

Scotland's Model Complaint Handling Procedures: Exploring recent developments and the usefulness of complaint data for administrative justice research

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EXECUTIVE SUMMARY

The aim of this research was to explore Scotland's new system for local authority complaint handling. Following the Public Services Reform (Scotland) Act 2010, the Scottish Public Services Ombudsman (SPSO) was tasked with simplifying and standardising complaint procedures across the Scottish public sector. To do so, it created an internal team called the Complaints Standards Authority (CSA). The CSA's role involves designing model complaint handling procedures (model CHPs), monitoring the operation of those procedures (including setting data reporting requirements), and supporting the development of good practice in complaint handling.

The aim of this report is to provide an insight into the operation of these new arrangements in the local authority sector. Our specific aims were to: examine how the model CHP in the local authority sector was operating; explore the usefulness to administrative justice researchers of the complaint data now being published; identify opportunities for future administrative justice research; and draw lessons for wider administrative justice policy based on early experiences of this new approach in Scotland. This executive summary outlines our key conclusions for each aim.

The operation of the model CHP

The new model CHP has been implemented across Scotland and stakeholders directly involved in the process are unanimous that this has been a success. Key benefits identified by interviewees were improvements in simplicity and speed for complainants and the beginnings of a more positive culture around complaints in local authorities. The publication of complaints data was seen by most interviewees as focusing minds on complaints and providing opportunities for learning. The key challenges in relation to the new system related to inconsistency between authorities in collecting data, how complaint data should be interpreted, and how performance indicators around complainant satisfaction and learning from complaints should be reported against.

Administrative justice research

The data now being published represent a significant enhancement in the evidence available to researchers to make evaluations of the public service complaint system in Scotland. Previously, little was known about the volume, timeliness, outcomes, user satisfaction, and learning from complaints in local authorities. While this information is useful, issues around data categorisation and inconsistent recording practices provide some limits on interpreting the data. In addition, there would be significant benefit to researchers in additional data being collected, for example, around the demographic characteristics of complainants and about the types of issues that are being subjected to complaint. Greater standardisation and central publication of data would also facilitate the use of complaint data in future research.

Administrative justice policy

The SPSO's new role represents a significant development: while not constituting the regulation of complaint handling, the standard setting and monitoring role the ombudsman performs in relation to complaints is a clear move away from an ombudsman's classic complaint handling function. This study – although it does not constitute an evaluation of the new approach and is very much exploratory in nature – provides some initial support for the

benefits of the SPSO's enhanced ombudsman model. While there is potential in the new approach, there are some questions about whether the approach would be effective in a larger jurisdiction than Scotland. On a wider basis, the SPSO's new role raises interesting questions for administrative justice policy in relation to the external monitoring of internal grievance procedures, the role of the ombudsman within the administrative justice system, and the opportunities to take more strategic approaches to learning from complaints.

Recommendations

While recognising the limited evidence base on which this report is founded, we nonetheless consider that certain areas would benefit from further reflection and/or action. We make seven recommendations.

The SPSO and the local authority complaint handling network should consider:

1. Developing further guidance to help local authority staff distinguish between complaints and service requests.
2. Developing further guidance in relation to indicators 7 (customer satisfaction) and 8 (learning from complaints).
3. Developing further guidance on the format and content of complaint reports and considering how best to communicate data to the public.
4. Holding discussions with administrative justice researchers about gaps in data collection, improving the data available for secondary data analysis, and identifying priorities for research amongst practitioners.
5. Carrying out a full evaluation of the Model CHP.

The Improvement Service should consider:

6. Improving the timeliness of its annual complaint data analysis.

Ombudsman schemes and policymakers in other UK jurisdictions should consider:

7. Investigating, where appropriate, the scope for adopting a Complaint Standards Authority approach in other parts of the UK public sector.

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1. INTRODUCTION

This is a report of a small-scale research project on Scotland's Model Complaint Handling Procedure for local authorities. The background to the introduction of the procedure can be explained briefly.

The Crerar Review

In 2006, the Scottish Ministers commissioned Professor Lorne Crerar to evaluate existing systems of regulation, audit, inspection, and complaint handling within Scottish public services. The report of the review¹ noted that there was considerable variation in complaint procedures across the public sector and existing arrangements were overly complex both for service users and the public. The review proposed the introduction of standardised complaint systems across the public sector so that: complaints could be dealt with simply; consistently across all sectors and by all providers; quickly within an agreed and transparent timeframe; and locally.²

The Fit for Purpose Complaint System Action Group

The task of developing proposals to improve the complaint handling system in Scotland, taking account of the recommendations made in the Crerar Review, was given to the Fit For Purpose Complaint System Action Group. Its report³ recommended that there should be a standardised complaint handling process for each public service sector based on principles which were founded on consumer focus and simplification. The principles should be based on existing Scottish Public Services Ombudsman (SPSO) guidance and be developed in partnership between the SPSO and service providers. The aims included: making the consumer journey as consistent as possible, ensuring that all complaint processes included stages for informal resolution, formal internal review and then external review and that they also remained flexible enough to meet the needs of individual consumers.

