

COMPLAINTS AND REDRESS

COMPLAINTS

When things go wrong, there must be a swift and simple way of putting them right. People must know how to complain. They must know to whom they should complain. And they must have confidence that their complaint will be dealt with.

It is fundamental to the Citizen's Charter that all public services, including local authorities, should have clear and well-publicised complaints procedures.

Any complaints mechanism should:

- be open and accessible, and supported by clearly displayed standards at the point of service;
- provide readily available information about how to complain, and a clearly identified point of contact for doing so;
- provide a code of practice for handling complaints. This should include tight targets for resolving complaints and clear information on further procedures if the customer is not satisfied with the response.

It is usually best to resolve complaints on the spot. The more centralised and remote a complaints procedure is, the likelier it is to be slower, more expensive and less 'user friendly'. But where more than one service is provided, a central contact point – for example a telephone helpline – can be useful in giving advice about how and where to complain.

Examples of complaints procedures

NHS

- *every hospital and other unit providing health care should publicise the name, address and telephone number of a senior officer responsible for dealing with complaints from patients. Hospitals will have to ensure that this information is given to patients. The complaints officer will conduct a full investigation, bringing in medical advice where necessary. He or she will give the complainant a full account of the investigation, explain what went wrong and spell out what will be done about it for the future. Patients will be entitled to be told the timescale within which complaints will be resolved;*
- *if a complainant is not satisfied with the answer he or she is given, he or she can refer the matter to the Health Service Commissioner (Ombudsman). The Commissioner is empowered to investigate all complaints of a non-clinical nature and reports directly to Parliament. Hospitals will also have to give the name and telephone number of the Commissioner;*
- *the Government will consult on the possibility of an arbitration system as a simpler and quicker avenue for redress for claims of medical negligence;*
- *for the family health services, patients may choose to use informal procedures, with lay conciliators, to resolve differences and seek to restore their relationship with the practitioner. Formal procedures are also available. Patients may be represented by the Secretary of the Community Health Council if they wish.*

Prisons

- *the system for dealing with prisoners' requests and grievances has been radically reformed. Prisoners are entitled to reasoned written replies within time limits, clear lines of appeal, and a guarantee of confidential access to prison governors, their line managers, and the chairmen of boards of visitors.*

INDEPENDENT COMPLAINTS MACHINERY

Where internal complaints procedures fail, there must be an external route for taking things further. On behalf of the citizen, ombudsmen already deal with complaints of alleged injustice caused by maladministration by central government, the NHS, and local authorities. If the redress recommended is not forthcoming, the Parliamentary and Health Service Commissioners have a power to report to Parliament, in effect laying their recommendations before the highest court in the land. As a result recommendations on compensation cannot be ignored.

We have recently extended the jurisdiction of the Parliamentary Commissioner for Administration. He can now look at maladministration by the staff of the courts and tribunals administered by the Lord Chancellor's Department.

The local ombudsmen's recommendations have been ignored in 6 per cent of the cases in which maladministration has been found. When this occurs, local authorities must now explain to their electorate what happened and why, in terms approved by the ombudsman. If difficulties continue we will take the further step of introducing legislation to make the local ombudsmen's recommendations legally enforceable, as those of the Northern Ireland Complaints Commissioner already are.

Lay adjudicators

It is essential to make complaints procedures more effective by publicising them and making them easier to use. But however good the formal complaints procedures are, individuals can still sometimes be left feeling powerless and dissatisfied. The Citizen's Advice Bureaux have done good work to help people sort out their problems

and tackle bureaucracy. It is frequently the small problems which cause irritation, and quite often these could be resolved very quickly if someone with time and common sense and the right authority were able to look at all the facts objectively and reach a decision.

More needs to be done to help with problems like these.

We will consult on the introduction of a new scheme under which local lay adjudicators would be appointed to deal with minor claims for redress which the body complained against has not settled in a speedy and satisfactory way.

The adjudicators would be volunteers who are known and trusted by the local community, people with common sense and understanding of people's problems. These qualities would be more important than legal expertise or public sector experience.

They would operate in three main ways:

- they would be able to step in and make a swift common-sense decision to cut short silly and protracted arguments over redress for failure to deliver the specified level of service; or to get something done where there has been inordinate delay in solving a problem;
- they would look into cases and get action taken where complaints have been ignored, or treated off-handedly; and
- they would advise people on existing complaints procedures and help them to use these more effectively.

