



REPORT TO: MORAY COUNCIL ON 11TH NOVEMBER 2015

**SUBJECT: SOCIAL WORK COMPLAINTS REVIEW COMMITTEE –
PROPOSALS FOR REVISED PROCEDURES**

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. REASON FOR REPORT

- 1.1 To inform the Council that the Scottish Government are now consulting on their proposals for a draft order to revise procedures for complaints about social work and that comments on the consultation are invited by 14th December 2015.
- 1.2 This report is submitted to Council in terms of Section (II) (10) in relation to changes in Committee structure, distribution of functions and responsibilities.

2. RECOMMENDATIONS

- 2.1 That the Council note the consultation on the draft order to revise the procedures for complaints about social work; and
- 2.2 That the Council agrees the response to this consultation as drafted in Appendix 1, or following such amendments as the Council sees fit.

3. BACKGROUND

- 3.1 The Scottish Government is currently consulting about a draft order to revise the procedures for complaints about social work in Scotland. The Scottish Government proposes that the Scottish Public Services Ombudsman (SPSO) investigate complaints in relation to the substance of social work decisions and that the existing system of local authority social work complaints be abolished and has now produced a formal consultation document. A copy of the full consultation document is available on the Member's Portal.

- 3.2 At present, complaints on social work services in Moray progress through a four-stage process:
- Stage one - Informal problem-solving and investigation stage by Head of Service
 - Stage two – Director Review if complainant remains dissatisfied
 - Stage three - Referral to Complaints Review Committee if complainant remains dissatisfied
 - Stage four - SPSO consideration (currently limited to consideration of whether there has been maladministration rather than any consideration of the merits of the decision).
- Stage four referrals to the Complaints Review Committee over the 5 years between 2010 and 2014 averaged 3 per year.
- 3.3 The draft order would make the legislative changes necessary to allow the SPSO to take on the role currently undertaken by the Council's Complaints Review Committee. It would also repeal the provisions which create the framework for the existing complaints procedures. The SPSO would therefore be able to consider complaints about social work which are not solely about maladministration, but would enable them to look at the professional judgement of social work staff too and the SPSO will be able to use its existing functions to create a model complaints handling procedure for social work complaints, and local authorities will be obliged to adopt a procedure which complies with that model.
- 3.4 The draft order, if approved, is expected to come into force on 1 October 2016. Until the Order is enacted, it will remain a requirement for the Council to continue to hold Complaints Review Committees and as and when the order is in force existing local authority complaints procedures (including Complaints Review Committees) will continue to apply to any complaints which have been made before the 1 October 2016.
- 3.5 The draft Respondent Information Form is attached as **Appendix I**.

4. **SUMMARY OF IMPLICATIONS**

(a) Moray 2023: A Plan for the Future/Service Plan/Health and Social Care Integration

The Moray Integrated Joint Board (IJB), once established, will plan and commission services that are then delivered by the Health Board and the Council in accordance with any directions issued by the IJB. This means that the Health Board and the Council remain responsible for the delivery of health and social care services, and any complaints about service delivery will be dealt with through the existing health and social work complaints procedures and in terms of the agreement on the handling of complaints as set out within the Integration Scheme.

(b) Policy and Legal

As set out within this report.

(c) Financial implications

The Scottish Government does not anticipate that the draft Order will generate any additional costs on bodies or individuals other than the SPSO. It is anticipated that the Council will benefit from the changes as an administrative burden (in the form of CRCs) will be removed.

In the consultation document it is made clear that it is not intended that the SPSO will take on any responsibility for hearing appeals against, or overturning decisions made by local authorities in resource allocation. The SPSO will be able to make recommendations to local authorities, and will continue to hold its power to lay special reports in Parliament, but it will not become an appeals body for resource allocation decisions.

(d) Risk Implications

None.

(e) Staffing Implications

Staff time is currently devoted to both the administration and operation of the Complaints Review Committee. This will reduce should the proposals be implemented although staff time will still be involved in dealing with the SPSO.

(f) Property

None.

(g) Equalities

None arising directly from this report.

(h) Consultations

The Head of Integrated Children's Services and Chief Social Work Officer, Head of Community Care, John Black, PPR and Communication Officer and Democratic Services Manager have been consulted and any comments received incorporated into this report and draft response as appropriate.

5. CONCLUSION

- 5.1 The Scottish Government has issued a consultation on its proposals for reform of the handling of social work complaints and invites responses by the deadline of the 14th December 2015.**
- 5.2 The Council is invited to consider the draft response to this consultation.**

Author of Report: Margaret Forrest, Legal Services Manager (Litigation and Licensing)

Background Papers: Consultation on Draft Order to revise the Procedures for complaints about Social Work, Scottish Government, September 2015:
<http://www.gov.scot/Resource/0048/00486483.pdf>

Ref: MAF

Appendix 1

CONSULTATION ON DRAFT ORDER TO REVISE THE PROCEDURES FOR COMPLAINTS ABOUT SOCIAL WORK



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately.

1. Name/Organisation

Organisation Name

Moray Council

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Forename

2. Postal Address

Council Offices

High Street

Elgin

Postcode IV30 1BX

Phone

Email

3. Permissions - I am responding as...

Individual

/

Group/Organisation

☐

Please tick as

☒

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

Are you content for your **response** to be made available?

Please tick as appropriate

X ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

X ☒ Yes

☐ No

Questions

1) Do you agree that the Local Authority Complaints Review Committees should be replaced?

X ☐ Yes ☐ No

(if responding electronically, please double click on one of the boxes above and select the default value as 'checked')

Reason/s

The CRC is quite a formal and complex part of the existing process and we struggle in terms of maintaining a sufficient number of CRC members. The proposal would cut out that formal part of the process and reduce the overall time for the handling of social work complaints. The burden for dealing with a committee complaints review process would be removed from local authorities who are facing increasing fiscal challenges.

2) Do you agree with the proposal to extend the functions of the Scottish Public Services Ombudsman (SPSO) to allow the SPSO to investigate stage 3 of complaints for social work?

X ☐ Yes ☐ No

Reason/s

Complaints can ultimately be referred to the SPSO in any event and there is benefit to the national handling of stage 3 complaint reviews.

3) Do you agree with the proposal to extend the role of the SPSO in relation to social work complaints to allow them to consider in their investigations matters of professional judgment of social work staff?

X ☐ Yes ☐ No

Reason/s

So long as the SPSO secures appropriate professional advice in doing so as currently happens when the SPSO looks at health issues, and it is clear how this will interact the remit of the Scottish Social Services Council as the regulatory body for social service workers.

4) Do you agree that the SPSO should be able to share information with the Care Inspectorate (Social Care and Social Work Improvement Scotland) and the Scottish Social Services Council in relation to social work?

X ☐ Yes ☐ No

Reason/s

This is necessary to check respective systems and ensure no duplication of investigation.

5) Do you have any other comments on the proposals?

X ☐ Yes ☐ No

Comment/s

There would be benefit in the development of national guidance/a model process for integration. Integration Joint Boards should also be brought within the remit of the SPSO as regards their remit.

Please email your response to adultsocialcare@gov.scot or if you wish to post your response please send to: Adult Social Care Policy Team, Scottish Government, Room GE.18, St Andrew's House, Edinburgh, EH1 3DG.