Public Services Reform (Social Work Complaints Procedure) (Scotland) Order 2016

COSLA

1. I write in response to your request for COSLA’s views on the proposal to revise existing social work complaints procedures by removing the third stage, namely the local government appointed Complaints Review Committee (CRC) and enhancing the role of the Scottish Public Services Ombudsman (SPSO).

2. COSLA was a member of the Social Work Complaints Review Group (SWCRG) which was set up by Scottish Government. Membership of the group included Scottish Government, COSLA Officers, ADSW (now Social Work Scotland), SPSO, SSSC, Office of the Chief Social Work Adviser, the Scottish Legal Aid Board, the Care Inspectorate and user representatives. The group met for the first time on 5 February 2013 under the Chairmanship of the Very Revd. Graham Forbes CBE and produced recommendations for Ministers in January 2014.

3. In considering the recommendations of the SWCRG, COSLA’s Health & Wellbeing Executive Group were generally supportive of the proposal to treat social work complaints in a similar way to the standardised complaints handling procedure which has been developed by SPSO. However, we would like to emphasise that not all the processes in the SPSO standardised complaints handling procedure would be appropriate for social work complaints. Under the current social work complaints procedures social workers have 15 days in which to investigate and try to resolve a complaint, this is only 5 days under the SPSO procedure. Under any new social work complaints process the 15 day period needs to be maintained as we have been convinced that it is better to try to resolve complaints at the initial stage, with this requiring a longer period of time than for other services for two main reasons:
   - social work necessarily deals with a wide range of needs, issues and relationships which can require more time to navigate; and
   - complaints often relate to more complex cases which can compound this further.

4. The recommendations of the SWCRG to Ministers in 2014 recommended that “In acknowledgement of the fact that social work complaints are more complicated than other local authority service complaints, it was agreed to recommend to Ministers that the model CHP would be adopted with local authorities having the possibility of extending the timescales at the first (Frontline Resolution) stage from 5 to 15 working days at the discretion of local managers.” We would like the Committee to seek reassurances from Ministers that that is their intent in making these changes and that this will be made explicit in the supporting guidance which will be developed.

5. We also have concerns around the proposals that the SPSO will consider the professional judgement of social workers and have the ability to make
recommendations to local authorities and to report to parliament if these recommendations are not adopted. Social workers have a challenging role and are already subject to scrutiny by managers, the Care Inspectorate and the SSSC. We would also be concerned that the SPSO might make recommendations without sufficient understanding of the financial context including local eligibility thresholds and the requirement for councils to manage demand within a finite resource envelope. The SWCGR noted in its recommendations to Ministers “Issues around the allocation of resources are for the individual local authority, and it is not proposed that the SPSO have the power to force local authorities to amend decisions based on their agreed eligibility criteria.” Again we would urge Committee to seek assurances from Ministers that this principle will be adopted.

6. The proposals to give SPSO more involvement in social work complaints procedures will also add to SPSO costs, and they have outlined the need to employ or engage staff with the necessary social work experience and the need for premises as their existing office location was operating at full capacity in 2013. We noted at the SWCRG that our members would not be keen on any transfer of funding from local authorities to the SPSO. We emphasised that although there might be some saving in not hosting CRCs there would most likely be new costs to local authorities in a system operated by SPSO. These concerns were highlighted to Ministers in the report they received in January 2014. We would ask the Committee to seek confirmation that the Scottish Government intends to fund this expansion of the SPSO’s role.

7. Social Work Complaints Procedures have been reviewed by a working group on which COSLA officers were members. This group made recommendations to Scottish Government Ministers in January 2014. The main recommendation was that Scottish Public Services Ombudsman take over the role currently carried out by Complaints Review Committees. Whilst we are generally supportive of these changes we have highlighted a number of areas of concern raised by our members and in conversation with SWS colleagues.

COSLA