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Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 10 June 2015

Session 4

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE
18th Meeting 2015, Session 4

CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

DEPUTY CONVENER

*John Wilson (Central Scotland) (Ind)

COMMITTEE MEMBERS

*Clare Adamson (Central Scotland) (SNP)
*Cameron Buchanan (Lothian) (Con)
*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
*Cara Hilton (Dunfermline) (Lab)
*Alex Rowley (Cowdenbeath) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Iona Colvin (North Ayrshire Health and Social Care Partnership)
Paul McFadden (Scottish Public Services Ombudsman)
Rami Okasha (Care Inspectorate)
Alison Taylor (Scottish Government)

CLERK TO THE COMMITTEE

David Cullum

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 10 June 2015

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Kevin Stewart): Good morning and welcome to the 18th meeting in 2015 of the Local Government and Regeneration Committee. I ask those who wish to use tablet devices or mobile phones during the meeting to please switch them to flight mode; otherwise, they might affect the broadcasting system. Some members might refer to tablets during the meeting. That is because we provide the committee papers in digital format.

Agenda item 1 is a decision on whether to take item 3, which will be on consideration of the oral evidence that we have received, in private. Are we all agreed?

Members *indicated agreement.*

Joint Health and Social Care (Complaints Process)

10:00

The Convener: Agenda item 2 is our main item of business, which is an oral evidence session on the complaints process for joint health and social care services. It is the latest in a series of sessions that we have undertaken over the past four years to establish how effectively public authorities are responding to the public sector reform agenda.

Members will recall that concerns about the complaints process for joint health and social care services were brought to our attention by the Scottish Public Services Ombudsman, Jim Martin, back in January. The aim of today's evidence session is to ascertain what progress, if any, is being made in relation to the establishment of an effective single public complaint-handling process following the integration of health and social care services. We also seek clarification on the role of the SPSO in handling subsequent complaints that are made to him as a result of the integration of health and social care.

We have one panel of witnesses. I welcome Paul McFadden, the head of complaints standards at the office of the Scottish Public Services Ombudsman; Iona Colvin, chief officer for the health and social care partnership in North Ayrshire; Alison Taylor, head of integration implementation at the Scottish Government's directorate for health and social care integration; and Rami Okasha, acting director of strategic development at the Care Inspectorate.

Before we move to questions, would any of you like to make an opening statement?

Paul McFadden (Scottish Public Services Ombudsman): I am happy to open, given that we raised these issues with the committee in January.

As we said to the committee then, and as we have said for a number of years through various forums and consultations, concern on this issue dates back to the Sinclair report, which was published in 2008. Sinclair looked at the complaints system across the Scottish public services as a whole and, as the committee knows, made a number of recommendations for simplifying it and making it less complex.

There was a particular focus in the Sinclair report on the issue of social care complaints and, within that, social work complaints. It was recognised that that was a particularly complex and confusing area for vulnerable users. In relation to social work in particular, it was recognised that the system was outdated and not particularly effective.

The report made a number of recommendations, including one on simplifying the social work complaints system and giving the role of the complaints review committees in local authorities to the ombudsman's office. There were a number of other recommendations and observations about care complaints more widely.

At the heart of the issue is the fact that there are separate legislative processes for the various areas of social care and different standards in each of those processes. For social work, we have the statutory social work complaints process. Internally, throughout that process, there are clear and specific timescales, stages and standards, and people are signposted to a complaints review committee before they can come to the ombudsman. Because of the complaints review committees' role on professional judgment, our remit in relation to social work is quite limited.

Secondly, we have the health arrangements under the Patient Rights (Scotland) Act 2011. That is a streamlined process, but at the moment it is slightly out of step with the wider complaints processes that we have put in place and, of course, the arrangements for social work. There are also the care complaints, which are made directly to the Care Inspectorate.

Our view, which is shared by a number of other organisations that we mention in our briefing to the committee, is that that overlap and confusion present a particular risk to vulnerable users. That has been raised with us by local authorities and health boards that are involved in the complaints arrangements and we see it in cases that come to our office.

Integration has now come along. We very much support the integration agenda, which we think will be positive for users. However, we have raised concerns that an opportunity might have been missed and that confusion about complaints might increase unless there is specific guidance on and detail about the arrangements that the integrated areas should be putting in place to deal with complaints.

We are seeing bits and pieces of progress—we have always had constructive discussions with all the branches of Government on this issue. We know that we are moving towards making progress on social work, but we need firm timescales on when the changes to social work—those that affect us and those that affect local authorities—will come into effect. There are also constructive discussions around health.

In relation to integration, we need clearer guidance to ensure that the arrangements that are being developed are consistent. All these areas are developing processes in isolation. As the committee knows, we have worked hard over the past few years to standardise and to bring clarity and consistency to complaints handling throughout the rest of the public sector. We have an opportunity to work with the Government to publish something that helps us to develop consistency in this area, too.

Iona Colvin (North Ayrshire Health and Social Care Partnership): I welcome the fact that the committee is looking at the issue. We need to move forward to simplify the process and ensure co-ordination of the various bodies involved. We completely agree with everything that Paul McFadden has said and look forward to the discussion.

I am sure that members are aware of this but, as a chief officer, I ought to point out that the three Ayrshire partnerships were established as integration joint boards on 2 April, and I think that we are the only ones that have been established so far. We are trying to simplify the process from the point of view of the people who use the services; we will also simplify the process at the end of that, so that important performance information goes before the IJB, as well as to the national health service and the councils, in order that they can see clearly not only the level of complaints about services but the outcome of those complaints. For me, those are the important points at the moment. We navigate the rest of the complex process, which I am sure is what the committee wants to look at today.

Rami Okasha (Care Inspectorate): It might be helpful if I say a little bit about what the Care Inspectorate does and our role in relation to complaints. We regulate 14,000 care services in Scotland, including children's services and services for adults and older people. We do that to support improvement where that is required and where services are not operating at a sufficient level of quality.

Some of those services will come under the purview of the integrated joint boards and the integrated arrangements, but other services that we regulate might not—for example, childminders or school care accommodation. In that sense, we work across a number of landscapes. We investigate complaints about the quality of care in those care services. Last year, we received 4,400 complaints, which was a significant increase on two years ago.

With our complaints process, we try not simply to resolve problems for individuals who are currently experiencing problems or who are dissatisfied with what they have experienced, but to use the information and intelligence that we obtain from complaints in planning our inspections and our scrutiny, to ensure that what we are doing in the different parts of Scotland is justified by the evidence that we see.

