National Audit Office

# Feeding back? Learning from complaints handling in health and social care

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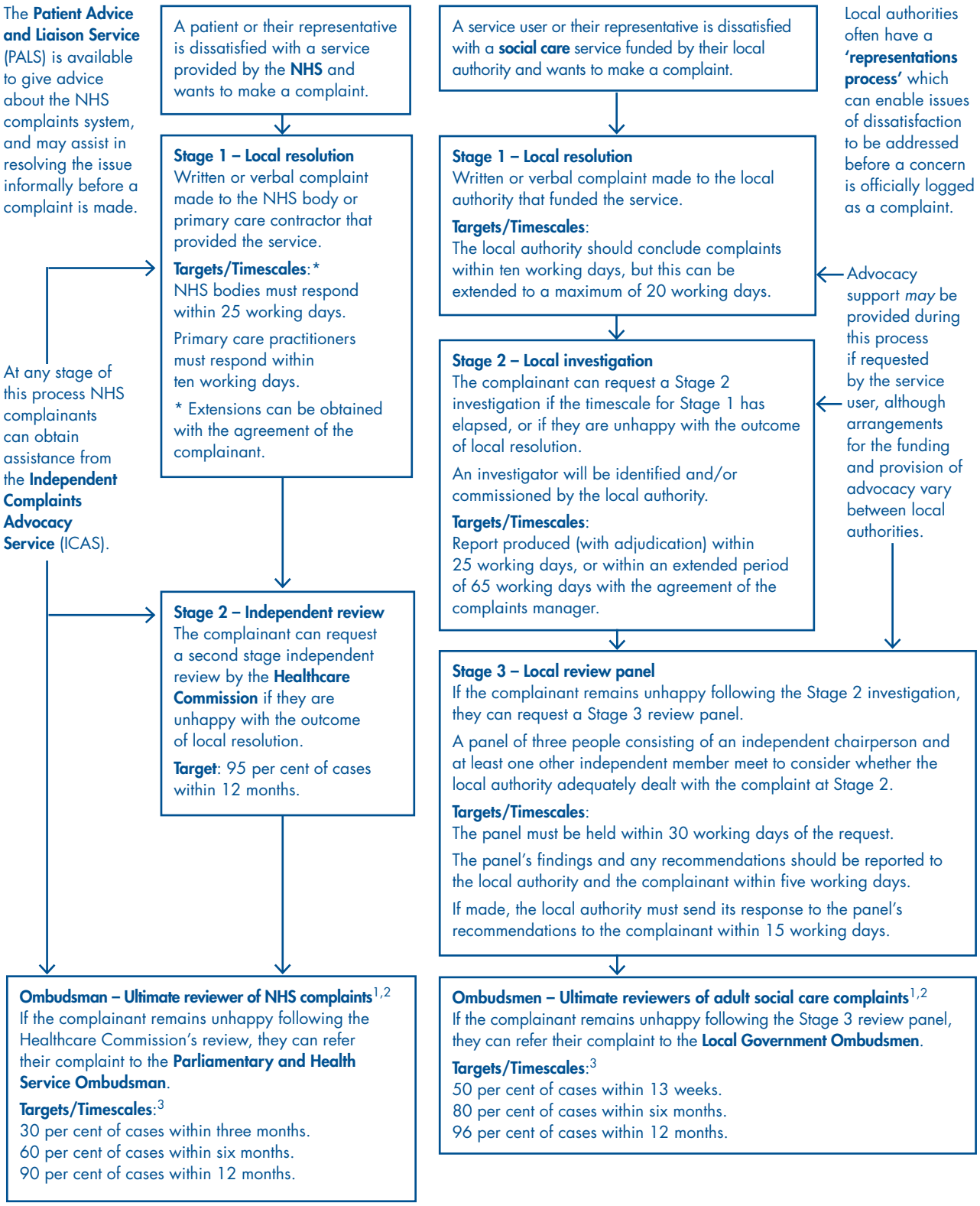
# SUMMARY

**1** There are currently two separate statutory processes for handling complaints about health and social care services **(Figure 1)**. The two systems have separate accountability processes, with NHS organisations accountable to the Department of Health (the Department) and social care services accountable through their local authority, to elected members. Responsibility for setting standards, priorities and policies for adult social care, however, rests with the Department. There are differences in the numbers of stages and timescales involved, and in the arrangements for advocacy support and independent investigation. The Health Service Ombudsman is responsible for the ultimate review and decision on NHS complaints and the Local Government Ombudsmen for social care complaints. There are also differences in the scale, extent and costs of complaints handling **(Figure 2 on page 6)**.

