



Towards a new Complaints Procedure for the Care Inspectorate

Report to: Strategy & Performance Committee

Date: 9 May 2012

Report by: Gillian Ottley, Director of Operations (Intelligence & Complaints)
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Report No: SP-07-2012

Agenda Item: 5

PURPOSE OF REPORT

To consider:

- responses to the Care Inspectorate's consultation on its complaint procedure,
- recommendations for changes for a new complaint procedure and
- how and when this will be implemented.

RECOMMENDATIONS

That the Strategy & Performance Committee:

1. Notes the results of the consultations about the Care Inspectorate's complaint procedure.
2. Notes the Executive Team and the Complaints Sub-Committee have approved all the recommendations in the report.
3. Approves the recommended options, notes the resource implications, the attached 2 stage implementation plan with timescales for delivery, and the proposed review of the new procedures at 12 months.

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Version Control and Consultation Recording Form

Version	Consultation	Manager	Brief Description of Changes	Date
	Senior Management	G Weir K Anderson D Cumming IPMs	Proposed changes to text and comments	26.03.2012 07.03.2012 & 19.03.2012
	Executive Team	A Bruton	Approved to go to Complaints Sub-Committee in April and to the Strategy and Performance Committee in May. Suggestions re developing resources section.	06.04.2012
	Legal Services	K McClure Alison Cook	Proposed minor changes to text. Provided advice as to the proposed error response facility for care service providers complained against. Advice on enforcement activity	07.03.2012 23.03.2012
	Resources Directorate	E Morton V Cramb H Stevenson K Dick	Proposed changes to text and comments. Advice as to the changes available to PMS. Proposed minor changes to text. Comment re approach to lessons learned. Advice on resources implications	07.03.2012 26.04.2012 07.03.2012 23.03.2012 19.04.2012 25.04.2012
	Committee Consultation (where appropriate)	Complaints sub committee	Approved and substantive comments included in report	17.04.2012
	Partnership Forum Consultation (where appropriate)	Stephen Kennedy		19.03.2012

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: Yvonne Littlejohn

Position: National Complaints Manager

Authorised by Director

Name: Gillian Ottley

Date: March 2012

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Status: *Final*

Date: 06/06/2012

1.0 BACKGROUND

The Care Inspectorate is governed by legislation - The Public Services Reform (Scotland) Act 2010 (The PSR Act). This requires us to have a procedure for receiving and investigating complaints, from members of the public or their representatives, about the provision of a care service. Our procedure must be available even when the provider of the service has a complaints procedure in place. We are also required to have arrangements for receiving and considering complaints about how we undertake our business as the regulator of care services. We have no locus in responding to complaints about Local Authority Social Work Services.

The PSR Act gave the Scottish Public Services Ombudsman (SPSO) the authority to lead the development of simplified and standardised complaints handling procedures across the public sector. The Act built on the work of the Crerar and Sinclair Reports that sought to improve the way complaints were handled in the public sector.

Following consultation, a Statement of Complaints Handling Principles was developed by the SPSO. These Principles were approved by Parliament and published in January 2011.

The Act also provided the SPSO with the power to publish Model Complaints Handling Procedures.

2.0 CURRENT CONTEXT

Because of the imperative legislative requirement for an operational complaints procedure and the lack of a shadow year we have been using the Care Commission's previous procedure on an interim basis since the start of the Care Inspectorate on 1 April 2011. Once the new national complaints team was established revising the complaints procedure became a priority. We have used SPSO's Model Complaints Handling Procedures as the basis for moving forward. The questions we consulted on were in line with the SPSO guidance on Model Complaints Handling Procedures.

Initially we conducted an internal consultation to canvass staff views about proposed changes to the interim complaints procedure. We also conducted an external consultation process from 7 October to January 2nd 2012 using similar questions to those we had used for the internal consultation. There was an opportunity to make additional comments in the internal and external consultation.

The majority of questions we consulted on were "yes/no" so in the main the options are retention of the status quo (continuing to use the Complaints Procedures of the former Care Commission) or adoption of the new order.

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In putting together the options for change we considered all responses from the consultations. We also carefully considered recommendations made in the Health & Sport Committee 3rd Report 2011 – Report on Inquiry into the Regulation of Care for Older People (H & SC report) and recommendations of an internal audit of the complaint process submitted to the Care Inspectorate on 22 February 2012. We have also taken into account some of the lessons learned from our review process. However the major consideration has been how best the Care Inspectorate can continue to safe guard the rights of people who use care services.

