

Social Work Complaints: Consultation Report

Social Work Complaints Consultation Report

1. This is a report on the consultation carried out by the Scottish Government on options to improve the handling of social work complaints in Scotland. Analysis of the consultation responses is attached in the annexes.

Background

2. In December 2011, the Scottish Government sought views on how social work complaints procedures could be improved to meet the needs of service users and to ensure they conform to the principles underpinning the reform of public service complaints.

3. Recent reviews of the current complaints procedure and subsequent work by the Scottish Public Services Ombudsman (SPSO) to develop simplified and standardised complaints procedures for the public sector have led to consideration of the current procedures for complaints handling, which were introduced in 1996.

Current Social Work Complaints Procedures

4. Section 5B of the Social Work (Scotland) Act 1968 provides for Scottish Ministers by order to require local authorities to establish a procedure allowing a person to make representations or complaints about social work functions. Such an order was made - The Social Work (Representation Procedure) (Scotland) Order 1990 (SI 1990/2519).

5. Section 5 and 5B of the 1968 Act also provide Scottish Ministers with guidance and direction making powers in respect of local authority complaints procedures. Circular SWSG 5/1996 contains such guidance and directions and can be accessed at: www.scotland.gov.uk/Resource/Doc/1035/0017124.pdf

6. The Social Work (Representation Procedures) (Scotland) Directions 1996 set out the complaints procedure in respect of social work and along with the guidance in SWSG 5/1996 provides for three stages:

- an informal problem solving stage when every attempt will be made to resolve the complaint by the local authority involved;
- unresolved complaints will then be investigated by specially designated staff;
- if the complaint remains unresolved a request can be made for an independent Complaints Review Committee to consider it.

7. Once this process has been completed the complaint can be raised with the Scottish Public Services Ombudsman.

Consultation

8. The Scottish Government consulted on the proposals between December 2011 and March 2012. The consultation document requested that respondents select one or more options from a suite of suggestions for revised procedures.

Question 1a: Please choose which of the following options you would prefer for dealing with complaints about social work services, providing reasons for your choice:

Option 1 – social work complaints dealt with in line with all other local authority complaints through the process set out in the SPSO model Community Health Partnership (CHP) for local government;

Option 2 – as with option 1 but with additional scope for increasing the working day timescale at stage 1 or 2 for social work complaints when circumstances require this;

Option 3 – modified and improved Complaints Review Committees (CRCs) operating within local authorities. CRCs would be retained but improved (e.g. faster time limits within which a committee must be convened and reach its decision). Respondents were given the opportunity to suggest improvements;

Option 4 – The SPSO expanding its remit to take on a similar role to that of the CRCs. This would provide the SPSO with a remit over social work decisions in line with its role in relation to NHS complaints. Respondents were given the opportunity to specify the main benefits of the SPSO taking on this role.

Question 1b: Are there any of the above options that you do not feel should be considered? Respondents were asked to give reasons.

Question 2: Are Regulations and Directions still required in order to ensure that appropriate social work complaints procedures are adopted by all local authorities or will clear guidance be sufficient? Respondents were given the opportunity to give reasons.

Question 3a: Should appeals procedures be established by all local authorities? (In the interests of good administrative justice, individuals would retain their right to complain at any stage).

Question 3b: If respondents answered yes to Question 3a: Would it be helpful for the working group on social work complaints to develop good practice guidance on appeals procedures.

Question 4: Opportunity for respondents to add any further comments.

Consultation Responses

9. A total of 28 responses were received on the consultation, 21 of which were from Local Authorities (LAs) and 7 from organisations.

10. The responses to Question 1a of this consultation can be divided into 3 categories:

- respondents who do not support any options;
- respondents who support only one option; and
- respondents who support more than one option.

11. One respondent did not support any of the options presented. Option 1 received the least support from respondents (6 responses), and Options 2, 3 and 4 all received an equal spread of support (10 responses each).

12. The majority of the respondents who support only one option is in favour of Option 3 (9 out of 16), followed by Option 2 (5 out of 16) and Option 4 (2 out of 16); while responses which include several options clearly support Option 1 or Option 2 combined with Option 4 (8 out of 10). Options 1, 2 and 4 are not mutually exclusive and it is possible to envisage a solution where more than one of these options apply.

