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Taking Complaints Seriously: The Role of Informality in Complaints About Public Services

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Recent discussion in the UK has focused on proportionate dispute resolution to deal with people's problems with public services. Complaints procedures, which are seen to be user-friendly and informal, have been held up as good examples of proportionate dispute resolution mechanisms. Most complaints procedures include an informal first stage where, it is argued, most complaints should be resolved but there is little research evidence about what happens at this stage. This article looks at the informal stage of complaints procedures from the perspective of social care service users and considers some of the issues raised by informality.

Introduction

Complaints procedures have been promoted in public services since the 1990s as a means to increase user participation, increase 'satisfaction' with services and to provide a mechanism for feedback to managers on problem areas. Managerialism has promoted the idea of 'learning from complaints' as a way of improving services (Mulcahy and Allsop, 1997; Clarke *et al.*, 2007). In order for lessons to be learned from complaints, it is necessary to have adequate recording and reporting mechanisms. In most complaints procedures, however, recording and reporting only occur when an 'informal' complaint becomes formalised, while the vast majority of grievances are dealt with informally and are therefore not recorded. Research in the field of health complaints shows that, despite recommendations by government bodies that complaints information should be used to improve services, complaints tend to be seen as 'discrete incidents' and not as potential management information (Mulcahy, 2003: 135). Recent research on English social care complaints procedures shows that few annual reports include any information on what action local authorities were taking to improve services as a result of complaints, indicating that learning lessons is not the main focus (National Audit Office, 2008). Instead complaints procedures tend to be regarded as mechanisms for consumer voice and the way they are dealt with reflect what Gilad has described as 'expectations management' (Gilad, 2008: 245).

Complaints procedures vary across different public services and there is no standardised 'system' of public service complaints procedures (for a discussion of the complexity of the complaints 'landscape', see Gulland, 2010). This article looks at the complaints procedures run by local authorities for users of social care services. Local authorities have been required to have complaints procedures for social care services since the community care reforms of the 1990s. Although there have been moves away from the direct provision of services by local authorities, the complaints procedure

is the primary mechanism that service users have for challenging decisions made by local authorities about social care, including decisions on charging and allocation of resources.¹ The details of procedures vary across the devolved administrations but have certain common features, including the requirement for a first stage, where complainants have the opportunity to resolve their grievance 'informally'.² If they are dissatisfied with this, complainants can move on to a more formal stage and eventually can take their complaint to an ombudsman.

Complaints procedures have been hailed as 'proportionate' mechanisms for resolving disputes. Proportionality has been the focus of much recent discussion of dispute resolution in public services in the UK (Adler, 2008; Department for Constitutional Affairs, 2004; National Audit Office, 2005; Law Commission, 2006; AJTC, 2008). The meaning of 'proportionate' is difficult to define, but is sometimes assumed to relate to the relative cost of the procedure in relation to the importance of the problem. The Department of Constitutional Affairs White Paper focus was on dispute avoidance and resolving disputes quickly and efficiently (Department of Constitutional Affairs, 2004), while the Administrative Justice and Tribunals Council's definition is based on resolution, short of a full tribunal hearing (AJTC, 2008). The Law Commission recognises that there are potential conflicts between different requirements of dispute mechanisms, but describes 'proportionate dispute resolution' as 'one which allows appropriate balances to be struck between core values' (2006: 19). It goes on to argue that a proportionate dispute resolution should 'bear a sensible relationship to the problem to be solved'. Adler (2008) compares these different approaches and reminds us that notions of proportionality will vary depending on the type of issue and that, in citizen–state disputes, citizens may feel very strongly about their problems, but are unlikely to be aware of the different mechanisms available for resolving them. Here Adler's definition of proportionality includes the need for dispute mechanisms to be easy to access. Most discussions of complaints procedures, including recent policy documents, argue that proportionality can be enhanced and accessibility improved by enabling early 'informal' stages for complaints procedures.

However, there is very little research evidence on what actually happens at these early informal stages of complaints procedures. Informal processing of complaints, by definition, often means that there is little trace of what happened. For a complaint to be recorded, a decision has to be made by either the complainant or the person on the receiving end, or both, to record it officially as 'a complaint'. Recording of complaints has been found to be patchy across many public services (National Audit Office, 2005). Mulcahy and Tritter identify 'local practice, screening procedures, interpretation of the boundaries of discretion and attitudes to complaints' (Mulcahy and Tritter, 1998: 841). Simons notes considerable 'under-recording of so-called informal . . . complaints' amongst local authorities (Simons, 1995: 18). As a result, researchers have also found it difficult to find out how effective these 'first stages' actually are (National Audit Office, 2008). Where research *has* uncovered the views of complainers at this level, much dissatisfaction has been found (Simons, 1995; Braye and Preston-Shoot, 1999). This dissatisfaction was recognised in draft guidance from the Department of Health on the new English health and social care complaints procedure, which was much more forthright than it has been in the past:

