

Health and Social Services Committee

HSS(2)-10-05(p.6)

Date: Wednesday 5 October 2005

Venue: Committee Rooms 3&4, National Assembly for Wales

Title: The Social Services Complaints Procedures (Wales) Regulations 2005

Purpose

1. This paper provides the Committee with the opportunity it requested to consider the draft regulations on complaints procedures in local authority social services for adults, before they are taken forward for consideration in accordance with standing order 24.

Summary

2. The Committee selected these Regulations for scrutiny at its meeting on 3 March 2004. They form part of a wider reform of complaints procedures in local authority social services and the matching regulations on services for children (The Representations Procedure (Children) (Wales) Regulations 2005) appear as the next item on the agenda. Subject to approval in Plenary – scheduled for 29 November 2005 – it is hoped to bring the new arrangements into force on 1 April 2006.

Background

3. In 2001, the Assembly consulted widely on complaints and representations procedures in social services under the title “Listening to People”. Since then, the Adoption and Children Act 2002 and the Health and Social Care (Community Health and Standards) Act 2003 have given the Assembly new powers and the opportunity to overhaul the arrangements last revised in 1991.

4. The new arrangements have been developed with the help of a Complaints and Representations Advisory and Implementation Group (CRAIG). This brought together a range of key interests to consider the main policy options, the drafting instructions for the regulations and the associated guidance. A formal 12 week consultation finished in August. Some amendments have been proposed and the draft regulations, explanatory memorandum and regulatory appraisal are ready for consideration by the Committee.

Consideration

5. Compared with current arrangements - established on an England and Wales basis nearly 15 years ago - the main changes are as follows:

- Overall, the separate children's and community care procedures have been brought more closely together into a common framework. There are – for legal reasons – two sets of regulations, but there is now one body of guidance. Unnecessary differences between two sets of regulations have been eliminated wherever possible, although of course the differences required by the primary legislation have been maintained.
- The new regulations extend the duties on local authorities to safeguard and promote the welfare of the service user in the way they handle complaints. There are new duties to ascertain and take into account the user's wishes and feelings.
- Both procedures now have the same three-stage procedure – local resolution, formal consideration and panel hearing. (This has been achieved by introducing into the children's procedure a time limited first stage giving a chance for local resolution.)
- The regulations put all the time-scales for handling complaints on a statutory footing and require authorities to keep complainants informed about progress with their complaint.
- The regulations provide arrangements for managing complex situations where there are concurrent investigations by for instance the police, the Care Standards Inspectorate for Wales (CSIW) or the Care Councils.
- The regulations safeguard the existing right of complainants to go to a panel hearing wherever the local authority's handling of their complaint has failed to secure resolution of the matter. However, in perhaps the biggest single change, this will in future involve a panel with both the panel membership and the administrative arrangements wholly independent of the complained against authority.

6. It has been the Assembly Government's intention since the passage of the 2003 Act to build clearer links between the social services and NHS procedures. But, following the recommendations of the Fifth Report of the Shipman Inquiry, work on the new NHS regulations has been suspended. However, the new social services guidance sets out the new arrangements for links between the two procedures – arrangements which it is proposed will be given the force of regulation when the new NHS regulations are made.

7. Through the guidance, the same principles have been extended to cover links with the other complaints procedures of local authorities. Together, these changes will represent a major step towards a seamless complaints service for users of public services in Wales.

8. The formal consultation on the draft regulations, draft regulatory appraisal and draft guidance was held between 16 May and 5 August 2005. 52 responses were received from relevant organisations, including bodies representing services users, local authorities and local health boards, and the Public Services Ombudsman and the Care Council for Wales. There was

overwhelming endorsement for most of the Assembly Government's proposals.

9. Alongside the more formal consultation, we worked with All Wales People First to provide representatives of people with learning disabilities with a face to face opportunity to discuss the proposals. And, working with Age Alliance Wales, a separate exercise was conducted to seek the views of individual older people and their local organisations, from which 96 responses were received. There was overwhelming support from both of these exercises for the Assembly Government's plans for the regulations.

10. In the light of the consultations, a number of small amendments have been made to the draft of the Regulations. These amendments:

- adjust some of the time-scales for individual stages of the procedure,
- strengthen the requirements on authorities to keep complainants informed about their rights under the procedures,
- strengthen the requirements on authorities to keep complainants informed about the progress of their complaint, and
- make provision for cases where the Care Councils in either Wales or England may also be investigating the matter raised in a complaint

Timetable for implementation

11. Following the Committee's consideration of the regulations, I intend submitting them to Business Committee later in October, with the aim of tabling a final draft at plenary on 29 November 2005. Subject to the National Assembly's approval, the Regulations will be commenced on 1 April 2006 to allow local authorities to prepare for implementation.

Action

12. The Committee is invited to:

- i) consider this paper, the draft regulations, the draft Explanatory Memorandum and the draft Regulatory Appraisal;
- ii) note the intention to proceed with the draft regulations in accordance with standing order 24. On current plans, the intention is to seek the Assembly's agreement to making the regulations in plenary on 29 November 2005.

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NATIONAL ASSEMBLY FOR WALES

STATUTORY
INSTRUMENTS

2005 No. (W.)

SOCIAL CARE, WALES

**The Social Services Complaints
Procedure (Wales) Regulations 2005
EXPLANATORY NOTE**

(This note is not part of the Regulations)

These Regulations make provision for complaints to local authorities about the exercise of their social services functions, with the exception of functions capable of being considered as representations under sections 24D and 26 and schedule 7, paragraph 6 of the Children Act 1989. They replace the Complaints Procedure Directions 1990. Provision is also made for representations made under the Representations Procedure (Children) (Wales) 2005 to be further considered under these Regulations.

Regulations 3 and 4 require the local authority to establish a complaints procedure and set out the principles to be followed in operating it. Under regulation 5 the local authority must designate a senior officer with responsibilities in relation to complaints and regulation 6 requires the local authority to appoint a complaints officer.

Regulation 7 sets out requirements in relation to publicity of the complaints procedure and regulation 8 sets out requirements for the training of staff.

Part III sets out who may complain (regulation 9) and about what matters (regulations 10 and 11). Regulation 12 establishes a procedure for consideration of how complaints shall be dealt with where there is a concurrent consideration by another person or body. This allows for the local authority to suspend consideration temporarily where to continue would compromise or prejudice the other consideration.

Part IV establishes procedures for working with other local authorities (regulation 13) or persons registered under the Care Standards Act or the National Assembly (regulation 14).