13. While Option 4 received the same level of positive responses in Q1a as Options 2 and 3, in answering to Q1b, Option 4 received the highest number of responses from people who did not wish this option to be considered. Some respondents see Option 4 as 'too extreme', however it must be noted that this option provides the most radical change in procedures, and the one which aligns most closely with the recommendations of the Sinclair Report (2008)¹ on public sector complaints processes.

14. Option 2 proposes to deal with social work complaints in line with all other local authority complaints through the SPSO's Model Complaints Handling Process (MCHP) but with the possibility of extending timescales for stages 1 and 2 in specific circumstances; Option 3 promotes the use of modified and improved CRCs operating within local authorities. Each option represents one specific approach to the handling of social work complaints and relies on different procedures, actors and political dynamics which were clearly apparent in the responses to this consultation. Indeed, most responses focus on one of the two following arguments:

- Either there is strong support for standardisation and a streamlined model of handling complaints across Scotland which implies the removal of CRCs; or
- There is strong support for preserving local connections and a reluctance to give up power in favour of the SPSO, or any other centrally located authority.

15. It is important to note that several respondents would welcome more information on Option 2 and are not strongly opposed to it; therefore it might be easier to gather more widespread support for this option than for Option 3.

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<http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/IndependentReviewofReg/ActionGroups/FCSAG>

16. The table below shows the perceived benefits and problems with each of the options.

	PROS	CONS
Option 1 <i>6 positive responses</i>	Accessible system Single route – easily understood Legislation already in place Quick timeframe Consistency	Nature of complaints too complex SPSO’s lack of expertise Costs Increased workload for staff Not easy to use for children or young people
Option 2 <i>10 positive responses</i>	Recognises the complexity of complaints Objectivity through SPSO Streamlined model Resolve complaints, not simply respond to it More information welcomed (circumstances for extension, role of SPSO and appeals process)	Not much difference with current situation No evidence for the need to extend timescales Counterproductive Risk of confusion Not easy to use for children and young people
Option 3 <i>10 positive responses</i>	Face-to-face interactions Local connection Democratic process High level of scrutiny Experience and knowledge Independent and public safeguard	Lengthy process Disproportionate amount of time and resource Intimidating and adversarial environment Lack of power of CRCs Not compatible with integration
Option 4 <i>10 positive responses</i>	Standardisation Streamlined model of handling complaints In line with Sinclair report Better access to justice Fully independent external review Adaptable enough to cope with changes (integration)	SPSO already performing this role Undermine LAs’ power Risk of confusion, overlap, duplication Silent on matters of judicial review Very costly SPSO’s lack of expertise

17. Comments of respondents on the expertise and objectivity of SPSO in Options 1 and 2 suggests that there is some confusion around the proposals. These two options both proposed following the SPSO’s model, rather than passing the handling of complaints to SPSO.

18. Question 2 sought views on whether Regulations and Directions were still required to ensure that appropriate procedures are adopted by all LAs, or whether guidance would be sufficient. Amongst respondents, there was almost equal support for guidance (12 out of 24) and directions (13 out of 24)².

19. Where respondents supported guidelines, there was agreement that the guidelines would require updating and amending to provide consistency across the 32 LAs and contracted service delivery. The main benefit of the guidance is that it provides a clear steer whilst still allowing for discretion. It was emphasised that, in the current environment, demand for services is not diminishing in line with resources and therefore complaints regarding rights and entitlements are more likely, and financial and needs assessments are increasingly more complex; nonetheless, guidance is sufficient for day to day work and the 1996 Guidance is considered as a good framework with which to work.

20. Similarly to supporters of the guidance, respondents who favour directions do so with the issue of consistency across the 32 LAs in mind. It was argued that guidance alone would not bring compliance/standardisation of process and practice because, without directions, there is a danger that the process for social care complaints could be consumed within the local authority corporate processes. It was also suggested that individuals can feel disenchanted with procedures based on guidance whereas SG Directions give very clear directions for LAs to comply with. Respondents felt that any changes to the complaints system should also incorporate a clear requirement to gather evidence and engage directly in person with the individual and their carer; this represents good practice all public bodies should adopt.

