



Making Experiences Count

A new approach to responding
to complaints

A document for information
and comment

June 2007

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Document Two – policy detail for practitioners and other interested parties	
Document two gives more detail about the background to this consultation, including:	
• overview of current progress	
• drivers for change	
• underlying principles for change	

Both documents are available to download at www.dh.gov.uk/en/Consultations/Liveconsultations/DH_075652

If you require a hard copy of either of these documents, please telephone us on 0113 254 7387

Foreword



By Lord Hunt OBE, Minister of State for Quality

Considerable changes are taking place in health and social care services. People are being given more choice and control over the services they use and they are being encouraged to get more involved so their opinions, preferences and views can influence which services are provided.

Most people are very satisfied with the care they receive. But when things do go wrong people, quite rightly, want easy and effective ways of complaining. However, we have learned that people still find it difficult to complain about both health and social care services.

In the White Paper, *Our health, Our Care, Our Say*, the Government committed to develop a comprehensive, single complaints system across health and social care. The focus of the new system is to resolve complaints locally, for it to be more personal and for it to happen speedily and effectively.

Complaints are important and need to be taken seriously. When something has gone wrong it needs to be put right quickly and organisations need to work closely with people to find the most appropriate resolution to a complaint. Organisations also need to make sure they learn from every aspect of a complaint so that the same thing cannot happen again.

The new approach we are proposing is a vast improvement on the current system, it will be more accessible, straightforward and streamlined and we hope it will encourage people to come forward with complaints and constructive ideas for improving services.

We hope you will give careful consideration to the approach set out in this document and tell us what you think.

A handwritten signature in black ink that reads "Philip Hunt". The signature is written in a cursive style.

About this document – this is document one

This document describes our ideas for developing a new approach to the way that health and social care services respond to complaints. In particular it:

- describes the principles on which we think the new approach should be built;
- explains why we think change is needed;
- describes the weaknesses in the current complaints processes; and
- describes what we would like to achieve with the new approach.

This document tells you about our ideas so far and asks for your views on those ideas. We will provide more detailed information about how the new arrangements might work in practice once people have told us whether they think that we have got the principles right.

It also asks for your thoughts and comments on a number of points to help us get it right. Questions relating to them appear at the back of the document.

You can let us know what you think by:

Writing to us at:

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E-mailing us at makingexperiencescount@dh.gsi.gov.uk

This consultation will run from **Monday 18th June 2007** until **Wednesday 17th October 2007**.

Some definitions of words and phrases we have used in this document

Complaint – we have used the word ‘complaint’ as a generic term for any sort of complaint, raised by people using services. A complaint can be defined as ‘an expression of discontent’. In this document, we take it to mean that as well as being an expression of discontent, a response is required.

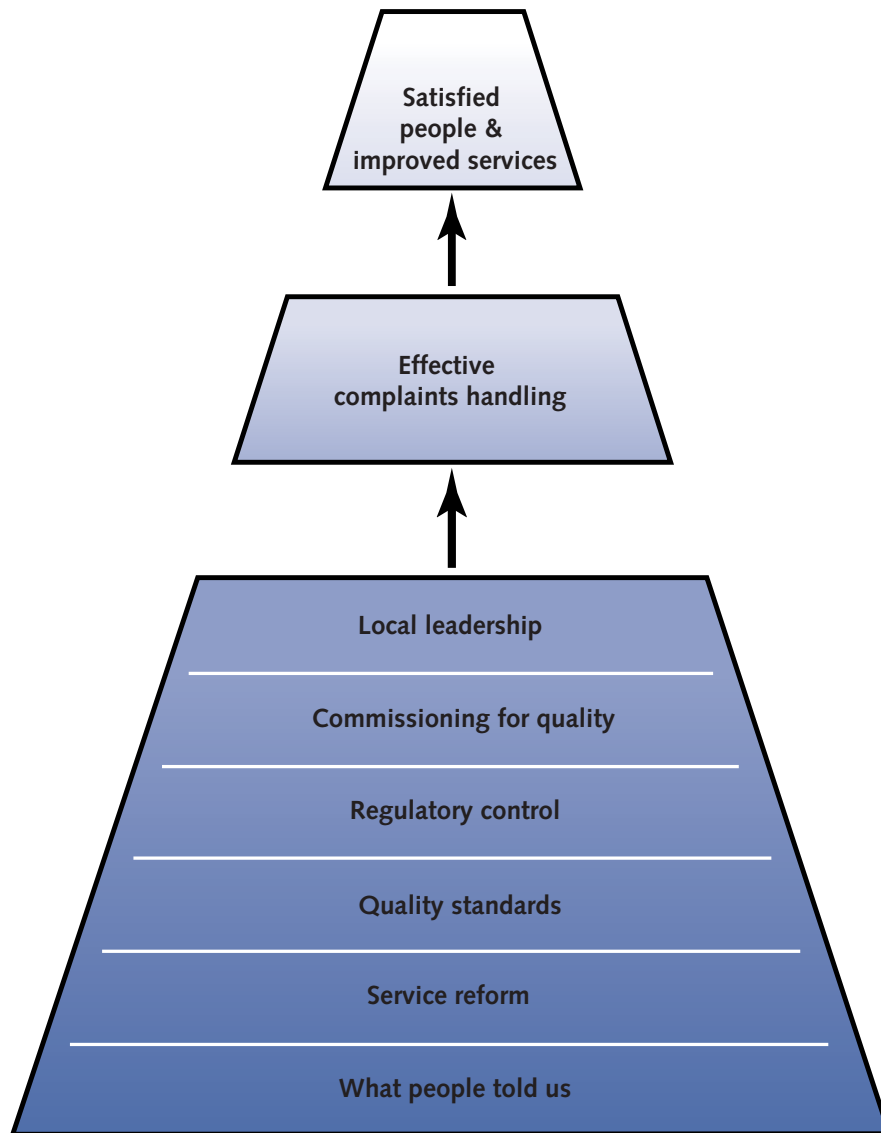
People – we want you to think widely about all of the people involved when a complaint is made. ‘People’ in this document refers to patients, service users, their carers, and relatives as well as the people delivering, managing and commissioning services. We believe that all of these people have a role to play in making and responding to complaints.

