



Northern Ireland

Public Services

Ombudsman

Investigation Report

Investigation of a complaint against the Southern Health and Social Care Trust

NIPSO Reference: 21173

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The Role of the Ombudsman

The Northern Ireland Public Services Ombudsman (NIPSO) provides a free, independent and impartial service for investigating complaints about public service providers in Northern Ireland.

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act). The Ombudsman can normally only accept a complaint after the complaints process of the public service provider has been exhausted.

The Ombudsman may investigate complaints about maladministration on the part of listed authorities, and on the merits of a decision taken by health and social care bodies, general health care providers and independent providers of health and social care. The purpose of an investigation is to ascertain if the matters alleged in the complaint properly warrant investigation and are in substance true.

Maladministration is not defined in the legislation, but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

The Ombudsman must also consider whether maladministration has resulted in an injustice. Injustice is also not defined in legislation but can include upset, inconvenience, or frustration. A remedy may be recommended where injustice is found as a consequence of the failings identified in a report.

Reporting in the Public Interest

This report is published pursuant to section 44 of the 2016 Act which allows the Ombudsman to publish an investigation report when it is in the public interest to do so.

The Ombudsman has taken into account the interests of the person aggrieved and other persons prior to publishing this report.

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SUMMARY Case Ref 21173

The complaint concerned the actions of the Southern Health & Social Care Trust (the Trust), when determining that the complainant's daughter, Miss A, must pay a client contribution charge towards her short break provision. The complainant believed that as his daughter was receiving a direct payment to organise her short break, and was not availing of a service within a residential home, she should not have been subject to the charge. In addition, the complainant believed that the Trust inappropriately used Residential Home A as a benchmark for costing his daughter's respite provision, even though he contended that the facility did not meet his daughter's needs.

The challenges associated with transitioning from child to adult services are well documented. In this case, Miss A went from a children's facility which was fully equipped to meet her needs to an adult social care landscape with much less choice available. This meant that securing a suitable facility to provide respite and to nurture the well-being of both Miss A and her carers to the satisfaction of both the Trust and the family was not possible.

I investigated this complaint and found maladministration in relation to the Trust's failure to have a policy or guidance directly addressing a scenario covering its procedure regarding applying a contribution charge in a situation whereby respite is taken within the family home or within privately rented accommodation rather than within a residential/nursing home. I recommended that the Trust cease deducting the contribution charge from the payments made towards the complainant's daughters short break provisions and that any monies deducted in this manner to date be paid to the complainant within 6 months from the date of this final report. I also informed the Trust of my intention to bring my findings and conclusions on this matter to the attention of the Department of Health and other Health and Social Care Trusts in Northern Ireland.

I understand the concerns expressed by the family that the facility chosen by the Trust to benchmark the short break payments did not, in their view meet the needs of their daughter. I also fully appreciate their reasons for choosing direct payments to organise and secure a bespoke package of care for their daughter. However I did not uphold the complaint in relation to the Trust's decision to use Residential Home A as a benchmark for assessing the patient's short break payments.

Having considered the nature and extent of the injustice sustained by the complainant in consequence of the maladministration identified in this report, I further recommended that the Trust review and update its current policies and guidance and the payment of a 'contribution charge' to include action to be taken in the case when respite is to be taken outside of a residential/nursing homes as against legislation as it currently exists.

Additionally I brought to the Trust's attention the following learning / service improvements as referenced by the independent professional advisor. The Trust should undertake a needs analysis of its Learning Disability population who require respite / short term care and their range of unique needs to develop a wider range of Trust based facilities, with smaller bed numbers, to meet these needs to sit alongside the Trust Options Appraisal of Short Break Beds undertaken in February 2020 to ensure the Options paper considers the service users needs. I also recommended that in this particular case the Trust should give consideration to the assessment of 'respite' as being seen against the additional parental caring roles in the family when the patient is removed for their respite.

THE COMPLAINT

1. The complainant raised the complaint on behalf of his daughter, Miss A who has *'complex medical and care needs including a primary diagnosis of autism, severe learning disabilities and bipolar affective disorder.'* The complainant receives direct payments¹ from the Trust to manage his daughter's respite care provision². Miss A's short breaks are taken in her own home and in property privately rented by the complainant with carers funded by the complainant from the direct payments received.
2. The complainant believed the Trust should not charge his daughter a client contribution charge³ for her short break provision. He believed this charge is not reasonable, as Miss A does not enter a residential home to avail of a service, but rather receives direct payments to organise her own short break. He also believed the Trust inappropriately used Residential Home A as a benchmark for costing his daughter's short break provision. The complainant believed this facility does not meet his daughter's needs. Therefore, he considers the comparison with Residential Home A is incorrect.

Issues of complaint

3. The issues of complaint which I accepted for investigation were:

Issue 1: Did the Trust appropriately apply a client contribution charge to the short break provision?

Issue 2: Was the Trust's decision to use Residential Home A, as a benchmark for assessing short break payments, appropriate and reasonable?

¹ Payments for people assessed as needing help from social services, who would like to arrange and pay for their own care and support services, instead of receiving them directly from the local trust.

² A short break is time away from the normal day-to-day living. It is time for a carer to have a break from caring for their relative.

³ An assessment made by the Trust, to determine how much an individual will pay towards their residential/ nursing home fees.

INVESTIGATION METHODOLOGY

4. In order to investigate the complaint, the Investigating Officer obtained from the Trust documentation on the relevant guidance and policies relating to direct payments together with the Trust's comments on the issues raised by the complainant. The Investigating Officer also obtained a copy of the Trust's complaints file and assessments of Miss A's needs carried out by the Trust. The Deputy Ombudsman and Investigating Officer also met with senior Trust staff to clarify the system of flexible payments and how they are applied in relation to respite care.

Independent Professional Advice

After consideration of the issues, I obtained independent professional advice from the following independent professional advisor (IPA):

- Social Work Advisor (SW IPA) with 30 years' experience in sourcing and placing persons in need of residential and nursing care, both full time, part time, respite, temporary and permanent. This involved the consideration of the cost of placement, client contribution as well as the suitability of the placement to meet the holistic needs of the person and their family.

The clinical advice I received is enclosed in Appendix three to this report.

The information and advice, which informed my findings and conclusions, are included within the body of my report. The SW IPA provided me with 'advice'; however how I weighed this advice, within the context of this particular complaint, is a matter for my discretion.

Relevant Standards

5. In order to investigate complaints, I must establish a clear understanding of the standards, of both general application and those, which are specific to the circumstances of the case.

