NSW Ombudsman

Community Participation
complaint handling review

June 2009

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1.   Introduction

The Ombudsman is the independent and impartial watchdog for people receiving community services in NSW. We promote the awareness of the rights and obligations of service receivers and service providers under community welfare legislation. In part we do this by reviewing the complaint handling systems of service providers and by assisting services to improve their complaint handling procedures and practices. Complaint handling reviews are conducted under section 14 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*(CS-CRAMA) (appendix 1).

This report details observations and recommendations arising from our review of the complaint handling practices of a number of Community Participation services.

2.   Community participation services

The Department of Ageing Disability and Home Care (DADHC) funds the Community Participation Program. DADHC provides the following program description:

"The Community Participation program is designed for young people with moderate to high support needs, who require an alternative to paid employment or further education in the medium or long term.

The program aims to assist young people with a disability to develop the skills they need to achieve their personal goals, increase their independence and participate as valued and active members of the community".[1]

A separate Transition to Work program is provided for young people who are identified as being able to transition to work within two years after leaving school.

A "Post School Programs Eligibility Assessment" is completed by a Transition Teacher prior to the end of year twelve to determine eligibility for either the Community Participation program or the Transition to Work program. The assessment is also used to determine the funding to be allocated.[2]

The Community Participation program includes three service types:

- Centre based with community access – service user participates in a range of day activities provided in a centre and elsewhere in the community;
- Individual Community Based Options – the service provider acts as an options co-ordinator and helps the young person design their own program of activities in a range of different community settings;
- Self Managed Packages – the person with a disability and their family or advocate designs an individual program within the funding allocation. They choose, direct and control the nature of their support. An intermediary acts on behalf of the service user and family to manage financial, legal and administrative requirements[3].

The service provider assists the participant to develop an individual plan. Family members and/or advocates may be involved in this process with the consent of the service user. The

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[1] www.dadhc.nsw.gov People with a disability /Post School Programs

[2] DADHC Community Participation Guidelines October 2006 p.16. The guidelines refer to four funding bands: moderate, high, very high and exceptional.

[3] "A portion of the funding is provided to a provider who acts as an intermediary. The Intermediary acts as the legal employer for staff and is responsible for payment of wages, insurance and occupational health and safety requirements." DADHC Community Participation Guidelines, October 2006 p.14.

plan identifies long term aims and the goals the service user wants to achieve. It identifies the skills and knowledge that the young person will need in order to achieve their goals. For example, cooking lessons can provide an opportunity to develop skills in shopping and food preparation. A lunch program that involves eating at clubs and cafes can enhance budgeting skills, travel skills and social skills.

The plan also identifies support needs and includes outcome measures.[4] Each individual plan must be linked to seven key result areas outlined in the DADHC Community Participation guidelines. Services report to DADHC on the achievements of the young person's goals in relation to these result areas. Performance is measured in terms of the extent to which participants:

1. maintain and develop everyday life skills and increase independence;
2. continue learning as well as participate in meaningful leisure, recreational, social and cultural activities;
3. participate and are included in their local community;
4. have active and valued roles in the community
5. expand their friendship and support networks;
6. who are Aboriginal or from culturally and linguistically diverse backgrounds have fair access to support;
7. are supported in making the transition from school to adult life.[5]

3. Standards

Community Participation service providers must operate within the requirements of the *NSW Disability Services* Act (1993). They must also comply with the NSW Disability Standards which are incorporated in the Act. Standard 7 requires that each consumer be free to raise complaints and have them resolved.[6]

The performance of service providers is monitored through the DADHC Integrated Monitoring Framework. This measures performance against the key result areas noted above and the principles of the Community Participation Program.

The principles state that the program should be:

- person centred-young people and families/advocates should have control over important decisions;
- designed for young people - activities should be appropriate for age and gender and background;
- genuinely inclusive - young people should be assisted to build their own supportive communities. They are to be provided with opportunities to contribute to community life and to be valued members of the community;
- flexible - the service and activities are meant to cater for the changing needs of individuals;
- culturally competent and respectful - providers are required to understand the cultural needs of their community and target Aboriginal and culturally and linguistically diverse communities in their local area;
- responsive to the needs of people living in remote and rural areas;
- working in partnership – services are required to develop support arrangements which involve developing partnerships with young people and their families.[7]

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[4] DADHC Community Participation Guidelines October 2006 p.26
[5] DADHC Community Participation Guidelines October 2006 p.8
[6] DADHC Community Participation Guidelines October 2006 p.3
[7] DADHC Community Participation Guidelines, October 2008, p.6

4.   Why review complaints handling?

Effective complaint handling can afford opportunities for improving service quality by assisting service providers to:

- resolve individual complaints;
- provide services that better meet service user needs;
- identify service deficiencies and inform and promote service improvements.