21. Furthermore, the need for professional scrutiny and the responsibility of the Chief Social Work Officer is of particular importance given their statutory responsibilities for quality and professional practice and as such should have a specific role. Respondents also agreed on the fact that any changes to the practice of dealing with complaints or any amendment to existing statute should be supported in law. A standard procedure is consequently needed which on one hand allows for a basic level of protection to complainants that the matter will be conducted and can require the publication of the workings of the social work complaints procedure; on the other, in the context of integration between health and social care, it provides a single route of complaint to aid the prevention of 'forum shopping' whereby a claimant, dissatisfied with the outcome of a complaint, could submit a fresh complaint on the same issue to another body.

22. In particular, the need for more information on social work complaints procedures and/or for a clear definition of a complaint was emphasised in all responses. Whether they favoured guidance or directions, the importance of consistency across the 32 LAs was also highlighted by the respondents and should therefore constitute a key element of reference in the review of social work complaints. As for appeals procedures, the majority of respondents (19 out of 26) supported the fact that procedures should be established by LAs and considered that good practice guidance would indeed be helpful.

² One respondent supported both guidance and directions.

23. Out of 28 responses, 4 respondents clearly expressed an interest in and the wish to be invited onto the SG working group. It was argued by one respondent that the working group should include service users and carers, and by another that the Government should provide a clear steer on the back of consultation responses to inform the proposed working group's remit, within specific terms of reference set by the Government and guidance on the preferred option rather than delegating this consideration to the working group. The respondent also argued that consideration should furthermore be given to the wider arrangements for social care complaints to ensure a holistic approach focused on the user.

24. Question 3a sought views on whether appeals procedures should be established by all local authorities. The majority of respondents (19 out of 28) considered that appeals procedures should be established by LAs. Among the positive responses, respondents have also suggested improvements and/or highlighted their own policy in terms of appeals procedures. Chief among the suggestions for improvements, and raised by a number of respondents, is a need for clarity in what constitutes a complaint, as opposed to an appeal against a decision. Some respondents suggested the need for a separate appeals process to the complaints procedures.

25. Question 3b asked whether the working group on social work complaints should develop good practice guidance on appeals procedures. Once again, respondents in favour of a good practice guidance emphasised the need for consistency across LAs and the need to ensure that procedures are fair and transparent. Similarly to the question on Regulations and Directions (Q2), respondents would like to see some improvements included in such guidance.

26. Question 4 allowed respondents to make additional comments not covered by the previous questions. One issue which was highlighted by the respondents is the need for additional consideration of handling of complaints to ensure these are undertaken with the complainant as the focus of the deliberations, in a person-centred approach. Respondents also addressed what they perceived as limitations to the consultation. Specific suggestions included:

- The need to ensure that future arrangements for complaints handling align with wider social care complaints especially following the integration of social care and health – a single approach to complaints should be adopted in an integrated health and social care service;
- The aim of the complaints system should be simplicity from the complainant's perspective, with a single point of contact and a single co-ordinated response;
- A complaints signposting service – for instance a web-based information tool for consumers and advice agencies;
- An opportunity during the complaints process for an additional internal review after the internal investigation and prior to external review;
- Cease separation of complaints into categories of customer 'dissatisfaction' and from there into separate handling mechanism, as some complex cases may include broad dissatisfaction where only elements of the complaint relate to policy;

- The introduction of independent tribunals to consider appeals where the decision of the local authority is disputed;
- Listening and learning to improve the quality of service provider and maximise satisfaction;
- Timescales for dealing with complaints should be consistent across all bodies;
- A need to ensure anonymity in publication of decisions, especially where there is a risk of identification due to the size of community in rural areas;
- It was not clear whether the complaints procedures outlined applied to children and young people, and if it is to be used for that purpose the procedure must be easy to access by children and young people, and the procedures child-centred
- It was not clear whether all cases currently heard by CRCs would be transferred into the SPSO.