The general standards are the Ombudsman's Principles⁴:

⁴ These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman

The Principles of Good Administration

The specific standards are those that applied at the time the events occurred, and which governed the exercise of the administrative functions and professional judgement of Trust and individuals whose actions are the subject of this complaint.

The specific standards relevant to this complaint included, but were not limited to:

- Southern Health and Social Care Trust's Adult Services, Setting the Context for the Flexible Short Breaks (Direct Payments/ Self Directed Support) Fact Sheet, dated 28 June 2017 (Short Break Fact Sheet);
- Southern Health and Social Care Trust's Charging for Residential Accommodation Guide April 2014;
- Summary of changes to Direct Payment October 2009;
- Guidance for receiving Direct Payments 2008;
- Direct Payments Information briefing;
- Adult Trust Assessment and care Planning of Service Users in their own homes, in Supported Living, or in Residential or Nursing Homes Operational Procedures and Guidance (July 2015);
- Charging for respite 2019/2020;
- Guidance for Paying for Care in Residential/Nursing Homes Booklet 2018/2019; and
- Department of Health's Charging for Residential Accommodation Guide, April 2014 (CRAG).

6.I did not include all of the information obtained in the course of the investigation in this report but I am satisfied that everything that I consider to be relevant and important was taken into account in reaching my findings. In accordance with the NIPSO process, a draft copy of this report was shared with the Trust and the

complainant for comments on factual accuracy and the reasonableness of the findings and recommendations.

I shared a copy of this report in draft form with both the complainant and the Trust and invited their comments. The complainant generally welcomed the findings and conclusions while continuing to express his concerns and disagreement over the Trust's decision to use Residential Home A as a benchmark for assessing short break payments. The Trust accepted my findings and conclusions.

I provide more detail on the Trust and the complainant's response to receipt of a copy of this report in draft form at the conclusion of this report.

INVESTIGATION

Issue 1: Did the Trust appropriately apply a client contribution charge to the patient's Short Breaks?

Detail of Complaint

7. The complainant brought the complaint on behalf of his daughter, Miss A, who suffers from complex medical needs, including autism, severe learning difficulties and bi-polar affective disorder. The complainant receives direct payments from the Trust, on behalf of his daughter, to manage her short breaks. He believes that the Trust should not charge his daughter a client contribution, as she takes the short breaks within her own home or in privately rented accommodation.

The complainant said that from December 2018 the Trust has deducted a client contribution charge equivalent to just over £80 per week for each week she spends in her own home under the short break budget. He said that he has not been provided with any legal or ethical justification for this, rather he only received a general reference to the Trust's power or duty to charge this.

Evidence Considered

8.1 considered the Flexible Short Break (Direct Payments/Self Directed Support) Fact

Sheet 2017:

The rationale for offering this flexible short break opportunity as a personal budget based alternative for individuals who are either not willing to consider bed based short break provision or who are unhappy with their current bed based provision, is to support people by offering increased choice and control thereby avoiding a crisis scenario leading to a breakdown in the caring role and potential increase to weekly package of care or demand for emergency short break placements.

What is the definition of a short term break?

9. A short break is defined as time away from the normal day to day living... This is time for the carer to have a break from caring for their relative... A break can be any activity that gives time away from caring responsibilities, in any location that you and the cared person choose...

How do I get a direct payment for a short term break?

10.... The Case Manager will carry out an assessment of the Carer's needs...

How much money can I expect to receive?

11. Once the Case Manager has confirmed that you would benefit from a short break service, and that you would prefer this service via a Self Directed Support or Direct Payment route... s/he will identify the value of the service the Trust will offer you to meet your need over a 12 month or an agreed period. The value of the service will be based on the equivalent cost of the Trust providing a bed based respite minus the care for person's contribution...

Recipients must sign a Scheme Agreement and adhere to the terms and conditions of the Agreement...

ADDENDUM FOR STAFF ONLY...

Calculating Short Break Payments – Examples...

12. Example 3 – Service User is already in receipt of a Direct Payment to purchase domiciliary care

Agreed flexible short breaks payment is made in addition to current direct payment, but

will not exceed the cost of a nursing/ residential home bed, less client contribution.

**N.B. Where the Service user is already in receipt of a high cost package, consideration must be given to the genuine need for a short break and the complexity of the case...*

13. I considered a letter from the Trust to the complainant, dated 24 January 2018:

'Findings from Direct Payment Review...

- *[The patient's] flexible short break payment was calculated based on the daily rate which Residential Home A Residential Village were charging the Trust in 2016 to provide bed based short break provision for [the patient]. Their daily rate (24 hour period)... was £259.69. The community team has agreed a short break allocation of 72 nights per year... The agreed flexible short break payment is calculated on the basis of: £259.29 (daily rate) x 72 (agreed number of nights per annum) totaling £18,668.88.*
- *Client contributions of £80.45 (weekly charge) has not been deducted at source from previous calculations of flexible short break payments. This equates to an annual payment of £827.08 ((10 weeks at weekly rate of £80.45)+ (2 days at daily rate of £11.49))*
- *The actual flexible short break payment should be £17,841.80 (£18,668.88... minus £827.08 (client contribution)).'*

14. I considered a letter from the Trust's Legal Advisor in response to a letter from the complainant of 18 December 2018

'You have asked me to clarify the position as to the legislative basis upon which the Trust relies for the client contribution charge. I refer to the Carers and Direct Payments Act (NI) 2002. In particular, I would refer you to Section 8(3) which provides as follows;

'Regulations under this section may, in particular, make provision –

c) For the authority to make for the purposes of subsection (4) or (5) such determinations as to-

I) the payees means; and

II) the amount (if any) which it would be reasonable practicable for him to

*pay to the authority by way of reimbursement or contribution,
As may be prescribed'...*

I would refer to the Personal Social Services and Children's Services (Direct Payments) Regulations (NI) 2004 and in particular, Regulation 5(2) which provides as follows;

'For the purposes of making the payment... the authority shall determine, having regard to the prescribed person's means, what amount (if any) it is reasonable practicable for him to pay towards the provision of the relevant service whether by way of reimbursement... or by way of contribution...'

