
To: Social Work, Health and Wellbeing Policy Board

On: 19 January 2016

Report by: Chief Officer, Renfrewshire Health and Social Care Partnership

Heading: Response to Scottish Government Consultation on Changes to Social Work complaints process

1. Summary

1.1 In Scotland, the framework governing complaints about local authority social work services is set out in the Social Work (Scotland) Act 1968. The Act provides for complaints to be made by or on behalf of:

- a person for whom the local authority provides a service, either directly or indirectly
- a person whose request for such a service has been refused
- other persons whose need or possible need for a service (where the service is one which the local authority has a power or a duty to provide) has come to the authority's attention.

1.2 The Public Services Reform (Scotland) Act 2010 standardised Complaints Handling Procedures (CHPs) across all local authority service areas except social work. Following consultation, the Scottish Government agreed that the same CHP should be adopted for social work complaints. This would include extending the remit of the Scottish Public Services Ombudsman (SPSO) to enable them to consider the professional judgement of social work staff, rather than simply whether the process had been handled correctly. A Draft

Order which makes the legislative changes necessary for implementation has been published, and it is this Order which is currently out for consultation.

- 1.3 Appendix 1 of this report contains Renfrewshire Council's response to this consultation exercise. The response was submitted to the Scottish Government on 10 December 2015 subject to Board approval.

2. **Recommendations**

2.1 Elected members are asked to:

- Note the contents of this report
- Approve the response submitted to the Scottish Government on 14 December 2015

3. **Background**

Current System of Complaints Handling

- 3.1 Currently, complaints on social work services are subject to a process with up to four stages: an informal problem-solving stage, an investigation by designated staff, referral to the Complaints Review Committee and, in cases where the complaint has been maladministered, referral to the SPSO. In light of health and social care integration, work is already underway to establish a seamless process and single point of contact for complaints about services managed by the Health and Social Care Partnership.

The Model Complaints Handling Procedure

- 3.2 The model Complaints Handling Procedure proposed by the Scottish Government has three stages.
- Frontline resolution: for straightforward and easily resolved issues which require little or no investigation and can be resolved on the spot or within five working days. Such complaints can be addressed by any member of staff or referred appropriately for frontline resolution.
 - Investigation: for issues which have not been resolved at the frontline or which are more complex, serious or potentially high risk. An investigation should be conducted and a response provided within 20 working days, with responses signed off by senior management.
 - Independent external review: Where issues have not been resolved by the service provider, complaints will progress to an independent external reviewer. In the case of social work services, this will be the SPSO. They will

assess whether there is evidence of service failure or maladministration which has not been identified by the service.

- 3.3 The new model would align practice in social work services with other local authority services and with the model used in healthcare.
- 3.4 Adopting this system means that there is no longer a requirement for a Complaints Review Committee. The consultation paper notes that small savings are expected to be generated within local authorities as a result of discontinuing these committees.
- 3.5 The new procedures also extend the remit of the SPSO. Where previously they only had scope to consider maladministration of complaints, the new model would allow them to consider matters of professional social work practice in determining whether a complaint should be upheld.
- 3.6 The Draft Order also promotes greater information sharing between the SPSO and other bodies, such as the Care Inspectorate and the Scottish Social Services Council (SSSC). At present, the SPSO can only share information if it is as part of their investigation or where the information indicates that a person constitutes a threat to the health and safety of others. The Draft Order will allow the SPSO to disclose information to SSSC in relation to its regulatory functions and to the Care Inspectorate in relation to its inspection and registration functions.
- 3.7 The CHP will not give the SPSO any responsibility for overturning resource allocation decisions made by local authorities.