Conclusion

27. The consultation highlighted a number of areas where respondents felt that the current procedures for handling complaints could be significantly improved, but they also showed that there is belief that the current system could be made to work effectively with some changes.

28. Option 2, where complaints are dealt with in line with all other local authority complaints through the SPSO model CHP with additional scope for increasing working day timescales where necessary, and Option 3, a modified and improved Complaints Review Committee system, were considered by respondents the best methods of handling complaints reviews.

29. Option 4, however, also attracted support and offers the benefit of providing a streamlined and truly integrated system for handling all public services complaints, as was recommended in the Sinclair report.

30. It is our recommendation that Option 4, combined with the possibility of increasing timescales in certain circumstances, as described in Option 2, is most likely to create a fit-for-purpose complaints system for the future.

31. There was general agreement that procedures need to be fair and transparent, with a person-centred approach, with consistency across all local authority areas, and accessible to people of all ages.

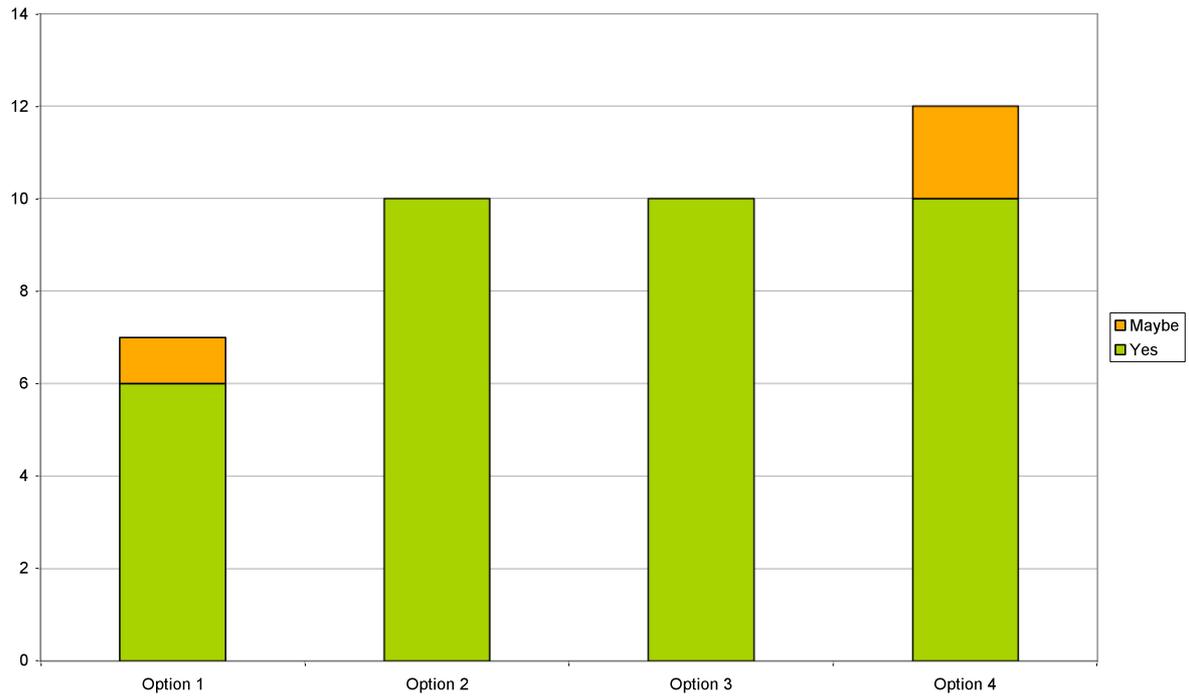
32. A working group will be established to produce proposals for the updating of the social work complaints procedures, with a view to making changes in future legislation.