I considered a Trust document titled Charging for Respite which states '*Clients entering Residential/Nursing Homes will be expected to contribute towards the cost of their respite care in accordance with the Health & Personal Social Services (Northern Ireland) Order 1972*

The Trust's response to enquiries

Short Break Payments

15. The Trust stated that it '*sought legal advice on the payment methodology used for flexible short breaks. This advice was considered as part of the approval process by the Trust's Senior Management Team when approving the Flexible Respite Direct payment Factsheet.*'

As per Example 3 in the Short Break Fact Sheet, the Trust stated that '*the Trust team had to make a decision about whether to award an enhanced level of flexible short break funding. Those working with [the patient]... believed there was a solid justification for offering a higher level of care, and they recommended that discretion be applied in her case... The Budget Holder in consultation with the Case Manager agreed in this instance to use their discretion to award [the patient] the enhanced funding.*' The Trust stated that '*not every Service User is awarded an enhanced level of care... offering this discretion... demonstrates our best intentions towards [the patient] and her family.*'

Client contribution

16. In responding to enquiries The Trust stated *'A client contribution is where Clients entering Residential / Nursing Homes will be expected to contribute towards the cost of their short break provision (formerly respite care) in accordance with the Health & Personal Social Services (Northern Ireland) Order 1972. Since the establishment of Direct Payments and more recently with the implementation of Self-Directed Support, the Trust continue to support current practice which is in line with other HSC Trusts and endorse a universal deduction of the client contribution from individual budgets for Flexible Short Breaks.*

17. The Trust stated that the *'client contribution is outlined in the Carers and Direct Payments Act (NI) 2002 and the Personal Social services and Children's Services (Direct Payments) Regulations (NI) 2004. The regional weekly rate for client contribution is outlined in the Charging for Respite 2002/2021 at £82.11 (amount adjusted each financial year), The Flexible Respite Short Breaks Fact sheet, Charging for residential accommodation April 2014, Guidance for Paying for Care in Residential/ Nursing Homes Booklet 2020/2021 all detail the Trust's consideration and decision making when determining that all service users under the age of 60 years must pay £82.11.*

18. In further explanatory correspondence the Trust stated *'the reason why the client contribution was applied when the short break was in the family home / private rental accommodation is clearly set out in the parameters on the Flexible Respite Direct Payment Fact Sheet (2017). Trust staff have followed those parameters as agreed with the Trust Senior Management Team (SMT) in 2017. The principles for carers / families availing of a short break remain the same, regardless of whether that short break is within a care home setting or in their own home. This practice is applied equally across all adult services within the Southern HSC Trust. The decisions taken are in accordance with the Flexible Respite Payment Fact sheet and process agreed across all adult services in the Southern HSC Trust. The Trust can confirm that (Miss A) was entitled to a Flexible Respite / Short Break – as per definitions laid out in the Flexible Respite Direct Payment Fact Sheet (2017). The family were offered a range of options however chose the 'Short Break' to take place in her home / place of residence which was separate to the Core family home. The same threshold / eligibility applies whereby (Miss A) was subject to the universal deduction of the client contribution from individuals budgets for Flexible Short Breaks. It does not state this 'Short Break' should take place in a Private*

Nursing or Residential Home– but rather somewhere ‘away’ from the physical, emotional and practical elements of caring.

Relevant Independent Professional Advice (SW IPA)

19. The SW IPA advised that a direct payment is a payment ‘given directly to the person / carers to enable them to have more flexibility in paying for their care and / or choice of short term breaks. It is governed by the Carers and Direct Payments Act (NI) 2002, Personal Social Services and Children’s Services (Direct Payment) Regulations (Northern Ireland) 2004 and in DHSSPSNI Direct Payments: Guidance for Boards and Trusts (April 2004). DHSSPSNI: A Guide to Receiving Direct Payments. Revised Nov 2008’.

20. The Direct Payment was made in this case to the father of the patient as she was lacking capacity to consent as per Department of Health guidance 2009. The father was provided direct payment from Easter 2016 for 25 hours which was an increase of 9 hours by Adult Services following on from her transfer from the responsibility of Children’s Services. The SW IPA noted that the Trust applied its discretion to fund for a higher level of care in this case.

21. The SW IPA advised that a client contribution is what a person has to contribute to the cost of their respite care in residential / nursing home. The legal basis of this charge is the Carers and Direct Payments Act (NI) 2002, Personal Social Services and Children’s Services (Direct Payment) Regulations (Northern Ireland)2004 and in DHSSPSNI Direct Payments: Guidance for Boards and Trusts (April 2004). DHSSPSNI : A Guide to Receiving Direct Payments. Revised Nov 2008. The SW IPA explained that the Trust arrangements for 2019/2020 financial year were set at for those clients under 60 years from 1 April 2018 to 14 April 2019 at £81.38 and from 15 April 2019 onwards at £82.11 per week. Respite exceeding 8 weeks within the financial year would be means tested. The SW IPA stated that a client contribution applied in this instance as the client was accessing short break provision, in keeping with all other Trusts in Northern Ireland.

22. In responding to the question as to if it was fair to apply a general contribution charge amount, the SW IPA advised that clearly having a ‘one size fits all’ approach to client

contribution is not client bespoke centred and as such many will feel more disadvantaged than others depending on their circumstances. An individualised assessment of client contribution would be the ideal scenario but this is not feasible to then manage the finances of the facilities. A general contribution ensures a baseline of costs covered for the facility. The SW IPA further advised that, the client contribution is based on the client paying as if they were in receipt of respite in a nursing or residential home arrangement.

Meeting with Trust Staff

23. As part of the investigation of this complaint, the Deputy Ombudsman and Investigating Officer met with a number of senior Trust staff members. The purpose of the meeting was to seek clarity on the system of flexible payments and how they were applied in relation to respite care

24. The Trust explained that flexible direct payments were a system of attempting to provide for the needs of people in changing times and to meet their varying needs. Any charges applied are applied equally to all users and that the context was set out in the Trusts leaflet 'Setting the context for the flexible Short Breaks (Direct Payments/ Self-directed Support) Fact Sheet 2017 (paragraph 18 of this report)

25. The amount of deduction is based on age, and the deduction is applied to all direct payments not just those which are in relation to bed based respite solutions. The system came out of the CRAG guidelines (Charging for Residential Accommodation Guide) and have been applied from 2017

26. The Trust further explained that direct payments provide an alternative to bed based respite and give flexibility to the client and also more control. Payments are assessed against the need for respite and in lieu of bed based respite. The flexibility of the system enables a payment to be made so that alternative carers can be engaged or things such as a family holiday can be taken to give the respite. It was also explained that the system has to be seen in the context of an overall shortage of suitable beds both within the Trust and the private sector to provide respite.

