#

**National Health Service Complaints Handling Procedure**

**For**

**Eyemouth Medical Practice**

**Foreword**

*Our complaints handling procedure reflects Eyemouth Medical Practice’s commitment to welcoming all forms of feedback, including complaints, and using them to improve services, to address complaints in a person-centred way and to respect the rights of everyone involved. The partners and practice staff aim to resolve complaints as close as possible to the point of service delivery and to respond thoroughly, impartially and fairly by providing evidence-based decisions supported by the facts of the case.*

*The procedure has been developed by NHS complaints handling experts working closely with the Scottish Public Services Ombudsman (SPSO). There is a standard approach to handling complaints across the NHS, which complies with the SPSO's guidance on a model complaints handling procedure, meets all of the requirements of the Patient Rights (Scotland) Act 2011 and accords with the Healthcare Principles introduced by the Act. This procedure aims to help the organisation ‘get it right first time’. The practice aims for a quick, simple and streamlined complaints handling process with local, early resolution by capable, experienced team members.*

*Eyemouth Medical Practice aims to provide the highest quality services possible to people in our community through the delivery of safe, effective and person-centred care. Whenever the care we provide can be improved, we must listen and act. Complaints give us valuable information we can use to continuously improve our services. They provide first-hand accounts of people’s experiences of care that help us to identify areas of concern, achieve resolution wherever possible and take action so that the same problems do not happen again.*

*Our complaints handling procedure helps us to build positive relationships with people who use our service and rebuild trust when things go wrong. It has the person making the complaint, their families and carers at the heart of the process. We will address complaints effectively, resolve them as early as we can and learn from them so that we can improve services for everyone.*

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# Our Complaints Handling Procedure

The Patient Rights (Scotland) Act 2011, together with supporting legislation, introduced the right to give feedback, make comments, raise concerns and to make complaints about NHS services. It also places a duty on NHS boards to actively encourage, monitor, take action and share learning from the views they receive. The Scottish Health Council's 2014 report *Listening and Learning - How Feedback, Comments, Concerns and Complaints Can Improve NHS Services in Scotland* recommended that a revised, standardised complaints process for NHS Scotland should be developed, building on the requirements of the legislation, and ‘Can I Help You?’ guidance for handling and learning from feedback, comments, concerns or complaints about NHS health care services. This document delivers on that recommendation by explaining how the practice team will handle NHS complaints. Another document, “The NHS Scotland Public Facing Model Complaints Handling Procedure for Eyemouth Medical Practice”, provides information for the person making the complaint about our complaints procedure.

This procedure, which is based on the NHS Model Complaints Handling Procedure, explains the processes that the practice will follow in responding to complaints. It contains references and links to more details on parts of the procedure, such as how to record complaints, and the criteria for signing off and agreeing time extensions. The procedure also explains how to process, manage and reach decisions on different types of complaints.

The procedure supports the practice to meet the requirements of the Patient Rights (Scotland) Act 2011, and associated Regulations and Directions. It has been developed to take account of the *SPSO Statement of Complaints Handling Principles* and best practice guidance on complaints handling from the Complaints Standards Authority at the SPSO.

<http://www.valuingcomplaints.org.uk>

In accordance with the legislation, we will take steps to ensure that the people using our services, their families and unpaid carers are aware of how they can give feedback or make a complaint, and the support that is available for them to do so. We will ensure that the practice team is aware of this procedure and that our team members know how to handle and record complaints at the early resolution stage.

Where apologies are made under the procedure, the Apologies (Scotland) Act applies to those apologies. The procedure is intended to operate alongside the duty of candour in the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 and related Regulations, once this is in force.

This complaints handling procedure is based on the human rights principles of:

* Participation: everyone has the right to participate in decisions which affect them, including issues of accessibility and the provision of information that people can understand.
* Accountability: service providers have a duty to the public, patients and staff to investigate complaints and seek effective remedies.
* Non-discrimination and equality: the complaints process is available to everyone and vulnerable or marginalised groups are supported to participate in the process.
* Empowerment: everyone should be aware of their rights, the complaints process and be involved in the process to reach an effective remedy.
* Legality: the complaints process identifies and upholds the human rights of partners, staff, patients and others and is in accordance with the requirements of all relevant legislation. It aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff.

# What is a complaint?

Eyemouth Medical Practice use the following definition of a complaint :

‘An expression of dissatisfaction by one or more members of the public about the organisation's action or lack of action, or about the standard of service provided by or on behalf of the organisation.’

A complaint may relate to:

* care and/or treatment
* delays
* failure to provide a service
* inadequate standard of service
* dissatisfaction with the organisation’s policy
* treatment by or attitude of a member of staff
* scheduled or unscheduled ambulance care
* environmental or domestic issues
* operational and procedural issues
* the organisation’s failure to follow the appropriate process
* lack of information and clarity about appointments
* difficulty in making contact with the practice in relation to appointments or queries

This list does not cover everything.