Annex 1

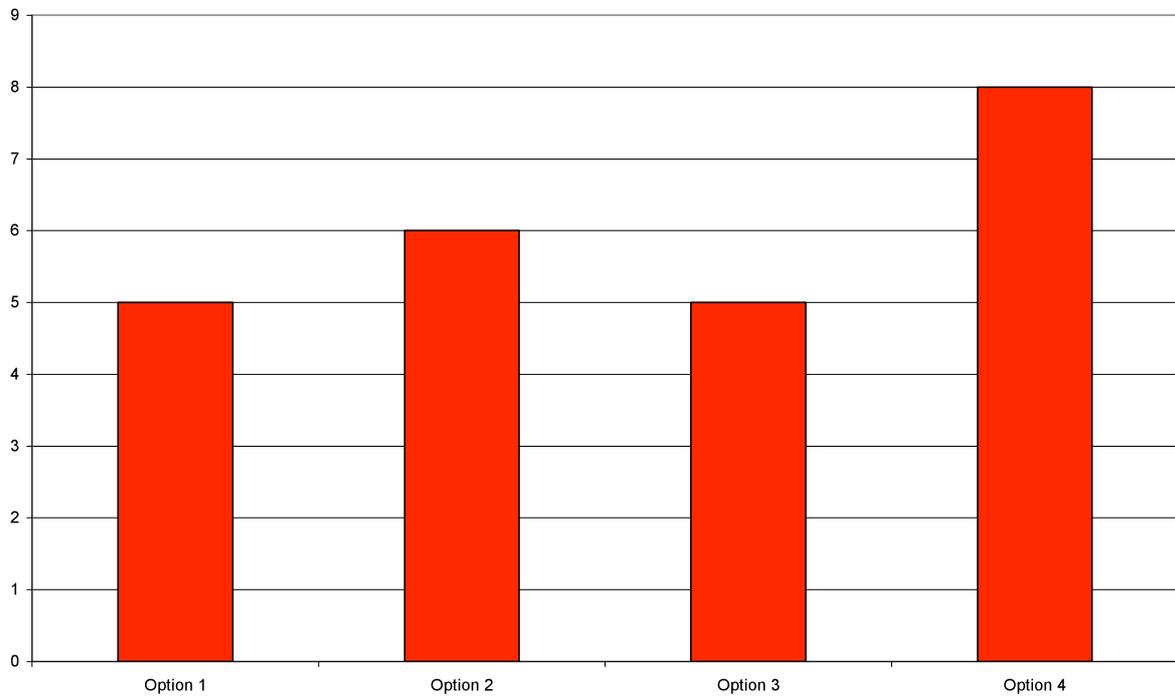
Respondents

Local Authorities	Organisations
Aberdeen City Council	AJTC
Aberdeenshire Council	Care Inspectorate
Angus	Carers Scotland
Argyll & Bute	Children 1 st
Clackmannanshire & Stirling	Consumer Focus Scotland
Dumfries & Galloway	CRC member
Dundee City Council	SPSO
East Ayrshire	
East Dunbartonshire	
East Lothian	
Falkirk	
Glasgow City Council	
Highland Council	
Inverclyde	
Midlothian	
Moray	
North Lanarkshire	
Renfrewshire	
Scottish Borders	
South Ayrshire	
South Lanarkshire	

