

Memorandum of Understanding

Between the Scottish Public Services Ombudsman and the Equality and Human Rights Commission

February 2016

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1. Introduction

The purpose of this Memorandum of Understanding (MoU) is to set out the functions of the Scottish Public Services Ombudsman (SPSO) and the Equality and Human Rights Commission (EHRC) and to describe the arrangements for co-operation and communication between the two bodies in relation to their respective functions and handling complaints.

Each organisation will take steps to ensure that their staff are aware of what is in the MoU. They will keep staff updated about it, and about the responsibilities it places on each individual member of staff.

This MoU aims to help achieve the statutory functions, objectives and responsibilities of both organisations by:

- securing co-operation and the exchange of information between the SPSO and the EHRC subject to any legal constraints, including the need to respect personal or commercial confidentiality;
- fostering mutual understanding and effective relations generally between the two bodies;
- securing consistent treatment of matters which affect them both;
- ensuring an open and transparent relationship between the organisations.

2. Functions of the parties to this memorandum

2.1 SPSO

2.1 The SPSO has the functions set out in the Scottish Public Services Ombudsman Act 2002 ("the 2002 Act"). These include raising awareness of its service, promoting good administrative practice by Scottish public services and leading the development of simplified and standardised complaints handling procedures across the public sector. They also include investigating and reporting on complaints that maladministration, failure to provide a service or failure in a service by a broad range of organisations across the public sector in Scotland has caused injustice or hardship to a member of the public. The SPSO aims to work in partnership with public services across Scotland to help prevent complaints from arising and to help public services to improve their complaint handling processes.

2.2 The SPSO can consider complaints from members of the public who claim to have sustained injustice or hardship as a result of maladministration or service

failure by an authority within the SPSO's jurisdiction. The matter complained about must also be one that the SPSO is entitled to investigate. Schedule 2 of the 2002 Act lists the authorities that come within the jurisdiction of the SPSO ('listed authorities'). Complaints to SPSO need to first have been made to the listed authority concerned and have completed their complaints process.

2.2 EHRC

The EHRC is established under the Equality Act 2006 (the 2006 Act) and its core role is to be the regulator of equality legislation and an independent National Human Rights Institution. The EHRC's statutory duties are set out in the 2006 Act.

The EHRC can support individual legal actions which relate to discrimination law or a mix of discrimination and human rights law. It has a number of enforcement powers it can use where it has reason to believe that discrimination or human rights law may have been breached, including: carrying out an inquiry or formal investigation and serving unlawful act notices; taking a judicial review in its own name; applying for an interdict to stop unlawful action; and entering into binding agreements with a person who the Commission believe have committed an unlawful act.

In Scotland, the EHRC cannot take human rights action in relation to devolved matters without the agreement of the Scottish Human Rights Commission (SHRC).

3. Consultation and co-operation

SPSO and EHRC agree that where the functions and actions of one body affect the functions and actions of the other, they will consult and co-operate together in order to fulfil their respective functions as fully, effectively and efficiently as possible. This co-operation will include the sharing of appropriate information and maintaining effective communication where this will inform and improve the work of each party.

Within available resources, SPSO and EHRC will invite representation from the other party to project teams, work groups etc where both parties believe there would be advantage in joint working. The two parties will encourage formal and informal contacts between their staff to raise awareness of the roles, responsibilities and methods of working of each.

4. Sharing information

SPSO and EHRC recognise that certain issues may be submitted (or may be capable of being submitted) to both organisations. In these circumstances, the bodies undertake to liaise as far as possible having due regard to the requirements on each to comply fully with relevant data protection and confidentiality obligations. The focus of such liaison will be to ensure that the wishes of the person raising the concerns is respected and that they are given the best possible advice about the options open to them. Particular care will be taken to avoid situations where concerns are not properly considered because of confusion about where to signpost an individual or whether an individual has been signposted.

This MoU may be supplemented by a separate information sharing or complaints handling agreement which will set out detailed arrangements where appropriate.

5. Public information and information to other organisations

Before issuing any guidance, publicity and information to the public or other organisations about any aspect of their current or proposed functions relating to complaints, each party will consider the extent to which it would assist the other in the effective and efficient discharge of its functions if mention were made of that organisation and its functions. Where relevant and possible, each party will invite the other to participate in any conferences, seminars or workshops it organises.

6. Liaison meetings

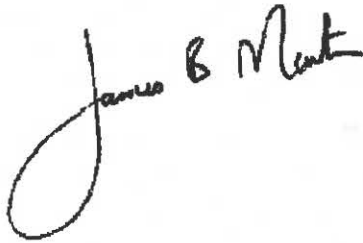
SPSO and EHRC representatives will meet as appropriate to consider matters of mutual interest arising from their respective functions.

7. Monitoring and reviewing this memorandum

SPSO and EHRC will ensure that the other has been provided with appropriate named contacts to liaise as required to carry out day to day business. Either party may suggest amendments to the MoU.

Where either party identifies problems in operating this MoU, it will seek to resolve them quickly and informally. If this is not possible then the Ombudsman and the Chief Executive of EHRC will take responsibility for achieving a mutually acceptable resolution. Their decision will be final.

Signatures to the Memorandum

A handwritten signature in black ink, appearing to read "James B Mack". The signature is written in a cursive style with a large initial 'J'.

**Scottish Public Services Ombudsman
4 Melville Street
Edinburgh
EH3 7NS**

Tel: 0800 377 7330

A handwritten signature in black ink, consisting of a series of connected loops and lines, which is not clearly legible.

**Equality and Human Rights Commission
151 West George Street
Glasgow
G2 2JJ**

Tel: 0141 228 5910

National Director