Regulation 18 requires the local authority to attempt local resolution of a complaint and regulation 19 establishes the procedure for formal consideration of the complaint where local resolution has not been achieved.

Regulation 20 sets out requirements in relation to the response to be sent by the local authority including as to the complainant's right to request an independent panel hearing in accordance with Part VI of the Regulations.

Part VI sets out the arrangements for independent consideration of both complaints made under these Regulations and representations made under the Representations Procedure (Children) (Wales) Regulations 2005.

Part VII sets out how local authorities are to monitor and report on the arrangements they have made with a view to ensuring that they comply with the Regulations.

S T A T U T O R Y
I N S T R U M E N T S

2005 No. (W.)

SOCIAL CARE, WALES

**[NB - this needs to be re-drafted on
completion]**

**The Social Services Complaints
Procedure (Wales) Regulations 2005**

Made *2005*

Coming into force *1 April*
2006

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The National Assembly for Wales, in exercise of the powers conferred by sections 114(3), (4) and (5) and 115(1), (2), (4), (5) and (6) of the Health and Social Care (Community Health and Standards) Act 2003(1) and sections 26A and 26ZB of the Children Act 1989(2) hereby makes the following Regulations:-

PART I
GENERAL

Title, commencement and application

1. —(1) The title of these Regulations is the Social Services Complaints Procedure (Wales) Regulations 2005 and they come into force on 1 April 2006.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations —

“the Act” means the Health and Social Care (Community Health and Standards) Act 2003(3);

“appropriate office” (“swyddfa briodol”) means in relation to an establishment or agency —

- (a) if an office has been specified under regulation 14(3) for the area in which the establishment or agency is situated, that office;
- (b) in any other case, any other office of the National Assembly.

“child” means a person under the age of 18;

“complaints officer” means the person appointed under regulation 6;

“complaints procedure” means the arrangements made under regulation 4;

“disciplinary proceedings” means any procedure for disciplining employees adopted by a local authority;

(1) 2003 c.43.

(2) 1989 c.41. Section 26ZB of the Children Act 1989 was inserted by section 116 of the Act. The functions of the Secretary of State under the Children Act 1989 were transferred to the Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(3) 2003 c.43.

“former complaints procedure” means the complaints procedure under section 7B of the Local Authority Social Services Act 1970⁽⁴⁾;

“local authority” means a county council or county borough council;

“National Assembly” (“Cynulliad Cenedlaethol”) means the National Assembly for Wales;

“partnership agreement” means an agreement between a local authority and an NHS body made under the provisions of section 31 of the Health Act 1999⁽⁵⁾ and the National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000⁽⁶⁾;

“service user” means any person who may make a complaint under regulation 9(1);

“social services functions” means the list of functions set out in Schedule 1 to the Local Authority Social Services Act 1970;

“staff” means any person who is employed by or engaged to provide services to a local authority; and

“working day” means a day except Saturday, Sunday, Christmas Day, Boxing Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971⁽⁷⁾.

General principles in handling complaints

3.—(1) Any complaints procedure set up under these regulations must be operated in accordance with the principle that the welfare of the service user should be safeguarded and promoted.

(2) Account should be taken of the ascertainable wishes and feelings of the service user.

PART II

SETTING UP THE COMPLAINTS PROCEDURE

Duty to establish a complaints procedure

4. Each local authority must make arrangements in accordance with these regulations for the handling and consideration of complaints and the arrangements must be in writing.

⁽⁴⁾ 1970 c.42. Section 7B was inserted by section 50 of the National Health Services and Community Care Act 1990 and amended by section 67(1) and Schedule 5 Part 2 paragraphs 15(1) and (2) of the Health and Social Care Act 2001.

⁽⁵⁾ 1999 c.52.

⁽⁶⁾ S.I. 2000/2993 (W.193) as amended by S.I. 2004/1390.

⁽⁷⁾ 1971 c.80

Senior Officer responsible for complaints

5. Each local authority must designate a senior officer to be responsible for seeking to ensure compliance with the arrangements made by the local authority under these Regulations.

Complaints officer

6. —(1) Each local authority must appoint a person, in these Regulations referred to as a complaints officer, to manage the procedures for handling and considering complaints and in particular —

- (a) to perform the functions of the complaints officer under these Regulations;
- (b) to perform such other functions in relation to complaints as the local authority may require; and
- (c) to co-operate with such other persons or bodies as may be necessary in order to investigate or resolve complaints.

(2) The functions of the complaints officer may be performed by any person authorised by the local authority to act on behalf of the complaints officer.

(3) A complaints officer may be —

- (a) a person who is not an employee of the local authority; and
- (b) appointed as complaints officer for more than one body.

Publicity

7. —(1) Each local authority must ensure that there is effective publicity of its complaints arrangements.

(2) Each local authority must take all reasonable steps to ensure that service users and their carers, if any, are informed of its arrangements, the name of its complaints officer and the address at which the complaints officer can be contacted.

(3) A copy of the arrangements made under Regulation 3 must be given, free of charge, to any person who makes a request for one

(4) Each local authority must take all reasonable steps to provide a copy of its arrangements in any form requested by the service user or other person making a complaint on the service user's behalf.

Information and training for staff

8. Each local authority must ensure that their staff are informed about and appropriately trained in the operation of the complaints procedure.

PART III
NATURE AND SCOPE OF THE
COMPLAINTS PROCEDURE

Persons who may make complaints

9. —(1) A complaint may be made by any person to whom the local authority has a power or duty to provide, or secure the provision of, a service which, if provided, would be provided as a social service function and whose need, or possible need for such a service has (by whatever means) come to the attention of the local authority.

(2) A complaint may be made by a person (a “representative”) acting on behalf of a person mentioned in paragraph (1) in any case where that person —

- (a) is a child; or
- (b) has requested the representative to act on his or her behalf; or
- (c) is not capable of making the complaint personally.

(3) A complaint may be made by a person (a “representative”) in respect of a person who has died.

(4) Any representative making a complaint under paragraph (2)(a) or (c) or under paragraph (3) must, in the opinion of the local authority have, or have had, an interest in the person’s welfare and be a suitable person to act as representative.

(5) If in any case the local authority is of the opinion that any person making a complaint under paragraphs (2)(a) or (c) or (3) does not have sufficient interest in the person’s welfare or is not a suitable person to act as a representative, the authority must notify the person in writing immediately, stating the reasons for that opinion.

