

Engagement

The general attitude of most MSPs we have contacted about these failings/contradictions has been to 'pass the buck' rather than address them. Some claimed Parliamentary protocol prevented them from acting on behalf of people who didn't live in their own constituency, despite us not having asked them to do so. It didn't seem unreasonable to suggest however that they should have taken steps to ensure their own constituents didn't suffer as we had but as far as we are aware none did.

2. What has been your experience of direct engagement with the Scottish Parliament?

We first contacted the SPCB on the advice of our former Justice Secretary, (our MSP at the time) after his attempts to arrange a meeting with the ombudsman failed. The SPSO confirmed that for a second time a development had indeed been built closer to our houses than approved, despite our bringing anomalies in the application to the attention of the Head of Planning in advance. The SPSO also advised later that CEC had no legal authority to include a misleading standard landscaping condition in some applications. However, they failed to address the examples of maladministration, (as defined by the Scottish Government) that led to a second 'planning disaster' at this site e.g. unauthorised loss of amenity and structural damage to some of our homes. The SPCB passed us back to the LGRC.

how easy you found it to get involved;

We first contacted the LGRC after watching one of the SPSO's annual performance reviews, (APR). The ombudsman claimed he was unaware of the SPSO having been accused of bias. We provided the committee with written evidence of this. Decisions had been made based on 'nonsense', e.g. the claim that a development was both closer to and further away from our properties at the same time, i.e. in two places at once, and the Gas Board had removed trees to install new gas mains in our gardens without us noticing the work being done. It was also suggested we wait until a second phase had been completed before establishing if it also had been built in the wrong place.

We still do not know why the SPSO condoned the maladministration rather than take steps to try to improve the level of service provided by this body under their jurisdiction. In our experience, the LGRC have a history of refusing to hold the SPSO to account for their failure to perform the service implied by the SPSO Act 2002 and claimed in their publicity. We did manage to establish that the SPSO have no service level agreements in place when dealing with complaints. There is therefore no meaningful method of monitoring the SPSO's performance.

The SPSO are aware that knowingly providing both members of the public and their elected representatives with inaccurate and contradictory information is an acknowledged failing in CEC's Planning System yet the ombudsman felt it was not in the public's interest to pursue this and other issues raised. As you are probably aware, a petition claiming no confidence in CEC Planning Dept, signed by nearly 6,000 members of the public was recently submitted to the Scottish Parliament.

whether you received the right information to get involved;

We were advised by our previous MSP that if we wished to complain about the SPSO we should contact the SPCB. The Scottish Government's Planning and Architecture Policy Manager has since confirmed this. Yet they passed the buck to the LGRC, who have a history of refusing to address many of our concerns.

how the way you engaged suited you;

We were contacted by the LGRC and asked if we would like to submit questions for the SPSO's APRs. This facility to engage with them in an open and transparent manner has now been removed.

whether you felt you were listened to;

Our questions were often ignored or amended by the Clerk to the LGRC, to the extent we felt they no longer addressed the issues raised. He later claimed a lack of experience, despite having held the position for several years. We submitted a FOI request to the SPSO after being advised that while the committee might not ask our questions during the SPSO review, they would be passed on for answering. The SPSO confirmed that answers had been provided to the LGRC but they in turn have failed to pass these on to us.

We pointed out to the LGRC that the inaccurate information used when making decisions and included in decision letters, (and copied to CEC) would appear in reports to the Scottish Parliament. They decided to treat us as ‘persistent’. It has since been confirmed by the Scottish Government’s Planning and Architecture Policy Manager that there is no place for deception in the planning process and decisions should indeed be made based on verifiable facts, (not incompetent nonsense).

Both the former Chief Executive of CEC and the ombudsman were given the opportunity to provide the SPCB with some competent and verifiable evidence to either corroborate their claims that their respective departments had dealt with the issues we had raised with them properly, or alternatively to contradict that supplied by those we regarded as reliable sources. They both failed to do so.

whether you felt you influenced the decision the Parliament took

Some eight years after raising concerns about CEC Planning Dept for a second time, a review of the Scottish Planning System is now taking place. Hopefully we, and others who have suffered as a result of maladministration, have had some influence on this decision. We have asked why it has taken seven years, given the Scottish Government would be aware of the hardships and injustices caused by the system from SPSO reports, but we have received no reply. We are no nearer to establishing whether this is down to a difference of opinion between SPSO staff and the Scottish Government or if they just ignored or chose to over-rule it.