The concept of resolving problems by the staff immediately concerned, without recourse to a formal and time-consuming investigation is a popular one. However there are concerns that

without some constraints this informal stage can drag on and prevent complainants having access to the more formal stages. (Department of Health, 2004, para. 3.6.2)

The new procedure goes on to set time limits on this 'informal' or 'local resolution' stage and also requires that *all* complaints, including these first-level complaints, are recorded (Department of Health, 2009a). However, the procedure still requires a 'complaint' to be recognised as such by front-line staff. Defining complaints is not easy. Not all actions taken by the dissatisfied 'complainant' will be recognised as complaints by staff, by voluntary organisations acting on behalf of service users or in fact by service users themselves. In the field of health complaints, Mulcahy and Tritter (1998) have shown that there can be a difference of understanding between complainants and health authorities as to what constitutes a 'complaint', where people think they have complained but the authorities have not described it in this way. Similar ambiguities can be found in complaints in other fields. Whether or not expressions of dissatisfaction are interpreted as 'complaints' depends very much on the particular organisation's system for recording and on the individual who receives the complaint. This has been recognised by the new health and social care complaints procedure in England, which encourages authorities to consider 'feedback' as well as 'complaints' (Department of Health, 2009b). However, for this feedback to find its way into the 'complaints procedure' it will have to be recognised as a 'complaint' at some point. In an attempt to shine further light on what happens at these informal stages of complaints, this article looks at complainants' and complaints officers' views of informality in the local authority social care complaints procedure.

Methodology

The research involved qualitative interviews with thirty-six people who had made formal complaints about adult social care services in two local authority areas in Scotland in 2005. The two areas were chosen on the basis that they had received enough recorded complaints in recent years to make a sufficient sample possible and that they were willing to provide research access. Both authorities had complaints officers who were very committed to their work and believed strongly in the value of a complaints procedure. In this respect, it is likely that any difficulties encountered by complainants in the chosen authorities would be likely to be even greater in some other local authorities. In each authority the complaints officer sent a letter to all the people whose complaints had been formally recorded in the previous eighteen months, with an invitation to contact the researcher if they were willing to be interviewed. For each authority, the response was around 30 per cent. It is difficult to establish how far those who agreed to be interviewed were in any way representative of complainants in general, but their demographic profile and circumstances were sufficiently diverse to suggest that there was no obvious pattern to those who responded. Sixteen of the complainants were service users, sixteen were relatives³ of service users and four were advocates from voluntary organisations. Complaints covered a range of social care services, including assessment, home care, day centres, equipment and adaptations, support workers, residential care and financial arrangements. In an attempt to explore the experiences of people who may not have used complaints procedures, four focus groups were conducted, consisting of two groups of older people who were users of social care services, a carers' support group and a

group of younger disabled people. Interviews were also conducted with the complaints officers in each authority and with four senior members of social work staff. As well as the issues discussed in this article, the research also looked at what people complain about, how people describe their experiences of using the complaints procedure, barriers to complaining, how people deal with complaints that have not been resolved to their satisfaction and how they understand the meaning of complaining. For further details see Gulland (2007 and 2009).

Findings

Defining informal complaints

Despite the rhetoric of the importance of the informal stage, complaints officers in this study were reluctant to make a clear distinction between 'informal' and 'formal' complaints. In access negotiations amongst other authorities, several complaints officers were doubtful of the usefulness of this term, saying that in practice all complaints that reached their office were considered to be 'formal'. In practice, local authorities did not record the details of people who had made informal complaints. This meant that it was possible only to access people whose complaints had reached the formal stage of the procedure. However, as the research reveals, those who had succeeded in making a 'formal' complaint had often made an informal complaint first, or had previous experience of making informal complaints and were able to discuss their views of the differences. The wider issues of informality also came up in focus groups, whose members included people who had made attempts to resolve grievances in a variety of ways.

