Fitness to Practise Forum 23 April 2008

Scoping report on existing research on complaints mechanisms

Executive summary and recommendations

Introduction

In October 2007, Jackie Gulland was commissioned by the HPC to undertake a scoping exercise on existing research on complaints mechanisms. That report is attached to this paper as an appendix. Jackie Gulland will also attend the forum and present her report.

Decision

The forum is asked to:

1. consider the report;
2. approve the publication of the report as an HPC monograph;
3. consider:
    a. whether and, if so, how to take this research forward;
    b. the issues to be addressed by any further research; and
    c. the issues which may need to be addressed by the FTP Department arising from the research.

The forum is asked to take into consideration that whilst the ongoing analysis of data from the fitness to practise process is of particular interest to the practice committees and is part of the work that the fitness to practise department undertakes, the work plan for 2008-2009 has already been approved and any changes/future work resulting from this and future research should be considered for inclusion in future fitness to practise department workplans.

Background information

In its consideration of this matter, the forum may wish to take account of the results of the opinion polling commissioned by the HPC (and which has previously been considered by the Communications Committee), particularly the sections regarding public understanding of the HPC.

Barriers to complaining

The forum may wish to consider whether members of the public who make a complaint to the HPC should be asked to complete a questionnaire about ant barriers they faced in making a complaint. Such information might be useful when existing complaints literature and public information are reviewed.

Satisfaction with procedures

Similarly, a questionnaire could be used to gauge "consumer satisfaction" and gather information on how well complainants felt that their complaint had been handled.

Anecdotal evidence suggest that the area of the process which is most difficult for complainants to understand is the "case to answer" stage. The Investigating Committee is being asked to approve a new Practice Note which sets out a much clearer basis for "case to answer" decisions and, subject to its approval, revised information for complainants can then be published.

A further area of confusion is just what is or is not within HPC's remit and this can be addressed by better communication, including better guidance on the "case to answer" test. The report highlights the importance of communication with complainants and the FTP Department is currently working on improving the frequency of contact with complainants. All complainants and witnesses (and the registrants concerned) will be contacted on a monthly basis to advise them of the progress of their case. The recently published complaints brochures (see FTP11/08) should help to address any misunderstanding about the complaints process operated by the HPC.

One issue which the forum may wish to consider is whether more guidance should be provided by HPC on the types of matter that are within the remit of the regulator, but before doing so it may be appropriate to await the conclusions of the current CHRE-led project on protocols for investigation and referrals to regulatory bodies.

Types of complaint

In considering this element of the report, the forum may wish to take account of the fitness to practise annual report.

Examples of good practice

As noted above, we already propose to publish clearer information on the 'case to answer' test. HPC already offer the facility to take statements of complaint over the telephone or in person and shortly will have the ability to consider complaints which are received in languages other than English. The existing complaints literature already make it clear how complaints are dealt with and the consequences of a complaint being considered.

Resource implications

The case management team that deals with fitness to practise allegations currently comprises 3 lead case managers, 8 case managers and 2 case officers.

Any recommendations for changes to processes would need to take account of the impact on existing resources.

Financial implications

The cost of this research was approximately £2500

Appendices

Scoping report on existing research on complaints mechanism.
MORI report

Date of paper

7 April 2008

Health Professions Council
Scoping report on existing research on complaints mechanisms

Executive Summary

Jackie Gulland, January 2008

INTRODUCTION

The purpose of this report is to provide an overview of existing research into complaints and their mechanisms, with a particular emphasis on service users' experiences. It was commissioned by the Health Professions Council as a first step towards bringing together existing research on complaints against the non medical professions. In particular, the HPC was interested in establishing the nature and extent of complaints against these professions, what was already known about the nature of complaints, what levels of awareness about complaints mechanisms existed in different populations and how data on complaints against non medical professions compared with the data on complaints against other professions. This would inform future policy and practice in the regulation of the health professions.

The literature reviewed in this report comes from two sources: empirical research on complaints mechanisms in health related fields and on redress mechanisms in other fields; and published reports on complaints mechanisms in health related fields, including official statistics.

FINDINGS FROM EMPIRICAL RESEARCH

The first key finding from this review is that there is very little published research on complaints against the non medical professions regulated by HPC, compared, for example, with research on complaints against the medical profession. A recent report on complaints in an NHS context found 60% of complaints related to nursing and medical staff, compared to 5% for 'professions allied to medicine' (Information Centre for health and Social Care 2007). Since complaints relating to these professions constitute a very small proportion of complaints to the NHS, the more general literature on health complaints cannot reveal very much about the specific nature of these complaints.

In the light of this, the report focuses on general themes relating to complaints, rather than on specific issues relating to particular professions. General themes relevant to the work of the Health Professions Council include barriers to complaining, satisfaction with complaints procedures, types of complaint and examples of good practice.

1. Barriers to complaining

Barriers to complaining are complex but research shows that the likelihood of taking action is related to gender, ethnicity, age, education, income and accessibility of advice services and information and the 'seriousness' of the problem. Information about complaints procedures can be difficult to obtain and is exacerbated by the complexity of organisations providing care. Access to information about redress mechanisms is a problem for many.

Although practical barriers are important there are also psychological barriers to complaining, including the fact that people are often unwilling to seem ungrateful for services or do not wish to be seen as awkward or to be 'moaners'. Fear of retribution is often cited as a barrier to complaining. Finally, scepticism is a major barrier. People will not complain or take action if they believe it will not make any difference

2. Satisfaction with procedures

Satisfaction with a particular redress procedure will depend in part on what people want from it in the first place. Most studies of complainants found that people were dissatisfied with the procedure. Studies have also noted that attempting to resolve problems can be stressful and can lead to 'unintended consequences' such as health problems. A lack of common understanding of its purpose can also be a source of dissatisfaction amongst users of a procedure. Communication with complainants and potential complainants about what can and can not be dealt with is vital.

3. Types of complaint

Researchers have noted the difficulty in categorising 'what people complain about'. There are several reasons for this: the inadequacy of records kept on complaints made; inconsistencies in the way that complaints bodies record complaints and the difficulty of classifying complaints. Research on health complaints suggest that there may be patterns relating to different types of complaints but there are many difficulties in working out whether these patterns reflect the problems people experience or whether they are likely to be a reflection of what people feel it is appropriate to complain about.

4. Examples of Good practice

The research suggests that giving clear information about the purpose of specific complaints procedures and offering alternatives to written complaints are key features of good practice. In addition, having support from advice and advocacy organisations, and providing clear information on how complaints are dealt with and what the consequences might be were identified as important elements of good practice.

RECOMMENDATIONS FOR FUTURE RESEARCH

There is clearly a need for research on complaints in relation to non medical professionals. Possible areas for investigation could include exploring the overlap between local and national complaints procedures and the extent to which people are appropriately referred to them, the levels of awareness of complaints processes amongst different populations and different professions, finding successful methods of reaching under represented groups, following up individuals who make complaints and exploring whether or not expectations of complaints procedures have been met.

Health Professions Council
Scoping report on existing research on complaints mechanisms

Jackie Gulland, January 2008

Contents

1. Introduction

The purpose of this report is to provide an overview of existing research into complaints mechanisms, with a particular emphasis on service users' experiences. This should enable the Health Professions Council to consider possible options for future research into the effectiveness of its complaints mechanisms.

The literature reviewed in this report comes from two sources:

- Empirical research on complaints mechanisms in health related fields, (for example, health, social care) and on redress mechanisms in other fields, which may be relevant, eg public services, other professions, with a particular emphasis on service users' experiences of using such mechanisms;
- Published reports on complaints mechanisms in health related fields, including official statistics.

A brief overview of these two sources is provided below. Full details of the literature reviewed are provided in Appendix 1 and in the bibliography.

1.1. EMPIRICAL RESEARCH

The research reviewed here has a focus on the complainants' perspective. There is also some literature on those on the receiving end of complaints. This literature is included in the bibliography and referred to where relevant but is not discussed in detail. There is also a considerable literature on the sociology and psychology of health and illness. This is not discussed here, although some of the themes from this literature are undoubtedly relevant. For example, there is research on the issue of 'trust' in health relationships and on the differences in power between 'professionals' and 'service users', which can be helpful in understanding the barriers to complaining (Mulcahy 2003, p 60).

Most of the research reviewed here relates to complaints about health services. This falls into three main categories:

- research relating to dissatisfaction with health services;
- research on health services complaints procedures;
- research relating to legal action for medical negligence.

The first two categories cover hospitals, GPs and other health services but have very little to say specifically about the range of professions regulated by the Health Professions Council (except insofar as such professionals provide services within hospitals or through the NHS). For example Anderson, Allan and Finucane, P. (2000), found that most complaints to a hospital concerned medical or nursing staff, although 7% (of 127 complaints) also implicated 'allied health staff'. The most recent NHS complaints statistics show that over 60% of complaints relate to medical or nursing staff, while only 5% relate to 'professions allied to medicine' (Information Centre for Health and Social Care 2007, table 4). These do not provide any detail about who these staff were or the issues that were raised.