Following discussions with ICT and other colleagues it seems that most of the proposed changes, if agreed, could be implemented fairly quickly. Two are dependent on the introduction of the Regulatory Management System (RMS) for full implementation. ICT colleagues are unable at this time to give any definite date for RMS to be fully functional. Because of the reputational risk to the Care Inspectorate of deferring all changes until such time as we are ready to implement a whole new system within RMS we are proposing a 2 stage approach to implementation. The majority of the actions can be implemented at stage 1 with a potential go live date of end September 2012. A provisional working date for introduction of RMS has been set for December 2012 but members should be aware that this is subject to change and they will be kept advised of any developments.

Scottish Government has recently consulted about Local Authority complaints handling procedures. The Care Inspectorate has contributed a formal response. The Scottish Government intends to set up a working group following this consultation. We have sought representation on this group. We need to improve how information about Local Authority complaints informs our existing and developing methodologies (integrated inspections etc). Currently the information we have is patchy. This position is the same at Scottish Government level and reflects different reporting arrangements in place by Local Authorities about their complaint outcomes across the country.

3.0 CONSULTATION RESULTS:

Summarised below are the consultation responses and key messages. Where relevant, reference is made to recommendations from the Health and Sport Committee and our response, as well as any recommendations arising from the recent audit activity.

1. Should the time limit for accepting complaints be reduced to six months after the incident leading to the complaint – in line with other public bodies?

Internal response

In total, 68 people answered this question. The majority (78.5%) agreed that the time limit for accepting complaints should be reduced to six months after

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the incident leading to the complaint, while 21.5% answered no.

External response

In total, 402 people answered this question. The majority (89%) agreed that the time limit for accepting complaints should be reduced to six months after the incident leading to the complaint, while 11% answered no.

Q1 Options:

- Keep the 12 month timescale
- Move to a 6 month timescale

Comment

The majority of responses to both consultations agreed that the time limit should be reduced to 6 months.

The Health and Sport Committee report recommended a review of our complaints handling to ensure they are considered, investigated and resolved as quickly as possible. Moving to a timescale of 6 months is in line with this recommendation.

In line with best practice, we consider that complaints should be resolved as close a point in time to the issue arising as the passage of time may prevent a full and fair investigation taking place.

Recommendation: That the Care Inspectorate implements a 6 month timescale for accepting complaints against care services. Any complainant wishing to have a matter more than 6 months old investigated will still be able to write to us explaining their reasons for not raising this within the timescale and exceptionally we will consider such a request.

If agreed, this could be actioned at stage 1 of the implementation plan and our procedure amended.

2. Should the timescale for formal investigation be reduced to 20 working days in line with other public bodies?

Internal response

In total, 65 people answered this question. The majority of respondents (56.9%) agreed that the timescale for formal investigation should be reduced to 20 working days, while 43.1% answered no.

External response

In total, 396 people answered this question. The majority of respondents (75%)

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agreed that the timescale for formal investigation should be reduced to 20 working days, while 25% answered no.

Q2 Options:

- Keep the 28 day timescale for completing complaint investigations
- Move to the 20 day timescale in line with other public bodies

Comment

The overwhelming majority of external responses agreed that the timescale for formal investigation should be reduced to 20 working days.

Internal responses were more evenly balanced. Of those that disagreed, the main argument for retaining the current timescale was concern about the complexity of some of the investigations we undertake, and increasing pressure on the investigation process.

There are risks to the Care Inspectorate if it adopts this option:

- This may result in an increase of cases which do not meet the Key Performance Indicator (KPI). Currently we are meeting the 28 Day KPI in 97% of all cases. However it should be noted that this figure also includes those cases that are extended past the 28 days.
- Increasing pressure on staff to meet the KPI.
- Increase in staffing within the National Complaints team to meet the KPI.

The Health and Sport Committee report recommended that we review our complaints handling to ensure they are considered, investigated and resolved as quickly as possible.

Moving to a timescale of 20 days is in line with this recommendation.