At the same time—leaving aside what we do within individual care services—we provide scrutiny of social work services in Scotland. That is currently undertaken through a joint arrangement with Healthcare Improvement Scotland and other regulators. We have joint inspections of the community planning partnerships, where we look at how well services are working together for children and adults in those areas.

With integration coming on stream, we will undertake additional responsibilities around strategic commissioning. We will look at the impact of new arrangements on the outcomes for people who are living in the integration board areas. We have a particular interest in ensuring—and we would expect this to be the case—that chief officers in each of the integration boards have a robust system in place for dealing with complaints at the lowest possible level at which they can be resolved.

Alison Taylor (Scottish Government): Thank you for the opportunity to talk to the committee about complaints. My job has been to lead the policy and legislative work around integration for the past few years; it is now to oversee aspects of its implementation.

As a starting statement, I particularly want to reflect on what lies right at the heart of integration: the only reason for doing it is to improve users' experience of health and care and that of users' families and carers. It is very much a person-centred approach, and that must also apply in the territory of complaints. More broadly, it must apply in the territory of listening to people generally and involving people and communities in the integrated strategic planning of services, so that people's voices are built in from the start of planning and so that the experience of complaining is smooth and integrated, does not itself present further hurdles and is clearly understood.

We have recently done some very useful work with colleagues in the SPSO, the Care Inspectorate, the inspection agencies and elsewhere.

Three things in particular have come to my attention from the papers for this meeting. One is, naturally, a reflection on the progression from the NHS complaints system to the SPSO model process, which the Government has committed to having in place in the next 12 to 18 months. That will help provide consistency with other aspects of public sector complaint processes.

Secondly, as you will know, the Cabinet Secretary for Health, Wellbeing and Sport recently convened a short-life working group on social work complaints. The group's recommendation was to remove the complaints review committee stage of that process and likewise to move the social work complaints process to the SPSO model process. That is also good news, and it confers some consistency on the application of process. We have more work to do with colleagues regarding the timescale for that.

The third aspect, from our point of view, is how the new bodies—the integration joint boards that the legislation has created—feed into complaints processes. I can answer more questions on that if members would find that useful.

There are two particular aspects, which we have dealt with from the start. The joint boards are colloquially referred to as partnerships. Each partnership has a scheme of establishment, and that scheme of establishment must explain how complaints processes will be integrated from the perspective of people living in the area. That is one safeguard that we have put in place.

We will move each of the joint boards—also known as partnerships—into the jurisdiction of the SPSO in the coming months, although we cannot do that until they are each established, because they must each be consulted on being added to the SPSO's jurisdiction.

Finally, there is the matter of guidance. Over the next year or so, there will be some requirement on us, along with our colleagues, to develop appropriate guidance to ensure that the processes are clear to people.

The Convener: When we were considering the Public Bodies (Joint Working) (Scotland) Bill at stage 1, the submission from Carers Scotland was typical. It said:

"we believe that one complaint procedure should be introduced for integrated partnerships to avoid confusion for people who use services and carers."

What we are describing here today is somewhat confusing, even to those of us around the table, so God only knows what it is like for folks outside. Even as things stand at the moment, I have to think before I give folks advice about where they need to go to follow up their complaints.

Mr McFadden said at the outset that

"bits and pieces of progress"

have been made. Frankly, we do not want to see just bits and pieces of progress; we want there to be a system that is robust from the outset, in which people can have faith.

Ms Taylor, you said that all this will soon come under the jurisdiction of the SPSO, after the joint boards have been consulted. After that, there is the issue of guidance. Have we put the cart before the horse? I would have expected all that to be dealt with before the introduction of this kind of service delivery.

Alison Taylor: We have ensured that the horse is in front of the cart, in part through the provisions that we have made about what must be contained in each partnership's scheme of establishment.

The responsibility for ensuring that the local experience of complaining is a satisfactory and integrated experience for the person who makes the complaint sits with the partnership. That is why we have said that, for the Cabinet Secretary for Health, Wellbeing and Sport to be able to sign off each scheme, there must first be a sufficient statement to indicate that making a complaint locally will be a simple and straightforward process for the complainer. The system processes that go round that, particularly on moving the IJBs—the partnerships—to the jurisdiction of the SPSO, are driven by the legislative requirements on how they can be added to the SPSO's jurisdiction. However, the first and most important step is the local bottom-up step about how the partnerships will deal with complaints as they arise. The chief officers will have an important role to play in that.

10:15

The Convener: Ms Colvin, what do the chief officers think of all this?

Iona Colvin: I welcome some of the changes that are being proposed, particularly around the social work complaints review committee and moving the NHS system under the SPSO, because that will make life easier. At the moment, we are working on a front end to the complaints system so that, regardless of where someone is in the partnership services—be they NHS or council—there will be one direct route for making a complaint. Thereafter, we will navigate the processes, either through the NHS or the council.

People do not live in the wee boxes that we put them in, so often a complaint relates to both services. I am responsible for the operational side of health and social care in North Ayrshire, including mental health services for the whole of Ayrshire and Arran. I have just appointed a joint management team, so everyone in that team is jointly responsible for social work and health services. For example, my head of community care is responsible for NHS continuing care beds and for care homes. We have just appointed managers underneath them, all of whom will have a joint responsibility. We are taking that joint ownership and responsibility seriously. When members of the public complain, we need to deal with their complaint, sort it out behind the scenes and give them a single response, regardless of whether it contains both council and NHS elements.

Some of the most complicated complaints that we get relate to child protection—in Ayrshire and Arran, childcare services are part of our partnership—and that can involve a number of agencies. Often, people will go to the SPSO, who will refer them back, because they have not been through the complaints review committee process. People also contact the Scottish Social Services Council, which has not been mentioned so far, but which also has a responsibility in regulating the practice of the practitioners involved. Often, the complainer will also write to every MP, MSP and councillor, so the complaints process can become quite complicated. Our basic aim is to ensure that we simplify that for the person who uses the service.

The Convener: Simplification would be good. On numerous occasions, the committee has heard that people feel that there is a lack of communication in dealing with complaints and that they are not signposted to where they need to go. We are well aware of situations that have reached a stage that they should never have reached if the communication had happened right at the very beginning.

If individuals are clear from the outset about how their complaint will be handled and all the stages that they might go through, they tend to be more satisfied than those folk who are not signposted and who have not been communicated with well. By the time those people reach the level of the SPSO, the Care Inspectorate or whoever, all level of reasonableness has gone, to the extent that no matter what people like you say, they will still be absolutely dissatisfied.

