

TITLE: COMPLAINTS PROCEDURE			
AUTHORISED BY: <i>Paul Connell</i>	DATE: 17/01/03	REFERENCE:	QP 07
APPROVED BY: <i>Cl. Cunningham</i>	PAGE: Page 1 of 8	ISSUE NO.	4
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1.0 Purpose

To define a complaints procedure which is as transparent, fair and impartial as possible to all users and providers of the services undertaken by the State Hospital.

2.0 Background and References

Although we try our best to make sure all patients and their carers are treated properly and promptly, sometimes things can go wrong. Serious consideration is given to complaints and we continually look at ways of improving our services.

We are committed to providing the highest quality care and treatment for patients while respecting their dignity and individuality. We will continue to review our services to ensure that services are a true reflection of patients' views and needs. We have mechanisms in place to ensure that lessons are learned, that complaints are followed up constructively, and that our services are adapted when things go wrong, or where we have identified that services could be improved.

Complaints, and the resolution of concerns raised, are defined as statements of dissatisfaction. The State Hospital will continue to respond to all complaints positively, and to ensure that any lessons learned, or working practices that may be changed, reflect the Hospital's ethos of continuous improvement.

The State Hospital has continually reviewed this procedure to cultivate good practice and confidence in the process, both from a patient, and staff, perspective.

Guidelines for the National Health Service Complaints procedure were published following the review chaired by Professor Wilson (The Wilson Report).

References:

Guidance for NHS Complaints; Hospitals, Scottish Office, Feb 1999.

State Hospital Quality Policy Manual.

3.0 Scope

The procedure encompasses the right of all patients to complain about the care and treatment they receive in the State Hospital and the procedure applies to all staff and service providers involved in the care and treatment of patients.

4.0 Definitions

4.1 What is a complaint?

An oral or written expression of dissatisfaction requiring a response (1992 Citizens Charter Complaints Task Force).

4.2 Who can complain?

- a patient;
- former patients or visitors using NHS services or facilities;
- someone on behalf of existing or former patients provided they have obtained the patient's written consent (paragraph 4.3) or acting on behalf of an INCAPAX patient (Clinical Policy CP07); or
- any appropriate person in respect of a patient who has died, e.g. next of kin or their agent.

4.3 Patient Consent

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Complaints by a third party should be made with the full consent and knowledge of the individual on whose behalf they have written. Exceptions are if that individual is a child, or if the individual is incapable. (For example, where he/she has been rendered unconscious by an accident, or judgement has been impaired by mental handicap, serious psychiatric illness or by dementia or brain injury or by serious communication problem) or where he/she has died.

4.4 Time Limits

A complaint should be made as soon as possible after the action giving rise to it, normally within **six months** of the event giving rise to the complaint.

The timescale for dealing with a complaint from its receipt to the date of the response signed by the Chief Executive is **20 working days**.

4.5 Informal/Oral Resolution

A complaint which is dealt with by front line staff in such a way that the complainant is sufficiently satisfied and does not require further investigation or access to the complaints system. However, complainants concerns that are resolved in this way should also be informed of their right, should they remain dissatisfied, to make a formal complaint.

4.6 Local Resolution

A complaint dealt with through the complaints procedure, investigated, and a written response given to the complainant, which also indicates the next step in the process if the complainant remains dissatisfied.

4.7 Significant Complaint

Significant complaints are likely to cover areas of neglect, abuse or unprofessional conduct. The State Hospital will define significant complaints by reference to the guidelines from the Mental Welfare Commission that suggest that significant complaints might be:

- alleged actual or intended physical or sexual abuse;
- allegations of other ill treatment or cruelty, neglect or abuse;
- failure to comply with statutory provisions, including improper detention and unlawful treatment;
- maladministration of patient funds or property; or
- failure to make satisfactory arrangements for care after discharge from the Hospital.

4.8 Conciliation

A voluntary process whereby both parties use trained external independent assistance to resolve difficulties in a confidential way with the aim of reaching a mutually acceptable agreement.

4.9 Investigator

Investigators will be fully trained in the complaints procedure and trained in investigative techniques. They will comprise of a range of hospital staff. The list of trained investigators will be maintained by the Complaints Officer.