The Public Services Reform (Scotland) Act 2010

The Public Services Reform (Scotland) Act 2010 then gave the SPSO the necessary authority to lead development of the new standardised procedures. The SPSO was given a duty to publish a statement of principles concerning the complaint handling procedures of listed authorities and authority to publish Model Complaint Handling Procedures (model CHPs).⁴ The SPSO was also given duties to monitor complaint handling practice, identify any trends, promote best practice and encourage co-operation and sharing of best practice among listed authorities.

¹ *Report of the Independent Review of Regulation, Audit, Inspection and Complaint Handling of Public Services in Scotland* (Scottish Government, 2007), paras 11.1-11.24 (available at: <http://www.gov.scot/Resource/Doc/198627/0053093.pdf>)

² *Ibid.*, para 11.15.

³ *Fit For Purpose Complaints System Action Group - Report To Ministers* (Scottish Government, 2008), available at:

<http://www.gov.scot/Topics/Government/PublicServiceReform/IndependentReviewofReg/ActionGroups/FCSA>

⁴ See section 119 of the 2010 Act inserting new sections 16A to 16G into the Scottish Public Services Ombudsman Act 2002.

Implementing the 2010 Act

The Complaint Standards Authority

A small internal unit within the SPSO, the Complaint Standards Authority (CSA), was set up to deliver the SPSO's new responsibilities, and to provide further support in improving complaint handling procedures. It was required to work along with each of the public service sectors to develop model CHPs in line with the framework, and agree timescales for their introduction. The CSA was also required to work with scrutiny and improvement bodies such as Audit Scotland and the Improvement Service⁵ in performing its functions.

The Model Complaint Handling Procedure

In 2011, following consultation with bodies who would be subject to the new procedures, the Local Authority model CHP⁶ was published together with guidance on implementation.⁷

The model CHP:

- introduced a uniform two stage procedure for dealing with complaints, with timescales for each stage;
- encouraged the use of early resolution methods wherever feasible;
- allocated responsibility for complaint handling in organisations;
- included requirements for recording complaints and publishing complaint data and for reporting on complaint performance;
- provided a definition of 'complaint'; and
- encouraged learning from complaints.

A Local Authority Complaint Handling Network was set up and is attended by complaint handling staff from local authorities and by staff of the SPSO's CSA. During the financial year 2012/2013, new complaint procedures compatible with the Model CHP were introduced by Scottish local authorities.

The performance indicators

As part of the model CHP system, the CSA has developed performance indicators which local authorities are required to report against. These are shown over the page.

⁵ The Improvement Service is the national improvement organisation for local government in Scotland and is formed in partnership between the Convention of Scottish Local Authorities and the Society of Local Authority Chief Executives.

⁶ SPSO, *The Local Authority Model Complaints Handling Procedure* (2011), available at: <http://www.valuingcomplaints.org.uk/sites/valuingcomplaints/files/resources/The-Local-Authority-Model-Complaints-Handling-Procedure2.pdf>

⁷ SPSO, *Guidance on a Model Complaints Handling Procedure* (2011), available at: https://www.spsso.org.uk/sites/spsso/files/communications_material/leaflets_buj/Guidance-on-a-Model-Complaints-Handling-Procedure.pdf

1. The total number of complaints received per thousand population.
2. Complaints closed at stage one and stage two as a percentage of all complaints closed.
3. The number of complaints upheld/partially upheld/not upheld at each stage as a percentage of complaints closed in full at each stage.
4. The average time in working days for a full response to complaints at each stage.
5. The number and percentage of complaints at each stage which were closed in full within the set timescales of 5 and 20 working days.
6. The number and percentage of complaints at each stage where an extension to the 5 or 20 working day timeline has been authorised.
7. A statement to report customer satisfaction with the complaints service provided.
8. A statement outlining changes or improvements to services or procedures as a result of the consideration of complaints.

The information derived from the performance indicators is discussed in the complaint handling network and an annual report on the indicators is produced.

2. AIMS AND METHODS

Aims

The research was funded by the UK Administrative Justice Institute. Our general research aims were (i) to describe the changes that have taken place within local authorities and explore their potential benefits with key stakeholders; and (ii) collect, and provide an initial analysis of, complaint data reported by Scottish local authorities.

Our specific research objectives were to:

- compare how the Model CHPs are operating across Scottish local authorities;
- evaluate the usefulness of reported data for administrative justice researchers;
- highlight areas for further investigation in future research; and
- draw lessons for wider administrative justice policy and practice from the Model CHPs.

The research was not intended to provide a comprehensive analysis of the model CHP for local authorities; that would require further research on a larger scale. Rather, the research was intended to provide significant information about, and analysis of, the operation of the local authority model CHP in its early years and to highlight areas which might be usefully explored in future research. Any conclusions about the operation of the model CHP must, therefore, be treated as provisional. We also hoped to investigate the quality of the reported data and assess its likely utility to administrative justice researchers investigating complaints procedures.

In order to achieve the aims and objectives of the research, we used two methods: interviews with key actors in the complaint handling system and the collection and analysis of various forms of data that were either in the public domain or were supplied by actors in the complaint handling system.

Interview research

Potential candidates for interview included all local authority complaint handlers, and others with a role in the operation of complaint handling and monitoring of performance, notably the staff of the SPSO, Audit Scotland, and the Improvement Service. The intention was to interview a sample which although small in absolute terms constituted a significant proportion of those with key roles in implementing the model CHP or who had the ability to comment on how the new arrangements were working. We also wished to obtain a sample which was representative of the variety of Scottish local authorities.

