Attached at **Appendix 1** is a list detailing all complaints received during this period and for those which were upheld, a section on the lessons learned from the complaint. A further report will be submitted once the SPSO issues its annual review of all complaints across the local authority sector. That further report will inform members of the number of complaints made against each local authority according to listed services.

During the period 1 April to 30 September in total nine letters of complaint were received by the SPSO in relation to Angus Council. Two of those cases remain live with no outcome as yet. Two were upheld and six have not been upheld. **Appendix 1** to this report provides brief details of the complaints and the decisions reached. The Committee is asked to consider the actions taken in respect of the two cases which were upheld and whether the actions are sufficient to prevent further complaints in these areas.

4. RISKS

This report does not require any specific risks to be addressed.

5. FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

NOTE: No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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COMPLAINTS RECEIVED 1 APRIL TO 30 SEPTEMBER 2014

Complaint 1	Ref 2013035772
Date Complaint Received	2 April 2014
Complaint	<ol style="list-style-type: none"> 1. The time taken for the Council to reach a decision on application X (the application) was excessive; 2. The Council showed a bias towards the applicant in their handling of the application; 3. The Council's decisions on whether and what enforcement action was required in relation to unauthorised activities at X were not reasonable; and 4. The Council did not respond reasonably to the complaint of 1 November 2013.
Date decision received	2 April 2014
Decision	<p>Not upheld</p> <p>The Scottish Public Services Act 2002 Section 7(1) - the act states that the SPSO are not entitled to question merits of a decision taken without maladministration by or on behalf of a listed authority in the exercise of a discretion vested in that authority. The SPSO cannot consider complaints simply because a member of the public is unhappy with the eventual outcome; there must be allegation that the Council's actions were contrary to national or local legislation, policy, procedure, guidance etc .</p>
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Complaint 2	Ref 201400018
Date Complaint Received	3 April 2014
Complaint	A child's education had declined and the complainant raised concerns about classroom discipline and the standard of lessons. SPSO asked to carry out a full investigation into the teaching and discipline within the school
Date decision received	3 April 2014
Decision	<p>Not upheld</p> <p>The Scottish Public Services Ombudsman Act 2002 provides a framework for matters that their office can consider. Schedule 4 outlines matters which the Ombudsman must not investigate and section 10(b) states that they must not investigate 'action concerning conduct, curriculum or discipline in any educational establishment under the management of an education authority'. As the complaint relates to these excluded educational issues, it is not one which the SPSO is legally entitled to investigate.</p>
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Complaint 3 (Complaint 2 Re-opened and investigated under same reference)

	Ref 201400018
Date Complaint Received	17 April 2014
Complaint	The Council did not adequately investigate and respond to your complaints about your child's education and dealings with school staff.
Date decision received	17 July 2014
Decision	Upheld Recommendations <ol style="list-style-type: none">1. Apologise for not adequately investigating and respond to your complaint; and2. Investigate further your concerns about your daughter's individual progress and the classroom environment.

What action has the Council taken and what has the Council learned?

Complainer intimated no wish to proceed with further investigation.

Complaint 4	Ref 201400348
Date Complaint Received	29 May 2014
Complaint	Complaint against Social Work services; the complainant was prematurely and wrongly signposted to SPSO by the Council, as the next step in the complaints process should have been for the complainant to be advised of a right to request a review by a Complaints Review Committee.
Date decision received	16 July 2014
Decision	Upheld Arranged for complainant to receive appropriate advice about right to a review and apologise for wrong advice give.

What action has the Council taken and what has the Council learned?

The Complaints Review Committee have met and considered the case, the recommendations of which are to be considered at the next Social Work and Health Committee on 11 November 2014.

Complaint 5 Ref 201400092
Date Complaint Received 2 June 2014
Complaint Complaint against Council's decision to charge for the costs incurred in effecting a Temporary Traffic Regulation Order.
Date decision received 2 June 2014
Decision **Not Upheld**
SPSO have no grounds to consider the matter further as it is not able to intervene or direct a Council on how to manage its budget and provided services.

Complaint 6 Ref 201401069
Date Complaint Received 5 June 2014
Complaint Complaint regarding the Council's decision in an application to the Scottish Government for a grant to replace a commercial property with residential properties; the Council had undermined efforts to regenerate the economy; had gone against their own policies and practices; shown a distinct lack of transparency, accountability and consultation.
Date decision received 5 June 2014
Decision **Not Upheld**
SPSO are not able to pursue the matters raised because of the Scottish Public Services Ombudsman Act 2002 Section 5(6) – the complainant is not eligible to complain.

Complaint 7 Ref 201401420
Date Complaint Received 18 June 2014
Complaint The Council provided inadequate social care to complainant's spouse.
Date decision received **This complaint is live**
Decision N/A

Complaint 8	Ref 201401966
Date Complaint Received	7 July 2014
Complaint	The council failed to follow the correct procedures when recruiting.
Date decision received	7 July 2014
Decision	Not Upheld Under the Scottish Public Services Ombudsman Act 2002 (Schedule 4) "the Ombudsman must not investigate: 8. Action taken in respect of appointments or removals, pay, discipline, superannuation or other personal matters.

Complaint 9	Ref 201401869
Date Complaint Received	15 July 2014
Complaint	Complaint about a response received from the Council about concerns of the lack of action taken about the conduct of a pupil.
Date decision received	15 July 2014
Decision	Not Upheld SPSO unable to intervene in policies and procedures.

Complaint 10	Ref 201402995
Date Complaint Received	12 September 2014
Complaint	1. The Council's handling of the complainant's application for housing was poor; and 2. the Council unreasonably failed to provide complainant with relevant advice.
Date decision received	This complaint is live
Decision	N/A

Total Number of Complaints	10 (one complaint resubmitted and investigated under same reference)
NOT UPHELD	6
UPHELD	2
ONGOING	2

APRIL 2013 - MARCH 2014 COMPLAINTS

Three complaints are live – two have been upheld and recommendations being carried out one at investigation stage.