

Mr. Jonathan Bill
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March 23rd 2007

Dear Jonathan

RESPONSE TO CONSULTATION ON THE NEW HPSS COMPLAINTS PROCEDURE

This response is made on behalf of the four Health and Social Services Councils of Northern Ireland.

1.0 General

- 1.1 We welcome the acknowledgment by the Department that the HPSS Complaints Procedure is in need of radical review – as evidenced by this consultation - and the aspiration that a new process be unified, streamlined and applied equally to the whole of the HPSS.
- 1.2 We agree also with the principles set out within the paper as guiding the complaints process overall and welcome the identification of patient satisfaction as the key outcome measure in assessing its effectiveness.
- 1.3 We welcome the emphasis on Local Resolution and the recognition of the benefits of this when done well.
- 1.4 There are, however, some major points on which the Councils feel strongly that a different approach than that set out in the paper is required.
- 1.5 Our concerns are set out in detail below under three main headings:
 - 1.5.1 Proposals for independent review
 - 1.5.2 Proposals for Complaints Management in Third Party or Independent Contracted Services (Residential and Care Homes, GP Services and Out of Hours Service)
 - 1.5.3. Guidance on Standards in Complaints management

2. Proposals for Independent Review

- 2.1 The Councils do not agree with the proposal for the abolition of the Second Stage of the Complaints Process – Independent Review.

2.2 *Patient Concerns*

As the department has noted, the Councils have long standing issues regarding independent review, based on feedback from patients they have supported over the years. These include:

- 2.2.1** The need for assurances to patients on the independence of the procedure
 - 2.2.2** The length of time taken to reach a decision on whether to grant an Independent Review and to conduct an Independent Review once granted
 - 2.2.3** The lack of sanctions on Trusts when multiple complaints are referred back for further local resolution
 - 2.2.4** The lack of enforcement powers or arrangements for ongoing monitoring
- 2.3** However, these concerns are not a reason to abolish Independent Review. They are an argument for its review and strengthening – like the rest of the process.
- 2.4** An open and effective HPSS Complaints Procedure – one that lives up to the aspirations of this document – should address any concern over independence.
- 2.5** Time delays, defensiveness and poor communication play the major part in creating the feeling for patients that the service closes ranks against them when they complain.
- 2.6** Most patients bringing a complaint about a service that they have received want three things:
- 2.6.1** A clear explanation of what has gone wrong
 - 2.6.2** An apology, which acknowledges responsibility
 - 2.6.3.** An assurance of change so that other patients do not have the same experience
- 2.7** The guidance within this document on Local Resolution contributes to addressing the first two of these.
- 2.8** However, the removal of the Independent Review process makes it less likely that patients will be assured that change will follow where their complaint is well-founded.

2.9 *Accountability in the HPSS*

We do not feel that abolition of the Independent Review will - in itself - be a positive move, notwithstanding these concerns.

- 2.10** Independent Review is an important route for appeal for patients within the HPSS. Without it, patients will have only one HPSS option for pursuing their complaint and this will be with the organization against which they are complaining. The proposed new process narrows the options for patients.
- 2.11** Independent Review is the only stage within the process at which there is lay and independent clinical input. The proposed new process removes independent lay and clinical input from the process – this is a step backwards.
- 2.12** Independent Review – and the responsibility for its management – creates an important link between the provider and the commissioner in terms of governance and risk management.
- 2.13** This link is more explicit in a restructured HPSS in which provider trusts are directly accountable to the commissioning authority.
- 2.14** To remove the commissioning authority from the process sends the wrong message to patients about accountability within the HPSS. It works against HPSS accountability and not towards it.
- 2.15** Independent Review – and an identified and formal place within complaints management - is an opportunity for the commissioning authority to engage with patients who are dissatisfied, to identify trends and to take immediate action on areas of concern.
- 2.16** In terms of ensuring the implementation and monitoring of recommendations under the new HPSS structures this is the direct responsibility of the commissioning authority in relation to the provider trusts.
- 2.17** We do not see – for all these reasons – the logic of removing Independent Review when viewed against the aspirations of this process and the roles and responsibilities of the new HPSS bodies after RPA restructuring.
- 2.18** *Role of the Ombudsman*

We do not feel that the Office of the Ombudsman is in a position to address by its function the concerns we have outlined above.
- 2.19** The Ombudsman is outside the HPSS and cannot therefore make the sustained and rounded contribution to accountability that the appropriate senior authority within the HPSS can.
- 2.20** There are currently very significant time delays in having complaints addressed by the Ombudsman.