**2** Following independent national reviews of NHS complaints handling in 1994 and 2001, the Department introduced changes in 1996 and 2004. The latter included the introduction of an independent review role for the Healthcare Commission (in addition to its role as the health service regulator). For social care the system has evolved incrementally, with the Department carrying out national consultations in 2000 and 2004, culminating in reform of adult social care complaints handling in 2006 but without its regulator, the Commission for Social Care Inspection, having a role in complaints handling.

## 1 The two separate statutory processes for handling complaints about NHS and adult social care services




NOTES

1 The Regulatory Reform Order (2007) enables the Parliamentary and Health Service Ombudsman (PHSO) and the Local Government Ombudsmen (LGO) to work jointly on cases which cross the boundaries between their respective jurisdictions and to investigate and report on complaints jointly.

2 Complaints can be fast tracked to the PHSO and the LGO in certain circumstances.

3 The different performance measures for the PHSO and LGO reflect differences in their definitions of what constitutes an 'enquiry' and an 'investigation' and the different processes involved.

## 2 The extent and costs of NHS and adult social care complaints handling

### National Health Service

- The NHS in England provides care free at the point of delivery for 50.7 million people and over 1.5 million patients and their families are in contact with NHS services every day.
- In 2006-07, the Department spent £65.5 billion on NHS services. Care was provided by 171 acute trusts, 152 primary care trusts (PCTs), 58 mental health trusts, 12 ambulance trusts, and three care trusts. Chief executives are accountable through the Department of Health to Parliament. PCTs also commissioned services from 8,235 GP practices.
- In the last three years, 88 per cent of adults in England have had contact with the NHS. Thirteen per cent were in some way dissatisfied with their experience.

### In 2006-07

- The estimated cost of handling and review of NHS complaints was £89 million (excluding the Health Service Ombudsman).

The NHS

- Received 133,400 written complaints. Of these, 32 per cent (42,600) related to primary care services.
- Employed 880 whole time equivalent staff to handle complaints (an average of two per NHS trust).
- Concluded around 94 per cent of complaints locally, taking on average 23 working days.
- Spent an estimated £68 million on local resolution at an average cost of £640 per case.

The Healthcare Commission

- Accepted 7,696 complaints for independent review.
- Received £9.8 million in funding for complaints handling and concluded 9,932 cases at an average cost of £987 per case closed, taking an average of 171 working days.

The Health Service Ombudsman

- Accepted for review 862 complaints that had not been resolved by the NHS or the Healthcare Commission.
- Reported on 1,139 cases.

Advocacy support for complainants

- The Department spent £10.7 million providing a national statutory advocacy support service for complainants.

### Adult Social Care

- Following assessment of their needs, 1.75 million adults received one or more directly provided or commissioned social care services from their local authority in 2006-07.
- In 2006-07, 150 local authorities spent £15.1 billion on adult social care services. Social care services include support from social workers, personal services such as meals on wheels, and residential care. Local authorities are accountable for services to locally elected councillors.
- In the last three years, six per cent of adults in England have had contact with social care services. Fourteen per cent were in some way dissatisfied with their experience.

### In 2006-07

- The estimated cost of handling and investigation of social care complaints was £13 million (excluding the Local Government Ombudsmen).

Local authorities

- Received an estimated 17,100 complaints about adult social care services.
- Employed around 290 whole time equivalent staff to handle such complaints (an average of two per local authority).
- Concluded around 95 per cent of complaints at the first local stage, taking on average 17 working days.
- Spent an estimated £9.7 million on the first local stage at an average cost of £570 per case.
- Carried out Stage 2 investigations of 900 complaints at an estimated cost of £1.4 million, taking an average of 63 working days to conclude a case. The estimated cost of a Stage 2 investigation is £1,960.
- Held 200 Stage 3 review panels at an estimated cost of £0.2 million, or £900 per complaint.

The Local Government Ombudsmen

- Received 795 complaints relating to adult social care services that had not been resolved by local authorities.

Advocacy support for complainants

- There is no statutory or national provision of advocacy, although guidance issued in 2006 does encourage local authorities to provide it on request. Local authorities spent an estimated £1.3 million on advocacy support for complainants.