Ultimately, we interviewed 19 individuals, as follows:

- Three SPSO staff;
- Two Local Authority Chief Executives and another a senior official;
- 10 members of the Local Government Complaints Network;
- Two staff of Audit Scotland; and

- An advocacy service representative.

We had intended to interview a member of the Improvement Service and a representative of Citizens Advice Scotland but were unable to arrange an interview. It was not feasible in such a small-scale study to interview other relevant groups such as frontline local authority staff or service users/ members of the public.

The purpose of the interviews was to explore how the new complaint procedures had been implemented, how they were working in practice, and the extent to which the new procedures were perceived to have improved complaint handling within local authorities and/or to have encouraged complaint information to be used to drive improvement in services. We also wished to explore the impact of the SPSO's performance indicators on local authorities.

Collection and analysis of complaint data

The researchers were provided with the Improvement Service's complaint data analysis for 2014/15 and raw complaint data for local authorities for 2015/16. The Improvement Service's data analysis for 15/16 was not available at the time of writing.

We also collected published complaint data from six local authority websites with a view to identifying:

- What data is being published by local authorities;
- How accessible the published data is; and
- Whether there are any gaps or inconsistencies in published data.

This data is drawn on, along with the interview data, in the findings presented in the following chapter.

3. FINDINGS

This section of the report outlines the research findings. The data are organised in four parts:

- The model complaint handling procedures;
- The SPSO's performance indicators;
- Learning from complaints; and
- Key stakeholders.

Part I: The model complaint handling procedure (model CHP)

Local authority implementation of model CHP

The model CHP was published in March 2012 and by the end of financial year 2013/14, all local authorities had introduced new procedures which were compliant with the model CHP and were also supplying the data required by the SPSO for the complaint performance indicators.⁸

Local authority interviewees unanimously felt that the implementation of the model CHP had been straightforward. This was despite the implementation process involving substantial effort and activities, including:

- Discussions with staff to ensure buy in;
- Producing a guidance booklet for staff;
- Adapting IT systems to be able to record complaints;
- Training staff on the model CHP and complaint recording;
- Identifying clearly the role of staff members in the complaint process; *and*
- Reflecting on and changing structures for complaint handling.

The volume of training required for staff to be able to identify, record, and resolve complaints at the frontline was noted by several interviewees as a particular feature of the implementation process.

"[We did] a lot of training... [about how] to undertake the first stage complaint handling particularly, training staff in how to record, what they had to do, the fact that... if they could see that something was incorrect they had the authority to put that right. So, doing all of that across a whole range of staff who hadn't been used to dealing with complaints at all was something that was quite onerous at the time, but we've got through that." (LA Interviewee 11)

Several interviewees noted that there had been some initial resistance and a need to change attitudes when the model CHP was first introduced. However, most interviewees believed that this resistance had now largely been overcome and that the model CHP had led to a more positive culture around complaints in local authorities.

⁸ This was confirmed in the Scottish Public Services Ombudsman's Annual Report 2014-2015, p.25.

The role of the SPSO

The SPSO saw the most appropriate role for the office as being that of a monitor rather than a regulator of local authority complaint handling. Therefore, the SPSO's aim was to ensure that local authorities felt that they had ownership of the new model procedure and the SPSO adopted a partnership approach to its development.

“Just like no one has defined maladministration, I've got no intention of defining ‘monitoring’... But a regulator... is someone who applies a set of rules with penalties. A monitor is someone who sees what's happening and alerts people to things... Had the parliament set up a separate complaints standards authority, then they would have been sitting up, in my view, a regulator. The fact that they asked for that function to be part of the ombudsman's role... helped me to redefine what the ombudsman does.” (Ombudsman Interviewee 1)

The ombudsman and his staff thought that this aim had largely been realised in the implementation process. Local authority interviewees suggested that in general local authorities had been content with the way that the model was developed and that, in the course of implementation, they became convinced of the value of the procedure even if some had had doubts at the outset.

A central element of the SPSO's approach was described as the adoption of a collaborative and cooperative approach, which interviewees felt had reduced barriers to implementation and led to a more positive relationship between the SPSO and local authorities.

“We've now got a much closer relationship... It's not just about an individual case anymore... we're involved much more proactively with the ombudsman in trying to drive up standards... they themselves are active participants in the network with all the councils and [they] are good actually. They're not just there to tell us what's going to happen. They're good at listening and responding to feedback.” (Local Authority Interviewee 2)

A minority of local authority interviewees would have preferred the SPSO to take a more directive role; for example, in setting more precise standards and giving more precise guidance, including guidance to ensure more consistency in the reporting of data.

SPSO interviewees stressed the innovative nature of the work undertaken by the Complaint Standards Authority and considered that it represented a positive model of how ombudsman schemes should develop in future.

“I used to sit and get lectured about [how] what we would do in Scotland was not what an ombudsman does. And I [would] say, no, no, no, you're doing what an ombudsman did. We're doing what an ombudsman does... You know, catch up.” (O1)

Perceived benefits of the model CHP

The SPSO interviewees identified the following potential advantages of the model procedure: giving complainants a quicker, simpler, more accessible, and more consistent experience in making a complaint; reducing the administrative costs of handling complaints by streamlining procedures; providing complaint handling staff with a stronger sense of professional identity through the establishment of the complaint handling network; and beginning a process of culture change within local authorities towards taking a more positive view of complaints.