The internal audit recommended that management ensure timescales for completing complaints investigations are clearly stated in the new complaints handling procedures. The need for clarification about timescales had already been identified as a task for action by the National Complaints team. Timescales will be clearly stated in the new procedure.

Recommendation: It is recommended that the Care Inspectorate moves to a 20 day timescale for the completion of investigations.

If agreed, ICT colleagues have said that this change can be made to the Practice Management System (PMS) and our procedure amended at stage 1 of the implementation plan. Some staff have raised concerns around reducing the timescale from 28 days to 20 days, and how this will potentially impact on their ability to meet the Key Performance Indicator (KPI) in more complex cases. We intend to retain the facility to extend past the 20 days with the agreement of the complainant in these cases. We will also monitor

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implementation carefully in case increasing pressure in the system results in reduced performance against KPI's.

Complaints Sub-Committee (CSC) agreed close monitoring will be essential to try and identify any emerging pressures in the system.

Colleagues from the Intelligence and Methodologies and ICT teams have advised that any proposed changes to KPI's should be implemented at the start of a reporting period. Therefore this cannot be implemented until July 1st 2012.

3. Should the stages of the complaints procedure be reduced to three: informal resolution; formal investigation; internal review by managers OR internal review by the Complaints Sub-Committee of the Board?

Internal response

In total, 53 people answered this question. The majority of responses (78.5%) backed the stages of the complaints procedure being reduced to three, while 14.5% answered no.

External response

In total, 377 people answered this question. The majority of respondents (72%) backed the stages of the complaints procedure being reduced to three, while 28% answered no.

Q3 Options:

- Keep 4 stages in the complaints procedure
- Move to 3 stages in the complaints procedure

Comment

The overwhelming majority of responses have agreed that the stages of the complaints procedure should be reduced to three.

The Health and Sport Committee report recommended that we review our complaints handling to ensure they are considered, investigated and resolved as quickly as possible. Moving to 3 stages is in line with this recommendation.

Moving to a 3 stage process streamlines our existing system. Complainants will no longer have 2 opportunities to request a review. The complainant will have the choice to request a review either by internal manager OR the CSC. Once this process is exhausted the complainant can go to the SPSO with their concerns.

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This will reduce the amount of overall time spent by managers, admin and the CSC on the review process but there may be an increase in the volume of work for either managers or the CSC.

Recommendation: It is recommended that the Care Inspectorate moves to a 3 stage process.

If agreed this can be actioned at stage 1 of the implementation plan and amendments made to our procedure.

The CSC anticipates this will result in an increase in demand for it to review complaints.

4. Should we consider reporting each element of a complaint separately based on the individual outcome rather than use an overall outcome approach?

Internal response

In total, 60 people answered this question. The majority (93.8%) agreed that the Care Inspectorate should consider reporting each element of a complaint separately, while 6.3% answered no.

External response

In total, 366 people answered this question. The majority (89%) agreed that the Care Inspectorate should consider reporting each element of a complaint separately, while 11% answered no.

Q4 Options:

- Keep the aggregated reporting of complaints as an overall outcome
- Move to reporting each element of the complaint separately

Comment

Currently complaint resolution letters report each element of a complaint separately but this is aggregated into an overall outcome or statement at the end of the letter. This is often viewed as unfair by the complainant and/or the complained against.

The overwhelming majority of responses have agreed that the Care Inspectorate should consider reporting each element of a complaint separately.

Recommendation: It is recommended the Care Inspectorate moves to a system which reports the individual outcomes separately.

If agreed the aggregated outcome can be removed from the letter of resolution

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prior to it being issued.

However complaint outcomes are published on our website and they are currently aggregated and not reported on separately.

Discussions with ICT colleagues have confirmed that we would not be able to report on complaints outcomes separately on the website until the Regulatory Management System (RMS) for complaints is operational.

We consider that having two differing outcomes in the public domain could be confusing for both complainants and the complained against. Therefore we are recommending this change should wait until the RMS is fully functional and that it is actioned at stage 2 of the implementation plan.

The CSC welcomes the move to a system which reported on individual outcomes separately.

5. Should we remove the 'partially upheld' outcome from the complaints procedure?

This question was only asked during the external consultation process. A similar question in the internal consultation was subsequently considered too broad.

External response

In total, 355 people answered this question. 49.9% agreed that we should remove the 'partially upheld' outcome from the complaints procedure. 50.1% answered no.