*Source: National Audit Office; Department of Health; Healthcare Commission; Health Service Ombudsman; Local Government Ombudsmen*

**3** Despite changes to the NHS complaints system, independent evaluations and inquiries such as the Health Service Ombudsman's 2005 report *Making things better?* and the Healthcare Commission's 2007 report *Spotlight on Complaints* indicated that problems remained. These included a lack of understanding about the NHS complaints process; confusion about how to complain; difficulty in navigating the complaints system; and people feeling intimidated and that their complaint would not be taken seriously.

**4** The January 2006 White Paper *Our health, our care, our say* set out the Department's commitment to make it easier for people to complain about their experiences of using health and social care services, improve the quality of responses received and improve services as a result. The Department proposed a new 'comprehensive, single complaints system across health and social care by 2009' focussed on resolving complaints locally with a more personal, and comprehensive approach to handling complaints, including complaints that cover both health and social care. This proposal is an important part of the Government's intention to bring the planning and management of health and social care services more closely together.

**5** The Department also confirmed its intention to merge the Healthcare Commission, the Commission for Social Care Inspection, and the Mental Health Act Commission from April 2009, to form the Care Quality Commission, and later announced that this new health and social care regulator would not have a role in the review of individual complaints but would examine the standard of complaints handling and the implementation of learning from complaints. Independent review will continue to be provided by the relevant Ombudsmen.

**6** The Department commissioned some small scale research in 2005 and issued a consultation document, *Making Experiences Count*, in June 2007 which recognised failings in the existing complaints systems and made proposals for how a single system might work in practice. There has, however, been no detailed evaluation of the effectiveness of the existing systems. We therefore undertook an independent evaluation of existing performance, capability, capacity and costs of complaints handling in both health and adult social care (methodology at Appendix 1). This report identifies the strengths and weaknesses of the current systems and the issues that will need to be addressed if the Department's ambition for a single comprehensive NHS and social care complaints system is to be realised.

# Findings

## On access and confidence in the systems

**7 Where people are dissatisfied, there is a low propensity for them to go on to make a formal complaint.** Our survey of people who had used NHS and social care services in the past three years found that around 14 per cent were in some way dissatisfied with their experience. Of these, only five per cent of people who were dissatisfied about the NHS went on to make a formal complaint compared to one third who made a formal complaint about adult social care services. The main reason people did not complain formally was that they did not feel anything would be done as a result.

**8 Once people have decided to make a complaint, navigating the complaints systems is not straightforward, particularly for health service users.** Over two thirds of those making a complaint were not offered any help in navigating the complaints process and a fifth said their experience was difficult. An April 2007 report by the Picker Institute on accessing information about health and social care found a lack of effective signposting and, that whilst there was no shortage of information, service users were often left to dig it out themselves and might not know what they needed to know. The Healthcare Commission has identified at least seven possible routes for complaints about health services.

**9 Only a small proportion of NHS complainants are aware of, or receive national advocacy support, and in social care advocacy depends on local arrangements.** In April 2006, the Department awarded nine, five year contracts to three providers for a statutory national Independent Complaints Advocacy Service (ICAS) (costing £10.7 million in 2006-07) to assist individuals to make a complaint against the NHS. Despite efforts to publicise the service, awareness is low (84 per cent of dissatisfied NHS service users who did not complain were unaware of the service). A total of 25,600 people contacted ICAS in 2006-07. Of these 7,600 (5.7 per cent of NHS complaints) received direct support, such as a home visit or assistance at a meeting, with the rest receiving some form of telephone support or advice. ICAS providers also carry out other activities such as outreach surgeries to raise awareness and provision of self help information through websites. Local authorities make their own arrangements for provision of advocacy services, so the support offered to complainants varies across the country.

## On organisational culture and attitude to complaints

**10 In 2007, the Health Service Ombudsman's annual report concluded that there is still a long way to go before complaints handling is taken as seriously as it should be across the NHS.** The Healthcare Commission found that few trusts capture and report data on complaints in a systematic way. Just under half of the trusts we interviewed analysed trends and patterns of complaints alongside information from incidents and claims to evaluate risks to quality and safety. Whilst chief executives of NHS trusts have a statutory responsibility to sign off responses to all written complaints, the degree of engagement with this task is variable, as is the engagement of trust boards, with the focus on numbers rather than outcomes.

**11 The culture and attitudes of the organisation are often a barrier to responsive complaints handling.** The approaches to complaints handling in health and in social care are different. These differences include the legislation, eligibility for services and accountability arrangements. Nevertheless, in both sectors a defensive response to a complaint is often a barrier to handling it effectively.

**12 Support provided to staff who are the subject of a complaint is variable.** Training in complaints handling for front-line staff varies from mandatory training in a quarter of local authorities and NHS trusts, to ad hoc sessions. Staff may, however, have access to support in other ways such as counselling, and through professional bodies and unions.

