
SPSO Statement of Complaints Handling Principles: Covering submission to Parliament

November 2010

Foreword

I am pleased to provide Parliament with a draft of the SPSO's first statement of complaints handling principles. I am laying these principles for Parliament's approval as required by Section 16A of the SPSO Act 2002.

This statement of principles provides us with the opportunity to develop a complaints handling culture across public services in Scotland which aims to get it right first time, puts the service user at the heart of the process and values complaints as tools for feedback, learning and improvement. We have been guided by both the Crerar and Sinclair Reports and, in particular, the Sinclair Report's recommendation that the principles be "*...based on the present SPSO guidance (Valuing Complaints) founded on consumer focus and simplification.*"

We have consulted with a wide range of public service users and service providers from all sectors and value the level of engagement and comment we have received. Whilst disagreement is to be expected on some issues, I am pleased that the vast majority of respondents to the consultation agree that the principles are appropriate and proportionate and that they will help improve complaints handling in their area of public services. We have taken on board many of the suggestions received and produced a statement of principles in line with these.

The laying of our statement of principles is the next step in a journey towards better complaints handling in Scotland. Parliament has also asked me, through the Public Services Reform (Scotland) Act 2010, to develop model complaints handling procedures (model CHPs). The principles and our model CHP guidance, which we have also consulted on, are designed to provide broad direction and support to public service providers in improving their procedures. Together these documents will provide a foundation upon which to develop standardised and simplified complaints handling procedures.

We aim to guide public service providers towards a common view of complaints procedures where trained and empowered staff are enabled to deal with complaints simply, consistently, locally and in a timely manner. In doing so I am confident that we can not only improve complaints handling but also, at a time when we all face difficult economic challenges, we can help achieve greater efficiency and value for money in how complaints are dealt with.

I commend these principles to Parliament and invite you to consider and approve them.

Jim Martin
Scottish Public Services Ombudsman

Introduction

‘The right complaints culture can pay dividends: restoring trust between the service user and provider, improving public services, and cutting costs to the public purse.’¹

The Scottish Public Services Ombudsman (SPSO) has been asked to contribute to public service improvement through leading the development of simplified and standardised complaints handling procedures. The Public Service Reform (Scotland) Act 2010 (‘The Act’)² placed this duty on the Ombudsman.

Principles

The Act requires the Ombudsman to publish a statement of principles, based on the SPSO’s Valuing Complaints³ guidance, to be consulted on, and approved by a resolution of the Scottish Parliament.

This submission provides the SPSO’s analysis of the responses to its consultation on the statement of principles, including a summary of how we have taken account of feedback from stakeholders. It also provides to the Parliament for its approval the first draft statement of principles.

Model Complaints Handling Procedures

The Act also provides the Ombudsman with the power to publish model complaints handling procedures (referred to in the Act as ‘model CHPs’). Model CHPs must comply with the statement of principles.

The Ombudsman may publish different model CHPs for different purposes and may specify to which listed authority a model applies. Service providers have an obligation under the Act to ensure that they have a complaints handling procedure that complies with the relevant model CHP. The Ombudsman will monitor compliance.

The SPSO’s consultation included guidance on a model CHP. This outlines the high level components of an effective CHP and is intended to provide support to service providers and to be used by them to inform continuous development of their own procedures. The guidance aims to move service providers towards quicker, simpler and more streamlined complaints handling procedures with a strong focus on local, early resolution by empowered and well trained staff.

An initial analysis of the key issues raised in relation to the model CHP guidance will be available on the SPSO’s valuing complaints website <http://www.valuingcomplaints.org.uk/>. A more detailed analysis of comments on the model CHP guidance will be undertaken over the next two months and revised guidance taking these comments into account will be published by December 2010. The responses will also help inform the work of the Complaints Standards Authority (CSA) and further detailed engagement with individual sectors (see below).

¹ Jim Martin, Introduction to the SPSO Consultation on Complaints Handling, p4
<http://www.valuingcomplaints.org.uk/wp-content/uploads/2010/06/SPSO-Consultation-June-2010.pdf>

² http://www.opsi.gov.uk/legislation/scotland/acts2010/asp_20100008_en_1

³ <http://www.valuingcomplaints.org.uk>

SPSO Approach and the Complaints Standards Authority

The Ombudsman's intention is to carry out the responsibilities under the legislation with an emphasis on partnership, effectiveness and proportionality. A Complaints Standards Authority (CSA) will take forward the development of model CHPs for each public service sector.

The CSA will operate as a core function within the SPSO, reporting to the Ombudsman but separate from the Complaints Investigation business of the office. It will be resourced with a small amount of funding and a small number of staff. As such it will take a high level, light touch non-regulatory approach to developing model CHPs for each of the sectors.

The CSA will work in partnership with key representative bodies with a leading role within each sector. This will enable the SPSO to take a high level role in engaging with sectors and give each sector an opportunity to develop a model CHP work of the SPSO principles and model CHP guidance but suitable for the context within which it operates.

The primary aim of the CSA will be to improve complaints handling in order to offer a better service to users of public services and to ensure that complaints are resolved more quickly and effectively at first point of contact. In the longer term it is hoped that standardised, simplified complaints procedures in key sectors could help to reduce the overall costs of complaints handling in Scotland.