[Appendix 1](#_Appendix_1_-) provides a range of examples of complaints we may receive, and how these may be handled.

Not all issues may be for the practice to resolve. In cases where an individual is unsatisfied with standards of conduct, ethics or performance by an individual health professional, it may be for the respective professional body to investigate. These include, for example the Nursing and Midwifery Council and the General Medical Council. Where serious concerns about a registered healthcare worker are identified, a referral to the appropriate professional regulator should be made.

Members of the public, including patients, the general public and those acting on behalf of patients and others may raise issues with relevant NHS bodies or their health service providers, which need to be addressed, but which are not appropriate for an investigation under this Complaints Handling Procedure. Further guidance is provided in the section covering feedback, comments and concerns below.

This complaints procedure does not apply to the following complaints, as set out in Regulations:

* a complaint raised by one NHS body about the functions of another NHS body
* a complaint raised by a service provider about any matter connected with the contract or arrangements under which that service provider provides health services
* a complaint raised by an employee of an NHS body about any matter relating to that employee’s contract of employment
* a complaint which is being or has already been investigated by the Scottish Public Services Ombudsman (SPSO)
* a complaint arising out of an alleged failure to comply with a request for information under the Freedom of Information (Scotland) Act 2002(a)
* a complaint about which the person making the complaint has commenced legal proceedings (whether or not these have concluded), or where the feedback and complaints officer considers that legal proceedings are so likely that it would not be appropriate to investigate the complaint under this procedure
* a complaint about which an NHS body is taking or proposing to take disciplinary proceedings against the person who is the subject of the complaint
* a complaint, the subject matter of which has previously been investigated and responded to

In these cases, there is a separate procedure available which is better placed to carry out the investigation, indeed in many cases a separate investigation may already be underway. If a complaint is raised which is within one of these categories, the practice will write to the individual, explaining the reason that this complaints procedure does not apply and the procedure the individual should use to raise the matter with the appropriate person or body. You may send this explanation electronically, provided that the person making the complaint has consented to this in writing, and has not withdrawn their consent.

This complaints procedure offers a person-centred and effective way of ensuring that complaints are thoroughly investigated and that areas for learning and improvement are identified and actioned. You should offer to resolve someone’s complaint using the NHS complaints procedure, even where the person has stated (in writing or otherwise) that they intend to take legal proceedings. If, however, you are satisfied that the person has considered the NHS complaints procedure but nonetheless clearly intends to take legal action, then you may decide not to apply this complaints procedure to that complaint.

Additionally, this complaints procedure should not be used in the following circumstances:

* to consider a routine first-time request for a service
* a request for a second opinion in respect of care or treatment
* matters relating to private health care or treatment
* matters relating to services not provided by or funded by the NHS

You must not treat these issues as complaints, rather you should explain how the matter will be handled, and where appropriate direct the person raising the issue to use the applicable procedure where there is one. You must always consider how best to investigate, respond to and, where appropriate, resolve the issue.

*A patient attends an outpatient Cardiology appointment at the Borders General Hospital. The patient is dissatisfied with the consultation and uncertain about the treatment recommendations made. The patient consults with a GP to report their concerns. This matter* ***does*** *represent a complaint with regard to a service provided by NHS Borders but should not be handled under this* ***practice*** *procedure. The patient should be advised to contact NHS Borders to raise their complaint with the appropriate organisation. The GP could also suggest that the patient may wish to request a second clinical opinion.*

**We value all forms of feedback**

The practice encourages all forms of feedback, positive and negative, and will use it to continuously improve services. The Patient Rights (Scotland) Act 2011 introduces a right for people to give feedback or comments to, or raise concerns or complaints with, NHS Boards and service providers. Feedback, comments and concerns are not complaints. They should be handled in line with the Patient Rights (Scotland) Act 2011, and the associated Regulations and Directions. Further guidance on handling and learning from feedback, comments and concerns is available in the ‘Can I Help You’ good practice guidance document.

It is necessary for team members to be able to distinguish between feedback, comments, concerns and complaints to ensure that any issues raised are handled through the appropriate procedures. Where an issue raised is clearly not a complaint, the practice should make arrangements to have the issue handled through the appropriate process and feed this back to the person raising the issue. The following paragraphs provide more information on feedback, comments and concerns.

### Feedback

Feedback may be in the form of views expressed orally or in writing as part of a survey, patient questionnaires, through the Patient Advice and Support Service (PASS), or initiatives such as patient experience surveys or via stakeholder electronic portals. The feedback may describe the person or carer's individual experience of using NHS services and may include suggestions on things that could have been done better or identify areas of good practice.

### Comments

Comments may be comments, compliments, feedback or observations offered orally or in writing for example on ward or hospital suggestion cards or through PASS, which reflect how someone felt about the service.