Q5 Options:

- Keep the partially upheld outcome
- Remove the partially upheld outcome from the complaints procedure

Comment

Opinion was equally divided on whether the partially upheld outcome be removed from the complaints procedure. Of those that disagreed the main arguments for retaining the partially upheld outcome was that this would result in partially upheld complaints not being upheld and also that partially upheld complaints would then become fully upheld.

Following an internal review of their procedures we understand that the SPSO no longer use the term partially upheld in any of their investigations.

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Recommendation: It is recommended that in line with SPSO the Care Inspectorate removes the partially upheld outcome in the complaints procedure.

ICT Colleagues have indicated that it may be possible to remove the partially upheld outcome from the PMS system once complaints in progress have been completed. However, this requires further investigation.

As an interim measure staff can be instructed not to use this option. If agreed this can be actioned at stage 1 of the implementation plan and our procedure amended.

We will need to ensure all written guidance relating to the use of the term partially upheld is reviewed and amended.

The CSC concluded the Care Inspectorate should align its procedure with SPSO but emphasized the importance of inspectors accurately capturing each element of a complaint.

6. Should we introduce the 'No finding' outcome into our complaints procedure?

Internal response

In total, 63 people answered this question. The majority (87.3%) supported the introduction of a No finding outcome in the complaints procedure, while 12.7% answered no.

External response

In total, 355 people answered this question. The majority (78%) of respondents supported the introduction of a No finding outcome in the complaints procedure, while 22% answered no.

Q6 Options:

- Keep the 3 outcomes for each element of the complaint
- Move to introducing a further 'No findings' outcome to the Care Inspectorate complaints procedure.

Comment

The overwhelming majority of responses supported the introduction of a 'No finding' outcome in the complaints procedure. However following an internal review of their procedures we understand that the SPSO no longer use the term 'No finding' in any of their investigations.

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Recommendation: Although the majority of respondents from both consultations favoured a move to the 'No findings' outcome we consider that we should align our practice with SPSO procedures. It is recommended that in line with SPSO the Care Inspectorate does not move to a 'No findings' outcome.

The CSC concluded 'No finding' was an unsatisfactory outcome and it should not be introduced into the CI complaints procedure.

7. Should we reduce our review stages to one review – either by a manager or by the Complaints Subcommittee of the Board?

Internal response

In total, 23 people answered this question. All 23 backed reducing the complaint review stages to one.

External response

In total, 356 people answered this question. The majority (64%) of respondents backed reducing the complaint review stages to one review, while 36% answered no.

Q7 Option:

- Keep the 2 stage internal review process
- Move to a 1 stage review process – either by an internal manager or by the Complaints Sub-Committee.

Comment

The majority of those that responded supported reducing the review stage to one. Views were mixed as to whether this should be either by a manager or the CSC.

The Health and Sport Committee report recommended that we review our complaints handling to ensure they are considered, investigated and resolved as quickly as possible. Reducing the review stage to 1 is in line with this recommendation.

Recommendation: It is recommended that the Care Inspectorate moves to a 1 stage review process, either by an internal manager or the CSC.

If agreed this can be actioned at stage 1 of the implementation plan and our procedure amended. We envisage offering the complainant a choice of requesting a review either by an internal manager OR the CSC. Once this process is exhausted the complainant can go to the SPSO. A 1 stage process will reduce the overall amount of time spent by managers, admin and the CSC

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on the review process.

The CSC supports the recommendation although it noted a potential increase in the volume of work of its work as a result.

8. Do you have any other comments on the current Care Inspectorate complaints procedure that you would like us to take into account when developing the new procedure?

External response

In total, 151 people made further comments on the current Care Inspectorate complaints procedure. 20 of those who responded made no further comment. 4 of those that made further comment felt that the procedure was fair and efficient.

However, 51 of those who made further comments believed strongly that providers should be able to appeal the outcome of a complaints investigation. The main argument advanced was that the current system is one-sided and biased towards the complainant. Respondents also considered that as complaints can have an adverse effect on a service's grades it was important for providers to be able to challenge the outcome of an investigation and seek to have it reviewed.

5 of those who made further comments stated that they felt the complaints procedure is fair and efficient and were happy that there is a right for an external investigation.

The internal consultation asked a specific question relating to this issue.

