

ANGUS COUNCIL - 7 NOVEMBER 2002

SCOTTISH PUBLIC SERVICES OMBUDSMAN ACT 2002

REPORT BY THE DIRECTOR OF LAW AND ADMINISTRATION

ABSTRACT

This Report advises of the implementation of the Scottish Public Services Ombudsman Act 2002 which repeals and replaces the legislation under which the existing public sector ombudsmen in Scotland are established, and sets out the new requirements which the 2002 Act places on all authorities within the jurisdiction of the new Ombudsman.

1. RECOMMENDATION

It is recommended that the Council agree to note the terms of this Report.

2. BACKGROUND

Reference is made to Article 15 of the minute of meeting of the Policy and Resources Committee of 5 December 2000 when consideration was given to the consultation document on Public Sector Ombudsmen in Scotland entitled "Modernising the Complaints System".

3. GENERAL EFFECT OF THE 2002 ACT

The Scottish Public Services Ombudsmen Act 2002 has commenced in full with effect from 23 October 2002.

The key effect of the 2002 Act is to establish a one-stop shop ombudsman service, headed by the Scottish Public Services Ombudsman (supported by up to 3 deputies), to deal with complaints formerly dealt with by the Scottish Parliamentary Ombudsman, the Scottish Health Service Ombudsman, the Scottish Local Government Ombudsman and the Housing Association Ombudsman for Scotland. The new Ombudsman will also take over:

- ◆ the Mental Welfare Commission's function of investigating complaints relating to mental health; and
- ◆ complaints against Scottish Enterprise and Highlands and Islands Enterprise whose External Complaints Adjudicators will be abolished.

The 2002 Act aims to establish Ombudsman arrangements for the Scottish public sector which are more open, accountable and accessible to the public. This is achieved through new provisions which:

- provide a simpler and more effective means for members of the public to make complaints;
- reinforce the Ombudsman's independence from the authorities within his or her jurisdiction; and
- improve publicity and transparency of the Ombudsman's functions.

4. PUBLICISING THE OMBUDSMAN SERVICE

A key theme arising from the Executive's review of the former Scottish public sector ombudsman arrangements was that for an ombudsman service to be effective, it is necessary to ensure that members of the public are made fully aware of its existence. Section 22 of the 2002 Act therefore introduces a new requirement for listed authorities to publicise the Ombudsman service. The requirements of section 22 are that:

- (a) a listed authority must take reasonable steps to publicise the application and effect of the Act including, in particular, providing information about:
- ◆ the right conferred by the Act to make a complaint to the Ombudsman;
 - ◆ the time limit for doing so; and
 - ◆ how to contact the Ombudsman;
- (b) this information must be included in, or provided with;
- ◆ any document published by the listed authority which contains information about services they provide to members of the public or about their procedure for dealing with complaints; and
 - ◆ any document issued by the listed authority responding to a complaint made to it by any person who might be entitled to make a complaint to the Ombudsman.

Discussions are taking place within the Council to ensure that this requirement is being met.

The Act also makes provision for publicising the Ombudsman's investigation reports which is broadly similar to the arrangements that have been previously in place.

5. FINANCIAL IMPLICATIONS

There are no financial implications arising from the terms of this Report.

6. HUMAN RIGHTS IMPLICATIONS

There are no human rights implications arising from the terms of this Report.

7. CONSULTATION

This Report has been the subject of consultation with the Chief Executive and the Director of Finance.

8. CONCLUSION

It is not considered that the new arrangements will lead to significantly different working arrangements with the Ombudsman. The Council will continue to co-operate fully with all correspondence received from the Ombudsman.

CATHERINE A COULL
Director of Law and Administration

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this report.