



Northern Ireland

Public Services

Ombudsman

Investigation Report

Investigation of a complaint against South Eastern Health and Social Care Trust

NIPSO Reference: 19010

The Northern Ireland Public Services Ombudsman
33 Wellington Place
BELFAST
BT1 6HN
Tel: 028 9023 3821
Email: nipso@nipso.org.uk
Web: www.nipso.org.uk
 @NIPSO_Comms

The Role of the Ombudsman

The Northern Ireland Public Services Ombudsman (NIPSO) provides a free, independent and impartial service for investigating complaints about public service providers in Northern Ireland.

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act). The Ombudsman can normally only accept a complaint after the complaints process of the public service provider has been exhausted.

The Ombudsman may investigate complaints about maladministration on the part of listed authorities, and on the merits of a decision taken by health and social care bodies, general health care providers and independent providers of health and social care. The purpose of an investigation is to ascertain if the matters alleged in the complaint properly warrant investigation and are in substance true.

Maladministration is not defined in the legislation, but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

The Ombudsman must also consider whether maladministration has resulted in an injustice. Injustice is also not defined in legislation but can include upset, inconvenience, or frustration. A remedy may be recommended where injustice is found as a consequence of the failings identified in a report.

Reporting in the Public Interest

This report is published pursuant to section 44 of the 2016 Act which allows the Ombudsman to publish an investigation report when it is in the public interest to do so.

The Ombudsman has taken into account the interests of the person aggrieved and other persons prior to publishing this report.

TABLE OF CONTENTS

	Page
SUMMARY	4
THE COMPLAINT	6
INVESTIGATION METHODOLOGY	7
THE INVESTIGATION	9
CONCLUSION	22
APPENDICES	24
Appendix 1 – The Principles of Good Administration	
Appendix 2 – The Principles of Good Complaints Handling	

SUMMARY

The complaint concerned the actions of the South Eastern Health and Social Care Trust (the Trust). The Trust were asked by the complainant to investigate two issues which concerned him in relation to services provided by the Cedar Foundation (Cedar), a body commissioned to provide services on behalf of the Trust. In health and social care, Trusts may investigate complaints about services they have commissioned from independent service providers, where the complainant has asked them to do so.

The complainant was concerned about how Cedar had investigated his concern regarding the cessation of the Boccia activity¹, which was organised as part of its Social Inclusion Service², and its decision to remove him from the Social Inclusion Service. I have investigated a separate complaint concerning the actions of Cedar (complaint reference 21217). This investigation focuses on the Trust's review of Cedar's investigation into the complainant's concerns regarding the cessation of the Boccia group. It also focuses on the Trust's investigation into the complaint regarding the complainant's exit from the Social Inclusion Service.

The investigation established that the Trust appropriately reviewed Cedar's investigation of the complainant's concern regarding the cessation of the Boccia group. It also established that the Trust appropriately investigated the complainant's concerns regarding his exit from Cedar's Social Inclusion Service. In addition, the investigation established that the Trust appropriately acknowledged receipt of both of the complaints. It established that the Trust provided a response to the Boccia activity complaint, within the required timeframe, and advised the complainant of his right to appeal its decision.

¹ A precision ball sport.

² A service, which supports people with disabilities, especially those who experience isolation, to build social networks within their local communities.

However, the investigation established that the Trust failed to respond to the Social Inclusion Service complaint within the required timeframes, and to advise the complainant of the delay.

In addition, the investigation established that the Trust failed to provide the complainant with feedback regarding the Boccia complaint, following its meeting with Cedar on 29 June 2018. Finally, the investigation established that the Trust failed to advise the complainant that its investigation of this complaint was concluded.

I recommended that the Trust provide the complainant with an apology in line with the NIPSO guidance on apology.

THE COMPLAINT

1. The complaint concerns the actions of the South Eastern Health and Social Care Trust (the Trust) when investigating two complaints against the Cedar Foundation (Cedar). Cedar is an independent service provider (ISP), commissioned by the Trust, which delivers a range of services to enable people with disabilities, autism and brain injury to get the most out of life and to be fully included in their communities.
2. It is in line with good practice for an ISP to investigate and respond directly to complaints; indeed, it is my experience that is the best approach. However within the guidance on complaints in health and social care there is provision for complainants to raise their concerns with the commissioning trust in the first instance or to do so having first complained to the ISP. In such circumstances it is for the Trust to determine the best way forward to seek resolution of the complaint
3. In this instance, the complainant raised concerns with Cedar initially. The concerns related to a decision made by Cedar in January 2018 to cease organising a Boccia activity³, in which the complainant was a participant. Cedar investigated the complainant's concerns regarding the cessation of the Boccia activity, The Boccia activity was organised by Cedar, as part of its Social Inclusion Service, to support people with disabilities to build social networks within their local communities. The complainant attended this activity weekly as part of his participation in the Social Inclusion Service. He believed that Cedar's decision to cease the activity resulted in the '*mistreatment of service users*'. On completion of Cedar's investigation of this complaint, the complainant remained dissatisfied with its findings, and was signposted to the Trust for review.
4. At this time, the complainant submitted an additional complaint to the Trust, which Cedar had not investigated. He complained to the Trust about Cedar's decision to end his participation in its Social Inclusion Service in February 2018.

³ A precision ball sport.

He stated that Cedar advised him he was too independent for the service, and had achieved all of his goals. However, the complainant believed that Cedar asked him to leave the Social Inclusion Service, as he had submitted a complaint regarding the cancellation of the Boccia group. On completion of the Trust's investigation of these two complaints, the complainant remained dissatisfied with its findings and raised his concerns with my office. It would have been open to the complainant to have raised his concerns about both issues directly with Cedar and then to have approached this office if he had wished to do so.

Issues of complaint

5. The issue of the complaint which I accepted for investigation was:

Issue 1: Did the Trust appropriately investigate the Boccia and Social Inclusion Service complaints in accordance with policy, procedure and guidance?

INVESTIGATION METHODOLOGY

6. The Investigating Officer obtained from the Trust all of the relevant documentation together with its comments on the issues raised by the complainant. This documentation included information relating to Trust's handling of the complaint.

Relevant Standards

7. In order to investigate complaints, I must establish a clear understanding of the standards, of both general application and those, which are specific to the circumstances of the case.

8. The general standards are the Ombudsman's Principles⁴:

- The Principles of Good Administration
- The Principles of Good Complaints Handling
- The Public Services Ombudsman's Principles for Remedy

⁴ These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

9. The specific standards are those, which applied at the time the events occurred and which governed the exercise of the administrative functions of the Trust and individuals whose actions, are the subject of this complaint. In investigating a complaint of maladministration my role is primarily to examine the administrative actions of the listed authority. It is not my role to question the merits of a discretionary decision unless I identified that the decision was attended by maladministration.

10. The specific standard relevant to this complaint is:

- Department of Health, Social Services and Public Safety's Complaints in Health and Social Care, Standards & Guidelines for Resolution & Learning, 1 April 2009 (DHSSPS' Complaints Policy).

11. I also examined the following documentation:

- Cedar's Investigation into Complaint re Closure of the Boccia Group by Inclusion Matters Service Lisburn, by Cedar's Head of Community Inclusion Services, (Cedar's Investigation Report);
- Cedar's Leaver Summary Report – Cedar Inclusion Matters Service (SEHSCT area) (Cedar's Leaver Summary Report);
- A letter from the Trust to the complainant, dated 18 April 2018;
- An email from the complainant to Cedar's Chief Executive (with the Trust carbon copied), dated 10 May 2018; and
- A letter from Cedar's Chief Executive to the complainant dated 11 May 2018.

12. I have not included all of the information obtained in the course of the investigation in this report but I am satisfied that everything that I consider to be relevant and important has been taken into account in reaching my findings. In accordance with the NIPSO process, a draft copy of this report was shared with the Trust and the complainant for comments on factual accuracy and the reasonableness of the findings and recommendations.

INVESTIGATION

Issue 1: Did the Trust appropriately investigate the Boccia and Social Inclusion Service complaints in accordance with policy, procedure and guidance?

Detail of Complaint

13. The complaint concerns the actions of the Trust when investigating concerns submitted by the complainant in relation to Cedar. Cedar initially investigated the complainant's concern regarding its decision to cease the Boccia activity in January 2018. He believed that Cedar's decision to end the activity resulted in '*mistreatment of service users*'. Following Cedar's investigation, the complainant remained dissatisfied with the findings, and forwarded his complaint to the Trust for review.

14. While the investigation of this issue was ongoing, the complainant submitted an additional complaint to the Trust, which Cedar had not investigated. He complained to the Trust about Cedar's decision to end his participation in the Social Inclusion Service in February 2018. The complainant submitted this complaint on 10 May 2018, stating that Cedar advised him he was too independent for the service, and had achieved all of his goals. However, he believed that Cedar asked him to leave the service, as he had submitted a complaint regarding the cancellation of the Boccia activity. On completion of the Trust's investigation of these complaints, the complainant remained dissatisfied with its findings.

Evidence Considered

15. I considered Cedar's Investigation Report:

Investigation

[Cedar's Head of Community Inclusion Service] carried out an investigation of the complaint as follows:

1. Meeting with [Cedar's Service Manager]

There have been a number of concerns in relation to the group namely:

- *The Venue – not inclusive, placed at the back of the building*
- *The Group was not cohesive, there appeared to be a split in participants*
- *Falling numbers of participants*
- *Individuals form the group indicated that the group was not working for them... [Cedar's] Community Inclusion Officer, had begun to look at individual activities...*

2. Meeting with the Monday Group

A letter was sent to 11 participants of the Monday Group... The letter explained that Cedar were investigating the complaint of the group.

Prior to the meeting [Cedar's Community Inclusion Offer and Head of Community Inclusion Services] received telephone calls from 5 participants of the group stating they would not attend as they had not complained about the closure of the group and were happy with the proposed activities being offered.

3 participants attended the meeting on Monday [12 December 2018]...

At the close of the meeting it was agreed:

- *[Cedar's Head of Community Inclusion Services] agreed that the Boccia set could be held by [the complainant] to take forward the activity independently*
- *[The complainant and his father] were going to explore the use of [a building]*
- *[Cedar's Service Manager] would explore other Boccia groups in the area*
- *[Cedar's Head of Community Inclusion Services and Service Manager] will follow up with remainder of the participants to complete the investigation (3 participants)...*

These three respondents indicated that they had no complaint at the decision to end the group with one indicating that while he enjoyed the group he understood the reasons for its closure.'

16. I also considered Cedar's Leaver Summary Report:

'In September 2017 a review of service delivery across all service area took place, this was to allow an opportunity to refresh the service and agree regional approach; The review focused on current service activity including the outcomes service participants were achieving, the amount of support provided by Cedar and length of service experienced by participants. In examining this information, it was evident that there were significant numbers of participants that were involved in high levels of independent activity, with minimal support and who had been accessing service for two years.

Across the Belfast and SE Trust area there were 48 participants highlighted as had reached the goals of the service... with 25 identified within the [South Eastern] Trust... [The complainant] was identified as a potential leaver through the process described. He has accessed the service from [5 February 2015] (2 years 7 months). At this time, he was involved in a number of activities independently...

Discussions with [the complainant] began in November 2017...

On [5 December 2017] [Cedar's Social Inclusion Officer] met with [the complainant] and updated his action plan to include volunteering as an option for progressing off the service...[She] reminded [the complainant] about the date for his leaver meeting in February...'

17. I considered DHSSPS' Complaints Policy:

'What is a complaint?

2.1. A complaint is "an expression of dissatisfaction that requires a response. Complainants may not always use the word "complaint". They may offer a comment or suggestion that can be extremely helpful. It is important to recognise those comments that are really complaints and need to be handled as such...

2.33 *Complaints relating to contracted services provided by ISPs may be received directly by the ISP or by the contracting Trust. The general principle in the first instance would be that the ISP investigates and responds directly to the complainant.*

2.34 *Where complaints are raised with the Trust, the Trust must establish the nature of the complaint and consider how best to proceed. It may simply refer the complaint to the ISP for investigation, resolution and response or it may decide to investigate the complaint itself where it raises serious concerns or where the Trust deems it in the public interest to do so...*

2.35 *In all cases, appropriate communication should be made with the complainant to inform them of which organisation will be investigating their complaint.*

2.36 *In complaints investigated by the ISP:*

- *A written response will be provided by the ISP to the complainant and copied to the Trust;*
- *Where there is a delay in responding within the target timescales⁵ the complainant will be informed and a revised date for conclusion of the investigation provided; and*
- *The letter of response must advise the complainant that they may progress their complaint to the Trust for further consideration if they remain dissatisfied. The Trust will then determine whether the complaint warrants further investigation and, if so, who should be responsible for conducting it. The Trust will work closely with the ISP to enable appropriate decisions to be made.*

2.37 *The complainant must also be informed of their right to refer their complaint to the Ombudsman if they remain dissatisfied with the outcome of the complaints procedure...*

⁵ Under the HSC Complaints procedure this is 20 working days.

Acknowledgement of Complaint

3.17 *A complaint should be acknowledged in writing within **2 working days** of receipt...*

3.10 *It is good practice for the acknowledgement to be conciliatory, and indicate that a full response will be provided within **20 working days**...*

3.38 *A response must be sent to the complainant within 20 working days of receipt of the complaint... or, where that is not possible, the complainant must be advised of the delay...*

3.45 *This completes the HSC Complaints Procedure. Complainants must be advised of their right to refer their complaint to the Ombudsman if they remain dissatisfied with the outcome of the complaints procedure.'*

18. I considered a letter from the Trust to the complainant, dated 18 April 2018:

'Thank you for your email on 23 March 2018 about Cedar's decision to cease the provision of the Boccia Group...'

19. I also reviewed an email from the complainant to Cedar's Chief Executive on 10 May 2018. This email was carbon copied to the Trust, and acknowledged by them on 11 May 2018:

'I am writing to you about my unfair dismissal from Cedar... The reason I was given... I was too independent, too smart, did not need Cedar and could organise things on my own... I did not choose to leave, I was told to leave...'

20. In addition, I considered Cedar's Chief Executive's response to the complainant:

'Thank you for your email of 10 May 2018 regarding the Cedar's Social Community Networking Service. I understand this to be a continuation of your recent complaint relating to this matter, which I have responded to you on 9 March 2018. I further understand that you have progressed with this as a complaint to the South-Eastern Health and Social Care Trust, who are the commissioner of this service.

Cedar will be happy to respond to any queries made on this matter by the Trust and will consider any recommendations arising thereafter.'

Listed Authority's Response

21. I established key dates in relation to the complaint from documentation the Trust provided.

22. During the complainant's exit review meeting on 5 February 2018, the Trust stated that he was *'provided with an explanation for his exit from the Cedar Social Inclusion Programme. The Trust is satisfied that [the complainant's] exit was a planned and inclusive process and that he had achieved positive outcomes with regards to social networks and opportunities within his community.'* At this time, the Trust stated that the complainant *'spoke about his dissatisfaction with his exit from the Cedar Programme.'* In response, the Trust stated that its Care Manager *'advised [the complainant] of the Complaints Process.'*

23. On 5 March 2018, the Trust stated that Cedar's Head of Service informed the Trust's Community Service Manager, by telephone, *'of a complaint received from [the complainant] dated 29 January 2018 with regards to cessation of the Boccia Group and treatment of service users.'* The Trust stated that Cedar's Head of Service forwarded a copy of the complaint and investigation report to the Community Service Manager. It advised that she *'reviewed the investigation report and was satisfied that there had been full consultation with [the complainant] and the Boccia group regarding the cessation of the same. The*

report outlined the steps Cedar had taken with the Boccia members who were not satisfied that the group had ended.'

24. Subsequently, on 23 March 2018, the Trust stated that it received a complaint from the complainant regarding the cessation of the Boccia group and his exit from Cedar's Social Inclusion Service. The Trust stated that the complainant *'was not satisfied with the outcome of the [Boccia] investigation conducted by Cedar.'* The Trust stated that it *'obtained and reviewed [Cedar's] Investigation Report.'*
25. The Trust provided a response to the complainant on 18 April 2018. It stated that it advised the complainant that *'a review of the investigation report by Cedar was undertaken and that his complaint was responded to appropriately, and there would be no further action on behalf of the Trust.'* The Trust advised the complainant to respond if he remained unhappy with the decision.
26. On 26 April 2018, the complainant emailed the Trust to advised that he was *'not satisfied'* with its response. Therefore, the Trust organised a meeting with the complainant, his father and senior managers from the Trust *'in an attempt to resolve the issues he raised.'*
27. At the meeting on 22 May 2018, the Trust discussed *'the cessation of the Boccia Group, the aims of the Social Inclusion programme, [the complainant's] exit from the programme and his concern at Cedar's suggestion that he [was] too independent for the service.'* The Trust agreed to organise a meeting with Cedar to address the complainant's concerns and to request that Cedar arranged a meeting with him. It also advised the complainant that it would provide him with written feedback following the meeting. The Trust issued a letter to the complainant on 13 June 2018, *'outlining the agreed actions'*. The Trust advised the complainant to respond if he remained unhappy; otherwise, the process would be finalised.
28. Subsequently, the Trust had a meeting with Cedar managers on 29 June 2018. It

stated that *'Cedar reiterated the purpose of the Social Inclusion Group and felt that [the complainant] had met his goals, and was planning to return to the service as a volunteer. On this basis, the Trust was satisfied that Cedar acted appropriately in involving [the complainant] in the decision making.'* The Trust stated that it *'suggested that Cedar would meet with [the complainant] again to explain his exit from the service.'* The Trust stated that the complainant *'continued to express his dissatisfaction with the outcome [of its investigation] and made several representations to the Trust, Cedar and his MLA.'*

29. On 25 July 2018, the Trust responded to the complainant stating that following the meeting with Cedar on 29 June 2018, it was *'satisfied that Cedar's decision'* to remove him from the Social Inclusion Service *'was part of an overall regional review.'* The Trust advised the complainant that it was *'assured that Cedar engaged with [him] throughout the decision making process and it had been agreed that [he] would become a volunteer within the service.'* It also apologised if it *'was not fully explained'* to the complainant, by Trust or Cedar staff, that participation in the service was *'short term'*. The Trust advised the complainant that Cedar had agreed to meet with him to discuss the matter further and encouraged him to avail of this offer. It also stated that it's *'review of this complaint [was] now concluded'*, and advised the complainant to refer his complaint to this Office if he remained dissatisfied.

30. On 29 January 2019, the Trust stated that it *'agreed to participate in a meeting with Cedar and [the complainant] but there was no further correspondence from Cedar on this matter.'*

Responses to draft report

31. In response to the draft report, the Trust stated that it accepted the findings and had *'no further comments'*. Similarly, the complainant did not provide further comment regarding the Trust's actions.

Analysis and Findings

32. The investigation will consider how the Trust dealt with the complaints submitted by the complainant during different stages of its complaints process.

Boccia Investigation

33. As per DHSSPS' Complaints Policy, I note ISPs are encouraged to investigate complaints in the first instance. In this case, I note the complainant initially submitted his complaint about the '*cessation of the Boccia Group and treatment of service users*' directly to Cedar. On 5 March 2018, I note the Trust stated that Cedar's Head of Service informed it of the complaint, and forwarded a copy of the investigation report for review. I note Cedar subsequently advised the complainant that the investigation was concluded on 9 March 2018, and signposted him to the Trust if he remained dissatisfied.

34. On 23 March 2018, I note the Trust stated that it received an email from the complainant regarding the cessation of the Boccia group and his exit from Cedar's Social Inclusion Service. The Trust advised that it could not open the attachments on the complainant's email and requested that he re-send his complaint by post. It subsequently received the letter of complaint on 26 March 2018, and acknowledged receipt on 27 March 2018. On review, I note that the complaint received by the Trust at this time only referenced the Boccia activity.

35. As part of its investigation, I note the Trust stated that it reviewed Cedar's investigation report⁶, and '*was satisfied that there had been full consultation with [the complainant] and the Boccia group regarding the cessation of the same.*' I note the Investigation Report details the review completed by Cedar's Head of Community Inclusion Services, which included a meeting with Cedar's Service Manager to discuss the Boccia group's concerns, and a meeting with the Boccia Group, including the complainant, to listen to their concerns. I note the actions from this meeting included providing the complainant with the Boccia equipment, so that he could take the group forward independently. On review, I consider that

⁶ This report investigated the cessation of the Boccia activity.

the Trust was provided with sufficient information from Cedar detailing its decision-making when ending the group, its consultation with the complainant, and the actions put in place to address outstanding concerns. Therefore, I do not uphold this element of the complaint.

36. In its response to the complainant, dated 18 April 2018, I note the Trust referenced the Boccia activity only, and advised that the complaint was *'responded to appropriately'* by Cedar. I refer to the DHSSPS' Complaints Policy, which states that *'a complaint should be acknowledged in writing within 2 working days of receipt'* and a full response *'will be provided within 20 working days'*. I acknowledge that the Trust appropriately responded within these timeframes.

Review of Boccia Decision & Investigation of Social Inclusion Service Issue

37. On 26 April 2018, I note the complainant advised the Trust that he was not satisfied with its response regarding the Boccia group. Therefore, the Trust organised a meeting with the complainant, his father and Trust Senior Managers on 22 May 2018 to seek to address his concerns.

38. In the interim, I note the complainant sent an email to the Chief Executive of Cedar on 10 May 2018, with the Trust carbon copied. In this email, he complained about his *'unfair dismissal'* from Cedar's Social Inclusion Service. I note that the complainant had highlighted his disappointment about leaving the service at his exit review meeting with Cedar in February 2018. However, this appears to be the complainant's first submission of a complaint regarding this issue. In response, Cedar's Chief Executive sent an email on 11 May 2018, advising the complainant that the Trust was handling his complaint.

39. On review of the available evidence, I note the complaint regarding removal from Cedar's Social Inclusion Service had not been received by the Trust prior to this date. In addition, I note Cedar did not investigate this issue as part of its complaints process. As per the DHSSPS' Complaints policy, the Trust may

decide to investigate a complaint if it is *'appropriate to do so'*. In this instance, I consider that it was appropriate for the Trust to decide to include the new issue within its investigation which was ongoing, as opposed to returning it to Cedar for review.

40. I note the Trust acknowledged receipt of the complainant's email on 11 May 2018. I refer to the DHSSPS' Complaints Policy, which states that a complaint is *'an expression of dissatisfaction... complaints may not always use the word "complaint"... It is important to recognise those comments...'* As the complainant's email referred to his *'unfair dismissal'* from Cedar, I am of the opinion that it was a written complaint. I also consider the Trust's reply as an acknowledgement of the new issue of complaint. I note the Trust responded within two working days, as per the DHSSPS' Complaints Policy.

41. At the subsequent meeting on 22 May 2018, I note the Trust stated that it discussed *'the cessation of the Boccia Group, the aims of the Social Inclusion programme, [the complainant's] exit from the programme and his concern at Cedar's suggestion that he [was] too independent for the service.'* I note the Trust advised that the actions from this meeting was to organise a meeting between Cedar and the Trust to address his concerns, and to request Cedar to arrange a meeting with the complainant.

42. On 13 June 2018, I note the Trust issued a letter to the complainant, referencing the Boccia activity complaint only. I note the Trust set out the actions agreed in the meeting, and advised the complainant that it would provide feedback on the discussions. On review, I consider that the Trust had reviewed the Boccia complaint, and put appropriate actions in place in an attempt to address the complainant's outstanding concerns.

43. As agreed, I note the Trust met with Cedar on 29 June 2018. I note the Trust stated that following discussions with Cedar regarding the Social Inclusion Service, it *'was satisfied that Cedar acted appropriately'*, and involved the complainant in decision making when ending his participation. Prior to the Trust's

response to the complainant, I note it stated that he '*continued to express his dissatisfaction*', with the investigation. On review, I note this correspondence relates to both issues that the complainant had raised namely the cessation of the Boccia activity and his removal from the Social Inclusion Service, which I will address further below.

Social Inclusion Decision

44. As part of its investigation into the Social Inclusion complaint, I note the Trust met with the complainant and his father on 22 May 2018 to discuss his concerns. Subsequently, I note the Trust met with Cedar on 29 June 2018, to discuss its decision to remove the complainant from the Social Inclusion Service. At this meeting, I note Cedar provided the Trust with a retrospective Leaver Summary Report, which detailed its decision making when determining which participants of the Social Inclusion Service were ready to progress from the Social Inclusion Service. The report details that decisions were made based on the participants achievements, the amount of support they required from Cedar, and the length of time they had used the service. I note the report states that the participant was one of 25 participants identified as a potential leaver in the South Eastern area, as he had been using the service for over two years, and was participating independently in a number of activities. On review, I consider that the Trust appropriately investigated the complainant's concerns, and Cedar's decision making when determining that he was ready to leave the Social Inclusion Service. Therefore, I do not uphold this element of the complaint.
45. On 25 July 2018, I note the Trust responded to the complainant's Social Inclusion Service complaint. It advised the complainant that it was '*satisfied [with] Cedar's decision*', and was '*assured that Cedar engaged with [him] throughout the decision making process.*' I am also pleased to note that the Trust apologised to the complainant if it '*was not fully explained*' to him that the service was '*short term*'. In addition, the Trust encouraged the complainant to meet with Cedar to discuss the matter further.
46. I refer to DHSSPS' Complaints Policy, which states that '*A response must be*

sent to the complainant within 20 working days of receipt of the complaint... or, where that is not possible, the complainant must be advised of the delay... I note that the Trust first acknowledged receipt of this issue of complaint on 11 May 2018. On review, I did not identify evidence of the Trust advising the complainant of a delay in issuing its response. I refer to the Second Principle of Good Complaints Handling *'being customer focused'*, which states that bodies should *'deal with complaints promptly... [and] tell the complainant how long they can expect to wait to receive a reply.'* I consider that the Trust failed to advise the complainant of the delay.

47. The Trust also advised the complainant that *'review of this complaint [was] now concluded'*, and advised him to contact the Northern Ireland Public Services Ombudsman if he remained dissatisfied. The Trust therefore in line with legal requirements appropriately signposted the complainant to this Office for further review.

48. However, I note that this response does not reference the Boccia activity complaint. On 13 June 2018, I note the Trust specifically referenced the Boccia activity in its response, and advised the complainant that it would provide feedback from the meeting on 29 June 2018 regarding this matter. However, on review, I did not identify evidence of the Trust completing this action. On examination, I consider that there appears to be no conclusion to the Trust's investigation of the Boccia activity complaint. I refer to the First Principle of Good Complaints Handling, *'getting it right'*, which states that public bodies *'should make it clear to complainants when they have provided their final response to a complaint.'*

49. Subsequently, on 29 January 2019, I note that the Trust stated that it *'agreed to participate in a meeting with Cedar and [the complainant] but there was no further correspondence from Cedar on this matter.'* However, I consider that Cedar and the Trust did not have an opportunity to conduct this meeting, as the complainant had brought his complaint to this Office.

50. I consider that the failures identified above amount to maladministration.

Therefore, I partially uphold this complaint. I consider the Trust's failure to:

- advise the complainant of the delay when responding to the Social Inclusion Service complaint; and
- provide feedback on the Boccia activity complaint resulted in the complainant suffering the injustices of uncertainty. I will address remedy in the conclusion of the report.

CONCLUSION

51. The complaint concerned the actions of the Trust when investigating two complaints submitted by the complainant regarding Cedar. On investigation, I consider that the Trust appropriately reviewed Cedar's investigation of the complainant's concerns regarding the cessation of the Boccia activity. I also consider that it appropriately investigated the complainant's concerns regarding his exit from the Social Inclusion Service. In addition, I consider that the Trust appropriately acknowledged receipt of both the Boccia activity and Social Inclusion Service complaints. I also consider that the Trust provided the complainant with an initial response to the Boccia activity within the required timeframe, and advised him of his right to appeal the decision.

52. However, I found maladministration in relation to the Trust's failure to:

- advise the complainant of the delay when responding to his complaint regarding the Social Inclusion Service; and
- provide the complainant with feedback in relation to the Boccia activity complaint following the meeting on 29 June 2018, and to advise him that the investigation of this issue was concluded.

53. I am also concerned about the overall time that it took for the complaint to be concluded and for the complainant to be signposted to this office. It is important that complaints procedures should operate effectively and in a timely manner so that complaints do not lose trust in the process. I am satisfied that the service

failures I identified caused the complainant to experience the injustice of uncertainty.

Recommendations

54. I recommend that the Trust issues the complainant with an apology in accordance with the NIPSO guidance on apology. This is for the failings identified, and should be issued **within one month** of the date of my final report.

55. I am pleased to note the Trust accepted my findings and recommendations.

A handwritten signature in black ink, appearing to read 'Paul MCFADDEN', is enclosed within a thin black rectangular border.

PAUL MCFADDEN
Deputy Ombudsman

September 2020

PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

- Acting in accordance with the law and with regard for the rights of those concerned.
- Acting in accordance with the public body's policy and guidance (published or internal).
- Taking proper account of established good practice.
- Providing effective services, using appropriately trained and competent staff.
- Taking reasonable decisions, based on all relevant considerations.

2. Being customer focused

- Ensuring people can access services easily.
- Informing customers what they can expect and what the public body expects of them.
- Keeping to its commitments, including any published service standards.
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances
- Responding to customers' needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

3. Being open and accountable

- Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.
- Stating its criteria for decision making and giving reasons for decisions
- Handling information properly and appropriately.
- Keeping proper and appropriate records.
- Taking responsibility for its actions.

4. Acting fairly and proportionately

- Treating people impartially, with respect and courtesy.
- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.
- Ensuring that decisions and actions are proportionate, appropriate and fair.

5. Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Putting mistakes right quickly and effectively.
- Providing clear and timely information on how and when to appeal or complain.
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

6. Seeking continuous improvement

- Reviewing policies and procedures regularly to ensure they are effective.
- Asking for feedback and using it to improve services and performance.
- Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.

PRINCIPLES OF GOOD COMPLAINT HANDLING

Good complaint handling by public bodies means:

Getting it right

- Acting in accordance with the law and relevant guidance, and with regard for the rights of those concerned.
- Ensuring that those at the top of the public body provide leadership to support good complaint management and develop an organisational culture that values complaints.
- Having clear governance arrangements, which set out roles and responsibilities, and ensure lessons are learnt from complaints.
- Including complaint management as an integral part of service design.
- Ensuring that staff are equipped and empowered to act decisively to resolve complaints.
- Focusing on the outcomes for the complainant and the public body.
- Signposting to the next stage of the complaints procedure, in the right way and at the right time.

Being Customer focused

- Having clear and simple procedures.
- Ensuring that complainants can easily access the service dealing with complaints, and informing them about advice and advocacy services where appropriate.
- Dealing with complainants promptly and sensitively, bearing in mind their individual circumstances.
- Listening to complainants to understand the complaint and the outcome they are seeking.
- Responding flexibly, including co-ordinating responses with any other bodies involved in the same complaint, where appropriate.

Being open and accountable

- Publishing clear, accurate and complete information about how to complain, and how and when to take complaints further.
- Publishing service standards for handling complaints.
- Providing honest, evidence-based explanations and giving reasons for decisions.
- Keeping full and accurate records.

Acting fairly and proportionately

- Treating the complainant impartially, and without unlawful discrimination or prejudice.
- Ensuring that complaints are investigated thoroughly and fairly to establish the facts of the case.
- Ensuring that decisions are proportionate, appropriate and fair.
- Ensuring that complaints are reviewed by someone not involved in the events leading to the complaint.
- Acting fairly towards staff complained about as well as towards complainants.

Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Providing prompt, appropriate and proportionate remedies.
- Considering all the relevant factors of the case when offering remedies.
- Taking account of any injustice or hardship that results from pursuing the complaint as well as from the original dispute.

Seeking continuous improvement

- Using all feedback and the lessons learnt from complaints to improve service design and delivery.
- Having systems in place to record, analyse and report on the learning from complaints.
- Regularly reviewing the lessons to be learnt from complaints.
- Where appropriate, telling the complainant about the lessons learnt and changes made to services, guidance or policy.