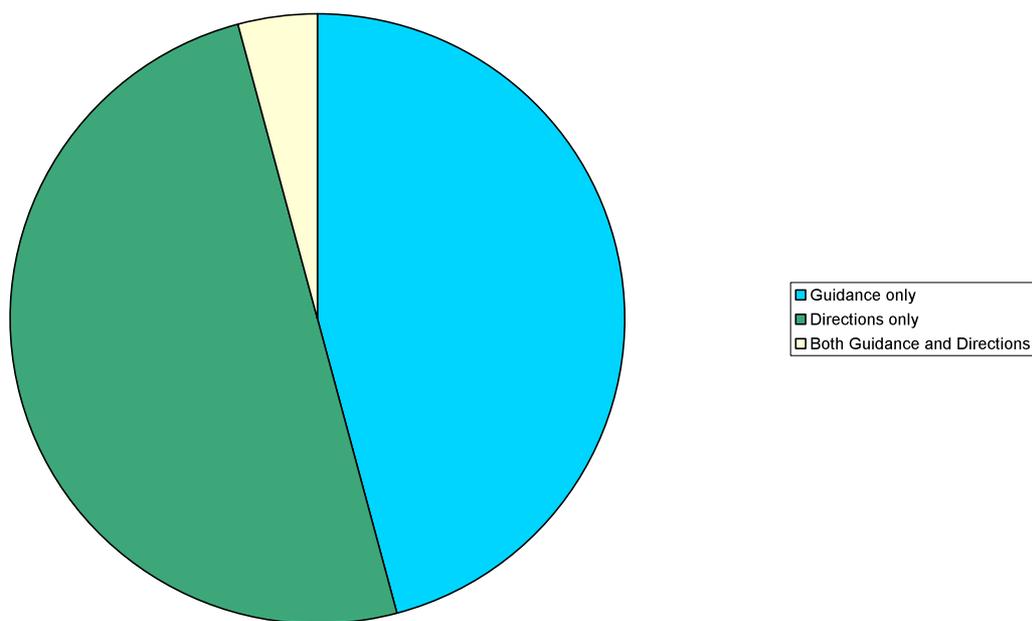
Annex 2



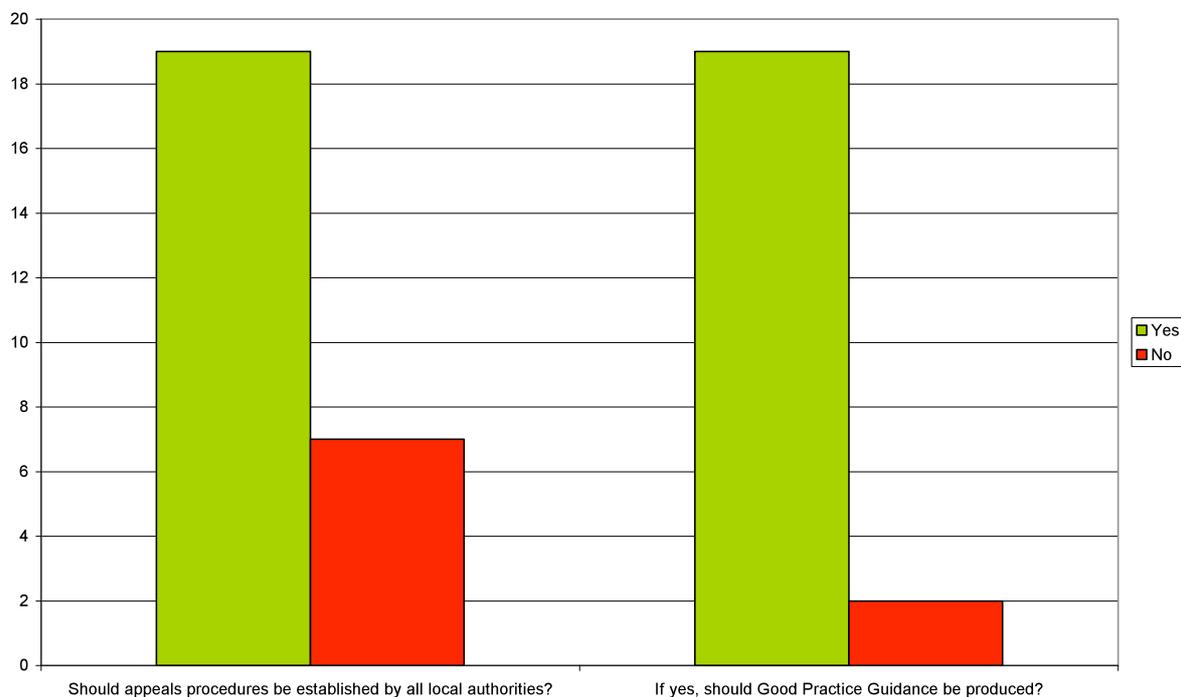
Options supported by respondents



Options which respondents felt should not be considered



Respondents favouring guidance or directions to ensure that adequate procedures are adopted by all local authorities for social work complaints



Respondents favouring appeals procedures being set up by all local authorities, and if so, whether the working group on social complaints should produce good practice guidance



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The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

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