

UKHCA response to Care Inspectorate consultation on complaints – February 2015

Care Inspectorate online questionnaire

[Care Inspectorate questions in bold]

Please read our draft procedure and complete this survey by **Saturday 28 February**.

1. Currently we do not attempt frontline resolution of complaints about registered care services. However, we do encourage complainants to use the Providers Complaints Procedure in the first instance.

In line with other public bodies should the Care Inspectorate have front line resolution in their complaints procedure for registered services?

In line with other public bodies should the Care Inspectorate have front line resolution in their complaints procedure for registered services?

Yes

No

Comment

United Kingdom Homecare Association (UKHCA) supports the resolution of adverse comments as near to the point of contention as is possible: the Provider's procedure should always be fully utilised in the first instance. UKHCA supports mediation concerning the resolution of Service Users' adverse experiences at any point within the health and social care system: to this end we consider that there is a valid role for the Care inspectorate to undertake a review of a service that has not met the expectations of the client. However, this has to be a balanced and reparative approach: there are frequently more than two parties involved in the delivery and experience of health and social care services. We consider that the role of the commissioners-of-care should form an integral part of any review and subsequent mediation of situations that have given rise to adverse comments about the performance of care services. This is because Providers are contractually required to deliver specific elements of care that are part of the broader spectrum of services that may be undertaken by a variety of agencies. Adverse comments about a service can therefore involve a number of Providers and agencies and in our experience this frequently concerns a situation where there has not been an integrated approach to the commissioning of care services. In such circumstances the 'lessons learned' are applicable and of value to the wider health and social care system. Furthermore, the resolution of adverse comments about a service should recognise that reconciliation of Service User preferences within the care package is not always possible due to contractual, financial or resource limitations imposed within a contract.

2. Currently we do not have mediation as a possible means of complaint resolution.

In line with other public bodies should the Care Inspectorate have mediation in their complaints procedure for registered services?

In line with other public bodies should the Care Inspectorate have mediation in their complaints procedure for registered services?

Yes

No

Comment

UKHCA comments to question 1 above apply equally to this question 2 with the addendum that the mediation and resolution of adverse comments should always take into account the implicit rights of care staff and their employers as well as the explicit rights of Service Users.

3. The request for a review of a complaint can only be made following a thorough complaint investigation and is only available to the complainant – not the registered service complained about.

We will only consider a request for review if it is done on the basis that we have not followed our own complaints procedure when investigating a complaint or that the investigation process itself was flawed.

We currently have one internal review process available to the complainant. They can request a review by a Care Inspectorate manager.

Should we introduce a review stage for the complained against?

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Yes

No

Comment

UKHCA considers that it is wholly inequitable that the service that has had adverse comments made against it is excluded from any stage of the deliberations. This is not a sound foundation for mediation or the development of a balanced approach to a learning environment for all contributors to the provision of care services. We do not consider that it is sufficient to restrict reviews to only those situations where there has been a "thorough investigation". We are left challenged by the implied message that sometimes *non*-through investigations are conducted.

4. Currently we only review complaints that have been not upheld. Should our review process be for all complaints whether or not they are upheld or not upheld?"

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Yes

No

Comment

UKHCA considers that the review of some adverse comments should be undertaken when there are issues that impact the efficient and effective function of the broader health and social care sector to the extent that improvements can be made arising from 'lessons learned': such as where inter-agency communications are demonstrably hindering the health, safety and well-being of all parties or where

resource allocation is incompatible with prescribed outcomes. The approach to Serious Untoward Incidents would be a useful 'model'. The only appreciable way of determining if an adverse comment fulfils such a requirement is if the Care Inspectorate undertakes a review of cases that fall within specified criteria, which must include those that have not been upheld. UKHCA members would welcome the opportunity to work with the Care Inspectorate to define such criteria and to develop a protocol for the review of such cases.

Have you any other comments on the draft procedure that you want to make?"



1. UKHCA is concerned that 'due process' must observe the rights of the Care Service Provider and/or the member of staff involved throughout the review period: it would be unfortunate if the process was seen to become a method of apportioning blame rather than working towards mediation, amelioration of systemic issues and the development of service improvement protocols across the spectrum of health and social care through 'lessons learned'.
2. UKHCA considers that all information should be openly shared between all parties throughout the process, paying due regard to commercial sensitivities, privacy and dignity.
3. UKHCA is concerned that the Right of Appeal / Review is restricted to the Complainant to the exclusion of the Provider and/or member of Staff and we consider this to be inequitable: we consider that there should only ever be 'one rule for all'
4. UKHCA members would welcome the inclusion of specific timeframe for the process to be completed, including timings for the different stages and an Appeal.
5. UKHCA members would welcome additional measures concerning the suspension of staff and the potential for inequitable treatment of employees that could lead to claims for unfair dismissal.
6. UKHCA would welcome the opportunity to enter into a dialogue with the Care Inspectorate to elaborate on various points within this consultation that are beyond the scope of this brief consultation exercise.