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**REPORT TO: AUDIT AND SCRUTINY COMMITTEE ON 23 NOVEMBER 2022**

**SUBJECT: SPSO RECOMMENDATIONS REPORT**

**BY: CHIEF EXECUTIVE**

**1. REASON FOR REPORT**

- 1.1 The Audit and Scrutiny Committee is asked to consider the SPSO Recommendations Report.
- 1.2 This report is submitted to Committee in terms of Section III (A (4) of the Council's Scheme of Administration relating to monitoring performance of the services in accordance with the Council's performance management framework.

**2. RECOMMENDATION**

- 2.1 **The committee is invited to consider the content of the SPSO Recommendations Report, seek clarification on any points arising and otherwise approve the report.**

**3. BACKGROUND**

- 3.1 Complaints handling is part of the council's Performance Management Framework. Members receive updates on complaints performance through routine reports to service committees.
- 3.2 All complaints operate through a two stage complaints process.
- 3.3 Once a complaint has passed through the complaints process, a complainant has the option of having their complaint considered by the SPSO. Following SPSO investigation, they can make recommendations to help councils learn from mistakes and implement service improvements.

- 3.4 The SPSO has asked authorities to confirm that SPSO complaint recommendations are reviewed at a senior level by returning an annual 'learning and improvement statement' confirming this. This builds on the model complaints handling procedures that set out the importance of Moray Council being able to demonstrate how they 'systematically review complaints performance reports to improve service delivery'. Our statement includes a commitment to report on SPSO recommendations annually to Audit and Scrutiny committee.
- 3.5 The SPSO introduced a 'learning and improvement unit' (LIU) to ensure public authorities take the necessary responsibility and actions to handle complaints well and reduce the occurrence of repeat mistakes. The aim of the LIU is to enhance the impact of their work by helping authorities improve public services through learning from complaints.
- 3.6 One of the main areas the LIU focus on is SPSO recommendations. A key part of this work includes providing authorities with additional support and advice on how to meet their recommendations with a view to preventing repeat service failings and complaints. In addition to this extra support they are looking to adopt a tighter escalation process for the very few cases where their recommendations are not being implemented, with the potential to lead to a Special Report.

#### **4. SPSO RECOMMENDATIONS FOR REPORTING PERIOD 2021/22**

- 4.1 Table 1 (**APPENDIX A**) shows all Moray Council complaints in the reporting period 2021/22 where we received notification of referral by complainants to the SPSO. No significant recommendations were made. We were advised to carry out minor further actions as detailed at cases 5, 6, 7, 9 and 12.
- 4.2 Case 5, SPSO Reference 202102463 relates to a complaint that damaged guttering from a council property had led to overflow damage to a privately owned property.

SPSO agreed with the council's position to not uphold the complaint as the damage caused to the privately owned property was as a result of their own poorly fitted guttering.

SPSO highlighted that, following our stage one response, the complainant should have been advised that they could report continued dissatisfaction within 2 months of receipt of their final response and have it investigated at stage 2 of our process but this was not done. This learning point was issued in a brief to housing managers. It was also forwarded to all department complaint administrators to share with staff who deal with complaints.

- 4.3 Case 6, SPSO Reference 202103114 relates to a complaint of family concerns raised about their father's wellbeing and finances.

SPSO agreed with the council's position that the case should be partially upheld as we had not responded to some of the family emails. They were satisfied that the council had followed Adult Support and Protection procedures.

SPSO highlighted as a learning point that we should have signposted the complainant to information relating to Power of Attorney.

- 4.4 Case 7, SPSO reference 202103395 relates to a complaint about the poor condition of an allocated council property.

SPSO agreed with the council's position that the case should be partially upheld as we had not responded to a query from the complainant relating to faulty heating.

SPSO requested that the council provide an amended final response to cover all complaint issues including some that had been raised with SPSO but not the council. The council issued a revised final response to the satisfaction of the complainant and SPSO closed their case.

- 4.5 Case 9, SPSO reference 202103566 relates to a complaint that the council had failed to make necessary housing adaptations to cater for disability needs.

SPSO agreed with the council's position that the case should be partially upheld as we had made some but not all of the adaptations.

SPSO highlighted two issues; the council should provide timescales of works to be carried out to the customer; provide contact details for the staff member overseeing works to be carried out. These issues were shared in a brief with housing managers.

- 4.6 Case 12, SPSO reference 202105797 relates to a complaint that the council did not provide adequate support for a pupil to access a course.

SPSO agreed with the council's position to not uphold the complaint and that due process had been followed.

SPSO requested that the council provide an amended final response to cover all complaint issues including some that had been raised with SPSO but not the council. The council issued a revised final response to the satisfaction of the complainant who did not raise any further concerns with the council or SPSO.