27. The Trust staff emphasised that the direct payment system was based on equity to all service users beyond the scope of CRAG but accepted that specific legislation may not

have kept pace with how the system has developed and evolved to meet changing needs. The parameters of CRAG were perhaps not flexible enough and thus not fit for purpose in the Trusts attempts to provide bespoke care to its clients. Overall it was accepted that the broader strategic drivers are for more choice to be offered to clients and that legislation has not necessarily kept pace with this. The aim of the Trust is to provide an equitable standard and equality for all users within the budget available. Within the Southern Trust area (and throughout Northern Ireland) there is an acute shortage of bed based provision so alternative methods of care have had to be sought. The Trust stressed that the system in place does not have money saving as a motivation, the whole thrust of the direct payments support is to give carers options and alternatives outside of a limited bed based availability. It is an attempt to meet the needs of individuals. It is a relatively new, expanded service using old mechanisms such as CRAG as a guideline.

Analysis and Findings

28. The central element to this issue of the complaint, is the complainant's belief that a client contribution charge should not be taken from the direct payment monies which he receives to arrange a short break/respice for his family and daughter. He contends that the Trust is applying such a charge, as if his daughter was staying in a Trust run or Trust arranged residential/ nursing home, when in reality she stays either in the family home or in private accommodation privately arranged for by the complainant.

29. The Trust, in responding to this complaint, both to the complainant and to this office maintain that '*since the establishment of Direct payments and more recently with the Self Directed Support, the Trust continue to support current practice, which is in line with other HSC Trusts and endorse a universal deduction of the client contribution from individual budgets for Flexible Short Breaks.*' The Trust referred to legislation which it states reinforces its view.

30. What is not in dispute, in this particular case, is agreement on all sides that Miss A is a young adult with many needs who requires constant care both day and night. All the assessments carried out by the Trust over many years support this. It is also recognised and accepted by the Trust that the major portion of the care provided to Miss A is supplied by the parents. For this reason it is fully recognised by the Trust that short

breaks from their demanding role are required to support the complainant and his wife. The purpose of providing short breaks to carers, in addition to the obvious benefit of enabling them to return refreshed and reenergised to their caring role, also helps to avoid a crisis scenario whereby a breakdown in care would potentially arise leading to an increased demand for emergency interventions. In this case, it has proved impossible for the Trust and the complainant to come to an agreement as to where the short breaks for Miss A should take place. This has led to a situation where the Trust, in the absence of an agreed facility where respite would be provided, now provides the complainant with funds in the form of Direct Payments to arrange the short break provisions. The complainant has said that without a suitable local placement for overnight respite, from Easter 2016, he has either privately rented accommodation or Miss A has stayed in her own home during periods of respite, as he had funding for care workers but no agreed facility to go to.

31. The Trust stated that a self-directed support package of £291.50 per week is paid to the complainant to provide for Miss A's care needs. A sum of £1,374.48 per four weekly periods is paid to provide for short break provisions. Additionally the complainant can avail of funding in exceptional circumstances, such as, exceptional day centre closures or during difficult periods subject to carer assessments. Miss A also attends care five days per week.

32. In response to enquiries as to why a client contribution charge is applied to this package, the Trust has referenced what it considers to be the relevant legislation. I have examined the legislation referenced in order that I may gain an understanding of the Trust's position. Having done so, I note and accept that in circumstances whereby a person entering a home run by the Trust or a residential/ nursing home assessed by the Trust to be suitable, would be expected to contribute towards the cost of their respite care. Indeed, in a response to enquiries, this is what the Trust clearly stated '*a client contribution is where clients entering residential/nursing homes will be expected to contribute towards the cost of their short break provision, formerly respite care, in accordance with the Health and Personal Social Services (Northern Ireland) Order 1972.*' It is also what is stated in the Trust's Charging for Respite (April 2019) leaflet '*Clients entering residential/nursing homes will be expected to contribute towards the cost of their respite care, in accordance with the Health and Personal Social Services (Northern*

Ireland) Order 1972.’ I note that this leaflet does not refer to a scenario where the care is not being taken in a residential/nursing home.

33. Responding to further enquiries on this matter the Trust stated ‘.... *The same threshold / eligibility applies whereby (Miss A) was subject to the universal deduction of the client contribution from individuals budgets for Flexible Short Breaks. It does not state this ‘Short Break’ should take place in a Private Nursing or Residential Home– but rather somewhere ‘away’ from the physical, emotional and practical elements of caring.*

34. As part of the investigation I also examined the CRAG guidelines. I note that they have been in place from the 1990’s, being continually updated from that time. I note that they do not cover a scenario such as in this case, whereby the respite is taken in a person’s own home. Rather the CRAG guidelines appear to me to cover how a financial assessments is worked out and how a financial contribution is charged when a person is provided with residential accommodation, including respite, by an authority. I did not identify reference to the direct payment system within the CRAG guidelines, and conclude that the direct payment system currently in place has been developed as a consequence of a more recent shortage of facilities and staff. It is also more reflective of the desire and thrust for Trusts to be more flexible to its clients’ needs and to allow families the ability to decide for themselves how respite is to be provided.

35. Having given this matter careful and detailed consideration over what has proved to be a complicated and prolonged investigation, I am of the opinion that the Trust applies a contribution charge in a universal way, in that it is applied regardless of where the short break is taken. As the SW IPA advised, the client contribution charge is based on the client making this contribution as if they were in receipt of respite in a nursing or residential home even if they are not. I accept that this complaint represents an unusual situation in that, because of the inability to come to a mutual agreement on a suitable facility, short breaks are taken within the family home or in privately rented accommodation, not in an accredited or assessed residential / nursing home and that this situation is not the norm. I accept the advice of the SW IPA that this scenario has created a difficulty as it is not addressed directly within current policy or within the literature produced by the Trust concerning charging for respite, for example ‘*Clients entering residential/nursing homes will be expected to contribute.....*’. I note that a part of the

complaint has been the Trust's general reference to its power and duty to levy a contribution charge in this specific case where Miss A is not entering a residential/nursing home for respite, rather than making reference to specific legislation or a written policy explicitly covering a scenario whereby respite occurs within a private home or privately rented accommodation arranged by the complainant.