(6) Where notification is given under paragraph (5) and the person referred to in paragraph (1) in respect of whom the complaint has been made is alive the local authority must, if it considers it appropriate to do so having regard to the understanding of the person referred to in paragraph (1), provide that person with a copy of the notification.

(7) In these Regulations any reference to a complainant includes a reference to his or her representative.

Matters about which complaints may be made

10. —(1) Subject to paragraph (2) a complaint to a local authority may be about the exercise of its social services functions including —

- (a) the discharge by a local authority of any of its social services functions;
- (b) the provision of services by another person pursuant to arrangements made by such an authority in the discharge of those functions;
- (c) the provision of services by such an authority or any other person in pursuance of arrangements made by the authority under section 31 of the Health Act 1999⁽⁸⁾ in relation to the functions of an NHS body (within the meaning of that section).

(2) A complaint may not be made under these regulations about the exercise of functions under sections 31, 33, 34, 35, 43, 44 and 47 of the Children Act 1989.

Matters excluded from consideration

11. These Regulations do not require arrangements to be made for the investigation of any complaint which has been investigated —

- (a) under these Regulations,
- (b) under any former complaints provisions, or
- (c) by a Commissioner for Local Administration.

Complaints subject to concurrent consideration

12. —(1) Where a complaint relates to any matter —

- (a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or
- (b) about which the local authority are taking or are proposing to take disciplinary proceedings, or
- (c) about which the local authority have been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or
- (d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or
- (e) about which the local authority have been notified that there are current proceedings under section 59 of the Care Standards Act 2000,

the local authority must consider, in consultation with the complainant and any other person or body which the authority consider appropriate to consult,

⁽⁸⁾ 1999 c.8.

how the complaint should be handled. Such a complaint shall be referred to for the purposes of this Regulation as a “complaint subject to concurrent consideration”.

- (2) The consideration of a complaint subject to concurrent consideration under this Part of the Regulations may be discontinued if at any time it appears to the local authority that to continue would compromise or prejudice the other consideration.
- (3) Where the local authority decide to discontinue the consideration of a complaint under paragraph (2) the authority must give notice of that decision to the complainant.
- (4) Where the local authority discontinue the consideration of any complaint under paragraph (2), they may at any time resume their consideration.
- (5) Where consideration of a complaint has been discontinued under paragraph (2) the local authority must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.
- (6) The local authority must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.

PART IV

WORKING WITH OTHER AGENCIES

Complaints involving more than one body

13.—(1) In any case where it appears to the complaints officer that a complaint is or may be a complaint which relates to the exercise of functions by more than one local authority (a complaint involving more than one body) the complaints officer must, as soon as reasonably practicable —

- (a) notify the other body or bodies involved and consider with the complaints officer of each of them which body should take the lead in handling the complaint; and
- (b) notify the complainant of their decision.

(2) The complaints officer of a local authority which is the lead body must —

- (a) ensure that any part of the complaint relating to the actions of the local authority is considered under this part of the regulations;

- (b) ensure that the complainant is kept informed about the progress of the investigation;
 - (c) ensure that the response required under regulation 20 so far as practicable includes a response on any matter which was within the responsibility or control of any other body mentioned in paragraph (1).
- (3) The complaints officer of a local authority which is not the lead body must —
- (a) ensure that any part of the complaint relating to the actions of the local authority is considered under these regulations; and
 - (b) advise the complaints officer of the lead body of any resolution of the complaint under regulation 18, or the outcome of any investigation under regulation 19.

Handling of care standards complaints

14. —(1) Except where paragraph (2) applies, in any case where a complaint relates wholly or partly to services provided by an establishment or agency in respect of which a person is registered by the National Assembly under the Care Standards Act 2000(9), the local authority receiving such a complaint must, within 2 working days of receipt —

- (a) send details of the whole complaint or that part of the complaint which relates to the registered service to the person registered to provide that service; and
- (b) inform the complainant that details have been sent under sub-paragraph (a).

(2) This paragraph applies where -

- (a) a complaint has already been considered by the registered person; or
- (b) the local authority are of the opinion that to proceed under paragraph (1) would be likely to compromise or prejudice the investigation of the complaint under Part V of the Regulations or might compromise or prejudice an investigation by the National Assembly.

(3) In any case where a complaint relates wholly or partly to services provided by an establishment or agency in respect of which a person is registered by the National Assembly, the local authority must notify the appropriate office of the National Assembly if it has not been possible to resolve the complaint under regulation 18.

(9) 2000 c.14.

PART V
HANDLING AND CONSIDERATION OF
COMPLAINTS BY LOCAL AUTHORITIES

Making a complaint

15.—(1) Where a person wishes to make a complaint under these Regulations, he or she may make the complaint to any member of the staff of the local authority employed or engaged in relation to the social service functions of the authority.

(2) A complaint under paragraph (1) may be made orally or in writing (including electronically).

Advice about the availability of advocacy services

16. The local authority must inform the complainant of the availability of any advocacy services which the complaints officer believes may be of assistance to the complainant.

Withdrawal of complaints

17.—(1) A complaint may be withdrawn orally or in writing at any time by the complainant.

(2) The local authority must as soon as possible write to the complainant to confirm the oral withdrawal of a complaint.

Local resolution

18.—(1) The local authority must take all reasonable steps to resolve the complaint as soon as is reasonably practicable and subject to paragraph (2), within 10 working days beginning on the date the complaint was made.

(2) The period referred to in paragraph (1) may be extended upon request by the complainant or with the complainant's agreement by up to a further 10 working days.

(3) For the purposes of paragraph (1), the local authority may in any case where it would be appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(4) Where the complaint is resolved under paragraph (1), the local authority must confirm in writing to the complainant the agreed resolution.

(5) Where the complaint has not been resolved within 20 working days, the local

authority must, as soon as practicable, notify the complainant in writing of:

- (a) the complainant's right to request that the complaint be formally considered;
 - (b) the procedure for requesting such further consideration; and
 - (c) the date by which such a request must be made having regard to the provisions of paragraph (6).
- (6) The complainant may request orally or in writing that the complaint be formally considered under regulation 19 at any time within 30 working days of the date on which the complaint was first made..

Formal consideration

19.—(1) Where the complainant has requested formal consideration of the complaint, subject to regulations 12, 13 and 14 the local authority must investigate the complaint to the extent necessary and in the manner which appears to the authority most appropriate to resolve it speedily and efficiently.

