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

East Lothian Council

Q1: Do you support the new regulations?

East Lothian Council (ELC) is in support of the proposed new regulations for Social Work complaints.

Q2: What are your views on Local Authorities Complaints Review Committees being replaced?

ELC is of the view that the current process is no longer fit-for-purpose and like other local authorities, experiences difficulties in recruiting independent chairs for Complaint Review Committees (CRCs) / maintaining a pool of CRC members and the process has become increasingly resource and time intensive. Local authorities manage CRCs in different ways, meaning there is a lack of consistency in approach.

The CRC process also lengthens the complaints journey for individuals due to the timescales associated with it, which can create tensions in ongoing relationships with clients. Complainants have also provided feedback to the council that the committee process can feel overly formal and intimidating to some.

Q3: What are your views on the SPSO being given a new role to investigate social work complaints?

This proposal would bring social work complaint handling in line with other council services and with other sectors e.g. NHS CRCs and the SPSO are both independent, which retains the right of individuals to have an independent review within social work complaints procedure

However, there are some important points that need to be given careful consideration if the functions of the SPSO were to be extended in this way. East Lothian Council would specifically highlight the following:

- Investigations would need defined parameters and there would need to be clear definitions as to what constituted a social work complaint
- The CRC process allows complainants an opportunity to speak directly to a committee and have their voice heard. The SPSO would need to consider how they would conduct investigations into Social Work complaints and how they would engage with complainants, many of whom may be vulnerable individuals or require additional support.
Q4: What are your views on the SPSO being given remit to consider the professional judgement of social work staff

East Lothian Council would agree with this proposal in principal but with some reservations and would highlight the following points, which we would consider necessary if the SPSO’s remit was to be extended in this way:

- The SPSO would need to properly commission independent, professional social work advice in reaching decisions around professional judgement
- What was meant by ‘professional judgement’ would need to be very clearly defined
- The SPSO would need to demonstrate a clear understanding of the complex and changing circumstances in which decisions by registered qualified social workers are made; an understanding of the wider context is vital if the SPSO is to consider professional judgement of social work staff
- The scope of SPSO investigations would need to be very clearly defined from the outset, both to the local authority and the complainant

Extending the role of the SPSO in relation to social work complaints would bring SPSO powers in line with those for health. However, consideration should be given to the following issues for social work:

- Many social work decisions are multi-agency (e.g. Child Protection), how would these be dealt with in terms of considering matters of professional judgement?
- Some mapping of the complexity of decision-making processes within social work prior to reaching a decision on extending the SPSO’s remit in this area would be useful
- CRCs currently make recommendations (which can cover decision-making and practice) and report back to the appropriate council committee – we would expect the same process to apply if the SPSO took on this function.

We would not support any extension of remit that meant the SPSO had the power to overturn SW decisions the local authority has discretion to take e.g. in relation to funding / provision of services etc

Q5: What are you views on how these proposals relate to the approach currently taken to complaints relating to the NHS and consideration of complaints relating to integrated Joint Boards?

The current CRC process is a barrier to aligning and potentially integrating complaints procedures, e.g. with the local government model complaints handling procedure and with health, which will be necessary as a result of health & social care integration.

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