



Discussion Paper on Future Role of the Complaints Subcommittee

Report to: Strategy & Performance Committee

Date: 4 March 2014

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Report No: SP-03-2014

Agenda Item: 8

PURPOSE OF REPORT

To advise members of proposals on the future role of the Complaints Subcommittee

RECOMMENDATIONS

The Strategy and Performance Committee are requested to:

- consider the contents of this paper
- provide recommendations on future governance arrangements
- provide direction on the development of an enhanced Complaints Subcommittee

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Version Control and Consultation Recording Form

Version	Consultation	Manager	Brief Description of Changes	Date
	Senior Management			
	Legal Services			
	Resources Directorate			
	Committee Consultation (where appropriate)			
	Partnership Forum Consultation (where appropriate)			

Equality Impact Assessment

To be completed when submitting a new or updated policy (guidance, practice or procedure) for approval.

Policy Title:

Date of Initial Assessment:

EIA Carried Out

YES

NO

If yes, please attach the accompanying EIA and briefly outline the equality and diversity implications of this policy.

If no, you are confirming that this policy will have no negative impact on people with a protected characteristic and a full Equality Impact Assessment is not required.

Name:

Position:

Authorized by Director

Name:

Date:

1.0 INTRODUCTION

The role of the Complaints Subcommittee has been fundamental in ensuring that the Care Inspectorate executes its statutory function in investigating complaints in a fair, transparent, risk-based and intelligence led way. Complaints are a vital part of providing information and evidence on the quality of care across Scotland. This enables the Care Inspectorate to provide assurance and protection for people who use care services and their carers.

1.1 Drivers for Change

The Scottish Public Services Ombudsman (SPSO) has advised that by 31 March 2014 the Care Inspectorate must be compliant with the SPSO's Model Complaints Handling Procedure (MCHP).

This will change the role of the Complaints Subcommittee as under the MCHP members of the public who are dissatisfied with how the Care Inspectorate has investigated a complaint about the Care Inspectorate will have their concerns considered by the SPSO and not the Complaints Subcommittee.

Alongside the need to be compliant with the SPSO Model Complaints Handling Process, the Care Inspectorate has recently reviewed the roles and effectiveness of its committees and governance structures. This has identified opportunities to strengthen governance within the Care Inspectorate and as such highlighted the need for a different approach and focus from the Complaints Subcommittee.

2.0 CURRENT SITUATION

The role and remit of the current Complaints Subcommittee is set out in the 'Reservation of Powers and Scheme of Delegation' document as follows:

"Where a complaint has been investigated by officers of the Care Commission or SCSWIS and (in the case of complaints made to the Care Commission prior to 1 April 2011) falls to SCSWIS to conclude in terms of the Public Services Reform (Scotland) Act 2010 (Health and Social Care) Savings and Transitional Provisions Order 2011 and the complaint has not been upheld (including complaints partially upheld) the complainant has the right, in terms of SCSWIS' complaints procedure, to seek to have the manner in which the complaint was investigated (and not its merits), reviewed by the Complaints Subcommittee, which is a subcommittee of the Strategy and Performance Committee. A Director may also choose to refer any request for review received from a complainant dissatisfied with

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the manner in which a complaint was investigated, direct to the Complaints Subcommittee.

Terms Of Reference

To review the process of investigation and resolution in dealing with complaints referred to it by complainants who are dissatisfied following the completion of Stage 2 of SCSWIS' Complaints Procedure.

To review the process of investigation and resolution in dealing with complaints referred to it directly by a Director.

To consider whether the facts established in the investigation process support its outcome, by reference to the terms of the Complaints Procedure, and having regard to whether there has been a defect in the manner in which the complaint has been investigated, which has had a material effect on the investigation's outcome. Having done so, to either confirm the outcome of the complaint investigation, or direct that it shall be set aside and the complaint remitted to operational staff to be investigated further and/or considered afresh.

To provide a written determination to the complainant setting out the process followed in reviewing the complaint, the matters considered and the conclusion reached by the Complaints Subcommittee, with any additional comments considered appropriate.

To advise the complainant of any further right of redress appropriate to their complaint e.g. the Scottish Public Services Ombudsman or the Mental Welfare Commission.

To monitor the outcomes of, and processes employed in the investigation of, complaints against SCSWIS, and the extent to which those outcomes and the outcomes of complaints reviewed by the Complaints Subcommittee have been taken account of by, and have informed the practice of, SCSWIS, and to report thereon periodically (and in any event, no less than annually) to the Strategy and Performance Committee.

To provide leadership in the development and promotion of efficient, effective and economic use of Board resources in the areas falling within its remit.

To monitor and contribute to the development of SCSWIS' complaints procedure particularly in relation to the use of intelligence to inform risk.

Membership

The Complaints Subcommittee shall comprise a convener and two vice-conveners, (either of whom may chair meetings of the subcommittee in the absence of its convener), and two members of SCSWIS' Board, co-

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opted by the convener or a vice convener as a member for the purposes of the consideration of an individual complaint or complaints whether against a regulated care service or against SCSWIS; and such members shall be regarded (for the purposes of considering the individual complaint or complaints in respect of which they have been co-opted) as members of the Complaints Subcommittee and shall be entitled to participate in its proceedings and to vote.