CS-CRAMA promotes and encourages community services within NSW to deal with complaints fairly, informally and quickly. (Appendix 1)

5.   Our reviews

Using a modified version of the Australian Standard for Complaint Handling,[8] we examined the complaint handling systems in 20 Community Participation services across NSW. The organisations providing these services ranged in size from small agencies to some of the major non-government service providers in NSW. Most of them provided a number of different services for people with disabilities. These include Transition to Work, supported employment, other day programs and residential programs.

Each review involved an examination of service policies and procedures for complaint handling and complaint records. We also interviewed a CEO or other senior manager, a front line manager and a direct care worker. The reviews did not involve discussions with service users, nor focus on individual complaint outcomes. We provided a report, including recommendations aimed at improving complaint handling, to each service.

The reviews considered seven key areas essential for effective complaint handing in the community services sector. Complaint resolution and service improvement are more likely to be achieved when these elements are in place. They require that:

1. The service is _committed_ to the efficient and fair resolution of complaints. The service has an established, documented system for dealing with service user complaints. The policy outlines safeguards against retribution, as well as confidentiality and communication requirements.

2. The complaint process is _visible_. Information about the right to complain, how to complain, where to complain and how the complaint will be handled, is well publicised.

3. The complaint handling process is _accessible_ to all service users. The complaints process is made easy for service users, including those with special needs, and there is no need for complaints to be in writing. All complaints are acted on by the service.

4. The complaint process is _responsive_. The process is quick and courteous and all staff are delegated to deal with complaints. The delegations should operate in such a way as to provide for a tiered system, which allows for more serious complaints to be dealt with at more senior levels within the service.

5. The complaint process has the capacity to implement a range of _remedies_ depending on the type of complaint. Services record the complainant's desired outcome and there are processes for preventing similar problems from occurring in future.

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[8] The Australian Standard for Complaint Handling AS ISO 10002-2006

6. Complaints are used to inform *service improvement.* The service has a system for collecting complaints data and uses this information to inform the service's policy, planning and practice.

7. The agency has an appropriate culture of *accountability* around complaint handling. The complaints handling process is regularly reviewed for efficiency and effectiveness.

6. What we found

The following observations are based on our broad findings from the complaint handling reviews that we conducted.

6.1   Commitment: the service is committed to the fair resolution of complaints

All of the services had a complaints policy:

- Most of the services' complaint policies made a statement about the reasons for the policy and included a statement of aims and objects.

- Over half of the services included a definition of a complaint and gave some indication of who could complain.

- A third of the services combined their service user complaint and staff grievance policies.

- Almost all of the services included within the policies confidentiality requirements and provisions relating to protecting complainants (and related service users) from retribution.

- Most of the services' policies included directions on the steps service users (and their representatives) needed to take when making a complaint.

- Two thirds of policies included some indication of the type of feedback service users could expect from the service in response to a complaint.

- Most of the policies referred to assistance which could be provided to complainants with special needs. However, most of the policies failed to recognise the broad range of special needs which complainants may have. Consequently, the policies were of limited value in addressing this issue.

- Nearly half of the managers reported that they had undertaken some 'training' in complaint handling but very few had completed a formal complaint handling workshop. Over two thirds of managers stated that they had undertaken some training in conflict resolution but very few had completed a conflict resolution training workshop.

- Very few front line staff had received complaint management training. Some had received limited training as part of their TAFE or other studies and in some cases, informal training was provided at team meetings.

- Only a third of services had provided training for service users/families about making complaints. For those services which had provided training, it was usually informal and there was no documentation. Only two services had developed a formal training package for service users and families.

- In some cases complaint training was presented by people who had received no formal training in relation to complaint handling. The training usually focussed on process issues relating to the service's complaints policy. In some cases the policy itself required further development.

While a small number of the complaint handling policies we reviewed were comprehensive, many required further development.

In most of our feedback reports to the services we reviewed, we recommended a review of the training needs of staff and managers in relation to effective complaint handling. The low levels of participation in complaints training can be partly attributed to the number of temporary and part time staff employed. Services also reported difficulties in covering the release of front line staff for training purposes.

Services also faced competing demands for different types of training, particularly in relation to meeting the needs of service users who have high behavioural support or significant medical and personal care requirements.

6.2 Visibility: the complaints handling process is well publicised to service users

Services were generally aware of the need to provide information about complaints for service users. Most had developed a brochure, fact sheet or service user information booklet explaining how the service handles complaints. A small number of services had provided this information in pictorial formats. One had information available for service users and families from CALD backgrounds.

Less than half of the services included messages about the role of complaints in improving services. This information should be emphasised in all complaint documentation as it helps to build a positive complaint handling culture and it encourages service users to feel comfortable about making complaints.