**13 Neither health nor social care organisations know the cost of complaints handling.** Less than one third of trusts and local authorities were able to provide information on costs. Neither the Department nor local organisations are well placed, therefore, to assess the cost implications of the new arrangements, for example NHS trusts' need for independent clinical input following the removal of the Healthcare Commission's independent review role.

## On the time taken to respond to a complaint and the adequacy of the response

**14 Pursuing a complaint requires a personal investment of considerable time, determination and resilience on the part of the complainant.** At the local resolution stage three quarters of complaints are concluded within 20-25 working days. For those that progress to the second, independent stage in respect of NHS complaints, the Healthcare Commission took on average 171 working days to respond, and social care an average of 63 working days. For those who take their complaint to the respective Ombudsmen, the need for a fair and proportionate review means that it inevitably takes longer to reach a final outcome. There are no data on how many people withdraw from the process despite being dissatisfied with the response they have received.

**15 Most local authorities and two thirds of NHS organisations seek to identify complainants' expectations at an early stage providing the opportunity to identify complaints which could be resolved quickly.** Whilst direct early contact with the complainant is one of the most important factors in resolving complaints satisfactorily, one third of trusts deal with complaints without assessing the expectations of the complainants. In some cases, a simple acknowledgement, apology or promise to improve the service may be all that is required. Of 10,950 reviews completed by the Healthcare Commission in its first two years, a fifth simply wanted an apology or recognition of the event.

**16 Only 59 per cent of respondents to our survey felt that their complaint had been received in an open and constructive manner.** Which? research on hospital complaints found that whilst most people who had made a formal complaint were pleased they had done so, only 27 per cent were happy with the way their concerns were dealt with. The Healthcare Commission's 2008 report *Spotlight on Complaints* found that procedures at the local level were not satisfactory in around half of the cases that it reviewed and that letters on the outcome were often of poor quality.

## On the effectiveness of the systems for complainants dissatisfied with the initial response

**17 The Department and the Healthcare Commission significantly underestimated the demand for independent review by the Healthcare Commission, leading to considerable difficulties in fulfilling this function in the first two years.** The Healthcare Commission assumed its responsibility for independent review in July 2004. From the outset, it received more than double the numbers expected and a backlog quickly built up which continued to grow until May 2006. There were also delays in establishing a cohort of clinical experts to provide advice on cases.

**18 A report on feedback from complainants and NHS complaints managers on the handling of cases closed by the Healthcare Commission between July 2005 and July 2006 identified concerns over timeliness and quality of responses.** This was the time when the backlog was at its highest. The 2007 report, which the Healthcare Commission instigated, found that complainants believed they had received a poor service as the Commission was initially very slow at reviewing complaints and complaints managers felt that the quality and consistency of reviews was variable. Nevertheless, two thirds of complaints managers who had received recommendations from the Healthcare Commission said they found them very or fairly useful.

**19 The Healthcare Commission took two years to meet its target to close 95 per cent of cases within 12 months but since June 2006, its performance has steadily improved.** In May 2006, the number of open cases reached a peak of 5,384, with 835 over 12 months old. By March 2008, the number of open cases had reduced to 1,474, of which only six were over 12 months old. One reason for the improvement was an increase in complaints handling staff from 24 in July 2004 to an average of 160 since July 2006. The Healthcare Commission also increased clinical advice input and improved its processes in the light of experience. Although it continues to receive around 700 complaints a month, for cases received since June 2006 it has consistently met its target to close 95 per cent within 12 months. Ninety five per cent of cases now take less than seven months to conclude.

**20 Local authorities struggle to meet the required 25 working day response time for second stage investigations.** Between October 2006 and March 2007 local authorities responded to less than a quarter of stage two complaints within 25 working days. The timescale can, however, be extended to 65 working days and local authorities responded to 81 per cent of complaints within this extended timescale. The main barriers to meeting the timescales were setting up interviews with staff and the complexity of the complaint.

**21 The Local Government Ombudsmen and the Health Service Ombudsman are an essential part of the independent investigation of complaints handling.** In 2006-07, the Health Service Ombudsman accepted 862 new cases for investigation. Fifty two per cent of complaints (excluding those about continuing care) were fully or partly upheld in favour of the complainant. The Local Government Ombudsmen received 795 complaints on adult social care. The complaints received by the respective Ombudsmen vary greatly in character and complexity and can raise issues of difficulty and importance, such as continuing care funding. In the more straightforward cases, a decision will take less than six months; where matters are complex it will necessarily take longer.

