



COMPLAINTS POLICY

Contents

INTRODUCTION	1
PROCEDURE	2
Availability of Information	2
To Whom Can a Formal Complaint Be Made?	2
Who Can Make a Complaint?	2
Who is Responsible at the Practice for Dealing with Complaints?	3
Time Limits for Making Complaints	3
Action Upon Receipt of a Complaint	3
The Investigation	4
Final Response	4
Annual Review of Complaints	5
Confidentiality	6
Unreasonable or Vexatious Complaints	6
Complaints Involving Locums	6
References	7
Health & Social Care Act 2008 (Regulated Activities) Regulations 2014:	
Regulation 16	7
referred to as the “2014 Regs” See below.	7
Appendix 1. Patient Complaint Form (Embedded Picture)	8
Appendix 2. Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 16	10

INTRODUCTION

The purpose of the policy is to ensure that all patients (or their representatives) who have the cause to complain about their care or treatment can have freely available access to the process and can expect a truthful, full and complete response and an apology where appropriate. Complainants have the right not to be discriminated against as the result of making a complaint and to have the outcome fully explained to them. The process adopted in the practice is fully compliant with the relevant NHS Regulations (2009) and guidance available from defence organisations, doctors` representative bodies and the Care Quality Commission. Everyone in the practice is expected to be aware of the process and to remember that everything they do and say may present a poor impression of the practice and may prompt a complaint or even legal action.

The general principle of the practice in respect of all complaints will be to regard it first and foremost as a learning process, however in appropriate cases and after full and proper investigation the issue may form the basis of a separate disciplinary action. In the case of any complaint with implications for professional negligence or legal action, the appropriate defence organisation must be informed immediately.

PROCEDURE

Availability of Information

The practice will ensure that there are notices advising on the complaints process conspicuously displayed in all reception/waiting areas and that leaflets containing sufficient details for anyone to make a complaint are available without the need to ask. The practice website and any other public material (Practice Leaflet etc.) will similarly provide this information and also signpost the complainant to the help available through the NHS Complaints Advisory Service.

To Whom Can a Formal Complaint Be Made?

Complaints can only be made to:

- The Practice
or
- NHS England (NHS-E)

In the event of anyone not wishing to complain to the practice they should be directed to make their complaint to NHS-E:

- By telephone: 03003 11 22 33
- By email: england.contactus@nhs.net
- By post: NHS England, PO Box 16738, Redditch, B97 9PT

In those cases where the complaint is made to NHS England, the practice will comply with all appropriate requests for information and co-operate fully in assisting them to investigate and respond to the complaint.

Who Can Make a Complaint?

A complaint can be made by or, with consent, on behalf of a patient (i.e. as a representative); a former patient, who is receiving or has received treatment at the Practice; or someone who may be affected by any decision, act or omission of the practice.

A Representative may also be ...

- either parent or, in the absence of both parents, the guardian or other adult who has care of the child; by a person duly authorised by a local authority to whose care the child has been committed under the provisions of the Children Act 1989; or by a

person duly authorised by a voluntary organisation by which the child is being accommodated

- someone acting on behalf of a patient/ former patient who lacks capacity under the Mental Capacity Act 2005 (i.e. who has Power of Attorney etc.) or physical capacity to make a complaint and they are acting in the interests of their welfare
- someone acting for the relatives of a deceased patient/former patient

In all cases where a representative makes a complaint in the absence of patient consent, the practice will consider whether they are acting in the best interests of the patient and, in the case of a child, whether there are reasonable grounds for the child not making the complaint on their own behalf. In the event a complaint from a representative is not accepted, the grounds upon which this decision was based must be advised to them in writing.

Who is Responsible at the Practice for Dealing with Complaints?

The practice "Responsible Person" is Dr Margaret Field. She is charged with ensuring complaints are handled in accordance with the regulations, that lessons learned are fully implemented, and that no Complainant is discriminated against for making a complaint. This person should be a practice Partner (BMA Guidance and Primary Care contracts)

The practice "Complaints Manager" is the Practice manager who holds delegated responsibility for managing complaints and ensuring adequate investigations are carried out.

Time Limits for Making Complaints

The period for making a complaint is normally:

- a) 12 months from the date on which the event which is the subject of the complaint occurred; or
- b) 12 months from the date on which the event which is the subject of the complaint comes to the complainant's notice.