### Concerns

Concerns may be expressed in relation to proposed treatment or about any aspect of the service, from timing of appointments to getting to hospital for the proposed treatment or the actual treatment received. An example may be where someone has been referred to a consultant and is concerned about what this means. Concerns of this nature fall short of a complaint as the person is not expressing dissatisfaction. The person simply wishes to be fully informed about what is to happen.

People may need reassurance or further explanation and information to help them understand why the healthcare provider is suggesting a particular course of action. Members of the practice should be alert to this and ensure that explanations are given and advice on additional support services is available and accessible to everyone.

It is particularly important for the practice team to use their discretion and judgement in supporting people to decide whether a matter is a concern or a complaint. The best way to do this is by talking to the person raising the issue to explain how concerns and complaints are handled and responded to. There may be circumstances where the nature of the concern is sufficiently serious to warrant full investigation under this complaints procedure. Even where the person states that they do not want to complain, if you are satisfied that the matter is clearly a complaint you should record it as such. If staff members are in any doubt they should seek advice from the Feedback and Complaints Officer.

The manner in which the matter is communicated to Eyemouth Medical Practice will often help you to decide if it is a concern or a complaint. A matter may be communicated in a matter of fact way, for example ‘I am a little surprised at being in a mixed sex ward. I think you should put me in an all-female ward’. This is likely to be recorded as a concern. However, the same matter may be reported as ‘I am very angry that you have put me in a ward with all these men. I feel humiliated and I refuse to accept this. Get me into an all-female ward now or I will call my son to come and take me home’. Given the way this matter is reported, you may decide that it is a complaint. [Appendix 3](#_Appendix_3:_) includes a ‘Feedback, Comments, Concerns or Complaints Assessment Matrix’ which can be used where necessary to help you differentiate between these and decide how to proceed.

A concern should be responded to within five working days. It is important that, where you determine that a matter is a concern (rather than a complaint) and the person raising the issue remains unhappy with your response to that concern, you handle any subsequent action as a complaint. As you will already have attempted to resolve the person’s concern, the early resolution stage of the complaints procedure is not an appropriate stage to consider the matter further. The matter should, therefore, be handled directly at the investigation stage of the complaints procedure.

[Appendix 2](#_Appendix_2_-) provides examples of matters that may be considered as concerns.

## Publication

In accordance with the Complaints Directions, relevant NHS bodies must publish annual summaries of the action which has been or is to be taken to improve services as a result of feedback, comments and concerns received in the year.

*The practice completes a quarterly summary of complaints to Primary & Community Services at NHS Borders.*

## Primary Care service providers

Primary Care service providers should take every opportunity to resolve complaints quickly and locally, and at the point of contact wherever possible. Early resolution is the most effective way of resolving the majority of complaints and should be attempted where the issues involved are straightforward and potentially easily resolved, requiring little or no investigation. Resolving complaints early and locally helps to minimise costs as well as resolving a person’s dissatisfaction. The fewer people involved in responding to a complaint, and the quicker a response is given, the lower the cost of that complaint to the Primary Care service provider in terms of resources and potential redress.

However, where the person making the complaint feels unable to make direct contact with the Primary Care service provider the complaint can, in exceptional circumstances, be made to the appropriate relevant NHS body directly (this will normally be the NHS Board). The NHS body should nominate the Feedback and Complaints Officer, or other suitable officer to carefully consider the reasons for asking the body to handle the complaint. Where the body considers it appropriate, the person making the complaint should be encouraged to contact the Primary Care service provider by explaining the value of early and local resolution. Where the NHS body recognises that it would not be appropriate, or possible, for the person making the complaint to complain directly to the Primary Care service provider (for example there has been an irreconcilable breakdown in the relationship between the respective parties), contact should be made with the Primary Care service provider to agree the way in which the complaint will be managed, and the person making the complaint should be advised accordingly. At this point, consideration may be given to mediation, if both parties agree. Where agreement cannot be reached it will be for the relevant NHS body to determine how the complaint should be managed. The person making the complaint must be advised of the arrangements that are made.

In handling complaints we will have regard to the General Medical Council (GMC)’s standards to help to protect patients and improve medical education and practice in the UK. Specifically that ‘patients who complain about the care or treatment they have received have a right to expect a prompt, open, constructive and honest response including an explanation and, if appropriate, an apology’. Therefore, the person making the complaint can expect an apology to include what happened, what action we will take to resolve the matter and what will be done to prevent a similar occurrence happening in the future.

## Financial compensation

The NHS complaints procedure does not provide for financial compensation. The independent Patient Advice and Support Service may be able to advise anyone who is seeking compensation where to get information about specialist solicitors who handle medical negligence claims.

It may also be appropriate to advise those who seek financial compensation that they may contact Action against Medical Accidents (AvMA), or the Law Society of Scotland. AvMA provides free independent advice and support to people affected by medical accidents while the Law Society of Scotland can provide contact details of law firms throughout Scotland that may specialise in claims for medical compensation.