Background

1 Following publication of The Crerar Report⁴, the Scottish Government established a Fit for Purpose Complaints System Action Group to take forward their response to the Crerar recommendations on complaints handling. The Report of this group (The Sinclair Report⁵) made a series of recommendations to simplify public service complaints handling procedures and streamline the landscape of complaints handling bodies in Scotland.

2 A key part of the Report was the recommendation that the SPSO take on the role of ‘design authority’ in leading the development of standardised procedures to help simplify and improve complaints handling across the public sector. Specifically the RSeport recommended that:

‘A set of principles based on the present SPSO guidance (Valuing Complaints) founded on consumer focus and simplification should form the basis of all public service complaints handling processes, which will be developed in partnership between the SPSO and service providers. There should be a standardised complaints handling process for each public service sector based on these principles – so that, for example, all care homes have a process in common and all registered social landlords have their own common process.

[The SPSO should]...develop and approve, for each sector, standardised public service complaints handling systems which include realistic but challenging timescales and processes to keep all parties informed of progress.’

3 The Public Services Reform (Scotland) Act 2010⁶ (‘The Act’) passed by the Scottish Parliament in March 2010, gave the Ombudsman the lead role in developing these standardised systems in line with the Sinclair recommendations.

4 The Act requires the Ombudsman to publish a statement of principles on which all public service complaints handling procedures should be based. It requires public service providers under the Ombudsman’s jurisdiction to ensure that they have complaints procedures which comply with this statement of principles. The Act requires the Ombudsman to consult on this and to submit a final version to the Scottish Parliament for approval.

5 The Ombudsman published his Consultation⁷ on a draft statement of principles on 16 June 2010 with a closing date of 8 September 2010. Along with the principles, he consulted on guidance on a model complaints handling procedure.

⁴ Report on ‘The Crerar Review: The Report of the Independent Review of Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland’, September 2007

⁵ Fit For Purpose Complaints System Action Group – Report to Ministers, July 2008

⁶ http://www.opsi.gov.uk/legislation/scotland/acts2010/asp_20100008_en_1

⁷ <http://www.valuingcomplaints.org.uk/wp-content/uploads/2010/06/SPSO-Consultation-June-2010.pdf>

The Consultation

Informal feedback

- 1 Ahead of issuing the Consultation, the SPSO sought informal feedback from a number of key stakeholders. These included the Scottish branch of the Society of Local Authority Chief Executives (SOLACE), the Convention of Scottish Local Authorities (COSLA), the Improvement Service, NHS Complaints Personnel Association Scotland (NCAPS) and the Chartered Institute of Housing in Scotland. The SPSO similarly valued informal feedback on the proposed consultation from members of its Complaints Improvement Project Board, which was established to help provide advice and assurance on the implementation of recommendations on complaints handling arising from the Sinclair Report. The Board's membership includes representatives of the Scottish Parliament, the Scottish Government and Consumer Focus Scotland.

Raising awareness

- 2 The SPSO's Valuing Complaints website was revamped to enable it to act as a resource and reference point for public service providers to support them in ensuring that their procedures comply with the principles and are in line with the guidance.
- 3 The Consultation was launched on 16 June 2010 and closed on 8 September 2010. It was sited on the SPSO's Valuing Complaints website, and e-newsletters were sent to all the bodies under the Ombudsman's jurisdiction to announce the launch and invite responses. Two reminders were issued as the closing date drew near. The Consultation was publicised on the SPSO website, and other bodies were encouraged to draw it to interested parties' attention.
- 4 The Consultation was the centrepiece of the SPSO's annual conference for local

authority liaison officers, which took place on 30 June 2010. The SPSO held six workshops about three different aspects of the consultation. The feedback was constructive and broadly supportive, and areas of concern, as well as examples of best practice, were usefully highlighted.

- 5 Other engagement on the Consultation included stakeholder meetings with regulators, professional bodies and others such as the Scottish Housing Regulator, the Scottish Federation of Housing Associations, the Tenants' Regulation Advisory Group, the General Medical Council, Universities Scotland and the Scottish Mediation Network.

Public participation

- 6 The SPSO was keen to ensure that they received feedback from the general public and from complainants as well as from public bodies, regulators and others.
- 7 To canvass the views of the general public, SPSO worked with Consumer Focus Scotland, who issued an initial survey of all 330 members of its Scotland-wide Consumer Network⁸. These responses were augmented by the outcomes of two focus groups of Consumer Network members, held August in Glasgow and Edinburgh.
- 8 Given the large number of complaints it receives about housing matters, SPSO also commissioned feedback from a tenant representative group, the Tenant Participation Advisory Service (TPAS).
- 9 SPSO also invited two campaigning groups, Scottish Ombudsman Watch and Integrity4Scotland to contribute a response. Representatives of SPSO met a group from Integrity4Scotland to discuss their views, which were written up into a Consultation response. Ombudsman Watch did not submit a response.

⁸ The Consumer Network is a group of volunteers from all parts of Scotland who help to keep Consumer Focus Scotland informed about consumer concerns. The network is not designed to be representative but does include members from all 32 local authority areas, and has a reasonable balance over demographic factors such as age and gender. As volunteers and active consumers, the participants in this project are likely to have a higher level of awareness and interest in the issues discussed than the general population. As such, the findings of the survey should be viewed as indicative of wider consumer views rather than representative of the Scottish population.