The key thing for the committee is to ensure that that signposting and communication take place, instead of people being sent from pillar to post. Folk should not have to go to their MSP, their MP or their councillor to deal with such matters.

Do you want to come in on that point, Clare?

Clare Adamson (Central Scotland) (SNP): Yes—I have a supplementary on the discussion.

Alison Taylor mentioned that the cabinet secretary has to sign off initially on every joint board's procedures. I just want to get a feeling for how variable those procedures may be. Could we have a situation in which one joint partnership was working in a significantly different way from another? How would the SPSO view that situation in monitoring performance across Scotland?

Alison Taylor: The statement that is required for the cabinet secretary to sign off on a scheme must describe how the experience of complaining will be streamlined and integrated from the perspective of the person who is making the complaint or their family. It is actually quite a narrow requirement.

The descriptions of the schemes themselves tend to be fairly consistent, because they describe the kind of arrangement to which Iona Colvin referred, in which teams will work together from an integrated perspective. In particular, there will be no question of someone who makes a complaint being told to go and give it to somebody else. That is one of the fundamentally important points: there will be a single point of entry, and any mechanism for working out what needs to be done with a complaint should be a process that is shouldered by the partnership and not by the service user or their family members.

Iona Colvin: In Ayrshire, as you know, there are three local authorities and one health board. We have worked together to achieve consistency, and we will do the same in respect of complaints. That is required by the health board, which cannot have different arrangements for each local authority.

To be honest, some of the process is common sense, as I know from my previous role as a care partnership director in Glasgow. We will join up the front end and the back end to ensure that we have clear reports that indicate what people are complaining about and the outcomes of those complaints. The front part and back part are relatively straightforward; the bit in the middle is where we have to navigate the different parts of the process.

To come back to your point, convener, that is quite complex at present, but it is incumbent on us to be able to guide people through the process and be clear with them about what the process is and how we will deal with their complaints.

We aim to deal with most people at the lowest level possible so that we can resolve their issues and not have complaints ending up in front of the SPSO. We manage to do that for the vast majority of people. However, some complaints are very complex, and there are some people—very few of them—who will always use every mechanism to complain. Sometimes the issues are very complex and serious ones that have to do with deprivation of liberty or removing people's children from their care, and they have very serious implications.

We are moving forward and trying to join up the system. In my view, the people who are passed from pillar to post the most as they try to negotiate our systems are the elderly and carers of the elderly. The whole point of the integration of health and social care is to join up the systems, and that is what we are currently doing. We are joining up the systems of health and social care, and therefore we need to join up the systems by which people can complain, so that they can make one complaint and we can deal with it.

That is what we are endeavouring to do. Our aim is to have the front end and the back end of the process in place by April next year. In the meantime, we will endeavour to deal with everybody's complaints as best we can.

We are also actively involved—

The Convener: Sorry—I will just stop you there. You are talking about the front end and the back end, and you say that you are endeavouring to have all of that in place by April next year.

Iona Colvin: Yes.

The Convener: You said—I am paraphrasing here—that the confusion is in the middle. Hearing that does not give me much hope about what is going on and how you will be able to process complaints properly.

You have described a scenario of confusion in the middle, and you are painting a picture whereby you hope to have everything dealt with at the very beginning of the complaints process. We would all like to see that, but we live in a world where that does not happen all the time. If there is confusion in the middle, that will lead to a huge amount of consternation among those folks who feel that their complaint is not being dealt with properly. Am I right?

Iona Colvin: Yes, but my colleagues have explained what they are putting in place to deal with the confusion in the middle. Part of that concerns the role of the complaints review committee in dealing with social work complaints, and the role of the Care Inspectorate and how that is related. In actual fact, we can end up with a number of agencies involved in looking at complaints.

I suppose what I am saying is that we now have joint managers, and their job is to ensure that we deal with that process on behalf of people. We will explain how complaints will be dealt with and, as we navigate through the process, it is proposed—as colleagues have said—to change the systems in the middle.

The Convener: I am a punter and I have a complaint. I feel that my complaint has not been addressed at the very beginning. It is then escalated, and the manager is brought in, but I as a punter have lost faith at that point. I have no idea what the set procedure is regarding where my complaint will go. Am I not going to think that the process is just an attempt to cover up my complaint rather than deal with it, if I do not know the processes because they are not laid out properly?

Iona Colvin: We will lay out the process and the entry point. Basically, we are saying that we will have one point of entry for complaints, and they will then go into the NHS process or the council process. That is how we will have to manage the

process until such time as the systems are joined up.

That is what we need to do, but we will make it clear to patients, service users or clients—whatever people want to be called—that that is how we will deal with the process. We will take on the responsibility of ensuring that that is explained to people.

If the complaint is not dealt with on the front line, it will be dealt with by the senior manager who has responsibility for the NHS and the council services as part of their remit.

The Convener: Mr Okasha has been dying to come in.

Rami Okasha: Clare Adamson made a point about the different things that are happening in different parts of the country. I want to offer the committee some detail on how we intend to work with other partners to provide some baseline information about what is happening in different parts of the country.

We are cognisant that integration is something that is happening rather than something that has happened. In that sense, we think that it is important to have a strong evidence base about what is actually happening and the experiences and processes around the country. We will be working with Healthcare Improvement Scotland and Audit Scotland to monitor and review the implementation of the integrated arrangements over the coming years, not just in respect of complaints but right across the piece.

In year 1—this year—we will provide some baseline information setting out what we know is happening around the country and how integration is beginning to work. In later years, we will start to apply some evaluative judgments about how well that is beginning to work. We will then move on to ask what impact that is having on people who are living in each area.

The answers to some of the questions that have been asked with regard to what is happening in different parts of the country will be provided in an evidence base from us, Audit Scotland and Healthcare Improvement Scotland over the coming years.

Paul McFadden: I just want to pick up on what Iona Colvin and Alison Taylor said. There were a lot of positives in terms of commitments to things such as a single point of contact, a single point of entry and a single co-ordinated response irrespective of where the responsibility lies at the back end.

In our experience of looking at the integration schemes, it appears that they are very general in relation to complaints. Commitments have been made, but there is very little detail on how the integration will happen.

There is a reason for that, which is that the legislation is conflicting. That creates confusion not just for the citizen but for the staff and managers we speak to. We are trying to bring the systems together and create a single point of entry and some clarity with a very complex system in the background, and those involved are struggling to do that.