Commissioners – more services are being commissioned, that is purchased, through a contracting arrangement, for local communities by Primary Care Trusts and local authorities, rather than these organisations providing services themselves. In future local services may also be commissioned by GP practices.

Services – we want you to think widely about the sort of services that the new arrangements could apply to. We want them to apply to all health and social care services that have been arranged and commissioned by primary care trusts and local authorities whether delivered at home, in the community or in hospitals or care homes; covering the range of different types and sector of providers – NHS Trusts, NHS Foundation trusts, independent sector providers, and the voluntary sector.

Outcome-based response to complaints – we want to have arrangements that focus on achieving the best possible results for people. This should provide the answers and explanations that people need to help them understand when and how something went wrong. People have told us that what they are concerned about is the quality of the response and whether it provides them with answers. And responses must be timely, providing the answers that people need as quickly as possible.

Building the new arrangements



Making experiences count

The new approach to effective complaints handling, described in this document, is built on the firm foundations of:

- **What people told us** – before we started to develop any new ideas, we listened to people up and down the country, those who had already used the existing complaints procedures and those who hadn't, those who were professionally involved in complaints handling and those who arrange and deliver services. What they told us has guided our thinking.

- **Service reform** – to fit in with a more locally-led, innovative health and social care system, we have described a new approach which shifts more towards local leadership, promoting sustained improvement, with everyone working together to resolve the complaint.
- **Quality standards** – In the future, the Department of Health will provide a high-level set of registration requirements by which services will be judged and commissioners will set more detailed quality standards at local level. A new, single regulator will then check progress against these requirements.
- **Regulatory control** – The new regulatory framework is intended to assure people that services are safe, fit for purpose and deliver basic quality.
- **Commissioning for quality** – Commissioners, in arranging contracts with providers of services, will require information from providers about the level, nature and resolution of complaints received by providers. Organisations that do not have efficient, effective local complaints arrangements in place will be at a disadvantage when it comes to deciding on contracts.
- **Local leadership** – The Boards and senior managers of organisations that provide and commission health and social care services will need to provide the leadership to make sure that the new arrangements work effectively. Excellent leadership is essential to the success of any organisation. In particular, leaders at the most senior levels must be accountable for the quality of service delivery and the way that organisations respond when something goes wrong.

A summary of what we want to achieve

The principles and ideas described in this document will help to achieve:

- An increase in people's confidence that their complaints will be taken seriously and that services will improve as a result of their experiences;
- A flexible approach to resolving people's complaints, which includes effective support;
- A simple, consistent, unified approach across health and social care;
- A culture within organisations of openness and fairness when dealing with complaints;
- An approach which is fair to people using and delivering services;
- An emphasis on early and effective resolution; and
- A greater emphasis on excellent local leadership and accountability that supports the resolution of complaints.



We think that the best way to achieve these things in practice is to:


- Focus everyone's efforts on sorting things out quickly, at a local level;
- Make advocacy a right for anyone who might need support to make their views heard;
- Make it the responsibility of the most senior managers in organisations to ensure that complaints are dealt with properly and that the learning from those complaints is used to improve services;
- Make sure that complaints professionals have the skills, experience and support that they need in order to work in this new way;
- Give the regulator the task of making sure that all providers of NHS or social care services, whether in the public or independent sector, have effective complaints arrangements in place that meet people's needs and make services better; and
- Uphold the current role of the Ombudsmen.

Part 1: Background

1. Most people who use health and social care services are happy with the care and treatment that they receive.¹ In a survey carried out by the Healthcare Commission, patients gave a vote of confidence in the overall care provided by NHS hospitals with nine out of ten people rating it as “excellent”, “very good” or “good”.² The Commission for Social Care Inspection has found that between 68% and 84% of adults receive a service that meets their needs.
2. However, sometimes things go wrong and when they do, people need to be able to tell someone what happened. The people who are responsible for the service causing the problem then need to respond and make sure that the same thing doesn’t happen again.
3. We want to make it easier for people to complain about their experiences of using health and social care services, when services haven’t been good enough. There are currently different procedures in health and social care for making complaints, which make it particularly difficult for people who use a combination of services to make a complaint or for those services to respond. There are also different arrangements for children’s complaints.
4. Recent changes to adult complaints regulations have helped people and organisations by aligning the two procedures more closely, but people have told us that they would like a single, comprehensive set of arrangements, as those currently in place are difficult to access and understand. Therefore, a new, unified approach is needed which is streamlined and easier to use. We also need to make sure that health and social care organisations better understand the benefits of using the information from complaints to improve services and the consequences if they don’t. Those benefits include higher levels of satisfaction, more opportunities to improve services for everyone and an increase in their reputation with the people that they serve.
5. In the private sector, we know that the most successful companies take the views of their customers, including views expressed in complaints, very seriously. The most senior people at the top of those companies lead the way in customer care by reviewing what problems have happened, how the problems have been sorted out and what lessons have been learned from them so that the same thing doesn’t happen again. Most importantly, these companies use this information to improve things overall for future customers, ensuring their future viability.

1 Healthcare Commission press release - Published: May 16th 2007

2 The State of Social Care in England 2004-05, CSCI, 2005

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6. The White Paper *Our health, our care, our say*, published in January 2006, set out the Government's commitment to developing 'a comprehensive single complaints system across health and social care.' The focus of the new approach will be to:
- resolve complaints quickly, locally – there will be a more personal and flexible approach to handling complaints;
 - make sure people who have complaints have access to effective support – this is particularly important for people who find it difficult to make their views heard, and
 - support organisations to improve the services they provide by routinely learning from people's experiences.
7. This document sets out our approach for developing a radical new way of resolving complaints. Before we take forward the necessary significant changes, we need to hear your views on the principles and accompanying arrangements we have laid out.

Part 2: Why change is needed

"If you're young, or you've got a disability or something, you don't stand a chance really [in making a complaint]. That's how I see it, anyway." [Looked after young person]

8. Since the Welfare State was established in 1948, it has been constantly evolving to keep up with the changing health and social care needs and expectations of people who use its services.