## **5. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Effective handling of complaints is used to ensure the efficient and sustainable delivery of services to meet the Council's priorities in 'Moray 2026: A Plan for the Future.' Within the Moray Council Corporate Plan, it has been identified that "we will talk to our customers and see how they would like services improved" that is a core part of the process of learning from complaints. SPSO recommendations often necessitate further communication with customers.

**(b) Policy and Legal**

The SPSO requested a 'Learning and Improvement statement' in support of our statutory requirement to report to the SPSO annually on their performance indicators.

**(c) Financial implications**

It is not anticipated that there will be any financial implications as the two complaint recommendations referred to in this report are not linked in any way to financial claims.

**(d) Risk Implications**

Failure to report may result in SPSO making a declaration of non-compliance against the Council. Non-compliance with the statutory duty relating to national standards being adopted would present risk in terms of reputational damage and a loss of public confidence in our ability to deliver quality improvements based on complaints analysis, and ultimately to maintaining and improving service standards.

**(e) Staffing Implications**

There are no staffing implications related to this report.

**(f) Property**

There are no property implications related to this report.

**(g) Equalities/Socio Economic Impact**

The Equal Opportunities Officer has recommended that where services are experiencing high volumes of complaints, the management of respective services should arrange to identify common complaint issues and any learning arising. This will help to ensure that complaints are not arising from situations where customer diversity needs have not been considered or addressed, e.g. disability or cultural issues.

He further recommends that where there is evidence or a suspicion that a complaint is related to characteristics protected under the Equality Act 2010 (race, disability, sex, religion/belief, sexual

orientation, age, gender reassignment, pregnancy/maternity), services make contact the council's Equal Opportunity Officer.

**(h) Climate Change and Biodiversity Impacts**

There are no climate change and biodiversity impacts related to this report.

**(i) Consultations**

The Corporate Management Team has been consulted on the contents of SPSO Recommendations report.

**5. CONCLUSION**

**5.1 The SPSO Recommendations Report presents council action taken to address SPSO recommendations.**

Author of Report: John Black, Complaints Officer

Background Papers: SPSO PIs

Ref: SPMAN-2045703626-196

Case Ref/No	LOG Ombudsman Referrals 01-04-2021 to 31-03-2022					
	Submission Req'd/Sub	Details			Decision/Date	Action Plan Y/N
		Comp Ref No	Department			
1.  SPSO 202008748	01/07/2021	101002640726	Integrated Children Services	<p>Complained that:</p> <p>Staff refused to believe parents or check out their accounts.</p> <p>There was poor communication between staff, foster carers and parents.</p> <p>Staff did not keep a parent informed of information concerning his children.</p> <p>These complaints were upheld by the council.</p>	<p>01/07/2021 – SPSO issued a decision letter.</p> <p>They were satisfied with council action taken and made the decision not to investigate the complaint further.</p>	N
2.  SPSO 202008864	01/04/2021	101002675190 – Dealt with as an MSP enquiry and not as a complaint.	Housing and Property	<p>Complained that the council unfairly refused homelessness application including appeal.</p> <p>This was not upheld by the Council.</p>	<p>21/07/2021 – SPSO issued a decision letter.</p> <p>They were satisfied with council action taken and made the decision not to investigate the complaint further.</p>	N

3. SPSO 202100039	23/04/2021	No complaint raised as there was a separate appeal process	Planning	Complained that the council did not uphold a planning appeal.	23/04/2021 – SPSO issued a decision letter.  They were satisfied that the council followed due process.  They advised the complainant to raise additional unrelated complaint issues with the council however complainant chose not to do so.	N
4. SPSO 202101698	06/07/2021	101002852152	Housing and Property	Complained that the council had refused him employment arising from him complaining against staff in the past.	14/07/2021 – SPSO issued a decision letter.  The council dealt with reported matters as staff misconduct rather than through our complaint handling procedure (CHP).  SPSO determined that it could have been considered within our CHP and informed the complainant to raise it again.  Complainant chose not to do so.	N
5. SPSO 202102463	15/07/2021	101002800856	Housing and Property	Complained of damaged guttering from a council property that led to overflow damage to an adjacent private property.	29/09/2021 – SPSO issued a decision letter.  They were satisfied with council action taken regarding	Y