## Handling anonymous complaints

The practice values all complaints. This means we treat all complaints including anonymous complaints seriously and will take action to consider them further, wherever this is appropriate. All anonymous complaints are subject to this procedure. A GP partner will make a decision on appropriate action to take based on the nature of information provided about the anonymous complaint and any other relevant factors, for example consent issues. If, however, an anonymous complaint does not provide enough information to enable us to take further action, or to contact the complainant, we may decide that we are unable to complete the investigation. Any decision not to investigate an anonymous complaint must be authorised by a partner.

Information about, and decisions made regarding all anonymous complaints will be recorded on the annual complaints summary spreadsheet (to the extent that the information is available) to allow consideration of any action necessary. If the practice pursues an anonymous complaint further, we will record the issues (to the extent that the information is available), actions taken and outcome. This will help to ensure the completeness of the complaints data we record and allow us to take corrective action where appropriate.

## Whistleblowing

Whistleblowing is defined in the Public Services Reform (Scottish Public Services Ombudsman) Healthcare Whistleblowing Order 2020 as:

*"when a person who delivers services or used to deliver services on behalf of a health service body, family health service provider or independent provider (as defined in section 23 of the Scottish Public Services Ombudsman Act 2002) raises a concern that relates to speaking up, in the public interest, about an NHS service, where an act or omission has created, or may create, a risk of harm or wrong doing."*

This includes an issue that:

• has happened, is happening or is likely to happen

• affects the public, other staff or the NHS provider (the organisation) itself

Anyone who provides services for or on behalf of the NHS can raise a concern, i.e. speaking up or whistleblowing. This includes current (and former) employees, agency workers (and others on short or insecure contracts such as locums and bank staff), contractors (including third-sector service providers), trainees and students, volunteers, non-executive directors, and anyone working alongside NHS staff, such as those in health and social care partnerships. A person raising a whistleblowing concern has usually witnessed an event, but they may have no direct personal involvement in the issue they are raising.

Whistleblowing concerns raised within the NHS must be handled in line with the National Whistleblowing Standards. These Standards have the same function for whistleblowing as the NHS Complaints Handling Procedure has for complaints. The SPSO also has the role of Independent National Whistleblowing Officer (INWO), and provides the third stage, independent review for whistleblowing concerns.

It is important to identify where a non-whistleblowing issue is raised by someone who provides services for the NHS; i.e. the issue is about their experience as a service user / patient or where they are raising an issue on behalf of a service user / patient. We should consider carefully whether the issue more properly falls under the definition of a complaint (an expression of dissatisfaction about the NHS organisation's action or lack of action, or about the standard of service provided by or on behalf of the organisation) and should be handled under the complaints handling procedure (CHP).

Where an issue raised in a complaint overlaps with issues raised under the whistleblowing process, we still need to respond to the complaint through the CHP.

The complaint response must not share confidential information (such as anything about the whistleblowing procedure, personal data of anyone involved, or outcomes for individual staff members). It should focus on whether we failed to meet service standards, where relevant, or expected standards and what we have done to improve things, in general terms.

Staff investigating such complaints will need to take extra care to ensure that:

• they comply with all requirements of the CHP in relation to the complaint (as well as recognising if they also, or alternatively, meet the requirements of the whistleblowing process)

• all complaint issues are addressed (sometimes issues can get missed if they are not also relevant to the overlapping whistleblowing process)

• records of the complaint investigation are kept and can be made available to the SPSO if required. Consideration must be given to whether there is confidential whistleblowing related information. If there is, but it is also relevant to the complaint, SPSO will still normally require details of any correspondence and interviews to show how conclusions were reached. Staff will need to bear this in mind when planning and recording the service complaint investigation, especially elements that might overlap with the whistleblowing process (for example, if staff are interviewed for the purposes of both the complaint and the whistleblowing process, they should be told that any evidence given may be made available to both the SPSO and/ or the INWO).

The SPSO’s report “Making Complaints Work for Everyone” has more information on supporting staff who are the subject of complaints.

## Significant Adverse Events Review

Healthcare Improvement Scotland (HIS) defines an adverse event as an event that could have caused (a near miss), or did result in, harm to people or groups of people. The response to each adverse event should be proportionate to its scale, scope, complexity and opportunity for learning. Our organisation has its own procedures to manage adverse events whereby significant events are recorded on a template document. These are discussed at weekly practice management meetings. Staff are also required to discuss any relevant SEAs at their annual appraisal. GPs will include SEAs as part of the annual appraisal process.

A complaint handled at the investigation stage of the complaints handling procedure may clearly meet the organisation’s criteria for managing significant adverse events. For example, where the complaint is about the safety of care, and the organisation has a duty to proceed with an adverse event review, irrespective of whether a complaint has been made. Where, based on a complaint, it is deemed appropriate to undertake a Significant Adverse Events Review (SAER), we will advise the person making the complaint of this decision. It is for a GP partner to decide whether the complaint investigation should continue in parallel with the SAER, or whether it is appropriate to allow the SAER to take account of the complaint(s) as part of the review. It is important to note that the SAER does not replace the complaints investigation, although the investigation timeline may have to be extended. The partner will explain the basis for making the decision, and advise the patient of the revised timescales. The partner will also tell them they will have the right to ask SPSO to consider their complaint further if they remain dissatisfied at the conclusion of the adverse event review process. The practice will let the person know the outcome of the review, taking account of the best practice guidance for closing a complaint at the investigation stage and record all the details on the annual complaints summary spreadsheet.

