

6 August 2015

Kenneth Gibson MSP
Convener
Finance Committee
The Scottish Parliament
EDINBURGH
EH99 1SP

Dear Convener,

I am writing to respond to your call for evidence on the Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill.

I only intend to comment on one paragraph of the Financial Memorandum – paragraph 58. It is a relatively small point, therefore, that I would like to make but one that I thought was potentially important. It is suggested that the duty of candour process may mean that complaints or claims processes are not used.

The Government makes no reliance on this and does not make an estimate of savings. It is correct to do so as it is extremely difficult to predict the impact of such a change on complaints. In the last few years, we have experienced a significant rise in the number of health complaints coming to us – we received 1,542 in 2014/15. In 2013/14 we had 1,379 and in 2012/13, 1,237. It is important to note that the rise in complaints may well reflect the improved accessibility of complaints processes and that the public are more comfortable raising issues. For many years, there have been concerns about the numbers of people reporting that they had concerns but had not wanted to complain. This year, a survey across the whole of Great Britain¹, reported that 1 in 3 people who had a concern about public services would still not pursue that complaint.

A positive increase in confidence among the public that they will be heard and the publicity around the duty of candour may well lead to an increase in complaints. People who have been told about a harm because of the duty may wish to complain. In advance of the implementation of the duty of candour it is not possible to say whether it will lead to a decrease or rise. On this point, I would note that our resources have not kept step with the rise in complaints numbers and it would be extremely difficult for this organisation if any further rise were to occur. At this stage, I can only speculate about the possible impact but I would like to know that, if the implementation of this did lead to a rise in complaints numbers, that there would be a mechanism for ensuring that resources were made available to us to deal with that rise.

Yours sincerely

Jim Martin
Ombudsman

¹ <http://www.ombudsman.org.uk/improving-public-service/research/what-people-think-of-complaining> The most recent Scottish survey conducted by the Scottish Health Council was in 2009 and also showed a strong reluctance to complain.