We need to focus on the fact that the first step is legislative change to bring the systems together, and we have heard commitments to move towards that. Unfortunately, that will not happen until probably the end of the next calendar year. Therefore, at the point of integration, we will not have a very clear legislative framework to create a clear complaints process. That is the priority: we need a clear timetable for that framework and to communicate it to those who are developing the processes.

10:30

In the interim, we can provide something that does the best job in trying to bring the systems together and which makes it clear to staff, managers and the citizen how all the complaints should come through and when they should be routed to the complaints review committee, the health service or the Care Inspectorate. That will not be ideal, but it will help in the interim until we get the legislative background fixed.

What you currently see and what people in the system are telling us is that all the integrated areas are working in isolation and developing their own little solutions to what is a very complex problem. We have said that, in other parts of the public sector, we have developed a detailed standard template for how the complaints system should operate. Developing something similar would be of great benefit to the integration joint boards and would ultimately provide something that is as clear as it possibly can be for the citizen in April. Thereafter, we have to deal with bringing together the social work, health and other legislative aspects.

Alison Taylor: There are currently 31 integration schemes in the public domain. There are 31 partnerships, but they have not all been signed off yet. The three Ayrshire partnerships have been signed off and are fully functioning, which is why it is very helpful that Iona Colvin can speak with us. A further 14 partnerships have been signed off by the cabinet secretary, but the remainder have not yet been signed off. As we go through the sign-off process, we will ensure that everything is in order and that the particular

commitment on ensuring an integrated experience of complaining is in there.

I have had a few questions from a range of sources about why such and such a scheme has got away with X. The answer is that it has not because it has not been signed off yet; it is only in the draft form, which is in the public domain. As we go through the sign-off process, we will ensure that those matters are in order. However, as Paul McFadden quite rightly said, the scheme is not the place for a huge amount of detail on any one particular aspect of local integration.

We have it in mind to issue guidance to IJBs by the end of the summer. It would be particularly helpful if we were to work closely with our colleagues in other agencies, particularly the SPSO—

The Convener: Can I stop you there? You are talking about guidance, but Mr McFadden talked about legislative change. Is guidance enough to deal with the matter, or will we have to go back and come up with primary legislation to ensure that it all works?

Alison Taylor: We will have to make a change to secondary legislation once each partnership is established to put it within the SPSO's jurisdiction. We recognise that that will take us to the end of the calendar year, as Mr McFadden has said, and we realise that we cannot leave a hiatus. Therefore, we will issue guidance in the meantime to make our intention transparent, to cover the cabinet secretary's intention to move social work complaints to the model three-stage SPSO process, as NHS complaints are now, and to set out expectations in guidance on the kind of template to which Mr McFadden referred and how complaints about integrated services ought to be managed. We intend to do that in the summer.

John Wilson (Central Scotland) (Ind): To follow on from the point that the convener made earlier, one thing that the committee is attempting to do is to make it easier for us and, in particular, the public to understand the complaints procedure. From what I have heard, there seems to be a very cluttered landscape for anybody who currently tries to make a complaint.

Ms Taylor, you referred to the 31 partnerships that are being worked on. Can you give me an example of what you mean by a partnership?

Alison Taylor: Absolutely—I would be pleased to do that.

A partnership is a health board and a local authority that together are required under the Public Bodies (Joint Working) (Scotland) Act 2014 to create what is described in the act as an "integration authority". Each health board and local authority with which it operates—obviously, they are in the same geographical area—are required to create a partnership to which they will delegate some of their functions and money. That will bring health and social care together in that area. For example, NHS Lothian is in partnership with the City of Edinburgh Council, which is the Edinburgh partnership, but it is also in partnership with East Lothian Council, which is another partnership.

Is that a reasonable explanation?

John Wilson: It is an explanation. You mentioned geographical boundaries. I will give a recent example that I picked up. A patient was taken into a hospital that was not in their partnership area but in a neighbouring area. They were released from that hospital with a catheter and without any care support because they went back into the local authority area in which they lived. My understanding is that, in those circumstances, there would not have been a partnership between the local authority and the neighbouring health board.

What happens in those circumstances if the patient wants to make a complaint? Who do they complain to? Do they complain to the NHS board of the hospital they were in, or to the partnership in the area where they live?

Alison Taylor: May I invite Iona to answer that?

Iona Colvin: They can complain to their local partnership. If it is in agreement with the neighbouring health board, the partnership will be part of the service level agreement with the board. For example, many patients from the north coast of North Ayrshire go to Inverclyde royal hospital. I liaise with that hospital, and we have had on-going discussions about complaints that arose, not so much from patients but from GPs, about the functioning of that hospital. It became my responsibility to liaise with the health board that holds the service level agreement and to intervene in the discussion. That is clear. Although people were being treated by the Greater Glasgow and Clyde NHS Board, they were patients from North Ayrshire and we had a responsibility to sort out any problems.

John Wilson: How do we get that message over to the general public? As I said, confusion arose about who people should deal with when they make a complaint. Would that still apply at the moment? Partnership agreements are in place in Ayrshire, but given what Ms Taylor said it seems that there are still a number of partnerships to be signed off by the cabinet secretary. What would happen at the moment if a patient found themselves in that situation and there was a conflict between the health board of the hospital where they were treated and the integrated partnership of the area they reside in, if no partnership agreement was in place?

Iona Colvin: Technically, the health board where the patient lives would have responsibility because it holds the service level agreement. It is disappointing to hear of your constituent's experience, but we are working towards a position where people should not be discharged from hospital without a care plan.

My social workers and care-at-home workers go to Inverclyde royal hospital. They assess people in Inverclyde and organise discharge plans. Occasionally people are discharged without a discharge plan. That should not happen, although it clearly it does given the experience of your constituent. We hope that whenever someone is discharged from hospital it is clear who is responsible for their care in the community. That is clearly a major issue for us as our nursing staff take on more complex procedures within the community and GPs also take responsibility. It is critical that people are clear who is responsible for their care and that their care transfers back to the community.

A lot of our work is focused on how we join up the community and the hospital, because the divide between hospital care and community care has been as much of a problem as that between health and social care. That is part of what we will be measured against in relation to the national outcomes and partnerships, and ideally that integration should happen. My gut instinct is that the NHS board—Ayrshire and Arran in our case—holds the service level agreement with Greater Glasgow and Clyde, and it therefore has responsibility to intervene on behalf of its patients.

