

Dear David

Thank you for your email of 7 July 2015 following the evidence session to the Local Government and Regeneration Committee on 10 June regarding complaints under integration of health and social care.

You requested further information on a number of matters relating to NHS and social work complaints, which this response provides under the following headings:

- 1) Complaints under integration of health and social care
- 2) NHS complaints
  - a) Current procedure
  - b) Planned changes
- 3) Social work complaints
  - a) Current procedure
  - b) Planned changes
    - i) Removal of the Complaints Review Committee
    - ii) Broadening the powers of the SPSO in relation to social work complaints
- 4) Guidance for Integration Joint Boards, Health Boards and Local Authorities

I also attach background information as follows:

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| Annex A | Integration of health and social care     |
| Annex B | Out of hours review in Ayrshire and Arran |

Annexes A provides for the general information of members of the Committee, and will I trust be helpful.

Annex B responds to the specific request of the Committee for further information on this subject, and is provided by colleagues in Ayrshire and Arran, for which I am grateful.

1) Complaints under integration of health and social care

Our starting point for making changes to the NHS complaints system and the social work complaints system, and, indeed, for the provision of guidance as set out below, is to ensure that complaints, whether in relation to health or social work services, are handled effectively, in good time, and in a person centred way. Complaints must be listened to, with those areas of dissatisfaction that form the basis of the complaint, being reviewed. Any appropriate action should be taken in response, and learning should be shared and fed back to improve services and service delivery.

Under integration, each Health Board and Local Authority chooses one of two organisational models to adopt: “lead agency” or “body corporate”; (see Annex A for further details). One Local Authority area – Highland – is using the lead agency model in partnership with NHS Highland. The other 31 Local Authority areas have agreed, with their Health Board partners, to adopt the body corporate model. Every Health Board and Local Authority must agree an Integration Scheme – a scheme of establishment – setting out the local arrangements for integration, regardless of which model of integration is used. Requirements for the content of the Integration Scheme are set out in Regulations. Additionally, Scottish Government advisers; the Chief Social Work Adviser and the Strategic and Clinical Lead, reviewed each integration scheme against the Clinical and Care Governance framework for Integrated health and social care<sup>1</sup>.

In Highland, the Health Board delivers adult health and social care, and is responsible for all complaints relating to those services. The Local Authority delivers children’s community health services and children’s social care services, and is responsible for all complaints relating to those services. Any complaints about service delivery in Highland are dealt with through the existing health and social work complaints procedures.

In all other areas, all of which are using the body corporate model, the Health Board and Local Authority create a partnership in the form of an Integration Joint Board, which plans and commissions services that are then delivered by the Health Board and Local Authority. This means that the Health Board and Local Authority remain responsible for the delivery of health and social care services, and, again, any complaints about service delivery will be dealt with through the existing health and social work complaints procedures.

We recognise the importance of ensuring that complaints are joined up from the perspective of the complainant. Health Boards and Local Authorities must agree and set out within their Integration Schemes their arrangements for managing complaints that relate to the delivery of services that are within the scope of integration. The Integration Scheme must also set out the process by which a service user, and anyone else complaining on behalf of a service user, may make a complaint. The arrangements set out in the Integration Scheme do not alter the underlying position, described above, that complaints are to be dealt with under existing health and social work complaints procedures. The Health Board and Local Authority must ensure that the arrangements that they have jointly agreed are:

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<sup>1</sup>

[http://www.gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration/Implementation/working\\_Groups/CCGG/ClinCareGovFwork](http://www.gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration/Implementation/working_Groups/CCGG/ClinCareGovFwork)

- Clearly explained;
- Well-publicised;
- Accessible; and
- Allow for timely recourse.

They must also ensure that complainants are signposted to independent advocacy services.

## 2) NHS complaints

### *2a) Current procedure*

The Patient Rights (Scotland) Act 2011 introduced a right to give feedback, make comments, raise concerns or make complaints about NHS services, and placed a duty on the NHS to encourage, monitor and learn from the feedback, comments, concerns and complaints they receive. Revised 'Can I Help You?' guidance to support NHS bodies and health service providers was published by the Scottish Government in March 2012.