The complaints officers and managers agreed that it was desirable that issues should be dealt with as informally as possible and that the formal complaints procedure should only be used if this attempt at informal resolution had not succeeded or if the complainant expressed a wish to make a formal complaint. However, their descriptions of what they did in practice show that the same issue might well be treated differently, depending on who dealt with it initially. One social work manager felt that everything should be recorded so that, if necessary, the formal complaints procedure could be activated easily:

We would try to deal with things informally if we can, although in actual fact I log them as if they were all formal because I think it just gives us a better notion of what we've done. (Social work manager)

This same manager recognised however that this would not 'catch' all the complaints that came in:

The only ones that wouldn't be recorded would be the ones that never get to me, so if they complain to a first line manager for example, then to be honest the practice team leader or senior social worker will deal with that. (Social work manager)

Another felt that it depended on how the complainant worded their problem, arguing that it would be counted as a 'complaint' if they used the word, but otherwise not. At the other extreme, another manager felt that his role was to avoid calling things complaints at all costs:

Another thing is to try and encourage a culture which forestalls complaints, not by stopping people complaining but by trying to address issues with people in an informal way to try and take care of their concerns.

But if someone came and said 'I want to complain about the service that my granny's getting', my expectation would be that the first thing my member of staff would do would be to say 'come on in and talk to me about it'. I think that's to everyone's benefit. I wouldn't expect them to say 'oh you want to complain, there's the complaints leaflet'.
(Social work manager)

These comments came from local authority staff in the same authority, operating under the same local guidelines. The complaints officers in both authorities confirmed that it was in everyone's best interests to resolve problems 'informally' and recognised that staff on the ground would handle these differently. They also recognised that people's procedural rights could be upheld through the statutory procedure only if complaints were recognised as 'formal complaints' and that this would require the formal procedure to be invoked. Lipsky's work on 'street level bureaucrats' is helpful in explaining the different ways in which social work staff at the front line may deal with 'informal complaints'. Leabetter and Mulcahy summarise the barriers to complaining that can be created by 'street level bureaucrats', including that front line staff may not be aware of their own complaints procedures, that they may not be good at communicating with people who are upset or angry and that they may discourage people from registering a grievance as a 'complaint' (1996: 25–9). Lipsky argues that senior managers would be more likely to follow organisational policies more consistently (Lipsky, 1980: 18). The evidence from this research is that even senior managers vary in their interpretation of the complaints procedure.

It is perhaps unsurprising that there is this level of uncertainty in defining complaints. Even in areas where appeal or review procedures are more formal, for example in social security, there can be considerable ambiguity about the different stages. Research evidence suggests that people do not always understand the legal procedure that they are following and act out of a sense that something is not right. This has been found in research on the motivations of social security review and tribunal applicants (Adler and Gulland, 2003), amongst applicants for housing under homeless persons legislation (Cowan and Halliday, 2003) and in the field of legal action in general (Genn, 1999). Those on the receiving end of these more formal grievances are also not always in agreement about what constitutes a 'review'. In research on the procedure for reviewing decisions in applications to the social fund, Dalley and Berthoud describe a 'preliminary filter' whereby a request for a review can be prevented from going further by the way it is dealt with in the local office (Dalley and Berthoud, 1992: 52). The evidence from the current research suggests that the question of whether or not dissatisfaction is expressed as a 'formal complaint' depends not only on the characteristics of the potential complainant and their relationship with the local authority, but also on how it is handled once it reaches a member of local authority staff. Nevertheless, some people may be more likely than others to push a complaint as far as they can and to insist that it is dealt with as 'a formal complaint'. The individual interviews in this research were all with people who had made 'formal' complaints. However, the ways in which complaints came to be designated in this way varied considerably. On some occasions, complainants had made a deliberate decision to make a formal complaint; on others, the complainants had

made initial attempts to sort their problem out informally and had only 'made a complaint' when this had not been successful.

Routes to formal complaints

Some complainants were clear that they had set out at the start to make a formal complaint. When asked whether they had considered taking the issue up informally first, some people said they had not because they wanted their problem to be taken seriously. This was because they didn't believe the local office would deal with it, that the local office didn't have the power to do anything about it or that they hoped that a formal complaint would lead the local authority to learn from the complaint and take action to prevent such problems arising again. These beliefs were sometimes based on the complainant's experience of having tried to raise problems in the past and a cynicism about how an informal approach would be dealt with. Helen Fisher⁴ exemplifies this belief:

I believe in going higher. I do. I mean, if you write to a centre manager . . . I know that's the proper way to do it and you wait months and months for him to get back to you. Then you get a wee pat on the head and [he'll say] 'we'll see what we can do'. I don't believe in that.

Focus groups also talked about their experiences of trying to complain informally in the past:

Harold Webster: Well in my opinion, from past experience, you're wasting your time. Go direct [to the complaints office].

Cathy McLaren: I agree with that.

Researcher: Why would you agree with that?

Cathy McLaren: Because unless you go right to the top, you never get anything.