Individual citizens would be able to take their complaints to the adjudicators directly. There would be no need for legal representation, nor would there be complicated procedures and forms to fill in. Decisions would be reached rapidly and, because both sides would agree in advance to abide by the decisions, they would be expected to stick.

The scheme would not duplicate or replace existing complaints procedures and would not interfere with the work of the courts and other tribunals in determining legal entitlements. But public services, whose participation in the scheme would be voluntary, would be able to delegate to the adjudicators the authority to act on their behalf in relation to particular categories or complaints as determined by them.

Over the next three months we will consult widely among consumer groups, citizens' representative bodies and public service organisations. We will make a further announcement before the end of the year setting out the proposal in more detail.

Participation in such a scheme, with any costs being met from within existing resources, would be an important indicator of an organisation's commitment to the principles of the Citizen's Charter.

REGULATORS — PROTECTING THE CITIZEN

So long as there is an element of monopoly in the privatised utilities, the interests of customers must be protected. The Government's privatisation legislation therefore provides for an independent regulator for each of the utilities. Their responsibilities include fostering competition and ensuring that the utility does not exploit any monopoly position.

The regulators have powers to limit price increases, and both OFTEL and OFGAS have used these to secure real price reductions since privatisation. For example the price of BT main services, discounting inflation, is expected to fall by a further 6.25 per cent per year over the next two years as a result of a tougher price cap following action by OFTEL. OFGAS has also recently tightened the price-cap increase on British Gas from RPI - 2 per cent to RPI - 5 per cent in a year.

But the control of prices alone is not sufficient. Consumers may still face poor quality or bad service. Where competition can be introduced it will act as a powerful stimulus to improved customer care, but there are some areas, such as water, where competition is inevitably limited.

All the regulators have therefore sought to ensure that the mix of price and quality of service offered by the utilities provide value for

money and match those that would be expected in a competitive market. They have generally all required or encouraged their utilities to:

- set performance standards for the utility as a whole;
- provide certain guaranteed service standards for individual customers;
- compensate individual customers where those standards are not met;
- establish and publicise complaints procedures for individual customers.

These powers have secured for the customer a much better deal than was possible when the utilities were nationalised:

- BT's customers can now claim compensation if new telephone lines are not installed within two working days of the agreed date;
- guaranteed standards of service have been introduced for the electricity companies covering the keeping of appointments, the restoration of supplies after faults, providing a meter and many other services;
- there are guaranteed standards, with a swift, no-nonsense compensation scheme, in the water industry;
- OFGAS has established a comprehensive new package of key standards for British Gas's service to customers, to be introduced next April. It includes compensation for individual customers and scope to reduce tariff prices if overall achievement of the standards is inadequate.

Privatisation coupled with independent regulation has shown that utilities can respond more to customers' wishes. People now have rising expectations about the service they can expect and increasingly voice their demands. We expect the utilities to continue to improve their standards of customer service, to sharpen their procedures for handling customer complaints, and to increase public awareness of these arrangements. Progress will be monitored by the regulators and relevant consumer councils. The regulators already have considerable powers and can, if necessary, seek to incorporate many of their requirements in the licence conditions of the utility companies.

We urge the regulators to use their powers for the benefit of customers. Each regulator's formal powers on standards of service are different.

We will introduce legislation to bring the formal powers of each regulator in this area up to the levels of the strongest, including making sure that the regulators have adequate powers to require the award of compensation in response to legitimate customer complaints. This will ensure that the regulators have adequate powers:

- to set guaranteed service standards, including providing fixed appointment times for customers for whom this is important;
- to ensure that these standards can be strengthened promptly wherever needed to protect the customer;
- to require that the utility companies introduce quicker and more considerate mechanisms for dealing with customer complaints;
- to require that the utilities make customers aware of what service they can and should expect, and how to complain if they do not receive it.

IMMUNITIES

Public bodies must not be shielded from obligations to their customers and clients by special privileges and immunities. Government activities should not, for example, be immune from inspection and enforcement on such matters as health or safety regulations.

Crown immunities have been removed progressively from the NHS, and Crown bodies have increasingly been exposed to exactly the same regulatory standards as others. As a result of recent food safety and environmental legislation, if a Crown body is found to be falling below standards, enforcement authorities can go to the courts for a declaration of non-compliance, which would be followed by immediate corrective action. **The Government will follow this approach in all similar legislation in future.** Only if there are special reasons, for example connected with national security, will immunity be maintained.

