

1. The petition calls for two changes to improve complaints handling.
 - 1.1. allowing this office to take complaints in any format and
 - 1.2. requiring organisations to permit complainants to audio-record meetings and phone calls and use this as evidence in any subsequent complaint

Taking complaints in any format

2. As well as asking for views, the committee has asked for an update on the discussions with the Scottish Government. The discussions with the Scottish Government, which have been ongoing since 2017, included the request for complaints in any format amongst a number of other proposals for change to ensure the legislation underpinning this office's work remain fit for purpose and enable, rather than prevent us offering a fully accessible service.
3. I was disappointed to learn recently that the Scottish Government had finally completed their consideration and decided they do not have the resources to take any of the proposals forward at this time. I note also that they wrote to the Local Government and Communities Committee informing them of this and that the Committee has asked the Minister when he anticipates resource may be available and have asked for a response by 5 November 2019.
4. This means, while I remain firmly of the view that a change to the ability to take complaints in any format is one that is critical to allow us to deliver a fully accessible service, there is not likely to be a legislative vehicle available for this change in the near future. This is disappointing in the extreme.

Requiring organisations to permit complainants to audio-record meetings and phone calls and use this as evidence in any subsequent complaint

5. The petition and subsequent correspondence from Accountability Scotland acknowledge that there is no legislation preventing this. As we understand it, the aim behind the petition is to give individuals who might struggle to take notes a way of keeping a record of a meeting or phone call.
6. Our starting point is that it is difficult to justify a public service refusing to allow someone to take a recording, especially on accessibility grounds. However, careful thought would need to be given to how these recordings are taken and shared, as to be robust evidence, they need to be taken openly and both parties should have a copy that they agree it is a true and fair record. This is not necessarily something that should (or could) be legislated for, but might

be better covered in guidance. It should also be borne in mind that a recording is likely to be one type of evidence that would need to be considered along with other evidence, and while helpful, is of itself, unlikely to be definitive in resolving a dispute.

7. The petition also references the ICO. It may be prudent to ask them for their view as there are data protection implications in terms of balancing the personal data rights of service users, staff and third parties.