(Focus group – older people)

I would go as far as a senior person. If I went in to that senior person and asked them if they saw my complaint, they would say they didn't know what I was talking about. It gets lost somewhere between the sharp end and the people who make decisions. (George McIntosh, Focus group – carers)

These examples illustrate a belief amongst some complainants that issues need to be dealt with at a formal level because they will be taken more seriously or because this will allow the department to learn from its mistakes. Another reason for not complaining to the local office was that the local office had caused the original problem and the complainant could not see the point in taking it up at that level. This was illustrated by Susan James who was quite taken aback when I asked her if she would have considered taking the complaint up with staff in the local office. She said 'But that was the office that started it all!'

Other complainants had a more positive experience of their local office and had taken their problem there first, but, rather than dealing with it directly, the local office had advised them to make a formal complaint. Irene Burns described how the local office had encouraged her to make a formal complaint:

[my relative's] key worker said to me 'put in a complaint because we're angry about this. If you put in a complaint, there are people in here who can't complain and don't have anyone to complain for them, so you will do them a favour.

In other cases, staff did not express a view about the problem but helped by filling in forms. Finally, some complainants had made a formal complaint because a local councillor or a voluntary organisation had encouraged them to do so. These complainants had gone to the councillor or voluntary organisation first for advice and so had also made a decision not to take the matter up informally with the local office.

Attempts to resolve problems informally

With other complainants the process had not been quite so clear. Some had made an attempt to sort out the problem at a local level and only made a 'complaint' when this had not been successful. Sometimes they believed that they had been 'complaining' right from the start, but that it had taken several attempts before what they were doing was recognised as a complaint:

They [the local office] were not dealing with the complaint . . . So when I eventually got writing to the head top man, I just put everything in. (Margaret Anderson)

In the first letter to the area manager, we'd called it a letter of complaint. They didn't take it as a letter of complaint because they didn't tell the complaints department. So when my client wanted to take it a step further, he had to do the whole thing again . . . He wasn't just saying he was unhappy he was saying 'I would like to complain'. (Advocate)

In these cases, the 'informal' approach had not worked and the idea that the procedure should move smoothly from an informal approach through to a formal complaint had not worked either. One of the advocates suggested that this was because local offices were sometimes reluctant to deal with issues as 'complaints':

More often than not, they deal with it as if it is not an official complaint, it's a letter expressing upset or something so therefore they don't have to notify headquarters. (Advocate)

This suggests that the idea of encouraging people to express their dissatisfaction as 'feedback' instead of complaints may lead to their problems being ignored or not taken sufficiently seriously. One striking finding from the interviews was that very few of the complainants had any knowledge or information about the complaints procedure at the point that they first complained. Most had complained because they had a sense that they 'knew what to do', either from past experience of dealing with local authorities or because they assumed that there ought to be some way of complaining. Another complainant had eventually found information about the complaints procedure on the internet, but had found it quite difficult to follow. Although lack of knowledge about complaints procedures and how services are run may prevent some people from accessing the procedure, some do find their way into it. One complainant had received help from her social worker, but was worried that this should not really have happened:

I have to be honest that the social worker was as supportive of me as she could be which probably wouldn't have left her in a very good light . . . Is that part of the role of somebody if you're dissatisfied? Is that part of your support worker or your social worker's job? Or is it your job to find out how to deal with it yourself? (Angela MacDonald)

On the other hand, some complainants had met outright resistance from frontline staff when they had enquired about complaining:

The supervisor asked 'how did you get in touch with the complaints officer?' and I said it was none of their business. She was wrong to suggest it was wrong of me to complain. (Mary Nicholson)

She wouldn't let me know the name so that was why I went to the headquarters. She wouldn't let me know the name [of the manager] to make a complaint. (Catherine Lawson)

This lack of information about the procedure and the resistance displayed by some staff in providing information about the complaints procedure compounds the problem of defining attempts to resolve problems as 'complaints'. The point at which something becomes a 'complaint' is not always straightforward in the eyes of either the complainant or the local authority. There certainly did not appear to be any evidence of a smooth transition between informal and formal complaints. Of course the individuals interviewed had all made formal complaints, so it is perfectly possible that there are people who make 'informal complaints' and who are quite satisfied with the result. The problem is that, because of the elusive nature of 'informal' complaints, it is very difficult to find evidence of this. Another way of approaching this issue was to ask people if they had ever raised matters informally in the past. Some of the interviewees talked about times in the past when they had raised things informally or the types of situation which they would deal with informally. Several people had been using social work services for many years and were quite happy to raise less serious issues with the local office. Although all the interviewees had made formal complaints and some had deliberately contacted more senior members of staff out of principle, there were still many who felt that this should not be necessary and that complaints should be 'sorted out' at a local level.

