



Carmarthenshire’s response to proposed new legislation making it easier and quicker for NHS patients to claim compensation when their treatment has gone wrong.

Carmarthenshire welcomes this initiative.

Considering each of the consultation points in turn

*Why is a redress scheme required?

There is a real need for this – legal redress takes a long time, is very costly and can exhaust complainants. People speak of suffering twice – once from the medical mistake and then from the trauma of having to battle it out in court. Many settlements are made out of court, once it is clear the complainants are likely to win, on a no blame basis. People can find this very unsatisfactory - they often want the apology and a feeling that the organisation will take steps to make sure it does not happen to anyone else more than the money.

The redress scheme will also bring Health Service complaints more into line with complaints about other public bodies where financial redress can be offered when appropriate as a way of resolving complaints.

* Does the proposed measure achieve the policy objective?

5.4 Method of delivering redress

We feel that there should be a presumption in favour of providing a copy of an investigation report to a complainant seeking redress – unless there are good reasons for coming to a decision that to disclose the report will cause harm to the complainant. In line with good practice these reasons would need to be recorded.

In some circumstances it may be appropriate because of a risk of harm, to provide an amended report to the complainant rather than a blanket refusal to disclose the report.

There should also be provision for the report and the information it contains to be produced in a form suitable to the complainant – for example if the complainant is a child or has a learning difficulty the report may need to be simplified with key issues drawn out. In some circumstances it may be appropriate to produce 2 reports – a detailed one for relatives or an advocate and a suitable summary of the report for the complainant.

* What are the views of stakeholders who will have to work with a redress system?

Providing a redress system more in keeping with other public bodies will be helpful in dealing with complaints and redress in multi-disciplinary teams across Health and Social Care.

* What will be the practicalities of making the system work and does the proposed measure make provision for these?

It will be important to provide clear information regarding the findings of the investigation to the complainant or their representative before or at the time an offer is made so that they have the information to decide to accept/reject/negotiate re the level of redress.

It will be important to keep good statistics about the type of complaint, the findings and the redress paid out in order that the scheme can be effectively monitored and reviewed. These statistics also need to show how processes are being improved to help prevent the same situation happening again.

- Is it appropriate that so much be done by regulations, i.e. the details of any scheme or schemes will be decided by Welsh Ministers?

What will be the rights of appeal if tariffs are fixed? Or will dissatisfied individuals simply have to seek legal redress?

What about exceptional circumstances – these **will** occur and the scheme needs to be flexible enough to deal with them whilst giving boundaries for the more usual complaints.

Who will review the tariffs and how will they be amended in the light of changes/new developments in medical science?

It would be helpful to have an annual review of tariffs and how the scheme is working tied into the production of annual statistics.

On behalf of Bruce McClernon Director of Social Care Health and Housing CCC