In Attendance

Manager, Complaints and Quality Assurance

Head of Legal Services (or solicitor deputising for the Head of Legal Services)

Comments and Complaints Co-ordinator

Other relevant Directors or officers

Quorum

The quorum of the Complaints Subcommittee shall be its convener, or one of its vice conveners and no less than two members (including members co-opted in terms of para 10.2.1).

Frequency

As required.”

3.0 CURRENT GOVERNANCE LINKS BETWEEN THE COMPLAINTS SUBCOMMITTEE AND THE STRATEGY AND PERFORMANCE COMMITTEE

The roles and remits of the two committees are interlinked and specifically the Strategy and Performance Committee are: *“To receive reports from the Complaints Subcommittee, to keep under review the operation of the SCSWIS Complaints Procedure and to make necessary recommendations for change to the Board.”*

In order for it to carry out its responsibilities the Strategy and Performance Committee need to be aware of complaints themes, trends, lessons learned, management actions, quality sampling and performance output.

Fundamental to any proposed change to the role of Complaints Subcommittee is the need for the Board to decide upon future governance arrangements. However for the purpose of this report and the future of the Complaints Subcommittee there are two possible governance options given the changes to the model complaints handling

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process necessary to meet the requirements of the SPSO:

- Option 1 – Strategy Committee or the Board assume full responsibility for complaints governance and a role in complaint reviews.
- Option 2 – Retention of the Complaints Subcommittee with an enhanced governance function and a reformed complaint review role, reporting to either the Board or Strategy Committee.

This paper will not expand further on these two governance options as these are matters for Board decision but will outline possible approaches to complaints governance and review work for the Strategy and Performance Committee to consider.

At this time the planning assumption made is that there will be a Complaints Subcommittee with the role of carrying out complaints governance function and review work.

4.0 FUTURE ENHANCED ROLE OF THE COMPLAINTS SUBCOMMITTEE

Presented below are possible activities that the Strategy and Performance Committee may wish to consider as key tasks that an enhanced Complaints Subcommittee could carry out. This would maximise Board members knowledge and expertise in executing governance in scrutiny and quality and improvement while strengthening the Care Inspectorate's regulatory functions to deliver its Corporate Plan and Key Strategic Objectives in a way that embeds the Care Inspectorate's values at the heart of governance:

- **Be Involved in Reviews of Complaints about Care Services –**
There is an opportunity to streamline the review process and base it upon the approach adopted by the SPSO. A future review process would be predicated upon the following criteria. Firstly, we made our decision based on important evidence that contained facts that were not accurate, and the complainant can show this using readily available information. Or secondly, the complainant has new and relevant information that was not previously available and which affects the decision made. We would write to the complainant within 3 days to confirm receipt and that an assessment and review would be undertaken. We would aim to provide a full response within 20 working days. This would enable all relevant documentation to be assessed and informed decisions to be made. The 'assessment' would be considered by the Head of Registration, Complaints & Legal Services, the Director of Strategic Development or other Director as required and two 'Board Members'. A decision would be made either to 'uphold' or 'not uphold'. This review process would be dynamic and on going and not reliant upon a full committee type meeting.

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Participation by two 'Board Members' would ensure independence and consistency of approach. This process would also afford the opportunity to identify learning points for the Care Inspectorate to improve systems, processes and practice and evidence continuous improvement within all business activities.

- **Dip sampling of closed complaints** – This would introduce enhanced scrutiny of the Care Inspectorate's complaint management process and help to ensure public confidence. When reviewing files the Subcommittee could consider: whether policy/process was followed and correctly documented; whether the investigation began and concluded in a reasonable time under the circumstances; whether the Care Inspectorate communicated clearly, regularly and accurately; whether any special needs/circumstances were taken account of; whether the time and other resources devoted to the investigation were proportionate to the nature of the complaint; whether the approach was appropriate and the conclusions supported by evidence. To assist it might be helpful to develop a sample checklist.
- **SPSO reviews of complaints about the Care Inspectorate** – This would involve checking the improvement actions taken by the Care Inspectorate in response to any review conducted by the SPSO.
- **Follow up 'learning actions'** – This would involve monitoring the action taken by the Care Inspectorate to identified learning opportunities from complaints reviews, sampling or SPSO findings to seek evidence and assurance that recommendations for improvement and change are acted upon within reasonable timescales.
- **Monitor trends in complaint management** – There would be the opportunity to examine complaint performance management information and in time satisfaction information from members of the public who have made use of the Care Inspectorate's complaint handling process.
- **Reporting to Strategy Committee / Board** – the above activities would form the basis of a more comprehensive performance report on the role, efficiency and effectiveness of the complaints function within the Care Inspectorate further strengthening public assurance and protection.

5.0 RESOURCE IMPLICATIONS

It is envisaged that an enhanced function for the Complaints Subcommittee will not increase existing resource allocation. Rather more

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efficient, effective complaints processes will ensure the Care Inspectorate demonstrates tangible efficiencies in continually seeking to improve its own internal processes and practices and therefore improving outcomes for people who use services and their carers.

6.0 BENEFITS FOR PEOPLE WHO USE SERVICES AND THEIR CARERS

The approaches outlined will help both to protect vulnerable people and improve the quality of care provision by:

- enhancing quality
- accrual of process efficiencies
- deliver public value
- completing reviews faster
- improving complaint governance

7.0 CONCLUSION

The Strategy and Performance Committee are requested to consider the contents of this paper and provide direction on further development of the Complaints Subcommittee and associated governance structures.