36. I refer to the first, third and sixth Principle of Good Administration, which requires public bodies act in accordance with law, to be 'open and accountable' and to 'seek continuous improvement' by being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete, and in reviewing policies and procedures regularly to ensure they are effective. Having reviewed the information provided by the Trust I am satisfied that there is no specific legislation, policy or guidance in place to cover the particular situation represented by this complaint which permits the application of a contribution charge universally to all clients. I also note that the legislation and regulations referenced by the Trust to explain its stance is not specific as to what should occur when respite is taken outside of a residential/nursing home. I consider the absence of a clear basis for applying a client contribution within current legislation, policy or guidelines represents maladministration and I uphold this issue of complaint. As a consequence, I consider the complainant sustained the injustice of frustration and uncertainty, as well as the time and trouble in pursuing his complaint to this office. I also consider that the lack of specific legislation or guidance to cover this scenario has hampered the Trusts attempts to fully explain and justify its stance and its reasoning behind the decision to apply a universal contribution/deduction charge to the sum assessed to cover the needs of Miss A. The complainant is thus unable to understand and on what grounds it is decided that Miss A is entitled, following a detailed assessment that a specified sum of money is required to meet her needs, yet a deduction is then made from this assessed sum for no obvious reason other than that 'everyone' pays it. This has undoubtedly contributed to a sense of mistrust developing in the relationship with the complainant. I deal with the appropriate remedy in the conclusion of this report.

37. Having said that and while making a finding of maladministration, I would still acknowledge the difficult position the Trust has found itself in and with which it has had to find new ways of delivering services over a prolonged period of time. It is no doubt the

case that the Health Service, and the social care sector in particular, have faced multiple significant challenges over many years from resource issues, staff shortages and a lack of suitable facilities with which to provide respite, both within the public and private sectors. I also acknowledge that the Trust has worked constructively with the complainant in using its discretion to enhance the level of respite provided. I do not consider that the Trust has applied the contribution charge/deduction in an attempt to claw back or to save monies expended. Nonetheless I again come back to a basic point that if the Trust is to make a deduction from an assessed payment, even if this is applied across the board to all service users, it should be in a position to clearly reference the legislation, policy and guidance, to back up, justify and explain its stance. I do not consider that the Trust is currently in a position to do this which I consider to constitute maladministration.

38. On a more general point I also note the comments of the SW IPA with respect to the overall caring responsibilities of the complainant in this case and the difficulty in obtaining the full 'benefit' of respite, if the respite is taken within the family home or even when AD may be situated in privately rented accommodation. It remains the case that the parents have additional caring responsibilities for another child with caring needs which has to be considered. I would bring to the attention of the Trust the advice of the SW IPA that the family system as a whole and the full caring role of the parents should be considered as to what additional support they require.

Issue 2 - Whether the Trust's decision to use Residential Home A as a benchmark for assessing the patient's short break payments was appropriate and reasonable?

Detail of complaint

39. The complainant said that the Trust used Residential Home A as the benchmark for assessing his daughter's short break payments. However, he believed that Residential Home A is not an appropriate benchmark against which to assess the short break payments, as the facility, in his opinion, does not meet his daughter's needs. The complainant raised concerns over, among other things, the distance of Residential Home A from Miss A's home, the staff to resident ratio, compatibility with other residents and potential risk to Miss A from other residents.

Evidence Considered

40. I note an email from the complainant to the Trust date 11 January 2019 *'I have no issue with (Residential Home A) per se as it is indeed in a lovely location. Great grounds and privacy, good stable staff base etc...but our concern is that we primarily want our daughter who is only 21 to have a short break in a smaller more personalised facility close to home with others of similar capacity and to which we would also consider to have her placed in as a permanent resident if the need arises. As such while (Residential Home A) is meeting the wishes and needs of many of its residents we feel it could not meet (AD's) specific needs, hence the understandable need for me as a responsible father the seek the information I have sought'*.

Listed Authority's Response

41. The Trust stated that the patient *'required a higher level of care and support with the presence of one to one support staff available'*. It provided evidence of its assessments, care plan and risk assessment documentation, supporting this decision. It stated that *'based on information contained within [the patient's] suite of assessments, the multi-disciplinary team including the Short Break Coordinators determined that her assessed needs were consistent with other users of the specialist short break bed commissioned by the Trust from Residential Home A and hence her care could be adequately met by the provider'*.

The Trust stated that *'Residential Home A offers residential care for service users who require higher levels of supervision whilst offering a stimulating therapeutic environment with the option to avail of day opportunities on site and social outings.'*

42. The Trust stated *' in relation to this specific case the suite of assessments conducted by Trust staff indicated that Residential home A was an appropriate facility to meet her needs. It is the most specialist, resource intensive and most expensive short break facility commissioned by the Trust learning disability services. Where a client or their carers do not accept an appropriate short break placement offered by the Trust which is based on assessments conducted by the service and taking into consideration knowledge of the service provided by the relevant provider, and where the individual or carer does not accept any alternative short break options offered, the practice is to offer the carers a sum of money equivalent to the cost to the Trust of the placement deemed appropriate.'*

This practice has been in place for many years'.

Relevant Independent Professional Advice (IPA)

43. The SW IPA advised that there were numerous assessments of the patient as to the level of care required. There were annual carer assessments which indicated the carers need for support due to the stress and impact of providing care for their daughter. However the parents were clear that the options offered by the Trust did not meet their daughter's needs. The family refused all suggested facilities by the Trust and instead sourced a private rental facility which was more expensive and in their view, enabled them to better meet the support needs of Miss A and their needs as carers.

44. The SW IPA advised that there does not appear to be a specific policy as such to assist in the benchmarking except that the patient's needs are assessed by the Trust multidisciplinary team, the social worker evaluates the existing facilities against the patient's needs and benchmarks against the cost of that facility.

45. With regard to any assessments conducted to determine if the Residential Home A was appropriate for the patient's needs, the SW IPA advised that the social work file provides a detailed chronology of the range of assessments undertaken since January 2014 in respect of assessment of the patient's needs for a suitable respite facility. A Carer's Assessment was undertaken and completed on 12 June 2015 and on 17 June 2015 with both parents. A Sensory Integration Assessment report by an Occupational Therapist was provided on 29 September 2015, a Psychiatric Report by Consultant Psychiatrist on 22 February 2016, a Carers reassessment on 10 October 2016, a Holistic Risk Assessment and Service User Care Plan completed on 25 October 2016. Regular Multidisciplinary meetings were held with appropriate referral to Behaviour Support Service on 11 May 2017, a Dysphagia assessment on 27 July 2017, the Service user care plan was updated 7 November 2018 and consideration referral to BSS and Autism Specific Support Services 12 November 2018. This provides evidence of extensive assessment of the patient's needs since 2014 which informed the identification of the appropriate facilities to meet these needs. Further reviews were carried out in 2016, 2017 and 2018.

