

Briefing for the Public Petitions Committee**Petition Number:** [PE1771](#)**Main Petitioner:** William Tait**Subject:** Potential abuse within Scottish local authorities

Calls on the Parliament to urge the Scottish Government to:

- Close or overhaul COSLA and;
- Review and re-write the remit of the Scottish Public Services Ombudsman in relation to council complaints.

Background*COSLA*

In 1975, the Convention of Scottish Local Authorities (COSLA) was set up to act as a national voice for local government in Scotland. It is a politically led, cross-party organisation, and currently represents all 32 local authorities on a Scottish, UK and European level. COSLA works with the Scottish Government and Scottish Parliament to influence public policy and represent the views of Scottish communities. The organisation encourages political consensus and continuous improvement. On its own [website](#), COSLA sets out its role and functions as being to:

- ENGAGE in key financial, legislative and policy developments to ensure they have the best possible impact
- DEVELOP partnerships with Scottish, UK and international governments, parliaments, and the third and private sectors
- CAMPAIGN on the issues that matter to our members, and promote the image and reputation of local government
- CHAMPION the role of local government in the governance of Scotland, and lobby for stronger local democracy and community empowerment
- LEAD reforms that improve public services and save money effectively

- NEGOTIATE fair and affordable pay and workforce conditions on behalf of all councils
- SUPPORT councils to work together, and deliver shared services that increase their capacity

It also states that:

“COSLA is not just about politics. We're also responsible for providing national services to councils and their partners through the [myjobscotland](#) recruitment portal, [Trading Standards Scotland](#), and Business Gateway National Unit.”

COSLA has at times not represented all Scottish councils. For instance, the Scottish Local Government Partnership (SLGP) was established in March 2015. This organisation was founded by and represented four local authorities – Glasgow, Renfrewshire, South Lanarkshire and Aberdeen. Whilst the SLGP was in place, the Scottish Government only negotiated with COSLA on budgetary and other national matters. Following the 2017 Scottish local elections, all councils opted for COSLA representation.

COSLA plays a key role in the Budget process, and in policy setting around local government issues. The local government funding formula and priorities within it are negotiated and agreed between COSLA and the Scottish Government. COSLA is expected to liaise with local authorities before accepting the Scottish Government’s local government funding settlement as part of the annual budget process. Although COSLA is heavily involved in funding discussions, it still lobbies the Scottish Government independently on matters affecting local authorities.

The SPSO

The [Scottish Public Services Ombudsman](#) (SPSO) has a wide remit, covering a variety of functions and services. Her powers and duties come from the Scottish Public Services Ombudsman Act 2002 which gives her three distinct areas of statutory functions:

- The SPSO is the final stage for complaints about most devolved public services in Scotland including councils, the health service, prisons, water and sewerage providers, Scottish Government, universities and colleges. It is not an appeal body for the decisions of organisations and, while they can check that a decision has been properly made, they cannot change or overturn it. If the SPSO finds that something's gone wrong, they can make recommendations to put things right.
- The SPSO has specific powers and responsibilities to publish complaints handling procedures, and to monitor and support best practice in complaints handling. See the Complaints Standards Authority website www.valuingcomplaints.org.uk.

- In 2016-17, the SPSO began its role as the independent reviewer of the Scottish Welfare Fund (SWF) with the power to overturn and substitute decisions made by councils on Community Care and Crisis Grant applications. See the [Scottish Welfare Fund website](#). The previous scheme had involved each of the 32 local authorities having its own review panel.

Useful documents covering the SPSO's work and aims are –

[Strategic plan 2018–2020: Putting people at the heart of public services](#)

[Annual Report 2018-19](#)

Scottish Government Action

In 2007, the Scottish Government and COSLA signed a [concordat](#) which set out the terms of a “new relationship” between the Scottish Government and local government, based on mutual respect and partnership. The Scottish Government and COSLA are currently working together on a [local governance review](#). Whilst the Scottish Government can make changes to the structure and role of local government, it is not responsible for the formation of COSLA, or indeed local authorities. It would not be able to close or overhaul COSLA, as it did not establish it.

The SPSO is independent of Government and has a duty to act impartially. Whilst the Scottish Government can legislate for changes to the powers of the SPSO (generally on the request of the SPSO), it does not scrutinise the ombudsman. To safeguard the independence of the SPSO, under the provisions of the Scottish Public Services Ombudsman Act 2002, in the exercise of the SPSO's statutory functions, the SPSO is not subject to the direction or control of any member of the Scottish Government or the Scottish Parliament

Scottish Parliament Action

COSLA gives evidence on a regular basis to Scottish Parliament committees, particularly the Local Government and Communities Committee, representing all of their members. As noted above, however, it is not a body which the Scottish Parliament formally scrutinises, nor is it audited by Audit Scotland.

The Scottish Parliament pays the salary and expenses of the SPSO. The Ombudsman is accountable to the Scottish Parliament and must lay an annual report and their investigation reports before the Parliament. Committees of the Parliament will usually scrutinise the Annual Report in the context of their own remit. For instance, the [Local Government and Communities Committee](#) looks at the annual report each year primarily in the context of understanding local authority performance, but will also explore the role and functions of the SPSO.

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