Renfrewshire Council's Response

- 3.8 The proposed model complaints handling procedure is broadly welcomed, subject to clarity on a number of points.
- 3.9 Officers have requested more information on the additional resources to be allocated to SPSO in order that it can accommodate the increased workload without delays which would have a negative impact on service users.
- 3.10 The response asks for greater clarity as to the process by which professional judgement will be assessed. It is our view that an independent panel of social work advisors would be an appropriate means of dealing with this. Further to this, clarity is also sought on how any perceived 'errors of judgement' would be dealt with in the first instance and whether these would be referred back to the local authority for resolution in the first instance. It is currently the responsibility of the employer and the regulatory body (SSSC) to manage such issues and it could lead to difficulties if an additional body now had authority to carry out a similar function.

- 3.11 Greater information sharing is welcomed, but it must be clear what the aims and parameters of information sharing are. In general, appropriate information sharing could provide an early indication of potential risk.

Implications of the Report

1. **Financial** – *None*.
2. **HR & Organisational Development** - *None*
3. **Community Planning** – *None*
4. **Legal** - *None*
5. **Property/Assets** - *None*
6. **Information Technology** - *None*
7. **Equality & Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because for example it is for noting only. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** - *None*
9. **Procurement** – *None*.
10. **Risk** - *None*
11. **Privacy Impact** - *None*

List of Background Papers

None

Author: *Lisa Fingland, Strategic Commissioning & Planning Officer*
Tel: *0141 618 6812, Lisa.Fingland@renfrewshire.gcsx.gov.uk*

Consultation on Draft Order to revise the procedures for complaints about Social Work

Renfrewshire Council submission

The contact officer is:

Lisa Fingland
Strategic Commissioning & Planning Officer
Renfrewshire Council
Renfrewshire House
Cotton Street
Paisley
PA1 1TZ

Lisa.Fingland@renfrewshire.gcsx.gov.uk

1. Do you agree that the Local Authority Complaints Review Committee should be replaced?

We welcome a simplification of the complaints procedure and the alignment of social work processes with other areas of the public sector, particularly health services in the light of integration.

2. Do you agree with the proposal to extend the functions of the Scottish Public Services Ombudsman (SPSO) to allow the SPSO to investigate Stage 3 of complaints for social work?

We believe this change will simplify the system for the customer and the organisation and improve transparency for the customer. We would welcome more information on additional resources which will be made available to the SPSO to allow them to deal with the likely increase in volume. We would be concerned about delays in resolution due to capacity issues within the SPSO. This could have a negative impact on both the complainant and the service involved.

3. Do you agree with the proposal to extend the role of the SPSO in relation to social work complaints to allow them to consider in their investigations matters of professional judgement of social work staff?

We would welcome clarity on how advice would be sought in relation to scrutiny of professional judgement, and on what 'right of reply' would be available to local authorities. We also seek guidance on whether there will be local discretion as to the seniority of staff required to authorise responses to complaints, given the new powers to consider professional judgement.

It is our view that SPSO should take specialist advice when considering professional judgement, and this may be through a panel of independent social work advisers. We would expect that, in the first instance, concerns about practice or professional judgement would be referred back to the employer in the first instance to commence investigation of any concerns. Referral to SSSC would

only occur if the SPSO was not happy with the outcome of an investigation and any remedial action put in place. There is the potential for confusion if a number of different bodies can investigate staff practice when this should be limited to their employer and their regulatory body.

4. Do you agree that the SPSO should be able to share information with the Care Inspectorate (Social Care and Social Work Improvement Scotland) and the Scottish Social Services Council in relation to social work?

We believe that the information-sharing proposed could support local authorities in trying to address failings in local providers and would significantly reduce potential risks to service users. We would welcome an extension of this information-sharing to include local authorities where this would be in the best interests of service users more generally (for example, where a complaint about poor standards of care in the non-statutory sector is upheld).

However, we would welcome clarity on the aim of information sharing and any expectations in relation to other agencies responding to concerns. For example, would SPSO make referrals directly to SSSC if they felt that the practice of an individual worker is not what they would anticipate, or would this first be referred back to the employer to address? We would prefer the latter approach in the first instance.

5. Do you have any other comments on the proposals?

None.