46. The review on 17 June 2018 evidenced the patient was attending Day Care and her

parents were happy with the management plan. This review reported the patient's physical health as very good, that she was very settled, requires high level of support from staff to participate in her daily routine. This review recorded a comprehensive assessment was completed as well as risk assessment. Social work contact documentation provides ongoing contact through face to face meetings, email and phone calls to parents and relevant professionals regarding assessment of need and short break facilities.

47. The SW IPA noted the Trust provided a list of the facilities within the trust and a Trust document which stated '*Following the MDT meeting on 28.11.18 , I am of the opinion that the facility suited to meet Miss A's needs is Residential Home A. it has scheduled day time activities , a lot of outside space and close supervision included in the contracted cost*'. It is noted that the type of bed identified for Short Break provision in Residential Home A was deemed Residential Challenging Behaviour.

48. The SW IPA provided a time line detailing the attempts to source a short break option. The SW IPA noted that on 14 July 2015 the family was informed that Residential Home A was deemed appropriate to meet Miss a's needs but that the family discounted it due to 'service user mix' and suggested an autism specific facility in Belfast which they believe was more appropriate. After a social worker visited the Belfast premises to assess its suitability, the family stated it was not appropriate due to the distance to Belfast.

49. The SW IPA advised that the documentation evidences Trust Social Workers explored a number of other facilities providing a range of options but these being declined for different reasons with the most recent being due to financial issues. The documents indicate comprehensive assessments of the patient's needs since she was a child and as she entered adult services. In the opinion of the SW IPA all relevant assessments of the patient's needs were undertaken by the Trust as well as what each facility could provide and which was the most appropriate from the portfolio of facilities available.

50. When asked what support and care does Miss A require and could this be provided by Residential Home A, the SW IPA advised that assessments carried out evidence that

the patient requires continuous care, support, assistance and supervision with all aspects of personal and practical care. She needs assistance, support and supervision to maintain her safety. The patient also experiences times of high levels of activity which results in parents / carers having no sleep. The patient is described at times being extremely hyperactive, agitated and unsettled which is difficult to manage in the family home. Reviewing the documentation, it would be considered that the patient required one to one support in respite but also when '*elated periods this rose to 2 x1 staff ratio*'. In January 2014 the parents were informed the Trust did not have a respite facility to provide 1x1 or 2x1 staff ratio. The Patient requires close supervision as she can look to abscond, approach other residents physically and would require a minimum 1x1 staff ratio

51. In addition the SW IPA advised that annual reassessments identified the need for the family to have regular breaks, a plan to sign post the family to when the patient has had a period of high activity levels and also to have an appropriate facility to meet the patient's needs. A Carers Reassessment on 28 September 2018 recorded the family provide 293 nights care for the patient, with Trust funding 72 out of 365. She requires 1:1 adult carer at all times with one staff back up during waking hours. The scheduled 72 nights per annum had become a basic requirement but did not therefore have additional scope for unplanned and unpredictable crisis.

52. A NISAT Core Assessment dated 30 July 2019 provided a comprehensive overview of what the patient requires and although Residential Home A and the Trust assess this facility could meet the patient's needs as assessed by the Trust multidisciplinary team , Residential Home A subsequently stated that it could not meet the patient's needs as assessed by the parents. Residential home A could have met the patient's needs from all those facilities identified as available but not to the appropriate standard as requested by the parents. As the family did not accept that Residential Home A could meet their assessment of their daughter's needs, the Trust provided a Direct Payment to the parents.

53. The SW IPA advised that Residential Home A, as the most specialist facility in the Trust and which in their assessment could have met the needs of the patient, is the most suitable facility to benchmark the financial package against. The SW IPA noted that the

family stated that they had no issue with Residential Home A as such but wanted their daughter to have respite in a smaller facility nearer to their home which at this time does not exist in the Trust's portfolio of options.

54. The SW IPA concluded her advice on this issue of the complaint by stating that there is no doubt that the patient requires significant care throughout the day and night due to her range of health care needs. Her parents are providing the majority of this care with the support of paid carers but also from voluntary carers. The reassessments are evidencing an increasing pressure and stress to meet their daughter's needs. There is clear evidence in the documentation of regular, ongoing assessments of the patient and her needs by the multidisciplinary team. There appears to be no complaint from the parents as to the general care provided to their daughter by the range of professionals and day care she is receiving. All assessments and reviews are evidenced to be undertaken regularly with parental opinion integrated into all relevant assessments

55. The family do not accept the facilities identified by the Trust meet their daughter's needs and as such this has a knock-on effect on their sense of having no-where suitable to request respite from, hence increasing the stress on all parties. The Trust however have offered a number of facilities to the family for respite which they have assessed as able to meet the patient's needs but the family have declined these for several differing reasons. The fact that the short breaks are taken within the family home / private rented accommodation and not in a residential / nursing home has created a difficulty as this is not addressed within current policy. Given the fact the Trust and the facilities assessed, considered they could meet the patient's needs as assessed by them, it is reasonable the short-term payment was assessed against these facilities.

Analysis and Findings

56. In examining this issue I am not addressing the issue of cost per se but solely considering if the use of Residential Home A as a benchmark for assessing short break payments was reasonable and appropriate.

57. The complainant, in his letter of complaint, said that he became aware that the Trust was using Residential Home A as a 'comparator' upon which to base Miss A's costs. He said that he considered a fairer comparator would have been to use the facility which met

Miss A's costs up to the age of 18. He stated that this was and is a far more expensive facility offering a much higher staff to resident ratio. He considered that the Trust should look at funding Miss A's short break care costs on a stand-alone basis but if it was to use a 'comparator' it should at least be based on a facility like the one used up to the age of 18 which proved it could meet his daughter's needs.

58. In considering this issue I note the facility used to meet Miss A's short break needs up to the age of 18 is a purpose built facility providing respite care for up to eight young people with a disability between the ages of 4 and 18 years. It offers short breaks for children with a disability and their families for up to 90 days per year. It is the case that Miss A turned 18 on 24 September 2015 and thus responsibility for her care moved from Children's to Adult Services. I recognise and accept that the transition from the care of Children's to Adult services can be worrying and difficult for both the carers and for the young person making the transition. There is inevitable concern over changes to a new environment among a more adult setting. Having said that I recognise that Miss A will continue to have extensive and continuing care needs as she gets older and develops throughout her life. As she gets older her needs will also face changes, I therefore do not consider that the Trust should be forever required to use as a benchmark comparator for assessing short break payments, a children's facility going forward.