## Patient Opinion

Patient Opinion, with the linked site Care Opinion, provides an independent online service which allows patients, their families and carers to provide feedback (good or bad) on their experiences of health care provision. This service enables patients to post their experience online and to engage in a dialogue with healthcare providers that is focussed on service improvement.

Feedback from Patient Opinion will include general feedback, comments, concerns and complaints. Where the feedback clearly meets the practice definition of a complaint and there is sufficient information provided to handle the matter through the complaints procedure, the complaint should be recorded and handled as a complaint.

## Who can make a complaint?

Anyone who is or is likely to be affected by an act or omission of an NHS body or health service provider can make a complaint. Sometimes a person making the complaint may be unable or reluctant to do so on their own. We will accept complaints brought by third parties as long as the person making the complaint has authorised the person to act on their behalf.

Where a complaint is made on behalf of another person, in accordance with the common law duty of confidentiality and data protection legislation, we must ensure that, in addition to authorising another person to act on their behalf, the person has also consented to their personal information being shared as part of the complaints handling process. In circumstances where no such consent has been given, the body would have to take that into account when handling and responding to the complaint (and is likely to be constrained in what it can do in terms of investigating any such complaint).

## What if the person raising the issue does not want to complain?

If a person expresses dissatisfaction in line with our definition of a complaint but does not want to complain, tell them that we do consider all expressions of dissatisfaction, and that complaints offer us the opportunity to improve services where things have gone wrong. Encourage the person raising the issue to submit a complaint and allow us to deal with it through the complaints handling procedure. This will ensure that they are updated on the action taken and get a response to their complaint.

If, however, the person insists they do not wish to complain, you should record the complaint as being resolved at the early resolution stage of this procedure. This will ensure the completeness of the complaints data recorded and will still allow us to fully consider the matter and take corrective action where appropriate. Doing so will also ensure that the person has the opportunity to pursue the complaint at the investigation stage of the procedure should they subsequently raise the matter again.

## Complaints involving more than one NHS service or organisation

If someone complains about the service of another NHS Board or Primary Care service provider, and our organisation has no involvement in the issue, the person should be advised to contact the relevant Board or service provider directly.

There may be occasions where a complaint relates to two (or more) NHS bodies, however, each aspect of the complaint relates specifically to one, or other of the organisations. This could be, for example a complaint about two separate GP practices if a patient has moved areas. Where this occurs it is important to communicate clearly with the person making the complaint to explain, and agree how the complaint will be handled. Where this applies each organisation should record, handle and respond to the complaint about the service they provided and let the complainant know that they will receive two separate responses.

## Overlap with other duties on NHS bodies

NHS bodies are subject to a range of other duties in respect of honesty and openness about the services and care they provide. The Apologies (Scotland) Act 2016 is intended to encourage apologies being made by making it clear that apologising is not the same as admitting liability. An apology means any statement made indicating that the person is sorry about or regrets an act or omission or outcome. It also covers an undertaking to look into what happened with a view to preventing it happening again. In meeting the requirements of this complaints procedure we will apologise where appropriate and make sure that we are open and honest with people when an unintended or unexpected incident resulting in death or harm has happened. Most apologies made in the course of provision of NHS services, or in the course of resolving or investigating a complaint about an NHS service, will be subject to the provisions of the Apologies (Scotland Act) 2016.

The Duty of Candour procedure[[1]](#footnote-1) may also be applied in circumstances which give rise to a complaint. This procedure will ensure that people will be told what happened, receive an apology, be told what will be done in response and how actions will be taken to stop a future reoccurrence.

Apologies which are made in accordance with the Duty of Candour procedure will, by virtue of section 23 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, also not amount to an admission of negligence or breach of duty.

## Complaints that span health and social care services

From 1 April 2017, the health and social work complaints handling procedures will be aligned and will therefore have the same stages and timescales, with the exception of timescale extensions.

If a person raises a complaint about a health service and a social care or social work service the response will depend on whether these services are being delivered through a single, integrated health and social care partnership.

Where these services are integrated, you must work together with the health and social care partnership staff to resolve the complaint. In this event, the practice will identify and respond to issues related to the services provided by the practice. Issues related to another health service, social care or social work service will be clearly identified and the practice will advise the complainant how to raise their concerns with the external organisations involved. The practice will liaise with other organisations to ensure a comprehensive and complete response.

Where health and social work or social care services are not integrated, for example the relevant local authority provides a social work or social care service, independent of any health service provision, the person will need to direct their communications about social care or social work separately to the local authority. You must tell the person making the complaint which issues you will respond to, and direct them to the appropriate person to handle those relating to social work and care.