4.10 Vexatious Complaints

Vexatious complaints will be defined as complaints that meet two, or more, of the following summarised criteria (explained in greater detail in the NHS Complaints guidance):

- persisting in pursuing 'finished' complaints;
- changing the complaint;

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- refusal to accept evidence or facts;
- failing to identify the issues or acceptance that some issues are out of the Hospitals control;
- focussing disproportionately on trivial matters;
- threats or actual physical violence;
- excessive contact placing unreasonable demands on the Hospital;
- harassment, abusive or aggressive behaviour on more than one occasion regarding the complaint;
- recording meetings without informing other parties; or
- placing unreasonable demands in relation to the complaint.

4.11 Independent Review

Complainants who are dissatisfied with the outcome of the local resolution process may request that an Independent Review Panel be formed to look into their complaint. This request should be made within 28 days of the date of the Chief Executive's letter to the complainant concluding local resolution. All such requests should be passed to the Complaints Convener (as designated Non Executive Board Member).

4.12 Convener

The State Hospitals Board is required, under the NHS Complaints Procedure Guidance, to appoint a Complaints Convener to undertake duties as detailed in the guidance.

4.13 Independent Lay Chair

In accordance with the NHS Complaints Procedure Guidance, The State Hospitals Board is required to appoint Independent Lay Chairs to undertake duties as detailed in the guidance.

5.0 Procedure

Wherever possible a patient's concerns should be dealt with at a local level (paragraph 4.5) and only after continuing dissatisfaction should the process of a formal complaint be initiated.

5.1 Local Resolution

5.1.1 The Complaints Officer will determine whether the complaint is competent and if not then a standard response will be sent addressing the issues raised.

5.1.2 The Complaints Officer will determine if the complainant is competent (paragraph 4.2) and if not then a standard response will be sent.

5.1.3 The Complaints Officer will determine the need to seek the patient's permission to act on his/her behalf by requesting the complainant to complete a mandate.

5.1.4 When a competent complaint is received from a competent complainant, the Complaints Officer will:

- determine if the complaint is a significant complaint;
- appoint an investigating officer/team from the pool of trained investigators and provide an appropriate brief;
- acknowledge the complaint within 3 working days;
- provide guidance on the process to investigator/team;
- ensure that appropriate data is logged onto database;
- review the investigation report and ensure that a response is signed by the Chief Executive;
- ensure that the complainant is advised of his/her rights to proceed to the next stage of the complaints process if dissatisfied with the response;
- ensure that, where possible, the response is sent within 20 working days from receipt of the complaint; or
- ensure that an interim response is sent to all parties involved in the complaint if it is not possible to respond within 20 working days with an explanation for the delay.

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5.1.3 When a complaint is deemed significant then the Complaints Officer will notify the following:

- the complainant;
- staff who have had allegations made against them;
- the line manager of staff referred to above;
- Senior Nurse Manager – Operations;
- Nursing Resource Manager;
- the patient's RMO;
- Scottish Public Services Ombudsman;
- Clinical Governance Committee; and
- the Occupational Health Department;

5.1.4 When a complaint is deemed significant then the Complaints Officer will ensure that the brief to the investigation team will clarify their terms of reference. They shall, as a generality, include a timescale, the need to provide a full report, and an anonymised report to protect patient, staff and third party confidentiality, and the need to inform the Complaints Officer if any there is a delay in completing the investigation or providing the report(s) within the timescale, so that an interim response can be sent to all affected parties if there is any delay in the timescale.

5.1.5 When it is obvious that a complaint is significant, with a physical component when the original allegations are made, the person in charge of the ward/area should ensure (after further consultation if necessary) that the following procedure is carried out:

- arrange for a physical examination within two hours of the allegation or as soon thereafter depending on the mental state/condition of the patient;
- consider removing the patient and/or staff pending the outcome of an investigation. Should this be necessary it will be done to ensure the protection of all involved and no conclusions or guilt are implied and this action may be invoked at any stage of the process;
- determine whether the Police should be informed at this stage;
- determine whether or not the patient wishes his/her next of kin to be informed;
- advise the Complaints Officer immediately of the allegations and the action taken to date;
- advise Senior Nurse Cover and the Duty Security Manager; and
- determine whether the patient wishes the support of an Advocate.