Total and Breakdown of responses

- 10** The Consultation received a total of 92 responses.
- 11** They broke down as follows:
- > **Local Authority:** 27 total including SOLACE/COSLA, the Improvement Service and 25 Councils;
 - > **Health:** 11 in total including five Health Boards (including The State Hospital, the Scottish Ambulance Service and NHS National Services Scotland), the General Medical Council, Quality Improvement Scotland, the Medical Defence Union;
 - > **Housing:** 11 total including eight Housing Associations, the Chartered Institute of Housing in Scotland, the Scottish Housing Regulator and the Tenants' Participation Advisory Service;
 - > **Further and Higher Education:** 13 in total including 10 Universities, Universities Scotland, the National Union of Students and the Quality Assurance Agency for Higher Education (QAA) Scotland. No responses were received from the FE sector;
 - > **Scottish Government and devolved bodies:** 14 in total including Audit Scotland, Creative Scotland, the Office of the Commissioner for Public Appointments in Scotland, the Office of the Chief

Investigating Officer, the Scottish Information Commissioner, the Scottish Legal Aid Board, the Scottish Children's Reporter Administration, the Scottish Court Service, the Administrative Justice and Tribunals Council (Scottish Committee), the Scottish Environment Protection Agency and various complaints bodies (the Police Complaints Commissioner for Scotland, the Scottish Prisons Complaints Commission, the Scottish Legal Complaints Commission and Waterwatch Scotland);

- > **Social Work and Social Care:** three in total including the Association of Directors of Social Work, the Care Commission and one local authority;
- > **Mediation, Advice, Advocacy, Consumer or User Groups:** seven in total including Citizens Advice Scotland, the Scottish Independent Advocacy Alliance, Consumer Focus Scotland, the Royal National Institute for Deaf People and Integrity4Scotland;
- > **Individuals:** five in total.
- > **Other:** one commercial organisation.

Publicising the responses

- 12** All responses to the consultation will be published in full on the Valuing Complaints website, where respondents have given permission (which is in the great majority of cases).

Analysis of responses to the SPSO Consultation on a Statement of Complaints Handling Principles

SPSO general comment on the responses

- 1** The SPSO was pleased with the number, range and generally constructive nature of the responses to the consultation. The views expressed were broadly supportive of both the principles and the Guidance on the model complaints handling procedure (CHP). Almost all the public bodies and service users in particular backed the simplification and standardisation agenda, and recognised or welcomed the need for change and improvement in complaints handling.
- 2** Respondents, on the whole, recognised the statement of principles as a good basis for complaints handling. There were several useful suggestions for amending or adding to these, which are detailed in the analysis set out below.
- 3** The analysis does not include every comment made as many respondents made similar points. In the interests of clarity and brevity, the SPSO has chosen those comments that best illustrate the concern or suggested improvement.
- 4** Respondents from the higher education sector noted that they are currently required to work in accordance with a similar set of principles published in the QAA Code of Practice for the Assurance of Academic Quality and Standards in Higher Education. Respondents generally felt that the two sets of principles did not conflict, however, some questioned the need for a second set of principles for the sector.

Responses to Questions on the Statement of Complaints Handling Principles

Question 1 *Are the seven principles identified appropriate and proportionate? If not, please outline why not.*

94% of those who responded to this question (75 of 80 respondents) agreed that the principles were proportionate and appropriate, although some of these respondents (22.5% – 18 of 80 respondents) qualified their agreement with some form of comment, suggestion or concern. The majority of these comments or concerns related to slight additions or changes to the text or suggested additional principles. Some respondents also qualified their agreement with a comment that similar principles were already used within their sector or organisation. All relevant comments, suggestions or concerns have been captured in the analysis below.

6% of those who responded to this question (5 of 80 respondents) did not agree that the principles were appropriate or proportionate.

Question 2 *Should other, or additional, principles be considered?*

39% of those who responded to this question (27 of 69 respondents) suggested a variety of other, or additional, principles. Nine of these respondents suggested that ‘confidential’ could be added as a principle. Our consideration of these suggestions is outlined below under relevant sections.

61% of those who responded to this question (42 of 69 respondents) did not believe that other, or additional, principles should be considered.

Question 3 *For public service providers: are the principles relevant to your area of public services?*

97% of respondents to this question (61 of 63 respondents) stated that the principles were relevant to their area of public services. Two of 62 respondents believed that the principles were partially relevant.

Question 4 *For public service providers: do you consider that these principles will make complaints handling processes in your area of public services better?*

73% of respondents to this question (43 of 59 respondents) believed that these principles will make complaints handling processes in their area of public services better. 22% of respondents to the question (13 of 59 respondents) believed that their complaints handling processes were already aligned with these principles, or already adhered to similar principles, and so did not consider that these principles would improve complaints handling in their area or thought that the room for improvement in their area was limited.

Eight responses to this question were from individuals or consumer representative or advocacy groups whose responses are included under question 5.

Question 5 *For members of the public: as a service user, do you consider that these principles will improve public service complaints handling procedures?*

Of the 8 responses to this question from individuals or consumer representative or advocacy groups, 5 respondents agreed that they would improve public service complaints handling procedures. Three responses did not agree.

Specific comments on each principle

The following comments were made in relation to each principle. A summary of these is made along with the SPSO response to each point.

1 User-focused

An effective complaints handling procedure should put the service user at the heart of the process whilst managing occasional difficult behaviour.