In either case, it is important to bear in mind that:

* the Care Inspectorate can investigate complaints about social care services provided by registered care providers, even if they have not yet gone through the local complaints handling procedure, and customers should be informed of this option; and
* social work services must handle complaints according to the social work complaints handling procedure, which is largely in line with this complaints handling procedure.

Integration Joint Boards must have a separate complaints handling procedure for handling complaints about their functions. This will be broadly in line with this complaints handling procedure.

# The complaints handling process

Our complaints handling procedure aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff.

Our complaints process provides two opportunities to resolve complaints internally:

* early resolution
* investigation

**The NHS Model Complaints Handling Procedure**

**Early Resolution**

**5 working days**

**For issues that are straightforward and easily resolved, requiring little or no investigation.**

‘On-the-spot’ apology, explanation, or other action to resolve the complaint quickly, in five working days or less, unless there are exceptional circumstances.

Complaints addressed by any member of staff, or alternatively referred to the appropriate point for **Early Resolution**.

Complaint details, outcome and action taken recorded and used for service improvement.

**Independent External Review**

**Ombudsman**

**For issues that have not been resolved.**

Complaints progressing to the Ombudsman will have been thoroughly investigated by the practice.

The Ombudsman will assess whether there is evidence of service failure, maladministration and issues in respect of clinical judgement.The Ombudsman will also assess how the complaint has been handled by the practice.

**Investigation**

**20 working days**

**For issues that have not been resolved at the early resolution stage or that are complex, serious or ‘high risk’.**

**A definitive response provided within 20 working** days following a thorough investigation of the points raised.

Ability to extend the timescale exists in CHP.

Responses signed off by Practice Manager or Partner.

Practice has an active interest in complaints and uses information gathered to improve services.

For clarity, the term ‘early resolution’ refers to the first stage of the complaints process. It does not reflect any job description or role within the practice but means seeking to resolve complaints at the initial point of contact where possible.

### What to do when you receive a complaint

1 On receiving a complaint, you must first decide whether the issue can indeed be defined as a complaint. The person making the complaint may express dissatisfaction about more than one issue. This may mean you treat one element as a complaint, while directing the person to pursue another element through an alternative route (see [Appendix 2](#_Appendix_2_-)).

2 If you have received and identified a complaint, record the details on the annual complaints summary spreadsheet.

3 Next, decide whether or not the complaint is suitable for early resolution. Some complaints will need to be fully investigated before you can give a suitable response. You must handle these complaints immediately at the investigation stage.

4 Where you think early resolution is appropriate, you must consider four key questions:

* what exactly is the person's complaint (or complaints);
* what do they want to achieve by complaining;
* can I achieve this, or explain why not; and
* if I cannot resolve this, who can help with early resolution?

|  |
| --- |
| **What exactly is the person’s complaint (or complaints)?**Find out the facts. It is important to be clear about exactly what the person is complaining of. You may need to ask for more information and probe further to get a full picture. |
| **What do they want to achieve by complaining?**At the outset, clarify the outcome the person wants. Of course, they may not be clear about this, and you may need to probe further to find out what they want, and whether the expected outcome can be achieved. It may also be helpful to signpost people who complain to PASS at this point as advisers can often help clients think about their expectations and what is a realistic / reasonable outcome to expect. |
| **Can I achieve this, or explain why not?**If you can achieve the expected outcome by providing an on-the-spot apology or explain why you cannot achieve it, you should do so.The person making the complaint may expect more than we can provide, or a form of resolution that is not at all proportionate to the matter complained about. If so, you must tell them as soon as possible. An example would be where someone is so dissatisfied with their experience at a flu vaccination clinic that they want the Senior Partner to resign.You are likely to have to convey the decision face to face or on the telephone. If you do this, you are not required to write to the person as well, although you may choose to do so. It is important, however, to record full and accurate details of the decision reached and passed to the person, and to ensure that they understand the outcome. You must also advise them of their right to have the complaint escalated to stage 2 of the complaints procedure if they are not satisfied with the outcome at the early resolution stage. |
| **If I cannot resolve this, who can help with early resolution?**If you cannot deal with the complaint because, for example, you are unfamiliar with the issues or area of service involved, tell the person this and pass details of the complaint to someone who can attempt to resolve it. Keep the person making the complaint informed about what has happened to their complaint and who is responsible for taking it forward. |

## Stage one: early resolution

Early resolution aims to resolve straightforward complaints that require little or no investigation at the earliest opportunity. This should be as close to the point of service delivery as possible. Any member of staff may deal with complaints at this stage. In practice, early resolution means resolving the complaint at the first point of contact with the person making the complaint. This could mean a face-to-face discussion with the person or it could mean asking an appropriate member of staff to deal directly with the complaint. In either case, you may settle the complaint by providing an on-the-spot apology where appropriate, or explaining why the issue occurred and, where possible, what will be done to stop this happening again. You may also explain that, as an organisation that values complaints, we may use the information given when we review service standards in the future.