- 2.21 The scope for investigation by the Ombudsman and the grounds on which he may accept a complaint for investigation are limited in comparison with a fully responsible authority within the HPSS.
- 2.22 There is no scope for monitoring the implementation of recommendations by the Ombudsman.
- 2.23 The options for sanction are more limited for the Ombudsman than they would be for the senior authority within the HPSS – where there is a direct management and accountability link.
- 2.24 The office of the Ombudsman is based on a legal ethos which may present less opportunity for accessibility to and engagement with patients, for resolution of issues by agreement or for learning to take place and change to be implemented pending his final recommendations on any matter.
- 2.25 These comments – as they are made in the context of this document - are made without knowledge of or insight into, the means by which the Ombudsman may choose to review his own resources in light of these proposed changes as these do not form part of this paper nor – as we understand it – has the Ombudsman given any public indication himself.
- 2.26 The Councils – given all of the above - ask that these proposals for Independent Review are entirely revisited.
- 2.27 Independent Review should be retained and it should be the responsibility of the new Health and Social Services Authority.
- 2.28 As the document considers only the option of abolition, there are no proposals within this paper for improvements or review to this stage. The Councils would be very willing to work with the DHSSPS on the development and production of such proposals.

3. **Proposals for Complaints Management of Third Party or Independent Contracted Services (Residential and Care Homes, GP Services and Out of Hours Service)**

- 3.1 The proposals in this area do not address two fundamental problems that patients, residents, clients and carers face when considering a complaint against an HPSS commissioned Third Party or Independent provider.
- 3.2 The first of these is the fear of reprisal. Residents of care homes do not have sufficient rights or security of tenure to prevent their being asked to leave their care home if they complain. Patients do not have sufficient protection against being removed from a practice list if they complain against a GP.
- 3.3 The second of these is the manner in which complaints are referred unproductively between the provider and the commissioner with neither party being willing to take responsibility for action. This is particularly the case in care and residential homes.

- 3.4** We would like to see further consideration of proposals for complaints management for third party and independent providers that allows for:
- 3.4.1** a single point of contact for all complaints. This should be the HPSS organisation that commissions the service and is the other signatory to the agreement to provide services
 - 3.4.2** a responsibility on the part of this HPSS organisation:
 - 3.4.2.1** to ensure appropriate arrangements for local resolution by the provider in line with HPSS Guidance
 - 3.4.2.2** to ensure compliance by the provider with the standards of service for which they have been commissioned
 - 3.4.2.3** to impose sanctions, where necessary
 - 3.4.2.4** to monitor ongoing compliance with recommendations
 - 3.4.2.5** onward referral of the complaint, where appropriate, to RQIA, the GMC and other appropriate professional and service regulators with specific powers and responsibilities relevant to the matter of the complaint.
- 3.5** The purpose of this would be to place responsibility for the management of complaints with the HPSS organisation that commissions the service, to make the process simpler in use for patients, residents, clients and carers and to remove the need for residents, patients, clients and carers to bring their complaints in the first instance to the provider without removing this as an option where patients, clients and others feel sufficiently confident in doing so.
- 3.6** The Councils would be very willing to work with the DHSSPS on the development and production of such proposals.

4. Guidance on standards in Complaints Management

- 4.1** The document goes into some detail in its guidance on complaints management – going so far, for instance, as to describe the likely content of a letter responding to a complaint.
- 4.2** With this in mind, we would like to see guidance that addresses – at this level of detail - the following:
 - 4.2.1** the skill mix required of staff working on complaints
 - 4.2.2** that appropriate and sustained training should be put in place for all staff but particularly those working directly on complaints in key areas

- such as good communication, mediation and conciliation, counseling skills and the legal and regulatory context in which they work
- 4.2.3** that staff appointed should be at a grade appropriate to the requirements and responsibilities of the job
- 4.2.4** that the delegated authority to the Complaints Officer by the Chief Executive be explicit and clear to all staff – in support of a duty to cooperate in the management and resolution of complaints
- 4.2.5** that dedicated resources sufficient to deliver high quality local resolution must be provided by each HPSS organisation with responsibilities in this area.

5. Conclusion

- 5.1** This response is submitted in the hope and expectation that these proposals will be thoroughly revisited and reviewed in light of these and other comments and that this process will be one in which the Councils – among others – will be closely involved.
- 5.2** For this reason, this response restricts itself to the three key areas described above and does not go into depth and detail on every aspect which has given rise to comment and concern among the four Councils – such as the fact that the document refers throughout to current, and not future HPSS management structures and will, therefore, be almost immediately obsolete.
- 5.3** We would welcome the opportunity to engage in a further process to develop proposals but – as will be clear from the foregoing – the four Councils do not feel that they can support these proposals as they stand as we do not believe that they deliver – or are likely to deliver – the key stated aims of the review and of the proposed new process.

Yours sincerely,

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EHSSC

On behalf of the four Health and Social Services Councils of Northern Ireland