The third category is concerned with medical 'accidents' and is primarily about doctors, although of course a legal claim could be made against healthcare organisations or about professionals other than doctors.

Most research on complaints has a focus on the particular complaints procedure under review and/or the types of problems which generate complaints in a particular profession or area of public service. Most of this will not be of direct relevance to the Health Professions Council. Therefore this report highlights the *general* themes relating to complaints which should be of interest to the Health Professions Council rather than the specific issues relating to particular procedures or professions.

The empirical research reviewed on this paper is restricted, for the most part, to literature relating to the UK and to research published since 1990.

1.2. PUBLISHED REPORTS

The reports reviewed for this paper include the most recent annual reports from related regulatory bodies and from complaints handling bodies such as ombudsmen. A full list is included in the bibliography.

2. Findings from empirical research

2.1. BARRIERS TO COMPLAINING

2.1.1. Characteristics of complainants

In the wider field of dispute resolution, a number of writers have considered the question of why people do not use formal dispute mechanisms (Cowan and Halliday 2003, Coyle 1999b, Genn 1999, Genn and Paterson 2001, Mulcahy, 2003, Pleasence *et al*, 2004). The likelihood of taking action is related to gender, ethnicity, age, education, income and accessibility of advice services and information and the 'seriousness' of the problem (Pleasence *et al* 2004).

Gender

Research on health complaints has found that a higher proportion of complaints made on behalf of patients are made by women than by men, possibly reflecting women's 'caring' role (Coyle 1999a, Lloyd-Bostock and Mulcahy 1994, Nettleton and Harding 1994). Pleasence *et al* (2004) found that women were more likely than men to take action about more general 'justiciable' problems, although Genn (1999) and Genn and Paterson (2001) did not find any gender differences. Leabetter and Mulcahy suggest that there may be a gender difference in what people complain about (1996, p17). An illustration of this can be found in research by Lewis (1996) which showed, having controlled for possible different patterns of use of solicitors' services, that men were more likely than women to complain about solicitors.

Ethnicity

People from minority ethnic backgrounds experience particular difficulties in accessing services or redress mechanisms (Bowes and Dar 2000, Genn *et al* 2006, Pleasence *et al* 2004, Scottish Public Services Ombudsman and Scottish Health Council 2006, Temple *et al* 2002). This can partly be explained by their relative lack of information about how services operate but also by 'cultural insensitivity' of the agencies concerned. Pleasence *et al* (2004) also suggest that people from minority ethnic communities may be more likely to be fearful of the consequences of taking action.

Age

Some studies suggest that 'older people' are less likely to make complaints. Other studies show that the connection between age and willingness to complain is more complicated. Studies of whether take action in general suggest that there is no pattern in the ages of those most likely to take action, although there are differences in the likelihood of experiencing a problem in the first place. Health complaints are more likely to be made by older people but this is probably related to their greater use of health services. General studies of dispute resolution suggest that the likelihood of experiencing problems is increased amongst those under the age of sixty-five. Although this may be related to 'lifestyle' differences, concerning marriage problems, children, employment and housing, it may also be the result of older people being less likely to identify their problems as 'non-trivial' (Genn 1999 Genn and Paterson 2001, Pleasence *et al* 2004).

Social class/income

Social class is often considered to be an important factor in people's willingness to argue with state providers (Arber and Ginn 1993). Generally those who have higher educational qualifications and those who are better off are more likely to take action about problems (Leabetter and Mulcahy 1996), while those on lower incomes are more likely to no action (Genn 1999, Genn and Paterson 2001). Lewis (1996) found, in her research on complaints about solicitors that social groups C2 and DE found it more difficult to put complaints in writing. Unemployed people were found to have little knowledge about how to complain about health services (Scottish Public Services Ombudsman and Scottish Health Council 2006).

Pleasence *et al* (2004) found that there was a relationship between whether someone was working or not and the likelihood of taking action to resolve problems: those in work were less likely to take action than those who were not in work but those on higher incomes were more likely to take action than those on lower incomes. They argue that the combined effect of these factors is that people in low paid work are the least likely to take action to deal with problems.

Health and disability

People are often unable or unwilling to complain if they are very ill or if carers are taken up with the day to day business of looking after a disabled person (Gulland 2007, Mowlam *et al* 2007, Office of Fair Trading 2005, Scottish Public Services Ombudsman and Scottish Health Council 2006). The difficulties of disabled people in accessing information generally has been well documented (Barnes 1991) but there is little research evidence on this specific issue in relation to complaints mechanisms.

The Patients' Association found no difference in levels of awareness of rights to NHS services or redress between people who reported having a 'chronic illness' and those who did not (although they note that the methodology of their survey tended to focus on people with less severe disabilities and included very few people with mental health problems or dementia). Research by the Scottish Public Services Ombudsman suggests that people with mental health problems or drug/alcohol misuse are deterred from complaining because of the fear of stigma associated with their condition (Scottish Public Services Ombudsman and Scottish Health Council 2006).

Availability of support networks

Many studies of health complaints have established that the person who makes the complaint is often not the patient themselves but a family member (Allsop 1994, Anderson, Allan, and Finucane 2000, Mulcahy 2003, Nettleton and Harding, 1994) and that the interests of the patient and their family may not always be the same. It is not often clear on whose behalf the relative is complaining. A relative's complaint may be as much about their own needs as the service user's (Mulcahy 2003, Simons 1995). Certain types of complaint are more likely to be made by a family member, in particular complaints relating to children, complaints relating to people who are unable to act for themselves because of illness or disability or complaints that have been made after a patient has died. This often means that complaints about health are more likely to be made by women, since women are more likely to take on a 'caring' role in these circumstances. Annandale and Hunt (1998) found that people were more likely to challenge a doctor on behalf of a family member that they were to do so about themselves and that if the problem related to themselves they were more likely to discontinue treatment (p125). Complaints about community care services are also more likely to be made by relatives than by service users directly (Simons 1995, Preston-Shoot 2001). Generally speaking, people with 'wider social networks' are more likely to be knowledgeable about services than those who are more isolated (Bowes and MacDonald 2000). The consequence of this is that it may be more difficult for people to complain if they do not have a family member who is able to take up an issue for them.

The availability of advice agencies is important in helping people resolve problems but many people have difficulty in accessing suitable advice (Genn 1999, Genn and Paterson 2001, Pleasence *et al* 2004).

2.1.2. Difficulties with Information

Information about complaints procedures can be difficult to obtain and is exacerbated by the complexity of organisations providing care. The Health Services Ombudsman makes the point that most people think of 'the NHS' as one organisation and that people expect that the complaints procedure should reflect this. In practice, complaints may become lost between different parts of the NHS organisations and social care bodies (Health Services Ombudsman 2005). Research on the overlap between health and social care shows that people are generally not knowledgeable about who provides what or who is responsible for dealing with problems (MacDonald 2004, MORI 2005, Patients' Association 2005, Preston-Shoot

2001). People's experiences in the past of being 'passed from pillar to post' is a barrier to complaining (Scottish Public Services Ombudsman and Scottish Health Council 2006).

Access to information about redress mechanisms is a problem for many (Mulcahy and Tritter 1994, MORI 2005, Mowlam *et al* 2007, National Audit Office 2005, Pleasence *et al* 2004, Preston-Shoot 2001, Scottish Public Services Ombudsman and Scottish Health Council 2006).

Henwood *et al* (2003) point to the problem of 'information literacy' as a barrier to patients seeking out information about their health problems. While some people are confident and proficient at finding information, many are not (p606). Genn and Paterson (2001) argue that 'different levels of personal confidence and resources will affect what can be done with information and advice' (p119). The National Audit Office (2005) suggests that younger people have different information seeking strategies to older people: older people appear to store more knowledge about how systems work while younger people appear to be more willing to look for information (National Audit Office 2005, p63). Knowledge about how particular systems work may also depend on people's experience of using them. For example, people who have been dealing with health and social care services for many years may be more confident about how these services operate than those who are new to them (Gulland 2007).

However, it is not always a lack of knowledge of the redress mechanisms as such which acts as a barrier to taking action so much as a lack of knowledge of the substantive rights to services that people have, standards of care that they should expect and who is responsible for providing them (Adler and Gulland 2003, MacDonald 2004, Patients' Association 2005, Preston-Shoot 2001). Problems with access to information are exacerbated in minority ethnic communities (Bowes and Dar 2000, Genn *et al* 2006, MacDonald 2004, Temple *et al* 2002, Scottish Public Services Ombudsman and Scottish Health Council 2006).

