

Agenda Item	7
Report No	AS/4/23

THE HIGHLAND COUNCIL

Committee: Audit and Scrutiny Committee

Date: 23 March 2023

Report Title: **Scottish Public Services Ombudsman Cases Upheld**

Report By: Interim Chief Executive

1. Purpose/Executive Summary

- 1.1 This report provides information on the cases that have been upheld by the Office of the Scottish Public Sector Ombudsman (SPSO) since this was last reported to the Audit and Scrutiny Committee on 17th June 2021.
- 1.2 Since that report, only one case has been determined by the Ombudsman and was upheld. This report provides details of the SPSO's decision.

2. Recommendations

- 2.1 Members are asked to:
 - i. Consider the outcome the upheld case; and
 - ii. Note that the SPSO's recommendations have now been carried out

3. Implications

- 3.1 Resources and Risk: A focus on improving performance in handling customer complaints reduces the Council's risk of public exposure to criticism and reduces the cost to the Council of managing failure demand.
- 3.2 There are no Legal; Community (Equality, Poverty, Rural and Island); Climate Change / Carbon Clever; or Gaelic implications arising from this report.

4. Background

- 4.1 The Scottish Public Services Ombudsman (SPSO) was set up in 2002 to investigate complaints about organisations providing public services in Scotland, including local authorities. The SPSO investigates complaints where a member of the public claims to have suffered injustice or hardship as a result of maladministration or service failure and only investigates cases when the complainant has already exhausted the formal complaints procedure of the organisation concerned.
- 4.2 Since 17th June 2021, the SPSO has only fully investigated 1 complaint against the Council. This low figure reflects well on the Council's handling of complaints and on the quality of information provided to the SPSO during initial investigations.
- 4.3 Details of the upheld complaint are provided below. A summary of the SPSO's decision will be published on their website in due course and the proposed text is included in appendix 1.

5. Upheld / Partially Upheld Complaints

5.1 Case 202002615, Town Centre Funding in Nairn (upheld):

The complaint related to the Council's decision-making regarding the allocation of Scottish Government Town Centre funding to Nairn and in relation to the relevant governance arrangements agreed at the Environment, Development and Infrastructure Committee on 16th May 2019. The complainant complained that their local Area Committee had failed to publicise the scheme, failed to invite applications and failed to discuss the funding in meetings. They complained that there was a lack of transparency in the Council's decision-making process.

- 5.2 This case was initially upheld by the SPSO in February 2022 but Officers requested a review of the decision on the basis that the recommendations were too general. The outcome of the review is that the recommendations have been revised to relate specifically to a lack of recorded evidence of the decision making process and the reasons for the decision made.
- 5.3 The following recommendations have been made:

1 – Apologise for failing to follow appropriate processes when making decisions regarding the allocation of Scottish Government Town Centre Funding in Nairn, by:

- failing to evidence how in Nairn they followed the agreed process that Area Committees become involved in identifying and recommending projects.
- failing to provide a public record as to how the decision to recommend the CAB project was reached; and
- failing to provide evidence as to how this project was assessed as meeting the eligibility criteria.

2 – Ensure that the findings of the SPSO investigation are fed back to the staff involved in the Town Centre Funding allocation process.

These recommendations have now been implemented and the SPSO has been advised.

Designation: Chief Executive

Date: 8 March 2023

Author: Miles Watters

Background Papers:

Appendix 1

SPSO case 202002615 – Summary for publication

This summary (subject to change) will be laid before parliament and published online. Please note that it is a high-level summary which does not include the full detail of our investigation. To protect your personal information, we have anonymised it and removed both gender-specific pronouns and titles.

C complained about the Council's decision-making in relation to the allocation of Scottish Government Town Centre funding. In terms of the relevant governance arrangements, Local Area Committees were expected to identify and rank eligible projects for the funding. C complained that their local Area Committee had failed to publicise the scheme, failed to invite applications and apparently failed to discuss the funding in meetings. C complained there was a lack of transparency in the Council's decision-making process.

With regard to the complaint about lack of community engagement, the Council said they were not operating a challenge fund. The Council's position was that the grant was allocated to projects in accordance with the governance arrangements agreed by the Environment, Development and Infrastructure Committee.

We found that the Council failed to follow appropriate processes when making decisions regarding the allocation of Scottish Government Town Centre Funding in Nairn. Specifically, we found that the Council failed to evidence how in Nairn they followed the agreed process that Area Committees become involved in identifying and recommending projects. There was no public record as to how the decision to recommend the CAB project was reached. There was no evidence as to how this project was assessed as meeting the eligibility criteria. Taking all of the above into consideration, we upheld the complaint.