'Your Health, Your Rights, the Charter of Patient Rights and Responsibilities', sets out peoples' rights to give feedback, comments, concerns and complaints about NHS services, be told the outcome of any investigation, access independent advice and support to make a complaint, and take their complaint to the SPSO if they are not satisfied with the investigation.

A complaint can be made orally or in writing by patients, on behalf of patients, or by anyone who is or is likely to be affected by an action or omission of the NHS. Currently, complaints must be acknowledged in writing within three days and investigated within 20 working days or as soon as reasonably practicable. The Complaints Directions set out that the following information must be included in a written acknowledgement of a complaint:

- Contact details of the relevant NHS body or health service provider's feedback and complaints officer
- Details of the independent advice and support available, including through the Patient Advice and Support Service (PASS)
- Information on the role and contact details for the SPSO; and
- A statement confirming that the complaint will normally be investigated within 20 working days or as soon as reasonably practicable; where it is not possible to send a report within 20 working days, the complainant will be provided with an explanation as to why there is a delay, and, where possible, provided with a revised timetable.

Most written complaints will be addressed directly to the Feedback Officer or Manager but this will not always be the case. Feedback, comments, concerns and complaints can be given to any member of staff. The Complaints Directions therefore place the onus on relevant NHS bodies to ensure that all frontline staff, who could potentially be the first point of contact, are aware of the arrangements and that all staff who handle feedback, comments, concerns and complaints receive training and guidance in order to do so. The Scottish Government has provided funding each

financial year since 2012/13, to enable NHS Education for Scotland and The Scottish Public Services Ombudsman (SPSO) to develop and deliver training for NHS staff and other NHS service providers, to support them to respond to feedback, comments, concerns and complaints in accordance with the requirements of the Patient Rights (Scotland) Act 2011.

Where a complaint is reasonably straightforward, it may be managed without the requirement for a detailed investigation. If the complaint has been successfully resolved to the satisfaction of the person making the complaint within three working days and the outcome has been communicated either face-to-face, or by telephone or email, there is no additional requirement to send further written confirmation or carry out an investigation. Complaints that fall within this category must be recorded as normal, to support organisational learning.

In terms of different routes people can use to provide feedback or make a complaint the Scottish Government has provided funding since 2013 to support the roll-out of Patient Opinion across Scotland, and to pilot Care Opinion. These provide a route through which people can share their experience of receiving healthcare services anonymously online, and enter into constructive dialogue with health and care providers about how services can be improved. If appropriate, NHS boards may invite people posting on Patient Opinion to contact them with further details, so that they can investigate a complaint.

‘Can I Help You?’ sets out that, where a complaint spans health and social care services, the relevant NHS body and the local authority social work department should agree who will take the lead. They should work together to ensure that all matters raised are investigated simultaneously to consistent timescales. The guidance recognises that different complaints handling processes currently exist for NHS and social care services, and states that the person making the complaints should be advised of this, particularly where this may impact on the timescales for responses. Learning and opportunities for improvement should also be shared between the two organisations.

## *2b) Planned changes*

The Scottish Health Council’s ‘Listening and Learning’ report on how feedback, comments, concerns and complaints can be used to drive improvement across NHS services in Scotland recommended that the Scottish Public Services Ombudsman’s Complaints Standards Authority lead work for the Scottish Government on the development of a revised NHS complaints procedure, in line with work undertaken in the wider public sector to improve complaints handling. Following discussion with the SPSO and others, the Scottish Government confirmed their intention to pursue this arrangement, with early engagement work taking place with Health Boards earlier in 2015. A working group has now been convened to progress the development of an NHS model complaints handling procedure, which will meet for the first time on 14 September this year.