2.1.3. Psychological/cultural barriers

Although practical barriers are important, most studies of disputing behaviour have found that the likelihood of taking action is also closely related to the *nature* of the problem and the available remedies (Genn 1999, Genn and Paterson 2001, Pleasence *et al* 2004). Cowan and Halliday stress the importance of the relationship between the bureaucracies and service users who might have grievances. Their argument is that it is this relationship which will either encourage or discourage people from trusting in redress mechanisms (2003, p204-6). Research on the sociology of health and illness points to the problem of power imbalances between patients and health care providers. This power imbalance and patients' expectations of how health care should be provided can be a deterrent to complaining. If people have low expectations in the first place, they are unlikely to complain if standards are low (Mulcahy 2003, Williams *et al* 1998).

Some also discuss psychological barriers to complaining, including the fact that people are often unwilling to seem ungrateful for services or do not wish to be seen as awkward or to be 'moaners' (Coyle 1999b, Gulland 2007, Leabetter and Mulcahy 1996, Mulcahy and Tritter 1998, Simanowitz 1999, Scottish Public Services Ombudsman and Scottish Health Council 2006). Edwards *et al* (2004) argue that people often reconstruct negative experiences in a

positive light in order to maintain relationships and because they believe that a positive outlook is more beneficial than a negative one.

Fear of retribution is often cited as a barrier to complaining (Leabetter and Mulcahy 1996, Mowlam *et al* 2007, McLardie *et al* 2007, Patients' Association 2005, Pleasence *et al* 2004 Posnett *et al* 2003, Preston-Shoot 2001, Simons 1995. This is particularly so in services where the (potential) complainant has an ongoing relationship with the service provider, for example in primary care (Wallace and Mulcahy 1999). Fear of the consequences of complaining has been shown to be particularly significant for people in residential care (Harding 2005, Office of Fair Trading 2005). Barnes (1999) makes the point that 'power imbalances also means that users [of social care services] who speak out put themselves at risk, and need the support of peers if they are not to suffer as a result' (p82). This suggests that, for some people, a collective approach to solving problems would be more appropriate than an individualistic one, such as a complaints procedure.

It is worth noting that some people react to problems with health or social care providers by moving to another provider or by stopping contact altogether (Allsop 1994, Annandale and Hunt 1998, Mulcahy and Tritter 1998). This is not an option for many but offers an alternative to complaining for some, even if it means that they no longer receive the service.

Finally, scepticism is a major barrier. People will not complain or take action if they believe it will not make any difference (Cowan and Halliday 2003, Coyle 1999a and 1999b, Genn 1999, Genn and Paterson 2001, Gulland 2007, Mowlam *et al* 2007, McLardie *et al* 2007, Mulcahy and Tritter 1994, Patients' Association 2005, Scottish Public Services Ombudsman and Scottish Health Council 2006).

2.2 SATISFACTION WITH PROCEDURES

Satisfaction with a particular redress procedure will depend in part on what people want from it in the first place. Research across health and social care complaints shows that although some people may want a remedy of some kind, possibly compensation, an emphasis on remedies can be partial and misleading. Even with legal actions concerning inadequate health care, compensation is not always the main goal and sometimes not a goal at all. What people want is an admission that a mistake has been made and to 'find out the truth' (Ennis and Vincent 1994, Lloyd-Bostock 1999, Mulcahy *et al* 1999). This, and a desire to prevent the same problem arising again, has often been cited as primary concern by complainants in health and social care (Gulland 2007, Health Services Commissioner, Lloyd-Bostock and Mulcahy1994, Mulcahy 2003, Scottish Public Services Ombudsman and Scottish Health Council 2006).

Most studies of complainants have found that people were dissatisfied with the procedure. A considerable amount of research was conducted into health complaints in the mid 1990s (Allsop and Mulcahy 1998, Anderson *et al* 2000, Coyle 1999a, Lloyd-Bostock and Mulcahy 1994, Mulcahy and Tritter 1998). More recently, reviews of NHS health complaints procedures in England, Wales and Scotland stimulated a further batch of research Department of Health 2003, Mulcahy 2003, Posnett *et al* 2001, Wallace and Mulcahy 1999).

This recent research focused on two particular issues: the difficulties of 'local resolution' as a means of dealing with health service complaints and the status of 'independent reviews'. It appears that complainants are often unhappy with a system which requires them to make their initial complaint to the person (or part of the organisation) they perceive to be the problem and questions the assumption that local and informal is best. This was particularly the case for complaints involving 'issues of competence and conduct' (Wallace and Mulcahy 1999, pvii). This does not mean however that complainants will be likely to take their problems further. There is considerable evidence that people are deterred from pursuing problems beyond their first port of call for advice by 'referral fatigue' (Pleasence *et al* 2004) and beyond the first level of complaints procedures and other redress mechanisms by 'appellant fatigue' (Cowan and Halliday 2003, Scottish Public Services Ombudsman and Scottish Health Council 2006, Scottish Public Sector Ombudsman 2007, Wallace and Mulcahy 1999).

Studies have also noted that attempting to resolve problems can be stressful and can lead to 'unintended consequences' such as health problems (Genn 1999, Genn and Paterson 2001, Mulcahy 2003, Pleasence *et al* 2004). Negative effects on health are more likely to occur when the problem takes a long time to be resolved (Pleasence *et al* 2004).

Research on the NHS complaints procedure (before the changes in 2004) was consistent in finding that people who reached the 'independent review stage' were dissatisfied because they felt that it was not sufficiently independent (Posnett *et al* 2003, Wallace and Mulcahy 1999). However, *perceptions* of independence may be more important than whether the procedure is actually independent of the provider (Adler and Gulland 2003. Posnett *et al* 2003).

Wallace and Mulcahy (1999) argue that, at these 'higher' levels of health complaints mechanisms, people seek formality, rather than informality. However, in other fields, research suggests that people seek an informal opportunity to air their grievances (Adler and Gulland 2003).

Researchers have considered whether complainants' satisfaction with the process is affected by the outcome of their complaint. It is not surprising that there is some evidence of an 'outcome' effect, in that those whose complaints are not upheld are more likely to be dissatisfied (Scottish Public Services Ombudsman and Scottish Health Council 2006). However, the converse is not necessarily true, as, even when complaints are upheld, people may be dissatisfied by the process of complaining, the length of time it has taken or because the outcome is not what they hoped for (Mulcahy 2003, Posnett *et al* 2003).

2.2.1. Expectations of complaints procedures

The purpose of a complaints procedure is relevant to judgements about its effectiveness. A lack of common understanding of its purpose can also be a source of dissatisfaction amongst users of a procedure. It may often be the case that a complaints procedure has been set up to deal with specific types of complaint (as with the Health Professions Council) and that it cannot deal with others. This has been noted in relation to complaints to the Local

Government Ombudsman, where much dissatisfaction amongst complainants comes from the fact that the Ombudsman is not able to deal with their complaint (because it is outside the Ombudsman's jurisdiction) or because the Ombudsman is not able to provide the remedy that the complainant seeks (Kirkham 2005). Recent research by the Scottish Public Services Ombudsman confirms this finding (Scottish Public Services Ombudsman 2007). Complaints which are 'out of jurisdiction' or 'premature' (ie the complainant has not followed through local complaints procedures first) constitute a significant proportion of complaints to the Scottish Public Services Ombudsman, the Parliamentary and Health Services Ombudsman and the Local Government Ombudsman for England. Between 13% and 20% of complaints made to these bodies in 2006/07 were out of jurisdiction, while between 23% and 43% were 'premature' (*Local Government Ombudsman Annual Report 2006/07, Parliamentary and Health Services Ombudsman Annual Report 2006/2007 Scottish Public Services Ombudsman Annual Report 2006/7*)

Mulcahy and Lloyd-Bostock (1992) note that complaints procedures can have different purposes and that: 'the goals of quality assurance and monitoring of standards are not compatible with other potential goals such as satisfying complainants or minimizing negligence claims' (p65). Mulcahy (2003) argues that systems where complainants have to focus on *who* caused the problem can narrow the scope of what can be complained about (p74). This point is also made by Ennis and Vincent (1994), who argue, in relation to actions for medical negligence, that 'many accidents' are caused by organisational problems rather than individuals and that litigation encourages people to think in terms of individual problems.

Being clear about the 'terms of reference' of a procedure is also stressed by Wallace and Mulcahy (1999). Communication with complainants and potential complainants about what can and can not be dealt with is vital. This point is stressed by Moorhead *et al* (2000) in their discussion of procedures for dealing with complaints about solicitors.

2.3. TYPES OF COMPLAINT

Researchers have noted the difficulty in finding out 'what people complain about'. There a number of reasons for this: the inadequacy of records kept on complaints made and the difficulty of classifying complaints. This has been found to be the case across several sectors, including health complaints (Lloyd-Bostock and Mulcahy 1994, Posnett *et al* 2003, with social care complaints (Dean *et al* 1996, Gulland 2007, Preston-Shoot 2001, Simons 1995) and with more general complaints about public services (National Audit Office 2005). The reasons for this are discussed below.