Local authority interviewees identified the following benefits:

- Providing a simpler and more consistent experience for citizens and employees across the country;
- Providing internal consistency within each local authority by having a single procedure covering all services;
- Increasing the quality of responses to complaints;
- Providing quicker, more accessible, and less formal responses to citizens' complaints thus enhancing customer satisfaction;
- Empowering staff to resolve complaints more quickly than before;
- Improving staff's ownership in relation to complaints by clarifying the roles that people are expected to play within the complaint process;
- Providing an opportunity to improve complaint handling systems including through making better use of Customer Relationship Management (CRM) systems;
- Making learning from complaints easier to track and monitor;
- Improving the status of complaints within local authorities and beginning to bring about culture change, with staff increasingly seeing the benefits of complaints in general and the model CHPs in particular; *and*
- Making it easier to share good practice and learning amongst local authorities.

"It's clear. It's transparent. And the key thing for the complainant is that it's simple... one council was operating with five levels [of a complaint process] and customers were getting completely lost as to what stage they were in. The employees were [also] getting completely confused." (Local Authority Interviewee 7)

"I would say we've started down the path of changing the culture... [from] 'complaints are a nuisance' to 'actually they're useful'... I would say the model CHP has raised the profile of complaints... Whereas before it was... 'oh, the dreaded complaint' now it has a profile and it has its place in the organisation... It's provided us with the opportunity to re-educate officers around complaints and the process." (Local Authority Interviewee 4)

Despite all these benefits, a number of interviewees felt that changes in culture had not proceeded as far as they ought to have. They felt that there was still a tendency for some local authority staff to perceive complaints negatively rather than as a stimulus to improving service delivery.

“... complaints are perceived as a bad thing... That’s a cultural thing that needs to be broken, and it’s a lot harder nut to crack, because if you have a cultural, ‘I don’t want a complaint’; ‘that’s not a complaint’; ‘I’m not handling complaints’; ‘we don’t get any’... then it’s extremely difficult to be able to identify trends and themes, and from that, improvements. Because that’s really what the complaint procedure is geared towards; it’s finding improvements and making changes to make people’s lives better... Complaints are actually a gift; they are a gift... [But] I think people see a complaint as a hand grenade with the pin taken out; you know, they’ll chuck it to someone else, just as long as it’s not theirs!” (Local Authority Interviewee 7)

Concerns about the model CHP

No serious concerns were expressed about the principle of the new procedures. Any such concerns had been allayed during the process of developing the model CHP. The concerns that were expressed related mainly to data collection and the use of data to report performance indicators (see page 8 of this report for a list of the indicators).

Part II: The SPSO’s performance indicators

The indicators themselves

The SPSO requires local authorities to report their complaint activity against performance indicators.

Most local authority interviewees were very positive about the SPSO’s performance indicators. They were thought to be relevant and clear and the guidance on indicators issued by the SPSO was also thought to be clear.

“I think the information that’s asked for by the SPSO is very, very comprehensive in relation to complaints. There’s ... a whole suite of information that’s available. I couldn’t think of anything else that you’d want to measure.” (Local Authority Interviewee 8)

However, there were also suggestions that certain indicators were not useful. More than one local authority interviewee thought that the indicator of the number of complaints per 1000 of populations was not useful, as it ignored important demographic and other differences between local authorities. Similarly, several interviewees thought that the indicators relating to granting extensions of time for resolving complaints were not useful, largely because they said little about the nature of the complainant’s experience.

The indicators provide only aggregate figures for total local authority performance across all services and several interviewees suggested that the performance indicators could usefully be broken down to provide information about specific services as this would enable more useful comparisons.

“... reporting against actually, well, what’s driving the complaints. Is it waste services, is it community housing, homelessness, et cetera? If all the councils kept saying, for example, that one of their highest complaints was about... homelessness, then is there something that [is about] more than any of us as an individual council? Then it’s about the Scottish Government and it’s about legislation and it’s bigger than we are... So you might give notice to people higher up the chain of more endemic, systemic problems that are too big for one council to handle.” (LA6)

It was also suggested that it would be useful for there to be an indicator about the subject matter or nature of the complaint and that it would be helpful to provide an overall figure for the time taken to respond to complaints, breaking this down into figures for level 1 and level 2 of the process.

The process of data collection

Most local authority interviewees reported that data collection was relatively straightforward, that in general data was being collected appropriately and that the model CHP had led to a major change in the capturing, recording, and reporting of complaint information. However, there were concerns that there was significant scope for interpretation in deciding how complaint data should be recorded; for example, some interviewees were aware that the same complaint might be categorised differently in different authorities.

“Although it looks as if it’s clear and everybody should be answering the same questions in the same way, what you find is that across all the local authorities people interpret it in different ways.... Some people are reporting a hundred per cent all the time and some people are... obviously doing something differently.” (Local Authority Interviewee 10)

One basic distinction that was difficult to apply was that between a complaint and a service request. A few local authorities were thought not to have sufficiently rigorous approaches to data collection and their reported figures were not seen as credible. These issues were thought by several interviewees to undermine the comparability of the performance data across authorities so that they were an imperfect guide to relative local authority performance.