Some service providers had a practice of reading through their complaints brochure with new service users and families. However, many brochures did not inform service users that the service would provide assistance to those seeking to complain, if assistance is required. Service users should know that assistance will be provided for those who have language difficulties, sensory disabilities, problems with literacy or other special needs.

Very few brochures provided information about how to make a complaint about staff at various levels in the organisation. For example, they did not provide information about how to make a complaint about a manager. Both service users and staff need guidance on how to make a complaint or lodge a grievance in these circumstances.

Most services believed that service users from CALD backgrounds did not require assistance in understanding complaint policy documents and brochures, and in making written complaints. However, in a few cases involving people from CALD backgrounds, family members had been called upon to explain written policies. All services also had access to an interpreter service.

6.3 Accessibility: the complaints handling process is accessible to all consumers

Almost all of the services we reviewed reported that they accept complaints in any form. However, most services did not record oral complaints.

A small number of front line staff did not believe that they should record or report the complaint if, in their judgement, the complaint was not justified. Some were not clear about the difference between a complaint and "feedback" and some confused disputes between

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service users with complaints about the service. However, managers generally expected all complaints, including verbal complaints, to be reported.

Most of the staff in the services we reviewed evidenced a good appreciation of how hard it might be for some service users and their families to complain. They were keen to create an environment in which service users are encouraged to speak out if they were unhappy about any aspect of service delivery.

Given the nature of the consumer group, it is probable that most of the complaints these services handle will be oral. This highlights the need for a clear policy on the recording of oral complaints in the context of an overall policy which actively encourages service users and their families to bring their complaints forward. It also highlights the need for a clear definition of what constitutes a complaint so that staff are aware of what should be recorded and where and how it should be recorded.

6.4   Responsiveness: the complaints handling process is quick and courteous

All services expected staff to resolve simple complaints as quickly as possible, although this expectation was not always made clear in the policy documents. Two thirds of services provided some guidance for staff on the internal reporting arrangements for complaints which raise particularly significant or serious issues.

All services should provide guidance for staff on the prompt reporting of significant complaints. This should include any complaint that involves allegations of criminal activity, might lead to disciplinary action or that alleges significant risks to a service user, family or staff member.

All of the services we reviewed said that complainants could have the assistance of a support person or an advocate during the complaint handling process, although in some cases, this issue was not specifically addressed in the service's complaints policy. Furthermore, some staff were confused about the different roles of a support person and an advocate.

Most of the services stated that they would provide written advice to complainants about the outcome of their complaints, and some services provided examples of the kind of advice that they provide.

6.5   Remedies: the complaints handling process has the capacity to determine outcomes

All services reported that direct care staff were delegated to remedy simple complaints or concerns, even though this issue was sometimes not addressed in their complaints policy. Most services reported that, in response to a complaint, complainants would be asked about their desired outcome, although many services' policies did not require that this information be recorded.

A complaint form that prompts staff to record this type of information can be helpful. Some services also use a complaint form to prompt staff to thank complainants and to provide reassurance that their complaints are appreciated.

6.6   Service Improvement: complaints are used to identify and fix problems

It is apparent that most of the services we reviewed made genuine attempts to address the dissatisfaction of service users and resolve complaints. However, as the complaints were often not recorded, the information about the action taken and the issues which were identified was not available to help managers to identify potential areas for overall service improvement.

6.7   Accountability

A few services dealt with the issue of accountability for effective complaint handling in a comprehensive manner. However, only half of the policies reviewed included performance criteria that could be used by managers to monitor complaint handling performance.

Most services did not include in their complaint handling documentation a requirement that managers report on their organisation's complaint handling performance. However, most services advised us that, in practice, their complaint performance was monitored by senior managers and/or their Board of Directors.

Nevertheless, two thirds of the services did not report publicly on their complaint handling performance and only two services had initiated any form of independent review of their complaint handling systems.

7.   Recommendations

From our review of the 20 Community Participation services we were impressed by the dedication of service providers. We noted a high level of innovation by many services in responding to the specific needs of their service users. They provided a broad range of activities and encouraged service users to take the lead in planning their own activities. Even in services where the complaint handling policy required more development, we noted that service users and their families were being encouraged to express their views using a range of different methods.

Furthermore, all of the services that we reviewed involved families and advocates in regular personal planning meetings. At these meetings, they were invited to comment on the quality of the service provided. Services that had found it difficult to engage families in this process were developing strategies to increase their involvement, including arranging social gatherings.

Many services held other regular meetings for service users and their families. Some services were using regular surveys to keep in touch with the views of service users and families.

Services also demonstrated a commitment to developing and refining their complaint handling systems. All of the service providers that we reviewed expressed an intention to amend their complaint policies to take into account our suggestions for improvement. Some services have already acted to institute complaints training for managers and staff across all levels of their organisation.

As a result of our reviews, we would encourage all Community Participation services to adopt the following recommendations:

1:   Commitment

Ensure that service user complaints policy and staff grievance policy are separate policies.