Conclusion

Although there is much rhetoric about dealing with complaints informally, because of their very nature it is difficult to find out what actually happens with informal complaints. It is not always clear to the complainants or the organisation complained about what the difference is between an informal complaint, a formal complaint or an attempt to sort something out. There are several reasons why these distinctions may matter. The first is that there may be different interpretations of what has happened. There may be a difference between what the 'complainant' thinks they have done and how the authority on the receiving end interprets the action. A second reason is that failure to recognise an 'informal complaint' or an 'attempt to sort things out' as a complaint may prevent access to the upper levels of the complaints procedure. If the person with the problem is unsure about where they are in this procedure, it may not be clear what they should do (or have a statutory right to do) next. This means that people may be effectively denied

access to higher levels of complaints procedures, including ombudsmen. It is also fairly well established in the research literature that people can suffer from 'appellant fatigue' (Cowan and Halliday, 2003: 138) and, it is argued, the addition of yet another layer of procedure can deter people from taking problems further. Thirdly, if the attempt to sort the problem out is not recorded, the local authority will not be able to learn from patterns of problems that may be emerging. Given the stress on learning from complaints, this is an important drawback of informality. Finally, if the complaint is not recognised as a 'complaint', the person on the receiving end does not have to be accountable to anyone for the way in which she or he has dealt with the issue (Braye and Preston-Shoot, 1999). If the staff member approached does not treat the 'sorting it out' approach as a complaint, she or he may not follow good practice in dealing with complaints.

Although recent policy guidance on health and social care complaints in England attempts to address this issue by giving more formal status to 'informal' or 'local' complaints, it does not address the problem of how attempts to sort a problem out can fit in to the procedure. Evidence from this research suggests two main issues that need to be addressed by complaints procedures: the desire by some people to make a 'formal' complaint, and the need to record other attempts to resolve problems, even if they are not 'formal' complaints. Some people want to make formal complaints at levels more senior than the local office and they should be permitted to do this. Their attempts to complain formally should be properly recorded and dealt with through the complaints procedure so that complainants can see that their problem is being dealt with and that they have a clear route forwards if they are unhappy with the outcome of their initial complaint. While other people do not necessarily want to 'complain', they do want to get their problem dealt with. There should be clear mechanisms for ensuring that all attempts to get things sorted out are recorded so that barriers are not put in the way of people who may want to pursue their problem further and so that public services can learn from problems, however small and informal they may seem. Despite recent changes to regulations and guidance in England, the resistance to 'bureaucracy' that I picked up from social work staff suggests that it will be very difficult for this to happen. There is also resistance from some service users to see their attempts to sort things out as 'complaints', as complaints are often seen in a very negative light. People have a statutory right to make a complaint about social care services and about decisions relating to social care. However, this right is conditional on a system where decisions are largely discretionary and where information about how these decisions are made is not at all clear to those affected by them. Research shows that service users do not always understand the basis on which decisions are made and are not clear what, if any, 'entitlements' they have (Davis *et al.*, 1998; Preston-Shoot, 2000; Rummery, 2002). While 'informality' is held up as a virtue in complaints procedures, there are also disadvantages to this approach, which can lead to denying people their legal rights to pursue a problem further.

Much work has been done to improve access to ombudsmen who deal with 'higher level' complaints (Birkinshaw, 2010), but few complaints reach this level. Ombudsmen have persistent concerns about 'premature complaints', that is those which reach the ombudsman before they have been fully investigated by the relevant agency's internal complaints procedure. The little research that has been carried out on these premature complaints shows that people do not usually complain to the ombudsman without making some attempt to resolve the problem with the local authority first (SPSO, 2007). Their decision to go to the ombudsman before fully exploiting the local complaints procedure

suggests that the main access problem that complainants have is not so much one of information as one of trust. People do not always trust internal complaints procedures to deal with their complaints seriously. Dealing properly with 'informal' complaints would be one way of building trust.

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Notes

1 More formal legal processes such as judicial review are available but are rarely used and usually require that internal mechanisms have been used first.

2 In Scotland, where the research was carried out, the guidance dated back to 1996. New provisions were introduced by the Public Services Reform (Scotland) Act 2010 but at the time of writing were not yet in force.

3 I use the term 'service user' to describe the person who needed the service, whether or not they were getting that service. I use the term 'relative' to cover a variety of relationships, ranging from parents to adult children, partners, grandparents, grandchildren, aunts, uncles and friends.

4 All names are pseudonyms.

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