“People have different views as to when a complaint is a complaint or whether it is just a request for a service... Somebody phones up to say, ‘the bin lorry has gone past, you’ve not picked up my bin’. Is that a complaint or not? ... We need some guidance so there’s some kind of consistency on the approach. When does a service request become a complaint?” (Local Authority Interviewee 9)

“The information that’s coming in from some local authorities is... both robust and comprehensive, from others not so much. So, when you’re comparing across [local authorities] I’m not 100 per cent confident [in the information].” (Local Authority Interviewee 3)

Most local authority interviewees said that it was particularly difficult to report against indicators 7 (customer satisfaction) and 8 (learning). Several interviewees also felt that the process was dominated by quantitative indicators. Whilst it was easy to collect and report on quantitative indicators, it was thought that qualitative indicators were often more useful for understanding what had gone wrong and what improvements should be made.

“So, we’ve had instances, in the last couple of years when our annual report is due to the ombudsman, we’ve spent a day phoning round colleagues and services to say, ‘there’s nothing on the system, have a think, you must have made some improvements’... Getting the learning and improvement information has been our biggest challenge, and that is the indicator that I think is the hardest to report against.” (Local Authority Interviewee 3)

“The whole learning from complaints issue: everybody talks about it and everybody’s quite obsessed with it... but it’s quite difficult sometimes to do and to evidence that you’ve done it... A lot of them are... a unique set of circumstances... Even case studies... that you can share with other people [there are issues] about confidentiality... and people not being identified and [a] finger pointed about who did what and why.” (Local Authority Interviewee 10)

SPSO interviewees shared the concerns over variable recording of complaint data and the difficulties of reporting against the learning from complaint indicators and considered that this aspect of the indicators required further development.

Part III: Learning from complaints

Learning from internal complaints

Under the model CHP, learning from mistakes has two aspects: internal, where local authorities learn from issues identified in their own complaints, and external, where local authorities learn from benchmarking and the experiences of their colleagues across Scotland.

There appeared to be a broad consensus including the SPSO and across local authority interviewees that, in principle, complaints should be seen as a learning resource and that they should be used to drive improvements in service delivery. SPSO staff thought that the fact that the model CHP required more systematic gathering of complaint data by local authorities held great potential for generating improvements in performance.

All local authority interviewees indicated that complaint data was extensively reported up the management hierarchy and to local authority committees. The responses suggested that there

had been an improvement in the systematic collection of data and that both elected members and senior managers took a definite interest in the data.

“We have a three-tier approach. Corporate steering board is the vetting process before it goes to the corporate management team... Then the third part... is it goes to the performance committee which is councillor-led and they provide a different type of challenge... from the customer viewpoint.” (Local Authority Interviewee 8)

“It comes to me [as Chief Executive] and it doesn’t just come to me, but we actually spend time on it with my Executive Director, so that’s my most senior team and the Customer Complaints Manager comes along and talks us through... the annual report and what we’ve learned, and what it tells us about what we’re doing and sometimes that will create some further activity for us. When we look at that report we might say in a particular year, ‘Well, we don’t like this or maybe we could learn more about that’. So it really just depends on what’s in the annual report. What he [the Customer Complaints Manager] then does is he takes that report to our audit and scrutiny committee, so our elected members get to see that on an annual basis as well.” (Local Authority Interviewee 11)

Although many said that it was difficult to provide evidence that lessons were being learned from mistakes, a number were able to give examples of specific improvements made as a consequence of complaints.

Examples of learning cited by local authority interviewees included:

- A spike in complaints about broadband speeds at a local library, which impeded job seekers’ job searching, led to improvements to the broadband system (Local Authority Interviewee 3).
- A case where an elderly lady required a care package but there was a failure to assess properly and record the urgency of the package – this resulted in a new protocol being put in place (Local Authority Interviewee 3).
- An increase in complaints was received following a new route for bin collection being implemented, which led to a team conducting an analysis of what was going wrong and a set of recommendations to improve the service:

“That was a great example where the data were clearly telling us something, and something had to happen; you know, something had to be investigated. And that resulted in a number of recommendations and a number of really good positive changes within these services.” (Local Authority Interviewee7)

- A spike in complaints following a change to the way in which a social care service was charged for led to a review and information being provided to explain the changes more clearly to service users (Local Authority Interviewee10).

- Complaint data showed that the timescales for responding to complaints had got longer, and this was investigated to uncover particular problems in education and housing services (Local Authority Interviewee 9).
- *“If there’s any indicator in which a service has fallen down then... we’d expect the hierarchy of management within that service to take action to improve it.”* (Local Authority Interviewee 2)
- Where timescales or other indicators are not being met the complaint data has been used as the basis for providing more training or reprimand staff: *“we’ve slapped them across the backside a bit”* (Local Authority Interviewee 5).
- A spike in complaints about staff attitude (not one of the SPSO indicators, but one used locally) led to the convening of a working group to look more closely at the issues, especially as general population surveys showed local residents felt positive about staff attitude (Local Authority Interviewee 2).

On the other hand, many interviewees also identified challenges in learning from data. One was that it was often not easy to see what useful conclusions could be drawn from aggregate data i.e. what a particular trend in data indicated about a service. Another was the generally low volumes of complaints and the difficulty in identifying whether they were indicative of larger service issues.