5.2 Independent Review

5.2.1 When a complainant remains dissatisfied following local resolution they may make a request to the Complaints Convener to convene an Independent Review Panel.

5.2.2 Every endeavour should be made to resolve the complaint prior to convening an Independent Review. This might include the use of conciliation to resolve any outstanding issues.

5.2.3 When requesting an Independent Review the complainant should be made aware that he/she has to provide the Convener with a statement detailing the aspects of the response that the complainant remains dissatisfied with. **A complainant does not have an automatic right to an Independent Review.**

5.2.4 The Convener will follow the procedure laid out in the NHS Complaints Guidance when considering whether or not to convene an Independent Review.

5.2.5 The Hospital will provide the Convener appropriate support during the Convening Process and appoint a Lay Chair with whom the Convener will consult.

5.2.6 Should the complainant remain dissatisfied with the decision of the Convener, or the decision of the Panel if a panel is commissioned, the complainant can pursue the complaint further by referral to the Public Services Ombudsman and this will be notified to the complainant.

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The Mental Welfare Commission Ombudsman will retain its complaints role with regard to complaints about people with welfare functions appointed under the provisions of the Adults with Incapacity Act.

5.2.7 The Complaints Officer will advise the Scottish Public Services Ombudsman, of the request to convene an Independent Review and also the decision made by the Convener.

5.3 Feedback

5.3.1 Any response to a complaint should take into account any learning or other disabilities that the complainant may have. This may include the services of an interpreter when the complainant's first language is not English or when the complainant has sensory impairment.

5.3.2 The patient's Responsible Medical Officer and Ward Manager will receive appropriate feedback on the complaint and response for all complaints.

5.3.3 When the complaint is deemed significant involving allegations made against staff then a copy of the investigation report or an executive summary in place of a full report if patient/staff confidentiality is an issue shall, along with appropriate feedback will be given to the:

- complainant;
- staff involved and their line manager;
- Responsible Medical Officer;
- Ward Manager;
- next of kin (if the patient wishes);
- Advocate (if the patient wishes); and
- Scottish Public Services Ombudsman.

5.4 Information and Reporting

5.4.1 The Complaints Officer will maintain and develop information systems that record appropriate data that provides information required by ISD as well as providing appropriate trend analysis and outcome audit to be reviewed by the Risk Management Committee.

5.4.2 The Complaints Officer will present six monthly trend analysis reports to the Clinical Governance Committee (October and March) and annually to the Board (May). Lay chairs, and representatives from the Scottish Public Services Ombudsman will be invited to attend an annual workshop to help provide the Hospital with an external perspective on the complaints process.

5.4.3 The Complaints Officer will provide information quarterly to the Patient Partnership Group in order to provide patients with trend analysis from the complaints process.

5.5 Vexatious Complaints

Should a complaint or complainant be thought to be vexatious, or should a number of complaints be made due to a person's illness or disorder the Complaints Officer will discuss this with the Clinical Team and if appropriate, agree a written strategy for dealing with the complainant. This strategy will be kept in the patient's case records.

5.6 Support Framework

The hospital acknowledges the stress that an investigation as a result of a complaint can have on both staff and patients and support frameworks will be developed for staff and patients.

Staff

The main points of contact for staff during the complaints process will include:

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- line management;
- staff representatives;
- Occupational Health (where it is a significant complaint the Complaints Officer will notify Occupational Health that an investigation is underway);
- Human Resources (Employees Relations Manager); and
- ICAS.

Patients

The main points of contact for patients during the complaints process will include the:

- Patients Advocacy Service;
- Ward Manager;
- patient's next of kin;
- any other appropriate support depending on level of disability; and
- or any other named person;

5.7 Disciplinary Action

If a disciplinary investigation is considered appropriate then the complaints investigation will stop, except for any issues not covered by the disciplinary investigation. The complainant may be informed of the outcome of the disciplinary investigation but cannot object to it. The complainant should also be informed in writing at the time this happens.

5.8 Responsibilities

Corporate Responsibility

Responsibility for the complaints procedure is held by the Chairperson and members of the State Hospitals Board for Scotland.

Operational Responsibility

The Chief Executive oversees the complaints procedure and reviews reports from the Complaints Officer on the conclusion of the investigation of a complaint. The Chief Executive, or their nominated deputy, should sign all written responses.