9. Should we consider the provider's right to challenge a complaint outcome within the revised procedure.

In total, 31 people answered this question. Just over half (17) of those that responded felt that providers should be able to challenge the outcome of the complaint investigation. Either by an error response form (the same as the inspection process) or by being offered the opportunity to comment on a draft complaint resolution letter.

The remaining 14 that responded raised concerns about the length of time it would take to complete an investigation and the amount of resources that being able to challenge a complaint outcome might absorb.

Q8 & Q9 other comments

Option:

- Keep the right of review stage for complainants only

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- Move to a system where the complained against has a right of appeal
- Introduce an error response form in line with inspection reports

Comment

Complainants already have a right of review but those complained against currently have no mechanism to challenge the outcome of a complaint investigation. Whilst our primary concern must always be the rights of people who use care services, the Care Inspectorate should not ignore the rights of providers to be treated fairly.

As matters stand there is always a possibility that an aggrieved provider will seek to challenge a complaint outcome by way of a judicial review. One of main 'planks' of such an action would be that the provider has not had a fair hearing and that his rights under the European Convention of Human Rights Act 2000, Article 6, Right to a Fair Hearing, had been breached.

One reason providers may not have challenged the outcome of complaints through judicial review to date is the cost.

In addition a number of the complaints that are subsequently made against the Care Inspectorate may result from aggrieved providers who feel they have no other recourse. Allowing the complained against the right of appeal may result in a reduction in the numbers of complaints against the Care Inspectorate.

Judging from the consultation results, it is reasonable to predict a significant number of providers will use an appeal/review process to challenge the outcome of complaint investigations. Allowing providers the right of appeal/review would extend the time we spend completing investigations. This would mean a larger proportion of complaints being extended over the recommended 20 days.

There are risks to the Care Inspectorate if it adopts this option:

- There is the potential for providers to delay making any required improvements to the service. This could have a detrimental impact on people using services and could potentially put them at risk.
- There is the potential for providers to use an appeals process to delay/suspend any enforcement action being taken. This could potentially put people who use care services at risk.
- Reduced faith in the regulator to act quickly against potentially poor practice could ultimately lead to less people using our complaints process
- There could be an increase in the number of complaints that are extended to facilitate an appeal/review process.
- Complainants will not get the resolution they require within our 20 day timescale.

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We do not currently have any workload management figures about the time it takes us to undertake a review. The current target for a review requested by the complainant is for it to be completed within 42 working days from request to completion. This 42 day period is not indicative of the actual resource requirement. Time taken to undertake reviews will be monitored and incorporated into future resource models.

Allowing the right of appeal against a complaint outcome also sets a precedent which might lead to providers seeking to appeal grades awarded for inspection reports. They may perceive us as unfairly operating 2 differing processes, one for complaints and one for inspections.

The existing PMS would not currently support an appeal/review stage for the provider and we are informed it is not possible for PMS to be upgraded. The changes required to the ICT system to support an appeal/review stage would not be able to be available until the RMS is in place for the complaints process.

An alternative to introducing an appeals system for providers is to introduce a paper error response form. This follows our current practice for inspection reports whereby providers are able to offer factual corrections to our reports. A timescale of 5 working days could be included for their response. This may result in a reduction in the amount of complaints which might need to be extended past the recommended 20 days.

There are still risks involved in pursuing this option:

- Some complaints may need to be extended past the recommended 20 day timescale.
- Complainants may not get the resolution they require within our 20 day timescale.
- Again there is the potential for providers to delay any required improvements to the service. This may have a detrimental impact on people using services, potentially putting them at risk.

The Health and Sports Committee report recommended that we consider introducing an appeals process. The introduction of an error response form is a compromise which stops short of an appeal process but is likely to have less resource implications for us than introducing a fully blown appeals procedure. It gives the complained against the right to offer us factual corrections to our complaint reports and is the same process as the one we use for our inspection reports.

The introduction of a factual error response form will not remove the possibility of a legal challenge. However it may make such a challenge slightly less likely.

Recommendation: It is recommended that the Care Inspectorate moves to implementing an error response stage into its complaints procedure.

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If the Care Inspectorate decides to opt for an error response stage in its complaints procedure this is relatively easy to implement prior to the change over to RMS and would not have ICT systems implications at this stage.