Anyone can make a complaint. They may do so in writing, in person, by telephone, by email or online or by having someone complain on their behalf. You must always consider early resolution, regardless of how you have received the complaint.

[Appendix 1](#_Appendix_1_-) gives examples of the types of complaint we may consider at this stage, with suggestions on how to resolve them.

### Timelines

Early resolution must usually be completed within **five working days**, although in practice we would often expect to resolve the complaint much sooner.

### Extension to the timeline

In exceptional circumstances, where there are clear and justifiable reasons for doing so, you may agree an extension of no more than five additional working days with the person making the complaint. This must only happen when an extension will make it more likely that the complaint will be resolved at the early resolution stage.

For example, you may need to get more information from colleagues to resolve the complaint at this stage. However, it is important to respond within the applicable time to the person making the complaint, either resolving the matter and agreeing with the person that this has been achieved, or explaining that their complaint is to be investigated.

When you ask for an extension, you must get authorisation from the Practice Manager or a Partner, who will decide whether you need an extension to effectively resolve the complaint. Examples of when this may be appropriate include staff or partners being temporarily unavailable. You must tell the person making the complaint about the reasons for the delay, and when they can expect your response.

Where, however, the issues are so complex, and it is clear that they cannot be resolved within an extended five day period, you should escalate the complaint directly at the investigation stage.

It is important that extensions to the timeline do not become the norm. Rather, the timeline at the early resolution stage should be extended only rarely. All attempts to resolve the complaint at this stage must take no longer than **ten working days** from the date you receive the complaint.

The proportion of complaints that exceed the five working days timeline at the early resolution stage will be evident from review of the annual complaints summary spreadsheet. These statistics will be reviewed at each partnership meeting (held 3 or 4 times / year).

[Appendix 4](#_Appendix_5_-) provides further information on timelines.

### Closing the complaint at the early resolution stage

When you have informed the person making the complaint of the outcome at early resolution, you are not obliged to write to them, although you may choose to do so. You must ensure that our response to the complaint addresses all areas that we are responsible for and explains the reasons for our decision. It is also important to keep a full and accurate record of the decision reached and given to the person. The complaint should then be closed and the complaints system updated accordingly. The outcome of a complaint should be categorised as upheld, not upheld or partially upheld (see Appendix 6, indicator 6). In closing the complaint, the date of closure is the date that the outcome of the complaint at the early resolution stage is communicated to the person making the complaint.

### When to escalate to the investigation stage

A complaint must be handled at the investigation stage when:

* early resolution was tried but the person making the complaint remains dissatisfied and requests an investigation into the complaint. This may be immediately on communicating the decision at the early resolution stage or could be some time later or
* satisfactory early resolution will not be possible as the complainant has clearly insisted that an investigation be conducted.

Complaints should be handled directly at the investigation stage, without first attempting early resolution, when:

* the issues raised are complex and require detailed investigation; or
* the complaint relates to serious, high-risk or high-profile issues.

When a complaint is closed at the early resolution stage, but is subsequently escalated to the investigation stage of the procedure, it is important that the complaint outcome is updated on the complaints system, and the complaint moved to stage 2. A new complaint should not be recorded.

It is also important to take account of the time limit for making complaints when a person asks for an investigation after early resolution has been attempted. The timescale for accepting a complaint as set out in the Regulations is within six months from the date on which the matter of the complaint comes to the person’s notice.

While attempting early resolution always take particular care to identify complaints that on fuller examination might be considered serious, high risk or high profile, as these may require particular action or raise critical issues that need Practice Manager or Partner input.

## Stage two: investigation

Not all complaints are suitable for early resolution and not all complaints will be satisfactorily resolved at that stage. Complaints handled at the investigation stage of the complaints handling procedure are typically serious or complex, and require a detailed examination before we can state our position. These complaints may already have been considered at the early resolution stage or they may have been identified from the start as needing immediate investigation.

An investigation aims to establish all the facts relevant to the points made in the complaint and to give the person making the complaint a full, objective and proportionate response that represents our final position.

### What to do when you receive a complaint for investigation

It is important to be clear from the start of the investigation stage exactly what you are investigating and to ensure that both the person making the complaint and the service understand the investigations scope.

If this has not been considered at the early resolution stage, you should discuss and confirm these points with the person making the complaint at the outset, to establish why they are dissatisfied and whether the outcome they are looking for sounds realistic. In discussing the complaint with the person, consider three key questions:

1. What specifically is the person’s complaint or complaints?
2. What outcome are they looking for by complaining?
3. Are the person's expectations realistic and achievable?

It may be that the person making the complaint expects more than we can provide. If so, you must make this clear to them as soon as possible.

Where possible you should also clarify what additional information you will need to investigate the complaint. The person making the complaint may need to provide more evidence to help us reach a decision.