Health Reform

9. Under the Health Reform programme, the Government is creating a more locally led, innovative health and social care system. We want to make sure that the new complaints arrangements are in keeping with this. The intention is to shift more towards local leadership, promoting sustained improvement across health and social care, with health and social care working together around individual and community needs. This is already starting to happen in some places through local area agreements (LAA). The LAA is an agreement between Central and Local Government, which simplifies the way that funding is given locally and gives local areas much greater freedom to spend it on local priorities.
10. To support Health Reform there will be new arrangements to improve performance, where primary care trusts and local authorities (local commissioners of services) will consult on and set local priorities. Local commissioners will become much more accountable to local people, commissioning services responsively and reporting on how well they have delivered on local and national priorities.

White Paper *Our health, our care, our say*

11. The White Paper *Our health, our care, our say* confirmed that patient choice was key to the reform process and stated that *"services will be integrated, built around the needs of individuals and not service providers, promoting independence and choice."* The reform programme is not only about improving the quality of services, it is also changing where and how services are provided. For example, many health services previously provided through hospitals are now delivered in a community setting such as a clinic or a GP's surgery, and in social care, there is much more emphasis on people controlling their own lives and having a say in the way that their care is structured and delivered.

Commissioning framework for health and wellbeing

12. In March 2007, the Commissioning Framework for health and wellbeing outlined the Government's ideas to provide services that meet the needs of the local community. In particular, the framework aims to help commissioners achieve a stronger focus on commissioning services and interventions that will achieve better health, across health and local government, with everyone working together to promote inclusion and tackle

health inequalities. With services jointly commissioned across health and social care, it would seem unnecessarily complex to have two separate complaints procedures for people to have to navigate if something goes wrong.

Local Government and Public Involvement in Health Bill 2007

13. The Local Government and Public Involvement in Health Bill 2007, introduces a number of measures to update the system for involving patients and the public in health and social care:
 - it establishes Local Involvement Networks (LINKs);
 - it strengthens and updates the existing duty on NHS organisations to involve and consult patients and the public; and
 - it introduces a new duty on local authorities to inform, involve and consult local people in service design and delivery.
14. This Bill is concerned with promoting a local voice that is strong and effective, and encourages local authorities and PCTs to listen and respond to people using services by commissioning accordingly. The information gathered as a result of people raising complaints will be vital in this process.

Children's services

15. The existing social care complaints procedure for adults and children are different. We need to understand whether it would be better to bring children's social care complaints under the new arrangements or whether they need to be treated differently. We have asked for your views on this later in this document.

Different sets of processes

16. For services provided outside direct NHS or local authority provision, there are a variety of complaints processes. We are keen to bring in a single set of arrangements that will cover as many providers and commissioners as possible.

A new approach is needed

17. Our ideas for the new complaints arrangements therefore need to fit the programme of reform where people are more involved and have more say and, more importantly, where there is a wider range of service providers from different sectors. The new arrangements need to be much more flexible and must promote and support local accountability.

"I didn't think there was any point in making a complaint because I didn't believe anyone would listen to me over the social worker."

What people told us

18. We know that there are problems with the current complaints procedures. A programme of research commissioned by the Department of Health in 2005 found that complaints procedures for health and social care are not easy for people to understand.
- Procedures feel impenetrable;
 - People have difficulty identifying what options are available; and
 - People feel uncertainty about how to complain or to whom they should complain.

"It shouldn't take so long and it shouldn't be so complicated."

19. The research found that in **health** there was considerable lack of awareness about the complaints process and uncertainty about to whom people could or should complain. The process was widely believed to be lengthy and bureaucratic. Some people felt intimidated by the NHS and did not think their complaint would be taken seriously. In primary care, patients felt uncomfortable about complaining directly to their practice because of the potential impact on the relationship with their GP.

"It needs to be quick, easy to understand and efficient. It isn't any of those things."

20. The research found that in **social care** the relationship between service users and the social care system is often more complex than the relationship with the NHS. The structure of the social care system means that service users tend to feel they have a relationship with individual professionals rather than 'the service'. As a result, many see 'no point' in making a complaint. Some thought they would not be treated fairly if they complained; many did not know who to complain to or felt uncomfortable complaining direct to their care worker or social worker; and most doubted whether anything would change as a result. Uncertainty about who to complain to was greater in social care than in health; the involvement of a range of providers and contractors complicated the picture.

"CSCI welcomes debate on a more coherent and better integrated system of handling complaints across health and social care. People who use services deserve a system that is easier to use and more responsive to their needs and we look forward to contributing to the consultation to achieve this." Paul Snell, Chief Inspector – CSCI

Reports into recent problems

21. Over the last few years a number of reports into failings within services have made important recommendations that we need to take into account when designing the new complaints arrangements.

Shipman, Ayling, Neale and Kerr/Haslam

22. The Shipman Inquiry's Fifth Report and the reports of the Ayling, Neale and Kerr/Haslam Inquiries dealt mainly with the need to improve systems to identify, investigate and respond to actions by health professionals that could put the safety and wellbeing of patients at risk.
23. The details of the individual reports vary but the underlying issue is the same in each case: how was it possible for health professionals to behave in such a manner without being apparently noticed, apprehended or held accountable?

"The Government agrees that complaints (from patients or their representatives) and concerns (from fellow professionals) can provide vital information in identifying potential risks to patient safety, as well as more generally indicating how services can be improved." Safeguarding patients 2006

Parliamentary and Health Service Ombudsman report

24. *Making things better?*, a report on reform of the NHS complaints procedure in England by the Parliamentary and Health Service Ombudsman, also describes some of the problems caused by this fragmentation of complaints systems.

"Despite the fact that NHS care is being delivered in an increasingly wide range of settings, it is our experience that most people see the NHS as essentially one organisation delivering one-off or ongoing packages of health care. The Secretary of State for Health is clear that an NHS patient is an NHS patient regardless of where they are treated. However, when someone wishes to complain about health services, the image of one NHS can quickly shatter if the complaint is about more than one NHS body or it involves the social services."