Paul McFadden: Discharge is a good example of where there can be crossover. The complaints that we receive cross over those different areas, and that highlights the complexity for the person who wants to complain. Elements that relate to the health board would have to go through the health complaints process and then come to SPSO, which has a remit on clinical judgment. Elements that are interrelated include, for example, the social work assessment, which has to go through the statutory local authority complaints process and then come to SPSO. We have quite a limited role in that.

We get complaints that come to us and we have to unpick the separate routes through which the person has come and cross-reference various powers and complaints. That is because of the statutory complaints process, and I think that that is the issue that will remain until the statutes are aligned and removed. It is going to be a challenge for the integration boards to do that.

With regard to the example that you were talking about, Mr Wilson, we have to put in place detailed and clear arrangements for what happens in such circumstances.

The Convener: I will stop you there. You are talking about detailed arrangements, and we know that those detailed arrangements are missing something in the middle. However, you guys have kind of skirted around the issue that Mr Wilson was asking about. Who does an individual complain to initially? You really have not been able to give an answer. At the very least, I thought that you would have said that you would be able to signpost an individual to the person to whom the initial complaint should be made. However, even at this moment in time, there seems to be a lack of understanding about where someone should go. That perturbs me.

Alison Taylor: I think that it is clear that initial complaints are directed to the partnerships. That is why we have brought together health and social care functions, budgets, planning and delivery. Each partnership has a chief officer. I am not about to suggest that every complaint should be addressed individually and in person to the chief officer, but it is incumbent on the partnership and the chief officer to ensure that integrated arrangements are in place, as articulated at a high level in the scheme, to ensure that that process is straightforward.

The extremely concerning problems with discharge that we discussed briefly help to illustrate an issue that comes up quite often with regard to integration, which is that such problems have existed for quite some time and are, in effect, what integration is designed to address. We need to ensure that we work together to deliver clarity of understanding about the route in for complaints and the other ways of engaging with integrated partnerships.

Rami Okasha: In one sense, convener, you have put your finger on the important issue. There needs to be a joined-up front-of-house approach so that, if someone approaches someone in the health or the care sector with a complaint, they are not told, "Sorry, I am the wrong person to complain to." They should instead be supported and assisted. That is the expectation that we would have of partnerships as they develop. Our expectation is that the chief officers will be able to put in place the appropriate systems to make that happen. In future years, we hope to be able to offer some evidence to verify the extent to which that has happened and to identify the improvement support that has to be in place if it is not happening.

The Convener: Thank you, Mr Okasha. Some common sense comes into play.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): You stole the question that I was going to ask, convener.

I want to know what someone's experience will be if they make a complaint tomorrow about any aspect of the service, whether that complaint concerns the local authority, social work, the Care Inspectorate or the NHS. What will happen? What will their experience be tomorrow morning, or next April, if there is a single point of contact and a single complaints experience? What does that look like? Is there a complicated but single form? What does that person do?

Alison Taylor: Mr Okasha has put it beautifully. It will look like making a complaint to someone in the partnership—an appropriate person.

I imagine that there will be different circumstances. As Iona Colvin said, some of the circumstances surrounding the provision of care under integrated arrangements are really complex and concern people at vulnerable moments of their lives, often towards the end of their lives. There will be different circumstances in which the need to complain arises.

For me, the key is that the person who is making a complaint is not pushed about and told to go to someone else. The complaint should be accepted by whoever it is made to, and the system should then take the burden of working out what should happen and who needs to be involved.

Willie Coffey: I understand that, but you said that the person will complain to someone in the partnership. How is that initial leap made? If a person who comes out of hospital finds that they want to complain, how do they go about finding someone in a partnership? What would they do?

10:45

Iona Colvin: If they are receiving services from the partnership, a front-line worker will be working with them. We provide everyone with information about how to make a complaint. If, for example, we are talking about someone who is coming out of hospital and there is a problem with their care package, they can complain via their social worker or their district nurse—whoever is delivering the service. That person will take the complaint, regardless of whether it is about the social work or the health component of the service, and deal with it. That is what we are trying to do, and we are training our staff to do that.

We are moving away from our siloed systems. It is a bit difficult, because we are in transition. In some places, we still have siloed systems, where the social workers, the nurses and, perhaps, the allied health professionals come in. We are creating joint teams, so that we have integrated teams, for example, for people who are being discharged from hospitals, with physiotherapists, occupational therapists, social workers, district nurses and care-at-home staffing on them. One of those people will be allocated as the main worker for the person, and the person can complain directly to them. However, they can complain to anyone; we will pick up that complaint and deal with it, regardless of what the service is.

Willie Coffey: How does a person know who to complain to if a multiplicity of people are delivering a service to them? We do not want an approach in which a person could complain to the social worker, the carer or the health worker or whoever. What will the system look like? Will everyone get a leaflet that says, "If you want to complain, no matter who to or what about, here is what to do"? Is that in place now, or will that happen next year?

Iona Colvin: It is in place now. All our staff who go into to someone's house to deliver a service, or who meet them in hospital, should have a leaflet that says, "Here's how you can make a complaint, and here's who to contact if you're not happy with the service." For example, care at home is our biggest service. It deals with 5,500 service users a week. Everyone who receives care at home has a leaflet, which tells them how to complain about the service and who to contact.

If someone contacted us to make a complaint, but the complaint was about the physiotherapist not turning up, we would not tell them to phone the physiotherapy service to make the complaint; rather, we would say, "Thanks very much. We'll look into it, and we'll get back to you as soon as possible and try to resolve your issue." Therefore, our approach is about how we resolve the issues. We do not expect our clients and our patients to go round the houses. That is the approach that we are developing.

Rami Okasha: As I have said, last year we received 4,400 complaints about care or, at least, from members of the public who were dissatisfied. Not all those complaints related to matters on which we are statutorily empowered to investigate. For example, some of them may have related to the provision of NHS services, which is not something that we could look at. However, we would never say to those people, "I'm sorry, but we can't help you." We would support them, so that they could get in touch with the appropriate person and ensure that that link is there.

In a sense, the Care Inspectorate does at national level some of what is being described at local level, by providing that advice and support. We have a telephone line that people can phone five days a week. It is staffed by specialised complaints inspectors who offer advice or support. In some cases, they investigate the complaints that are being raised. However, very often the provision of advice and support can help people without the necessity for a complaints investigation to be undertaken.

Willie Coffey: I was just about to come to you about the 4,400 complaints to the Care Inspectorate. There is an expectation that there will be a learning experience as the result of any complaints process, and that that will inform planning and improve service design—it is part of the continuous customer improvement agenda that exists across all sectors.