The revised procedure will bring the NHS complaints procedure more closely into line with that operating in Local Authorities, and with the Scottish Government’s proposed arrangements for social work complaints, through the SPSO’s model complaints handling procedure (CHP). The revised NHS procedure will be based on

the CHP and will include a five working day frontline resolution stage, ahead of the 20 working day stage for investigations (instead of the three day window for early resolution, contained within the 20 days investigation period, which is described above). This will address the current differences in the management of complaints in health and social care services and bring a sharper focus to frontline ownership and early resolution of complaints.

It is envisaged that these changes will take 12-18 months to implement. This timescale will enable the Complaints Standard Authority (CSA) to work collaboratively with Health Boards and others, including the Scottish Health Council and members of the public, to develop the revised procedure and supporting guidance, and subsequently to support and allow sufficient time for Health Boards to implement it. This is in line with the process followed by the CSA in other sectors. This process will identify whether any other amendments are required to the Regulations and Directions associated with the Patient Rights (Scotland) Act 2011 in order to reduce variation and improve outcomes for people making complaints about NHS services, in addition to the amendments that will be required to provide for the five day stage for early resolution. We anticipate that the necessary amendments can be made within this timescale by means of a negative instrument.

### 3) Social work complaints

#### *3a) Current procedure*

Currently, Local Authority social work complaints are subject to a four stage process:

1. Early resolution by local staff; (then, if the complaint is not resolved at this stage);
2. Senior management / complaints officer investigation;
3. Complaints Review Committee (an independently chaired group which may make recommendations to the Local Authority); and
4. SPSO investigation of mal-administration.

The Complaints Review Committee (CRC) stage can be lengthy and service users have criticised CRCs as being time-consuming and frustrating and not user-focused.

It is our intention to make revisions to the social work complaints system that will result in the removal of the Complaints Review Committee stage and broaden the powers of the SPSO to investigate social work decisions made by a Local Authority.

#### *3b) Planned changes*

##### *i) Removal of the Complaints Review Committee*

It is our intention to harmonise the procedures for social work complaints with those for health complaints. Subject to Parliament's agreement, the Complaints Review Committee stage for social work complaints will be removed by early April 2017. In doing so, we must ensure that there is no diminution of the rights of the individual to complain about the services they receive through social work. It is, therefore, not possible to remove the CRC stage until SPSO is able to take on additional functions.

The complaints procedure following the move to the revised system will follow the SPSO's model Complaints Handling Procedures:

1. Early resolution by local staff; (then, if the complaint is not resolved at this stage);
2. Investigation by trained staff, and where the complaint is also in respect of services provided by another body, such as a Health Board, joint investigation with a single response to the person making the complaint;
3. SPSO investigation and recommendations.

*ii) Broadening the powers of the SPSO in relation to social work complaints*

Currently the SPSO is not able to consider decisions made by Local Authorities in the exercise of their social work functions under the Social Work (Scotland) 1968 Act, except those where there is a complaint about the mal-administration of the decision.

Our intention is to bring forward a Public Service Reform Order under the Public Services Reform Act 2010, to amend the Scottish Public Services Ombudsman Act 2002 to allow the SPSO to consider complaints that are broader in scope than referring solely to the mal-administration of a Local Authority's decision. This change will help to harmonise the system of complaints across health and social care. The draft Order would give the SPSO the power to specify the procedures that Local Authorities should use for complaints in relation to social work through their model Complaints Handling Procedures.

The process for bringing forward a Public Services Reform Order is a superaffirmative procedure within the Parliament, which has a 60 day consultation period for the draft SSI, and a 40 day Committee stage. The full process for laying a superaffirmative order is likely to take 7 months from the date of laying to coming into force, taking into account Parliamentary recesses. We are aiming to lay a draft SSI for consultation in September 2015, subject to the agreement of the Scottish Parliament Corporate Body to the changes to the SPSO's legislation. If the agreement of the SPCB is not secured in time to allow this, it will be necessary to lay the draft SSI as early as possible in the new session of the Parliament in May 2016, coming into force in April 2017. These dates are subject to further discussion with the SPSO and SPCB, and subject to the agreement of the Parliament.