- (2) The local authority must compile a formal written record of the complaint as soon as is reasonably practicable, and send it to the complainant with an invitation to the complainant to comment on its accuracy.
- (3) The local authority must consider any comments made by the complainant under paragraph (2) and in the light of those comments make any amendments to the record which are necessary to ensure it is, in the opinion of the authority, an accurate record of the complaint.
- (4) Except where arrangements have been made under regulation 18(2) the local authority may in any case where it would be appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.
- (5) The local authority must —
 - (a) explain to the complainant how the complaint will be investigated; and
 - (b) send a copy of the complaint to any person who is the subject of the complaint unless —
 - (i) this has already been done; or
 - (ii) notification at that time would prejudice the consideration of the complaint.

(6) The local authority may —

- (a) invite the complainant and any other person whom the authority considers may be able to assist with the resolution of the complaint to be interviewed; and
- (b) take such advice as appears to the complaints officer to be required.

(7) Where any person is interviewed in accordance with paragraph 6(a) the local authority must —

- (a) send a copy of the draft record of the interview to the person interviewed;
- (b) invite that person to comment on the accuracy of the draft record;
- (c) consider any comments made by the person; and
- (d) in the light of those comments make any amendments to the record which, in the opinion of the authority, are necessary to ensure that the record is accurate.

(8) The local authority must take all reasonable steps to keep the complainant informed about the progress of its formal consideration of the complaint.

Response

20. —(1) The local authority must prepare a written response to the complaint which —

- (a) summarises the nature and substance of the complaint;
- (b) describes the investigation under regulation 19 and summarises the conclusions;
- (c) explains what action will be taken to resolve the complaint;
- (d) where appropriate, contains an apology to the complainant; and
- (e) identifies what other action, if any, will be taken in the light of the complaint.

(2) Subject to paragraph (3), the response must be sent to the complainant within 25 working days beginning on the date on which the local authority received the request from the complainant for formal consideration.

(3) If, in the case of —

- (a) any complaint where there has been difficulty in the determination of its nature or substance;
- (b) a complaint involving more than one body;
- (c) a complaint which has been treated as subject to concurrent consideration under regulation 12; or

- (d) any other complaint where the complainant has agreed to a later response,

it is not possible for the response to be sent within 25 working days the local authority must notify the complainant of the reason for the delay, the date by which it expects to send the response and must send that response as soon as reasonably practicable.

(4) The response must include information about —

- (a) the complainant's right to request an independent panel hearing in accordance with regulation 22;
- (b) the procedure for requesting such a hearing; and
- (c) the time within which such a request must be made.

(5) Copies of the response prepared in accordance with paragraph (1) must be sent —

- (a) to any person who was the subject of the complaint;
- (b) where the complaint involves more than one body to the complaints or officer of each body;
- (c) where the complaint relates to a service described in regulation 10(1)(c) to the NHS body with whom the arrangement was made;
- (d) where the complaint is a care standards complaint mentioned in regulation 14, to the person registered under the Care Standards Act 2000 as the provider in respect of the establishment or agency.

PART VI

THE INDEPENDENT PANEL HEARING

The Independent Panel

21.—(1) The Assembly must take such steps as it considers reasonable, including as to administrative and financial arrangements, to establish a panel to further consider complaints under this Part.

(2) In particular the Assembly must prepare and keep up to date two lists of persons who in its opinion are suitable to further consider complaints under this Part.

(3) The persons appointed to one of the lists established under paragraph (2) must have experience in the provision of services which must or may be provided by local authorities under the Local Authority Social Services Act 1970(10) or which are similar to such services (“the list of

persons with social services experience”). The persons appointed to the other list (“the list of lay persons”) should not have such experience.

- (4) A person is not to be regarded as suitable for appointment under paragraph (2) if he or she is employed by, or an elected member of, a local authority in Wales.

Request for an independent panel hearing

22.—(1) A complainant may request that a complaint is further considered by an independent panel in accordance with this Part in any case where —

- (a) a local authority has decided that it will not consider a complaint under regulation 9(5);
- (b) for any reason formal consideration under regulation 19 has not been completed within 6 months of the date on which the complaint was made;
- (c) the complainant is dissatisfied with the result of formal consideration by the local authority under regulation 19;
- (d) for any reason formal consideration under the Representations Procedure (Children) (Wales) Regulations 2005(11) has not been completed within 6 months of the date on which the representation was made; or
- (e) the complainant is dissatisfied with the local authority’s formal consideration of representations made under the Representations Procedure (Children) (Wales) Regulations 2005.

(2) Subject to paragraph (3) a request under paragraph (1) must be made to the Assembly within 20 working days of the day on which the written response to the complaint was sent to the complainant under regulation 20(2) or notification sent under regulation 9(5) or the written response sent to the complainant under regulation 18(2) of the Representations Procedure (Children)(Wales) Regulations 2005.

(3) Where a request is made under paragraph (1)(b) or (d) it must be made within 20 working days of the complainant becoming aware that the local authority has not sent a written response to the complaint or representation within 6 months of the date on which it was made.

- (4) Where a complainant notifies the local authority complained against that he or she requests further consideration of the complaint by an independent panel under paragraph (1) the local authority shall, as soon as practicable, inform the Assembly of the request and the request shall be treated as having been made to the Assembly on the date that it was received by the local authority.

Duty on local authorities to co-operate with the Assembly

23. —(1) Where a request for an independent panel hearing is made under regulation 22(1) the local authority which is the subject of the complaint must provide such assistance as may reasonably be required to enable the Assembly to discharge its functions under this Part.

- (2) The assistance that may be required under paragraph (1) includes the production of information or documents relevant to a complaint notwithstanding any rule of common law that would otherwise prohibit or restrict such production.

Initial handling of request

24. —(1) When the Assembly receives a request for a panel hearing it must —

- (a) acknowledge receipt of the request in writing within 2 working days;
- (b) ask the complainant to provide within 20 working days if one has not already been provided, a written statement setting out the basis of the complaint and why the complainant is dissatisfied with the local authority's response;
- (c) inform, in writing, the local authority complained against and send it a copy of the complainant's letter requesting a panel hearing and, when available, a copy of the complainant's statement requested under sub-paragraph (b);
- (d) request from the local authority the complaints file and any information and documents relevant to the complaint.
- (2) The Assembly must convene a panel to further consider the complaint within 20 working days of receipt of the complainant's written statement of the complaint.
- (3) The panel must consist of 3 members, one drawn from the list of persons with social services experience and two drawn from the list of lay persons.

- (4) One of the panel members drawn from the list of lay persons must be appointed by the Assembly to chair the panel.