The report goes on to say: *"Complainants are interested in outcomes, not time targets, but that is not how complainants or, indeed, complaint handlers experience the current system."*

Healthcare Commission report

25. The Healthcare Commission's report on complaints activity, *Spotlight on Complaints*, has identified a number of national and regional trends regarding the local delivery and handling of complaints in health. The report noted that too often responses to complaints do not explain what steps have been taken to prevent the recurrence of an event, which has given rise to a complaint. The Healthcare Commission recommends that complaints systems need to:

- Be more focused on complainants and what they seek from making a complaint; and

- Have better ways of learning from complaints at a local, regional and national level, sharing best practice and responding to trends in complaints.

MENCAP report

26. *Death by Indifference* is a recent MENCAP report that outlines the problems that some people with learning disabilities encountered when being treated by the NHS and the difficulties that their families had when trying to use the current complaints procedure. This report tells how, even after waiting for long periods of time and going through several stages, families were left feeling frustrated and still unable to understand what had happened and why.

"We want the complaints system to get to the heart of the matter... We know how appalled [families] are by the time it has taken, how confused they are by the process, and how angry and disappointed they are when the investigation concludes not having answered fundamental questions..."

Conclusion

"I ended up wanting to make a complaint about the complaints process because I was so fed up with it."

27. We presently have fragmented complaints processes that have become more difficult to navigate over time as the way services have changed and the way that people use them has changed. People feel that processes are not centred on their individual needs and organisations delivering and commissioning services often do not make the best use of the valuable information that people are trying to give through their complaints. People who use and rely most on services are often the most reluctant and least able to make their views known.
28. In many cases, people are supported to make their complaints heard, and responsive and responsible health and care service organisations hear and respond to those views and learn from their mistakes, improving their services continually. But those organisations tell us that this is sometimes despite the current complaints arrangements.
29. In a small number of very worst cases, the picture is one of confusion and frustration for everyone involved, with people not able to voice their complaints, organisations unable to hear them and, even after lengthy procedures, including several investigations, no one feeling that there has been a satisfactory resolution to the problem.
30. Where people take complaints seriously and respond to them in a person centred way, the outcomes can be much more successful for both the person complaining and the organisation itself. We need to make sure this culture is promoted and becomes universal practice.

Mid-Staffordshire General Hospitals NHS Trust recently changed the way in which they deal with complaints. When a complaint is received, a specially trained Investigating Officer, drawn from among senior managers at the Trust, clarifies the issues to be addressed and agrees a plan with the person making the complaint. They aim to respond fully within 24 days – the response includes a letter from the Chief Executive, a copy of the report and an action plan which details any actions that the Trust intend to take as a result of the complaint.

Information, including trend analysis, is linked with monthly governance groups. Trends are addressed by local service managers, with significant risks being managed through a risk register. Quarterly reports are presented to the Executive Governance Group and Trust Board.

Since implementing the new approach there has been a reduction in the number of complaints that progress down the formal route to the second stage of the current complaints process and the Trust has started to receive letters of thanks from people who feel the Trust has taken their complaints seriously and taken appropriate action.

“The report produced fully addresses my concerns and I feel that the resultant action will improve the future care of patients. I would like to thank you for taking my concerns seriously and consider the case closed”

Camden Council has developed an approach to complaints based upon focusing on the needs of the individual service user. Complaints handling embraces locally developed strategies of:

- listening to people;
- taking into account individual need (especially towards children and vulnerable adults);
- solving problems as quickly and efficiently as possible; and
- carrying out independent investigations when necessary.

Camden social services work jointly with health colleagues whenever it is appropriate to meet the needs of a growing number of service users who are receiving services provided jointly by social care and health. Camden and their health partners are committed to ensuring that the complex needs of such service users are not a barrier to resolving complaints and organisations learning from that experience. Advocates support vulnerable users in this process.

To meet this evolving requirement Camden has:

- built upon the developments in Learning from Complaints to establish protocols for joint work with health colleagues locally

- worked in partnership through a joint committee with Islington Council, and the Camden and Islington Mental Health and Social Care Trust to discuss joint complaints, management arrangements and learning opportunities
- worked with the Voices for Improvement Action Network to establish a national model for joint protocols on complaints handling between health and social care and to find ways of learning from others.

Camden know that it is essential to listen to people throughout the complaints procedure to make sure that it is effective in meeting their needs.

"Thank you for coming to see me and explaining what was happening to K and her wheelchair assessment. She had been waiting a very long time for this and nothing seemed to be happening. She has been unable to leave the flat without someone to help her. She will now be able to get out and is looking forward to this."

Part 3: What we want to achieve – a wholly new approach

31. This document describes the principles for a new approach in order to achieve a culture change, rather than prescribing a new set of specific processes: this is because we want to move away from a process-led system to one that is more flexible, enabling organisations to meet the needs of people.

32. We want to make it easier for people to complain about their experiences of using health and social care services. We also want to make it easier for organisations to respond to those complaints and to learn from what people have told them in order to improve services.

"I want someone to properly listen, to take me seriously, and then DO something."

33. We want to design and implement a single set of arrangements that place more emphasis on people being able to talk directly to someone who represents the services involved, and have support to do that if necessary. There must be maximum opportunity for the people involved to resolve things quickly and effectively through discussion and negotiation rather than by using cumbersome, lengthy, set procedures. Organisations, whether they provide or commission services, need arrangements that allow them every opportunity to hear people's complaints and quickly implement the learning from them.

34. In short, we want the new approach for responding to complaints to meet the needs of people, staff and organisations and we endorse the outcomes-based approach suggested by the Ombudsman.

35. Our aim is to achieve:

- an increase in people's confidence that their complaints will be taken seriously and that services will improve as a result of their experiences;
- a flexible approach with effective support for people who find it difficult to voice their complaints, including the right to advocacy;
- a simple, consistent, unified approach across health and social care;
- a culture of openness and fairness in organisations which underpins a willingness to listen, respond and apologise to people when things go wrong;
- an accessible approach that is fair to people using and delivering services;
- an emphasis on early and effective resolution;
- a commitment to good, effective local leadership that supports the resolution of and learning from complaints; and
- a demonstrable change in the quality of services as a direct result of what people tell organisations through their complaints.

