

Jim Livingstone
Director of Safety, Quality and Standards



Department of
**Health, Social Service
and Public Safety**

www.dhsspsni.gov.uk

AN ROINN

**Sláinte, Seirbhísí Sóisialta
agus Sábháilteachta Poiblí**

MÁNNYSTRIE O

**Poustie, Resydènter Heisin
an Fowk Siccar**

Chief Executive of HSC Board
Chief Executive of Public Health Agency
Chief Executive of PCC
Chief Executive of HSC Trusts
Complaints Officers HSC Trusts
Chief Executive of RQIA (for distribution to
regulated establishments and agencies)
Northern Ireland Commissioner for
Complaints

Castle Buildings
Stormont Estate
BELFAST
BT4 3SQ

Tel: (028) 9052 2788
Fax: (028) 9052 0725

Email: jim.livingstone@dhsspsni.gov.uk
Circular HSC (SQSD) 23/2009

Date: 01 April 2009

Dear Colleague

RE: GUIDANCE ON COMPLAINTS HANDLING IN REGULATED ESTABLISHMENTS AND AGENCIES

1. The purpose of this circular is to revise existing arrangements (HSC (SQSD) 31/2007) for the handling and consideration of complaints received in relation to regulated establishments and agencies. It also outlines the arrangements for complaints handling for services new to regulation.

Complaints against Regulated Establishments and Agencies

2. The HSC Complaints Procedure applies equally to:
 - statutory residential care and nursing homes;
 - independent residential care and nursing homes where the placement is paid for by an HSC Trust;
 - children's homes (alternatively, complaints may be progressed under the "Children Order Representations and Complaints Procedure");
 - independent health care providers;
 - nursing agencies, adult placement agencies and domiciliary care agencies; and
 - residential family centres and day care settings (statutory provision and where care is purchased by an HSC Trust).
3. All regulated establishments and agencies must operate a complaints procedure that meets the requirements of applicable Regulations, relevant Minimum Standards and the HSC Complaints Procedure. This includes, publicising the arrangements for dealing with complaints, ensuring that any complaint made under the complaints procedure is investigated, making sure

that time limits for investigation are adhered to and complainants are advised of outcomes of the investigation. Complainants must also be advised of their right to refer their complaint to the Ombudsman if they remain dissatisfied with the HSC Complaints Procedure.

HSC Complaints Procedure

4. Complaints may be made by service users or by persons acting on their behalf providing they have obtained the service user's consent. Complainants should be encouraged to raise their concerns, at the outset, with the registered provider. The registered provider is required by legislation¹ to ensure the complaint is fully investigated.
5. Individuals placed in a regulated establishment or who have their service provided by a regulated agency may, if they prefer, raise their concerns through the HSC Trust who has commissioned the care on their behalf. The HSC Trust who has commissioned the care has a continuing duty of care to the service user and should participate in local resolution as necessary.
6. Where complaints are raised with the HSC Trust, the Trust must establish the nature of the complaint and consider how best to proceed. For example, the complaint may be about an aspect of the "care plan" and can, therefore, only be fully dealt with by the Trust. The complaint may also trigger the need for an investigation under child protection or protection of vulnerable adults procedures or indeed, might highlight non-compliance with statutory requirements. It is not the intention to operate parallel complaints procedures, however, if the RQIA is notified of a breach of regulations or associated standards it will review the matter and take whatever appropriate action that is required. It is important, therefore, that Trusts work closely with the registered providers, other professionals and the RQIA to enable appropriate decisions to be made.
7. HSC Trusts must assure themselves that regulated establishments and agencies which deliver care on their behalf are effective and responsive in their handling of complaints. Service users may approach the Ombudsman if they remain dissatisfied. It is possible that referrals to the Ombudsman where complaints are dealt with directly by the registered provider without HSC Trust participation in local resolution will be referred to the HSC Trust by the Ombudsman for action.

The Regulation and Quality Improvement Authority (RQIA)

8. The RQIA is an independent non-departmental public body. It is charged with overall responsibility for regulating, inspecting and monitoring the standard

¹ The Residential Care Homes regulations (Northern Ireland) 2005 (SR 2005 No: 161)
The Nursing Homes Regulations (Northern Ireland) 2005 (SR 2005 No: 160)
The Independent Healthcare Regulations (Northern Ireland) 2005 (SR 2005 No: 174)
The Nursing Agencies Regulations (Northern Ireland) 2005 (SR 2005 No:175)
The Children's Homes Regulations (Northern Ireland) 2005 (SR 2005 No: 176)
The Adult Placement Agencies Regulations (Northern Ireland) 2007 (SR 2007 No: 221)
The Day Care Setting Regulations (Northern Ireland) 2007 (SR 2007 No: 234)
The Residential Family Centres Regulations (Northern Ireland) 2007 (SR 2007 No: 236)
The Domiciliary Care Agencies Regulations (Northern Ireland) 2007 (SR 2007 No: 235)

and quality of health and personal social services provision provided by independent and statutory bodies in Northern Ireland.

9. All regulated establishments and agencies are required to provide RQIA, on request, with a statement containing a summary of complaints made during the preceding 12 months and the action that was taken in response.
10. The RQIA has a duty to assess and report on how the HSC and the regulated sector handle complaints in light of the standards and regulations laid down by the DHSSPS. RQIA will assess the effectiveness of local procedures and will use information from complaints to identify wider issues for the purposes of raising standards.

Protection of Children and Vulnerable Adults

11. Where it is apparent that a complaint relates to abuse, exploitation or neglect of a child or vulnerable adult then the regional Child Protection or Adult Protection procedures and associated interagency Protocols must be fully implemented.

Conclusion

12. HSC organisations should now move to fully implement these arrangements.
13. A revised flowchart on the handling of complaints is attached (Annex A).
14. Any queries about the circular should be directed, in the first instance, to Ms Paula McGeown (028) 9052 8321.

Yours sincerely



Dr J F Livingstone

HSC COMPLAINTS PROCEDURE