Procedure of the panel hearing

25.—(1) In further considering the complaint the panel may adopt such procedures as it determines are most appropriate for dealing with the complaint.

- (2) Before the panel determines to adopt a procedure for dealing with a complaint it must consult the complainant and any person who is the subject of the complaint.
- (3) In the event of any disagreement as to the procedure that is to be adopted for dealing with the complaint the decision of the chair of the panel is final.
- (4) The panel may make such enquiries and take such advice as it determines are appropriate.
- (5) The panel must ensure that the complainant and any person who is the subject of the complaint are given the opportunity to present their case orally or, if they so wish, in writing.
- (6) The panel or a member of the panel may interview any person who is not the complainant or a subject of the complaint if the panel considers that they may be able to provide information relevant to the complaint.
- (7) If any interview under paragraph (6) is conducted otherwise than in the presence of the complainant and every person who is the subject of the complaint, any information gathered in the interview, which the panel may take into account, must be summarised in writing and copies provided to the complainant and any person subject to the complaint at least 2 working days before the panel hearing.
- (8) At any interview or meeting with a panel member the complainant and any person who is the subject of the complaint may be accompanied by a relative or friend and by any person chosen by him or her to act as an adviser.
- (9) A person accompanying a complainant or person who is the subject of a complaint may, with the consent of the chair of the panel, speak to the panel.
- (10) Any meeting of the panel or of any member of the panel with another or with the complainant or any person who is the

subject of the complaint shall be in private.

Report of the panel

26.—(1) The chair of the panel must prepare a written report which —

- (a) summarises the findings of fact made by the panel relevant to the complaint;
- (b) summarises the conclusions of the panel;
- (c) recommends what action, if any, should be taken to resolve the complaint;
- (d) recommends what other action, if any, should be taken as a result of the complaint; and
- (e) sets out the reasons for the findings, conclusions and recommendations of the panel.

(2) The report may include suggestions which the panel consider would improve the services of the local authority or which would otherwise be effective for the purpose of resolving the complaint.

(3) The report must be delivered to the Assembly within 5 working days of the conclusion of the panel hearing.

(4) Subject to paragraph (5) the Assembly must send copies of the report of the panel to —

- (a) the complainant;
- (b) any independent person appointed under regulation 17 of the Representations Procedure (Children) (Wales) Regulations 2005;
- (c) any person on whose behalf a complaint has been made by a representative;
- (d) the panel members; and
- (e) the Chief Executive and Director of Social Services for the authority which is complained against.

(5) The panel chair may withhold any part of the panel's report where, in his or her opinion, this is necessary in the interests of protecting the confidentiality of any third party.

(6) If the panel chair is unable to make the report available to the Assembly within the time set out in paragraph (3) the Assembly must write to the persons who are entitled to a copy of the report explaining the reason for the delay and when the report will be available.

Response of the local authority

27. The Local authority must, within 15 working days of receipt of the report of the panel —

- (a) decide what action the authority will take in the light of the recommendations of the panel; and
- (b) notify that decision to the complainant and any person on whose behalf a complaint has been made by a representative.

Complaint to the Ombudsman

28. The notice sent under regulation 27(b) must explain the complainant's right to complain to the Public Services Ombudsman for Wales (*Ombwdsmon Gwasanaethau Cyhoeddus*).

PART VII

LEARNING FROM COMPLAINTS

Monitoring the operation of the complaints procedure

29. Each local authority must monitor the arrangements that they have made with a view to ensuring that they comply with the Regulations by keeping a record of each complaint received, the outcome of each complaint, and whether there was compliance within the time limits specified in regulations 18 and 20.

Annual Report

30.—(1) Each local authority must prepare an annual report on their performance in handling and consideration of complaints for the purposes of —

- (a) monitoring compliance with these Regulations, and
 - (b) improving the handling and consideration of complaints.
- (2) The first report referred to in paragraph (1) must be compiled within 12 months of the date of the coming into force of these Regulations.

PART VIII

TRANSITIONAL PROVISION

Transitional Provision

31.—(1) Subject to paragraph (2) where a complaint has been made in accordance with any former complaints procedure before 1 January 2006, it must be considered in accordance with that procedure.

- (2) Where, in accordance with a former complaints procedure, a complainant —
- (a) has made a request to a local authority for review by a panel, or
 - (b) would have been entitled to make such a request after 1 January 2006,
- the local authority must treat any such request (if made) as a request for the complaint to be considered under Part VI of these Regulations.

Signed on behalf of the National Assembly for Wales
under section 66(1) of the Government of Wales Act
1998(12)

Date

The Presiding Officer of the National Assembly

DRAFT

To: Business Committee
From: Dr Brian Gibbons AM
Minister for Health and Social Services

EXPLANATORY MEMORANDUM

THE SOCIAL SERVICES COMPLAINTS PROCEDURE (WALES) REGULATIONS 2005

Summary

These Regulations, together with the matching set on services for children (The Representations Procedure (Children) (Wales) Regulations 2005) and the associated guidance, will have the effect of putting into place a new framework for handling complaints in local authority social services.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The Social Services Complaints Procedure (Wales) Regulations 2005, in accordance with Standing Order 24.6.
2. A copy of the draft instrument is submitted with this Memorandum.

Enabling Powers

3. The powers to make these Regulations are contained in section 114 of the Health and Social Care (Community Care and Standards) Act 2003. This power has been conferred on the National Assembly for Wales and in turn, have been delegated to my portfolio as Minister for Health and Social Services.

Background

4. The immediate background to the development of these Regulations was the Health and Social Care (Community Health and Standards) Act 2003, which received Royal Assent on 20 November 2003. Part 2 provides for a range of measures designed to raise standards in health and social care. Chapter 9 of this Part gave the Assembly new powers to reform complaints procedures in the NHS and in local authority social services.

Effect

5. These Regulations will, with the matching set on services for children (The Representations Procedure (Children) (Wales) Regulations 2005) and the associated guidance, have the effect of putting into place a new framework for handling complaints in local authority social services.