				<p>This complaint aspect was not upheld by the council as it was determined that the complainant's private contractor had poorly installed guttering at the private property.</p> <p>The council did not follow the timelines of the CHP.</p>	<p>the guttering and this was not upheld.</p> <p>They noted that the council met frontline and investigation timelines of 5 and 20 working days.</p> <p>They upheld that the complainant wasn't advised that he could escalate his complaint to investigation within 2 months of receipt of the frontline response. They asked the council to remind staff to do this.</p> <p>The complaint administrator circulated an email to all housing managers reminding them to do this. This was also shared with other complaint administrators.</p>	
6. SPSO 202103114	27/04/2021	101002881028	Community Care	<p>Complained that Partnership did not take reasonable action between October 2020 and April 2021 following contact from complainant and his family regarding concerns about their father's wellbeing and finances.</p>	<p>05/07/2022 - SPSO issued a decision letter.</p> <p>They were satisfied with the investigation carried out and concluded that Adult Support and Protection (ASP) procedures were adhered to.</p>	Y



				Partnership partially upheld the complaint accepting that they failed to respond to some emails.	They provided a feedback learning point that the Partnership should have signposted the complainant to information relating to Power of Attorney.	
7.  SPSO 202103395	21/09/2021	101002774303  And  101003086276	Housing and Property	<p>Complained about the poor condition of an allocated property.</p> <p>Further complained following receipt of the council's response.</p> <p>101002774303 - The council partially upheld this complaint as they failed to respond to a request for an update regarding replacement heating.</p> <p>101003086276 – The council did not uphold this complaint.</p>	<p>25/08/21 SPSO issued a decision letter. They requested that a revised final response be sent to the complainant.</p> <p>21/09/2021 - A revised final response was issued to the complainant and copied to SPSO.</p> <p>SPSO advised that complainant had made no further contact and that their complaint file would be closed.</p>	Y
8.  SPSO 202103533	27/04/2021	101002751506	Lifelong Learning, Culture and Sport	Complained that the council would not fund an out of area placement for her child.	<p>10/11/2021 - SPSO issued a decision letter.</p> <p>They advised that they agreed with the decision of the council and would be taking no further action.</p>	N

				This was not upheld as the council followed policy.		
9.  SPSO 202103566	20/08/2021	101002831214	Housing and Property	<p>Complained that necessary adaption had not been made to the property to cater for disability needs.</p> <p>This was partially upheld as the council accepted that some adaptations should have been made.</p>	<p>03/12/2021 - SPSO issued a decision letter</p> <p>They advised that they were satisfied with the council handling of this complaint.</p> <p>They raised two feedback issues:</p> <p>When committing to taking actions to carry out works, timescales should be provided to the customer.</p> <p>Explain to the customer how they can contact the staff member who will be overseeing all works to be carried out.</p>	Y
10.  SPSO 202103885	14/01/2022	101002810246	Direct Services	<p>Complained that inappropriate and erroneous use of his personal information with an outside agency whilst processing a pothole car damage insurance claim.</p>	<p>22/02/2022 - SPSO issued a decision letter.</p> <p>They advised that they were happy with the council handling of this complaint and that they would be taking no further action.</p>	N

				This was not upheld by the council.		
11. SPSO 202105733	01/04/2021	101002760685	Schools and Curriculum Development	<p>Complained that their child should have been awarded higher exam grades.</p> <p>This complaint was partially upheld by the council.</p>	<p>28/10/2021 - SPSO issued a decision letter.</p> <p>They advised that they were happy with the council handling of this complaint and that they would be taking no further action.</p>	N
12. SPSO 202105797	06/09/2021	101002879060	Lifelong Learning, Culture and Sport	<p>Complained that there had been a lack of support to assist his child accessing a course.</p> <p>The complaint was not upheld by the council.</p>	<p>On 24/01/2022, SPSO issued a decision letter. They requested the council to provide a revised final investigation response as they identified that we had not agreed the correct heads of complaint/outcomes. They recommended that a revised final response be sent.</p> <p>This was sent in July 2022 and the complainant did not report any further dissatisfaction to the council or SPSO.</p>	Y
13. SPSO 202107184	25/11/2021	101002881671	Schools and Curriculum Development	Complained about the actions of a staff member towards a pupil during a school outing.	<p>17/03/2021 - SPSO issued a decision letter.</p> <p>They advised that they were happy with the council handling of this complaint and</p>	N

				This complaint was not upheld by the council.	that they would be taking no further action.	
14. SPSO 202108029	22/12/2021	No complaint raised	Direct Services	<p>Complained that food waste collections should continue during holiday periods.</p> <p>The council dealt with and responded to this matter as a request for service rather than a complaint.</p>	<p>22/12/2021 - SPSO issued a decision letter.</p> <p>They advised that they were happy with the council handling of this matter and that they would be taking no further action.</p>	N
15. SPSO 202108958	31/03/2022	101003038338	Legal and Democratic Services	<p>Complained that the council had refused his application for a taxi grant.</p> <p>The council did not uphold this complaint.</p>	16/06/2022 - SPSO issued a decision letter. They advised that they were happy with the council handling of this matter and that they would be taking no further action.	N