

Gillian Martin MSP
Convener
Health, Social Care and Sport Committee

12 December 2022

By email

Dear Convener,

National Care Service (Scotland) Bill

The Committee have provided some additional questions following the evidence session on 22 November 2022. I am responding to the specific question that relates to this office and complaints and the broader question on monitoring (albeit with a complaints focus).

Role of the SPSO and complaints

- What should be the relationship between a complaints handling process and the proposed/ revised Health and Social Care Standards?

It may help if I explain the current relationship. In areas of health and social work, I have an extended remit which means I (and those acting under my delegated authority) can directly consider professional judgement. When doing so, SPSO will usually ask a professional adviser with the appropriate experience and background for professional advice and/ or comment. They are always asked to identify and consider relevant standards and guidelines. When professional judgement is not in question in a complaint, SPSO investigating staff will also always seek to identify the standards and guidelines that apply.

This means that, currently, where relevant, the current health and social care standards would be taken into account in a complaint. This will be the same for any revision.

Monitoring of the NCS

- Does the Bill make sufficient provision for independent oversight of monitoring and evaluation of the proposed National Care Service? By this we mean, what benchmarking or other means are required to ensure that implementation of structural changes and service reform is successful, and the impact of changes is independently evaluated and assessed?

The SPSO currently has an existing statutory duty under section 16G of the Scottish Public Services Ombudsman Act 2002 to monitor the complaints handling practice of listed authorities. That responsibility is supported by a duty on listed authorities to co-operate with us. However,



that duty on listed authorities is displaced if it is inconsistent with any other enactment. At this point, it is not clear how procedures set up by the National Care Service will or will not impact on that duty but the proposed sections 14 and 15, insofar as they risk complicating an existing complex landscape, may both make our monitoring role more difficult and mean that multiple organisations may have monitoring roles in relation to complaints.

Finally, it is worth noting that the Care Inspectorate has a significant role in complaint-handling in this area. There is some overlap with our role when social care is delivered by or on behalf of a public service under our jurisdiction. We have a data sharing agreement with the Care Inspectorate to help ensure any relevant information can be shared and front-line staff at SPSO do signpost to the Care Inspectorate when they are the more appropriate agency to consider a complaint.

I hope the Committee finds this supplementary information helpful and would be very happy to answer any further questions.

Yours sincerely

Rosemary Agnew
Scottish Public Services Ombudsman