If the decision is to adopt the use of a paper error response system this can be actioned at stage 1 of the implementation plan. To do so electronically we would need to wait until the change over to RMS and this would be actioned at stage 2.

The CSC supports the recommendation to introduce an error response form and offer providers the opportunity to correct factual inaccuracies.

4.0 OTHER AREAS FOR CONSIDERATION

Lessons learned

Our internal audit of complaints handling recommended that an action plan approach to lessons learned be taken following all reviews. This had already been identified as good practice by the CSC. It has been agreed that a quarterly report will be submitted to the Executive Team and to the CSC with a synopsis of issues and proposed actions. To date 2 areas have merited particular attention.

Note taking and Investigations

Further training has already taken place to enable staff to more accurately detail the elements of a complaint. SPSO provided investigation skills training in March 2012 for inspectors and inspector managers within the complaints team. Employee development colleagues also attended with a view to assessing whether this training might be repeated internally by the Care Inspectorate in the future.

Complaint handling and progressing Incident at Work reports

There have been occasions where the behaviour or actions of the provider have made it difficult for staff to carry out their regulatory work and staff have completed an incident at work form complaining about the provider's behaviour. The follow through on this has then coincided with the provider making a complaint about the Care Inspectorate.

Some staff have felt the completion of the complaint investigation has been prioritised. Previous policy in the Care Commission was to progress both processes in parallel but these 2 procedures do not happily co-exist and there is the potential of hampering positive outcomes in either or both of the processes.

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There are risks to the Care Inspectorate in these situations:

- Perceived failure to exercise its duty of care to employees
- Breakdown in relationships with the provider
- Potential to delay/suspend regulatory activity in the care service. This could potentially put people who use care services at risk.

Our complaints procedure does not detail what action should be taken in these situations

Recommendation: It is recommended that the Care Inspectorate sets up a short term task focussed internal working group to see if incident at work procedures, dignity at work procedures and procedures for progressing a complaint against the Care Inspectorate can be better aligned. A mapping process to identify who does what, when and where might usefully identify potential points of conflict we should look to resolve. We anticipate the group would report no later than 6 weeks after starting its work.

5.0 COMMUNICATING WITH PEOPLE WHO USE SERVICES AND PROVIDERS AND OTHER KEY STAKEHOLDERS ABOUT THE NEW PROCEDURE.

Once the new procedures are agreed will we need to consider how to best communicate changes to people who use services and their carers and providers via the website, care news etc. The Cabinet Secretary expressly asked us to look at how we can better promote awareness of our complaints procedures.

We have a communications plan in draft for the new complaints procedure. This details what information needs to be produced and how this is will be communicated to stakeholders and the general public.

6.0 RESOURCE IMPLICATIONS

The average number of full time equivalent (FTE) inspectors employed within the National Complaints team was 38.22 FTE in 2011/12. The 2012/13 budget contains provision for 40 FTE.

It is anticipated that allocating the budgeted 40 FTE to complaints will provide sufficient resource to implement the proposals within this report. Some of the recommendations within the report anticipate resource reductions whereas other recommendations suggest that additional resources are required. However, it has not been possible to reliably quantify the resource implications with the information currently available.

Complaints work by its nature is unpredictable in terms of frequency and complexity and workflow will not be constant and there will be inevitable peak and reduced workload periods. It is anticipated that the wider Care Inspectorate workforce and locum resource can be used flexibly to supplement

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complaints resource where required and where possible.

It is recommended that implementation of the system is carefully monitored (with significant variations reported to ET) and formally reviewed after 12 months.

Development of a complaints resource model is in its initial stages but there is a need to capture information beyond the currently available number of complaints. Work is underway to categorise complaints to incorporate complexity and staff time considerations. Development of this model will assist in predicting complaints resource requirements in response to identified trends and changes in process.

In respect of individual recommendations the resource implications are as follows:

Recommendation 1

Implementing a 6 month timescale for accepting complaints against care services

Implementing this recommendation is not expected to have any significant resource implications.

Recommendation 2

Moving to a 20 day timescale for the completion of investigations (the facility for extending will remain).

This recommendation may have significant resource implications for the Care Inspectorate and the following points outline this.