The Crown has no immunity from civil liability, and can be sued for damages or breach of contract like any other body. However some bodies which do not have Crown status, such as the nationalised industries, have specific immunities which limit their liability in certain circumstances. There may also be legal conditions governing the provision of service which can make it very difficult for citizens to enforce their rights.

We will review all such limitations, and will ensure that nationalised industries do the same:

- ◆ British Rail are preparing a revision of their formal conditions of carriage to make them easier to understand and to bring out more clearly the rights their customers have;
- ◆ London Underground will review their conditions of carriage to eliminate any unreasonable curtailment of customers' rights. The views of customers will be taken into account;
- ◆ the Post Office have been asked to carry out an urgent review of their redress schemes in consultation with their Users' Council (POUNC). In future the Secretary of State for Trade and Industry will take powers to approve the Post Office's arrangements for compensation and redress.

Citizen's right to challenge unlawful industrial action

- ◆ Public services are particularly vulnerable to industrial action. Indeed, strikes in public places are often deliberately targeted on the life of the community in the hope that public opinion will put pressure on the employer to concede trade union demands. If such industrial action is unlawful the employer can seek the protection of the law to get the action halted. However, the citizen normally has no legal remedy against the organisers of an unlawful strike, even if it deprives him or her of essential services or threatens public health. **We propose to amend the law to give the citizen the right to bring legal proceedings to stop unlawful industrial action affecting the services covered by the Citizen's Charter.**

REDRESS

When public services fall well below the standard, and there is nowhere else to go, there must be some redress. It is not always compensation that the consumer wants. No-one wants money diverted from improving the service or ensuring, if possible, that a mistake is not repeated. Often, what is needed is to get the fault put right, the system corrected, or better information provided. Sometimes, a proper explanation and a genuine apology are enough. For example, patients might better accept a long wait in an out-patients clinic if they knew that the doctor had been detained on an emergency case. An apology is important, both because it recognises the customer has been inconvenienced and because it acknowledges responsibility by the person concerned for inadequate performance. But in some cases, an apology will not be enough. In the most sensitive areas – hospitals, schools, railways – new systems of redress will therefore be introduced.

Waiting time guarantees

About half of all admissions to hospitals take place immediately. At present, of those patients admitted from the waiting list, half are admitted within five weeks. Of the remainder, 80 per cent are admitted within six months and 90 per cent within a year.

Nevertheless, a minority of people have to wait too long for treatment. For many others, the uncertainty as to how long they will wait is worrying as well as inconvenient.

We therefore propose that from April 1992 there should be published guaranteed maximum waiting times for in-patient or day care treatment. The initial focus will be on those treatments where waiting lists are longest, and the pain, discomfort and general reduction in quality of life are most significant. **Everywhere in the country guaranteed maximum waits will apply to the key waiting list treatments** such as hip replacement, cataracts and hernia repairs.

Guaranteed waiting times could range from over a year to only a few months. In any case, nowhere in Britain will people have to wait more than two years for any operation; should that point be reached, the guarantee arrangements will be activated whatever the treatment (with an exception for special cases such as transplants).

The DHA (or Health Board) will be responsible for ensuring that these maximum waiting times are observed. If it appears that this will not happen, the authority will contact the patient and his or her GP with specific proposals for treatment within three months. **If the original hospital cannot meet the deadline for treatment, the DHA will seek provision elsewhere** including, if appropriate, from the independent sector.

Plainly no guarantee scheme can be proof against exceptional strain such as a major disaster. Nor could it operate if the NHS were subjected to severe disruption by industrial action. **The scheme does, however, offer citizens certainty about the maximum time they will have to wait in normal circumstances, and this is an important advance.**

British Rail compensation

We have decided that better compensation arrangements for poor service are essential in the interests of the travelling public. For the season ticket holder it is the overall quality of service which is important. For the Inter-City traveller it is the individual journey that matters most. This will be the basis for compensation. **We have agreed with BR the principles of an expanded systematic compensation scheme with the following features:**

- if trains are cancelled or unreasonably delayed passengers may apply for a refund. Claims will be assessed individually;
- if passengers decide not to travel because a train has been cancelled, they will receive a full refund;
- BR will take the initiative, wherever practicable, in

offering compensation to passengers rather than waiting for them to claim;

- for Inter-City passengers BR will publish details, as part of its passenger's charter, of an automatic compensation scheme for passengers with reserved seats;
- season ticket holders will receive compensation, mainly by extensions to their season tickets, for days where there is no effective service;
- we have asked BR to develop a scheme, starting with annual season ticket holders, entitling them to discounts on the renewal of season tickets to compensate them for poor service in the previous year.

