

To: SOCIAL WORK COMMITTEE		Subject: SOCIAL WORK (COMPLAINTS REVIEW) SUB-COMMITTEE
From: DIRECTOR OF ADMINISTRATION		
Date: 15 August 2002	Ref: JAF/IL	

1. Introduction

- 1.1 This report advises Committee of guidance issued by the Scottish Executive regarding the composition of Social Work (Complaints Review) Sub-Committees following a ruling by the English High Court and makes recommendations regarding the North Lanarkshire Social Work (Complaints Review) Sub-Committee.

2. Background

- 2.1 All Councils have a statutory responsibility to provide a Social Work complaints system. Part of that system involves a right to have a complaint heard by a Social Work (Complaints Review) Sub-Committee. The function of the Sub-Committee is to examine objectively and independently facts as presented by a complainer and by the local authority and then to make a recommendation to the Social Work Committee. The Social Work Committee is entitled to accept or reject the recommendations from the Sub-Committee – although it is anticipated that only in exceptional circumstances will those recommendations not be accepted and, in those circumstances, there must be published in the minutes of the Social Work Committee the reasons for not accepting the Sub-Committee's recommendations. Those reasons must also be given to the complainer in writing.

- 2.2 The composition of Social Work (Complaints Review) Sub-Committees is governed by the Social Work (Representations Procedure) (Scotland) Directions 1996 issued in exercise of the powers conferred on the Secretary of State by the Social Work (Scotland) Act 1968. In terms of those Directions a Social Work (Complaints Review) Sub-Committee must consist of three persons, of whom the Chair is an independent person – rather than a member or officer of the local authority – who has knowledge of social work matters and the conduct of proceedings between a review body or tribunal. In those Directions independent person is defined as a person who is

- not a member of the political party forming the ruling group on the Council or an officer of any local authority and not a person who has been such a member or officer during the period of one year prior to being appointed to the review committee;
- not a person who is a member of or employed by an organisation to which the local authority have delegated any of their social work functions;
- not a spouse of any such member, officer or person.

The Directions stipulate that the other two members of the Sub-Committee may be independent persons or members or officers of the local authority – but not officers of the department responsible for social work matters – and that they require to have experience in either social work matters or the conduct of proceedings before a review body or tribunal.

- 2.3 In accordance with those Directions, the Council has appointed four independent persons from whom membership of the Social Work (Complaints Review) Sub-Committee can be drawn. Of those one – Mr. William Thomson – has since become an employee of the Council and is no longer an independent person as defined in the Secretary of State's Directions. The Council has agreed, also, that any member of the Social Work Committee is eligible to serve on the Social Work (Complaints Review) Sub-Committee.

3. Further Guidance

- 3.1 Following a ruling by the English High Court in the case of Beeson -v- Dorset County Council, in which the Judge ruled that a Social Work (Complaints Review) Sub-Committee consisting of two councillors and one independent person was insufficiently independent for the purposes of Article 6 of the European Convention on Human Rights, the Scottish Executive has issued further guidance. That guidance proposes that, in future, when appointing membership of a Complaints Review Sub-Committee, all three members should comply with the definition of "independent person".

4. Proposals

- 4.1 Unlike the directions previously issued, the guidance now provided by the Scottish Executive does not have statutory force: it is, however, suggested that the Council act in accordance with that guidance and agree that, in future, membership of the North Lanarkshire Council Social Work (Complaints Review) Sub-Committee consist entirely of independent persons.
- 4.2 While the Council has a pool of three independent persons, it is suggested that, to ensure availability of a sufficient number of members as and when required, the number of independent persons be increased. It is accordingly proposed that nominations be sought from individuals and organisation who have a knowledge of social work matters and of the conduct of proceedings before a review body or tribunal and that a further report be submitted to a future meeting of the Committee.

5. Recommendations

- 5.1 It is recommended that the Committee
- (a) agree that the Council should follow the guidance issued by the Scottish Executive and agree that the Social Work (Complaints Review) Sub-Committee should consist, entirely, of independent persons; and
 - (b) authorise the Director of Administration to seek nominations for appointment by the Council of suitably qualified persons for membership of the Social Work (Complaints Review) Sub-Committee and submit a further report to a future meeting of the Committee.


Director of Administration

Members seeking further information on the contents of this report are asked to contact John Fleming, Head of Central Services on Extension 2228.