- Complaint end of year figures for 2011/12 show that 99% of complaint investigations were completed within the KPI, 70% of these were within the 28 days.
- Reducing the KPI to 20 from 28 days may result in increased pressure on staff. Close monitoring and evaluation by the Complaints Management Team will be essential to identify any tensions/pressures within the system and pressures/concerns for staff and to identify at the earliest possible stage those complaint investigations, which may require an extension.
- As indicated earlier it is anticipated that allocating the budgeted 40 FTE to complaints will provide sufficient resource to implement the proposals in this report. Flexible working of the National Teams might also be used to support the National Complaints Team in meeting its KPIs. Potentially the rapid response team might be available to assist the National

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Complaints Team if necessary.

Recommendation 3

Moving to a 3 stage complaints process

Potentially there are some savings to be made from streamlining the overall process to a 3 rather than a 4 stage process. But this move may see an increase in number of complainants choosing to have their complaint reviewed by the CSC. Complainants currently have the option of choosing to have a review by the CSC but if this choice is made more overt in our literature more complainants may go down this route. CSC expressed some nervousness about a potential increase in volume in requests for reviews by them but this is an unknown quantity at this stage. We will need to monitor implementation of this carefully.

Recommendation 4

Moving to a system which reports the outcomes separately

We are recommending this is implemented at stage 2 with the introduction of RMS. This requires analysis of resource requirements with ICT colleagues.

Recommendation 5

Removing the partially upheld outcome from the complaints process

We are recommending this is implemented at stage 1. This seems unlikely to have any significant resource implications.

Recommendation 6

Not moving to a no findings outcome

No resource implications.

Recommendation 7

Moving to a 1 stage review process, either by an internal manager OR the Complaints Sub-Committee.

Review end of year figures for 2011/12 show a total of 28 reviews with 26 completed. Of those 26 a total of 20 were completed by Inspector Managers, 2 were completed by the National Complaints Manager and the remaining 4 by the CSC. A further 4 were completed by the CSC, which were carried over from 2010/11.

At the moment the complainant can request a review by the CSC. Giving

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complainants a more overt choice of review may increase the amount of reviews requested and undertaken by the CSC.

This has implications for CSC members in terms of their availability and the frequency of CSC meetings.

However, the CSC has indicated its support for this recommendation.

Recommendation 8/9

Introducing an error response form

It is difficult to predict the resource implications so if introduced, this would be an area that would be closely monitored and used to inform future resource models.

The diary exercise figures for inspections 2011/12 show post draft report activity as an average of 0.3hrs per registered service. Administrative colleagues have confirmed minimal resource implications for either the paper or RMS error response stage. So it is possible that implementing this recommendation either at stage 1 or stage 2 of the implementation plan will not have significant resource implications. However, as referred to earlier, approximately one third of those who responded to our request for other comments supported the introduction of an appeal process and it may be we will see a strong demand for error correction in our complaint investigations by frustrated providers who feel this is their only recourse. Any significant increase in volume would have resource implications.

As indicated above at recommendation 2 there is the potential for this to be resourced within the current budgeted allocation but this will depend on demand.

ICT

Some changes necessary to support the introduction of the recommendations can be implemented in the PMS (as previously indicated). However, the PMS is not capable of supporting a wholly new complaints process. The information systems developments required are extensive.

Before any changes can be considered a detailed business and systems analysis is required for stage 2. Until this work is undertaken it is not possible to provide estimated timescales for development and implementation of the new process within the information systems.

ET have confirmed that the development and implementation of the complaints process within the Care Inspectorate's information systems will be accorded a high priority. There is a reputational risk to the organisation if we do not implement a new procedure as a priority.

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Employee Development – Staff training

In addition all staff will need to be trained in the new procedure and, once in place, the complaints process on RMS. Complaints training will be included in the Employee Development Plan 2012/13 for consideration by the Executive Team.

7.0 BENEFITS FOR PEOPLE WHO USE SERVICES AND THEIR CARERS

The changes are aimed at standardising and simplifying our complaints handling process. This will make accessing and using our complaints process easier for people using registered services and their carers.

8.0 CONCLUSION

If the Strategy and Performance Committee agree and approve the recommendations contained in this report we will begin to implement stage 1 and plan to complete stage 2 as soon as RMS is fully functional.

LIST OF APPENDICES

Appendix 1 - Proposed 2 stage Implementation Plan
Stage 1 – 1 July 2012 – October 2012

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