2.3.1. Health complaints

Research on health complaints suggest that there may be patterns relating to different types of complaints but there are many difficulties in working out whether these patterns reflect the problems people experience or whether they are likely to be a reflection of what people feel it is appropriate to complain about .

Lloyd-Bostock and Mulcahy (1994) emphasise the difficulty of using statistics to find out what people complain about because of the difficulty of classifying complaints. This is partly because complaint letters are not always clear about what the complaint is about and partly because administrative staff do not always find it easy to work out what should fit in each category. It is important to note that what people say in letters is influenced by issues of power and the need to be perceived as reasonable. (Coyle 1999, Lloyd-Bostock and Mulcahy 1994, Mulcahy and Tritter 1998, Netttleton and Harding 1994). Medical staff often interpret the 'problem' in different ways from complainants (Mulcahy 2003).

'Informal' complaints which are resolved at an early stage are not usually included in statistics. This means that it is very difficult to find out whether people are more likely to take certain types of complaint to higher levels of complaints procedures or to gauge the extent to which it is the 'more serious' ones which are pursued further (Mulcahy 2003, Simons 1995).

Allsop and Mulcahy (1998) found that doctors think that certain areas of medical care are particularly vulnerable to complaint because of 'the likelihood of poor outcomes and because patients do not understand the limitations of medical practice' (p813). Annandale and Hunt (1998) found that people were less likely to take any action if the problem related to 'interactional style' or 'not being taken seriously' while disputes about diagnosis or treatment were more likely to lead to the person seeking a second opinion or making a verbal challenge.

2.3.2. Social care complaints

The small amount of empirical research on social work complaints does not tell us very much about the types of complaints that people make. Simons (1995) is reluctant to apply clear classifications to complaints on the grounds that they would be 'meaningless or arbitrary' (p40). He does, however, single out a large category ('over half') which he describes as being concerned with 'rationing of resources' (p40). Preston-Shoot (2001) finds that most complaints relate either to 'unmet needs' or to 'poor quality services' (p706).

2.3.3. General complaints about public services

The difficulty of finding out what people complain about is compounded by the fact that many organisations do not keep records of complaints at all and that the information that is kept is incomplete. This is true of many central government organisations (National Audit Office 2005). Those that do keep records of complaints vary considerably in the way in which they define complaints and in the information that they keep on them. Classification of complaints across different departments is not standardised, making it difficult to compare types of complaints to different bodies (National Audit Office 2005).

2.3.4. Data from other professional or regulatory bodies

The General Medical Council provides statistics on numbers of complaints and action taken. In terms of types of complaint it only breaks down cases where action was taken according

to whether they concerned 'conduct/conviction', 'health' or 'performance' (General Medical Council 2004).

The Nursing and Midwifery Council provides more detailed statistics on cases relating to fitness to practice. These are outlined in Appendix 2. It also provides detail on the types of health problems raising fitness to practise issues (Nursing and Midwifery Council 2006).

The General Chiropractic Council gives detailed information about cases which were upheld. It discusses issues which are ongoing and their implications, but does not provide a statistical analysis. It provides a list issues arising in its most recent fitness to practice report, which are listed in Appendix 2 (General Chiropractic Council 2006).

The General Optical Council breaks down the complaints it receives according to a wide range of possible categories but notes that complaints relating to dispensing prescriptions is the single largest category (General Optical Council 2006)

The most recent report on complaints made through the NHS complaints procedure shows a break down of complaints, outlined in Appendix 2. The Healthcare Commission, which deals with the second, independent stage of the NHS complaints procedure in England, uses yet another classification scheme, outlined in Appendix 2. A final example comes from the Scottish Public Sector Ombudsman which uses a different scheme again for describing complaints about health services in Scotland, see Appendix 2.

The recently established General Social Care Council (England), Scottish Social Services Council, Care Council for Wales and the Northern Ireland Social Care Council give details of recent hearings on their websites but do not appear to provide any statistical information on patterns of referrals.

These examples from recent reports of regulatory bodies and from official statistics confirm that there is a real difficulty comparing issues across different complaints procedures because of differences in classification. Similar problems have been identified by the recent Crerar review of regulation, audit, inspection and complaints handling of public services in Scotland (Crerar 2007). This is a matter that could be considered by the Council for Healthcare Regulatory Excellence. Standardisation of classification systems, at least across some of those bodies regulated within the same framework, would enable comparisons to be made across professions.

2.4. EXAMPLES OF GOOD PRACTICE

Wallace and Mulcahy (1999) include suggestions for good practice in their report on the health complaints procedure (pp76-78). These include matters relating to 'local resolution', which would not usually by applicable to the Health Professions Council, although the impact of these practices not being followed by registrants may impact on complaints to the Council. They also include advice for convening and running 'independent review panels' (now superseded in health complaints) which may be of more relevance to the Health Professions Council. In the report, they discuss the advantages and disadvantages of

bringing parties together at the review hearing stage, concluding that the advantages outweigh the disadvantages, unless the complainant objects (p39). More recently, the National Audit Office has conducted research into the effectiveness of leaflets produced by the Department of Work and Pensions and provides some useful advice about how to improve public information leaflets. For example, it emphasises the importance of using plain English, providing a clearly signposted information helpline number, having a clear contents page, providing important information in bold, providing information in the form of questions and answers and ensuring that information is up-to-date and accurate. Finally, it suggests that the usability of any information should be checked with its intended audience (National Audit Office 2006).

2.4.1. Clarity about purpose of procedures

A particular difficulty for many complainants or potential complainants is understanding what the procedure can and cannot do. Improving information about the purpose of the procedure is stressed by Moorhead *et al* 2000 and their report lays out a useful list of responsibilities for a complaints body:

- understanding the complaint
- explaining the procedure
- interaction about the progress and outcome
- dealing with disappointment
- coping with inappropriate expectations

Keeping complainants informed about the progress of their complaint (Leabetter and Mulcahy 1996) and providing feedback on what happened as a result (Scottish Public Services Ombudsman and Scottish Health Council 2006) are also important. Genn *et al* (2006) note the value of using videos of hypothetical proceedings of the Special Educational Needs Tribunals to inform people about the process

2.4.2. Methods of complaining

Many studies suggest that people can be intimidated by having to make complaints in writing and that people prefer to be able to make complaints by telephone (Posnett *et al* 2003). However, research suggests that there is also scepticism over whether or not telephone calls will be acted on and therefore some prefer the formality of letters, or possibly, e-mails, (although some are doubtful of well these are dealt with) which allow copies to be kept (National Audit Office 2005).

Pleasence *et al* (2004) also stress the value of face-to-face advice in helping people to resolve problems and although they suggest that new technology may come to replace face-to-face advice for many people, it is likely to be those who are already most socially and economically excluded who will be unable to make use of such technology. Young people may have a preference for using phone or text messages, over writing letters (Scottish Public Services Ombudsman and Scottish Health Council 2006).

2.4.3. Support from advice/advocacy/support organizations

Having support from advocacy or patient support organisations has been found to be crucial for many complainants, both in the field of health (Mowlam *et al* 2007, Posnett *et al* 2003, Wallace and Mulcahy 1999) and in other areas of citizen redress (Adler and Gulland 2003, Genn 1999, Genn and Paterson 2001, Pleasence *et al* 2004). This is particularly the case for groups who might have more difficulty in representing themselves. The evidence which shows that most complaints are made by relatives rather than patients suggests that those who do not have close relatives available to help are likely to be in greater need of advice and support services. Genn and Paterson (2001) summarise this by saying that, although the need for advice varies across social, educational and cultural boundaries 'the pervasive lack of the most rudimentary knowledge about legal rights and procedures for enforcing [them] can lead to unnecessary levels of helplessness even among the most competent and resourceful' (p261).

2.4.4. Reaching under-represented groups

Bowes and Dar (2000) recommend informal information strategies as the best way of contacting people from minority ethnic groups, for example using community based groups and services that people may already be in touch with, such as GPs. It is also worth noting that lack of information is not the only problem and that some under-represented groups fail to use redress mechanisms out of fear of repercussions and because they believe that they will not be taken seriously (Pleasence *et al* 2004) Scottish Public Services Ombudsman and Scottish Health Council 2006). One way of addressing this problem is to provide positive feedback on how complaints are dealt with and what happens as a result.

3. Conclusions and recommendations for future research

Empirical research on complaints procedures shows that there are many barriers to making complaints and that complainants are often dissatisfied with the way their complaint has been dealt with. Research on motivations of complainants stresses that people have complex reasons for taking action about problems with public services and that the bare statistics on 'types of complaint' are very difficult to interpret. People's expectations about what should happen when they complain are often not met. This may often be the result of ineffective complaints mechanisms, which do not take people's problems sufficiently seriously, which take too long to deal with the problem, or which do not contain sufficiently independent elements. However, dissatisfaction may also related to a mismatch between complainants' expectations of what a procedure can do and the views of those running the procedure.