“When you look at the quantitative side of things, people will say, well so what, what's that actually telling us? If we can show that 84 per cent of our complaints are closed at stage one, 16 per cent are closed at stage two, and 3 per cent of those only ever escalate from stage one to stage two, then, you know, is it realistic to say, in an organisation of our size, and a community of our size, that we would achieve, you know, 99 per cent of complaints [closed] at stage one?” (Local Authority Interviewee 1)

“It’s also quite difficult to identify a trend from the work that we do, because, for example, if you look at Glasgow or Edinburgh that will naturally be generating more [complaints], because they have a high population so they’re going to have more numbers coming in to organisations such as ours... But, whether that is indicative of those particular organisations not doing it properly, or it’s just a relative proportion of a higher amount of complaints, and we just end up seeing them, it’s quite difficult for us to spot that trend at the minute.” (Audit Scotland Interviewee)

Several interviewees expressed concern that given the constraints on local authority finance that have operated in the last few years it would be difficult to meet the aspiration to learn from complaints; some improvements simply required more resources to achieve them.

Learning from benchmarking and sharing experience

As well as learning from their own complaint data, interviewees discussed the opportunity to learn from the experience of other local authorities through a benchmarking process. The majority of local authority respondents, even where they had expressed uncertainty about the underlying quality of the data being collected by local authorities, had a positive view of the potential for benchmarking. Most acknowledged that there was at least some benefit in sharing and comparing information across local authorities, despite the challenges involved in making such comparisons.

“The comparative analysis is really useful, because if you look at other local authorities, and say, for example, how come they are in our benchmarking group and they get half the number of complains as we do about their bin collections, what are they doing that we’re not? Obviously, you’re then able to really get some information about service delivery and good practice elsewhere that can help drive improvements to your own local authority.” (Local Authority Interviewee 3)

Local authority interviewees noted that the benchmarking process was not about creating league tables, but about allowing discussions between authorities that could lead to strategic change and improvement and allow organisations to meet their goals. It was the discussions that arose from comparing data that were beneficial rather than the straightforward consideration of the data. In this context, the complaint handler network was seen as crucial and was viewed as one of the best features of the new complaint system.

“It’s about putting aside that opportunity to reflect on it, just simply as a league table, and say, actually, it’s about more than that. It’s about, you know, fundamentally, how are we using complaints to help us achieve the aims, the objectives, the vision, that we set for our organisation?” (Local Authority Interviewee 1)

Indeed, a large majority of respondents pointed out that the value of looking at complaint data lay more in the discussions that they could prompt with other authorities as part of the local authority complaint handler network.

“[The complaint network is] brilliant, I think it’s really informative, I think it allows people to discuss some of the specific issues, it allows representative groups to come in attendance to discuss themes, new issues. No, it’s a good knowledge sharing group, I think it’s very proactive.” (Local Authority Interviewee 8)

As already noted above in relation to the variability in data recording practices, there were some challenges that stood in the way of benchmarking. Other challenges included:

- Comparing local authorities that could be vastly different in size, functions, and demographics;
- Finding appropriate ‘family groups’ within which benchmarking could most usefully take place;
- Inconsistency in how data were presented by local authorities in their published reports; and
- The timeliness with which data were reported and subsequently used for benchmarking.

Initial analysis of complaint data

The latest available performance indicator report prepared by the Improvement Service examined data for 2014/15.⁹ This report states that 31 out of 32 councils returned data using the standardised data collection template.¹⁰ The report presents data for all 31 local authorities against each of the complaint performance indicators.

According to the report, a total of 67,620 complaints were received during 2014/15 from Scottish local authorities, equivalent to 13 complaints per 1,000 population. This was an increase from 57,748 complaints in 2013/14, equivalent to 11.5 complaints per 1,000 population. The main findings were that despite an increased volume of complaints compared to 2013/14:

- there was a significant improvement in meeting (and surpassing) response targets for resolving both stage 1 and stage 2 complaints within the prescribed timescales;
- 80% of all complaints resolved were resolved at stage 1 during 2014/15; *and*
- while the proportion of complaints upheld or partially upheld at stage 1 decreased in 2014/15 compared to the previous year, the proportion upheld or partially upheld at stage 2 increased.

There was substantial variation across the 31 authorities on all of the indicators. The report concluded that these variances offered a ‘can opener’ for discussion to better understand the factors driving the differences, and presented the Local Authority Complaint Handling Network with an opportunity to explore which methods and approaches are delivering the greatest impact in providing a higher quality, more efficient complaint handling service.

Publication of data

Given the focus on improving the users’ experience and generating broader learning from complaints, it seems appropriate to examine the extent to which, and the way in which, local authorities publish the data they collect.

As part of the research, we examined the websites and annual complaint reports of six local authorities. This analysis found variations in the ease with which complaint reports could be

⁹ At the time of writing, the Improvement Service had yet to produce an analysis of 2015-2016 data.

¹⁰ It is unclear why data for one local authority is missing.

found and in the amount of information published by local authorities. Some examples were very thorough and others were more basic.

Local authority interviewees were unsure about who would be interested in the complaint data and about who used it outwith their authorities. Despite the purpose of the new arrangements being to improve the user experience, interviewees were unclear about how interested local residents would be in complaint data. However, some respondents noted that this could be an area for further reflection.

