

Complaints Panels in Social Care

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Preface

This book is a guide to the process and experience of complaints panels in social care, in work both with adults and with children and young people. Whilst underpinned by the legal requirements for setting up a panel, it:

- offers further information on how panels should be run
- suggests how to avoid potential problems
- gives advice on achieving 'best practice'.

The book aims to enhance the development of panels.

The book covers all aspects of the panel procedure, from the setting up of a panel through to the panel recommendations being referred to the director for his decision. The chapters include a summary of key issues, which will be of assistance in overcoming problems which may be encountered in the panel process.

During the empirical research which formed the basis of this book, it became evident that many local authority complaints managers were not aware of how other authorities were conducting panels and that, beyond the legislation and Department of Health guidance, there was no up-to-date guide to assist them in reviewing their procedure. This book offers an opportunity for all readers to learn from the experiences of other local authorities. It identifies potential pitfalls and demonstrates good practice in complaints handling.

The intended readership is primarily:

- those people who are responsible for the panel procedure within a local authority
- those staff who may be called to the panel
- members of panels
- those studying the practice of social care.

Complaints managers, who have the day-to-day responsibility for handling complaints, will find the sections on chairing the panel especially helpful in any training or guidance they may want to provide to their independent people.

Those complaints managers who are charged with the responsibility of overhauling their complaints procedure will also find it of particular use as a benchmark guide.

It will help **directors of social care** in their responses to panel recommendations, and in aiding them to know whether their panel procedure is the best it can be.

Due to an increasing involvement of advocates and the need for legal advice in the complaints process, the book will assist people in understanding what **advocates and their clients** can, and should, expect from the experience.

For anyone new to social care complaints, whether in the running of the procedure or as an independent panel member, this book offers an introduction to the requirements and procedure of panels.

Those who are appointed as independent people, that is **independent persons, investigators and panel members**, will find the book very helpful as it guides them through the panel process. The book carefully explains their roles and uses real case study examples from which to learn. Those in the role of **panel chair** will find it particularly useful.

Finally, the book is also aimed at **those studying social care**, either as a teacher or a student. In our modern society, users of services are increasingly encouraged to come forward with their complaints, both as a means of remedying individual deficiencies and, on the larger front, as a means to improve services more generally. It is therefore of importance to all involved in studying the system to have a full understanding of the key issues and processes.

Note: the law applies to England and Wales in exactly the same way. There are very similar systems in place in Scotland and Northern Ireland and this book should also be relevant in those areas.

Dedications

C.W. for John and Gaynor

K.F. for James, Isabelle and Mia

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About the Authors

Catherine Williams was appointed as an independent investigator of complaints and independent chair of panels at the inception of the *Children Act 1989*, in 1991, and has been involved in complaints ever since. She is an honorary reader in law at the University of Sheffield. Catherine has written several articles on the subject of complaints and, with Helen Jordan, wrote an early study on the operation of the complaints procedure in six different local authority areas.

In 2006 **Katy Ferris** completed an empirical PhD of Social Services Complaints Procedures in England and Wales. She is a senior lecturer in law at Sheffield Hallam University and has experience of work as an independent panel member and chair.

Introduction

The empirical research that underpins this book covered 47 out of 150 local authorities in detail and involved five years of study. At least three authorities were included in every single region in England and Wales in the research, which also had input from the local government ombudsmen offices, and a representative from the Children's Commissioner for Wales. Interviews were also conducted with many chairs of panels, including both those who work independently and people who work for an agency.

Every local authority must have a complaints procedure in place in order for people in receipt of social care to have an avenue of complaint and to comply with the *Health and Social Care Act 2003*. The legal requirements of Social Care Complaints panels have been changed in the last few years, but local authorities still retain quite considerable discretion in the way that they form and run panels. This book therefore aims to provide guidance and assistance, and to disseminate good practice to professionals at all levels involved in running and taking part in the procedure.

The culmination of the complaints procedure is a panel hearing, when three people consider the complaint based upon the investigation. Panels have wide powers. These powers include upholding or rejecting decisions made by the local authority, as well as asking the local authority to reconsider a decision in respect of the complainant. Panels can also make financial recommendations.

The book breaks down the panel process into the following key elements:

Chapter 1: Introduction to the complaints procedure and panels

We explain the background to the complaints procedure, with reference to the empirical research and recent government changes.

Chapter 2: The constitution of the panel

This chapter considers the panel members in detail. The appointment of panel members can often cause problems when local authorities are convening the panel. Consideration is given to the different options the local authority has, the independence of members and any training they should have.

Chapter 3: Arrangements for the panel hearing

This chapter looks at the actions which need to be taken to help ensure that the panel is compliant with legislation, whilst helping to ensure that those attending the panel are comfortable with the arrangements. It focuses on the information which needs to be provided to the parties attending, as well as giving consideration to the venues which might be considered suitable for the panel hearing.

Chapter 4: The panel hearing

This chapter covers the panel hearing process on the day. It considers in detail the role of those attending and the procedure, advising as to best practice for running the hearing. It considers the pre-panel meeting, the actual hearing and how best to keep a record of the panel.

Chapter 5: Recommendations of the panel

This chapter covers what happens in order for the panel to come to their conclusions; the types of recommendations, which may be made; time limits for making the recommendations; who is involved at the recommendation stage; and confidentiality. In addition we tackle the situation where a panel are not in agreement.

Chapter 6: Procedure after the panel

The final focus is on procedures after the panel has concluded its deliberations. The issues that are considered are: the time taken to respond to the complainant informing them of the outcome; to whom the recommendations are sent in order for the local authority to consider its final response; methods of communication between the chair and director after the panel; and whether the recommendations are followed and if this is done successfully.

All six of the chapters include real case studies, providing examples and learning points for the reader.

When using the first person singular, other than in the real cases and examples where the actual gender of the people involved is used, for ease of writing we have followed an accepted convention of referring to people in the masculine gender. There is, however, one exception to this. As we are both female chairs of panels, we refer throughout to the chair in the feminine gender.

We refer to people by the same title throughout the book. Therefore, the person who is responsible for the complaints process is always called the complaints manager and his workplace the complaints unit. The person representing the department at panel is called the adjudicating officer and the investigator is called the investigating officer. The person to whom the panel findings and recommendations are sent is called the director.

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