There is clearly a need for research on complaints in relation to non medical professionals. Possible areas for investigation could include exploring the overlap between local and national complaints procedures and the extent to which people are appropriately referred to them, the levels of awareness of complaints processes amongst different populations and finding successful methods of reaching under-represented groups, and following up

individuals who make complaints and exploring whether or not expectations of complaints procedures have been met.

Social research is intended to answer 'research questions' and decisions about which is the most appropriate design for a particular piece of research will depend on what these questions are. For example, if the questions relate to complainants' experiences of using the Health Professions Council's procedure, then the research would need to be carried out with people who had made complaints. On the other hand if the questions are concerned with identifying barriers to using the Health Professions Councils' procedure, then the research would have to be carried out with people who had *not* used it, although useful information might also be obtained from those who had. It is also possible to conduct research which combines a number of different approaches. Examples of different approaches can be found in the annotated summary in Appendix 1.

Existing research on complaints mechanisms has highlighted common problems with complaints mechanisms and the difficulties that people experience in using them. The next step would be to consider which of the matters identified above would benefit from research in the specific context of work of the Health Professions Council. Identifying these priorities would lead to the development of research questions which could be answered by further research.

Appendix 1 – Annotated Summary of Empirical Research

Health complaints (including legal action)

Allsop, J. (1994), 'Two sides to every story: complainants' and doctors' perspectives in disputes about medical care in a general practice setting', *Law and Policy*, 16, 2, 149-84.

- Analysis of 110 complaints about GPs which had reached a hearing over a ten year period (1976-86). This amounted to around 10% of all complaints received over the period. The analysis was of complainants' letters and GPs' responses.

Allsop, J. and Mulcahy, L. (1998), 'Maintaining professional identity: doctors' responses to complaints', *Sociology of Health and Illness*, 20, 802-824.

- Based on three studies: two of GPs and one of hospital consultants conducted in the mid 1980s to mid 1990s. Studies of GPs involved an analysis of letters written by doctors in response to complaints which went to a tribunal hearing; (see also Allsop 1994) and a postal questionnaire sent to 350 GPs. The consultant study involved a postal questionnaire to 848 consultants and in depth interviews with 35 consultants. All three studies were concerned with understanding how doctors react to complaints.

Anderson, K., Allan, D. and Finucane, P. (2000), 'Complaints concerning the hospital care of elderly patients: a 12-month study of one hospital's experience', *Age and Ageing*, 29, 5, 409-412

- Quantitative analysis of 127 complaints concerning elderly people made over one year to an Australian hospital in 1998/99.

Annandale, E. and Hunt, K. (1998), 'Accounts of disagreements with doctors', *Social Science and Medicine*, 46, 1, 119-129.

- 'Community survey' of 1000 35 year olds, in which they were asked to comment on whether they had had a 'disagreement with a doctor'. Structured face to face interviews. Study based on those who had had a disagreement N=307. Based on data from 1987.

Coyle, J. (1999), 'Exploring the meaning of 'dissatisfaction' with health care: the importance of 'personal identity threat'', *Sociology of Health and Illness*, 21, 1, 95-123.

Coyle, J. (1999), 'Understanding dissatisfied users: developing a framework for comprehending criticisms of health care work', *Journal of Advanced Nursing*, 30, 3, 723-731.

- Qualitative interviews with 41 people who had reported dissatisfaction with health care (sample taken from community study by Mulcahy and Tritter 1994).

Edwards, C., Staniszweska, S. and Crichton, N. (2004), 'Investigation of the ways in which patients' reports of their satisfaction with healthcare are constructed', *Sociology of Health and Illness*, 26, 2, 159.

- Series of qualitative interviews with 19 people who had experienced orthopaedic surgery. Focus was on how people interpreted negative experiences of health care. Interviews carried out in 2000.

Ennis, E. and Vincent, C. (1994), 'The Effects of Medical Accidents and Litigation on Doctors and Patients', *Law and Policy*, 16, 2.

- Reviews literature on medical accidents. Discusses the stress involved for both doctors and patients and the problems that litigation creates.

Harding, T. (2005), 'Older People', *in* Harvey, C. (ed.), *Human Rights in the Community: Rights as Agents for Change*, Oxford, Hart

- Reviews research on older people's rights in residential care, including much of the literature on elder abuse.

Henwood, F., Wyatt, S., Hart, A. and Smith, J. (2003), ''Ignorance is bliss sometimes': constraints on the emergence of the 'informed patient' in the changing landscapes of health information', *Sociology of Health and Illness*, 25, 6, 589-607

- Qualitative analysis of interviews with 32 mid-life women concerned to know about HRT for the relief of menopausal symptoms. Concerned with how women access information about health.

Hunt, G. (ed.) (1995), *Whistleblowing in the Health Service: accountability, law and professional practice*, Edward Arnold, London

- Edited collection of articles on whistleblowing. Considers why people do or do not reveal problems with colleagues, the barriers in place to doing so and how whistleblowing can be enabled.

Jain, A. and Ogden, J. (1999), 'General practitioners' experiences of patients' complaints: qualitative study', *British Medical Journal*, 318, 7198, 1596-1599

- Qualitative analysis of interviews with 30 general practitioners who had had complaints made against them under either the pre-1996 or post-1996 NHS complaints systems

Lens, P. and van der Wal, G. (eds.) (1997), *Problem Doctors: a Conspiracy of Silence*, IOS Press, Amsterdam

- Edited collection of papers on how and why 'problem doctors' occur and how they can be dealt with. Includes chapters on the US, Canada, Australia and the Netherlands.

Lloyd-Bostock, S. and Mulcahy, L. (1994), 'Social psychology of making and responding to hospital complaints. An account model of complaint processes', *Law and Policy*, 16, 123-147.

- Study of 399 complaint files relating to hospital complaints, complemented by qualitative interviews with 74 complainants.

Lloyd Bostock, S. (1999), 'Calling doctors and hospitals to account: complaining and claiming as social processes', *in* Rosenthal, M., Mulcahy, L. and Lloyd Bostock, S. (eds.), *Medical Mishaps: Pieces of the Puzzle*, Buckingham, Open University.

- Based on 2 earlier studies: Lloyd Bostock and Mulcahy 1994, a study of 399 complaint files in 2 NHS districts and interviews with 74 complainants and Genn and Lloyd Bostock 1995, a study of medical negligence claims. Questionnaire to 106 people who had contacted Action for Victims of Medical Accidents.

MORI (2005) *Attitudes to Regulation of Non-medical Healthcare Professionals: Research among the General Public*, Department of Health

- Research on public awareness and attitudes to regulation to non-medical healthcare professionals. Six focus groups with members of the public. Quantitative survey of 2084 people, using structured face-to-face interviews

Mowlam, A., Tennant, R., Dixon, J. and McCreadie, C. (2007) *UK Study of Abuse and Neglect of Older People: Qualitative Findings* National Centre for Social Research

- A nationally representative prevalence survey among over 2000 people aged 66 and over throughout the UK, reporting on mistreatment experienced since age 65. Followed by 39 in-depth follow-up interviews with people who had experienced or encountered mistreatment in order to explore issues around impact, resilience and coping mechanisms and barriers to reporting. Note that most of the perpetrators of abuse discussed in this study were family although a small proportion (13%) was professional care workers.

Mulcahy, L. (2003) *Disputing Doctors: the socio-legal dynamics of complaints about medical care*, Maidenhead, Open University Press**.**

- Book exploring the relationship between complaints about health care from the perspective of patients and doctors. Based on several research projects on health complaints.

Mulcahy, L. and Tritter, J. (1998), 'Pathways, pyramids and icebergs: mapping the links between dissatisfaction and complaints', *Sociology of Health and Illness*, 20, 6, 825-847.

- Community study, involving semi-structured interviews with 1637 people. Questions discussed use of health services and action taken in response to dissatisfaction.

Mulcahy, L., Selwood, M., Summerfield, L. and Netten, A. (1999), *Mediating medical negligence claims : an option for the future?*, London, Stationery Office.

Also reported in Rosenthal, M., Mulcahy, L. and Lloyd Bostock, S. (eds.), *Medical Mishaps: Pieces of the Puzzle*, Buckingham, Open University.

- Evaluation of a mediation scheme for medical negligence. Included profile of claims handled through traditional methods, survey of 123 claimants and telephone interviews with 50 of these, 60 qualitative interviews with parties to mediation and further documentary and interview research with those managing the system and with solicitors.

Nettleton, S. and Harding, G. (1994), 'Protesting patients: a study of complaints submitted to a Family Health Service Authority.' *Sociology of Health and Illness*, 16, 1, 38-61.