London Underground

London Underground already operates a compensation scheme, but its terms are not well known. These will be publicised more widely. London Underground now aims to publish its own customer charter by 31 March next year. **It will set out the level of service the Underground aims to achieve; the minimum level of service it contracts to provide; and the compensation it will provide if it fails to deliver this service.**

Post Office

Where there is proof of loss, damage or delay in delivery, compensation (depending on the service concerned) is available at levels agreed with POUNC. The Post Office will provide much improved signposting of complaints and redress procedures, for example, in post offices and in information sent to all households in the UK. Information will also be readily available on the levels of compensation that can be expected. All Post Office personnel dealing with the public will identify themselves clearly whether in direct contact, by telephone or in correspondence. There will be improved procedures to ensure that complaints are dealt with promptly and consistently.

Ministers have asked the Post Office to draw up, in consultation with POUNC, an urgent report on the Post Office's present arrangements for redress where service fails to meet the reasonable expectations of customers. The new regulator will in due course have as one of his duties advising the Secretary of State on such arrangements.

Schools

Parents already have several means of **redress** if they are not satisfied. These include:

- new approved procedures for dealing with complaints about the curriculum in all local education authorities;
- appeals on admissions of pupils to schools;
- appeals on the exclusion of pupils from schools on disciplinary grounds;
- appeals on statements of the special educational needs for pupils with disabilities;
- appeals on examinations.

Information about how to appeal about admissions must be published alongside other details of admission arrangements. Parents must also be reminded of their right to appeal when they receive a letter explaining why their child has not been offered a place at their first-choice school.

The Independent Appeals Authority for School Examinations, set up by DES in 1990, will deal with appeals that fail to be resolved within the framework of the GCSE and A/AS examining bodies' own appeals arrangements.

Under the 1988 Education Reform Act, local authorities are required to set up mechanisms for parents to make complaints about the curriculum, religious education and collective worship. Parents also have the right under the 1944 Education Act to complain to the Secretary of State that LEAs or school governing bodies are acting unreasonably or in breach of their statutory duties.

However, we are concerned that current procedures are too limited in scope and lack sufficient independent element in the hearing of complaints. **We will therefore require that a lay assessor independent of the LEA is added to appeals tribunals on admissions, exclusion, or statementing.** The assessors will have a right to report publicly to a meeting of the LEA on the overall conduct of appeals annually.

**RIGHT TO
CHOOSE**

Whenever the client can exercise a choice, the most effective form of redress is the right of exit: the decision not to accept the service provided and to go somewhere else. Wherever cost effective, public services are finding ways of introducing choice. For example:

- ♦ the NHS reforms have made it easier for patients to change doctors: the patient simply goes to a new doctor and asks to be registered;
- ♦ as a result of the recent reforms, parents who are unhappy with their child's school can express their dissatisfaction directly and powerfully by transferring their child to another school.

CONCLUSION

The Citizen's Charter White Paper follows years in which the Government has consistently sought to raise quality and widen choice in public services, and to make those services respond better to the wishes of the public. The momentum of the changes made in the 1980s will be sustained. But this White Paper now sets out a significant additional agenda for the 1990s. It imposes new obligations on public services. It gives new powers to the citizen.

The range of measures proposed in this White Paper and the introduction of a new Charter Standard will mean that consideration for the public must come first in every place where service is provided, that good service will be recognised and incompetence exposed. And radical new reforms in schools, the Post Office, hospitals, and railways will help parents and pupils, Post Office customers, patients and passengers.

The Citizen's Charter does not mean that the problems which exist in some parts of public service will be ended overnight. But it does mean they will be tackled.

The comprehensive programme set out in this White Paper will be widened and developed further. Its themes of quality, choice, standards and value for money will be fundamental to public service throughout the 1990s. The Government believes that the Citizen's Charter will bring for all those in public service new pride and satisfaction.

For the public they serve, it will bring commitment to quality, and a power to secure it, that will put Britain ahead of any country in the world.