



Themes Emerging from Complaints About the Care Inspectorate 1 April – 30 September 2017

Report to: Board
Date: 17 January 2018
Report by: Rick O'Dowd, Professional Standards Lead
Report No: B-32-2018
Agenda Item: 16

PURPOSE OF REPORT

This report sets out the learning from complaints about the Care Inspectorate received between 1 April – 30 September 2017.

RECOMMENDATIONS

That the Board:

1. Notes and makes comment on the report.

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Consultation Log

Who	Comment	Response	Changes Made as a Result/Action
Senior Management	SMT comments		Report modified
Legal Services			
Corporate and Customer Services Directorate			
Committee Consultation (where appropriate)	Quality and Strategy Committee 23/11/17		None required
Partnership Forum Consultation (where appropriate)			
Equality Impact Assessment			
Confirm that Involvement and Equalities Team have been informed	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
EIA Carried Out	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	
If yes, please attach the accompanying EIA and appendix and briefly outline the equality and diversity implications of this policy.			
If no, you are confirming that this report has been classified as an operational report and not a new policy or change to an existing policy (guidance, practice or procedure)	Name: R O'Dowd Position: Professional Standards Lead		
Authorised by Director	Name: Rami Okasha	Date: 9 November 2017	

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1.0 INTRODUCTION

This report considers what learning can be gleaned from complaints about the Care Inspectorate. The information can be considered from both a qualitative and quantitative perspective. The numbers of complaints we receive limit the extent to which patterns can be established directly from recorded complaints, but themes can be identified which may indicate the need for specific action or stimulate debate. A key learning area is establishing the effectiveness of the complaints procedure and the impact it has on staff engaged in the process. We actively record learning points from complaint investigations. This paper presents some key discussion points arising from the complaint investigations.

2.0 THE DATA

The data presented in the table below is for the time period 1 April and 30 September 2017.

Number of complaints recorded	64
Number withdrawn by complainant	1
Number not progressed because of lack of information	7
Number of complaints upheld	5
Number of complaints not upheld	19
Number of complaints resolved at Stage 1	23
Number of complaints not yet complete	9

3.0 KEY DISCUSSION POINTS

The following key discussion points have been identified to support discussion on our complaints process:

- Learning from the interface between complaints and inspection of care
- Evidence of cultural change
- Complaints about the way inspectors engage with staff in services
- Complaints which are not upheld
- Stage 1 frontline resolution
- General issues showing change from previous years
- The complaints about the Care Inspectorate procedure

4.0 LEARNING FROM THE INTERFACE BETWEEN COMPLAINTS AND INSPECTION OF CARE SERVICES

There were two upheld complaints which related to the interface between complaints and inspection of care services. These complaints highlighted a failure to follow up on recommendations and requirements made through

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complaints investigations. It showed that despite the fact that we had rigorously examined issues and taken action aimed at directing services towards improvements, we did not examine, at the subsequent inspection, whether the actions that the providers had agreed to take had in fact been taken. This leads to a lack of continuity in inspection reports and does not provide appropriate public assurance.

The learning from this complaint resulted in further research by the Service Manager (Complaints and Inspection) and Team Managers, in conjunction with admin officers about, the extent to the findings from complaints about services were being followed up through the next inspection. It was discovered that there was a significant number of cases where this was not happening (around 45% in the sample). We were able to identify a problem with misleading information in the “record of inspection” tool and amended this. Information and guidance was issued through the intranet for staff. Consideration is also being given to changing the role of the complaints inspectors in following up on requirements and recommendations outwith inspection.

It is too early to consider the impact this will have but it would appear highly likely that the action taken and the general awareness of this as a potential risk will lead to an improvement. Revised approaches to the Care Inspectorate’s quality assurance systems will also support improvements in these areas.

5.0 EVIDENCE OF CULTURAL CHANGE

A number of complaints were made which, when examined, demonstrated a positive cultural shift away from process-driven actions, even where this was not always welcomed by complainants. These relate primarily to complaints about how the Care Inspectorate had dealt with complaints about registered services.

Historically our approach, for example time-barring complainants asking for reviews or reconsidering decisions about whether or not to investigate a complaint, was driven in a compliance-based way. Now more emphasis on reasonableness and fairness. In some cases, we consider complaints about care services beyond the 6 month time-bar, and accept new evidence in complaints about care not examined when they are first presented to us. Our focus is on establishing the facts and moving away from a compliance-based approach. This has a clear benefit in developing a “customer service culture” but also helps to ensure the right outcome is reached in relation to people experiencing care.

There is also a recognisable willingness to apologise and take remedial action with a view to creating a positive respectful engagement with external customers. There is also evidence of cultural change in the way staff perceive complaints and engage in the process as detailed later in this report.

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6.0 COMPLAINTS ABOUT THE WAY INSPECTORS ENGAGE WITH STAFF IN SERVICES

Recorded complaints show there have been a number of cases that relate to the way in which inspectors have engaged with people in the services they have inspected or investigated complaints, often allegedly being “intimidating” and “negative”. None of these have been upheld. These types of complaints are inherently one of the most difficult to investigate. They are normally associated with inspections which have not gone well from the perspective of the provider, or complaint investigations which have led to upheld complaints (about services). The investigator in these cases must take account of personal perceptions within the context the events occurred. A regulatory event, for example where negative messages are being communicated, can be perceived as challenging. This is not necessarily indicative of poor conduct and in fact it may be that inspectors are doing their job well and being thorough. In many cases so far this year services are being inspected by inspectors who are new to them, and vice-versa, and this can lead to a greater intensity and a need to examine information perhaps differently from previous years where inspectors were more familiar with the service. Investigations then have taken account of these dynamics in examining whether or not perceived conduct issues are areas where complaints require to be upheld.