- Analysis of all informal complaints made to a family health services authority in 1990. 107 complaints (92 about GPs, 11 dentists, 4 pharmacists). Analysis based on documents only.

Patients Association (2005), *Survey of The UK Public: patients' rights*, Harrow, Patients Association

- Telephone survey of 1000 members of the public, regarding their understanding of rights within the health service.

Posnett, J., Jowett, S., Barnett, P. and Land, T. (2001) *NHS Complaints Procedure National Evaluation*, York, Health Economics Consortium/NFO System Three Social Research

- Postal questionnaire of 4000 people - those operating the NHS complaints procedure, as well as complainants and those complained against. Also 300 interviews with the same range of people and analysis of written submissions and focus groups with stakeholders.

Rosenthal, M. (1995), *The Incompetent Doctor: behind closed doors*, Buckingham, Open University

Rosenthal, M. (1999), 'How doctors think about medical mishaps', *in* Rosenthal, M., Mulcahy, L. and Lloyd Bostock, S. (eds.), *Medical Mishaps: Pieces of the Puzzle*, Buckingham, Open University.

- Qualitative research conducted in Sweden and the UK in 1990. 60 interviews in Britian and 40 in Sweden with a variety of doctors, nurses and other health service staff. Focus on 'problem doctors', how to identify them and how they should be dealt with.

Scottish Public Services Ombudsman and Scottish Health Council (2006) *Experience and attitudes in relation to NHS complaints since the introduction of the new procedure* Scottish Public Services Ombudsman http://www.spso.org.uk/advice/article.php?id=239

- Postal survey of 161 people who had made complaints about the NHS in two parts of Scotland, 30 telephone interviews with a sample of those surveyed, postal survey of 67 people who had made a complaint to the Scottish Public Services Ombudsman about health matters, 15 telephone interviews with a sample of these. Also a postal survey of 946 members of a citizens' panel and six focus groups with 'potentially excluded groups'.

Vincent, C., Young, M. and Phillips, A. (1994), 'Why do people sue doctors? A study of patients and relatives taking legal action', *Lancet*, 343, 1609-13

- Postal survey of 227 patients and relatives who were taking legal action through five firms of plaintiff medical negligence solicitors.

Wallace, H. and Mulcahy, L. (1999) *Cause for complaint*, London, Public Law Project.

- Evaluation of NHS complaints procedure, carried out in 1998. Survey of community health councils, health authorities and chairs of independent review

panels. Qualitative interviews with 36 complainants, 26 health personnel and 10 health councils.

Williams, B., Coyle, J. and Healy, D. (1998), 'The meaning of patient satisfaction with health care: an exploration of high reported levels', *Social Science and Medicine*, 47, 9, 1351-1359

- Qualitative interviews with users of mental health services, focusing on the meaning of 'satisfaction' with services

Complaints about community care services

Bowes, A. and Macdonald, C. (2000), *Support for Majority and Minority Ethnic Groups at Home - Older People's Perspectives*, Edinburgh, Scottish Executive Central Research Unit.

- Based on studies by Bowes and Dar 2000 and MacDonald 1999, comparing the experiences health and social care of older people from majority and minority ethnic communities.

Bowes, A. and Dar, N. (2000), *Family Support and Community Care: A study of South Asian Older People*, Edinburgh, The Stationery Office Scottish Executive Central Research Unit

- 102 short self-assessment interviews with South Asian older people, concerning their experiences of community care. Followed by 30 in-depth interviews to explore issues further and 10 interviews with carers.

Dean, H., Gale, K. and Woods, R. (1996), 'This isn't very typical I'm afraid: observing community care complaints procedures', *Health and Social Care in the Community*, 4, 6, 338-346.

- Observation of 7 complaints review panel hearings for community care complaints in 6 local authorities in England in 1994. Combined with telephone survey of 110 local authorities regarding their social work complaints procedures.

Gulland, J. (2007) *Complaining, Appealing or Just Getting it Sorted Out: complaints procedures for community care service users*, PhD Thesis, University of Edinburgh

- Qualitative interviews with 36 people who had made formal complaints about local authority community care services in two local authorities. Also interviews with complaints managers and focus groups with service users. Research conducted 2005.

Macdonald, C. (1999), *Support at Home - Views of older people on their needs and access to services*, Edinburgh, The Stationery Office.

- A postal survey of people aged 75+. A response rate of 65% gave a representative sample of 1022. Seventy-nine respondents who indicated they needed support were interviewed in depth in relation to home care services.

MacDonald, C. (2004), *Older People and Community Care in Scotland - A Review of Recent Research*, Edinburgh, The Stationery Office.

- Literature review of research on older people and community care in Scotland. Includes information on 'satisfaction' with community care services

Office of Fair Trading (2005) *Care Homes for Older People in the UK: A market study*, Hayes, Office of Fair Trading.

- Study included survey of the experiences of older people in care homes, including their use of complaints mechanisms and barriers to using them.

Preston-Shoot, M. (2001), 'A triumph of hope over experience? Modernising accountability: the case of complaints procedures in community care', *Social Policy and Administration*, 35, 6, 701-715.

- Overview of four pieces of research on complaints procedures for community care service users, including interviews with 965 care home residents, interviews with 50 visually disabled service users, interviews with 46 service users (older people), carers and social workers, 76 interviews with service users (various) carers and social workers.

Simons, K. (1995) *I'm not complaining but … Complaints procedures in social services departments*, York, Joseph Rowntree Foundation.

- Qualitative interviews with 41 people who had made complaints about community care servers in relation to people with learning disabilities. Discussion groups with people with learning disabilities. Interviews with social work staff. Analysis of local authorities annual reports on complaints. Research conducted 1993.

Temple, B., Glenister, C. and Raynes, N. (2002), 'Prioritising home care needs: research with older people from three ethnic minority community groups', *Health and Social Care in the Community*, 10, 3, 179-186.

- Based on three focus groups from minority ethnic communities, looking at their knowledge of and concerns about home care services.

Other professional bodies – solicitors

Lewis, V. (1996) *Complaints against Solicitors: The Complainants' View*, London, Law Society.

- Postal survey of 985 complainants to the Solicitors Complaints Bureau in 1996.

Moorhead, R., Rogers, S. and Sherr, A. (2000) *Willing blindness: OSS complaints handling procedures*.

- Research into the operation of the Office for the Supervision of Solicitors (OSS), carried out between September 1998 and April 1999. The report considers the complaints-handling procedures of the OSS, looking in particular at: management; documentation; casework; casework committees; quality assurance; computer systems; and training.

Scottish Executive (2000) *Survey of complainers to the Scottish Legal Services Ombudsman*, Edinburgh, Central Research Unit.

- Survey of 30 people who had made complaints to the Scottish Legal Service Ombudsman

Other grievance mechanisms

Adler, M. and Gulland, J. (2003) *Tribunal Users' Experiences, Perceptions and Expectations: a literature review*, London, Council on Tribunals.
http://www.council-on-tribunals.gov.uk/publications/577.htm

- Literature review of empirical research carried out on the experiences of tribunal users. Covers tribunals relating to social security, employment disputes, housing, education, immigration, mental health and parking. Review conducted 2003 and reviewing literature since the early 1990s.

Cowan, D. and Halliday, S. (2003) *The Appeal of Internal Review: Law, Administrative Justice and the (non-) emergence of disputes*, Oxford, Hart.

- Research on people who had been refused housing under homelessness legislation and their reasons for using or not using internal review mechanisms.

Genn, H., Lever, B., Gray, L. and Balmer, N. (2006) *Tribunals for Diverse Users*, Department for Constitutional Affairs 2006.

- Research concerned with access to tribunals and the particular perspectives of those from ethnic minority communities. Based on tribunals concerning social security, special educational needs and criminal compensation. Interviews with 529 tribunal users, before their hearing, after the hearing and after receiving the decision. Observation of 391 tribunal hearings. Focus groups with members of the public. Statistical analysis of tribunal decisions with a focus on ethnicity of appellants and whether or not they had obtained advice.

Genn, H. (1999) *Paths to Justice: what people think and do about going to law*, Oxford, Hart.

Genn, H. and Paterson, A. (2001) *Paths to Justice Scotland: what people think and do about going to law in Scotland*, Oxford, Hart.

- Population studies, including surveys and qualitative interviews, looking at why people take action to resolve 'justiciable problems'.

Leabetter, D. and Mulcahy, L. (1996), *Putting it Right for Consumers: a review of complaints and redress procedures in public services*, London, National Consumer Council.