We also want the new approach to contribute to continuous quality improvements in health and social care. Our aim is for:

- complaints to be seen as a positive and essential opportunity to listen to and learn from people using services;
- the development of systems for learning and sharing experience and practice that go beyond individual organisations and into a national arena; and
- the further development of the complaints managers' role in order to ensure complaints are dealt with by highly skilled, motivated and supported staff.

The role of Boards and senior managers in providing leadership in responding to complaints

36. In large organisations such as Trusts and Local Authorities, where there is a strong corporate structure, there must be clear leadership and ownership of the arrangements that allow their organisations to listen to people, particularly when people are telling them that something has gone wrong. We believe that there should be accountability at the highest level to make sure that local complaints arrangements work properly and that services are continually improved as a result. In smaller organisations, the most senior manager will need to perform this role.

"Any business will need a leader for its key product and I make no apology for describing care and compassion as such within the clinical work of acute and primary care. That leader has to be held accountable and have the authority to hold others, particularly the board, to account for how satisfied the customers (patients and carers) are with the service provided and how it can be improved.... This is not about the odd satisfaction survey but rather the competence, credibility and authority to performance manage on an ongoing basis the whole patient experience, wherever that is located."

Sir William Wells – Foreword – Who Cares Wins – leadership and the business of caring – 2006

The role of Primary Care Trusts and Local Authorities

37. The people who purchase services, or commissioners, in PCTs and LAs will have a major role in making the new approach work effectively and making sure that the lessons learnt from complaints feed into continuous improvement of the quality of services. The Commissioning framework for health and well-being identifies steps that will help drive more effective commissioning. These include:

- putting people at the centre of commissioning;
- understanding the needs of populations and individuals; and
- sharing and using information more effectively.

Commissioning for quality

38. Information about how providers respond to complaints about their services should be routinely used when making decisions about how services should be commissioned. Organisations who do not have efficient, effective local arrangements in place to respond to complaints would be at a disadvantage as they would not be able to show, for example, how the views of people using services have been used to improve those services.

"What I want most is for my complaint to make it different for other people in the future – the ones coming along behind me."

What the new approach will achieve

39. The new approach must:
- be simple to use;
 - emphasise preventing harm, reducing risks and learning from complaints;
 - deliver a better, consistent, integrated and responsive service to users;
 - be highly accessible especially for people with complex needs and/or a complaint spanning a range of services;
 - put things right for the individual;
 - drive improvements in the quality and safety of services; and
 - ensure that providers understand that if they fail to deal with complaints effectively, it will undermine their future viability.
40. Our proposals place more emphasis on people being able to talk to the people responsible for delivering and/or commissioning the services involved. We believe that there should be every opportunity given to resolve things through discussion and negotiation rather than by using a set procedure.

Supporting people to make their views heard

"You need someone to help you understand it, and to help you say what you want to say."

41. We need to make sure that everyone who wants to raise a complaint about services is able to and that no one is left struggling because they find it difficult to make their views known. Therefore, we want to make sure that everyone has access to:
- information about the arrangements in place locally for dealing with their complaints;

- self help information, such as template letters, that will help them to order their thoughts and tell organisations simply and clearly about their complaints; and
 - phone or internet/e-mail based support, which will allow them to talk things through and decide the best way forward.
42. There are currently services available to NHS patients through the Patient Advice and Liaison Service (PALS), and similar arrangements exist in social services through customer services arrangements.

PALS

Patient Advice and Liaison Services (PALS) provide information, help and advice for patients, their families and carers using the NHS. They are a focal point for user feedback and a powerful lever for change and improvement in the NHS. PALS operate in locally flexible ways to help patients and the public successfully access and use the NHS.

43. In addition to PALS, advocacy services are available for NHS patients wishing to complain about their treatment, from the Independent Complaints Advocacy Service (ICAS).

ICAS

The Independent Complaints Advocacy Service (ICAS) is a statutory, independent advocacy service, which aims to ensure people needing to complain about NHS treatment or care, have access to the support they need to understand the complaints process and tell their story, maximising the chances of their complaint being resolved quickly and effectively. ICAS provide help tailored to the needs of the person making a complaint. In addition, for people who have particular difficulty in making their views known, there are specialist advocates who provide tailored support, which might include letter writing, form filling and support when attending meetings

"If it hadn't been for my ICAS advocate I would have given up. I didn't know anything about how to complain – it all seemed very complicated – but she helped with the letters and things so I could tell them what had happened. She even came to a meeting with me. She was great."

44. Advocacy can also be made available for social services users through their local authority, but we have learned from service users that provision can vary greatly depending on their needs and can sometimes be difficult to access or not available at all.
45. We believe that under the new arrangements, advice and customer service arrangements like those provided by PALS, should be universally available and advocacy support should be a statutory right. Therefore, statutory advocacy provision for all complaints

must be introduced which mirrors the current nationally available provision open to everyone wanting to make a complaint about health service patients, via ICAS.

"We must also ensure that people with concerns or who wish to complain have access to effective support. This is particularly important for people who find it difficult to make their views heard. To ensure people are supported, the Patient Advice and Liaison Service (PALS) will need to continue to develop its capacity..." Our health, our care, our say – January 2006

People making complaints – how they can help

46. In order to progress a complaint quickly and effectively, everyone must play his or her part. When people complain they can help organisations sort things out quickly by:
- giving the full details of the complaint as early as possible;
 - responding promptly to requests for information;
 - helping the organisation to understand their needs; and
 - treating all those involved in the complaint with respect.

Local resolution

"What I wanted was for ONE person to be able to listen to the problems I had with both health and social services. A one-stop shop. I just ended up having to tell the story loads of times to different people."

47. The new approach will ensure organisations work more closely with people to find an early resolution to complaints. With more emphasis placed on people being able to talk directly to the people involved we believe that every opportunity should be taken to resolve things through discussion and negotiation rather than by using a set procedure.
48. It is very important that people feel from the beginning that their complaint is being heard by someone who is interested in what they have to say and has the capability and authority to do something about it. People should feel that they can take an active role in finding a resolution and must feel confident that the steps being taken to sort things out are safe and appropriate.
49. It is important that organisations act fairly and with integrity, being transparent in their dealings with people making complaints and treating people with dignity whilst respecting their rights.
50. Organisations should share information as it arises with the person making a complaint, as that may help to unearth additional facts that may assist the organisation to find a better resolution to the complaint.