6. In summary, the key changes introduced through the two sets of Regulations are:

- Overall, the separate children's and community care procedures have been brought more closely together into a common framework. There is a single volume of guidance covering all complaints about social services. In the Regulations, unnecessary differences have been eliminated wherever possible, although of course the differences required by the two pieces of primary legislation have been retained;
- The new Regulations extend the duties on local authorities to safeguard and promote the welfare of the service user in the way they handle complaints. There are new duties to ascertain and take into account the user's wishes and feelings;
- Both procedures now have the same three-stage process. (This has been achieved by introducing into the children's procedure a clear, time limited first stage giving a chance for informal local resolution);
- The Regulations put all of the time-scales for handling complaints on a statutory footing and they require authorities to keep complainants informed about progress with their complaint;
- The Regulations provide arrangements for managing complex situations where there are concurrent investigations by for instance the police, the Care Standards Inspectorate for Wales (CSIW) or the Care Council; and
- The automatic right to take an unresolved complaint to a Panel hearing has been retained and, in perhaps the biggest single change, an independent panel has been introduced. Both the membership of the Panel and the administrative arrangements will be wholly separate from the authority against which the complaint has been made.

7. The Regulations and guidance set out new arrangements for links between local authorities and the CSIW and, through the guidance, the same principles have been extended to cover links with other complaints procedures in the NHS and in local government. Together, these changes will represent a major step towards a seamless complaints service for users of public services in Wales.

Target Implementation

8. It is intended that the proposed Regulations be made on 29 November 2005 and come into force on 1 April 2006. The equivalent Regulations in England are due to come into force on the same day. Therefore, any delay in making would give local authorities less time to prepare for a successful implementation. Further delay in the coming into force date would mean that the additional opportunities and safeguards enshrined in the Regulations would be unavailable to users of social services in Wales.

Financial Implications

9. It is not anticipated that local authorities will need additional resources to meet their duties under these Regulations. The overall intention is to secure improvements in practice within existing resources. Local authorities have had duties to establish and operate complaints procedures since the early 1990s. They have had duties to publicise the procedures among service users and the public and they have had duties to train their own staff to use the procedures.

10. Under the new arrangements, authorities will no longer be responsible for operating the third or panel stage of the procedure. Local authorities will be able to re-deploy any modest savings they make to developing the quality of their practice in the two earlier stages.

11. This change creates limited financial implications for the Assembly. The existing Independent Review Secretariat for the NHS will undertake this role on behalf of the Assembly – albeit with a much simpler procedure than the NHS one. This will have a recurrent cost from 2006-07 of £100k for the children’s and adults procedures combined. This will pay for the administrative cost of running the panel, as well as ‘day fees’ for the panel members. This funding will be found from existing budgets and savings made within the Health and Social Care Main Expenditure Group.

Regulatory Appraisal

12. A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

Consultation

With Stakeholders

13. The draft Regulations – together with the guidance - would implement most of the main proposals to come out of the Assembly’s wide-ranging consultation on complaints in 2001. The main findings of which were:

- There was “particular support” for the proposal to bring the separate children’s and community care procedures into a common three-stage framework;
- There was support for elements of the procedure to be more independent of the authority complained against;
- Respondents generally supported a greater emphasis on local resolution;
- Those who responded wanted stronger guidance on the need to defer or freeze decisions while complaints about them are considered;
- Those who responded wanted better follow-up of the undertakings given by authorities in response to complaints; and

- Respondents wanted to see clearer links between social services procedures and other processes in, for example, health, education and housing.

14. The present draft Regulations and the associated guidance were developed with the help of a Complaints and Representations Advisory and Implementation Group (CRAIG). This brought together a range of key interests to consider the policy options, the drafting instructions for the Regulations and the draft guidance.

15. There has been extensive consultation over the last 18 months with service users, local authority complaint officers and advocacy providers on how we can improve the arrangements for handling complaints and move towards a more seamless response across different services. This work informed the development of the draft regulations and guidance.

16. In addition, a public consultation was carried out on the draft Regulations, draft Regulatory Appraisal and draft guidance between 16 May 2005 and 5 August 2005. (A list of consultees is attached at Annex 1 to the Regulatory Appraisal.) 52 responses were received from relevant organisations, including bodies representing services users, local authorities and local health boards and Public Services Ombudsman, the Children's Commissioner and the Care Council. There was overwhelming endorsement for almost all of the Assembly Government's proposals for the Regulations and a number of helpful suggestions were made, especially for the guidance. Just one proposal was rejected - a suggestion that the regulations should be amended to require all complaints officers to have a social work qualification. Respondents felt that, in selecting the best people to be complaints officers, a local authority should be able to draw on a wider pool than social workers.

17. Alongside the more formal consultation, the Welsh Assembly Government worked with All Wales People First to provide representatives of people with learning disabilities with a face to face opportunity to discuss the proposals. Working with Age Alliance Wales, a separate exercise was conducted to seek the views of individual older people and their local organisations, from which 96 responses were received. There was overwhelming support from both of these exercises for the proposed Regulations.

18. In the light of the consultations, a number of amendments were made to the drafts of both sets of Regulations. These amendments will:

- adjust some of the time-scales for individual stages of the procedure;
- strengthen the requirements on authorities to keep complainants informed about their rights under the procedures;
- strengthen the requirements on authorities to keep complainants informed about the progress of their complaint; and
- make provision for cases where the Care Council may also be investigating the matter raised in a complaint.

With Subject Committee

19. The draft Regulations were notified to the Health and Social Services Committee via the list of forthcoming legislation on 3 March 2004 (HSS(2)-04-04 Paper 4a) and were identified for detailed scrutiny. This took place on 5 October 2005.

20. (to be completed after 5 October)

Recommended Procedure

21. Subject to the views of the Business Committee, I recommend that these Regulations proceed to Plenary under the Accelerated procedure.

Compliance

22. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights obligations (section 107);
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

23. This Memorandum has been cleared by the Directorate of Legal Services and by the Assembly Compliance Officer.

24. Drafting lawyer: Joy Seculer (ext. 5895)

25. Head of Directorate: Mike Shanahan (ext. 3060)

26. Policy Lead: Colin Vyvyan (ext. 3259)

**BRIAN GIBBONS AM
MINISTER FOR HEALTH AND SOCIAL SERVICES**

SEPTEMBER 2005

REGULATORY APPRAISAL

THE SOCIAL SERVICES COMPLAINTS PROCEDURE (WALES) REGULATIONS 2005

Background

1. There are currently two separate procedures for handling local authority social services complaints:
 - **Children Act representations and complaints procedure:** There is one procedure for representations, including complaints, about social services actions under Part III of the Children Act 1989. This is set out in the Representations Procedure (Children) Regulations 1991 and guidance; and
 - **The Local Authority Social Services Act (LASS Act) complaints procedure:** The NHS and Community Care Act 1990 introduced a second complaints procedure. This covers all complaints about social services for adults and children's services apart from those under Part III of the Children Act 1989. The requirements are set out in the Complaints Procedure Directions 1990 and guidance.
2. In 2001, the Assembly consulted widely on complaints and representations procedures under the title "Listening to People". This proposed that the community care and children's services complaints procedures should be brought together to form a single complaints and representations procedure for social services. The respondents to the consultation gave "particular support" to this proposal - but the Assembly has had to wait on primary legislation for powers to regulate across social services complaints procedures as a whole.
3. The Health and Social Care (Community Health and Standards) Act 2003 received Royal Assent on 20 November 2003. Chapter 9 to Part 2 of the Act deals with complaints procedures in social services for adults and - for the first time – this gives the Assembly powers to make Regulations in these areas.