- Literature review on complaints procedures from the 1980s to early 1990s (mostly before the Citizens Charter initiatives of the 1990s). Includes advice on good practice

MacLardie, J., Murray, L., Sewel, K., Adler, M., Black, S., Halliday, S., Gulland, J. and Mordaunt, E. (2007) *Scrutiny and the Public: Qualitative Study of Public Perspectives on Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland*
http://www.scotland.gov.uk/Publications/2007/10/11105557/0 (accessed October, 2007)

- Focus groups with seven groups of public service users, including parents of nursery age children, parents of school pupils, relatives of care home residents,

recent users of NHS services, secondary school pupils, users of council services and young people with experience of local authority care. Discussions based around the role of scrutiny in public services. Research carried out 2007.

Mulcahy, L., Lickiss, R., Allsop, J. and Karn, V. (1996), *Small Voices: big issues an annotated bibliography of literature on public sector complaints*, London, University of North London.

- Annotated bibliography of literature on complaints procedures from the 1980s to early 1990s (mostly before the Citizens Charter initiatives of the 1990s).

National Audit Office (2005) *Citizen Redress: What citizens can do if things go wrong with public services*, London, The Stationery Office.

- Review of redress mechanisms in public services. Includes survey of 277 central government departments, regarding their complaints and appeals mechanisms and a 'mystery shopper' exercise to test the ease of making a complaint against 18 government departments. Four focus groups were carried out with members of the public, followed by a postal survey of 1007 members of the public, regarding their experiences of and opinions about redress mechanisms.

Pleasence, P., Buck, A., Balmer, N., O'Grady, A., Genn, H. and Smith, M. (2004) *Causes of action: civil law and social justice*, London, Legal Services Research Centre

- Population survey, looking at why and how people take action to resolve 'justiciable problems'. Builds on studies by Genn 1999 and Genn and Paterson 2001.

Scottish Public Services Ombudsman (2007) *Summary of Research in to Premature Complaints* http://www.spso.org.uk/advice/article.php?id=240 [accessed December 2007]

- Survey of 36 people who had made complaints to the Scottish Public Sector Ombudsman but whose complaints were rejected because they had not been through the internal complaints procedure of the body complained about.

Appendix 2 Examples of classifications of complaints

Nursing and Midwifery Council

Abuse of a patient or client	Maladministration of drugs
Failure to maintain adequate records	Neglect of basic care
Unsafe clinical practice	Abuse of colleagues
Sleeping on duty	Child pornography

(Nursing and Midwifery Council 2006)

General Chiropractic Council

Improper relationships with patients	Failure to refer for required medical treatment
Communication with patients	Record keeping
Review of treatment	Use of X-rays
Provision of reports	Local complaints procedure
Treatment prescribed by another health professional	Abuse of trust or exploitation of lack of knowledge

(General Chiropractic Council 2006)

NHS Complaints Procedure

All aspects of clinical treatment	Attitude of staff
Appointments, delay / cancellation (outpatient)	Communication / information to patients (written and oral)
Admissions, discharge and transfer arrangements	Aids and appliances, equipment, premises (including access)
Appointments, delay / cancellation (inpatient)	Policy and commercial decisions of trusts
PCT commissioning (including waiting lists)	Transport (ambulances and other)
Independent sector services commissioned by PCTs	Personal records (including medical and/or complaints)
Patients privacy and dignity	Patients property and expenses
Failure to follow agreed procedures	Consent to treatment
Hotel services (including food)	Complaints handling
Length of time waiting for a response, or to be seen: Walk in centres	Patient's status, discrimination (e.g. racial, gender, age)
Independent sector services commissioned by trusts	Length of time waiting for a response, or to be seen: NHS Direct
Mortuary and post mortem arrangements	Code of openness – complaints

(Information Centre for Health and Social Care 2007 Table 5)

Healthcare Commission

Complaints handling
Treatment - delay, incorrect, unsuccessful
Access to services and waiting
Attitude of staff
General patient experience
Diagnosis - delay, failure to diagnose, misdiagnosis
Communication / information to patients
Nursing
Medical records
Effectiveness of care
All other issues

(Healthcare Commission 2007)

Scottish Public Sector Ombudsman

Ambulance
Community Psychiatric Nurses
GP & GP Practice
Other family health services
Podiatry
Hospitals – Cardiology
Hospitals – Dermatology
Hospitals - General Medical
Hospitals - Gynaecology & Obstetrics (Maternity)
Hospitals – Neurology
Hospitals – Orthopaedics
Hospitals - Paediatrics
Hospitals – Psychiatry
NHS Boards (including Special Health Boards and NHS 24)
Community & District Nurses & Midwives
Dental & Orthodontic Services
Opticians & Opthalmic Services
Pharmacy
Hospitals - Accident & Emergency
Hospitals - Care of the Elderly
Hospitals - Gastro-intestinal / Genito-urinary (Urology)
Hospitals - General Surgical
Hospitals - Maxilofacial / Ear Nose & Throat
Hospitals – Oncology
Hospitals – Other
Hospitals – Physiotherapy
Hospitals – Psychology
NHS National Services

(Scottish Public Services Ombudsman 2007)

Bibliography

Adler, M. and Gulland, J. (2003) *Tribunal Users' Experiences, Perceptions and Expectations: a literature review*, London, Council on Tribunals.

Allsop, J. (1994), 'Two sides to every story: complainants' and doctors' perspectives in disputes about medical care in a general practice setting', *Law and Policy*, 16(2), pp 149-84.

Allsop, J. and Mulcahy, L. (1998), 'Maintaining professional identity: doctors' responses to complaints', *Sociology of Health and Illness*, 20, pp 802-824.

Anderson, K., Allan, D. and Finucane, P. (2000), 'Complaints concerning the hospital care of elderly patients: a 12-month study of one hospital's experience', *Age and Ageing*, 29(5), pp 409-412.

Annandale, E. and Hunt, K. (1998), 'Accounts of disagreements with doctors', *Social Science and Medicine*, 46(1), pp 119-129.

Arber, S. and Ginn, J. (1993), 'Class, Caring and the Life Course', in Arber, S. and Evandrou, E. (eds.), *Ageing, Independence and the Life Course*, London, Jessica Kingsley in association with the British Society of Gerontology.

Barnes, C. (1991) *Disabled People in Britain and Discrimination*, London, Hurst and Company/BCoDP.

Barnes, M. (1999), 'Users as Citizens: collective action and the local governance of welfare', *Social Policy and Administration*, 33, 10, 73-90

Bowes, A. and Dar, N. (2000) *Family Support and Community Care: A study of South Asian Older People*, Edinburgh, The Stationery Office Scottish Executive Central Research Unit.

Bowes, A. and Macdonald, C. (2000) *Support for Majority and Minority Ethnic Groups at Home - Older People's Perspectives*, Edinburgh, Scottish Executive Ceentral Research Unit.

Cowan, D. and Halliday, S. (2003) *The Appeal of Internal Review: Law, Administrative Justice and the (non-) emergence of disputes*, Oxford, Hart.

Coyle, J. (1999a), 'Exploring the meaning of 'dissatisfaction' with health care: the importance of 'personal identity threat'', *Sociology of Health and Illness*, 21(1), pp 95-123.

Coyle, J. (1999b), 'Understanding dissatisfied users: developing a framework for comprehending criticisms of health care work', *Journal of Advanced Nursing*, 30(3), pp 723-731.

Crerar, L. (2007), *The Crerar Review: The Report of the Independent Review of Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland*, Edinburgh, Scottish Government

Dean, H., Gale, K. and Woods, R. (1996), 'This isn't very typical I'm afraid: observing community care complaints procedures', *Health and Social Care in the Community*, 4(6), pp 338-346.

Department of Health (2003) *NHS Complaints - making things right*, London, Department of Health.

Edwards, C., Staniszweska, S. and Crichton, N. (2004), 'Investigation of the ways in which patients' reports of their satisfaction with healthcare are constructed', *Sociology of Health and Illness*, 26(2), pp 159.

Ennis, E. and Vincent, C. (1994), 'The Effects of Medical Accidents and Litigation on Doctors and Patients', *Law and Policy*, 16(2), pp.

Genn, H. (1999) *Paths to Justice: what people think and do about going to law*, Oxford, Hart.

Genn, H., Lever, B., Gray, L. and Balmer, N. (2006) *Tribunals for Diverse Users*, Department for Constitutional Affairs 2006.

Genn, H. and Paterson, A. (2001) *Paths to Justice Scotland: what people think and do about going to law in Scotland*, Oxford, Hart.

Gulland, J. (2007) *Complaining, Appealing or Just Getting it Sorted Out: complaints procedures for community care service users*, PhD Thesis, University of Edinburgh.

Harding, T. (2005), 'Older People', in Harvey, C. (ed.), *Human Rights in the Community: Rights as Agents for Change*, Oxford, Hart.

Health Service Ombudsman for England (2005) *Making things better? A report on reform of the NHS complaints procedure in England*, London, The Stationery Office.

Henwood, F., Wyatt, S., Hart, A. and Smith, J. (2003), ''Ignorance is bliss sometimes': constraints on the emergence of the 'informed patient' in the changing landscapes of health information', *Sociology of Health and Illness*, 25(6), pp 589-607.

