

Consultation on Draft Order to revise the procedures for complaints about social work

Questions

1) Do you agree that the Local Authority Complaints Review Committees should be replaced?

Yes No

(if responding electronically, please double click on one of the boxes above and select the default value as 'checked')

Reason/s

Social Work Scotland appreciates that the purpose of the review is to simplify and improve arrangements in respect of social work complaints.

We agree that this is needed because:

- the process is no longer fit-for-purpose, particularly in the current context of integrated services.
- it is recognised that the review committees can be time-consuming, costly, and resource intensive. Experience suggests that they can lengthen the complaints journey for some individuals due to timescales involved.
- they could be perceived as a barrier to aligning and potentially integrating complaints procedures e.g. with the model complaints handling procedure in operation for local government and with health (health & social care 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?

Yes No **WITH SIGNIFICANT RESERVATIONS AND CAVEATS**

Reason/s

Yes – with significant reservations and caveats

Social Work Scotland recognises that there are distinct advantages in aligning the complaints processes. Including:

- bringing social work in line with other council services and with other sectors e.g. NHS;
- retaining the intention of giving people a right to an independent review.

In extending the functions of the SPSO, clarity would be required in respect of:

- clear definitions as to what constitutes a social work complaint;
- the ways in which people have an opportunity to be heard. The CRC process allows complainants an opportunity to speak directly to a committee and have their voice heard. This is a fundamentally important part of the system, as the issues being considered are often highly personal and sensitive. The SPSO would need to consider how they would conduct investigations into Social Work complaints and how they would engage with complainants, many of whom may be vulnerable people who may require additional support;
- how this function would be fulfilled (see response 3);
- what this would mean for local governance arrangements, including professional leadership;
- given the complexity of social work, whether any other model(s) has been considered (the paper only suggests this one).
- arrangements for appealing the decisions / recommendations made by the SPSO.

Social Work Scotland would welcome the opportunity to be involved in such discussions.

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 judgment of social work staff?

Yes No **WITH SIGNIFICANT RESERVATIONS AND CAVEATS**

Reason/s

Yes – with significant reservations and caveats

As outlined, Social Work Scotland recognises the value in an aligned complaints model, and therefore, in the spirit of collaborative working, we would agree with this proposal in principle, however, with significant reservations.

To ensure that this is manageable, we would anticipate that the following would require to be implemented with any extension to the SPSO's remit:

- what is meant by 'professional judgement' needs to be very clearly defined;

- the scope of investigations would need to be very clearly defined from the outset;
- given the complexities of social work, SPSO would need to properly commission independent, professional social work advice in reaching decisions around professional judgement;
- there will be a need to understand the wider context of decision making e.g. the complex, changing circumstances in which decisions by registered qualified social workers are made;
- some mapping of the complexity of decision-making processes within social work prior to reaching a decision on extending the SPSO's remit in this area would be useful.

This change would bring SPSO powers in line with those for health. However, consideration should be given to the following issues for social work:

- many social work decisions are multi-agency (e.g. child protection), how would these be dealt with in terms of considering matters of professional judgement?
- when dealing with high risk matters, confidential information will be made available to social work by other agencies or by members of the public which all assist in the assessment and management of risk. Consideration will require to be given to the sharing of such information with the SPSO for the purpose of complaints handling, particularly where police intelligence is available or where confidentiality to a member of the public has been assured.
- CRCs currently make recommendations (which can cover decision-making and practice) and report back to the appropriate council committee. It would be reasonable to expect that the same process should apply if the SPSO took on this function (i.e. no power for the SPSO to overturn decisions). This also highlights the need to be clear about the governance of complaints at local level, including role of elected members in the process, in the context of these new arrangements.
- We would not support any extension of remit that meant the SPSO had the power to overturn social work decisions which the local authority has discretion to take e.g. in relation to management of risk / funding / provision of services.
- The role of the Chief Social Work Officer within the complaints process needs to be considered, as this is a critical role in ensuring professional leadership and an overview of professional standards. It should be noted

there is no direct equivalent within health. Social work Scotland would welcome further discussion on this matter.

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?

Yes No

Reason/s

Social Work Scotland would welcome this, but only if this is an enabling tool for the SPSO to share information they become aware of during the course of their investigations that might be in the public interest and would be directly relevant to the remit of the above organisations.

We would not support this if it created unnecessary duplication and/or undermined the existing responsibilities and agreements local authorities have with regard to sharing information with the Care Inspectorate and SSSC.

In terms of sharing information, specific protocols would need to be in place for this to happen (e.g. you could not use broad caveats such as S.29 or SSI417/2000) as the concerns are about not just about what information would be given to SPSO but how would they store it, how would they process it and how would they retain and/or destroy it at the end of the agreed timescale.

In addition, we would not support this if it meant that the Care Inspectorate & SSSC could potentially become involved with / widening the scope of SPSO investigations or led to the SPSO being able to initiate investigations.

Finally, the SPSO would wish to be aware of the existing reporting arrangements in place between the Care Inspectorate and social work, to ensure that there is no inappropriate overlap of activity eg the reporting of Initial Care Reviews, Significant Case Reviews and Serious Incident Reviews.

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

Yes No

Comment/s

This consultation only focuses on the final stage of the social work complaints procedure. The Scottish Government Short-Life Working Group with a remit to review the social work complaints procedure did, in June 2013, make recommendations about the earlier stages of the procedure, namely:

- *The model Complaints Handling Procedure (CHP) which is currently in use in local government for all other complaints would be adopted for social work complaints. This would bring social work complaints procedures broadly into line with other local authority complaints, and NHS complaints procedures*
- *In acknowledgement of the fact that social work complaints are more complicated than other local authority service complaints, it was agreed to recommend to Ministers that the model CHP would be adopted with local authorities having the possibility of extending the timescales at the first (Frontline Resolution) stage from 5 to 15 working days at the discretion of local managers. It was agreed that this should be monitored to ensure that there were genuine reasons for any extensions. We would initially expect that Directors of Social Work should monitor this, and SPSO will take an interest in the timescales of cases which have been referred to them.*
- *SPSO and ADSW would draw up, in consultation with SG and COSLA, guidance on the criteria for extensions to the Frontline Resolution stage timescales.*

We would welcome information on how these matters will be taken forward. The extension of the timescale for frontline resolution is particularly important, as it will enable a greater level of complaint resolution at the frontline, taking into account the complexity of social work situations and the ongoing relationship with the complainant.

Finally, there is likely to be resource / cost implications for social work services in respect of implementation of the proposed changes. Given the extent of the change agenda at present, consideration requires to be given to a realistic implementation plan, which seeks to appropriately embed these changed arrangements

Please email your response to adultsocialcare@gov.scot or if you wish to post your response please send to: Adult Social Care Policy Team, Scottish Government, Room GE.18, St Andrew's House, Edinburgh, EH1 3DG.