

SPSO SOCIAL WORK UPDATE

Changes to social work complaints handling

December 2016

This is the second in a series of bulletins from SPSO about the changes to the social work complaints procedure which will be in place from 1 April 2017.

Our first bulletin was published in October. To download October's bulletin or read it online, visit www.valuingcomplaints.org.uk/csa/social-work-update-october-2016

Background

The changes which will be in place from 1 April 2017 are:

1. the new two-stage Social Work (SW) Model Complaints Handling Procedure (CHP); and
2. the SPSO's extended role to consider social work professional judgment when reviewing social work complaints.

Through our updates, we want to provide information to as wide an audience as possible. Please pass this bulletin on to any colleagues who may have an interest

The new complaints procedure

Social Work Steering Group

We have held three meetings with our Social Work Steering Group. This group is made up of a wide range of stakeholders from across local authorities, health and social care partnerships, other agencies such as the Care Inspectorate and the Scottish Government, and several representatives from a range of third sector organisations. They have reviewed our progress at critical points over the last five months, and at our most recent meeting they signed off the SW Model CHP and our approach to customer information. The Complaints Standards Authority (CSA) are now progressing with final editorial amendments and publication of the Model CHP. We expect the published document to be available on the Valuing Complaints website (www.valuingcomplaints.org.uk) before Christmas.

Social Work Model Complaints Handling Procedure

We have had significant input from our Social Work CHP Working Group to the development of the SW Model CHP. The group have made particular contributions to sections relating to who can make a complaint and how the customer should be supported through the process. The SW Model CHP also sets out how authorities should handle any local appeal routes, so that they fit within the timescales for handling complaints.

The timescale for handling complaints at the frontline stage is five working days (with the possibility of an extension by up to ten working days), and at the investigation stage it is 20 working days. At both stages, the decision to extend the complaint beyond these timescales has to be authorised by a manager.

During the development of the SW Model CHP we have worked closely with the Scottish Government's Integration Team and with representatives from health and social care partnerships, as well as local authority social workers, to ensure that there is appropriate guidance for staff in both settings to provide good complaints handling. In particular, this applies to complaints that cross over between social work services and another service. This service may be within the same authority, or provided by a partner authority, but the emphasis within the CHP is on providing a joint response to complaints whenever possible.

The SW Model CHP also provides information about the role of other agencies, particularly the Care Inspectorate. The Care Inspectorate has been involved with the development of the SW Model CHP. The document provides information for complaints staff on appropriate signposting to the Care Inspectorate.

The Social Work CHP Working Group have provided useful examples of both straightforward, common social work complaints, and much more complex scenarios that can arise through these complaints. These are provided in appendices to the SW Model CHP.

Customer-facing information

Local authorities already have clear information for customers on how to make a complaint, in line with the existing Local Authority Model CHP. NHS customers will have access to a very similar leaflet from 1 April 2017, when they start to use the NHS Model CHP (developed by the Scottish Government, in partnership with the SPSO's Complaints Standards Authority). These two leaflets are almost identical in their explanation of how to make a complaint, and do not provide service-specific information.

We are keen for customers to have clear, straightforward information about how to make a complaint, which is as consistent as possible across all public services. On this basis, we are taking forward proposals for each authority that provides social work services (whether they are a local authority or a health and social care partnership) to use the same customer leaflet for all their complaints, without any distinction for social work services

SPSO's extended role within social work complaints

Staff recruitment

We have recruited three additional complaints reviewers, to be in post for 1 April 2017. Beyond complaints handling, they have practical experience in providing welfare advice, working with vulnerable clients accessing social work services, the Children's Panel and advocacy. Our staff are expected to handle complaints across all areas of our jurisdiction, but this will clearly complement our existing experience of considering social work complaints.

Independent professional advisers

We will ensure that our complaints reviewers have access to expert evidence from social work independent professional advisers (IPAs). When we advertised for IPAs in November we explained that we were seeking expertise across the breadth of social work services in Scotland. Our appointment process is on-going.

SPSO's extended role will only apply where the original complaint is made to the authority on or after 1 April. As a result, authorities will still need to be able to hold Complaints Review Committees for some time after 1 April for complaints that are made to them up to and including 31 March. Despite this, we aim to have IPA provision from early next year to help with our continuing preparations.

We recognise that various client groups engage with social work services, many of whom may be vulnerable people with continuing relationships with social work. Many may also rely upon a support network, such as family or friends. We have discussed this with our Steering Group and we intend to supplement technical training provided by our IPAs for our staff with wider sessions about the types of issue faced by those involved with social work services.

Professional judgment

We will use our experience of considering professional judgment in health complaints when we investigate social work complaints under our extended role. This is because our roles with social work and health complaints will effectively become aligned.

With regard to health complaints, we consider complaints involving, for example:

- inappropriate treatment;
- delay in providing necessary treatment;
- giving, stopping or withholding treatment without appropriate consent;
- misdiagnosis or failure to diagnose a condition; and/or
- harm caused by wrong or unnecessary treatment.

IPA advice gives our complaints reviewers a detailed, authoritative basis on which to assess the professional judgment exercised by medical staff. Our complaints reviewers evaluate and consider this advice, and all of the other evidence provided by both parties, to determine whether the actions taken were reasonable in the circumstances at the time.

What will this mean for social work complaints?

Our extended role will let us look at actions taken by social workers and consider the merits of social work decisions, not just issues related to how the complaints have been handled. Our complaints reviewers will be able to enlist expert evidence from our social work IPAs in the same way as they do with our medical IPAs. As with health complaints, social work IPAs will examine the facts and circumstances of each case and provide independent, expert advice on what it was reasonable to expect in terms of professional judgment. They may also explain technical terms and information or point our complaints reviewers to relevant guidance, sources of authoritative professional best practice and/or legislation.

As with all complaints we investigate, we will have to follow our statutory framework with our extended role from 1 April (the SPSO Act, www.spsso.org.uk/scottish-public-services-ombudsman-act). This means that:

- people will normally have to complain to the authority first; and
- our complaints reviewers will consider the relevant evidence – which may include IPA advice – and will assess social work professional judgment on the basis of ‘reasonableness’.

Next steps

We intend to issue our next bulletin early next year, in late January or early February. By that point, the new Model CHP will have been published and we aim to have appointed our initial bank of social work IPAs. It will provide an update at that point on our final preparations as we move towards 1 April.

If you have any questions in the meantime, please contact:

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