"I want to stay in control of what happens next – this is about ME, and it's my complaint."

51. We would like to see a range of methods being available at a local level in order to support resolving complaints. For example:
- A robust risk assessment mechanism that would allow serious complaints, such as those involving abuse or unsafe practice, to be identified quickly and dealt with according to the appropriate legislation (such as Protection of Vulnerable Adults or Child Protection legislation).
 - The development of a plan, agreed by the person making the complaint, outlining how it is going to be tackled, who will be involved and the roles that they will play, the sorts of timescales involved and how the person making the complaint will be kept informed of progress during the process.
 - The involvement of the most senior managers or clinicians at an early stage if that is appropriate.
 - Face-to-face meetings between everyone concerned in the complaint at an early stage to make sure the circumstances that gave rise to the complaint are clearly understood.
 - Independent mediators who could help when the complaint includes relationships that have broken down.
 - People independent of the service provider, the commissioning organisation and even the locality, who could be called on to conduct an investigation where complaints cannot be resolved satisfactorily and/or there are complex issues involved.
 - The involvement of specialist advocates who can help people with complex needs to voice their complaint effectively and also help that person to understand the organisation's response.
 - The option of being able to complain direct to the PCT or local authority if that is preferable to the person making the complaint.
 - Clear, effective leadership which supports local resolution with a legal accountability on the most senior managers to ensure complaints arrangements meet peoples needs and that services are improved as a result of what those people have told them.
52. The current complaints regulations include timescales that stipulate how long people complaining and organisations responding to those complaints have to deal with each stage of the process. Many people feel that timescales are an important way of ensuring that things move along and don't get 'stuck'.

53. Some people also feel that there is an operational need to have two distinct approaches to local resolution depending on the type of complaint that is being made. For example, for some very straightforward, simple complaints such as a failure to notify a change in an appointment time, or a one-off instance of a home care worker arriving late, the response could be the responsibility of the manager of the relevant service. The response in these cases may simply need to involve a discussion between the people involved and/or a written response, which would include answers to the points raised. It should also include an indication of whether/how the service will be adjusted as a result of the complaint in order to improve it in the future. This approach might be called the **Local Service Response** and there may be an overall timescale in which to act.
54. If a Local Service Response is not appropriate (because the complaint or the needs of the person making the complaint are more complex), then a wider **Organisational Response** could be made. This sort of approach would allow the organisation to carry out a more involved investigation and would require additional work to be carried out (such as an independent investigation). There may be an overall timescale in which to act.
55. With new arrangements for dealing with complaints locally that are flexible and robust, there should be no need to 'have another go' at getting things right. The current second stage of the NHS complaints process has inevitably lengthened the overall process. Under the new arrangements, with emphasis on effective local resolution and with independence available through the Ombudsmen, a second stage will become unnecessary.
56. As a result, we have decided that the regulator will no longer have a role in processing individual health complaints. Rather the regulators of health and social care would have a role in looking at the outcomes from complaints, focussing on the standard of complaints handling and the implementation of learning from complaints. It would also ensure that all providers of NHS or adult social care services, whether public or independent sector, have proper and appropriate complaints systems in place.
57. The Boards and/or very senior managers of provider and commissioning organisations would be responsible for ensuring local complaints arrangements are robust and able to deliver a full and accurate response to anyone making a complaint. They would also ensure that the learning from complaints is used to support overall service improvement. They would be accountable for the local complaints arrangements, with the regulator taking a view on the quality of those arrangements and the outcomes that they produce, including how peoples experiences are used to inform service improvement.
58. The role of the Ombudsmen would remain unchanged under the new arrangements. The Health Service and Local Government Ombudsmen can carry out independent investigations into complaints about poor treatment or service provided through the NHS or Local Authorities in England. If the service provider or commissioner doesn't put

things right through the local arrangements, then the Ombudsmen would still be able to investigate, providing the ultimate, independent view of what had happened.

59. We believe that a two stage model comprising local resolution and both health and social care Ombudsmen is most likely to accomplish the aims and objectives outlined in this document. However, within the main, first stage there would be a variety of activities, appropriate to the needs of the person making the complaint and the circumstances of that complaint.

Complaints to service commissioners

60. In *Safeguarding Patients*, the Department of Health accepts the Shipman Inquiry recommendation, whereby patients and their representatives who wish to make a complaint against a general practitioner (GP) will be able to choose whether to complain to the GP practice concerned or direct to the local PCT. There is a need to protect patients who are reluctant to complain locally for fear of jeopardising their future relationship with the healthcare team. This can equally apply to social care, where as with primary medical care, the relationship between user and care professional tends to be longer-term and more personal. Therefore, people using social care services will be able to choose whether to complain to the service provider or directly to the local authority who has commissioned the service.
61. Rather than just focus on resolution of a complaint, organisations will be expected to consider issues such as patient and user safety, clinical governance, risk management and ongoing service improvement.
62. Some people may feel uncomfortable about complaining to the organisation that is providing the service as they think they might be penalised for doing so. The new approach will let people decide whether to make a complaint to the provider of a service or to the organisation commissioning the service (i.e. the local authority or PCT). Where a complaint is made to the organisation commissioning the service, it will discuss the matter with the person making the complaint and together they will agree the most appropriate course of action to resolve the issue.

Assuring the quality of complaints handling

63. As we want to move away from highly prescriptive complaints procedures to more flexible and tailored arrangements, there must be in place strong and systematic mechanisms to ensure that those complaints arrangements are of a consistently high quality and address any inadequacies.

Regulatory control


64. The new regulatory framework that is currently being developed, is intended to assure patients that services are safe, fit for purpose and deliver basic quality. The detailed requirements of regulation are likely to require all providers of NHS and adult social care services to have appropriate complaints processes in place. In addition, commissioners in arranging contracts with providers of NHS services will require information from providers about the level, nature and resolution of complaints received by providers. *Safeguarding Patients* endorses the recommendation of the Shipman Inquiry that PCTs should have an oversight of the pattern of complaints against GPs.