How do the public know that, among the 4,400 complaints that you get, there are not repeated complaints about the same issues over longer periods of time? How do we know that? If any of the complaints results in recommendations for action—for example, on child protection issues, as somebody said—how do we know that they are being addressed and fed back into the process so that certain things cannot happen again? That is a crucial element of the complaints management process and the continuous improvement process. How do the public get the assurance that that is happening?

Rami Okasha: With respect to the care services that we regulate, we try to cut that information in two ways, the first of which refers to a particular service. For example, for anybody who is thinking of using a particular care service, we publish on our website details of all the complaints about the service that we have upheld. We provide details about the complaint, but we obviously redact personal information about individuals. However, we provide a summary that says, for example, that we received a complaint in April 2013 about the quality of nutrition in a particular care service, that we upheld the complaint and that we made a requirement for a change.

We do a follow-up inspection of that service and use the information from it to determine whether the requirement that we made has been introduced and a change has happened. If that has not happened, it is open to us to go further down our enforcement route to ensure that what we expect to happen happens. I think that that process provides public assurance for anybody who is using, or thinking about using, the service. In social care services, there is often more choice than in NHS services.

We cut the information or data in terms of what is happening across the country, which means that we can provide a picture that shows the type of complaints in a local authority area or a health board area and whether, for example, we are getting lots of complaints about a particular issue in a certain area. That allows us to target our scrutiny a bit more strategically so that we can say whether the data suggest that there are problems in particular areas that we need to start addressing. We publish that information in periodic reports that are probably aimed more at the professional than the public user, but they are available to the public.

Willie Coffey: That was a really good answer, but it does not quite get to what I want. For example, say you have picked up on a child protection issue and you have—we would hope—resolved it, how do we know that other authorities that might be experiencing the same issue but which have not been the subject of direct recommendations from you will pick up those lessons? We hear of recurrences of child protection issues across the country. How do we know that authorities across the country are picking up the issues and taking action according to recommendations that have been made to a particular authority?

Rami Okasha: There is more work to be done in that area, because we do only a limited amount. When we receive a complaint and think that it provides a learning point for not only a particular service but other services, we publicise that in a case study format through our various channels of communication. However, you are right to suggest that there is the potential for more work to be done around ensuring that information from the complaints process is shared more consistently across the country. When it comes to very serious matters, of course, there might be a serious case review of some type whereby an awful lot of learning would be assimilated in one place and shared more consistently across an area. However, that would happen only in very serious cases in which there was a very serious failing.

The Convener: In answer to a question from Mr Coffey, Ms Colvin said that folk who have a care package could talk to their social worker or their health worker. What if they do not have a package and that forms part of the complaint? Some folk have easy access to people on a day-to-day basis, but others do not—that is one of the difficulties. Beyond that, the complaint might be about the person who deals with the complainant's day-to-day care. How do we deal with that?

Iona Colvin: We provide everybody with a leaflet that has a phone number that people can phone to make a complaint, which might at times be about the person who deals with the complainant's day-to-day care. The person at the end of the phone will ensure that we respond to that complaint appropriately, as far as we can.

As I said earlier, we are moving from a siloed system to an integrated system, and that can cause complications. We advertise widely how people can make a complaint in relation to the partnership services. Most people see them not as partnership services but as NHS services and council services, and the staff still work for the NHS and the council, so we need to take that into account.

We are also part of the patient opinion feedback platform, and we get a lot of complaints—or what are almost pre-complaints—from people about their experience of using the NHS in Ayrshire and Arran. We get quite a lot on mental health services. We are also piloting care opinion in North Ayrshire—we are part of the national pilot—so people can contact us online and describe their experience and we will respond as quickly as possible. Quite often, we hear from people who do not have an allocated worker in the system.

That is how we are dealing with it just now.

Clare Adamson: We know that changes to services and organisational structures are one of the most challenging things that people can face at work. I mean this as no criticism of either social workers or NHS staff, but history shows that silo mentalities can remain and there can be difficulties. It may be that, if somebody makes a complaint and it goes into the confused middle ground, social work services will conduct their statutory duty on the complaint and the NHS will do the same but neither will take responsibility. In that situation, who will be the arbiter of what has gone wrong in the service?

Alison Taylor: I entirely endorse the observation about cultural challenge and the difficulty of moving to new ways of working. I particularly endorse the supportive nature of the observation, because it is challenging. As a slight counterpoint to it, I note our observation from the extensive evidence on the integration of health and social care that, oddly enough, moving everybody to one organisation does not fix it. That is part of the reason why the Parliament passed legislation on integration that does not take that approach but, instead, leaves it to all of us who work across the system to try to lead for improvement and work together explicitly.

In taking forward each of their statutory duties, social work and the NHS, as providers of care, are fulfilling their responsibilities, I suppose. By aligning them so that each is following the same process, I would expect there to be considerably greater clarity about the steps that any given complaint moves through. I would hope that it is totally irrelevant to the person who makes the complaint whether it is a social work complaint or an NHS one, given that there will be a single point of entry and, in due course, the same process to go through to get to an outcome.

On who must pick up the responsibility for resolving the complaint, it will lie with the integrated teams of the sort that Iona Colvin described for her area.

Iona Colvin: As I described, we have put in place a joint management arrangement. If somebody wants to complain about community mental health services in North Ayrshire, there is one manager who is responsible for the social work service and the NHS service, and they are responsible for ensuring that the person gets a response to their complaint and that we try to resolve it, whether it is about their NHS experience, their council experience or both. For the past few months, I have been dealing with complaints of that nature, which are about a number of issues to do with both the NHS and the council response.

At the moment, the systems are quite confused. People sometimes find it difficult to get into certain parts of the service and it is not clear why they would be involved in the council mental health service as opposed to the NHS one, so one thing that we are doing as a first priority is to join up those services so that they become one service with one overall manager who is responsible for both components of the service. They also work with the third sector on the delivery of its services and they are responsible for resolving complaints as quickly and effectively as possible. We have put that system in place in the past couple of weeks.

At present, the join tends to be me, and I and the people who work for me as the heads of service—the people who are in charge of community care, childcare, mental health and so on—have been making sure that the process is working properly. We are not sending back responses that say, “That’s about the NHS, but you need to go through there” or, “That’s about social work.” We are sending back responses that say, “We take on board what you are saying, and we are trying to resolve the issues in relation to both the NHS and the council service.” Sometimes the complaint relates to third sector or independent sector services, and we will liaise with the Care Inspectorate in that respect.

11:00

The Convener: Do you want to come back in, Ms Taylor?