The planning review does not appear to address the contradictions in planning legislation referred to by the ombudsman during one of the SPSO’s APRs. It was claimed that these leave the ombudsman having to make balanced decisions based on in our cases, information which they have been unable to defend/corroborate. The Scottish Government’s Planning and Architecture Policy Manager claims he is unaware of these contradictions, which should be a matter of concern to the Scottish Parliament. Either the Scottish Government’s advisor is unfamiliar with Scottish planning legislation or this is another example of ‘nonsense’ on the part of the SPSO. We know that in Edinburgh the planning system is at odds with the recommended Planning Charters.

We have raised this and other issues with the Scottish Planning Review panel. It does seem strange that the SPSO have had no input to this review as they have first hand experience of the disputes these failings/contradictions in the present Scottish Planning System led to, and the adverse affects they have had on members of the public.

how well the Scottish Parliament kept you informed of developments, after your engagement.

As we mentioned above, we were treated as ‘persistent’. Having recently brought these issues to the attention of the First Minister, we now know our tenacity and dogged determination was fully justified.

3. How can the Scottish Parliament increase its engagement with the people of Scotland, especially those who are less likely to be interested in the Parliament?

Before the 2016 Scottish Parliamentary elections we contacted the leaders of each party asking what steps they would be taking to address the issues we have raised. The SNP was the only party to make any attempt at answering our questions. However, that was after the election. The leader of the Conservative party referred to parliamentary protocol prohibiting her from acting and suggested we contact our local MSP. We would argue that if parliamentary protocol interferes with MSPs’ ability to act in the best interests of the people of Scotland, as they are obliged to do, this protocol should be amended. I’m afraid the other parties didn’t have the courtesy to reply.

We will continue to correspond with the Scottish Government’s Planning and Architecture Policy Manager as our local MSP appears to be having difficulty in understanding the issues we have raised with her. She claims she has been advised that there is nothing she can do, despite her pre-election campaign leaflets suggesting she would fight for justice.

In our opinion, if our MSPs won’t engage with the people of Scotland over their genuine concerns, far less take action to address those concerns, this will only lead to further apathy and

cynicism towards our politicians and politics in general.

Do you think the Scottish Parliament is confused with the Scottish Government, and do terms such as 'Holyrood', commonly used to refer to the Parliament and/or Government, add to this confusion?

There is some confusion, which may have arisen from the use of the term 'Holyrood' to describe the Scottish Government rather than the Scottish Parliament.

Do you think the Scottish Parliament is confused with the UK Parliament (House of Commons and House of Lords), UK Government or local government?

This seems unlikely, especially given media coverage since the independence referendum and 'Brexit'.

5. What should the Scottish Parliament do to strengthen its distinct identity

6. Do any of the checks and balances need strengthening to better enable the Scottish Parliament to hold the Scottish Government to account? What are the reasons or evidence for your views?

7. At what stage of the policy or legislative process is the Scottish Parliament likely to have the greatest influence or impact in terms of improving Government policy or legislation? What are the reasons or evidence for your views?

MSPs, regardless of party, would have to acknowledge that mistakes are made and when legislation isn't working, i.e. it is failing to serve the people of Scotland, it should be amended. After all, they have a moral obligation to serve the people of Scotland in return for being voted to their important position of trust. They also have an obligation to comply with the MSPs' Code of Conduct.

Planning legislation is contradictory, (as confirmed by the SPSO) and therefore guaranteed to lead to bitter and time-consuming disputes.

The SPSO Act has been shown to be counter-productive. In our experience the SPSO has been used as a means of maintaining the status quo rather than address obvious failings. These failings have been highlighted during the Planning System Review. In our own cases, during the lengthy time the SPSO took to deal with them, the developer went into administration. We were therefore denied the possibility of taking legal action against them.

Planning legislation is also at odds with legislation that we would hope is in place to support the rights of members of the public who are likely to be adversely affected by new developments. The SPSO feels it is acceptable for local authority Planning Depts to over-rule their Planning Committee by allowing developers to build so close to nearby houses that they cause structural damage to them.

The Freedom of Information Act appears to have little value.

We would suggest that when the only way to confirm that a development cannot be in two places at once and the Gas Board cannot install a gas mains in your garden without your knowledge, is to raise a very costly Judicial Review, there is something seriously amiss with the Scottish Justice System. It certainly raises serious questions about the Scottish Parliament's ability to provide the Scottish people with legislation that serves them.

Our previous Justice Secretary was left in the embarrassing position of having acknowledged that mistakes had been made. They led to hardship and injustice for some of his constituents, yet he claimed there was nothing he could do to serve either justice or us. We trust you will agree with us when we suggest that this was a ridiculous situation for either the Scottish Government or Scottish Parliament to allow taking place?