## On learning lessons from complaints to improve complaints handling and improve services

**22 Social care complaints managers have a well established support network but neither the NHS nor social care have any formal means of capturing cross-organisational learning.** In social care, the National Complaints Managers Group provides a strong support network for sharing learning but these lessons are not captured in any formal way. In September 2006, the Department established a joint 'Voices for Improvement Action Network' (VIAN) to foster closer working relationships across health and social care and to improve management of, and leadership for, those working on complaints locally. Levels of activity are currently variable, with some parts of the country holding active VIAN groups and others where VIAN has not been heard of. There is also a lack of methods for capturing learning, such as toolkits, an interactive website, or a good practice database.

**23 There is scope to make better use of complaints data to improve services locally.** Over 90 per cent of local authorities and NHS trusts stated that they had a clearly defined system in place for learning from complaints. The Healthcare Commission found, however, that although complaints data may lead to one-off changes to service delivery these are not necessarily shared across trusts or health economies. Our survey found that only one third of complainants considered that the organisations they had complained about had demonstrated that lessons had been learned as a result of their complaint. The Healthcare Commission also found that in many cases trusts had genuinely learned from complaints but did not tell the complainant. NHS and social care complaints managers told us that they could do better in monitoring and implementing recommendations from complaints.

## Conclusion on value for money

**24** An effective complaints function is important in keeping people's faith and trust in services and is an essential building block of a high performing organisation. It can also provide the organisation with assurance about the safety and quality of service provision. A good complaints system needs to be accessible, responsive and demonstrate that lessons are being learned. The Department recognised in its June 2007 consultation document, *Making Experiences Count*, that this was not yet the case in the NHS. Our findings confirm this view. There is, in particular, confusion as to how to access and navigate the complaints system; a lack of public confidence in the system; concern over the time taken to respond to complaints; a failure to find a sustainable and effective independent resolution stage; and limited sharing of lessons within and across NHS bodies.

**25** In adult social care, people who are dissatisfied with services are more likely to know how to complain and consequently go on to complain. However, the social care complaints system has a number of shortcomings. These include: few complainants receiving advocacy services; limited evidence that lessons have been learned and services improved as a result of complaints; and a lack of monitoring of satisfaction with handling and outcomes. There is also a need for a stronger voice for those who receive services in their own homes or in registered care homes.

**26** Overall, data on the costs of complaints handling are poor. The main evidence of efficiencies is that health and social care processes conclude around 95 per cent of complaints in an average of 23 and 17 days respectively; but our evaluation suggests that the current systems do not meet the criteria for an effective complaints system of being accessible, responsive, and demonstrating that lessons are being learned.

## Recommendations

**27** Following the consultation on *Making Experiences Count*, which was conducted in parallel to our evaluation, the Department initiated a number of activities to facilitate a smooth transition to the new complaints handling arrangements (Part 4 refers). The intention is that organisations will be free to determine local 'fit for purpose' arrangements within the framework described in *Making Experiences Count* and that the Department will subsequently produce good practice guidance prior to wider implementation in April 2009. We have identified specific issues that we believe the Department will need to address if its reforms are to be effective. We have also identified the key features that we believe are needed for effective local complaints handling.

### Issues for the Department of Health

**a** *The infrastructures for the two complaints systems have different legislative frameworks, accountability arrangements, numbers of stages and approaches to independent review.* **The Department** needs to promote awareness of how these differences will be addressed in the new system, including the responsibilities and accountabilities of local leadership and the support services on offer, and explain the new complaints arrangements to the public, service users, carers and providers of health and social care services.

**b** *Potential demand is understated by the current volume of complaints in health and social care.* **The Department** should model the potential demand for complaints handling under the new system and its impact on the capacity of local organisations to meet this demand, including the need for advocacy support, using information from its early adopter sites. It should also clarify the costs of the new system that it intends to meet nationally and those that it expects local organisations to meet.

**c** *The removal of the Healthcare Commission's independent review stage requires NHS trusts to improve the capability and capacity of their complaints handling functions.* **The Department** needs to evaluate the early adopter pilots to identify and share specific examples of good practice so that trusts are able to determine the most appropriate, fit for purpose means of investigating individual complaints.

**d** *There are variations in the approach to the investigation of social care complaints locally, with a mix of internal and external investigators and a lack of standards for investigations or investigators.* **The Department** needs to work with VIAN and the new regulator to put in place minimum standards that should apply to investigations across health and social care. For example: on skills and training of complaints managers; quality of clinical advice; and safeguards to prevent long delays creeping into the system.

