

2 August 2013

Duncan McNeil MSP
Convener
Health and Sport Committee
The Scottish Parliament
EDINBURGH
EH99 1SP

Dear Convener,

I am writing in response to your call for written evidence on the Public Bodies (Joint Working) (Scotland) Bill.

I am not responding to the specific questions you have raised because I am not writing in response to anything in the bill but to what I consider is an omission from that bill. The bill looks at organisations and their obligations. It also talks about outcomes for people. However, it does not deal with situations where an individual is unhappy about the outcome they receive and does not address the complexity of complaints processes in place in this area, an issue that remains outstanding from the recommendations of the Sinclair report in 2008.

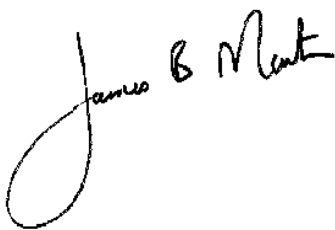
I recognise the potential benefits in delivering integrated, joined-up services and support the aims of the bill. However, as I and others have previously raised with the Committee, the areas of health and social care contain competing legislative complaints processes and, without legislative change, there are barriers to these processes working together. As an example, a resident of a care home may need to access three different procedures to question the way their needs have been assessed by the local authority, how their care is being delivered by the care home and their treatment by any NHS staff who visit them there. Should they choose to take their complaint to independent review they would, potentially, be faced with different routes to the Care Inspectorate and SPSO, with SPSO then having different powers over health and other areas of jurisdiction. This means that, while the bodies and delivery of the service may be integrated, there is no integration of the complaints process. As the Chief Executive of Highland NHS informed the Committee in March 2012, they are currently having to use the NHS process initially but then escalate social care through a separate route.

I do not intend to remake my arguments in detail. I have enclosed copies of our response to the Scottish Government consultation on social work complaints which sets out the context and describes the current landscape as well as how this is dealt with elsewhere in the UK as well as our response to their consultation on integration. The Committee will remember the comments we made direct to them about this matter in relation to your inquiry into the regulation of care for older people.

The Scottish Government and Parliament have made a number of positive commitments over a number of years to improved complaints handling. I would like to highlight the commissioning and endorsement of the Sinclair review, the commitment to complaints in the Patients Rights Act; a public statement of complaint handling principles which has the endorsement of the Parliament ; and the extension to my powers which has resulted in the implementation of one standardised process across most areas of the public sector. Last year, the Scottish Government commissioned a working group, including the SPSO, to look at Social work complaints which are one part but a key part of the complex landscape that bodies who work more closely together will have to deal with. I do not doubt the commitment to make improvements but it is a matter of regret that this is not yet reflected in specific measures to match the pace of change in the way complaints processes work together with the pace of change in the way bodies work together.

Ensuring complaints processes are accessible, simple and clear is important in ensuring the quality and consistency of public service delivery. The complaints landscape across health, social work and social care remains complex and the move to enable organisations to provide integrated services in this area should include the provision to the public of easily accessible, straightforward complaints processes. Failure to address this lack of integration in the Bill would mean that users would potentially have no clear route to complain about jointly-delivered services and public bodies would be restricted in their ability to investigate and respond to complaints in a joined up way. This presents a risk to vulnerable service users and I would ask that the Committee highlight a need to include provision for complaints in this legislation.

Yours sincerely

A handwritten signature in black ink that reads "James B Martin". The signature is written in a cursive style with a large, looping initial "J".

Jim Martin
Ombudsman

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