Quality standards

65. In the future, the Department of Health will provide a high-level set of registration requirements for providers. This means that commissioners will be responsible for determining the quality requirements they wish to apply in contracts at a local level. We envisage the new regulator will develop criteria upon which it will monitor provider performance.
66. We would expect health and social care providers to operate their complaints processes in a way that leads to continuous improvement in the services that they offer. This will be part of the new outcomes and accountability framework to improve organisational performance overall. There will be more focus across all services on outcomes, experience, safety and quality. We envisage that outcomes will be determined according to local priorities. A key benefit to this is that it will increase PCT and local authority engagement with and accountability to local populations.
67. We want to ensure that the public can have confidence that practitioners have arrangements in place for delivering services that comply with basic criteria. This means that we are prepared to be prescriptive to a defined and limited extent by setting requirements as a condition of being registered to provide services. These requirements of registration are likely to require all providers of registered health and adult social care services to have adequate complaints procedures. If complaints arrangements fail to meet such requirements we will require action to be taken.

Conclusion

68. We have committed to implementing a single, comprehensive complaints process across health and social care, which better reflects the way in which services are provided and people use them. We recognise the problems with the current procedures and are determined to make sure that the new arrangements are simple, effective, and flexible and meet the needs of people using them.

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69. We recognise that the people who rely most on services are often the people least able to make their views known and are committed to ensuring that in future their voice is supported through a right to advocacy.
 70. We want to ensure organisations take complaints seriously and that the Boards and/or senior managers within those organisations understand both the benefit of dealing with complaints effectively and the consequences if they don't.
 71. We now need your views on our ideas in order to move to the next step, which will be to decide in detail how the new arrangements will work. In Part 4 of this document, you will find a series of questions that may help you tell us what you think of our ideas. Please let us know so that we can get the next stage right, first time.

Part 4: The questions

Below we have outlined some specific questions which we need your help to answer before we go on to develop our final proposals for single, comprehensive complaints arrangements across health and social care. Please make sure that your responses are sent to us by Wednesday 17th October 2007 using the contact details at the beginning of this document.

1. What are the features of simple, efficient, timely complaints arrangements?
2. What features must the new arrangements have in order to be accessible and fair to everyone involved in resolving a complaint?
3. What are the hallmarks of an excellent complaint professional, and what qualifications, skills and/or expertise should they ideally have?
4. What key contributions must the following make to support the new arrangements?
 - a. Boards of service providers
 - b. Senior health and social care managers
 - c. Service commissioners
 - d. Regulator(s)
 - e. The Ombudsmen
 - f. Central Government
5. What arrangements need to be put in place to ensure vulnerable people know about and use the new arrangements?
6. How can we ensure that local health and social care bodies own and are responsible for the complaints that they receive?
7. How should health and social care bodies be held accountable for their complaints handling?
8. Should there be monitoring and/or oversight of complaints received and responsiveness to them? If so, who should have this role?
9. What are the components essential to the complete handling of a complaint (eg investigation, review, etc)
10. Do you feel that prescribed timescales are a useful component of good complaints handling? If so, what timescale would you attach to:
 - a. Local Service Response?

- b. Organisational Response?
 - c. The overall life of an 'average' complaint?
 - d. The overall life of a very complex complaint?
11. How can we ensure that learning from complaints benefits:
- a. The individual
 - b. The other users of that service
 - c. The organisation providing the service
 - d. The service commissioner
 - e. The local health and/or social care economy
 - f. Services at the regional and national level
12. What methods or techniques could be used at a local level to support the resolution of complaints?
13. Do you think that children's social care services should be included as well as adult social care under these new complaints arrangements?
- a. If you feel that they SHOULD be included, are there any special arrangements that would need to be put in place to make sure that these complaints are handled properly?
 - b. If you feel that they should NOT be included, are there any special arrangements that would need to be put in place to make sure that a separate children's complaints process works seamlessly with the new overall arrangements?
14. The Department of Health is currently drawing up a standard against which complaints handling would be measured. What would be the components of an effective standard?

Appendix 1: Who does what

Patient Advice Liaison Service (PALS)

The patient advice and liaison service known as PALS, was introduced to the NHS in 2002 to make sure that trusts have dedicated staff who can provide information to patients, their families and carers and who try to resolve any concerns as quickly as possible.

PALS main functions are to:

- provide on the spot help – they have the power to negotiate immediate solutions or speedy resolutions of problems;
- act as a gateway to appropriate advice and advocacy support from local and national sources, for example ICAS;
- provide accurate information to patients, carers and families about the trust's services and other health related matters;
- act as a catalyst for change and improvement by providing the trust with information and feedback on the problems arising and gaps in services;
- operate within a local network with other PALS in their area and work across organisational boundaries; and
- support staff at all levels within the trust to develop a responsive culture.

The Independent Complaints Advocacy Service (ICAS)

ICAS was commissioned by the Department of Health to give people support if they have a complaint regarding their National Health Service treatment. ICAS:

- helps people deal with the complaints process;
- refers people to other relevant agencies regarding their complaint;
- meets people at their home or in a place they feel comfortable if it is not possible to visit the office
- provides interpreters for people who are new English speakers or who communicate differently.

As an advocate ICAS can:

- give people an opportunity to speak confidently to someone who is independent of the health service;
- help represent a person's wishes and feelings without taking a view on their best interest;
- provide information to enable a person to make an informed decision on how to proceed;

- help people explore their options and the potential outcomes of particular courses of action, without bias; and
- generally support people through the complaints process by accompanying them to meetings, writing letters, making phone calls etc.

Local Involvement Networks (LINKs)

LINKs will:

- promote and support the involvement of local groups and individuals from across the community to influence the commissioning, provision and scrutiny of health and social care services;
- obtain the views of local groups and individuals about their experiences of health and social care needs;
- gather the views of local groups and individuals about their experience of health and social care services;
- convey those views to organisations responsible for commissioning, providing, managing and scrutinising health and social care services;
- enable local groups and individuals to share their skills and experience in order to influence the development and improvement of local health services;
- support people within the community to make their voices heard, including people who find it hard to participate in traditional ways or do not choose to;
- support the commissioners and providers of health and social care services to engage with the local community, and in particular those groups and individuals who find the services they need difficult to access;
- act as a hub within a network of user-led and community based groups in the area covered by the host local authority, providing a channel for views and information between these groups and the local health and social care organisations.