The practice has discretion to extend these limits if there is good reason to do so and it is still possible to carry out a proper investigation. The collection or recollection of evidence, clinical guidelines or other resources relating to the time when the complaint event arose may also be difficult to establish or obtain. These factors may be considered as suitable reasons for declining a time limit extension, however that decision should be able to stand up to scrutiny.

Action Upon Receipt of a Complaint

Verbal Complaints:

It is always better to try and deal with the complaint at the earliest opportunity and often it can be concluded at that point. A simple explanation and apology by staff at the time may be all that is required. The Complaints Manager will deal with all verbal complaints.

A verbal complaint need not be responded to in writing for the purposes of the Regulations if it is dealt with to the satisfaction of the complainant by the end of the next working day, neither does it need to be included in the annual Complaints Review.

If resolution is not possible, the Complaints Manager will set down the details of the verbal complaint in writing and provide a copy to the complainant within three working days¹. This ensures that each side is well aware of the issues for resolution. The process followed will be the same as for written complaints.

Written Complaints:

On receipt, an acknowledgement will be sent within three working days which offers the opportunity for a discussion (face-to-face or by telephone) on the matter. This is the opportunity to gain an indication of the outcome the complainant expects and also for the details of the complaint to be clarified. In the event that this is not practical or appropriate, the initial response should give some indication of the anticipated timescale for investigations to be concluded and an indication of when the outcome can be expected.

It may be that other bodies (e.g. secondary care, Community Services, etc) will need to be contacted to provide evidence. If that is the case, then a patient consent form will need to be obtained at the start of the process and a pro-forma consent form included with the initial acknowledgement for return.

If it is not possible to conclude any investigations within the advised timescale, then the complainant must be updated with progress and revised time scales on a regular basis. In most cases these should be completed within six months unless all parties agree to an extension.

The Investigation

The practice will ensure that the complaint is investigated in a manner that is appropriate to resolve it speedily and effectively and proportionate to the degree of seriousness that is involved.

The investigations will be recorded in a complaints file created specifically for each incident and where appropriate should include evidence collected as individual explanations or accounts taken in writing.

Final Response

This will be provided to the complainant in writing (or email by mutual consent) and the letter will be signed by the Responsible Person or Complaints manager under delegated authority. The letter will be on headed notepaper and include:

¹ See Regulations 2009, Article 13 (4).

- An apology if appropriate (The Compensation Act 2006, Section 2 expressly allows an apology to be made without any admission of negligence or breach of a statutory duty)
- A clear statement of the issues, details of the investigations and the findings, and clear evidence-based reasons for decisions if appropriate
- Where errors have occurred, explain these fully and state what has been or will be done to put the errors right or prevent repetition. Clinical matters must be explained in accessible language
- A clear statement that the response is the final one and the practice is satisfied it has done all it can to resolve the matter at local level.
- A statement of the right, if they are not satisfied with the response, to refer the complaint to the Parliamentary and Health Service Ombudsman, Millbank Tower, Millbank, London, SW1P 4QP or visit the “Making a complaint page” at <http://www.ombudsman.org.uk/make-a-complaint> (to complain online or download a paper form). Alternatively the complainant may call the PHSO Customer Helpline on 0345 015 4033 from 8:30am to 5:30pm, Monday to Friday or send a text to their 'call back' service: 07624 813 005

The final letter should not include:

- Any discussion or offer of compensation without the express involvement and agreement of the relevant defence organisation(s)
- Detailed or complex discussions of medical issues with the patient’s representative unless the patient has given informed consent for this to be done where appropriate.

Annual Review of Complaints

The practice will produce an annual complaints report for the 12 months ending 31st March.²

The report will include:

- Number of complaints received
- Number of complaints upheld
- A summary of the complaint areas, plus
- Any important matters arising out of the complaints including measures to improve services

This report will be made available upon request “to any person”.

Care must be taken to ensure that the report does not inadvertently disclose any confidential data or lead to the identity of any person becoming known.

The CQC can request a report on Complaints received and specifically the responses and correspondence to complaints. The Responsible person has to provide this information within 28 days starting from the day after receipt of the written request

² See The Regs 2009, Article 18.

Confidentiality

All complaints must be treated in the strictest confidence and the practice must ensure that the patient etc. is made aware of any confidential information to be disclosed to a third party (e.g. NHS-E).