The SPSO have stated that they would not be able to take on the third stage of the social work complaints procedures until autumn 2016 at the earliest due to other amendments to their role. We are already in discussion with the Scottish Parliament Corporate Body and the SPSO regarding the timings for bringing forward this Order, but we would expect that the changes would take place by early April 2017.

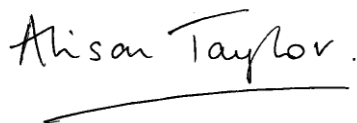
This timetable will allow proper Parliamentary scrutiny of a Public Service Reform Order under the Public Services Reform Act 2010, and will allow the SPSO to plan and prepare for the changes that we intend to bring about.

4) Guidance for Integration Joint Boards, Health Boards and Local Authorities

Given the timescales involved in implementing the changes outlined above, it is our intention to develop interim guidance, with key partners such as Integration Joint Boards, Health Boards, Local Authorities, the Care Inspectorate, Social Work Scotland and the SPSO. The guidance will aim to ensure that complainants and staff are clear about the principles and procedures for making and handling a complaint in the context of integrated services. Furthermore, the guidance will ensure consistency in standards of complaints handling, setting out the minimum requirements that should be adopted in line with the SPSO model complaints handling procedure. The importance of learning from complaints will be central to the guidance, with a view to continuous improvement. Integration Joint Boards, Health Boards and local authorities are required to take account of guidance in relation to their functions as set out at s53 of the Public Bodies (Joint Working) (Scotland) Act 2014. We intend to publish this guidance before the end of this calendar year.

The Committee has requested a further evidence session on complaints on 23 September. I will attend that session, along with my colleague Professor Craig White (Divisional Clinical Lead, Planning & Quality Division, Scottish Government) and Mr Soumen Sengupta (Head of Strategy, Planning and Health Improvement, West Dunbartonshire Health and Social Care Partnership). West Dunbartonshire's long standing experience of integrating health and social care provision means that Mr Sengupta is well-placed to explain how health and social care complaints, often referring to complex matters, are handled there under integration.

Yours sincerely

A handwritten signature in black ink that reads "Alison Taylor". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Alison Taylor  
Head of Integration Partnerships  
Integration and Reshaping Care Division

## Integration of Health and Social Care – Background information

The Committee will be aware that the Public Bodies (Joint Working) (Scotland) Act 2014 (the Act) put in place arrangements for integrating health and social care, in order to improve outcomes for patients, service users, carers and their families. The Act requires Health Boards and Local Authorities to work together effectively, in a partnership arrangement, to deliver quality, sustainable care services.

The broad aims of the Act are:

- To improve the quality and consistency of care for patients, carers, service users and their families;
- To provide seamless, joined up care that enables people to stay in their homes, or another homely setting, where it is safe for them to do so; and
- To ensure that resources are used effectively and efficiently to deliver services that meet the needs of the growing population of people with longer term and often complex needs, many of whom are older.

Health Boards and Local Authorities are required to establish arrangements to form a partnership. There are two models of integration available for Health Boards and local authorities to choose from, as follows:

- Delegation of functions and resources between Health Boards and local authorities – Lead Agency
- Delegation of functions and resources by Health Boards and local authorities to a body corporate – Integration Joint Board

### Integration models chosen

31 of the 32 Local Authority areas are using the body corporate model, in partnership with the NHS. Highland Council and NHS Highland have implemented a lead agency arrangement.

### Minimum functions – Integration Joint Board responsibilities

Where Health Boards and local authorities agree to put in place a Body Corporate model, an Integration Joint Board (IJB) must be established.. The IJB is responsible for planning health and social care functions that have been delegated to them by the Health Board and Local Authority, for directing the Health Board and Local Authority to deliver services, and for oversight of service delivery resulting from those directions.

