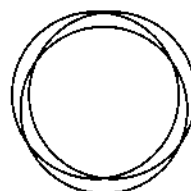


15 July 2004



SCOTTISH
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OMBUDSMAN

062.

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Dear Colleague

Consultation on 'A changing landscape for tertiary education and research in Scotland'

This letter is a response to the proposals contained in the above consultation paper. We responded in March of this year to the earlier consultation on 'A new complaints landscape for Further and Higher education in Scotland'. I attach a copy of that response, as it contains comments that apply equally to your consultation.

There is one matter to which I feel it would be useful to draw to your attention. Paragraphs 69-70 of the paper refer to the Scottish Public Services Ombudsman. I believe from other discussions with the Scottish Executive that should the decision be reached to extend the SPSO's jurisdiction to Further and Higher Education the Bill annexed to the paper is the proposed vehicle for achieving this. The Act which created our office is the Scottish Public Services Ombudsman Act 2002 (the Act). We have pointed out to the Executive that under our current jurisdiction the Act extends the ability to make a complaint to the Ombudsman to any person or body falling to be described as a 'member of the public' who claims to have suffered hardship/injustice as a result of alleged maladministration/service failure by the body against which they are complaining. Whether or not we then can take up their complaint may be subject to other separate restrictions under the Act.

Section 5(6) of the Act defines those who do not fall within that definition. It is therefore the case that our current jurisdiction does not limit us to considering complaints solely from those with a particular kind of relationship with the public body against which they wish to complain. Paragraph 70 of the consultation document, however, refers to 'consideration of student complaints'. It seems that to restrict potential complainants to a particular group in this way would be anomalous compared to our present ability to accept complaints against other sectors. We can see where there might be potential for complaints from groups or individuals who are not students and we have made the Executive (via Colin Baird) aware of this. We would be happy to provide more information about this or to discuss it further with you, if you think this would be helpful.

Yours sincerely

Annie White
Complaints Manager

29 March 2004

Margaret McLachlan
Scottish Executive
Enterprise, Transport
and Lifelong Learning Department
2nd Floor, Europa Building
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Dear Ms McLachlan

CONSULTATION ON A NEW COMPLAINTS LANDSCAPE FOR FURTHER AND HIGHER EDUCATION IN SCOTLAND

This letter is a response to the proposals contained in the above consultation paper. We endorse the comments in the paper that an open and robust complaints procedure is a hallmark of an organisation striving for quality and that complaints are more likely to be resolved quickly when they are dealt with locally. However, such local resolution is not always possible and the consultation paper correctly sets out this Office's remit in considering such unresolved complaints about bodies currently within our jurisdiction. Our key principles are to be open, accountable and accessible in providing our service; to be independent, free to users of the service and fair to all parties in responding to complaints; and to raise awareness of our service and promote good practice by Scottish public services.

Whether the Ombudsman's jurisdiction should be extended to include consideration of complaints about provision at Scotland's Further Education Colleges and Higher Education Institutions is a policy decision on which it would not be appropriate for this Office to comment.

The consultation paper recognises that any such extension of the Ombudsman's remit would have a resource implication for our Office. Should our remit be extended, we welcome the commitment from the Scottish Executive to work with us to seek information from educational establishments at a pre-legislation stage, in order to estimate the workload impact.

The consultation paper also recognises that there may be resource implications for educational establishments if they are brought within the Ombudsman's jurisdiction. Our approach to complaint handling is, wherever possible, to resolve complaints at an early and informal stage, and therefore to reduce the need for lengthy investigations that can be costly in terms of time and other resource commitments.

I hope you find these comments helpful.

Yours sincerely

Eric Drake
Deputy Ombudsman