Alison Taylor: Just briefly, convener. I have an additional point that is rather at the other end of the spectrum from Iona Colvin’s helpful description of what happens to people who are making complaints on the ground, which is of course the primary concern.

It might be worth mentioning briefly that the legislation around integration contains a series of principles and outcomes that are all about the wellbeing of individuals, the experience of care, the experience of the service user’s family and so on, and those outcomes and principles at a legislative level apply not only to the partnership but to the health board and the local authority.

Bound into that legislation is a duty on everybody to be on the same page in pursuing the wellbeing of the individual, the family around them and so forth.

Clare Adamson: Did you want to come in on that issue, Mr McFadden?

Paul McFadden: My point has been slightly surpassed, but it was in response to your question about where things go and where people are signposted to. Iona Colvin has outlined the agency ownership and responsibility behind the scenes with regard to ensuring that the user does not have to unpick things, and that is exactly where we are trying to get to.

Entering the system is the first challenge, and some people struggle to identify where they should go. At present, what happens afterwards is not always happening across the country; people are going through separate processes, and they are then signposted to either the complaints review committee or the SPSO, which have different powers. What tends to happen is that the person does not follow all the processes; instead, they follow one process, which narrows down what they can actually complain about. For example, they can complain about the health element but not the social care assessment element and vice versa. What Iona Colvin is talking about is where we are trying to get to, and we need a bit of clarity for all the integrated joint boards on how they can to do that within the existing and future legislative frameworks.

Clare Adamson: Given the complexity of the situation, I am concerned about what would happen if there was a genuine disagreement between the health service and the social work service on where something had gone wrong and individual workers had been highlighted as failing in their duties. Obviously in such circumstances the council would have grievance procedures that someone could go through if they were unhappy and had a complaint about a fellow worker, but how does that work when two separate employers are involved in the process?

Iona Colvin: It works through me, and through the people who work for me. As chief officer, I am responsible for the social service and the council service, and all of that responsibility is delegated to me by the council and the health board. The IJB has strategic responsibility as well as a number of other responsibilities, and I as the chief officer have both strategic and operational responsibilities. My managers—my heads of service and now my senior managers—all have that responsibility, and they will discharge it. It is not acceptable for people to get the response, "Actually, it was the fault of the social worker" or "No, it was the fault of the health worker." We need to resolve that matter—and it is our responsibility to resolve it to the satisfaction of our patient, client or service user as far as we possibly can.

The issue is not unacknowledged, but it has not been happening up to now and it is basically what we are aiming for. My manager in charge of addiction services, for example, will quite often get complaints that relate to the health and social care components, and his responsibility is to ensure that we resolve such complaints and deal with any issues behind them. If there is a dispute between health and social care staff about what should be happening, management needs to help resolve it. That is clearly our responsibility, not the responsibility of the people who are making the complaint.

Alex Rowley (Cowdenbeath) (Lab): Good morning. Things seem a bit complex and confused, and I am not clear about where we are going. Last week, someone came to me to say that an 80-year-old lady had been released from hospital but her care package was not in place. I saw that not as a complaint as such but as something that needed to be sorted out. Because the matter was taken to the interim director of health and social care, it was cascaded through the system and fixed. Clearly we need to learn why that particular situation happened but for me, it would have been a complaint if somebody had come back to me and said that they did not think that the person deserved or should have got care, because I would have challenged that decision.

For any complaints procedure, the complainant has to be confident that their complaint will be examined properly, and a clear process needs to be set out to ensure that the person understands how the complaint will be dealt with. Councils have that process right now. If I were to make a complaint tomorrow to Fife Council and I asked what its complaints procedure was, it would be able to send that information out to me, as would NHS Fife.

Where are we trying to get to with this? Are we saying that there will be a streamlined complaints system for the integrated health and social care partnerships? Are we aiming to put in place a complaints procedure that makes it clear to people what the steps are when they complain, including the fact that if they are not happy, they can go to the ombudsman or wherever? If so, could you—perhaps not today—set out where we are trying to get to with this, the steps to take us there, whether it is going to be in guidance that will be issued in the summer or whatever and who is responsible for what? That information would be useful, because it would allow us to see more clearly where this is going.

Alison Taylor: We would be pleased to write back to the committee on that; indeed, I think that

that would be helpful. In Fife, the health board and the local authority have appointed a chief officer; a shadow joint board is in place; and they have given us a draft scheme that is under discussion. We expect the Fife partnership to put in place a front door for complaints, which, as Iona Colvin has made clear in relation to her area, will make things easy for the person making the complaint.

As for the other part of your question about the process that flows from a complaint, that brings me back to my earlier point about having the same three-stage SPSO model process for health and social work. We can definitely set that out for the committee.

Willie Coffey: On the complaints outcome side of the process, when a determination is made on whether a complaint is upheld or dismissed, what will the member of the public get? Will they get a letter? Will they get an invitation to meet the single-point-of-contact person? What will be the person's experience when a decision is made and, whatever that decision might be, what signposting will the person get to take the matter further if they so choose?

The Convener: Mr McFadden, were you signalling to come in?

Paul McFadden: I was just going to outline what we have set out as best practice in relation to other areas and the model community health partnership. It very much depends on the individual circumstance of the complaint. It is appropriate that the response be tailored to the individual complaint, no matter whether the person gets the chance to meet a member of staff or whether they get a letter.

Particularly with relatively straightforward complaints, we encourage organisations to try to speak to people face to face or on the telephone as simply as they possibly can, because we find that, for a start, it empowers staff on the front line to resolve things, which is definitely a positive. It also allows the organisation to build empathy with a person when something might have gone wrong; it can help to rebuild that relationship with them and it can allow the organisation perhaps to apologise. It all depends on the situation, but those are the kinds of examples that could be set out for staff in the appropriate guidance.

Willie Coffey: Is it clear what will happen when a person gets a response? If a decision is made today, what will that person receive tomorrow?

Iona Colvin: As far as possible, we endeavour to speak to people either face to face or on the phone and try to resolve their issue. If a person phones today to make a complaint, somebody should phone them back, speak to them about their complaint and see how we can resolve the issue. If it gets to the second stage—at the moment, before it goes to a complaints review committee—they will certainly receive a letter from us outlining the outcome of the complaint. If the complaint is upheld, they will of course receive an apology. Depending on the seriousness of the complaint, they might be offered a meeting. Of course, not everybody wants to meet, but they might be offered a meeting with me, a head of service or another manager to talk through their complaint and its outcome.