Purpose and intended effect of the measure

4. These draft Regulations use the Assembly's new powers in the 2003 Act to reform the complaints arrangements set out in 1990. The main changes are:
 - Overall, the two sets of Regulations bring the separate children's and community care procedures more closely together into a common framework. There is now one body of guidance, although on legal advice, there are still separate sets of regulations for children and adults. The two sets of regulations mirror each other as closely as is possible, while retaining differences required by the primary legislation;

- The new Regulations extend the duties on local authorities to safeguard and promote the welfare of the service user in the way they handle complaints. There are new duties to ascertain and take into account the user's wishes and feelings;
- Both procedures now have the same three-stage process. (This has been achieved by introducing into the children's procedure a clear, time limited first stage giving a chance for informal local resolution);
- The Regulations put all of the time-scales for handling complaints on a statutory footing and require authorities to keep complainants informed about progress with their complaint;
- The Regulations provide arrangements for managing complex situations where there are concurrent investigations by for instance the police, the Care Standards Inspectorate for Wales (CSIW) or the Care Councils; and
- In perhaps the biggest single change, the regulations introduce an independent stage where local consideration has failed to secure resolution of the matter. Under the old arrangements, the local authority convened a panel hearing with, typically, one of the three members being independent. Under the new arrangements, complainants will still have the same right to a panel hearing – but both the membership and the convening arrangements will be wholly separate from the complained against authority.

5. It has been the intention since the passage of the 2003 Act to build clearer links between the social services and NHS procedures. Following the recommendations of the Fifth Report of the Shipman Inquiry, work on the new NHS Regulations has been suspended. However, the social services guidance sets out new arrangements for links between the two procedures – arrangements which it is proposed will be given the force of regulation when the new NHS Regulations are made.

6. The Regulations and guidance set out new arrangements for links between local authorities and the CSIW and, through the guidance, the same principles have been extended to cover links with other complaints procedures in local government. Together, these changes will represent a major step towards a seamless complaints service for users of public services in Wales.

Risk Assessment

7. Recent research commissioned by the Assembly, the response to the 2001 consultation and representations from service users have suggested a number of problems with the present regime:

- People who use services see the arrangements as too complicated;
- Authorities have not always dealt with complaints promptly and sympathetically.;
- Authorities have not always met the requirements on time-scales;

- Authorities have not always kept complainants informed about the handling of their complaint;
- The separate arrangements for children and adults have created confusion;
- There has been no framework for handling complaints that involve both social services and the NHS;
- The lack of any independent stage to the procedure has undermined confidence among some service users; and
- And a small - but growing – number of people have felt the need to take their concerns to the Public Services Ombudsman for Wales.

Options

8. There are three options:

- Option 1: Do Nothing;
- Option 2: Wait for the planned NHS Regulations currently on hold; and
- Option 3: Make the Legislation.

Option 1: Do Nothing

9. This would mean that the present arrangements would continue – with all of the risks and shortcomings outlined in the paragraph 7. In particular, the vulnerable people who rely on social services would still have no access to an independent panel hearing when the local authority's handling of the complaint has failed to resolve the issue.

Option 2: Wait for the planned NHS Regulations currently on hold

10. This would mean that the health and social services drafts could be considered together. However, the issues for the two services are rather different. While the Assembly overhauled the NHS complaints arrangements in April 2003, the social services arrangements are still in the form in which they were first introduced for England and Wales in 1990 and 1991. The Assembly held its own major consultation on social services complaints in 2001 and has waited on Westminster legislation in 2002 and 2003 for the powers to make the changes proposed then. The Shipman recommendations – which have delayed the NHS regulations - do not have a direct bearing on the social services arrangements. And it will still be possible to build more of a seamless service across the NHS and local authorities by outlining the changes in guidance now and amending the social services regulations when the NHS regulations are finalised. There is little justification for delay on these grounds.

Option 3: Make the Legislation

11. The Assembly has an opportunity through recently acquired powers to reform complaints arrangements in social services. Making the legislation now means that the reforms in Wales can come into force at the same time as the matching reforms in England.

Benefits

12. The main beneficiaries of the new framework will be the vulnerable men and women who use social services. It will also benefit the family

members and advocates who might need to pursue complaints on their behalf.

- The Regulations create unified and more coherent arrangements;
- The Regulations create duties on authorities to place the well being of the person using the service at the heart of their work on handling complaints;
- The Regulations put the time-scales for handling complaints on a statutory footing and place duties on authorities to keep complainants informed about the handling of their complaint;
- They provide arrangements for managing those complex situations where for instance the police, the CSIW or the Care Council are also investigating the matters raised in the complaint;
- Most importantly, the Regulations give people who use service the opportunity to have an independent review of their concerns when the local authority's handling of the complaint has failed to resolve the issue; and
- If implemented successfully, the new framework should mean that fewer people with concerns about social services would feel the need to take their concerns to the Public Service Ombudsman for Wales.

13. The Regulations and guidance will also be of benefit to local authorities and their staff. It will give them a single, comprehensive framework of Regulations and guidance on complaints for the first time.

Costs

14. It is not anticipated that local authorities will need additional resources to meet their duties under these new Regulations. The overall intention is to secure improvements in practice within existing resources. Local authorities have had statutory duties to establish and operate complaints procedures since 1990. They have had duties since then to publicise the procedures among service users and the public - and they have had duties to train their own staff to use the procedures properly.

15. Under the new arrangements, authorities will no longer be responsible for operating the third or panel stage of the procedure. Local authorities will be able to re-deploy any modest savings they make at this stage to developing the quality of their practice in the two earlier stages.