59. The question then arises as to which adult facility should be used by the Trust. I was provided with a list of 11 facilities which the Trust have contracted with to provide short breaks for people over 18 years of age who have a learning disability, live within the Trust's geographical area and are known to a case manager on the Community Learning Disability team. Generally when a facility from this list has agreed they can meet the service users assessed needs, the carer and the service user are invited by the Trust's respite coordinator to visit the facility and introductory visits are arranged. Respite is arranged on a rotation system so that key dates are allocated equitably to carers. All carers are offered a mix of both midweek and weekend short break periods.

60. Eight of the facilities within the 11 listed with which the Trust have contracted to provide services provide short break stays provide solely nursing or residential beds. The remaining 3, one of which is Residential Home A, provide beds for persons with complex needs/challenging behavior.

61. I accept the advice of the SW IPA that the Trust carried out comprehensive assessments of Miss A's needs since she was a child and throughout her transition to Adult services. These assessments evidence that Miss A requires '*continuous care, support, assistance with all aspects of personal and practical care. She needs assistance, support and supervision to maintain her safety. Miss A also experiences times of high levels of activity which results in parents/carers having no sleep. She is at times extremely hyperactive, agitated and unsettled which is difficult to manage in the family home.*' I accept the advice of the SW IPA that Residential Home A, as the most specialist facility in the Trust and which in the Trust's assessment could have met Miss A's needs, was therefore the most suitable facility to benchmark the financial package against. I have every sympathy with the clear desire of Miss A's carers to secure the safest and most effective support for their daughter and I respect their decision to seek an alternative. However, given that at this time it is the facility which relevant professionals have assessed as the most appropriate available it is reasonable that the Trust use it for benchmarking purposes. I do not uphold this issue of the complaint.

62. Once the family had declined the use of Residential Home A, I acknowledge the efforts made by the Trust to source a suitable bed based facility which could meet the Trust's assessed needs of Miss A. To this end the Trust explored facilities both within its geographical area and further afield. Unfortunately to date it has not been possible to come to agreement on a suitable facility and it is for this reason that the Trust has offered the complainant a financial package equivalent to the respite care. I further acknowledge the shortage of facilities offering short break beds for persons with complex needs/challenging behavior, not only within the Trusts geographical area but throughout Northern Ireland. The Trust has stated that it continues to explore opportunities within the independent sector providers to increase the number of short break beds within its locality, however I note the fact that there is reluctance on the part of the independent sector to provide this service within their facilities. Given Miss A's complex presentation, there are no independent providers within the vicinity of her home who will commission a bed from the Trust to safely meet her assessed need.

63. The Trust fully acknowledge and accept that the complainant and his wife need respite from the continuous and full time caring role that they provide to Miss A. I too

recognise the stress and emotional toll taken on the family in caring full time without adequate respite for a much loved daughter with such complex needs. In this particular case the toll is heightened by the fact that even when respite is privately arranged by the family for Miss A, they still have another child with additional needs who requires their help as well. Thus much needed respite is not fully experienced by the family and they are not completely re-energised when Miss A returns to their care. Such a situation is not conducive to an environment within which she can receive the best care possible.

64. While I appreciate that the complainant is acting to ensure that Miss A's best interests are met and he is concerned about what he perceives to be failures on the part of the Trust. I am of the opinion that the interests of Miss A are best served in an atmosphere where good relations exist with the Trust in what I accept can sometimes be complex and difficult circumstances. I am very conscious that Miss A has and will continue to have complex needs far into the future. These needs are more likely to be best met in circumstances where the complainant feels that the family can work confidently in partnership with the Trust and its staff. It would be my hope that on considering my findings within this report that everyone involved will recognise the primacy of Miss A's wellbeing and care in everything done. Her best interests are dependent on a mutual understanding being developed of the clear challenges and responsibilities all parties involved have in these circumstances. I hope that a more positive and trusting working relationship can be nurtured and developed in the future between the Trust and the complainant. This undoubtedly can only benefit Miss A, so that the most effective and appropriate level of support can be delivered to her and her family in the future.

CONCLUSION

65. I investigated this complaint and found maladministration in relation to the following matter:

- (i) The Trust's application of a universal contribution charge without a clear legislative, guidance or policy basis to cover the situation whereby respite is taken within the family home or within privately rented accommodation rather than within a residential/nursing home

I am satisfied that the maladministration I identified caused the complainant to experience the injustice of frustration and uncertainty, as well as the time and

trouble in pursuing his complaint to this office. I also consider that the lack of specific legislation or guidance to cover this scenario has hampered the Trusts attempts to fully explain and justify its stance and its reasoning behind the decision to apply a universal contribution/deduction charge to the sum assessed to cover the needs of Miss A.

66. I did not uphold the complaint in relation to the Trust's decision to use Residential Home A as a benchmark for assessing the patient's short break payments

67. Following receipt of a copy of this report in draft form the Trust accepted my findings and conclusions. It welcomed my acknowledgement of the difficult position the Trust has found itself in in the face of multiple significant challenges, over many years, but accepted the findings with regard to applying the contribution charge in relation to flexible respite taken outside of a residential/nursing home environment. The Trust acknowledged that 'there is no specific legislation, policy or guidance in place to direct Trusts to cover this particular situation. CRAG Guidelines (on which this practice is based) cover how a financial contribution is charged when a person is provided residential/nursing accommodation and not via individually arranged Direct Payments outside of these settings'.

68. The complainant also responded to receipt of a copy of this report in draft form. He stated that he did not object to any of the findings made, however he did wish to comment the situation from Miss A's transition to adult services at age 18 in August 2015.

69. The complainant stated that he always had concerns over Residential Home A's suitability in terms of location, staffing ratios, safety and bed availability and how the Trust would meet his daughters planned assessed needs never mind those unscheduled occurrences. He also referenced the general lack of beds available to the public sector and the reliance on the private or charity sector for facilities. The complainant also voiced his concerns that his daughter's daycare provisions, which were reduced at the beginning of the covid pandemic, have not been fully restored.

