



NHS Management Executive
St. Andrew's House
Edinburgh EH1 3DG

5th August 1998

Dear Colleague

REPORTS OF THE HEALTH SERVICE COMMISSIONER
AND THE SELECT COMMITTEE ON PUBLIC
ADMINISTRATION

Summary

1. This letter covers a number of important reports by the Health Service Commissioner and the second report of the Select Committee on Public Administration. They should be distributed widely and used by all Health Boards and NHS Trusts to review performance and take remedial action as required.

Action

2. Enclosed are:

2.1 the Health Service Commissioner's annual report for 1997/98;

2.2 his report on 16 selected cases drawn from those he investigated during the period October 1997 to March 1998, together with reports of 2 others completed very shortly afterwards.

2.3 epitomes of the selected cases;

2.4 the second report of the Select Committee on Public Administration reviewing the work of the Health Service Commissioner during the year 1996-97.

3. Board General Managers and Trust Chief Executives are asked to:

3.1 circulate the reports as widely as possible; particularly drawing them to the attention of staff involved in administering the complaints procedure. BGMs are also asked to ensure that Chapter 2 of the Commissioner's annual report is brought to the attention

Addressees

For action:

General Managers, Health Boards
Chief Executives, NHS Trusts
General Manager, Common Services Agency
General Manager, State Hospitals Board for Scotland

For information:

(Epitomes only)
Chief Executive, Health Education Board for Scotland
Executive Director, Scottish Council for Postgraduate Medical and Dental Education
Chief Officers/Secretaries, Local Health Councils
Deans of Medical Faculties

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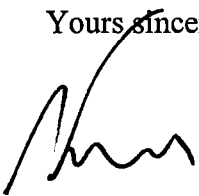
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of the Secretary of the GP Sub-Committee of their Area Medical Committee. The Health Service Commissioner's reports are also available on the Internet /www.ombudsman.org.uk;

3.2 check performance against the findings in the reports and provide the Chief Executive by 1 October 1998 with a note of action taken to improve procedures as a consequence of the failings which the Commissioner has highlighted. We need this information, which should be sent to Moira Milligen, Health Gain Division, Room 51, St Andrew's House to prepare evidence for the Chief Executive's appearance before the Select Committee on Public Administration.

4. The Annex attached brings to your attention issues which the Commissioner and the Select Committee thought of particular importance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kevin Woods', written over the typed name below.

KEVIN WOODS

Director of Strategy and Performance Management

1. ISSUES ARISING FROM THE HEALTH SERVICE COMMISSIONER'S REPORTS

1.1 The Health Service Commissioner's Office received a record number of 2,660 complaints in 1997/98 - a 20% increase on 1996/97. Of these 196 (7.4%) were from Scotland. The Reports provide the Commissioner's first comments on cases arising from the 1996 extension of his jurisdiction to complaints about the exercise of clinical judgement and the actions of primary care services practitioners.

1.2 Only a small number of investigations into clinical complaints have been completed as these types of complaints are more complex with a need for independent clinical advice from independent professional assessors provided by the relevant professional bodies. The Commissioner believes that this will be an ever increasing area of work for his Office in the future.

1.3 The Commissioner's reports emphasise the right of patients to complain when they believe they have cause without any need to fear the consequences. For the first time since the extension of his jurisdiction in April 1996, the reports include cases of complaints against GPs including the removal of patients from GP lists without explanation. Other complaints related to poor communication with patients; alleged failure to make a home visit; and poor handling of complaints. In investigating complaints from patients removed from their GP list without explanation, the Commissioner is not judging whether a practitioner has breached his statutory terms of service, but whether there has been maladministration or a failure in service causing hardship or injustice. He emphasises that this view is consistent with statements about good practice from GPs' professional and representative bodies.

1.4 The Commissioner feels that those operating the complaints procedure must inspire confidence in patients or relatives who have complained, that they are being fairly treated. While he recognises the commitment and effort of those operating the NHS complaints procedure his reports also emphasise the most common procedural failings which are at the convening stage, with conveners:

- failing to obtain appropriate clinical advice;
- failing to identify and refer matters back for local resolution;
- investigating matters themselves; and
- failing to address all the issues fully in the letter conveying their decision.

Failings at the panel stage included taking evidence from the parties to the complaint or of a clinical nature in the absence of one or more of the clinical assessors.

1.5 Regrettably many of the investigations have concerned matters raised year after year - poor communication, record-keeping and complaint-handling. The percentage of complaints upheld has also increased, despite the Commissioner's practice of referring back to the NHS body concerned cases involving shortcomings in the way the complaints procedure has been applied at local resolution.

1.6 The Commissioner also feels that in this age of increasing resort to litigation, his Office continues to be best placed to investigate what goes wrong, and instigate putting matters right within the NHS.

2. ISSUES ARISING FROM THE REPORT OF THE SELECT COMMITTEE

2.1 The Committee expresses the hope that the White Paper will fulfil its commitment to high standards of care throughout the Health Service and it will follow with interest the implementation of quality standards and accountability in particular.

2.2 The Committee emphasises the need for the NHS to follow up the reports of the Commissioner and ensure that improvements in services are made and maintained.

2.3 The Committee intend to review progress and actions taken as a result of its recommendations on a 6 monthly basis.

2.4 Your attention is drawn to the Annex tabulating recommendations made in the Committee's previous reports with a request that you check your Trust's/Health Board's performance against these recommendations.