

Equality Impact Assessment (EIA) Template – Part 1

Policy title and purpose (brief outline):	The Social Services Complaints Procedure (Wales) Regulations 2014 and The Social Services Representations (Wales) Procedure Regulations 2014 Policy to introduce a new social services complaints and representations procedure.
Name of official:	Tom Cleaver
Department:	Department for Health and Social Services
Date:	16 June 2014
Signature:	<i>Tom Cleaver</i>

1. Please provide a brief description of the policy/decision.

The overall aim of this policy is to provide for a new social services complaints and representations process that will improve the experience for people making complaints about social services in Wales. The new complaints procedure streamlines the process for making complaints and makes it easier for complaints to be handled by local authorities when multiple agencies are involved. The complaints and representations procedure regulations together provide for these new arrangements to bring the social services complaints and representations process in line with the *All Wales Model Complaints Procedure* which has been adopted across public services. In particular it makes the social services complaints process consistent with the NHS complaints process.

The Social Services Complaints Procedure (Wales) Regulations 2014 and The Social Services Representations (Wales) Procedure Regulations 2014 have been laid before the National Assembly before the summer recess. Subject to approval these regulations will come into force on 1 August 2014.

These regulations will be re-made under provisions in the Social Services and Wellbeing (Wales) Act 2014 as part of the implementation of that legislation. We will use this opportunity to review the regulations and statutory guidance in light of experience.

2. We have a legal duty to engage with people with protected characteristics under the Equality Act 2010 (please refer to Annex A of the EIA guidance) identified as being relevant to the policy. What steps have you taken to engage with stakeholders, both internally and externally?

The Welsh Government has undertaken two consultation exercises in respect of the work to strengthen and improve the handling of concerns, complaints and representations in social services. An initial consultation entitled 'Making Things Better' considered whether the existing complaints process should be updated or amended to meet the needs of service users. That consultation took place between from 28th February 2012 to 30th May 2012.

Responses to that consultation supported the need to transform the existing social services complaints process. They also reinforced the fact that the current system is confusing and difficult for individuals to navigate. There was general agreement that the stage 3 panels were no longer required and that they should be removed.

A second public consultation took place between 28th November 2013 and 20th February 2014 in relation to draft guidance and regulations to support a new social services complaints process. The Welsh Government response to this second consultation was published on 8 May 2014. In response to consultation feedback the length of the guidance was reduced and it was amended to remove any unnecessary complexity. Several respondents raised concerns about the practicalities of implementing the new arrangements by 1 June 2014. To address this, whilst the regulations will still go before the National Assembly before the summer recess, their coming into force date will now be 1 August to allow further time for implementation.

3. Your decisions must be based on robust evidence. What evidence base have you used? Please list the source of this evidence e.g. National Survey for Wales. Do you consider the evidence to be strong, satisfactory or weak and are there any gaps in evidence?

The new complaints procedure is based on the principles set out in the All Wales Model Concerns and Complaints Policy. This policy was developed by the Complaints Wales Group, a group chaired by the Public Services Ombudsman for Wales which was established to consider how complaints processes across the public sector could be simplified and more closely aligned, so that people can complain more easily. The policy developed by the group states that complaints processes should be:

- accessible and simple;
- fair and impartial;
- timely, effective and consistent;
- accountable; and
- deliver continuous improvement.

The changes to the procedure were further developed following evidence received as part of the *Making Things Better* consultation on a new complaints process. This consultation exercise was undertaken in 2012 on the principle of aligning the Social Services Complaints model more closely with the *Model Concerns and Complaints Policy and Guidance*. Responses were received from a wide range of private and public sector organisations and individuals. Overall, the responses identified that the existing arrangements were too complicated and provided a clear mandate for removal of the stage three independent panel and for the introduction a two stage process.

As part of *Making Things Better* work the Welsh Government consulted widely with different groups of service users, local authority complaints officers and advocacy providers on how the complaints process could be improved. A series of focus groups were also held, facilitated by Participation Cymru. In accordance with the Equality Act

2010, they ensured that people from all protected characteristics were contacted and given the opportunity to be involved.

A second public consultation took place between 28th November 2013 and 20th February 2014 to consider draft guidance and regulations developed to support the new social services complaints process. The draft guidance and regulations were developed on the basis of responses received from the *Making Things Better* consultation. Although some changes were made to the guidance as a result of consultation, the responses received were generally positive about the new process.

It is important to note any opportunities you have identified that could advance or promote equality.

Impact

Please complete the next section to show how this policy / decision / practice could have an impact (positive or negative) on the protected groups under the Equality Act 2010 (refer to the EIA guidance document for more information).