Head of Corporate Services

The Head of Corporate Services has delegated responsibility for operational management of the complaints procedure.

Complaints Officer

The Complaints Officer has responsibility for administration of the complaints procedure, complaints information and identifying significant complaints as detailed in paragraph 4.7 above.

Convener

The Convener is responsible for considering requests to convene an Independent Review Panel should the complainant remain dissatisfied with the outcome of local resolution. The Convener should consult with an Independent Lay Chair during the convening request process.

Independent Lay Chair

The Independent Lay Chair chairs an Independent Review Panel in accordance with the NHS Complaints Procedure Guidelines.

Staff Representatives

Staff representatives have a responsibility to support staff during an investigation and be available during any interviews undertaken by appointed investigator/s.

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Patients Advocacy Services

An Advocate is recognised as an important way of enabling patients to make informed choices about, and remain in control of, their own health care. Should a patient so wish the Patients Advocacy Service can provide a supporting role for them when they wish to complain about their care and treatment and can provide support during the investigation process and through later stages of the complaints process. Where possible the Advocate should consider encouraging patients to resolve issues with front line staff in accordance with the NHS Complaints Procedure Guidelines.

Ward Managers/Line Managers

Ward Managers/Line Managers have a responsibility to support staff during an investigation, help facilitate a speedy and effective investigation process, and ensure that corrective supportive action is taken in conjunction with other staff.

Staff

All State Hospital staff are responsible for responding to, and attempting to resolve, complaints raised with them, or to raise them immediately with senior staff if informal resolution is inappropriate or not possible.

When staff are made aware of allegations of a significant nature they should immediately contact the person in charge of their ward or area. When the allegations relate to a significant complaint with a physical component then the actions referred to in 5.1.5 above apply.

All staff have a right to feedback on trend analysis about complaints and have a responsibility to help improve the process.

Investigators

Investigators have a responsibility to conduct their duties in accordance with their brief and in accordance with sound training principles. They should have regard to the sensitivity of the issues being investigated and deal with their duties in a confidential manner. They should have regard to the timescales involved and raise any problems or difficulties with the Complaints Officer. The investigators should liaise with the Senior Nurse manager (Operations) or Nursing Resource Manager to enable ward-based staff interviews to be conducted timeously.

Conciliators

Conciliators have a responsibility to assist the complaints process, not to impose a solution. Any resolution of the complaint must come from the parties concerned. The conciliator should seek to clarify the issues and to help in exploring the options. The conciliator works to ensure that good communication takes place between the parties.

Risk Management Committee

The Risk Management Committee is responsible for carrying out a Management Review of all complaints including the actual complaints process. During the development of the role of the Committee appropriate arrangements will be made to standardise the flow of information from the complaints process to the Committee.

Clinical Governance Committee

A bi-annual report outlining trends and categories of complaints will be submitted to the Clinical Governance Committee (October/March) to provide assurance that systems are in place to respond appropriately to complaints, and that action plans are followed up where appropriate.

Board

An annual report outlining trends and categories of complaints will be submitted to the State Hospitals Board in May of each year.

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6.0 Audit

The procedure, which is a quality procedure, will be audited in accordance with the internal programme, which will be at least every year.

7.0 Training

The Complaints Officer will be responsible for maintaining a list of trained investigators, a list of trained conciliators, and a list trained Independent Lay Chairs.

Convener

Appropriate training (via the Scottish Executive training programme and in-house workshops) and support will be given to the Convener in order for him/her to discharge his/her duties.

Investigators

Appropriate training will be given to a pool of up to 25 investigators and will include developing skills in investigations, interview techniques, report writing and detailed knowledge of the complaints process.

Conciliators

Appropriate training will be given to a pool of Conciliators.

Independent Lay Chairs

Appropriate training on the NHS Complaints procedure will be given to Lay Chairs via the Scottish Executive training programme and in-house workshops.

Staff and Patients

Appropriate induction to this procedure will be given to staff and patients.

Patients Advocacy Service

Appropriate training on the NHS Complaints procedure will be given to Advocates.

8.0 Manual

The Complaints Officer will within 3 months of the launch of this revised procedure provide a Complaints Procedure Manual for all users.