Recommendations for Remedy

70. Having considered the nature and extent of the injustice sustained by the complainant in consequence of the maladministration identified in this report, I recommend the following remedy:

- a. I recommend that the Trust review its current policies and guidance and the payment of a 'contribution charge' to include action to be taken in the case when respite is to be taken outside of a residential/nursing homes as against legislation as it currently exists. This review should consider the particular case of the complainant following its review. The Trust should communicate the results of this review to this office within 6 months of the date of the final issue of this report.
- b. I recommended that the Trust cease deducting the contribution charge from the payments made towards the complainant's daughters short break provisions and that any monies deducted in this manner to date be repaid to the complainant on Miss A's behalf within 6 months from the date of this final report. The Trust should liaise with the complainant as to the particular method of payment.
- c. I recommend that the Trust undertake a review of the system of direct payments to determine if other clients, subject to a similar scenario to that of the complainant are similarly affected. This review should be completed within 6 months of the date of this report in final form.
- d. It is also my intention to bring my findings and conclusions on this matter to the attention of the Department of Health and other Health and Social Care Trusts in Northern Ireland.

I would also bring to the Trust's attention the following learning / service improvements:

- The Trust undertake a needs analysis of its Learning Disability population who require respite / short term care and their range of unique needs to develop a wider range of Trust based facilities, with smaller bed numbers, to meet these needs. This would sit alongside the Trust Options Appraisal of Short Break Beds undertaken in February 2020 to ensure the Options paper considers the service users needs. The Trust should take place within 6 months of the final date of this report
- In this particular case the Trust should give consideration to the assessment of 'respite' as being seen against the additional parental caring roles in the family when the patient is removed for their respite. There should not be an assumption of full parental / carer respite, thereby having an opportunity to rest/recover/ reenergise, is happening when additional carer responsibilities remain in the home. The Trust should provide evidence of this consideration to this office within one month of the final date of this report

68. Concerning the 'Recommendations for Remedy' the Trust stated that it

- a. intends to review current practice around the application of client contributions to access flexible short breaks outside of residential and nursing home environments and to share findings/seek approval from the Trust's Senior Management Team for full implementation
- b. is in agreement to repay Miss A's client contributions since they commenced in 2016
- c. agrees to undertake a review of the system of direct payments to determine if other clients, subject to a similar scenario to that of the complainant, are similarly affected
- d. welcomes my intention to bring my findings and conclusion on this matter to the attention of the Department of Health and other Health and Social Care Trusts in Northern Ireland. The Trust stated that it would welcome guidance from the department of Health and the Strategic Planning and Performance Group.

69. With regard to learning/ service improvements the Trust informed me that an option appraisal has been completed for Learning Disability respite/short break services. The Trust acknowledge that there is a need for bed based respite/short breaks and that it will continue to review the needs of its learning disability population with regard to respite/short breaks.

70. Finally the Trust stated that it would like to assure both this office and the complainant that it highly values the role of carers who play a vital part in delivering health and social care services and it recognises the impact that caring may have on individuals.

71. The Trust concurs with the view that Miss A's wellbeing and care is dependent on a mutual understanding of the challenges and responsibilities that all interested parties have. It acknowledges an unfortunate sense of mistrust from the complainant in his past interaction with the Trust and states its intention to work in partnership with the complainant and to endeavour to move forward together in order that to meet Miss A's needs. I welcome these sentiments.

A handwritten signature in black ink that reads "Margaret Kelly". The signature is written in a cursive style with a long horizontal stroke at the end.

MARGARET KELLY
OMBUDSMAN

July 2022

PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

- Acting in accordance with the law and with regard for the rights of those concerned.
- Acting in accordance with the public body's policy and guidance (published or internal).
- Taking proper account of established good practice.
- Providing effective services, using appropriately trained and competent staff.
- Taking reasonable decisions, based on all relevant considerations.

2. Being customer focused

- Ensuring people can access services easily.
- Informing customers what they can expect and what the public body expects of them.
- Keeping to its commitments, including any published service standards.
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances
- Responding to customers' needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

3. Being open and accountable

- Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.
- Stating its criteria for decision making and giving reasons for decisions
- Handling information properly and appropriately.
- Keeping proper and appropriate records.
- Taking responsibility for its actions.

4. Acting fairly and proportionately

- Treating people impartially, with respect and courtesy.
- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.
- Ensuring that decisions and actions are proportionate, appropriate and fair.

5. Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Putting mistakes right quickly and effectively.
- Providing clear and timely information on how and when to appeal or complain.
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

6. Seeking continuous improvement

- Reviewing policies and procedures regularly to ensure they are effective.
- Asking for feedback and using it to improve services and performance.
- Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.

PRINCIPLES OF GOOD COMPLAINT HANDLING

Good complaint handling by public bodies means:

Getting it right

- Acting in accordance with the law and relevant guidance, and with regard for the rights of those concerned.
- Ensuring that those at the top of the public body provide leadership to support good complaint management and develop an organisational culture that values complaints.
- Having clear governance arrangements, which set out roles and responsibilities, and ensure lessons are learnt from complaints.
- Including complaint management as an integral part of service design.
- Ensuring that staff are equipped and empowered to act decisively to resolve complaints.
- Focusing on the outcomes for the complainant and the public body.
- Signposting to the next stage of the complaints procedure, in the right way and at the right time.

Being customer focused

- Having clear and simple procedures.
- Ensuring that complainants can easily access the service dealing with complaints, and informing them about advice and advocacy services where appropriate.
- Dealing with complainants promptly and sensitively, bearing in mind their individual circumstances.
- Listening to complainants to understand the complaint and the outcome they are seeking.
- Responding flexibly, including co-ordinating responses with any other bodies involved in the same complaint, where appropriate.

Being open and accountable

- Publishing clear, accurate and complete information about how to complain, and how and when to take complaints further.
- Publishing service standards for handling complaints.
- Providing honest, evidence-based explanations and giving reasons for decisions.
- Keeping full and accurate records.

Acting fairly and proportionately

- Treating the complainant impartially, and without unlawful discrimination or prejudice.
- Ensuring that complaints are investigated thoroughly and fairly to establish the facts of the case.
- Ensuring that decisions are proportionate, appropriate and fair.
- Ensuring that complaints are reviewed by someone not involved in the events leading to the complaint.
- Acting fairly towards staff complained about as well as towards complainants.

Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Providing prompt, appropriate and proportionate remedies.
- Considering all the relevant factors of the case when offering remedies.
- Taking account of any injustice or hardship that results from pursuing the complaint as well as from the original dispute.

Seeking continuous improvement

- Using all feedback and the lessons learnt from complaints to improve service design and delivery.
- Having systems in place to record, analyse and report on the learning from complaints.
- Regularly reviewing the lessons to be learnt from complaints.
- Where appropriate, telling the complainant about the lessons learnt and changes made to services, guidance or policy.