Ensure that service user complaints policy includes sufficient detail about all of the essential elements of good complaint handling:

- reasons for the policy;
- statement of aims and objectives;
- definition of a complaint;
- description of who can complain;
- statement about how to make a complaint;
- delegations/responsibilities;

- privacy, confidentiality, fairness, equity requirements;
- requirements for communicating with parties to a complaint;
- safeguards against retribution;
- documentation requirements;
- requirements for handling particularly significant or sensitive issues, including criminal allegations.

A service's policy should emphasise that under CS-CRAMA all community service providers have complaint handling obligations and that retribution against those who complain is an offence under the Act.

The policy should alert staff to the often subtle ways in which retribution can occur, and include practical advice to minimise the potential for retribution: for example, a requirement that a complaint is not to be discussed other than for the purpose of effectively resolving a matter; advice about the secure storage of complaint records; and a code of conduct for staff relating to complaint practices.

The policy should provide a link between complaints and service improvement; this will include the need to collect, analyse and report on complaints data. Services should aim to identify trends in complaints, and take action to address any systemic or recurring problems.

Ensure that the complaints policy explicitly caters for groups with special needs. The policy should:

- provide for use of interpreters (including sign language interpreters) and translation of correspondence and other complaint documents;
- use language and promote complaint resolution strategies, which are culturally appropriate.

Ensure that staff comply with the complaints policy by providing them with an induction program that includes information about the service's complaints system, as well as providing regular supervision and training focused on their complaint handling responsibilities.

Services should develop a positive complaint handling culture in which complaints are viewed as helpful and an opportunity to resolve problems and improve relationships.

The complaints policy should clearly identify the person responsible for overseeing the complaints system, and clearly define what this role entails.

2: **Visibility**

Make sure the service has a brochure or leaflet about its complaint handling policy. This should include the information that complainants need about how to make a complaint and the assistance and support that will be provided. There should also be guidance on how to escalate a complaint within an organisation, and the mechanism for approaching an external agency if a complainant is dissatisfied with the way their complaint has been handled.

Make sure that the information is available in formats that are accessible to people with special needs including people with sensory or intellectual disabilities, people who have problems with literacy and people from CALD backgrounds.

3:   Accessibility

Ensure that all oral and written complaints are recorded, and that this is done in a reasonably consistent manner. For example, organisations could use a standard complaint form and/or a complaints database.

Do not require that complaints to be in writing. This can be a significant barrier to service users and it also tends to discourage people from raising complaints at an early stage. (Note: CS-CRAMA enables complainants to make oral complaints to the NSW Ombudsman.)

4:   Responsiveness

Complaints brochures and any related policy should include contact details for external complaint bodies such as the NSW Ombudsman.

As required by CS-CRAMA, ensure that service users are provided with written reasons for any significant decisions arising from a complaint.

5:   Remedies

Always establish the complainant's desired outcome at the start of the complaint process, and make a record of this. A complaint form that specifically requires staff to document this information is useful.

6:   Service improvement

The central system for recording complaints should be designed to capture key information about each complaint such as:

- the program or service that was the subject of the complaint;
- the main issues;
- the steps and time taken to deal with the complaint; and
- the outcome.

Services should consider developing a log to record information about simple complaints that have been quickly resolved by front line staff. These simple complaints can also provide useful information to assist service improvement.

Services should also ensure that service management regularly reviews complaints data, in order to identify systemic and/or recurring issues.

If the complaint data identifies deficiencies or gaps in policies or practices, services should take timely and appropriate action to address these.

7:   Accountability

Identify specific performance indicators by which to gauge the effectiveness of the service's complaint handling system. Relevant performance indicators could include:

- number and types of complaints received;
- time taken at each stage of the complaints process;
- resolution rates;
- level of service user/complainant satisfaction with the process and outcome;
- changes to service systems and practice resulting from complaints.

Keep the Board of Directors or other relevant governing body appropriately informed about the organisation's complaints system.

As previously noted, organisations should have very clear processes in place for responding appropriately to particularly serious or sensitive complaints, including those involving criminal allegations.

Ensure that complaint handling policy and practices are regularly reviewed. As part of the review process, seek to obtain input from service users, families, advocates and other stakeholders.

Consider ways of reporting publicly about the service's complaint handling system, such as through regular newsletters and/or the annual report.

8. Conclusion

In the future, we will be contacting the 20 services we reviewed to ascertain what impact the review has had on their complaint handling systems and practices.

We will also be meeting with DADHC and National Disability Services[9] to discuss complaint training needs for services in the Community Participation program area.

We would like to thank the staff and managers from the 20 services that participated in the review.

Steve Kinmond
Deputy Ombudsman

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[9] NDS is a national body with a membership of over 600 non profit organisations who provide a range of services and supports to people with disabilities.