Service providers should recognise the different needs of individuals and be flexible and responsive to those needs where possible and appropriate.

Service users should be heard, understood, respected and treated with dignity. They should be listened to and made to feel comfortable about bringing a complaint.

Service users should be treated sensitively and in a way that takes account of their needs.

Service users have a responsibility to act with respect towards service providers and their staff.

14 respondents commented on this principle.

Six respondents made the point that the reference to managing occasional difficult behaviour sat uncomfortably with the principle of putting the service user at the heart of the procedure. Of these, one expressed a view that the term 'user-focused' was 'empty' in relation to public service delivery in Scotland. This respondent suggested that 'complainant-focused' may be a more meaningful term.

“Whilst recognising that any complaints handling process should be “user-focused”, in first principle, it would perhaps be helpful to refer to “unacceptable actions”, rather than “unacceptable behaviour”, and align this issue with the principle of “Fair, proportionate and consistent”. The reference to the fact that service users have a responsibility to act with respect towards service providers and their staff is welcomed and this is something which, in tandem with the Unacceptable Actions Policy, should be embedded within any complaints handling process”.

South Lanarkshire Council

“Focus on the user’s interest is obviously desirable. However, the term “user focused” used in relation to 2010 Scottish public service delivery has an empty, dubious ring to it and should therefore not be chosen as the first words of a “Statement of Principles”. Also, “whilst managing occasional difficult behaviour” immediately suggests that persistent complainants are difficult and unreasonable people which clearly is often not the case.”

Integrity4Scotland

Three respondents made the point that service users are not the same as complainants (not all service users complain, and not all complaints are raised by service users) and therefore that it would be more appropriate that the principle state that the complainant should be at the heart of the process. One respondent (QA Agency for Higher Education) said that the term 'service user' did not accurately represent the relationship between universities and their students.

“This principle assumes that the service user and the complainant are one and the same. This is not always the case and therefore this principle requires clarification to detail whether the process should be ‘service user’ focused or ‘complainant’ focused”.

South Ayrshire Council

“We would wish to express some caution in relation to the principle of being ‘user focused’, in particular the related concept of the ‘service user’... While the concept of a ‘service user’ may be appropriate for some aspects of higher education provision..., the concept is not appropriate in the learning and teaching context, where students are not ‘customers’ or ‘service users’ but are engaged and active participants in the learning process”.

QA Agency for Higher Education

Three respondents commented that there should be emphasis under this principle on the need for service providers to ensure that service users have access to support to make complaints and know where to find that support. Specifically, one respondent (Citizens Advice Scotland) suggested that a sign-posting service be available within hospitals. The National Union of Students said that students should have an independent advocate and ‘equality of arms’ if legal expertise was required.

Two bodies suggested that ‘respect’ be included in the principles.

“...The requirement for complainants to act with respect towards service providers and their staff should appear more prominently – perhaps a separate principle requiring mutual respect.”

The Care Commission

“Having a principle that the complaints system is user focused may seem straightforward, but for Social Work it may not always be easy for the Social Work Service to put a complainer at the heart of the process. For example, in relation to child protection issues where the Social Work Service’s duty in such situations is to protect the child and the Social Work’s activity in this area may not always be appreciated by other family members. It may be worth considering that instead of the process being based on the principle of being user centred that it is based on respect and the complainer’s right to have their say and to get a response to their issues”.

East Ayrshire Council

Additionally, four respondents suggested in comments relating to other principles that confidentiality should be added to the principles.

“The only additional principle we would recommend is ‘confidential’. That an effective complaints handling process should be sensitive to the need to respect the confidentiality of complainants and others involved. There should be a statement on the differences between confidential and anonymous complaints. Organisations should be clear about whether confidential and anonymous complaints are dealt with and any differences in the way they are handled.”

The Care Commission

Confidential – we believe in protecting the confidentiality of service users that make a complaint to ensure that they are not disadvantaged as a result, especially as they often have ongoing relationships with Council Departments. There is also the question of ensuring that appropriate consent is received if a third party makes a complaint on behalf of a service user, as we have a clear duty not to disclose personal information without consent. It also should be recognised that sometimes (particularly in social work complaints) there can be a conflicting interests between the person making the complaint and the client (or service user)”.

East Lothian Council

SPSO Response

We agree that ‘managing occasional unacceptable behaviour’ sits better under the ‘Fair, proportionate and consistent’ principle (which has now been renamed ‘Objective, impartial and fair’), which is about the relationship between the complainant and the organisation. The final line of the subtext has, accordingly, been moved to that principle.

‘Persistence’ and ‘unacceptable actions’ are indeed very different and we underline the distinction in our Unacceptable Actions Policy. On the use of the words ‘behaviour’ or ‘actions’, our view is that these can be used interchangeably.

We are content that ‘complainant’ is a more readily understood and appropriate term in this context and will change the term accordingly. We are satisfied that the term is appropriate for use in the higher education context as well.

We considered the use of ‘complainant-focused’ as a replacement for ‘user-focused’. However, we believe that user focused remains the most appropriate term given that the principles are primarily intended as a guide for service providers and that the term ‘user-focused’ is a phrase understood by service providers in the context of scrutiny.

We are content that the comments about support (with which we agree) are covered under the ‘Accessibility’ principle.