The practice must keep a record of all complaints and copies of all correspondence relating to complaints, but such records must be kept separate from patients' medical records and no reference which might disclose the fact a complaint has been made should be included on the computerised clinical record system.

Unreasonable or Vexatious Complaints

Where a complainant becomes unreasonable or excessively rude or aggressive in their promotion of the complaint, some or all of the following formal provisions will apply and must be communicated to the patient by the Responsible Person in writing:

- The complaint will be managed by one named individual at senior level who will be the only contact for the patient
- Contact will be limited to one method only (e.g. in writing)
- Place a time limit on each contact
- The number of contacts in a time period will be restricted
- A witness will be present for all contacts
- Repeated complaints about the same issue will be refused unless additional material is being brought forward
- Only acknowledge correspondence regarding a closed matter, not respond to it
- Set behaviour standards
- Return irrelevant documentation
- Detailed records will be kept of each encounter

Complaints Involving Locums

It is important that all complaints made to the practice regarding or involving a locum (Doctor, Nurse or any other temporary staff) are dealt with by the practice and not passed off to a Locum Agency or the individual locum to investigate and respond. The responsibility for handling and investigating all complaints rests with the Practice.

Locum staff should however be involved at an early stage and be advised of the complaint in order that they can provide any explanations, preferably in writing. It would not be usually appropriate for any opinions to be expressed by the Practice on Locum staff. Providing their factual account along with any factual account from the practice is the best way to proceed.

The practice will ensure that on engaging any Locum, the Locum Agreement will include an assurance that they will participate in any complaint investigation where they are involved or can provide any material evidence. The practice will ensure that there is no discrepancy in



the way it investigates or handles complaints between any Locum staff and either practice Partners, salaried staff, students or trainees or any other employees.

References

Local Authority Social Services & National Health Service Complaints (England) Regulations 2009 - S.I. 2009, No.309

Referred to as the “2009 Regs”

Health & Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 16 referred to as the “2014 Regs” See below.

NHS Complaints Procedure (England only): Guidance for Primary Care, BMA August 2015

NHS Choices

<http://www.nhs.uk/chq/pages/1084.aspx?categoryid=68>

Medico-legal guide to the NHS Complaints Procedure, M.D.U.

<https://www.themdu.com/guidance-and-advice/guides/nhs-complaints/stage-1---local-resolution>

A Guide to effective complaints Resolution, M.P.S 2016

<https://www.medicalprotection.org/docs/default-source/pdfs/Booklet-PDFs/eng-med-complaints-booklet.pdf?sfvrsn=4>

NHS England Complaints policy;

<https://www.england.nhs.uk/contact-us/complaint/>

BMA guidance for Primary Care –

<https://www.bma.org.uk/advice/employment/raising-concerns/complaints-in-primary-care>

CQC Receiving & Acting on Complaints

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-16-receiving-acting-complaints>

Appendix 1. Patient Complaint Form (Embedded Picture)**Patient Complaint Form**

This form allows you to raise a complaint or concern about the service you received from the Doctors or any of the personnel working in this practice. The practice operates a complaints procedure as part of the NHS complaints system and which meets national criteria.

We try to sort out most problems as they arise and with the person concerned. If you wish to make a formal complaint, please do so as soon as possible, ideally within a few days of the incident. This will us to establish what happened more easily. It will not be possible to consider complaints that are submitted more than 12 months from the incidents or within 12 months of discovering that there was a problem. Complaints should be submitted in writing. We aim to deal with your concerns promptly and if you are specific and concise this will help.

Complaining on Behalf of Another

There are strict rules covering medical confidentiality. If you are complaining on behalf of a patient you must have their permission to do so. We will require written authority from the person concerned unless you are their legal guardian or already have permission to act on their behalf.

What We Will Do

We acknowledge complaints within 3 working days. We will then investigate the circumstances and provide a final response within 30 days. The final letter will detail the result of our investigations, detailing changes implemented to make sure the problem does not occur again with an apology if this is relevant.