Lack of evidence is not a reason for *not* progressing to carrying out an EIA. Please highlight any gaps in evidence that you have identified and explain how/if you intend to fill these gaps.

4.1 Do you think this policy / decision / practice will have a positive or negative impact on people because of their age?

Age	Positive	Negative	None / Negligible	Reasons for your decision (including evidence) / How might it impact?
Younger people	Positive			Overall, the new guidance has been made clearer and easier to understand in response to feedback from a wide range of

<i>(Children and young people, up to 18)</i>			<p>consultees including the Children’s commissioner for Wales.</p> <p>The new complaints guidance also places an increased focus on making the process of complaining simpler, and shorter. As part of this the local authority must offer to discuss (either face-to-face or by telephone) the complaint or representation with the complainant in an attempt to quickly resolve matters. This approach should have a positive impact on children and young people.</p> <p>The Representation Procedure (Wales) Regulations 2014 will extend the application of the representations process to specific local authority functions relating to adoption.</p>
People 18-50	Positive		Overall, the new guidance has been made clearer and easier to understand in response to feedback from a wide range of consultees including the Children’s Commissioner for Wales and Older People’s Commissioner for Wales.
Older people (50+)	Positive		



4.2 Because they are disabled?

Impairment	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Visual impairment	Positive			<p>The new complaints and representations guidance states that the complaints process should be accessible and simple in line with the principle set out in the <i>Model Concerns and Complaints Policy and Guidance</i>.</p> <p>As with the current complaints procedure, the regulations state that each local authority must ensure that there is effective publicity, in a variety of formats, about its complaints procedure. Additionally the regulations state that a copy of the complaints procedure must be given free of charge to any person who requests it, in the format that has been requested.</p> <p>The new complaints guidance also places an increased focus on making the process of complaining simpler, and shorter. As part of this the local authority must offer to discuss (either face-to-face or by telephone) the complaint or representation with the complainant in an attempt to quickly resolve matters. This</p>
Hearing impairment	Positive			
Physically disabled	Positive			
Learning disability	Positive			
Mental health	Positive			
Other impairments issues	Positive			

				<p>approach should have a positive impact for those with impairments.</p> <p>As with the current complaints procedure the local authority will need to consider what help and support it can offer to complainants, both to access the system and to pursue their complaint or representation through the process. Some people will need advice and confidential support to make their complaint, to pursue it, to handle the process and to cope with the outcome.</p>
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4.3 Because of their gender (man or woman)?

Gender	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Male			Negligible	
Female			Negligible	

4.4 Because they are transgender?

Transgender	Positive	Negative	None / Negligible	Reason for your decision (including
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				evidence) / How might it impact?
			Negligible	

4.5 Because of their marriage or civil partnership?

Marriage and Civil Partnership	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Marriage			Negligible	
Civil Partnership			Negligible	

4.6 Because of their pregnancy or maternity?

Pregnancy and Maternity	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Pregnancy			Negligible	
Maternity (the period after birth)			Negligible	

4.7 Because of their race?

Race	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Ethnic minority people e.g. Asian, Black,			Negligible	
National Origin (e.g. Welsh, English)	Positive			<p>The guidance to support the new complaints procedure sets out that service users should receive an 'Active Offer' for them to proceed with a complaint through the medium of Welsh.</p> <p>The new guidance also states that the complaints process should achieve the same standard, treating the Welsh language no less favourably than the English language and respond within the same timescales in English and in Welsh.</p> <p>As with the current procedure, the regulations and guidance will be available bilingually in Welsh and English.</p>
Asylum Seeker and Refugees	Positive			<p>The new complaints guidance places an increased focus on making the process of complaining simpler, shorter and easier to understand. As part of this the local authority must offer to discuss (either face-to-face or by</p>
Migrants	Positive			

				telephone) the complaint or representation with the complainant in an attempt to resolve matters. This approach should allow for the quick and successful resolution of most complaints, to the satisfaction of the complainant and should have a positive impact on those whose first language is not English.
Gypsies and Travellers			Negligible	
Others			Negligible	

4.8 Because of their religion and belief or non-belief?

Religion and belief or non – belief	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Different religious groups including Muslims, Jews, Christians, Sikhs, Buddhists, Hindus, Others (please specify)			Negligible	
Belief e.g. Humanists			Negligible	

Non-belief			Negligible	
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4.9 Because of their sexual orientation?