If the outcome of the complaint has significant implications for practice, it will also go through our clinical and care governance arrangements, which will enable us to flag up any practice issues and changes that need to be made to our practice or the arrangements within the services. Ultimately, the complaint will also be scrutinised by the integration joint board, which will be presented with a report about complaints that have been made about the service and the outcomes.

Any significant issues, particularly if they relate to children or to adult or public protection, are entered into the system as adverse events. A significant case review for a child or adult or a multi-agency public protection arrangement incident will become public through the publication of a report.

Willie Coffey: Will everyone have that experience when there is an outcome or when a decision is made about a person's complaint? Will that be the common experience across Scotland?

Alison Taylor: It certainly should be. Going back to my earlier comments, I would say that it is the awareness that care and complaints about care are not very well integrated that has led us to put in place this programme of reform. The evidence gathering that Mr Okasha has mentioned and which the Care Inspectorate and others intend to roll forward as implementation takes place will be really important, because we will need to look carefully at whether we are achieving that kind of integrated response to a consistent level of quality for people across the country. We need to keep an eye on that.

Willie Coffey: When a person gets a response from the system about how their complaint has been dealt with, can they still go to the same single point of contact if they want to come back and raise an issue, or do they get signposted to the ombudsman? Do they leave the complaints process and go elsewhere?

Iona Colvin: After the two stages of the process?

Willie Coffey: Yes—if they are still unhappy.

Iona Colvin: At the moment, a person who has a complaint about the social work service will go to the complaints review committee, and we will

organise that. In the letter that we send them at the end of the process, we say: "If you are not happy, you need to tell us so within 28 days and we will arrange a meeting with the complaints review committee." The complaints review committee is obviously independent of us, and it reports to the council. On the other hand, if the complaint is about the NHS, it will be sent on to the ombudsman. At the moment, we tailor the letters according to the nature of the complaint.

Alison Taylor: This is why the transition to the three-stage process for social work and the NHS to which the cabinet secretary has committed will in due course make the process clearer.

The Convener: A letter to the committee from the Care Inspectorate that was dated 4 May and which was signed off by the depute chief executive, then director of strategic development, Karen Anderson, says:

> "It is not at all clear what the leadership and coordinating arrangements are surrounding the development of a consistent, pan-Scotland approach to a complaint procedure following integration of health and social care arrangements. I fear that unless this vacuum is filled progress will be very limited."

Has the Care Inspectorate changed its mind since it wrote that letter on 4 May, Mr Okasha?

Rami Okasha: No, the position is very clear. We expect to see leadership and effective co-ordinating arrangements right across Scotland, and the commitment to move to the complaints-handling process set out by the ombudsman for both health and social work complaints is extremely welcome. We would be extremely concerned if there were a vacuum. We need to provide an evidence base to determine whether things are working as intended and envisaged—that is what we are hearing about today—or whether they have not worked, which would be a very serious matter.

The Convener: Do you think that there is a vacuum at the moment?

11:15

Rami Okasha: We would be highly concerned if there were a vacuum. We want an evidence base that will allow us to ensure that any vacuum has been filled and that effective and co-ordinating leadership arrangements are in place. We have heard helpful examples from Ms Colvin about her partnership's commitment to ensuring that there is effective leadership at a local level, that there is clarity for individuals who wish to make a complaint and that people are not passed from pillar to post. We want to evidence that and ensure that what we hear matches what we see.

John Wilson: In response to an earlier question, you mentioned that the Care Inspectorate provides a five-day-a-week helpline. What happens on the other two days, which I assume are the weekend? Earlier, I gave the example of somebody who is discharged from hospital at 5 o'clock on a Friday afternoon without a care package. If that person phones the Care Inspectorate, will anybody reply at 5 o'clock on a Friday?

Rami Okasha: We have, on occasion, extended our helpline to weekends and evenings, when particular critical incidents have happened in care services and we have wanted to provide extended support. I would not want to overclaim what our helpline does; it is not intended to be a national helpline for anyone with a concern about NHS services, because that is not within our statutory power. When people come to us, we can signpost them in the right direction and support them.

Many of the complaints that we deal with are about care services that are not able to resolve issues. In a sense, our role is to investigate complaints about care services when they have not been able to provide the necessary changes or when people are frightened about the process. We would never claim that our helpline was an emergency response line.

John Wilson: I wonder whether I can ask the same question of Ms Colvin. If someone were to be discharged at 5 o'clock on Friday afternoon without a care package, what would be the integrated partnership's response mechanism, and how would someone get in touch with it to raise that issue?

Iona Colvin: We have an out-of-hours service that at the moment is called the social work standby service, and we are considering how to integrate all out-of-hours services, including our doctors and social work services. Within that, on-duty care-at-home managers should resolve the issue straightaway.

John Wilson: Thank you very much.

The Convener: Mr McFadden, in the SPSO's communications with the committee, you say that primary legislation is required to deal with the complaints procedure and to ensure that it is robust. Is that the case?

Paul McFadden: We need to clarify that, and the Government's commitment to laying out the key steps is important. We felt that primary legislation might be necessary, because the social work changes will require an addition to our remit of professional judgment over social work decisions, which will bring the complaints review committee role to us. At the time, we felt that such a move might require primary legislation as it fundamentally alters the Scottish Public Services Ombudsman Act 2002. I think that there might have been some discussion about order-making

powers or other such measures that might be introduced, but we need a bit of clarity on this issue.

The Convener: Ms Taylor, you said that only secondary legislation is required to deal with these things. What is your reasoning for that? Why do you think that the SPSO is wrong to say that primary legislation might be necessary?

Alison Taylor: Our assessment is that the change is possible under the legislation's order-making powers, but there is more to discuss here. We have yet to have a conversation with the Scottish Parliamentary Corporate Body about exactly how these changes will be taken forward. Perhaps I should temper my input and say that we believe that this is a secondary legislation issue. However, we will take the issue away, consider it more fully with our SPSO colleagues and ensure that we are clear about what is required.

The Convener: You have already agreed to write to the committee on a number of issues, and I would be grateful if you could do that as soon as possible to let us know exactly what legislative route you intend to take and whether it will be primary or secondary legislation. I do not want to pre-empt the committee's discussion of the evidence, but I think it likely that we will see you folks again before the end of the year. As you might have noticed, the committee is somewhat concerned about the way in which this issue has been dealt with, and we will be keeping a very close eye on the progress that is being made.

I thank you for your evidence, and we will now move into private session.

11:20

Meeting continued in private until 11:33.

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