16. This change creates limited financial implications for the Assembly, which will have responsibility under the Regulations for running the new independent panel stage. The Assembly has concluded an agreement with the NHS Business Services Centre that the role will be performed on its behalf by the existing Independent Review Secretariat for the NHS – albeit with a radically simpler procedure than the NHS one. This will have a recurrent cost from 2006-07 of £100k for the children's and adults procedures combined. This will pay for the administrative costs of running the panel, as well as 'day fees' for the panel members. These sums will be found within the Assembly's social care baselines.

Consultation

With Stakeholders

17. The draft Regulations – together with the guidance - would implement most of the main proposals to come out of the Assembly’s wide-ranging consultation on complaints in 2001. The main findings of which were:

- There was “particular support” for the proposal to bring the two separate procedures into a common three-stage framework;
- There was support for at least part of the procedure to be independent of the authority complained against;
- Respondents generally supported a greater emphasis on local resolution;
- Those who responded wanted stronger guidance on the need to defer or freeze decisions while complaints about them are considered;
- Those who responded wanted better follow-up of the undertakings given by authorities in response to complaints; and
- Respondents wanted to see clearer links between social services procedures and other processes in, for example, health, education and housing.

18. The present draft Regulations and the associated guidance were developed with the help of a Complaints and Representations Advisory and Implementation Group (CRAIG). This brought together a range of key interests to consider the main policy options, the drafting instructions for the Regulations and the draft guidance.

19. There has been extensive consultation with service users, local authority complaints officers and advocacy providers on how we can improve the arrangements for handling complaints and move towards a more seamless response across different services. This work informed the development of the draft Regulations and guidance.

20. In addition, a public consultation was carried out on the draft Regulations, draft Regulatory Appraisal and draft guidance between 16 May 2005 and 5 August 2005. (A list of respondents is attached at Annex 1.) 52 responses were received from relevant organisations, including bodies representing services users, local authorities and local health boards, and the Public Services Ombudsman, the Children’s Commissioner and the Care Council. While a number of helpful suggestions were made, there was overwhelming endorsement for most of the Assembly Government’s proposals. Just one proposal was rejected - a suggestion that the Regulations should be amended to require all complaints officers to have a social work qualification. Respondents felt that in selecting the best people to be complaints officers, local authority should be able to draw on a wider pool than social workers.

21. Alongside the more formal consultation, the Assembly Government worked with All Wales People First to provide representatives of people with learning disabilities with a face to face opportunity to discuss the proposals. Working with Age Alliance Wales, a separate exercise was conducted to seek

the views of individual older people and their local organisations, from which 96 responses were received. There was overwhelming support from both of these exercises for the proposed Regulations.

22. In the light of the consultations, a number of amendments were made to the drafts of the two sets of Regulations. These amendments will:

- adjust some of the time-scales for individual stages of the procedure;
- strengthen the requirements on authorities to keep complainants informed about their rights under the procedures;
- strengthen the requirements on authorities to keep complainants informed about the progress of their complaint; and
- make provision for cases where the Care Council may also be investigating the matter raised in a complaint.

With Subject Committee

23. The draft Regulations were notified to the Health and Social Services Committee via the list of forthcoming legislation on 3 March 2004 (HSS(2)-04-04 Paper 4a) and were identified for detailed scrutiny. This took place on 5 October 2005.

Review

24. The impact of the Regulations will be monitored systematically. The Regulations require each authority to produce an annual report on its work with complaints. The guidance associated with the Regulations specifies the scope of the report and it should include - at minimum - data on:

- the numbers of complaints resolved at each stage - local resolution, formal consideration and independent review panel;
- adherence to time-scales;
- who made the complaints;
- what they were about;
- how they were resolved; and
- confirmation that promises made as part of the resolution have been kept.

25. The 22 annual reports should provide a good basis for compiling a clear picture of performance across Wales.

26. The independent panel hearings will create new opportunities to look at how well the local arrangements are working.

27. The SSIW will be including new indicators of the handling of complaints within the developing framework for Performance Management. Beyond this, it would open to the Assembly to ask SSIW to inspect the handling of complaints. This could be done either as one of its regular thematic inspections - or as a one-off investigation if there was a local cause for concern.

Summary

28. Recent legislation has given the Assembly an important opportunity to overhaul the arrangements for handling complaints about social services. The present procedures have been in place since the early 1990's.

29. The proposed Regulations will benefit vulnerable adults who use social services in Wales. They will bring together the separate arrangements for services to children and adults into a single framework. Most importantly, they will give people who use services the chance to take their concerns to an independent panel hearing where the local authority's handling of the complaint has failed to resolve the issue. The costs involved will be very modest.

30. The Department of Health currently plans to bring in broadly similar regulations on complaints procedures for adults on 1 April 2006 as their response to the changes in the 2003 Act.

Health and Social Care Department

September 2005

ANNEX

COMPLAINTS AND REPRESENTATIONS PROCEDURES IN LOCAL AUTHORITY SOCIAL SERVICES: LIST OF RESPONDENTS TO THE CONSULTATION HELD MAY TO AUGUST 2005

Local Authorities

Blaenau Gwent County Borough Council
Bridgend County Borough Council
City & County of Cardiff
Carmarthenshire County Council
Ceredigion County Council
Conway County Borough Council
Denbighshire County Council
Flintshire County Council
Merthyr Tydfil County Borough Council
Monmouthshire County Council
Neath Port Talbot County Borough Council
Newport City Council
Pembrokeshire County Council
Powys County Council (2)
Rhondda Cynon Taf County Borough Council (2)
City & County of Swansea
Torfaen County Borough Council
Wrexham County Borough Council
Cyngor Sir Ynys Môn

Organisations representing service users and other voluntary bodies

Age Concern Cymru
All Wales People First
Barnardos Cymru
Cartrefi Cymru
Crossroads Wales
CWMPAS
Mencap Cymru
Mind Cymru
NCH and NCH Cymru
NSPCC
Parkinson's Disease Society of the UK
TGWU Retired Members Association
Torfaen Voluntary Alliance
Vale of Glamorgan Older People's Forum

Continued

NHS bodies

Board of Community Health Councils in Wales
Bridgend Local Health Board
Cardiff Local Health Board
Conway and Denbighshire NHS Trust
Neath Port Talbot Community Health Council
Neath Port Talbot Local Health Board
North Glamorgan NHS Trust

Other bodies and individuals

All Wales Complaints Officer Group
Association of Directors of Social Services Cymru
Cardiff University – School of Social Science
Care Council for Wales
Children's Commissioner for Wales
An Independent Chair within the existing complaints procedure
An Independent Person within the existing complaints procedure
An Independent Person within the existing complaints procedure
Public Services Ombudsman for Wales