“What is it the members of the public... want to see? Do they ever go near a website? Are they interested in us as an organisation, publically reporting to them how we perceive we're doing? ... What are the performance standards that members of the public are setting for our organisations? We can sit here, in our world, we can understand things that we do on a day to day basis, but if we don't engage with members of the public, and ask them, then, you know, are we doing a lot of work for no real benefit?” (Local Authority Interviewee 1)

Another issue raised in relation to the publication of complaint data was whether this data should be published centrally. Some local authority interviewees felt that this would be helpful and emphasise the importance of complaint data as an accountability mechanism, while others felt that this increased the risk of people misunderstanding complaint data and turning them into league tables.

“We hide behind not introducing league tables, because our data's different. But if we really want to drive improvement and learning we need to make organisations accountable for the way they handle their complaints.” (Local Authority Interviewee 4)

“That's how it will be interpreted, as a naming and shaming report you've presented, not something that's actually useful in terms of, you know, being able to benchmark for the council.” (Local Authority Interviewee 7)

An SPSO interviewee said that a further gap in relation to the use of complaint data related to the Scottish Parliament. There was a feeling here that it had yet to make extensive use of the data as part of its policy work.

“You're going to be in a position soon where across the whole of the public sector in Scotland, you're going to have complaint information that nobody else anywhere in Europe or the rest of the world has... If I was sitting on a committee in parliament... I would say, 'Well, thanks very much for that. Let's have a look at this. Let's see what this tells us...where have people got gripes? ... And it gives us the friction points.” (Ombudsman Interviewee 1)

Part IV: Key stakeholders

The role of the Improvement Service

The Improvement Service¹¹ has published a number of elected member briefing notes. Its briefing on the SPSO includes material on the significance of complaints, i.e. that as well as providing an opportunity for dissatisfied service users to raise their concerns, complaints provide valuable feedback on service delivery and a means for users to have an input to the continuous improvement of services. Furthermore, it said that complaints may also provide an early warning of more fundamental problems in service design and delivery and points out that councils are required to analyse complaint performance information to ensure service failures are identified and appropriate action is taken.

The briefing also describes the model CHP and states, ‘the Improvement Service supports the national reporting of council complaints performance information. This enables councils to benchmark their performance against each other and identify areas of good practice.’ The briefing also includes a section on supporting constituents and learning from complaints and a checklist of key questions for members on how their local authority deals with complaints and uses complaint information.

The Improvement Service was not mentioned to any great extent in interviews. As noted above, interviewees had found the Improvement Service’s analysis of complaints data for 2014/15 useful. However, it was noted that there had not been a further annual report since then and that this placed a limitation on the ability of local authorities to benchmark. One interviewee, in commenting on a draft of this report, noted that it was unclear whether the Improvement Service was expected to conduct further work in this area.

The role of Audit Scotland

The Correspondence Team of Audit Scotland receives complaint data from SPSO about complaints that reach the SPSO and complaints received by local authorities. This is used in several ways:

- providing analysis to inform the work of local audit teams and cluster groups;
- in its annual local government overview report;
- in Best Value audits; and
- in shared risk assessments.

Audit Scotland analyse the information the SPSO has gathered from local authorities in various ways, for example, by sector, by individual authority, and by topic (such as performance, economic development, or health). Audit Scotland use the complaint information received from SPSO to assist in risk profiles for the authorities that they audit, and examine whether the complaint data indicates any particular problems within that authority.

Audit Scotland publishes a local government overview report, and has begun to include comment on longer term trend information about complaints across local government.

¹¹ We had intended to include an interview with staff of the Improvement Service in the research but were not able to arrange one.

Local authorities are required to complete a Best Value audit every five years. One element of that audit is examination of how the local authority uses its complaint information, for example, whether it uses it to improve its services and its engagement with community. However, this has only just been implemented, so it too early to say what the effects might be.

Complaint information is also used in the shared risk assessments of local authorities that Audit Scotland conducts with other regulators such as Education Scotland. It helps to build up an overall picture of particular services within the local authority. Initial feedback to Audit Scotland suggests that local authorities have become more likely to see the potential to use complaint information positively to improve the service, although again it is too early to draw firm conclusions as this process is relatively new.

Although Audit Scotland staff thought that qualitative information was ultimately more important for analysing risk and assessing performance, the quantitative data on complaints provided a good trigger for conversations with local authorities about the more qualitative indicators.

4. CONCLUSIONS

This concluding section summarises the research findings, evaluates the usefulness of reported data for administrative justice researchers, highlights areas for further investigation in future research, and considers whether the research provides lessons for wider administrative justice policy and practice.

Key findings

Our research suggests that there has been full compliance by local authorities with their duties to adopt new complaint handling procedures consistent with the model CHP. In general, local authority complaint staff consider that there are definite advantages to the model CHP and no major disadvantages. They also consider that the performance indicators against which the SPSO collects data are appropriate, although there was some concern about the usefulness of the first indicator (number of complaints received and closed per 1000 of population) and indicators 7 (customer satisfaction) and 8 (learning), which were particularly difficult to report against. Data collection was thought to be relatively straightforward. There were, however, some who thought that the process was overly dependent on quantitative indicators, whereas qualitative indicators were often more useful. Some also thought that more guidance from the SPSO would be beneficial.

