



# **MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**SCOTTISH PUBLIC SERVICES  
OMBUDSMAN**

**AND**

**THE DRINKING WATER QUALITY  
REGULATOR FOR SCOTLAND**

**Reviewed: March 2017**

# MEMORANDUM OF UNDERSTANDING

between

**THE SCOTTISH PUBLIC SERVICES OMBUDSMAN**

and

**THE DRINKING WATER QUALITY REGULATOR FOR SCOTLAND**

## **1. Introduction**

The purpose of this Memorandum is to set out the functions of the Scottish Public Services Ombudsman (SPSO) and the Drinking Water Quality Regulator for Scotland (the DWQR) and to describe the arrangements for co-operation and communication between the two bodies.

## **2. Functions of the Parties to this Memorandum**

### **2.1 SPSO**

The Scottish Public Services Ombudsman (SPSO) has the functions set out in the Scottish Public Services Ombudsman Act 2002 (the 2002 Act) as amended. 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 on the part of an authority within the SPSO's jurisdiction, providing that the matter complained about is 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). The list includes Scottish Water and local authorities.

The functions of the SPSO 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. 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 DWQR**

The post of Drinking Water Quality Regulator (DWQR) was established by The Water Industry (Scotland) Act 2002 which defined their responsibility for enforcing drinking water quality standards in Scotland. The DWQR plays a key role in ensuring that the quality of drinking water in Scotland is of the highest standard.

With regard to the public water supply, the DWQR must ensure that the drinking water quality duties imposed on Scottish Water are complied with. The DWQR rigorously checks the quality of water supplied by Scottish Water, using information supplied by the company; carries out audits and inspections of Scottish Water in respect of any of its quality-related water supply duties; initiates enforcement action to ensure that drinking water standards are maintained and that Scottish Water is

meeting its regulatory duties; and investigates all incidents that affect or threaten to affect the quality of drinking water supplied by Scottish Water,

In relation to private water supplies, the DWQR supervises the enforcement of private water supplies by local authorities.

### **3. Requirements relating to complaints**

#### **3.1 SPSO**

Section 16A of the 2002 Act requires listed authorities to have in place a complaints procedure which complies with the complaints handling principles approved by Parliament in January 2011. Section 16B allows the Ombudsman to create a model complaints handling procedure for a sector, and subsequent sections deal with how a listed authority would be informed such a procedure applies and the enforcement action the Ombudsman may take in the event of non-compliance. Section 16G places obligations on the Ombudsman to share best practice and to monitor complaint handling trends.

Section 22 of the 2002 Act (Information about right to make a complaint) requires a listed authority (which includes the DWQR) to take reasonable steps to publicise the application and effect of the 2002 Act, including in particular, the right conferred by the 2002 Act to make a complaint, the time limit for doing so and how to contact the SPSO. This information must be included in, or provided with, any document published by the listed authority that contains information about the services it provides to members of the public, or about how it deals with complaints. The information must also be included in any response to a complainant who may be entitled to complain to the SPSO.

#### **3.2 DWQR**

DWQR investigates complaints from consumers about the quality of drinking water where the consumer has previously contacted Scottish Water with their concerns and has exhausted Scottish Water's internal complaints process, but has not been satisfied with the response from the company. The scope of the DWQR action in this situation could include investigating the action taken by Scottish Water upon receipt of the consumer's complaint; the quality of the drinking water provided to the consumer; the information provided by Scottish Water to the consumer and any other aspect that relates directly or indirectly to drinking water quality.

A similar approach will be taken in the case of private water supplies where a user has raised an issue in respect of water quality with local authorities and remains dissatisfied with their response, bearing in mind that ultimate responsibility rests with the owners and users of these supplies.

Notwithstanding the above statements investigation will take place immediately in the event of a health related complaint or concerns over a significant breach of regulatory standards.

#### **4. Sharing information about complaints.**

The SPSO will assist DWQR, wherever possible, in discharging its regulatory function. Legislative restrictions relating to confidentiality and disclosure of information limit the information that can be shared.

The SPSO will consult with DWQR if they intend to create a model complaints handling procedure which could apply to bodies regulated by DWQR. They will also inform DWQR in advance of any intention to inform a body regulated by DWQR that a model applies to them or before undertaking any enforcement action.

#### **5. Consultation and Co-operation**

The SPSO and DWQR 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. Within available resources, the SPSO and DWQR 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.

#### **6. Exchange of Information between the parties**

SPSO and DWQR will actively share information on developments in the industry which may be of interest to the other party. They will also ensure that information which they intend to make public and which may be of interest to the other party or on which the other party may be likely to be asked to comment will be shared with each other in advance of public release.

SPSO and DWQR are committed to ensuring that information flows freely between them to enable them to carry out their respective functions. They shall, however, observe any restrictions on disclosure that may apply in a particular case. They undertake to respond within a reasonable timescale. When one of the parties to this agreement is prevented from supplying information or is aware there will be a delay in doing so, the reasons for this will be explained.

#### **7. 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.

#### **8. Liaison Meetings**

SPSO and DWQR representatives will meet on request to consider matters of mutual interest arising from their respective functions.

## 9. Complaints about DWQR

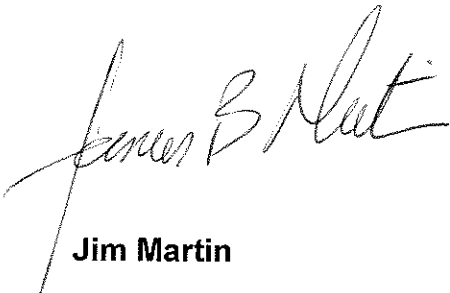
As a listed authority, DWQR is under the jurisdiction of the SPSO. If an individual was unhappy with the way DWQR had handled their complaint, they could take this as a complaint to SPSO. The SPSO will not usually consider a complaint until the complaints process of a listed authority has been invoked and exhausted.

It has been agreed that the Administrative Support role within DWQR will provide the liaison point for complaints received from the SPSO.

## 10. Monitoring and Review of this Memorandum

SPSO and DWQR representatives will meet at least once every two years to review the operation of this Memorandum of Understanding. Where problems in the operation of this Memorandum are identified by either party they will seek to resolve them quickly and informally. If this is not possible then the Ombudsman and the DWQR will take responsibility for achieving a mutually acceptable resolution. Their decision will be final.

## Signatures to the Memorandum



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