Patient's Full Name	
Date of Birth	
Address	

If Complaining on Behalf of a Patient:

Complainant's Full Name	
Relationship to Patient	
Address	
Telephone Number	

Signed			
Print Name		Date	

Issued: 03-Jul-20
Review: 2 years

Patient Complaint Form
Unmaintained Copy if Printed

Page 1

Appendix 2. Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 16

The regulation in full

16.—

1. Any complaint received must be investigated and necessary and proportionate action must be taken in response to any failure identified by the complaint or investigation.
2. The registered person must establish and operate effectively an accessible system for identifying, receiving, recording, handling and responding to complaints by service users and other persons in relation to the carrying on of the regulated activity.
3. The registered person must provide to the Commission, when requested to do so and by no later than 28 days beginning on the day after receipt of the request, a summary of—
 - a. complaints made under such complaints system,
 - b. responses made by the registered person to such complaints and any further correspondence with the complainants in relation to such complaints, and
 - c. any other relevant information in relation to such complaints as the Commission may request.

Guidance on the Regulation

Component of the regulation	Providers must have regard to the following guidance
<p>16(1) Any complaint received must be investigated and necessary and proportionate action must be taken in response to any failure identified by the complaint or investigation.</p>	<ul style="list-style-type: none"> • People must be able to make a complaint to any member of staff, either verbally or in writing. • All staff must know how to respond when they receive a complaint. • Unless they are anonymous, all complaints should be acknowledged whether they are written or verbal. • Complainants must not be discriminated against or victimised. In particular, people's care and treatment must not be affected if they make a complaint, or if somebody complains on their behalf. • Appropriate action must be taken without delay to respond to any failures identified by a complaint or the investigation of a complaint. • Information must be available to a complainant about how to take action if they are not satisfied with how the provider manages and/or responds to their complaint. Information should include the internal procedures that the provider must follow and should explain when complaints should/will be escalated to other appropriate bodies.

Component of the regulation	Providers must have regard to the following guidance
<p>16(2) The registered person must establish and operate effectively an accessible system for identifying, receiving, recording, handling and responding to complaints by service users and other persons in relation to the carrying on of the regulated activity.</p>	<ul style="list-style-type: none"> • Where complainants escalate their complaint externally because they are dissatisfied with the local outcome, the provider should cooperate with any independent review or process. • Information and guidance about how to complain must be available and accessible to everyone who uses the service. It should be available in appropriate languages and formats to meet the needs of the people using the service. • Providers must tell people how to complain, offer support and provide the level of support needed to help them make a complaint. This may be through advocates, interpreter services and any other support identified or requested. • When complainants do not wish to identify themselves, the provider must still follow its complaints process as far as possible. • Providers must have effective systems to make sure that all complaints are investigated without delay. This includes: <ul style="list-style-type: none"> ○ Undertaking a review to establish the level of investigation and immediate action required, including referral to appropriate authorities for investigation. This may include professional regulators or local authority safeguarding teams. ○ Making sure appropriate investigations are carried out to identify what might have caused the complaint and the actions required to prevent similar complaints. ○ When the complainant has identified themselves, investigating and responding to them and where relevant their family and carers without delay. • Providers should monitor complaints over time, looking for trends and areas of risk that may be addressed. • Staff and others who are involved in the assessment and investigation of complaints must have the right level of knowledge and skill. They should understand the provider's complaints process and be knowledgeable about current related guidance. • Consent and confidentiality must not be compromised during the complaints process unless there are professional or statutory obligations that make this necessary, such as safeguarding. • Complainants, and those about whom complaints are made, must be kept informed of the status of their complaint and its investigation, and be advised of any changes made as a result. • Providers must maintain a record of all complaints, outcomes and actions taken in response to complaints. Where no action is taken, the reasons for this should be recorded. • Providers must act in accordance with Regulation 20: Duty of Candour in respect of complaints about care and treatment that have resulted in a notifiable safety incident.

Component of the regulation	Providers must have regard to the following guidance
<p>16(3) The registered person must provide to the Commission, when requested to do so and by no later than 28 days beginning on the day after receipt of the request, a summary of—</p> <p>(a) complaints made under such complaints system,</p> <p>(b) responses made by the registered person to such complaints and any further correspondence with the complainants in relation to such complaints, and</p> <p>(c) any other relevant information in relation to such complaints as the Commission may request.</p>	<ul style="list-style-type: none"> • CQC can ask providers for information about a complaint; if this is not provided within 28 days of our request, it may be seen as preventing CQC from taking appropriate action in relation to a complaint or putting people who use the service at risk of harm, or of receiving care and treatment that has, or is, causing harm. • The 28-day period starts the day after the request is received.