

Sally Loudon
Chief Executive
Convention of Scottish Local Authorities
Verity House
19 Haymarket Yards
Edinburgh
EH12 5BH

10th June 2020

Dear Sally,

Suspension of Complaints Procedures in Scottish Local Authorities

It has come to the Commission's attention that a number of local authorities, including Midlothian Council, East Dunbartonshire Council and North Lanarkshire Council have fully suspended their complaints procedures.

This is a very concerning development, especially in the current context, in which there are considerable changes and reductions in service provision. The decision to suspend complaints services effectively removes any opportunity for individuals to seek redress or accountability where actions or omissions by the local authority have affected them. Given the nature of the rights which may be engaged by individuals accessing local authority services, including Articles 2 (the right to life), 3 (the prohibition on torture, cruel, inhuman and degrading treatment), and 8 (the right to private and family life, home and correspondence) of the European Convention on Human Rights (ECHR) protected through the Human Rights Act, it is vital that individuals are able to raise concerns, resolve problems and if necessary, access justice.

As you will be aware, the Commission has advocated for any changes in law, policy or practice during the pandemic to be grounded in human

rights principles, including proportionality, time-limitedness, necessity and lawfulness. A blanket approach of suspending all complaints until further notice is not compliant with these principles.

The Commission notes that the duty on local authorities to develop and implement a complaints procedure is set out in the Public Services Reform Act 2010, Part 8, s119, which amends s16 of the Scottish Public Services Ombudsman Act 2002. The same section also requires that local authority complaints procedures comply with the Scottish Public Services Ombudsman's Statement of Principles concerning complaints handling procedures of listed authorities. We are concerned that the decision to suspend complaints procedures fully is not compatible with these provisions, or with the principles of timeliness, accessibility, and improvement set out in the SPSO's Statement of Principles.

The Commission is also concerned that the decision may have a knock-on effect on complainants, given the need to complete one part of the complaints process before being able to escalate it further, thus affecting access to justice. This is especially the case given that the suspension is not time-limited and people within the local authority areas concerned cannot anticipate when it will be reintroduced.

The Commission suggests that a more proportionate approach by local authorities would be to accept and triage complaints, so that, for example, those which potentially engage absolute rights such as Articles 2 and 3 of the ECHR are addressed swiftly.

We have shared our concerns with Rosemary Agnew, the Scottish Public Services Ombudsman. We will also share our concerns with our sister Commission, the Equality and Human Rights Commission Scotland, in their capacity as Equality Regulator, as these decisions have a clear and disproportionate impact on specific equality groups, including older people and disabled people.

I would welcome further discussion with you as to the swift resolution of this situation.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Leith Davis". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chair, Scottish Human Rights Commission