

Complaints Policy and Procedure

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POLICY REFERENCE INFORMATION

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2.0	Significant changes made to the entire policy	Two policies combined and amendments made as a result of changes to the NHS (Complaints) Regulations and the sharing of good practice	Richard Powell	January 2009

RELATED POLICIES AND LEGISLATION

- National Health Service (Complaints) Regulations
- Principles of Good Administration published by the Parliamentary and Health Service Ombudsman in March 2007
- Department of Health Leaflet 'How to make a complaint about the NHS'
- Voicing Your Concerns Policy

Yorkshire and the Humber Strategic Health Authority Complaints Policy and Procedure

1. Introduction

This document reflects the legal requirement placed upon all NHS organisations to have written procedures in place which highlight the arrangements for the handling of complaints in accordance with the National Health Service (Complaints) Regulations. This document also provides signposts to further information and gives procedural guidance on how complaints will be managed by Yorkshire and the Humber Strategic Health Authority (the SHA).

2. Role of Yorkshire and the Humber SHA

The SHA is the headquarters of the NHS in Yorkshire and the Humber. The SHA's role is Strategic and it does not provide services or direct management of local NHS services. The SHA's main functions are strategic leadership; organisational and workforce development; and ensuring local systems operate effectively and deliver improved performance.

3. Scope of the Policy

This policy is applicable to the handling of any enquiry or complaint about the attitude or actions of staff within the SHA which may also include decisions made by SHA staff during the course of their work.

It is important to note that the SHA **does not** have any remit under the current NHS Complaints Regulations to deal directly with complaints about the care and treatment provided by NHS Trusts (including Foundation Trusts) Primary Care Trusts (PCTs) or any other provider of NHS services. In such cases, complainants should first be encouraged to contact the NHS body concerned. Where this has been done and the individual still remains unhappy, the next steps are described in Appendix 1 of this document.

The scope of this policy does not apply to, amongst others, any complaint:-

- made by one NHS organisation against another NHS organisation
- made by an employee of an NHS organisation relating to contractual matters
- which is being or has been investigated by the Healthcare Commission or Health Service Ombudsman
- where the complainant has stated that he/she intends to take legal proceedings
- where disciplinary proceedings are being proposed in relation to the person who is the subject of the complaint.

This policy also does not apply to complaints about the handling of a complaint made to another NHS organisation. In such cases, complainants

should be directed back to the relevant NHS organisation, or to the Health Service Ombudsman, as appropriate and in accordance with the NHS Complaints Procedure.

4. Principles

The Health Service Ombudsman has published a set of 'Principles of Good Administration'. The SHA is committed to these Principles which should be taken into account in its handling of complaints;

1. Getting it right
2. Being customer focussed
3. Being open and accountable
4. Acting fairly and proportionately
5. Putting things right
6. Seeking continuous improvement

A full set of the Principles, together with supporting information, can be accessed via the following link;

http://www.ombudsman.org.uk/improving_services/principles/good_administration/principles.html

5. Key responsibilities within the SHA

The Chief Executive has overall responsibility for the management of complaints. The Associate Director of Corporate Business has delegated authority for the management and monitoring of the complaints policy and procedures and must be made aware immediately of any complaint made about or to the SHA.

6. Handling Complaints

Individuals wishing to make complaints about the SHA or its conduct of business should in the first instance write to:-

Bill McCarthy
Chief Executive
NHS Yorkshire and the Humber
Blenheim House
Duncombe Street
Leeds
LS1 4PL

Individuals wishing to put their complaint orally should telephone the Corporate Business Manager on (0113) 295 2051.

Any complaint about the SHA will be investigated in line with the requirements of the NHS Complaints Regulations. The Corporate Business Manager and Associate Director of Corporate Business will determine the action required to achieve resolution which may involve speaking to other staff to establish what has happened and to obtain details of any action that has been taken or already agreed. Correspondents should be dealt with and responses drafted in accordance with the 'Principles of Good Administration'.

If the complaint is about an NHS Trust, PCT or other NHS service provider, then it will be referred to the relevant organisation for investigation and response. In the case of complaints about local NHS services, the Strategic Health Authority's role is to inform the complainant about the process and refer the matter to the relevant organisation for local resolution.

Where complaints are raised in confidence, the individual should be referred to the relevant Whistleblowing or Voicing Your Concerns policy of the organisation concerned. Where an issue is raised anonymously and there is a potential risk to patient safety, the SHA may take a decision to look into the issues raised to satisfy itself that correct protocols and procedures have been followed.

Where complaints are about both NHS and Local Authority Services, the Complaints Regulations now require that investigations should be completed simultaneously and responses sent together to the complainant.

When a complaint is received, it should be logged by the receiving member of staff and immediately referred to the Corporate Business Manager. If a response can be sent within two working days, an acknowledgement letter will not be sent. However, where this target cannot be met, written complaints will be acknowledged within two working days. We should aim to provide a full written response to all complaints within 20 working days.

Any complaints received about the SHA will be reported to the Board at its next meeting.

7. Persistent / Habitual Complainants

The SHA has the above policy for dealing with complaints about its business. The SHA will follow this procedure and will do everything it reasonably can to resolve issues of complaint. Occasionally, complainants may focus solely on their concerns to the extent of causing significant disruption to the proper conduct of business and potentially causing undue stress and / or harassment to staff.