**e** *There is currently limited dissemination of lessons on how services have been improved as a result of learning from complaints.* **The Department** needs to develop a mechanism for capturing and disseminating lessons for service improvements as a result of complaints at the local level, and for identifying general patterns across all complaints. It should consider whether similar arrangements to those introduced to address concerns over lack of learning from patient safety incidents, which involved the establishment of the National Patient Safety Agency, could be introduced for complaints to improve quality and safety of services.

**f** *The Department's existing core standard on complaints handling requires NHS organisations to act on concerns and make improvements in service delivery as a result of complaints.* As suggested by the Healthcare Commission and the Health Service Ombudsman, **the Department** should strengthen this standard by making it a requirement for registration with the new Care Quality Commission that health and adult social care providers can show evidence of consistently acting on complaints.

**g** *Networks of complaints managers can provide valuable support in improving complaints handling. The Department's attempt to establish a joint network (VIAN) in 2006 has not generated the intended commitment, cooperation and learning.* **The Department** should re-invigorate the existing VIAN infrastructure to underpin the single comprehensive complaints system so that a clear framework is in place which will support and encourage the ongoing development of learning between complaints managers locally, regionally, and nationally.

**h** *The removal of the Healthcare Commission complaints function will leave a legacy of cases which will need to be concluded.* **The Department** is in discussion with the Health Service Ombudsman and the Healthcare Commission on how to handle the likely handover workload which will remain and should identify how these cases will be dealt with without undue delay. It should communicate clearly the transitional arrangements to trusts, local authorities and, crucially, the public to reduce the risk of confusion in moving to the new system.

## Key features of effective local complaints handling

**i Establish an open and constructive complaints handling culture with commitment and leadership from senior management.** They should communicate to staff the importance of complaints as a key indicator of service users' experience and the expectation that complaints should be handled in a timely and responsive manner. The culture and attitude of the organisation can be a barrier to good complaints handling. Staff who are the subject of a complaint should also be provided with appropriate support.

**ii Equip complaints managers with the requisite skills and training based on standards and guidelines agreed by VIAN.** Complaints managers should also be given the authority and clout to deal with complaints effectively. Visible, senior management support will help ensure that complaints are handled effectively.

**iii Provide all front-line staff with the skills and confidence to respond to concerns and complaints in an open and constructive manner, including training in customer service and complaints handling.** Focussing on the early and prompt response to concerns can avoid, to an extent, escalation into a formal complaint.

**iv Provide clarity to service users about how to make a complaint and how, in general, their complaint will be handled.** This should include explanation of the different avenues such as email, telephone, letter, and informal approaches to resolving complaints, guidance about the availability of advocacy support, and clarity about the route to be followed in the event that the complaint crosses the boundaries of health and social care.

**v Establish and document complainants' expectations at the outset and track any changes in expectations to increase the opportunity to resolve complaints quickly.** Provide information to each complainant about how long it is likely to take to handle their complaint; what they might expect by way of communication during the investigation and on conclusion; what remedies are open to them; and what to do should they remain dissatisfied with the outcome.

**vi Have a tracking system which captures details about the time taken to respond, costs incurred, issues and themes, evidence of action taken and, if relevant, changes to services as a result of complaints.** Use this information to provide feedback to staff and service users on the organisation's performance and the outcomes secured in order to reinforce a constructive culture in complaints handling. Likewise, have regular reports to the board using both qualitative and quantitative information on the outcomes of significant complaints, details of changes made and complainant satisfaction surveys.

**vii Develop comprehensive approaches to obtaining feedback from complainants about the way complaints have been handled and their satisfaction with outcomes.** This feedback should be used to identify the strengths and weaknesses of local resolution from the users' perspective.

**viii Publicise the implementation of recommendations, service changes and improvements arising from complaints.** Making the outcomes known can promote public confidence in the value of complaining and reassure service users that it can make a difference.

**ix Assess and monitor the number, type, severity and outcome of complaints received by providers of commissioned services.** Commissioners of services should monitor whether providers encourage feedback from service users and how they address concerns.

**x Benchmark performance on complaints handling both within and between similar organisations.** Benchmarking can provide organisations with assurance on performance, including whether they are deploying the right capacity on complaints handling and the quality of the resources used, and whether they are receiving more or less complaints than might be expected. As a starting point, organisations should build on the information we have provided in our individual feedback reports.