The Commission for Social Care Inspection (CSCI)

Launched in April 2004, the Commission for Social Care Inspection (CSCI) is a single, independent inspectorate for all social care services in England. It provides a complete picture of social care in England.

CSCI is responsible for registering, inspecting and reporting on social care services in England. Its job is to improve social care and stamp out bad practice.

The Healthcare Commission

The Healthcare Commission is the health watchdog in England. Its job is to check that healthcare services are meeting standards in a range of areas, including patient safety, cleanliness and waiting times. It has a statutory duty to assess the performance of healthcare organisations – the annual health check, award annual performance ratings for the NHS and co-ordinate reviews of healthcare by others.

Monitor

Established in January 2004, Monitor authorises and regulates NHS foundation trusts making sure they are well managed and financially strong so that they can deliver excellent healthcare for patients.

Inspection of the performance of a foundation trust against healthcare standards is carried out by the Healthcare Commission, which sends Monitor copies of its inspection reports. Monitor have powers to intervene in the running of a foundation trust in the event of failings in its healthcare standards or other aspects of its activities, which amount to a significant breach in the terms of its authorisation.

The Health Service Ombudsman

The Health Service Ombudsman can carry out independent investigations into complaints about poor treatment or service provided through the NHS in England. If someone has suffered because they have received poor service or treatment or were not treated properly or fairly – and the organisation or practitioner hasn't put things right where they could have – the Health Service Ombudsman may be able to help.

Investigations look into complaints against NHS services provided by hospitals, health authorities, trusts, GPs, dentists, pharmacists, opticians and other health care practitioners. The Ombudsman can also investigate complaints against private health providers if the treatment is funded by the NHS.

Local Government Ombudsmen

The Local Government Ombudsmen investigate complaints about most council matters including housing, planning, education and social services. It provides an independent, impartial and free service. The Ombudsmen can investigate complaints about how the council has done something but they cannot question what a council has done simply because someone does not agree with it.

The Mental Health Act Commission

The Mental Health Act Commission provides a safeguard for people who are detained in hospital under the powers of the Mental Health Act 1983. (This is the only part of healthcare where patients can be treated under compulsion, and necessarily there are very clear legal requirements on hospitals and the other services involved – primarily Local Authority social services). The Mental Health Act Commission is a monitoring body rather than an inspectorate or regulator. Its concern is primarily the legality of detention and the protection of individuals' human rights. In addition to a visiting programme, the Commission provides important safeguards to patients who lack capacity or refuse to consent to treatment, through the Second Opinion Appointed Doctor Service.

The Mental Health Act Commission was established in 1983 and consists of some 100 members (Commissioners), including laypersons, lawyers, doctors, nurses, social workers, psychologists and other specialists.

Its functions are:

- To keep under review the operation of the Mental Health Act 1983 in respect of patients detained or liable to be detained under that Act.
- To visit and interview, in private, patients detained under the Mental Health Act in hospitals and mental nursing homes.
- To consider the investigation of complaints where these fall within the Commission's remit.
- To review decisions to withhold the mail of patients detained in the High Security Hospitals.
- To appoint registered medical practitioners and others to give second opinions in cases where this is required by the Mental Health Act.
- To publish and lay before Parliament a report every 2 years.
- To monitor the implementation of the Code of Practice and propose amendments to Ministers.

In addition, the Commission is encouraged by the Secretary of State to advise on policy matters that fall within the Commission's remit.

Ofsted

The Office for Standards in Education, Children's Services and Skills (Ofsted) – came into being on 1 April 2007. It brings together the wide experience of four formerly separate inspectorates. It inspects and regulates care for children and young people, and inspects education and training for learners of all ages.

The Education and Inspections Act, which established the new Ofsted, specifically requires that the organisations should:

- promise service improvement;
- ensure services focus on the interests of their users; and
- see that services are efficient, effective and promote value for money.

Appendix 2: Principles of Good Administration Parliamentary and Health Service Ombudsman March 2007

This document gives the views of the Parliamentary and Health Service Ombudsman on the key principles of good administration. They wish to be open and clear with both complainants and public bodies within their jurisdiction about the sorts of behaviour they expect when public bodies deliver public service and the tests they apply in deciding whether maladministration and service failure have occurred. They want public bodies to understand how they will approach complaints, and complainants to understand how they consider their cases.

Central to their assessment of the seriousness of any complaint is the impact of a public body's actions on the individuals or organisations concerned. The principles of good administration are based on this.

The principles of good administration

Good administration by a public body means:

1. Getting it right

- Acting in accordance with the law and with due regard for the rights of those concerned.
- Acting in accordance with the public body's policy and guidance (published or internal).
- Taking proper account of established good practice.
- Providing effective services, using appropriately trained and competent staff.
- Taking reasonable decisions, based on all relevant considerations.

2. Being customer focused

- Ensuring people can access services easily.
- Informing customers what they can expect and what the public body expects of them.
- Keeping to its commitments, including any published service standards.
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances.
- Responding to customers' needs flexibly including, where appropriate, co-ordinating a response with other providers.

3. Being open and accountable

- Being open and clear about policies, procedures and decisions, and ensuring that information, and any advice provided is clear, accurate and complete.
- Stating its criteria for decision making and giving reasons for decisions.
- Handling information properly and appropriately.
- Keeping proper and appropriate records.
- Taking responsibility for its actions.

4. Acting fairly and proportionately

- Treating people impartially, with respect and courtesy
- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.
- Ensuring that decisions and actions are proportionate, appropriate and fair.

5. Putting things right

- Acknowledging mistakes and apologising where appropriate
- Putting mistakes right quickly and effectively.
- Providing clear and timely information on how and when to appeal or complain
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

6. Seeking continuous improvement

- Reviewing policies and procedures regularly review to ensure they are effective.
- Asking for feedback and using it to improve services and performance.
- Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.