It is encouraging that these complaints have not been upheld, and at this point there is no suggestion that the complainants have then approached the SPSO, or if so have had their concerns taken forward by SPSO. Within these complaints however there have been learning points for inspectors in relation to their approach and in some cases despite the complaint not being upheld apologies have been given where it is recognised inspectors could have approached situations differently.

Arguably where questions are being asked about the conduct of staff, these are best addressed through Stage 2 (investigation) as that produces a definitive outcome: upheld or not upheld. It is not helpful where staff have been allegedly behaving unreasonably and there is no real measure of the evidence to support this. There have been however been a number resolved through Stage 1 (front line resolution). These tended to be where it was clear criticism of staff is low level and vague and the thrust of the complaint was about the outcome of the inspection or a complaint investigation. In these cases then there was value in agreeing that a team manager and inspectors explore these more informally; often there are accompanying actions such as small changes to a report where that is merited based on the evidence. It is important to stress that changes are only made to regulatory outcomes where there is evidence to justify them, and never in order to avoid escalating the complaint to Stage 2.

It may be that from all of this there could be some proactive action. If it is the case the service providers are motivated to complain as a result of new inspectors perhaps considering evidence in a more rigours manner and

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reaching different conclusions than previous inspectors there may be some proactive action which can be taken. For example in the opening dialogue with the service there may be value in managing expectations by explaining that this inspection may look at different evidence from before and they might be asked more questions than they are used to, the benchmarks of best practice evolve and may have changed, it does not mean we are trying to catch them out. It might also be worth encouraging managers and staff to raise anything with them during the inspection which makes them feel uncomfortable. Often complaints about the way staff behave are made after feedback has been given by inspectors.

Our on-going approach around developing the role of the senior inspector, the rollout of coaching conversations, and our learning and development programme will continue to support cultural change where needed.

7.0 COMPLAINTS WHICH ARE NOT UPHELD

19 complaints were not upheld. This can be viewed as positive in that it demonstrates in 75% of complaints which were investigated we were able to demonstrate that our work was satisfactory despite the criticism detailed in the complaints. (Complainants whose complaints which were not upheld can ask the SPSO to investigate these, although none have been during this period.) At an individual level this helps to give staff confidence in the work they have done and also that the current complaints process has given them an opportunity to respond to criticism in way that is empathetic to the challenges they face and their explanations are considered credible. This point is also reflected in a feedback survey introduced in April to measure the impact of the new complaints procedure. Feedback has been very favourable and indicative that the changes in procedures are meeting their objectives.

8.0 STAGE 1 FRONTLINE RESOLUTION

Twenty-three complaints were resolved through front line resolution and reference is made above to cases where individual staff engagement is the concern. Much of the other Stage 1 activity led to resolution through explanations being given to complainants who had not understood our processes. These have involved phone calls, meetings, home visits and written communication. The new guidance appears to be helping staff who are leading on Stage 1 to be clear on their objectives when contacting complainants and there is an increased awareness on the importance of not allowing the complaints process to impede business. The person operating the procedure at Stage 1, normally a manager, requires to be clear about what can be properly resolved at stage 1 and what is more suitable for Stage 2. Such managers are regularly consulting with staff involved in the complaint before making agreements and are recording with clarity what has been agreed at Stage 1 (and by implication what has not been agreed). The evidence would suggest that managers are engaging positively with front line

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resolution and a high level of skill and knowledge is being applied to challenging situations.

9.0 GENERAL ISSUES SHOWING CHANGE FROM PREVIOUS YEARS

There were no upheld complaints about the functioning of the website which would indicate that problems which were being reported through numerous complaints in the previous year have been resolved. There were several complaints where members of the public thought that the Care Inspectorate had advised service providers not to employ them or were unhappy about the way we processed PVG checks and fees. None of these were upheld and these appear to be borne of misunderstanding but not indicative of an issue requiring action from us.

10.0 THE COMPLAINTS ABOUT THE CARE INSPECTORATE PROCEDURE

We are now gathering information in an ongoing manner from members of staff about how the process is impacting on them in terms of stress and the support they receive. The indications at this stage are very encouraging and it appears staff are more understanding of the need to have a credible and effective procedure. The cultural shift away from viewing complaints as something to be avoided to something which must be embraced positively is evident and this is increasing with ongoing information sessions across teams throughout the organisation. As previously mentioned there is greater clarity about how to approach Stage 1 and managers are increasingly involving staff about possible solutions and getting their views about what the problems may be. There appears to be a growing confidence that the findings from complaints are seen as learning opportunities rather than a route to blame and/or punishment.

11.0 RESOURCE IMPLICATIONS

There are no resource implications arising from this report.

12.0 CUSTOMER SERVICE IMPLICATIONS

Having a robust, fair and transparent process for dealing with complaints is important for our internal customer service. Early evidence suggests that the new approach represents an improvement in internal customer service.

13.0 BENEFITS FOR PEOPLE WHO EXPERIENCE CARE

Ensuring staff are well supported, and that any complaints are treated seriously, is an important part of the Care Inspectorate operating to a high standard. Staff will operate at their best when they are confident that complaints are dealt with fairly.

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14.0 CONCLUSION

There has been a steady intake of complaints in the first two quarters but only five have been upheld. There is some reassurance that despite the small amount upheld that there has been no SPSO activity in this period or for the previous quarter. Some of the recent activity may be as a result of the discomfort that providers feel as unfamiliar inspectors give feedback which has been neither welcome nor expected. The National Complaints team, as a result of upheld complaints, has recognised the need to improve the interface between complaints about registered services and inspection. Overall, the enhancements by Professional Standards of delivering workshops to staff and surveying staff involved are having a positive effect in changing the culture from one of 'resistance to complaints' to 'learning from complaints'.

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