Each Health Board and Local Authority must integrate at least adult social care services, adult primary and community health services and a proportion of acute services. The functions that are integrated – either by being delegated via a lead agency arrangement, or to the IJB, are set out in the Integration Scheme, which is submitted, by the Health Board and Local Authority, to Scottish Ministers for approval. Any additional functions beyond the minimum scope that are also integrated – for instance, children’s health and social care services, will vary from one partnership to another, as partnerships will decide themselves on the scope of



functions that will be delegated depending on local needs and priorities. It is at the discretion of Health Boards and Local Authorities to agree whether to integrate other services now or in the future, within the parameters permitted by the legislation.

An integrated budget will be established in each partnership to support delivery of integrated functions. The integrated budget, which is made up of funding from the Health Board and Local Authority for delivery of the integrated functions, is the resource the partnership will use to improve services across the whole pathway of care.

The Act places a duty on all partnerships to create a “strategic plan” for the integrated functions and budgets that they are responsible for. The strategic plan will set out how the partnership will plan and deliver services for their area over the medium term, using the integrated budgets and will be widely consulted upon with non-statutory partners and patient, carer and service user representatives.

Each partnership will establish locality planning arrangements at sub-partnership level. Localities will provide an organisational mechanism for local leadership of service planning, to be fed upwards into the Integration Authority's strategic plan; localities must have real influence on how resources are spent in their area. Locality arrangements will be empowered through effective use of data and by capitalising on and learning from the expertise that local professionals can contribute to improving services and outcomes for local people.

The Act does not require the transfer of staff under either model of integration. Service delivery will be the responsibility of the Health Board and Local Authority. The Health Board and Local Authority will be directed by the IJB to deliver the integrated functions in accordance with the strategic plan. The Health Board and Local Authority, therefore, will remain the responsible bodies for frontline delivery of health and social care services, under the IJB's directions.

### Chief Officer

Where the body corporate model is used, the IJB must appoint a Chief Officer to oversee strategic planning, act as the accountable officer to the IJB, and provide a single point of management for the integrated budget and service delivery. The staff delivering integrated services will remain employed by the Health Board or Local Authority. The Chief Officer will manage staff via an integrated senior management team spanning both organisations.

### Out of Hours review in Ayrshire and Arran

Access to high quality health and social care services to local communities outwith normal office hours is a key priority across Ayrshire and Arran and was considered by partners in the development of new Integrated services. The delivery arrangement that has been developed is with Health and Social Work out of hours services led by East Ayrshire Health and Social Care Partnership for all of Ayrshire and Arran Integration partnerships. A commitment to undertake a review to evaluate opportunities for synergies across services that could further develop integrated out of hours services was outlined in the East Ayrshire Health and Social Care Partnership Strategic Plan.

To progress this commitment, East Ayrshire Health and Social Care Partnership will be undertaking a service review of Health and Social Work out of hours services with the aim of considering integration. The review will seek to gain benefits for the population of Ayrshire through a more seamless service which maximises the use of the available expertise and resources out of hours.

Included in the scope of this review are:

- Ayrshire Doctors on Call
- Ayrshire Social Work Out of Hours Service
- Ayrshire Community Nursing Out of Hours Service.

Mental health services will be fully engaged in the review process in order to consider the benefits of closer working.

The review process will involve the services affected as well as stakeholders and partnership. The review is being undertaken within the context of the National Review of Primary Care Out of Hours Services and early indications from this national review are that it will be supportive of integrated local out of hours services. Members of the national review team led by Sir Lewis Ritchie have visited the services for a day to look at current arrangements and discuss our ambition for progress. Extensive public and other engagement is taking place through the national review and this will further inform the service review undertaken by Ayrshire.

Locally, an initial scoping meeting of the services involved took place on 13 August 2015 and it is envisaged that this will identify workstreams to progress. The review is expected to identify proposals in a timescale to move to implementation in 2016/17. The review is being supported by Organisational Development (East Ayrshire) and Service Improvement (NHS Ayrshire and Arran).

Enclosed are a range of information leaflets used across Ayrshire and Arran which are available and publicised throughout health and social care facilities.