Sexual Orientation	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Gay men			Negligible	
Lesbians			Negligible	
Bi-sexual			Negligible	

4.10 Do you think that this policy will have a positive or negative impact on people's human rights? *Please refer to point 1.4 of the EIA Annex A - Guidance for further information about Human Rights.*

Human Rights	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Human Rights including Human Rights Act and UN Conventions			Positive	A persons right to complain is already a central part of the current system. However, the new complaints guidance further protects the human rights of individuals by strengthening the complaints process through placing an increased focus on making the process of

				complaining easier for individuals.
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If you have identified any impacts (other than negligible ones), positive or negative, on any group with protected characteristics, please complete Part 2.

Only if there are no or negligible positive or negative impacts should you go straight to part 2 and sign off the EIA.

Equality Impact Assessment – Part 2

1. Building on the evidence you gathered and considered in Part 1, please consider the following:

1.1 How could, or does, the policy help advance / promote equality of opportunity?

For example, positive measures designed to address disadvantage and reach different communities or protected groups?

As part of the *Making Things Better* consultation the Welsh Government consulted widely with different groups of service users. This included arranging a series of focus groups which captured the views of people from protected groups. The Welsh Government used the feedback from this exercise to help inform the development of this policy .

The new complaints guidance places an increased focus on making the process of complaining more accessible. This will make it easier for all groups, including those with protected characteristics to engage with the process. The local authority must offer to discuss (either face-to-face or by telephone) the complaint or representation with the complainant in an attempt to resolve matters. This approach should allow for the quick and successful resolution of most complaints, to the satisfaction of the complainant. It should have a positive impact on those with protected characteristics and help promote equality of opportunity.

Local authorities will be required to ensure there is effective publicity and material about the complaints procedure which is available free of charge and in a variety of formats. This will have a positive impact on people with protected characteristics and will help promote equality of opportunity. The guidance requires that complaints are handled in a way that takes account of the particular circumstances of the complainant (including their age or any disability). This includes ensuring that access to the process is easy and that complainants are treated with dignity and respect by trained staff.

1.2 How could / does the policy / decision help to eliminate unlawful discrimination, harassment or victimisation?

The new complaints guidance helps minimise discrimination by explicitly stating that everyone who makes a complaint about social services in Wales has a right to be listened to properly and to have their concerns resolved quickly and effectively. In addition, the new complaints process is guided by principles contained in the *Model Concerns and Complaints Policy and Guidance* which states that:

- Concerns are dealt with in an open-minded and impartial way.
- Complainants are assured that making a complaint will not adversely affect their future dealings and contacts with the body concerned.
- Ensures that complainants get a full response and that decisions are proportionate, appropriate and are fair.

As previously stated the guidance requires that complaints are handled in a way that takes account of the particular circumstances of the complainant (including their age or any disability). This includes ensuring that access to the process is easy and that complainants are treated with dignity and respect by trained staff.

The guidance provides that material issued by local authorities about the complaints procedure should address the misconception that the complainant will be in any way disadvantaged.

1.3 How could/does the policy impact on advancing / promoting good relations and wider community cohesion?

As outlined in section 1.1, the new complaints process has a greater focus on the Local Resolution stage which promotes direct engagement with citizens. As part of this process the local authority must offer to discuss (either face-to-face or by telephone) the complaint or representation with the complainant in an attempt to resolve matters. By directly engaging with the complainant at this stage via a face-to-face meeting or by telephone, this approach should have a positive impact on relations between the local authority and the community through more personal engagement.

2. Strengthening the policy

2.1 If the policy is likely to have a negative effect ('adverse impact') on any of the protected groups or good relations, what are the reasons for this?

What practical changes/actions could help reduce or remove any negative impacts identified in Part 1?

Not applicable

2.2 If no action is to be taken to remove or mitigate negative / adverse impact, please justify why.

(Please remember that if you have identified unlawful discrimination (immediate or potential) as a result of the policy, the policy must be changed or revised.)

Not applicable

3. Monitoring, evaluating and reviewing

How will you monitor the impact and effectiveness of the policy?

List details of any follow-up work that will be undertaken in relation to the policy (e.g. consultations, specific monitoring etc).

The Complaints and Representations regulations will be re-made in 2015 under the Social Services and Well-being (Wales) Act. Before they are re-made there will be an opportunity to review and assess the impact of the 2014 Regulations and guidance and make changes if necessary.

The results of all impact assessments where the impact is significant will be published on the Welsh Government's website.

4. Declaration

***Please delete as appropriate:**

The policy *does / does not have a significant impact upon equality issues

Official completing the EIA
Name:
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Department:
Department for Health and Social Services
Date:
16/06/2014
Signature:
<i>Tom Cleaver</i>
Head of Division (Sign-off)
Name:
Margaret Provis
Job title and department:
Deputy Director, Social Services Strategy and improvement
Date:
15/07/2014
Signature:
<i>Margaret Provis</i>
Review Date: