



Northern Ireland
Public Services
Ombudsman

Investigation Report

Investigation of a complaint against The Cedar Foundation

NIPSO Reference: 21217

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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.

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SUMMARY

The complaint concerned the actions of the Cedar Foundation (Cedar), when ending the complainant's involvement in its Social Inclusion Service¹ in February 2018. The complainant stated that Cedar informed him he had achieved all of his goals and was too independent for the service. However, the complainant believed that Cedar asked him to leave the service as he had submitted a complaint in January 2018, alleging the mistreatment of service users due to Cedar's cancellation of the Boccia activity². He complained that Cedar did not provide him with an adequate explanation as to why it asked him to leave the service. The investigation also reviewed Cedar's investigation of the complainant's Boccia and Social Inclusion Service complaints.

The investigation established that there was evidence of Cedar's ongoing monitoring of the complainant's progress, its determination that he had achieved his set goals, and of its planning to progress him from the service. It also established that Cedar clearly explained the reasons for progression from the service to the complainant. In addition, the investigation established that Cedar's decision to end the complainant's participation in the service was not related to the complaint he submitted in January 2018, as discussions regarding his planned exit began in November 2017.

However, the investigation established that Cedar failed to record on its literature and/ or website that participation in its Social Inclusion Service was goal oriented and time bound. It also established that Cedar did not include proposed timelines within the complainant's action plan, and that it did not have policies and/ or procedures for staff to follow when determining if service users were potential leavers. The investigation also established a number of record keeping failures.

In relation to the handling of the complaint concerning the cancellation of the Boccia activity, the investigation determined that Cedar adequately addressed the

¹ A service to support people with disabilities, especially those who experience isolation, to build new social networks within their local communities.

² A precision ball sport.

complainant's concerns at Stage 1 of its complaints process. It also established that Cedar adequately investigated the complaint at Stage 2, and implemented actions to address outstanding issues. In relation to the complaint about his removal from the Social Inclusion Service the investigation determined that Cedar appropriately advised the complainant that the South Eastern Health and Social Care Trust (the Trust) was investigating this complaint as the Boccia activity complaint had by this time progressed to the Trust. However, the investigation established that Cedar failed to respond to the complainant within the required timeframes at Stages 2 and 3 of his Boccia activity complaint, and to signpost him to this Office as required under the Public Services Ombudsman Act (NI) 2016.

I made a number of recommendations including issuing the complainant with an apology. I also recommended that Cedar updated its service literature and website to improve the information available to users of the Social Inclusion Service, included designated timeframes within service user's actions plans and created policies and/or procedures for staff members to follow when deciding if service users were leavers. In addition, I recommended that Cedar provided training to relevant staff members on good record keeping. I also suggested that Cedar considered reviewing its complaints process to ensure that it remained fit for purpose.

THE COMPLAINT

1. This complaint concerns the actions of the Cedar Foundation (Cedar), an independent sector provider, commissioned by the Trust. Cedar delivers a range of services that enable people with disabilities, autism and brain injury to be better involved within their communities. The complainant had concerns regarding Cedar's decision to end his involvement in its Social Inclusion Service³ in February 2018. The complainant stated that Cedar informed him he would no longer be a participant in the group, as he was too independent and had achieved all of his set goals.
2. However, the complainant believed that Cedar asked him to leave the service as he had submitted a complaint in January 2018, alleging its mistreatment of service users due to the cancellation of its Boccia⁴ activity. On completion of Cedar's investigation of this complaint, the complainant remained dissatisfied with the findings.

ISSUES OF COMPLAINT

3. The issues of the complaint which I accepted for investigation were:

Issue 1: Did Cedar follow appropriate policy, procedure and guidance when ending the Complainant's involvement in the Social Inclusion Service in 2018?

Issue 2: Did Cedar appropriately investigate the Boccia and Social Inclusion Service complaints in accordance with policy, procedure and guidance?

³ A service to support people with disabilities, especially those who experience isolation, to build new social networks within their local communities.

⁴ A precision ball sport.

INVESTIGATION METHODOLOGY

4. In order to investigate the complaint, the Investigating Officer obtained from Cedar all of the relevant documentation together with its comments on the issues raised by the complainant. This documentation included information relating to Cedar's handling of the complaint.

Relevant Standards

5. 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.
6. The general standards are the Ombudsman's Principles⁵:
 - The Principles of Good Administration
 - The Principles of Good Complaints Handling
 - The Public Services Ombudsman's Principles for Remedy
7. The specific standards are those, which applied at the time the events occurred and which governed the exercise of the administrative functions of those 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.
8. The specific standards relevant to this complaint are:
 - The Cedar Foundation Complaints, Compliments and Feedback Policy,

⁵ These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

dated 31 March 2017 (the Complaints Policy); and

- 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).

9. I also examined the following documentation:

- Cedar's Social Inclusion Matter's Leaflet;
- The complainant's Participant Action Plan, last updated on 5 December 2017;
- The complainant's Social and Community Networking Participant Review Forms, dated 10 August 2015, 8 February 2016, 16 August 2016, 13 February 2017, and 2 August 2017;
- Minutes of meeting held Monday 5 February 2018 in The Rowan Centre Lisburn;
- The complainant's Inclusion Matters Completer/ Leaver Update, dated 5 February 2018;
- The complainant's Contact records related to behavioural issues, dated 19 April 2016 – 29 January 2018 (the complainant's contact records); and
- An email from Cedar's Service Manager to the complainant, dated 23 November 2017.

10. 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 Cedar and the complainant for comments on factual accuracy and the reasonableness of the findings and recommendations.

INVESTIGATION

Issue 1: Did Cedar follow appropriate policy, procedure and guidance when ending the Complainant's involvement in the Social Inclusion Service in 2018?

Detail of Complaint

11. The complainant joined Cedar's Social Inclusion Service in 2015, and was involved in a number of programmes, including the Boccia group. On 22 January 2018, the complainant stated that Cedar cancelled the Boccia group. As a result, he submitted a complaint to Cedar on 29 January 2018, citing the mistreatment of services users due to its decision to discontinue the group.

12. Subsequently, the complainant stated that Cedar invited him to a meeting on 5 February 2018, to inform him that he had achieved his set goals within the Social Inclusion Service, and that he would no longer be a participant. The complainant stated that Cedar advised him he was too independent for the service, despite the fact he has Ataxia, a progressive condition, which can affect co-ordination, balance and speech.

13. The complainant believed that Cedar asked him to leave the Social Inclusion Service as he complained about the treatment of service users in the Boccia group. He believed that Cedar did not provide him with an adequate explanation for ending his participation with the Social Inclusion Service, and seeks an enhanced explanation from Cedar as to why it asked him to leave.

Evidence Considered

14. I considered Cedar's Social Inclusion Matter's leaflet, which states:
'The individual support provided to participants is wide ranging and includes enabling access to educational or recreational programmes, developing personal skills as well as volunteering opportunities and social and leisure pursuits...

Inclusion matters helps participants to build new social opportunities within their local area and to develop peer networks and friendships.'

15. In addition, I considered the complainant's '*Participant Action Plan*', which lists: the activities he was participating in as part of the Social Inclusion Service; the expected outcomes for those activities; the support provided by Cedar; and whether each activity was ongoing or discontinued.

16. I also considered the complainant's '*Social and Community Networking Participant Review Forms*'. These forms record the complainant's '*progress towards [his] current action plan*', within the Social Inclusion Service, and review if there '*are things [he] would like to change*', and how he '*want[s] to get involved in the future*'. The form dated 13 February 2017, records that the complainant '*is doing great... He feels really involved in his community.*' In addition, the form dated 21 August 2017 records that the complainant '*is great at organising things for others. He arranges dinners, lunches, concerts and nights out. [The complainant] is very independent and continues to show a flare for organising activities for others.*'

17. In addition, I considered the minutes of the complainant's exit review meeting: '*Attendees: [the complainant]; [the complainant's father]; [the Trust Social Worker]; and [the Cedar Service Manager]...*

I [the Cedar Service Manager] brought up the issue that today was to be [the complainant's] exit review and [the complainant] replied by saying that was lies. I explained that it had been communicated to him and discussed before Christmas. [The complainant's father] became very irate and aggressive saying so you are sacking him. I explained that our service was not long term and when people became independent and met their goals that they become leavers... [The complainant's father] implied that we were only making [him] and others leave as they spoke out... I asked [the complainant] did he think he needed Cedar's support and he said that he definitely didn't. I explained

that as he was independent and able to organise activities then he had achieved what the service sets out to do... I said to [the complainant] about volunteering... [He] said that he didn't want to volunteer... [He] mentioned running a Boccia group... I said... if he organised a group that [Cedar] would lend him the equipment to use... [The complainant's father] remained aggressive and irate throughout the meeting...'

18. I considered the complainant's 'Inclusion Matters Completer/ Leaver Update' document, which details the progress against his action plan, and any follow up information required. This document records '*The meeting has become very heated I [the Cedar Service Manager] made a decision that it would be inappropriate to set a date for follow up as it may have inflamed the situation... Discussion began in December 2017 to look at what support [the complainant] would need to be able to move on from Cedar's Inclusion Matters Service. It was agreed that his main exit strategy would be to register [him] as a volunteer with Cedar's Volunteer Service to enable him to lead a social activity group and to look at other volunteering activities in his care.'*

19. I also considered the complainant's contact records, specifically the following entries:

'15 November 2017

I reminded [the complainant] that he has been on the programme for a long time and achieved his goals, and he is very independent so will naturally come off the programme in the New Year, and if he feels volunteering is his way forward then this is great...

5 December 2017

CIO [Community Inclusion Officer] updated [the complainant's] action plan today with him to include volunteering as an option for his progression off programme... CIO reminded [the complainant] about the date for his leaver

meeting in Feb and advised she will remind him again in Jan about the day and time...

22 January 2018

[The complainant] is upset the [Boccia] group is ending however feels as previously stated that they do not need Cedar support and he would like to start his own group.'

20. I considered an email from Cedar's Service Manager to the complainant, dated 23 November 2017, which documents '*I have instructed [the CIO] to look at your volunteer request with [a volunteer agency] as part of your action plan and we will try to get this moving as quick as possible.'*

Listed Authority's Response

21. In response to investigation enquiries, Cedar advised that '*the aim of the [Social Inclusion] service is to support participants to find and sustain on-going social activities.'* Cedar advised that '*referrals to the Inclusion Matters Service are made through the Social Work Team and an introductory meeting takes place with the service user, the referring Social Worker and Cedar Staff. At the introductory meeting, the service outcomes and goals are described...*'

22. Subsequently, it stated that '*each service user has a personal action plan that sets out their goals for social activity and specifies what support Cedar will provide to enable this to happen*', including '*the timeline for goals to be achieved*'. Cedar also stated that '*Progress review meetings against the Action Plan take place every six months. [The complainant] joined Inclusion Matters in 2015. For the last three years of the service, [the complainant] has attended review meetings every February and August.'*

23. In September 2017, Cedar advised that it conducted an internal review of the

Social Inclusion Service. It stated that the purpose of this review was 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.'*

24. Cedar stated that this review identified 48 participants who had achieved their set goals, were users of the service for more than two years, and therefore identified as potential leavers. At this time, Cedar said that it did not create a *'formal regional review report'*⁶. Following this review, Cedar advised that it instructed staff to begin consultation with the identified service users regarding their exit from the service.

25. Cedar stated that the complainant's *'leaving from the service had been a planned exit and was an on-going discussion with him from November 2017...'* It stated that the complainant was *'participating independently in all social activities specified in his action plan... His contact records show that [the complainant] had not identified any additional goals he wanted support with and stated that he was able to attend all his activities without Cedar's help.'* As a result, Cedar stated that *'[The complainant] and [the CIO] were working on setting up volunteering opportunities and attending social groups independently as his planned exit strategy with up to six months of follow up contact. The exploration of these opportunities took place from November 2017.'*

26. On 15 November 2017, Cedar stated that the CIO's progress notes *'indicate discussions [regarding] [the complainant] being ready to become a leaver and the option of taking forward volunteering opportunities with Cedar Foundation Volunteer Service.'* Cedar advised that *'it was discussed verbally with [the complainant] that February 2018 would be his exit review from the Inclusion matters Service. This is normal practice and most communication with service*

⁶ Following the submission of the complaint, Cedar advised that it created a retrospective 'regional review report' to assist the South Eastern Health and Social Care Trust's investigation.

users is verbal or by text.'

27. Subsequently, on 17 November 2017, Cedar stated that its Service Manager contacted the complainant to explain that Cedar's Volunteer Co-ordinator *'was on long-term sick leave and offered other volunteer agencies as an alternative option to progress volunteer options more quickly.'*
28. On 23 November 2017, Cedar said that it received an email from the complainant requesting an update on the progression of the volunteer application. Cedar replied on the same day, providing a list of email contacts from a Northern Ireland volunteering organisation. However, Cedar stated that the complainant *'declined'* to go with this organisation, and indicated he would rather wait for the Cedar Volunteer Co-ordinator to return from sick leave.
29. Cedar stated that the complainant's progress notes on 5 December 2017, record that the action plan for that day was to *'include volunteering as an option for his progression off [the] programme.'* It stated that the complainant's CIO discussed *Boccia with him as [the complainant] feels he can run the group himself and that volunteers are not needed. [The CIO] advised that this could be an option for the future and it was nice to see he feels he is independent to take on the role.'* In addition, Cedar stated that the complainant was *'reminded of his leavers meeting in February'*, and a note was made to *'remind him again in January.'* Cedar also stated that the CIO spoke with all members of the Boccia group at this time to discuss *'options for the New Year as the group was experiencing dropping numbers and also some disharmony, encouraging them to look at individual activities and new avenues to replace the Boccia group.'*
30. On 22 January 2018, Cedar advised that it *'met with the Boccia group to discuss the future of the group and agreeing that [it] no longer met [the service users'] needs.'* Subsequently, on 24 January 2018, Cedar stated that there was an adverse incident, when the complainant's father *'acted inappropriately'* towards the CIO. Cedar advised that a meeting was arranged

on 30 January 2018, to discuss the incident with the complainant and his father, however they failed to attend. Therefore, Cedar stated that its Service Manager and the Trust Social Worker, *'suggested that the meeting could be re-scheduled for the previously arranged... exit review meeting'* on 5 February 2018.

31. On 5 February 2018, Cedar stated that an exit review meeting was conducted with the complainant, his father, a Trust Social Worker, and the Cedar Service Manager. Cedar advised that when the Service Manager stated it was an *'exit review'*, the complainant and his father became *'irate'*. Cedar stated that the Service Manager *'advised that our service was not long term and when people become independent and met their goals they become leavers.'* Cedar stated that the complainant's father *'implied that we were only making [him] and others leave as they spoke out.'*

32. Cedar stated that the Service Manager asked the complainant if he thought *'he needed Cedar's support and he said that he definitely didn't... I said to [the complainant] about volunteering... I explained that our volunteer coordinator is still off and it will be another two weeks before we will have someone to cover the post. [The complainant] said that he didn't want to volunteer.'* Cedar said that the complainant *'mentioned running a Boccia group... [the Service Manager] said... if he organised a group that we would lend him the equipment to use.'* As of 28 May 2019, Cedar advised that the complainant continues to lead the Boccia group independently every Monday.

33. Subsequently, on 21 February 2018, Cedar stated that its Service Manager contacted the complainant regarding his application to volunteer and offered to meet him to discuss it. Cedar stated that the complainant returned the application form on 10 March 2018. On 27 March 2018, Cedar's Service Manager followed up on the complainant's application. However, Cedar stated that, on 29 March 2018, the complainant advised that *'something had come up'*, and he could not volunteer. As a result, Cedar stated that *'his volunteering placement was not taken forward at [the complainant's] request.'*

34. Cedar advised that *'the decision to move [the complainant] on from the Inclusion Matters service was not specifically related to his physical disability or general independence, only with regard to his ability to attend those social activities that he had attended as requiring support from Cedar as part of Inclusion matters. After he left, there was no change in his ability to access those activities and group sessions. [The complainant] was not dismissed from the organisation... It was planned and anticipated that he would continue engagement with the organisation as a volunteer.'*

35. Cedar also stated that it *'has reviewed its practices in relation to record keeping when service users preference is for most communication to take place via phone/ text. All staff have completed refresher training in record keeping in the last year.'* In addition, Cedar stated that it *'updated its Review and Exit review procedure to ensure all communication regarding exit planning is documented.'* It advised that its *'website and leaflet information is currently being reviewed so that it is clear that all goal directed services support participants to progress from the service when they have achieved their personal goals.'* In addition, Cedar stated that it has apologised to the complainant, and *'offered to meet with him to discuss possible new social inclusion activities.'*

Responses to draft report

36. The complainant advised that he was *'both happy and unhappy with the findings'* of the draft report. He explained that he *'joined this service [the Social Inclusion Service] for friendship, I didn't know I had goals to achieve'*. He also stated that Cedar's Service manager *'did not offer to lend us the [Boccia] equipment.'* In response to the draft report, Cedar stated that it had *'no further comments'*.

Analysis and Findings

Admission to service

37. I note the purpose of Cedar's Social Inclusion Service is to *'help participants*

build new social opportunities within their local area and to develop peer networks and friendships.' Cedar stated that it advised the complainant of the service's *'outcomes and goals'* at his introductory meeting. However, Cedar did not provide a record of this meeting. Therefore, I cannot conclude if it advised the complainant that the service was time bound during this meeting; I have addressed Cedar's record keeping in paragraph 63. On review, I also note Cedar's website and its Social Inclusion Matters leaflet, do not reference that participation in the service is time bound.

38. When joining the service, I note Cedar stated that it creates a personal action plan with each service user, which *'sets out their goals for social activity... what support Cedar will provide... [and] the timeline for goals to be achieved'*. I note the complainant's action plan detailed activities such as the Boccia group, the expected outcome from these activities, and the support provided. I note the document records the status of a number of these activities as *'completed'*. However, it does not contain specific timelines for achieving set goals.

39. I refer to the Second principle of Good Administration, *'being customer focused'*, which states that public bodies should *'aim to ensure that customers are clear about their entitlements'* and *'about what they can and cannot expect from the public body.'* I consider that Cedar should clearly state on its service literature and website that participation in the Social Inclusion Service is time bound, to ensure that potential participants are fully aware of this from the outset. In addition, Cedar ought to have clearly recorded proposed timelines within the complainant's action plan, to allow him to reference this, and to enable review of them at the six monthly review meetings. I consider these omissions constitute maladministration. As a result, I consider that the complainant suffered the injustice of uncertainty. I will address remedy in the conclusion of the report.

40. I am pleased to note that Cedar stated it is reviewing its website and leaflet information *'so that it is clear that all goal directed services support*

participants to progress from the service when they have achieved their personal goals.'

Review of complainant's progress

41. Cedar also provided evidence of its bi-yearly reviews of the complainant's action plan, dated between August 2015 and August 2017. I note the complainant's review in February 2017 recorded that he *'is doing great... He feels really involved in his community.'* In addition, the review in August 2017 recorded that the complainant *'is very independent and continues to show a flare for organising activities for others.'* I consider these reviews evidence Cedar's continued monitoring and review of the complainant's progress within the service.

42. However, I note the complainant criticised Cedar for removing him from the Social Inclusion Service, despite him having a degenerative disease. I note Cedar stated that it conducted an internal review of the Social Inclusion Service in September 2017, and identified 48 individuals who it considered to be potential leavers, as they had achieved their goals and were using the service for two years or more. I note Cedar stated that *'the decision to move [the complainant] on... was not specifically related to his physical disability or general independence, only with regard to his ability to attend those social activities that he had attended as requiring support from Cedar.'*

43. On review, I note there are records evidencing the complainant's successful progression within the service. However, Cedar did not provide policies or procedures detailing the aim of its internal review in September 2017, or the assessment criteria used by staff to determine which service users were potential leavers.

44. I refer to the First Principle of Good Administration, *'getting it right*, which states that public bodies *'must act in accordance with... established good practice.'* I consider it critical for public bodies to have procedural documentation detailing assessment criteria, to ensure an open and impartial service. I consider that Cedar's failure to provide this documentation amounts

to maladministration. I will address injustice and remedy in the conclusion of the report.

45. In addition, I note Cedar did not provide records detailing what staff members undertook the review, minutes of the review meeting, or decisions and action points⁷; I have addressed Cedar's record keeping in paragraph 63. I am critical of Cedar's lack of record keeping during this review. However, I note that there is evidence of Cedar's ongoing monitoring of the complainant's progress in the service, and there are records detailing his continued development. Therefore, I consider that there is evidence Cedar was progressing the complainant towards an exit review. As a result, I do not uphold this element of the complaint.

Exit from service

46. Following its service review in September 2017, I note Cedar stated that it advised staff to begin discussions with the service users regarding their exit from the service. On review, I did not identify evidence of Cedar advising its staff members to begin these discussions. I addressed Cedar's record keeping in paragraph 63.

47. The complainant stated that Cedar advised him it was ending his participation in the Social Inclusion Service in February 2018, as he was too independent and had met all his goals. However, I note the complainant believed that Cedar's decision to remove him from the service was a consequence of the complaint he submitted on 29 January 2018, alleging Cedar's mistreatment of service users in the Boccia group.

48. I note Cedar stated that it began discussions with the complainant regarding his exit from the Social Inclusion Service in November 2017. At this time, I note Cedar advised that the complainant was *'participating independently in all social activities specified in his action plan... had not identified any additional goals he wanted support with and stated that he was able to attend*

⁷ I note Cedar created a retrospective report for the Trust, which lists the complainant as one of the potential leavers.

all his activities without Cedar's help. I note the complainant's action plan, dated 21 August 2017 records that he was attending Boccia, mindful colouring, swimming and bowling, and that he *'is very independent and continues to show a flare for organising activities for others.'*

49. As a result, I note Cedar stated that the complainant's CIO was organising volunteer opportunities and social groups for the complainant to attend independently, *'as his planned exit strategy'*. I note a specific aim of the Social inclusion Service is to provide users with access to *'volunteering opportunities.'* On review, I did not identify a record detailing what the complainant's planned exit strategy was. I have addressed record keeping in paragraph 63.

50. However, I identified evidence of Cedar's efforts to organise volunteer opportunities for the complainant, and to advise him that his participation in the service was ending. On 15 November 2017, I note the CIO recorded on the complainant's contact records, *'I reminded [him] that he has been on the programme for a long time and achieved his goals, and he is very independent so will naturally come off the programme in the New Year, and if he feels volunteering is his way forward then this is great.'* Subsequently, on 23 November 2017, I note the Cedar Service Manager emailed the complainant, stating *'I have instructed [the CIO] to look at your volunteer request with [a volunteer agency] as part of your action plan and we will try to get this moving as quick as possible.'*

51. In addition, I note the complainant's contact record, dated 5 December 2017, recorded *'CIO updated [the complainant's] action plan today with him to include volunteering as an option for his progression off programme... CIO reminded [the complainant] about the date for his leaver meeting in Feb and advised she will remind him again in Jan[uary] about the day and time.'*

52. On 22 January 2018, I note the complainant advised that the Boccia group was cancelled. On this date, I note his contact record documented *'[the*

complainant] is upset the [Boccia] group is ending however feels as previously stated that they do not need Cedar support and he would like to start his own group.' Subsequently, on 24 January 2018, I note the complainant's contact record detailed that his father spoke to the CIO, and alleged she had 'evicted' the Boccia group. The record documented that the complainant's father was 'very angry', 'aggressive' and made 'physical contact' with the CIO. I note the complainant submitted a complaint to Cedar on 29 January 2018, citing the mistreatment of service users in the Boccia group, due to the ending of the activity.

53. I note Cedar advised that a meeting was arranged with the complainant and his father on 30 January 2018, to discuss the incident on 24 January 2018. However, Cedar stated that the complainant and his father did not attend the meeting. As a result, Cedar explained that its Service Manager and the Trust Social Worker, 'suggested that the meeting could be re-scheduled for the previously arranged... exit review meeting' on 5 February 2018.

54. I note the complainant, his father, the Trust Social Worker and Cedar's Service Manager attended the exit review meeting on 5 February 2018. I reviewed the minutes of the exit review meeting, which began by discussing 'the adverse incident', which took place on 24 January 2018. I note Cedar advised that the purpose of this meeting was to discuss the complainant's planned exit from the Social Inclusion Service. However, I note Cedar had made a previous attempt to discuss the 'adverse incident' at an earlier meeting, which the complainant and his father did not attend. In hindsight it may have been better if these two matters had not been dealt with at the same meeting however given the circumstances, I consider that it was reasonable for Cedar to address this incident at the meeting.

55. Subsequently, I note that Cedar's Service Manager 'asked [the complainant] did he think he needed Cedar's support and he said that he definitely didn't. [The Service manager] explained that as he was independent and able to organise activities then he had achieved what the service sets out to do.' I note the minutes also record that the Service Manager discussed volunteering

with the complainant. However, the complainant *'said that he didn't want to volunteer... [He] mentioned running a Boccia group... I said... if he organised a group that [Cedar] would lend him the equipment to use.'* I note the complainant refutes that he was offered the Boccia equipment.

56. I note the meeting minute's record that the complainant's father *'remained aggressive and irate throughout the meeting'*, and *'implied that [Cedar] were only making [the complainant] and others leave as they spoke out'*. As a result, I note the Service Manager considered it *'inappropriate to set a date for follow up as it may have inflamed the situation.'*

57. I note there was also a plan for the complainant to continue engaging with Cedar as a volunteer. I note there is evidence of Cedar and the complainant discussing and completing his volunteer application in February and March 2018. However, on 29 March 2018, I note the complainant advised Cedar that he could no longer volunteer. However, I note Cedar advised that as of 28 May 2019, the complainant was leading the Boccia group every Monday.

58. On review of the available records, I note that there is evidence of Cedar's continued communication with the complainant regarding his exit from the Social Inclusion Service from November 2017. I note that this communication began prior to the submission of the complaint in January 2018. I also note there is evidence that Cedar considered the complainant to be acting independently, without the need for Cedar's support. As a result, I note Cedar began to organise volunteer opportunities for the complainant, as part of his progression from the service.

59. Having considered the evidence available I do not consider that the, complainant was removed from the Social Inclusion Service as a result of submitting a complaint about the Boccia group. The records available indicate that Cedar explained to the complainant on a number of occasions that he would be progressing from the service, and provided reasons for this. I also note it provided the complainant with an explanation as to why he was

progressing from the service at his exit meeting. Therefore, I do not uphold this element of the complaint.

60. However, I note Cedar advised that it is normal practice for communication with users too be either verbal or via text. As progression from the Social Inclusion Service is a key milestone in a service user's development, Cedar should consider whether providing a written notice to service users, detailing the reasons for their planned exit and the proposed date would be beneficial.

61. I am pleased to note Cedar stated that it *'has reviewed its practices in relation to record keeping when service users preference is for most communication to take place via phone/ text. All staff have completed refresher training in record keeping in the last year.* I also note Cedar stated that it has *'updated its Review and Exit review procedure to ensure all communication regarding exit planning is documented.'*

62. In addition, I am pleased to note that Cedar have apologised to the complainant, and *'offered to meet with him to discuss possible new social inclusion activities.'*

Record keeping

63. Although not raised by the complainant, a common theme, which appeared during the investigation, was a failure by Cedar to make a record in relation to a number of key matters. During the investigation, I identified Cedar's failure to record:

- the complainant's introductory meeting;
- its internal review, the assessment criteria used, what staff members undertook the review, details of decisions, and/ or action points;
- the communication of the internal review decisions with Cedar staff members; and
- the complainant's planned exit strategy.

64. I refer to the Third Principle of Good Administration, '*being open and accountable*', which requires public bodies to keep '*proper and appropriate records*.' I consider the compiling and maintaining of proper records is a basic necessity. Good record keeping has the advantages that those involved are clear about what took place and have the opportunity to query if in doubt. I consider Cedar's failure to keep appropriate records constitutes maladministration. As a result, I do not consider that the complainant suffered the injustice as a result of these record keeping failures.

65. Despite Cedar's lack of record keeping, I consider that there is evidence of its continued review and plan to progress the complainant from the Social Inclusion Service between 2015 and 2018. Therefore, I have not identified any concern with Cedar's decision to progress the complainant to a leaver from the Social Inclusion Service or that this was motivated by his complaint concerning the Boccia group.

Issue 2: Did Cedar appropriately investigate the Boccia and Social Inclusion Service complaints in accordance with policy, procedure and guidance?

Detail of Complaint

66. The complainant submitted a complaint to Cedar in January 2018, alleging its mistreatment of service users due to the cancellation of its Boccia activity. On completion of Cedar's investigation into the complaint, the complainant remained unhappy with its findings. Therefore, Cedar signposted him to the Trust for a review of its decision-making in March 2018. In May 2018, the complainant submitted an additional complaint to Cedar regarding his '*unfair dismissal*' from its Social Inclusion Service. Cedar responded to the complainant stating that the Trust was investigating both of his complaints.

67. Cedar is an independent service provider (ISP), commissioned by the Trust. On first instance, a complainant is encouraged to raise concerns with the ISP directly for local resolution. However, if an ISP is commissioned by a Trust, a

complainant may also contact the Trust to investigate the complaint through its complaints process. I have investigated a separate complaint against the Trust in relation to its involvement in considering the concerns raised by the complainant.

Evidence Considered

68.I considered Cedar's complaints policy:

'There are 3 stages to our procedure

Stage 1: Local resolution

At this stage we aim to resolve the complaint informally and encourage you to speak to the local staff about your concerns...

Stage 2: Investigation

*This involves you making the complaint **preferably in writing** to Cedar. We will acknowledge your complaint within two working days, and will arrange for the Head of Service or their representative to investigate it, with a full response being provided within 10 working days.*

Stage 3: Review

If you are not happy with the findings of the investigation, you may request a review by Cedar's Deputy Chief Executive. This must be in writing, detailing why you want the decision reviewed, within 30 days.

The review process is undertaken to see if the investigation was reasonable and fairly conducted and that the response to the investigation was adequate given the nature of the original complaint.

We will acknowledge your request within two working days, and will issue you with a full response within 20 working days.

Stage 3 is the final part of Cedar's complaints management procedure

If you feel that Cedar has not treated you fairly, or not done what we reasonably could, then you can take your complaint to an independent organization. For example:

- *Regulation and Quality Improvement Authority*
- *Health and Social Care Trusts*
- *Northern Ireland Public Services Ombudsman*
- *Regional Health and Social Care Board*
- *Equality Commission*
- *Human Rights Commission.'*

69.I also considered the DHSSPS' Complaints Policy, specifically in relation to Independent Sector Providers:

'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 timescales⁸ 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...

70.I considered Cedar's HOS' investigation into the complaint:

'Investigation

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

1. Meeting with [Service Manager]

There had been a number of concerns in relation to the group... the venue – not inclusive... group was not cohesive... falling number of participants, individuals from the group indicated that the group was not working for them...

2. Meeting with the Monday [Boccia] Group

A letter was sent to 11 participants of the Monday Group... 5 participants of the group stated that 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... [they] were unhappy with the closure of

⁸ Under the HSC Complaints procedure this is 20 working days.

the group... [and believed] that there was not enough consultation with the group and that it ended abruptly...

Conclusion

... there appears to be only 3 out of the 11 participants who were unhappy with the ending of the group... Cedar offered support to enable [the three individuals at the meeting] to continue to play Boccia through the usage and ownership of the Boccia equipment...'

71. I considered the complainant's contact record, dated 22 January 2018, which states *'[the complainant] is upset the [Boccia] group is ending however feels as previously stated that they do not need Cedar support and he would like to start his own group. CIO advised this was a good option and she would speak to [a volunteer] about facilitating six week sessions for them. Also, she advised the group could borrow Cedar's Boccia balls for as long as they need them.'*

72. I considered an email from the complainant to Cedar, dated 22 February 2018, which states *'It has been ten days since we last heard from The Cedar Foundation.'*

73. In addition, I considered a letter from Cedar's Chief Executive to the Complainant, dated 9 March 2018:

'If you feel that your complaint has not been satisfactorily resolved, you can take your complaint to an independent organization such as the South-Eastern Trust, who commission this service.'

74. I reviewed an email from the complainant to Cedar's Chief Executive on 10 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 organize things on my own... I did not choose to leave, I was told to leave...'

75. 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 on this matter by the Trust and will consider any recommendations arising thereafter.'

Listed Authority's Response

76. Cedar stated that it received the *'official complaint'* on 29 January 2018, relating to *'alleged mistreatment of service users by [the complainant] on behalf of the 'Monday Group' (eight participants) and it was dealt with as a group complaint.'* It stated that its Chief Executive acknowledged the complaint on 31 January 2018, and provided a copy of Cedar's complaints procedure.

77. On 23 February 2018, Cedar stated that its Head of Service updated the complainant on the progress of the complaint. She advised the complainant that the investigation was complete, and that the report was with Cedar's Chief Executive for review. Cedar's Chief Executive responded to the complainant as representative of the Boccia group on 27 February 2018, and presented the findings of the investigation.

78. Cedar stated that *'the complaint was investigated by engaging with all members of the group and a resolution offered. The majority of service users did not wish to continue with Boccia. For those who did want to continue, Cedar donated the Boccia equipment to the group.'* Cedar's Chief Executive advised the complainant that *'the South-Eastern Trust, who contract with Cedar to provide the Community Inclusion Service, are also in support of the alternative provision.'* In August 2019, Cedar stated that *'[the complainant] emailed... to report that the [Boccia] group was running well at full capacity.'*

79. On 1 March 2018, Cedar stated that the complainant *'appealed the outcome of the complaint'* and it informed the Trust of the complaint on 5 March 2018. Subsequently, Cedar stated that Cedar's Chief Executive reviewed the complainant's appeal and provided a final response on 9 March 2018. Cedar stated that this response gave the complainant *'options for further actions outside Cedar... as a next stage.'* It advised the complainant *'that he could take the matter forward with the South Eastern Health and Social Care Trust [SEHSCT] the commissioner of the service.'*

80. On 10 May 2018, Cedar stated that the complainant contacted it *'about the Boccia Activity investigated by Cedar and referencing a new issue regarding alleged "unfair dismissal" from Cedar's Inclusion Matters Service.'* Cedar advised that it responded on 11 May 2018, *'to clarify that they had responded to the complaint received by Cedar and that they understand the SEHSCT were now dealing with all issues raised by [the complainant].'* Cedar stated that it advised the complainant *'that they would fully cooperate with all investigations by the Trust and implement any recommendations.'*

81. At this time, Cedar stated that it was aware that the complainant had submitted a complaint to the SEHSCT. Therefore, it *'decided to work closely with SEHSCT to jointly resolve the issue that the Trust had already begun to respond to.'* Cedar stated that *'the dismissal complaint was led by the SEHSCT',* who *'invited [us to] attend a meeting as part of [its] investigation, which we participated in.'* Cedar said that it also *'informed the SEHSCT that*

[it] would be prepared to meet with [the complainant] to bring the matter to a resolution.'

82. Cedar also stated that when it *'was made aware of the complaint regarding alleged dismissal from the service, an informal internal review was taken forward by the Head of Service... it was considered that the decision to progress [the complainant's] exit from the service was appropriate and in line with how the service operates for all service users.'*

Analysis and Findings

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

Stage 1

84. I note Stage 1 of Cedar's complaint's policy is *'local resolution'*, which states that it will *'aim to resolve the complaint informally'*, and encourages complainants to *'speak to the local staff about... concerns.'* On 22 January 2018, I note Cedar advised the complainant that the Boccia group was ending, and it was noted in the complainant's contact record that he was *'upset'*. I note the record documented that the complainant stated *'he would like to start his own group'*. In response, the CIO stated that she would speak to a volunteer about organising sessions and advised that *'the group could borrow Cedar's Boccia balls for as long as they need them.'* On review, I consider that Cedar took appropriate actions to address the complaint informally, as per Stage 1 of its complaint's policy.

Stage 2

85. On 29 January 2018, I note the complainant submitted an *'official complaint'* to Cedar, via email, alleging the *'mistreatment of service users'* as a result of the cancellation of Boccia. As per its Complaints Policy, Cedar appropriately acknowledged the complaint *'within two working days'*, and arranged for its Head of Service to investigate the complaint.

86. As part of the investigation, I note Cedar's Head of Service met with Cedar's

Service Manager to discuss concerns raised by the Boccia group, prior to its cancellation, including issues with the venue and the falling number of participants. In addition, I note she invited the eleven members of Boccia Group to a meeting on 12 February 2018, to discuss the complaint. I note five members stated that they did not have a complaint; therefore, they did not attend this meeting. I note three members of the Boccia Group attended the meeting, where it was decided that they would be supported by Cedar to *'continue to play Boccia through the usage and ownership of the Boccia equipment.'* On review, I consider that Cedar adequately investigated the concerns raised by the group, and implemented actions to resolve the issue for the three participants who wished to continue.

87. On 22 February 2018, I note the complainant contacted Cedar requesting an update on the status of the investigation. The following day, I note Cedar replied, advising the complainant that the investigation was complete and being reviewed by Cedar's Chief Executive. On 27 February 2018, Cedar's Chief Executive issued an email to the complainant, advising that the investigation was concluded, and that the complaint was not upheld.

88. I refer to Cedar's Complaints Policy, which states that a full response to a complaint will be issued *'within ten working days'*. I note Cedar advised the complainant of a delay on 23 February 2018, following his request for an update. However, I note that there was already a significant delay of nine days prior to this update. I refer to the DoH's Complaints Policy, which states *'Where there is a delay in responding within the target timescales the complainant will be informed and where possible provided with a revised date for conclusion of the investigation.'*

89. I also refer to the Second Principle of Good Complaints Handling, *'being customer focused'*, which states that bodies should *'deal with complaints promptly... and in line with published service standards.'* It also states that bodies *'should keep the complainant regularly informed about progress and reasons for any delays.'* I consider that Cedar ought to have informed the

complainant that there would delay in responding to his complaint, because of the ongoing investigation, and provided him with a revised date.

90. I also note the DoH's Complaints Policy states that *'A written response will be provided by the ISP to the complainant and copied to the Trust.'* On review of the available evidence, I note Cedar informed the Trust of the complaint on 5 March 2018, and forwarded a copy of the investigation report.

Stage 3

91. On 1 March 2018, I note the complainant requested an appeal to Cedar's investigation. I note Cedar's Complaints Policy states that the request for appeal, must be in writing, detailing why you want the decision reviewed, and must be made within 30 days. I note the complainant's request met all of these criteria. I note Cedar's Complaints Policy also states that it *'will acknowledge your request within two working days.'* However, I was not provided with evidence of Cedar's acknowledgement. I refer to the First Principle of Good Complaints Handling *'getting it right'*, which states that bodies must act *'act in accordance with the law and relevant guidance'*.

92. As detailed above, I note Cedar informed the Trust of the complaint on 5 March 2018. Subsequently, on 9 March 2018, as per Cedar's Complaints Policy, I note Cedar's Chief Executive appropriately provided the complainant with the final response, *'within twenty working days'*. I note Cedar's CE advised the Complainant to *'take your complaint to an independent organisation such as the South-Eastern Trust, who commission this service'*, which is consistent with Cedar and the DoH's Complaints Policies.

93. However, I note that Cedar failed to signpost the complainant to this Office. I note Cedar's Complaints Policy states *'If you feel that Cedar has not treated you fairly, or not done what we reasonably could, then you can take your complaint to an independent organisation. For example... Health and Social Care Trusts, Northern Ireland Public Services Ombudsman... Equality Commission, Human Rights Commission'*. I also refer to the DoH's

Complaint's policy, which states *'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.'* I refer to the First Principle of Good Complaints Handling, *'getting it right'*, which states that bodies should *'[signpost] to the next stage of the complaints procedure, in the right way and at the right time.'*

94. In addition, on review of Cedar's Complaints Policy, I consider that there is a lack of clarity regarding what the organisations listed within Stage 3 can offer complainants. I am of the opinion that further information ought to be included, to enable complainants to make an informed decision as to which organisation would be best placed to offer them further assistance (see paragraph 98). If a complainant wishes to pursue their complaint about an ISP then it is important that they are advised of the right to bring their complaint to NIPSO.

95. On 10 May 2018, I note the complainant emailed Cedar, with the Trust carbon copied, regarding the Boccia activity and introduced a new complaint, alleging *'unfair dismissal'* from Cedar's Social Inclusion Service. I note Cedar responded on 11 May 2018, advising the complainant that the Trust was now investigating both of the complainant's issues. I note Cedar stated that it was cooperating with the Trust, to meet recommendations and find a resolution. I refer to the DoH's Complaints Policy, which states that *'Where complaints are raised directly with the Trust, it must... consider how best to proceed. The Trust... may decide to investigate the complaint itself.'* I note it also states that *'appropriate communication should be made with the complainant to inform them which organization is leading the investigation.'*

96. Therefore, I consider that it was appropriate that Cedar did not launch a separate investigation into the *'unfair dismissal'* complaint. I also consider that Cedar appropriately informed the complainant that the Trust was leading the investigation. The Trust's investigation of both complaints are the subject of a separate complaint Case Ref 19010.

97. I consider that the failures identified above amount to maladministration. I consider Cedar's failures to advise the complainant of the delay at Stage 2 and to acknowledge his request for appeal within the specified timeframe resulted in him suffering the injustice of uncertainty. However, I consider Cedar's failure to signpost the complainant to this Office, resulted in no injustice as the complaint was forwarded to the Trust for investigation and ultimately to NIPSO. I will address remedy in the conclusion of the report.

98. On review, although Cedar has acted in accordance with its Complaints Policy and DHSSPS' Complaints Policy, I consider that its complaints process is somewhat complicated. A good complaints process should be clear and simple, understandable, and easy for complainants to follow. It should have as few stages as possible, so as to not cause any unnecessary confusion or delay to a complainant. Ideally, I consider that ISPs ought to deal with complaints directly, before signposting to this Office for review. Cedar may wish to consider reviewing its complaints process to ensure that it fully accessible and fit for purpose and in line with best practice.

CONCLUSION

99. The complaint concerned the actions of Cedar when ending the complainant's involvement in its Social Inclusion Service in February 2018. The complainant believed that he was asked to leave the group as he had submitted a complaint to Cedar in January 2018, alleging its mistreatment of service users. He also believed that Cedar did not provide him with an adequate explanation as to why it asked him to leave the service.

100. I investigated the complaint and consider that there is evidence of Cedar's ongoing monitoring of the complainant's progress, its determination that he had achieved his set goals, and of its planning to progress him from the service. I also consider that Cedar clearly explained the reasons for the complainant's progression from the service to him. In addition, I consider that Cedar's decision was not related to the submission of the complaint in

January 2018, as there is evidence of the complainant's planned exit since November 2017.

101. However, I found maladministration in relation to Cedar's failure to:

- To be explicit on its service literature and website that participation in the Social Inclusion Service is time bound and goal orientated;
- Record proposed timelines within the complainant's action plan; and
- Provide staff with policies and/or procedures for conducting its internal review to determine which service users were potential leavers.

102. I am satisfied that the maladministration I identified caused the complainant to experience the injustice of uncertainty.

103. I also consider the following record keeping failures by Cedar amount to maladministration:

- Failure to keep a record of the complainant's introductory meeting;
- Failure to keep a record of the internal review, detailing the assessment criteria use, what staff members undertook the review, details of decisions and/ or action points;
- Failure to record the communication of the internal review decisions with staff; and
- Failure to record the complainant's planned exit strategy.

104. However, I consider that the complainant did not suffer any injustice as a result of these failures.

105. In relation to the complaints process, I consider that Cedar appropriately addressed the complainant's Boccia group complaint at Stage 1. I also consider that Cedar appropriately investigated the complaint at Stage 2 and implemented actions to address outstanding concerns. In addition, I consider

that Cedar appropriately advised the complainant that the Trust was investigating his complaint regarding removal from the social inclusion service.

106. However, I found maladministration in relation to Cedar's failure to:

- Respond to the complaint within ten working days at Stage 2, or to advise the complainant of the delay and provide a new response date; and
- Acknowledge the complainant's request for appeal within two working days.

107. I am satisfied that the maladministration I identified caused the complainant to experience the injustice of uncertainty. I also identified maladministration in Cedar's failure to signpost the complainant to this Office. However, I consider that the complainant did not suffer any injustice as a result of this.

Recommendations

108. I recommend that Cedar 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.

109. I consider there were a number of lessons to be learned which provide Cedar with an opportunity to improve its services, and to this end I recommend that Cedar:

- Updates its service literature and website to address the concerns highlighted in this report;
- Includes a designated timeline column within service user's action plans, so that timelines are clearly recorded, and can be reviewed at bi-annual review meetings; and

- Creates policies and/or procedures for staff to follow when conducting internal reviews, to ensure that decisions and actions are recorded.
110. I also recommend that Cedar provides training to relevant staff on good record keeping, to ensure appropriate records are retained. I refer to “Records Matter: a view from regulation and oversight bodies on the importance of good record keeping” (The Public Services Ombudsman, the NI Audit Office, and the Information Commissioner’s Office, January 2020) as a useful publication in this regard.
111. I recommend that Cedar implements an action plan to incorporate these recommendations and should provide me with an update **within three months** of the date of my final report. That action plan should be supported by evidence to confirm that appropriate action has been taken (including, where appropriate, records of any relevant meetings, training records and/or self declaration forms which indicate that staff have read and understood any related policies).
112. In relation to my complaints process observations, I suggest that Cedar considers a review of its complaints process to ensure that it remains fit for purpose. In particular, Cedar should ensure that its approach to complaints is clear and simple, with as few stages as possible, so as not to cause any confusion or delay to complainants.
113. I am pleased to note Cedar accepted my findings and recommendations.



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.

GUIDANCE ON ISSUING AN APOLOGY

Introduction

When my office investigates a complaint and finds that a problem has not been resolved I often recommend that the organisation offers an apology. In these circumstances the complainant has very often been waiting a considerable period of time for someone to provide a full explanation as to what went wrong and to apologise for the mistakes that have been made.

This guidance note sets out what an apology is and what you need to do for an apology to be meaningful.

What is an apology?

An apology means accepting that you have done wrong and accepting responsibility for it. It can be defined as a 'regretful acknowledgement of an offence or failure'. Mistakes can be made by one member of staff, a whole team or there may be systemic failures within an organisation. When things do go wrong most people who have had a bad experience may want no more than to be listened to, understood, respected and, if appropriate, given an explanation and an apology.

Why apologise?

In many cases an apology and explanation may be a sufficient and appropriate response to a complaint. The value of this approach should not be underestimated. A prompt acknowledgement and apology, where appropriate, can often prevent the complaint escalating. It can help restore dignity and trust and can be the first step in putting things right.

What are the implications of an apology?

Although there is no legislation in this area of law which applies specifically to Northern Ireland, the Compensation Act 2006 governing England and Wales states that 'an apology, an offer of treatment or other redress, shall not of itself amount to an admission of negligence or statutory duty.' The timely provision of a full apology may in fact reduce the chances of legal action being taken against public bodies.

An apology should not be regarded as a sign of organisational weakness and can benefit the public authority as well as the complainant by showing a willingness to:

- Acknowledge when things have gone wrong
- Accept responsibility
- Learn from the maladministration or poor service
- Put things right

What is a meaningful apology?

The most appropriate form and method of communicating an apology will depend on the circumstances of a particular case. To make your apology meaningful you should do the following:

- Accept you have done wrong. You should include identifying the failure along with a description of the relevant action or omission to which the apology applies. This should

include the failings that I have identified in my investigation that warrant an apology. Your description must be specific to show that you understand the effect your act or omission has had on the complainant. It must also acknowledge that the affected person has suffered embarrassment, hurt, anxiety, pain, damage or loss.

- Accept responsibility for the failure and the harm done.
- Clearly explain why the failure happened and include that the failure was not intentional or personal. If there is no explanation however one should not be offered. Care should be taken to provide explanation rather than excuses.
- Demonstrate that you are sincerely sorry. An apology should be an expression of sorrow or at the very least an expression of regret. The nature of the harm done will determine whether the expression of regret should be made in person as well as being reinforced in writing.
- Assure the complainant that you will not repeat the failure. This may include a statement of the steps that have been taken or will be taken to address the complaint, and, if possible, to prevent a reoccurrence of the problem.
- Provide the complainant with a statement of the action taken or specific steps proposed to address the grievance or problem, by mitigating the harm or offering restitution or compensation.

How should I make an apology?

Each complaint is unique so your apology will need to be based on the individual circumstances. It is important that when you are making an apology, you understand how and why the person making the complaint believes they were wronged and what they want in order to put things right. An apology therefore should express regret and sympathy as well as acknowledgment of fault, shortcoming or failing. Failing to acknowledge the complainant's whole experience is only a partial apology and much less powerful than a complete apology.

There is no 'one size fits all' apology but I would include the following points as reflecting some general good practice:

1. The timing of an apology is very important. Once you establish that you have done wrong, apologise. If you delay you may lose your opportunity to apologise.
2. The language you use should be clear, plain and direct.
3. Your apology should not be conditional by qualifying the apology by saying for example: 'I apologise if you feel that the service provided to you was not acceptable' or 'if mistakes have been made, I apologise'.

4. To make an apology meaningful do not distance yourself from the apology. Generalised apologies such as 'I am sorry for what occurred' or 'mistakes were made' do not sound natural or sincere. It is much better to accept responsibility and say 'It was my fault'.
5. Avoid enforced apologies such as 'I have received the Investigation report from the Commissioner and am therefore carrying out his recommendations by apologising to you for the shortcomings identified in his report'.
6. It is also very important to apologise to the right person or the right people.

Who should apologise?

If, in my Investigation Report I have made a recommendation that an apology should be provided to the complainant, then I would expect to see the Chief Executive or Director or Head of Department of the Body involved making the apology.

Who should receive the apology?

The apology should be sent directly to the complainant who is named in the Investigation Report. I will not, as a matter of course, review apologies prior to them being issued. However in order that I am able to monitor compliance with the recommendations that I have made, I would expect to receive a copy of the apology letter within the timeframe stated in my report.

The benefits to organisations of apologising

It is important to remember that an apology is not a sign of weakness or an invitation to be sued. It can be a sign of confidence and competence and it can demonstrate that you are willing to learn when something has gone wrong. It can also show that you are committed to putting things right. To apologise is good practice and is an important part of effectively managing complaints where an organisation has failed.