On sign-posting within hospitals, we are liaising with the Scottish Government on the Patients Rights Bill proposals about raising awareness and providing support to the public in hospital settings. On independent advocacy and legal support for students, it would be up to the HE sector as a whole to determine the level of support – in principle though, there should be a level playing field.

On ‘respect’, we feel that the wording of the subtext gives this word the prominence it certainly merits.

We agree that confidentiality should be added to this principle. The difference between anonymous and confidential complaints will be expanded on in the guidance on a Model CHP. We do not feel, however, that confidentiality requires a high-level principles in its own right.

We have also amended the wording in this principle to avoid duplication in using terms such as: ‘heard’ and ‘listened to’; and ‘made to feel comfortable’ and ‘treated sensitively’.

2 Accessible

An effective complaints handling procedure is clearly communicated, easily understood and available to all.

Complaints should be welcomed by informed and empowered staff.

A complaints procedure should be well publicised.

A complaints procedure should be easily understood without any specialist knowledge.

A complaints procedure should be designed with regard to the needs of minority and vulnerable groups. Where appropriate, service providers should make available material and support to help people access and use the procedure.

Seven respondents commented on this principle.

The Focus Groups that SPSO commissioned through Consumer Focus Scotland and the Tenants Participation Advisory Service Scotland highlighted the problems experienced by the public.

“Too complicated – if you have to fill in a form when your literacy might not be that good”

Consumer Focus Scotland discussion group

“Generally, it should be noted that awareness of landlord complaints procedures was quite low. Where people were aware of the complaints procedure, they were not clear about the appropriate time to make a complaint and expectations about complaint resolution were quite low to begin with”.

Tenant Participation Advisory Service Scotland

Some respondents suggested additions to the principle. For example, one respondent suggested that plain English should be used and legal and technical jargon avoided. Another respondent said that ‘appropriate and’ should be inserted before ‘clearly communicated’ to ensure that the procedure is right and apt for the complaint being made.

The National Union of Students agreed in particular that complaints and appeals procedures should be well-publicised, and noted that ‘accessibility’ should extend to ensure that complaints procedures are open to all students regardless of background or any disability.

Citizens Advice Scotland said that there should be an explicit requirement to publicise the complaints procedure in a variety of formats to meet the different needs of clients. They said they should be accessible to staff as well as the public. They emphasised that the procedures should be well publicised and that staff should be aware of them.

Two respondents suggested that clarity of process and simplification were linked to accessibility, with one commenting that it might be possible to incorporate some aspects of this principle into the ‘Quick and Simple’ principle.

SPSO Response

The suggested additions are welcome. They are included in the guidance on a Model Complaints Handling Procedure, which expands on accessibility and publicising CHPs. We agree that ‘appropriate and’ further clarifies the intention of the principle. We also agree that simplification and clarity of process are key to accessibility and are interlinked with the ‘Quick and Simple’ principle.

3 Quick & Simple

An effective complaints handling procedure has as few steps as necessary within an agreed and transparent timeframe.

The process of dealing with complaints should be speedy and involve as few steps as possible.

Timescales should be clear, publicised and adhered to.

16 respondents made comments on this principle.

'Simple' (i.e. straightforward, or with as few steps as necessary) was accepted as a principle, with the exception of one respondent who stressed the benefits it sees in the internal review stage that currently exists within Housing Associations. In addition, one council expressed a wish for flexibility for councils to determine the number of stages most appropriate to their individual circumstances. This area was the subject of a great deal of discussion at the SPSO's council liaison officer meeting, which was another forum for feedback on the Consultation.

'Quick' generated the largest number of responses received on any aspect of the principles. 13 respondents made similar and related comments to the effect that care must be taken to ensure that the speed of response does not compromise the quality and effectiveness of the complaint handling. The thrust of the responses was that speed must not be at the expense of thoroughness, and staff must not be put under unreasonable pressure. There should be recognition that some complaints, and therefore their investigations, are more complex than others and that it is not always possible or appropriate to reach a decision within published timescales. In these circumstances, the key would be to ensure that complainants were kept informed of any delays beyond published timescales and the reasons for them.

Citizens Advice Scotland commented on the variety of timescales for dealing with complaints within different bodies and said they would like to see more uniformity.

“Whilst early resolution is important, it is also very important that speed of response is not put before accuracy, or thoroughness of investigation (where investigation is appropriate.) It is important to get the initial response right. We would suggest that reference to the procedure being “timely” or “without unnecessary delay” might be more appropriate than “quick.”

Medical Defence Union

“We agree that there should not be any unnecessary delays in dealing with complaints. However, the use of words such as ‘quick’ and ‘speedy’ could undermine the importance of delivering quality outcomes by placing more emphasis on the speed of response. We believe the focus should be on providing a responsive process that seeks to resolve complaints within clear and reasonable timescales”

East Lothian Council

“We are concerned that “quick and simple” should be given the status of a “principle”. If adopted as a “principle” it would pose the danger of being interpreted by complaints handlers as justification for rushing to premature decisions.”

Integrity4Scotland

SPSO Response

We are pleased that bodies accept the principle of ‘Simplicity’ in relation to the number of stages. In the responses to the guidance on a Model Complaints Handling Procedure, the issue of the number of stages in a CHP received a great deal of attention, as it did at the council liaison officer meeting. We will work closely with bodies to clarify our intention in this area and alleviate any concerns.