The SHA is committed to dealing with complaints fairly and impartially. Staff are expected to deal with individuals in a respectful and professional manner and to follow appropriate procedures, however there can be instances when nothing more can reasonably be done to rectify a real or perceived problem. Alternatively, there may be some complainants who because of the frequency of contact with the SHA, hinder progress of its day to day business. At this stage it is important to ensure that complaints procedures have been followed

correctly and that all elements of the complaint have been adequately addressed. Should such situations occur, the SHA will consider whether it is appropriate to flag the complainant as vexatious. It is envisaged that this action would only be invoked in exceptional circumstances.

Any decision to flag a complainant as vexatious will be based on the following criteria:-

- an individual who persists in pursuing a complaint when appropriate procedures have been followed and exhausted
- the substance of a complaint is continually being changed and / or new issues continually being raised to prolong contact
- an individual is unwilling to accept documented evidence as part of the complaints response, or denies receipt of an adequate response in spite of correspondence specifically answering their concerns
- an individual persists in raising issues of complaint outside the remit of the SHA
- an individual has threatened or used physical violence towards staff, or has harassed or been verbally aggressive towards staff dealing with the complaint
- an individual has had an excessive number of contacts with SHA staff during the investigation, e.g. personally, or by telephone, fax, email (this would be considered on an individual basis)
- an individual has made unreasonable demands about the investigation of their complaint (e.g. responses being made more quickly than time limits set down)
- an individual is known to have recorded meetings or conversations without the prior knowledge or consent of the other parties involved.

This list should not be regarded as exhaustive.

Once an individual has been officially declared as vexatious, the SHA will write formally to the complainant informing them that the SHA has responded as fully as possible to the points raised and that any future communication on the same subject will not be acknowledged.

Where an individual continues to contact the Authority by telephone, despite being advised not to, staff should politely but firmly terminate the call. Staff should not enter into telephone discussions.

How to make a complaint about the NHS

If you are unhappy with the treatment or service you have received from the NHS you are entitled to make a complaint, have it considered, and receive a response from the NHS organisation or primary care practitioner concerned. The NHS complaints procedure applies to the NHS in England, except for NHS Foundation Trusts (see below).

A Patient Advice and Liaison Service (PALS) has been established in every NHS Trust and primary care trust (PCT). PALS are not part of the complaints procedure itself but they might be able to resolve your concerns informally or tell you more about the complaints procedure and independent complaints advocacy services.

Local Resolution

The NHS complaints procedure covers complaints made by a person about any matter connected with the provision of NHS services by NHS organisations or primary care practitioners (GPs, dentists, opticians and pharmacists). The procedure also covers services provided overseas or by the private sector where the NHS has paid for them.

Who can complain?

A complaint can be made by a patient or person affected or likely to be affected by the actions or decisions of a NHS organisation or primary care practitioner. A complaint can also be made by someone acting on behalf of the patient or person, but only with their consent.

What is the time limit for making a complaint?

You should normally complain within 6 months of the event(s) concerned or within 6 months of becoming aware that you have something to complain about. Primary care practitioners and complaints managers in NHS organisations have discretion to waive this time limit if there are good reasons why you could not complain earlier.

To whom should I complain initially?

The first stage of the NHS complaints procedure is 'Local Resolution'. Your complaint should be made in the first instance to the organisation or primary care practitioner providing the service. Local resolution aims to resolve complaints quickly and as close to the source of the complaint as possible using the most appropriate means; for example, use of conciliation.

You can raise your concerns immediately by speaking to a member of staff (e.g. doctor, nurse, dentist, GP or practice manager) or someone else, e.g. the PALS. They may be able to resolve your concerns without the need to make a more formal complaint.

However, if you do want to continue with your complaint you can do this orally or by writing (including e-mail) to the primary care practitioner or the NHS organisation concerned. If you make your complaint orally a written record should be made by the complaints manager.

You should receive a response from a primary care practitioner within 10 working days or from the chief executive of the NHS organisation concerned within 25 working days, though this deadline can be extended with your agreement. You should be kept informed of progress if this is not going to happen.

NHS Foundation Trusts

NHS Foundation Trusts will have their own systems for the internal handling of complaints, which may differ from the 'local resolution' process described in this leaflet. If you have a complaint about an NHS Foundation Trust, you should contact it for advice on how to make your complaint.

Complaints about both healthcare and social care

If you have a complaint about your healthcare or social care, you can complain to either the local NHS or social care organisation and they will ensure either that they respond to your complaint themselves or that it is sent to the right organisation (with your permission). If your complaint covers both NHS and social care, the organisations will work together to respond to your concerns.

Next Steps

From the end of March 2009, the way in which complaints are handled after local resolution will change. The complaints work currently carried out by the Healthcare Commission will cease at the end of March. After this, individuals who are not happy with the way the NHS has dealt with their complaint at a local level can ask the Health Service Ombudsman to look into the matter. The Ombudsman is completely independent of both the NHS and Government and can be contacted at:

Millbank Tower
Millbank
London
SW1P 4QP

Tel: 0845 015 4033

e-mail: OHSC.Enquiries@ombudsman.gsi.gov.uk

Website: www.ombudsman.org.uk

Where can I get further advice and help?

- The PALS or complaints manager at the NHS organisation you are complaining about can provide advice, including about local independent complaints advocacy services. Your local primary care trust can also advise if you have a complaint about a primary care practitioner.

- The Independent Complaints Advocacy Service (ICAS) provides advice and support to people who want to complain about the NHS. Details are at www.dh.gov.uk.
- Call NHS Direct on 0845 4647 or your local Citizens Advice Bureau.
- The Department of Health's website also has information on the NHS complaints procedure – www.dh.gov.uk