

Consultation NHSR Committee

NHS Redress (Wales) Measure

WCVA's Response

Introduction

Wales Council for Voluntary Action represents, campaigns for, supports and develops voluntary organisations, community action, and volunteering in Wales.

It represents the sector at a European, UK, and national level, and together with a range of national specialist agencies, county voluntary councils, and volunteer centres, and other development agencies, it provides a support structure for the third sector in Wales. It has over 2,000 members, and is in touch with many more organisations through a wide range of national and local networks. It facilitates the Health, Social Care and Well-being Network, which brings together 80 major national organisations working in the health, social care and well-being field and supports local health and social care facilitators through the Assembly Government's Building Strong Bridges initiative to strengthen partnerships between the sector and health bodies.

General comments

Third sector organisations in Wales will welcome a measure to improve redress arrangements when things go wrong. Whatever redress system is put in place must reflect the citizen-centred principles promoted by Making the Connections, and be understandable and user friendly. Whatever measures are put in place they need to be piloted in some way to ensure that those who are least heard are able to access justice and if necessary compensation.

Another general comment is the whole question of avoiding avoidable mistakes (as well as reducing the amounts of money spent on litigation and compensation). This means that we work upstream as far as possible on measures designed to improve, for example, the standard and quality of care. This includes promoting and supporting public and patient engagement in the regulatory process of driving up standards, education and registration requirements to drive the overall improvement of patient safety and their trust and assurance in processes that regulate healthcare professionals, whether within or outside the NHS.

A further comment is to query whether an Equality Impact Assessment has been undertaken on this measure?

Question 1:

A Redress Scheme is needed in order to provide faster and more appropriate redress than litigation and to improve how the NHS deals with complaints. In addition any reduction in the legal fees paid out by the NHS (£2m as detailed in recently released NHS Trust accounts), is welcome.

Question 2:

It is difficult to specify whether the proposed measure meets the policy objectives as there is insufficient detail provided within the measure. The measure itself states that there will be formal consultation on the policy objectives (and on details in the regulations) in 2008.

The components of redress are welcome - compensation, explanation, apology and action to prevent the same thing happening again (often an overriding concern of complainants). However, without more detail on how the scheme will operate it is not possible to comment on whether this will make it easier and more accessible for patients, nor how NHS bodies and services will learn from their mistakes and avoid repetition of such mistakes in the future. More detail is required on, for example

- What cases will qualify for redress
- Time limits in relation to accessing redress
- circumstances where a report on the findings of an investigation won't be provided

Question 3:

There is great concern that it is not considered that this measure will have any impact on the voluntary sector (as specified in the explanatory notes under sections 8 and 9). On the contrary, it is suggested that this measure will have a significant impact on a wide range of independent advocacy, advice and support services within the voluntary sector. These are likely to be the first source of help and guidance for many potential complainants, including those who are most vulnerable, those who are unwilling to engage with statutory bodies or private sources of advice. Whilst advice and support services might be available from within the statutory sector (e.g. Community Health Councils), they are unlikely to be equipped to assist the most vulnerable people (for example, people with learning disabilities or people with dementia, and their carers) who need the support of specialist independent advocacy services, many of which already struggle with short-term and insecure funding. It is recommended that there is a detailed assessment of the likely impact on independent advocacy and independent advice services to ensure that have the necessary training and capacity to respond to requests for assistance as a result of this measure.

Question 4:

The system will need to ensure the provision of free advice and support for all stages of the process, and must include the specific needs of all groups e.g. payment for interpreters, etc. As indicated in response to question 3, there will be significant implications for independent advocacy and independent advice services in terms of training and capacity to respond to demand. This should be identified by the proposed detailed assessment of the impact on the sector.

Question 5:

There is concern that the provision of free legal advice and other 'expert' advice and advocacy support is specified as being available only *as Ministers see fit*. Similarly it is specified that general assistance or advice for those seeking, or intending to seek, or during application for, redress (this *may* include advocacy at meetings) *depends on Ministers seeing such requirements as reasonable*. Free advice and support is needed at **all** stages of the process and should not be reliant on Ministers deciding if the need for such support is valid.

12th September 2007