

# The Highland Council

Agenda Item	8
Report No	AS/18/24

**Committee:**                    **Audit Committee**

**Date:**                            **13 June 2024**

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

**Report By:**                    **Interim Executive Chief Officer, Performance and Governance**

## **1. Purpose/Executive Summary**

- 1.1 This report provides information on a case that was upheld by the Office of the Scottish Public Sector Ombudsman (SPSO) since the last report to the Audit Committee on 21<sup>st</sup> March 2024.
- 1.2 Since that report, one case has been determined by the Ombudsman and was partially upheld. This report provides details of the SPSO's decision.

## **2. Recommendations**

- 2.1 The Committee is asked to:
  - i. Consider and note the outcome of the upheld case; and
  - ii. Note that the SPSO's recommendations have now been carried out.

## **3. Implications**

- 3.1 Resource 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 Legal & Community (Equality, Poverty and Rural), Climate Change / Carbon Clever, Gaelic: There are no implications arising from this report.
- 3.3 Health and Safety (risks arising from changes to plant, equipment, process, or people): There are no health and safety risks 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 21 March 2024, the SPSO has published their decision to partially uphold 1 complaint against the Council which they have investigated. Details of the complaint are provided below. A summary of the SPSO's decision is published on their website and this is replicated at **Appendix 1**.

## 5. Partially Upheld Complaint

### 5.1 Case 202206966, Child protection

The complaint was raised by a young person about their time at a residential unit. The SPSO agreed the following heads of complaint with the complainant:

- a) The Council failed to take appropriate action in response to the safeguarding concerns raised about the unit manager in August and September 2022 (**upheld**)
- b) The Council failed to adequately investigate abusive messages from a former member of staff and a breach of confidentiality (**upheld**)
- c) The Council unreasonably failed to keep C informed about the closure of the unit (**not upheld**)
- d) The Council failed to handle C's complaints in accordance with their complaints procedures (**upheld**)

5.2 The SPSO was satisfied that the complainant had been kept reasonably informed about the position of the future of the unit and did not uphold this part of the complaint. However, there were some failings in relation to communication and record-keeping in response to the safeguarding concerns raised. There were also failings in the investigation into abusive messages from a former member of staff and in the complaints handling. Therefore, the SPSO upheld these parts of the complaint (shown in brackets in the paragraph above).

5.3 The SPSO asked the Council to apologise to the complainant for the specific failings identified in respect of the complaints and the following recommendations were made:

- Safeguarding concerns should be communicated appropriately and in line with safeguarding guidance and clear and accurate records should be maintained.
- Staff in the unit should be aware of the issues regarding the use of social media highlighted by this case.
- The Council should maintain clear and accurate records of discussions and meetings that take place, in line with required standards.
- Complaint responses should comply with the Model Complaints Handling Procedure and council staff should be familiar with the complaints handling procedure. Complaint investigations should be clearly recorded at each stage and responses provided within 20 working days. If this is not possible, the complainant must be updated on the reason for the delay and provided with a revised timescale.

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

Designation: Interim Executive Chief Officer, Performance and Governance

Date: 04/03/2024

Authors: Miles Watters, Corporate Performance & Information Governance Manager

## Appendix 1

### SPSO case 202206966 – Decision summary

C was living in a residential unit for young people who are looked after by the council. C complained that the council failed to take appropriate action when they raised safeguarding concerns about the unit manager and failed to investigate a breach of confidentiality when C received abusive messages from a former member of staff. C also complained that the council had failed to keep them informed about decisions made about the future of the residential unit and their complaints had not been handled in accordance with the council's complaints procedures.

We took independent advice from a children and families social worker. We were satisfied that C had been kept reasonably informed about the position of the future of the unit. Therefore, we did not uphold this part of C's complaint. However, there were some failings in relation to communication and record-keeping in response to the safeguarding concerns raised. There were also failings in the investigation into abusive messages from a former member of staff and in the complaints handling. Therefore, we upheld these parts of C's complaint.

### *Recommendations*

What we asked the organisation to do in this case:

- Apologise to C for the specific failings identified in respect of the complaints. The apology should meet the standards set out in the SPSO guidelines on apology available at [www.spsso.org.uk/information-leaflets](http://www.spsso.org.uk/information-leaflets).

What we said should change to put things right in future:

- Safeguarding concerns should be communicated appropriately and in line with safeguarding guidance and clear and accurate records should be maintained.
- Staff in the unit should be aware of the issues regarding the use of social media highlighted by this case.
- The council should maintain clear and accurate records of discussions and meetings that take place, in line with required standards.

In relation to complaints handling, we recommended:

- Complaint responses should comply with the Model Complaints Handling Procedure and council staff should be familiar with the complaints handling procedure. Complaint investigations should be clearly recorded at each stage and responses provided within 20 working days. If this is not possible, the complainant must be updated on the reason for the delay and provided with a revised timescale.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.