There were clear signs of cultural change taking place whereby, increasingly, complaints and complaint information were seen as a valuable source of information that could be used to drive service improvement. This may be related to the SPSO's preferred approach of seeing itself as a monitor rather than a regulator and the decision to develop the model CHP in partnership with local authorities. This collaborative approach was commented on with approval by almost all respondents.

More data on local authority performance in complaint handling was available to the public than before, but there was much variation in ease of accessibility and content.

Audit Scotland saw its role as information analysis and supplied analysis based on the data that the SPSO had collected both to its own local audit teams and cluster groups. The analysis of complaint data was beginning to play a role in Best Value audits and shared risk assessments. At this stage, however, the impact that complaint data were having on the audit process remains unclear. The Improvement Service had made a useful contribution with his analysis of complaint data, however, a report has not been produced since 2015 and it is unclear when a further report will be forthcoming.

Usefulness of reported data for administrative justice researchers

The performance indicator data supplied by local authorities to the SPSO are useful for researchers in that, over time, they will enable them to identify any general trends across Scotland. It will also enable them to make comparisons amongst local authorities and/or groups of authorities. However, the limited range of indicators does not include all the matters on which it would be useful to have quantitative data. Thus, for example, it would be useful to have figures for total complaints received and closed broken down by service (for example, housing complaints or roads complaints) to enable researchers to make more useful comparisons and to spot trends in specific services. In order to interpret the figures, it may be important to relate it to data on demographic and other differences between local authorities.

Separately from that, it would be useful for researchers to have information about the demographic characteristics of complainants.

This does not mean that there should necessarily be an increase in the number of required performance indicators. Another route would be for all local authorities to publish annual complaint reports as some already do and for local authorities to provide more information in those reports, for example, a breakdown of complaints by service.

Areas for further investigation in future research

This research project enables us to conclude, albeit tentatively, that some of the key aims of the Public Services Reform (Scotland) Act 2010 have been realised. Complaint handling processes for local authorities have been standardised and the consumer journey has been simplified. It is likely that the introduction of the model CHP has improved the handling of complaints against local authorities in Scotland and it has certainly resulted in more information about complaint handling entering the public domain. What we cannot say is how far the more ambitious aims of ensuring improved customer satisfaction and ensuring that more learning from mistakes occurs have been achieved. This would require the development of further quantitative measures and qualitative research. Both of these should be seen as priorities for further research. Another potential area for research is the role that Audit Scotland and the Improvement Service play in the process.

Lessons for wider administrative justice policy and practice

The lessons for policy and practice of this research primarily relate to complaint handling rather than other administrative justice remedies such as appeals to tribunals or courts. They extend beyond Scottish local authority complaint handling in at least two ways, one functional and one geographical. The functional extension is that research findings may be relevant to other public sector complaints, such as those relating to health services, social work services and central government services such as social security benefits. The geographical extension is that research findings may be relevant to other parts of the United Kingdom. Public policy across the UK for more than 25 years has broadly been to the same effect, namely that public bodies' complaint systems should be (i) consumer focused, providing appropriate redress and improving consumer satisfaction, and (ii) that public bodies should use the information provided by complaints to improve public services. The model CHP and associated performance reporting is a further refinement of the methods for achieving those aims. It also represents an experiment with the institution of the public sector ombudsman, suggesting a different approach to the supervision of public bodies. As such, the research should be of interest to policy-makers, public bodies and public sector ombudsman schemes throughout the UK. It is certainly worth considering whether there might be benefits in extending the approach of the model CHPs across the whole UK public sector, albeit there may be some features of the SPSO's approach (such as an ability to develop highly cooperative sectoral networks) that would be more difficult to achieve across a larger jurisdiction.

5. RECOMMENDATIONS

Despite the exploratory nature of this project, we have nonetheless identified some specific issues that would benefit from further reflection and/or action. While being cognisant of the limitations of our evidence base, therefore, we make the following recommendations:

The SPSO and the local authority complaint handling network should consider:

1. Developing further guidance to help local authority staff distinguish between complaints and service requests.

Purpose: to ensure the integrity and comparability of data being collected across Scotland.

2. Developing further guidance in relation to indicators 7 (customer satisfaction) and 8 (learning from complaints).

Purpose: to assist local authorities to provide meaningful and comparable information against those indicators that are less tangible and more qualitative.

3. Developing further guidance on the format and content of complaint reports and considering how best to communicate data to the public.

Purpose: to enhance the consistency and usefulness of complaint data for third parties and help ensure, particularly, that citizens are able to access complaint information.

4. Holding discussions with administrative justice researchers about gaps in data collection, improving the data available for secondary data analysis, and identifying priorities for research amongst practitioners.

Purpose: to improve the ability of researchers to access and make use of administrative data on complaints.

5. Carrying out a full evaluation of the model CHP.

Purpose: to provide a strong evidence base for current and future practice in relation to the model CHPs and their monitoring.

The Improvement Service should consider:

6. Improving the timeliness of its annual complaint data analysis.

Purpose: to support the work of the local authority complaint handling network and ensure the usefulness of the data analysis.

Ombudsman schemes and policymakers in other UK jurisdictions should consider:

7. Investigating, where appropriate, the scope for adopting a Complaint Standards Authority approach in other parts of the UK.

Purpose: to consider ways of improving the user experience of public service complaint process.

ABOUT THE RESEARCH TEAM

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