Hunt, G. (ed.) (1995), *Whistleblowing in the Health Service : accountability, law and professional practice*, Edward Arnold, London.

Information Centre for Health and Social Care (2007) *Data on written complaints in the NHS 2006/07*
http://www.ic.nhs.uk/webfiles/publications/nhscomplaints/Complaints%20Final%202006-07%20version%2027-11-07.pdf (accessed December, 2007).

Jain, A. and Ogden, J. (1999), 'General practitioners' experiences of patients' complaints: qualitative study', *British Medical Journal*, 318(7198), pp 1596-1599.

Kirkham, R. (2005), 'A complainant's view of the local government ombudsman', *Journal of Social Welfare and Family Law*, 27(3-4), pp 383-394.

Leabetter, D. and Mulcahy, L. (1996) *Putting it Right for Consumers: a review of complaints and redress procedures in public services*, London, National Consumer Council.

Lens, P. and van der Wal, G. (eds.) (1997), *Problem Doctors: a Conspiracy of Silence*, IOS Press, Amsterdam.

Lewis, V. (1996) *Complaints against Solicitors: The Complainants' View*, London, Law Society.

Lloyd Bostock, S. (1999), 'Calling doctors and hopitals to account: complaining and claiming as social processes', in Rosenthal, M., Mulcahy, L. and Lloyd Bostock, S. (eds.), *Medical Mishaps: Pieces of the Puzzle*, Buckingham, Open University.

Lloyd-Bostock, S. and Mulcahy, L. (1994), 'The social psychology of making and responding to hospital complaints. An account model of complaint processes', *Law and Policy*, 16, pp 123-147.

Macdonald, C. (1999) *Support at Home - Views of older people on their needs and access to services*, Edinburgh, The Stationery Office.

MacDonald, C. (2004) *Older People and Community Care in Scotland - A Review of Recent Research*, Edinburgh, The Stationery Office.

MacLardie, J., Murray, L., Sewel, K., Adler, M., Black, S., Halliday, S., Gulland, J. and Mordaunt, E. (2007) *Scrutiny and the Public: Qualitative Study of Public Perspectives on Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland*
http://www.scotland.gov.uk/Publications/2007/10/11105557/0 (accessed October, 2007).

Moorhead, R., Rogers, S. and Sherr, A. (2000) *Willing blindness?: OSS complaints handling procedures*.

MORI (2005) *Attitudes to Regulation of Non-medical Healthcare Professionals: Research among the General Public*, Department of Health.

Mowlam, A., Tennant, R., Dixon, J. and McCreadie, C. (2007) *UK Study of Abuse and Neglect of Older People: Qualitative Findings*, National Centre for Social Research.

Mulcahy, L. (2003) *Disputing Doctors: the socio-legal dynamics of complaints about medical care*, Maidenhead, Open University Press.

Mulcahy, L., Lickiss, R., Allsop, J. and Karn, V. (1996) *Small Voices: big issues an annotated bibliography of literature on public sector complaints*, London, University of North London.

Mulcahy, L. and Lloyd-Bostock, S. (1992), 'Complaining: what's the use', in Fenn, P. and Dingwall, R. (eds.), *Quality and Regulation in Health Care*, London, Routledge.

Mulcahy, L., Selwood, M., Summerfield, L. and Netten, A. (1999) *Mediating medical negligence claims: an option for the future?*, London, Stationery Office.

Mulcahy, L. and Tritter, J. (1998), 'Pathways, pyramids and icebergs: mapping the links between dissatisfaction and complaints', *Sociology of Health and Illness*, 20(6), pp 825-847.

National Audit Office (2005) *Citizen Redress: What citizens can do if things go wrong with public services*, London, The Stationery Office.

National Audit Office (2006) *Using leaflets to communicate with the public about services and entitlements*
http://www.nao.org.uk/publications/nao_reports/05-06/0506797.pdf (accessed December, 2007).

National Consumer Council (1999) *Self-regulation of professionals in health care: consumer issues*, London, National Consumer Council.

Nettleton, S. and Harding, G. (1994), 'Protesting patients: a study of complaints submitted to a Family Health Service Authority.' *Sociology of Health and Illness*, 16(1), pp 38-61.

Office of Fair Trading (2005) *Care Homes for Older People in the UK: A market study*, Hayes, Office of Fair Trading.

Patients Association (2005) *Survey of The UK Public: patients' rights*, Harrow, Patients Association.

Pleasence, P., Buck, A., Balmer, N., O'Grady, A., Genn, H. and Smith, M. (2004) *Causes of action: civil law and social justice*, London, Legal Services Research Centre.

Posnett, J., Jowett, S., Barnett, P. and Land, T. (2001) *NHS Complaints Procedure National Evaluation*, York, Health Economics Consortium/NFO System Three Social Research.

Preston-Shoot, M. (2001), 'A triumph of hope over experience? Modernising accountability: the case of complaints procedures in community care', *Social Policy and Administration*, 35(6), pp 701-715.

Rosenthal, M. (1995) *The Incompetent Doctor: behind closed doors*, Buckingham, Open University.

Rosenthal, M. (1999), 'How doctors think about medical mishaps', in Rosenthal, M., Mulcahy, L. and Lloyd Bostock, S. (eds.), *Medical Mishaps: Pieces of the Puzzle*, Buckingham, Open University.

Rosenthal, M., Mulcahy, L. and Lloyd Bostock, S. (eds.) (1999), *Medical Mishaps: Pieces of the Puzzle*, Open University, Buckingham.

Scottish Executive (2000) *Survey of complainers to the Scottish Legal Services Ombudsman*, Edinburgh, Central Research Unit.

Scottish Public Services Ombudsman (2007) *Summary of Research in to Premature Complaints* http://www.spso.org.uk/advice/article.php?id=240 (accessed December, 2007).

Scottish Public Services Ombudsman and Scottish Health Council (2006) *Experience and attitudes in relation to NHS complaints since the introduction of the new procedure* http://www.spso.org.uk/advice/article.php?id=239 (accessed December, 2007).
Scourfield, P. (2007), 'Helping Older People in Residential Care Remain Full Citizens', *British Journal of Social Work*, 37(7), pp 1135-1152.
Simanowitz, A. (1999), 'The patient's perspective', in Rosenthal, M., Mulcahy, L. and Lloyd Bostock, S. (eds.), *Medical Mishaps: Pieces of the Puzzle*, Buckingham, Open University.
Simons, K. (1995) *I'm not complaining but … Complaints procedures in social services departments*, York, Joseph Rowntree Foundation.
Temple, B., Glenister, C. and Raynes, N. (2002), 'Prioritising home care needs: research with older people from three ethnic minority community groups', *Health and Social Care in the Community*, 10(3), pp 179-186.
Vincent, C., Young, M. and Phillips, A. (1994), 'Why do people sue doctors? A study of patients and relatives taking legal action', *Lancet*, 343, pp 1609-13.
Wallace, H. and Mulcahy, L. (1999) *Cause for complaint*, London, Public Law Project.
Williams, B., Coyle, J. and Healy, D. (1998), 'The meaning of patient satisfaction with health care: an exploration of high reported levels', *Social Science and Medicine*, 47(9), pp 1351-1359.

OFFICIAL STATISTICS AND ANNUAL REPORTS

General Chiropractic Council *Fitness to Practise Report 2005/2006*
http://www.gcc-uk.org/files/link_file/F2P2005_6.pdf
General Medical Council *Annual Review 2004*
http://www.gmc-uk.org/publications/annual_reviews/index.asp
General Optical Council *Annual Report 2006/2007*
http://www.optical.org/goc/filemanager/root/site_assets/publications/annual_reports/GOC_RepAcc07_2.pdf
General Social Care Council *Annual Report 2005/2006*
http://www.gscc.org.uk
Healthcare Commission (2007) *Complaints Statistics*
http://www.healthcarecommission.org.uk/aboutus/complaints/complaintsstatistics.cfm
Information Centre for Health and Social Care (2007) *Data on written complaints in the NHS 2006/07*
http://www.ic.nhs.uk/webfiles/publications/nhscomplaints/Complaints%20Final%202006-07%20version%2027-11-07.pdf
Local Government Ombudsman (2007) Annual Report
Nursing and Midwifery Council *Fitness to Practise Annual Report 2005/2006*
http://www.nmc-uk.org/aFrameDisplay.aspx?DocumentID=3134
Parliamentary and Health Services Ombudsman (2007) Annual Report
Royal Pharmaceutical Society of Great Britain *Annual Review 2006*
http://www.rpsgb.org/pdfs/annrev2006.pdf
Scottish Public Services Ombudsman (2007) *Statistics*
http://www.spso.org.uk/statistics/index.php
Scottish Public Services Ombudsman (2007) Annual Report 2006/2007