Naturally, it was not the intention that this principle imply that speed of response should outweigh quality. To raise still further the prominence we place on the thoroughness of investigation, we have added ‘thorough’ to the next principle and amended the following two principles to place a greater emphasis on quality as an important aspect of complaints handling.

We are conscious that, for complainants, time taken to examine complaints is a significant consideration and that this has been emphasised in both the Crerar and Sinclair Reports as one of the key considerations in complaints handling. We, therefore, believe it is important to retain a focus on time taken but have amended this principle to ‘Simple and Timely’ which we believe reflects more accurately our intention.

4 Objective & transparent

An effective complaints handling procedure is evidence-based and driven by facts, not assumptions. It is impartial, independent and accountable.

A complaints procedure should be evidence-based and driven by the facts, not assumptions. It should be impartial, independent and accountable.

All relevant facts should be gathered and analysed in an impartial manner.

Conclusions should be based on an analysis of the evidence and this should be clearly demonstrated.

As far as possible, staff who have been the subject of, or involved in handling, a complaint should not be appointed to investigate it.

Service providers should develop detailed performance standards for the quality and timeliness of complaints handling. These should also describe what action will be taken if these standards are not met.

The standards should be well publicised both to service users and staff. Staff should be aware of the standards and of what is expected of them in the event of a complaint.

15 respondents made comments on this principle.

Objectivity and transparency were accepted by respondents. The largest number of comments received were about the word ‘independent’. Five respondents highlighted their concern that this principle may pose a practical difficulty. The nature of some situations is that sometimes it is necessary for someone close to the complaint to investigate it. One example is where the complaint is about a very specific area of service delivery. Respondents said that this would make the principle of independence difficult to carry out in practice.

By contrast, four respondents said that it would not under any circumstances be appropriate for the subject of the complaint to have any involvement in the investigation.

“As far as possible, staff who have been the subject of, or involved in handling a complaint should not be appointed to investigate it”, it should be noted that this cannot always be the case. Due to the technical nature of certain types of complaints it will be necessary to involve people who have been involved in the service delivery process and acknowledge that it also has to be recognised that such staff have a legitimate role to explain and to seek to justify their behaviour/actions, particularly when the complaint is person centred”. North Lanarkshire Council

“Most complaints procedures are not independent; they are generally investigated by the organisation that has been complained about. The additional information provided on this principle focuses more on the impartiality of investigation staff rather than on an independent complaints procedure. Either the reference to independence should be removed or clarification should be provided here detailing that although no complaints procedure is independent, there is the possibility for a complaint to be reviewed independently at a later stage in the complaints process”.

South Ayrshire Council

“We cannot envisage any circumstance where it would be appropriate for a staff member who is subject to a complaint, to investigate it. More importantly, this undermines the principle of the process being seen to be independent and impartial, and will not give users either confidence or trust in the complaints handling process”.

Consumer Focus Scotland

The National Union of Students stressed the importance of confidentiality, and said that there must be reassurance that there would be no negative repercussions for a person making a complaint.

While welcoming the principle, the Administrative Justice and Tribunals Council for Scotland suggested that the principle refer to facts being ‘established’ rather than ‘analysed’ in a fair and impartial manner with conclusions based on ‘the facts and circumstances established’ as opposed to ‘an analysis of the evidence’.

In addition to its comments on ‘independence’, WaterWatch Scotland suggested a change to the final sentence in the narrative to avoid repetition.

OCPAS (The Office of the Commissioner for Public Appointments in Scotland) said that ‘accountable’ could be included as a separate principle, as it was possible for a process to be open and transparent but, at the same time, not accountable.

SPSO Response

We recognise that there could potentially be practical difficulties in implementing the principle of independence in day-to-day complaints handling where the person requires specialist knowledge to resolve the complaint or where the person investigating has a connection with the person being investigated. This is inevitable in very small organisations, or those cases that demand technical knowledge that is limited to a few individuals. For this reason, we have inserted ‘as far as possible’ into the subtext. Good judgement would have to be exercised in such cases to ensure that independence is upheld wherever possible. It is of course important to recognise the opportunity for independent review (by SPSO or equivalent).

We accept that ‘established’ more clearly communicates the intent, and will change the wording accordingly. We will also amend the final sentence of the narrative to avoid repetition.

We are content that ‘accountable’ sits best with this principle.

As outlined above in our response to ‘Quick and Simple’ we have added ‘thorough’ to this principle and re-worded this and the following principle to place a greater emphasis on quality as an important aspect of complaints handling and to separate this from the values which we expect to guide complaints handling. This principle will now be called ‘Thorough, proportionate and consistent’ and will relate more to the approach to investigating complaints.

5 Fair, proportionate & consistent

An effective complaints handling procedure treats complainants equally, striking a balance between the need for consistency and the individual circumstances of each complaint.

There should be flexibility in the method of investigating and resolving the complaint and these should be appropriate to the individual circumstances.

Investigation, outcomes and redress should be consistent from one complaint to another whilst being flexible in meeting the needs of individual complainants.

A complainant should only be treated differently to other complainants if this is justified by the individual circumstances of the case.

Eight respondents made comments on this principle.

Three respondents suggested that the principle is too complainant-focused and that it should recognise the equal need for complaints handling procedures to be demonstrably fair to the organisations and employees being complained about. One respondent, however, said that there appeared to be an over-emphasis on the matter of unacceptable behaviour and said that *“the aim should be to protect service providers while still ensuring they do not discriminate against users with persistent and justified complaints.”* This is similar to the point made by Integrity4Scotland which they highlighted in discussion with SPSO and in their written response about the ‘User-focused’ principle.

