The SPSO was set up by an Act of the Scottish Parliament to investigate complaints from members of the public who claim to have suffered injustice or hardship as a result of maladministration or service failure on the part of, or on behalf of, a public body in Scotland. In this leaflet we set out examples of the kinds of complaints we can consider if you are unhappy with the way an authority has handled your planning complaint.

What you must do if you wish to complain to the SPSO

Before you can bring your complaint to us, you must first go through the formal complaints process of the organisation involved. We would normally recommend that you do this in writing, clearly stating that you wish to make a formal complaint. You can obtain details of the procedures from the authority concerned.

Do consider whether or not you could ask more questions about your complaint with the organisation concerned. Many bodies are happy to talk about a complaint or clarify any matters that you feel they may have missed. However, if you’re not happy with the final response, or if you don’t get one, you can complain to us.

What the SPSO can and cannot look into

We can look into how planning authorities carry out their administrative functions. Planning law not only governs new developments and changes in the way land and buildings are used but it also covers alterations to listed buildings and the control of advertisements. This means that a planning authority has discretion to make decisions on a wide range of planning related matters.

We can look at whether an application for planning permission, listed building consent, conservation area or advertisement consent has been properly administered and whether a planning decision (made by officers acting under delegated authority or by a committee) has been taken in accordance with relevant Scottish planning legislation and local policies and procedures and related regulations and guidance.

Here are some examples of the main areas we can look at:

- incorrect / misleading pre-application planning advice
- incorrect processing of an application
- incorrect / misleading information contained within a committee report
- failure of a planning authority to agree the extension of the 8 week period for determining the application
- the serving of Statutory Notices (e.g. Enforcement, Modification, Building Preservation) without pursuing the proper procedure
- failure of a committee to follow correct procedure when determining an application
- complaint handling on the part of the planning authority.

However, you should note that:

- We cannot question the merits of a decision made by a planning authority without evidence of maladministration. This means that we have no power to overturn a decision made by a planning authority when it has been made in accordance with relevant Scottish planning legislation and related regulations and guidance, both national and local.
- The conduct of individual councillors in planning matters is usually a matter for the Standards Commission for Scotland, not the SPSO.
- Issues to do with staff discipline should be dealt with by the relevant planning authority through its own internal procedures.
- We cannot look at complaints that are made to us more than 12 months after you became aware of the matter you want to complain about.
- We cannot look at complaints that you have taken, or are taking, legal action about
- We cannot determine appeals against deemed refusals, the serving of Statutory Notices etc, this is the remit of the Directorate of Planning and Environmental Appeals (see below).

If you are unhappy with the decision made by a planning authority rather than the administration of your application, then generally you would have a statutory right of appeal to Scottish Ministers. In considering the appeal, the Directorate of Planning and Environmental Appeals (DPEA) (formerly the Scottish Executive Inquiry Reporters Unit) has the power to investigate the merits of any planning decision taken by a planning authority.

You must submit your appeal, in writing, to the DPEA by the prescribed date which will be included in the decision notice. The fact that you may have missed the deadline to appeal does not mean that the SPSO can intervene.

It is also possible for the SPSO to take complaints about maladministration or a failure in service delivery on the part of the Scottish Government or the DPEA. Again, it is important to stress that the SPSO cannot question the merits of an appeal decision taken by the DPEA without evidence of maladministration.
Contacting other agencies and organisations

Scottish Government PLANNING HELPLINE Tel: 08457 741741 (UK local rate)
The Planning Helpline can provide you with advice and or information about planning issues which are the responsibility of the Scottish Government.

Planning Aid for Scotland (PAS)
Planning Aid for Scotland (PAS) is a voluntary organisation that delivers free and independent advice, information, support and training on planning and environmental matters to members of the public and community organisations. Advice and training is given through qualified and experienced town planners and trainers.
11a South Charlotte Street, Edinburgh EH2 4AS
Tel: 0131 220 9730 Email: office@planningaidscotland.org.uk Web: www.planning-aid-scotland.org.uk

Royal Town Planning Institute in Scotland
RTPI is the professional organisation of Town Planners
57 Melville Street, Edinburgh EH3 7HL
Tel: 0131 226 1959 Web: www.rtpi.org.uk

Citizens Advice Scotland
Citizens Advice Scotland will be able to give you details of your nearest Citizens Advice Bureau
First Floor, Spectrum House, 2 Powderhall Road, Edinburgh EH7 4GB
Tel: 0131 550 1000 Web: www.cas.org.uk

Directorate of Planning and Environmental Appeals DPEA
(formerly the Scottish Executive Inquiry Reporters Unit)
The DPEA has responsibility for planning and related appeals in Scotland.
4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk FK1 1XR
Tel: 01324 696 400 Email: dpea@scotland.gsi.gov.uk Web: www.scotland.gov.uk/Topics/Planning/Appeals

The Standards Commission for Scotland
The Commission is committed to high ethical standards in public life through the promotion and enforcement of Codes of Conduct for Councillors and those appointed to designated public bodies.
Forsyth House, Innova Campus, Rosyth Europarc, Rosyth Fife KY11 2UU
Tel: 01383 428061 Web: www.standardscommissionscotland.org.uk

Please note that the information in this leaflet may change as a result of the implementation of the Planning etc (Scotland) Act 2006