“This principle assumes fairness only in relation to the complainant and not in relation to either a service or staff member who may be the subject of a complaint. Staff do have the right to be protected from harassment or abuse being applied through the complaints procedure”.

South Ayrshire Council

“It is important that any complaints handling procedure is also fair to those complained about and this should be expressed within the principle, for example: “Fair (to complainants and those complained about) proportionate and consistent...”

Medical Defence Union

Two respondents commented that a balance needs to be struck between treating people equally and ensuring that individual circumstances are taken into consideration.

“We consider that there is an element of conflict between the laudable principles of treating complainants equally and the view expressed that “a complainant should only be treated differently to other complainants if this is justified by the individual circumstances of the case”. We consider that this qualification could be removed from the text without detracting from the overall message or alternatively should be redrafted with clear examples to avoid introducing too wide an area of discretion which could undermine the key principles of fairness and consistency.

Administrative Justice and Tribunals Council for Scotland

“The final point re handling complaints differently. This should only be at the judgement of the organisation and not publicised that there is a different/ “fast track” opportunity.”

Scottish Borders Council

SPSO Response

We agree that it is important that complaints handling procedures demonstrate fairness to the organisation and individual staff members and will amend the wording of this principle accordingly.

We recognise the difficulty inherent in ensuring equality of service and that special circumstances are taken into consideration. There must be flexibility for complaints handlers to deal with different cases in different ways – for example, where the complainant is vulnerable or has special needs, or where there are circumstances which make their case particularly urgent. This does, though, need to be balanced with a general aim of ensuring that complainants are treated equally.

In essence, our expectation is that flexibility should be based on the nature of the complaint, rather than the complainant.

As outlined above, we have re-worded this principle to place a greater emphasis on the values which we expect to guide complaints handling and to separate this more clearly from the approach to investigating complaints. This principle has now be re-named 'Objective, impartial and fair'.

6 Seeks early resolution

An effective complaints handling procedure aims to resolve complaints at the earliest opportunity, to the service user's satisfaction wherever possible and appropriate.

Staff should be trained and empowered to resolve complaints at the earliest opportunity, starting with the first point of contact with service users.

The outcome the service user wants should be clarified at the outset and, where possible and appropriate, satisfied.

12 respondents made comments on this principle.

Seven respondents endorsed the general principle of early resolution. One respondent however, Integrity4Scotland, said that the principle was "...superfluous and could reinforce the belief that speed of handling should be the complaint handler's priority".

"City of Edinburgh Council wholeheartedly supports the principle of early resolution. The Council aims to resolve as many complaints as possible as quickly as possible and statistical information on our complaints process demonstrates that the majority of complaints are resolved at the first stage in our process."

City of Edinburgh Council

"Seeking early resolution is essential and as well as a formal complaints handling procedure there should also be an informal/feedback procedure available where comments and suggestions to improve service delivery is welcomed. Although covered within the consultation document I feel that there needs to be a greater emphasis on the greater distinction between a formal complaint where there is dissatisfaction and informal feedback such as issues/concerns etc."

The State Hospital

Five respondents raised points relating to the subtext “The outcome the service user wants should be clarified at the outset and, where possible and appropriate, satisfied.”

“We fully support the principle of early resolution, as this prevents complaints from escalating which can cause additional burdens on both the complainant and the organisation. However, there is a concern about the statement ‘The outcome the service user wants should be clarified at the outset and, where appropriate, satisfied’. In a time of reducing resources, which is likely to impact on service delivery, it may be more appropriate to place emphasis on ‘managing service user expectations’.”

East Lothian Council

“The proposal that “The outcome the service user wants should be clarified at the outset and, where possible and appropriate, satisfied”, should recognise that a satisfactory outcome should only be reached where it is the correct course of action and should not simply be done to appease the complainant.”

Falkirk Council

“The Board operates within tightly controlled eligibility criteria for both civil and criminal legal aid which are set out in primary and secondary legislation. Our discretion to be able to come to a compromise with service users is therefore often limited.”

Scottish Legal Aid Board

Two respondents commented on the two stage process, proposed in the model CHP guidance which the SPSO also consulted on, in connection with this principle. The issue was also raised at the council liaison officer event and other stakeholder meetings.

The Complaints Review Panel Support Group of Dumfries and Galloway suggested that the principle: *“...incorporate the right of access to an Internal Review by the Council and/or an Independent Complaints Panel as a means for achieving [early resolution].”*

The City of Edinburgh Council said that the reference to complaint responses being signed by the Chief Executive or other senior executive (contained in the Guidance on a Model Complaints Handling Procedure) *“... was felt to be at odds with the principle of early resolution, where staff are empowered to respond directly to the complainant without reference to senior staff. Senior staff should own the complaints process through receiving and analysing reports on trends, root cause analysis and improvements proposed from this”*.

South Ayrshire Council said that expanding complaints handling to all frontline staff was not practicable, because the training required would be ‘extensive and time-consuming’. This point was also made at the SPSO council liaison officer meeting and at other stakeholder meetings, with the issue of cost of training also being raised.

“‘Seeks Early Resolution’ implies that frontline resolution can be addressed by ‘any’ member of staff. There is a concern that having all frontline staff able to address a complaint properly is not practical. Certainly as many staff as possible, or key staff within each office, but there is a concern about the feasibility of ‘any’ member of staff being able to deliver this expectation. The training required for ‘any’ member of staff to be successful at first point of contact will be extensive and time-consuming. Many public authorities will operate contact centres, where the advisors’ role is to direct staff to the appropriate service. ‘Seeks Early Resolution’ suggests that these staff, as they are in essence frontline and the first point of contact, would be required to attempt to resolve complaints in areas they know little about. There needs to be flexibility and an understanding that not all staff at first point of contact will be suitable to undertake frontline resolution.” South Ayrshire Council

As a general comment, one respondent suggested adding solution-focused as a principle.

SPSO Response

We are pleased that most bodies welcome early resolution and we would re-emphasise that resolving complaints early or quickly should not conflict with handling them thoroughly.

We agree that managing expectations is a key part of good complaint handling. This is precisely why it is so important that the complaint is fully understood and the outcome that the complainant is seeking is clarified from the outset. We also recognise that in some circumstances it will not be possible to meet the complainant's desired outcome. The point we wish to emphasise is that time and frustration are saved if there is early clarification of the complaint and the desired outcome, as the complainants' expectations can then be more appropriately managed.

We are committed to the concept of a two stage process, in which frontline staff are empowered and authorised to deal with complaints. Common sense and proportionality will need to be employed in tailoring the training to specific roles and we would expect that some of these skills and training may already exist within organisations through general customer service training. We will support bodies in moving towards the change which will bring about a culture where any staff member presented with a complaint feels empowered to resolve that complaint where possible. Where not possible, they should be able to direct the service user to the correct person or procedure to resolve their complaint.

With regard to Chief Executive sign-off, the guidance on a Model Complaints Handling procedure makes clear that the role of sign-off is not limited to Chief Executives, but includes 'or other senior executive'. We would not expect Chief Executives to personally review and reply to every complaint. Rather, staff members who are appointed to respond to complaints should be authorised by the Chief Executive to set out a definitive response on behalf of the organisation. There is flexibility within this model – it will be for individual sectors to decide who signs off, with the key being consistency across the sector.

These points and others will be addressed more fully in the revised model CHP guidance to be produced by December 2010 and, of course, through the work of the SPSO Complaints Standards Authority.

Our view is that 'solution-focused' is inherent in the concept of early resolution.

7 Delivers improvement

An effective complaints handling procedure is driven by the search for improvement, using analysis of outcomes to support service delivery and drive service improvements.

The complaints procedure should reflect and enhance the culture of good service delivery.

Complaint outcomes should be publicly available and should be used to demonstrate improvement and share best practice in service delivery.

Data from complaints should be used to measure performance, identify trends and highlight problems so that they can be solved before they have a chance to escalate.

11 respondents made comments on this principle.

Various suggestions were made about what statistical information should be included and to whom it should be reported. Some called for further clarity on outcomes, greater emphasis on the need for root-cause analysis and for the complainant to be provided with information about any corrective action taken directly in connection with their complaint.

Greater Glasgow and Clyde NHS Board suggested that the text be amended to 'drive service quality improvements'. The Administrative Justice and Tribunals Council suggested that the contribution to continuous improvement be added to the final sentence in the subtext.

"It would be helpful to make more explicit the need for root cause analysis of the complaint and for demonstrable corrective action. These are key factors in preventing a recurrence". NHS National Services Scotland

"Under this heading the consultation states that: "complaint outcomes should be publicly available...." We are unclear as to the meaning of "outcomes" in relation to clinical complaints. We would also point out the importance of patient confidentiality in relation to clinical complaints and assume that any publication envisaged would be entirely anonymised..." Medical Defence Union

"It would be useful to add text to the effect that service providers should provide assurances to staff that a judgement which they have exercised or a decision which they have reached which may be overturned as part of a complaints handling review is not necessarily to be regarded as a finding of culpability on their part". North Lanarkshire Council

"Our main concern with any complaints handling process is feedback for the complainant. The last principle outlined i.e. 'Delivers improvement' does touch on this by stating 'Complaint outcomes should be publicly available'. However, there is nothing to state that the actual complainant is directly informed of any changes or improvements that have been made as a result of their complaint. The prior principle talks about 'resolution' but again there is nothing in this to clarify that this involves direct feedback, whether specifically requested by the patient at the outset or not". Citizens Advice and Rights Fife

One respondent, Integrity4Scotland, said that “While it must clearly be an aim of effective complaints handling that it should lead to improved service delivery we are concerned that ‘Deliver improvement’ has been given the status of a ‘principle’ in the SPSO’s ‘Statement of Principles’ when considerations such as independence and accountability have been given lesser status.”

SPSO Response

We welcome the suggestions made about the detail, regularity and content of the recording and publication of complaint data. The guidance on a Model CHP will expand on this area.

We agree with adding the word ‘quality’ to ‘service improvements’ and will amend the wording of the principle accordingly; likewise we will amend the final sentence of the subtext to include the purpose of contributing to continuous improvement.

Our view on the status of this principle is that it merits its prominence, since the learning from complaints is a key purpose of investigating them. We recognise that independence and accountability are crucial elements of a good CHP, and feel that they are given due value in the revised principles 4 and 5.

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