You should find out what the person’s preferred method of communication is, and where reasonably practicable communicate by this means.

Details of the complaint must be recorded on the annual complaints summary spreadsheet. Where applicable, this will be done as a continuation of the record created at early resolution without the creation of a new complaint. The details must be updated when the investigation ends.

If the investigation stage follows attempted early resolution, you must ensure you have all case notes and associated information considered at the early resolution stage. You must also record that this information has been obtained.

### Contact with the person making the complaint at the start of the investigation

To effectively investigate a complaint, it is often necessary to have a discussion with the person making the complaint to be clear about exactly what the complaint or complaints relate to, understand what outcome the person making the complaint is looking for by complaining, and assess if these expectations are realistic and achievable. This may be by a telephone discussion or it may be appropriate to arrange a meeting between appropriate NHS staff and the person making the complaint. This will provide the opportunity to explain how the investigation will be conducted, and to manage the person’s expectations in regard to the outcomes they are looking for.

### Timelines

The following deadlines are set out in the Regulations for cases at the investigation stage:

* complaints must be acknowledged within three working days; and
* you should provide a full response to the complaint as soon as possible but not later than 20 working days, unless an extension is required.

### Acknowledgements

The Complaints Directions set out what must be included in a written acknowledgement of a complaint, which is as follows:

* contact details of the Feedback and Complaints Officer
* details of the advice and support available including the PASS
* information on the role and contact details for the SPSO
* a statement confirming that the complaint will normally be investigated, and the report of the investigation sent to the complainant, within 20 working days or as soon as reasonably practicable and
* a statement advising that, should it not be possible to send a report within 20 working days, the person making the complaint will be provided with an explanation as to why there is a delay and, where possible, provided with a revised timetable for the investigation.

When advising the person making the complaint about the role and contact details of the SPSO, it should also be explained that if they remain dissatisfied at the end of the complaints process, they can ask the SPSO to look at their complaint, and that further information about this will be provided with the final decision on the complaint.

When issuing the acknowledgement letter you should issue it in a format which is accessible to the person making the complaint. You should also consider including the following points, where relevant to the complaint:

* thank the person making the complaint for raising the matter;
* summarise your understanding of the complaint made and what the person making the complaint wants as an outcome (this information will be available to you from your actions at ‘What to do when you receive a complaint’ as documented above);
* where appropriate the initial response should express empathy and acknowledge the distress caused by the circumstances leading to the complaint;
* outline the proposed course of action to be taken or indicate the investigations currently being conducted, stressing the rigour and impartiality of the process;
* offer the opportunity to discuss issues with a Partner
* request that a consent form is completed where necessary
* provide information on alternative dispute resolution services and other support service such as advocacy
* provide a copy of the ‘Public Facing Complaints Handling Procedure’ if this has not already been issued.

You may send the letter electronically, provided that the person making the complaint has consented to this in writing, and has not withdrawn their consent.

During the course of the investigation, you should, where possible ensure that the person making the complaint, and anyone involved in the matter which is the subject of the complaint, is informed of progress and given the opportunity to comment.

### Meeting with the person making the complaint during the investigation

To effectively investigate the complaint, it may be necessary to arrange a meeting with the person making the complaint. Where a meeting takes place, we will always be mindful of the requirement to investigate complaints within 20 working days wherever possible. There is no flexibility within the Patient Rights (Scotland) Act 2011 to ‘stop the clock’ in the complaints handling process. This means that where required, meetings should always be held within 20 working days of receiving the complaint wherever possible. As a matter of good practice, where meetings between NHS staff and the person making the complaint do take place, a written record of the meeting should be completed and provided to the person making the complaint. Alternatively, and by agreement with the person making the complaint, you may provide a record of the meeting in another format, to suit their communications needs and preferences. You should discuss and agree with the person making the complaint, the timescale within which the record of the meeting will be provided.

### Extension to the timeline

It is important that every effort is made to meet the timescales as failure to do so may have a detrimental effect on the person making the complaint. Not all investigations will be able to meet this deadline, however, and the Regulations allow an extension where it is necessary in order to complete the investigation. For example, some complaints are so complex that they require careful consideration and detailed investigation beyond the 20 working day limit. However, these would be the exception and you must always try to deliver a final response to a complaint within 20 working days.

If there are clear and justifiable reasons for extending the timescale, the Practice Manager or a Partner will set time limits on any extended investigation, as long as the person making the complaint agrees. You must keep them updated on the reason for the delay and give them a revised timescale for completion. If the person making the complaint does not agree to an extension but it is necessary and unavoidable, then the Practice Manager or a Partner must consider and confirm the extension.

The reasons for an extension might include the following:

* essential accounts or statements, crucial to establishing the circumstances of the case, are needed from staff, patients or others but they cannot help because of long-term sickness or leave;
* you cannot obtain further essential information within normal timescales;
* operations are disrupted by unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions; or
* the person making the complaint has agreed to mediation as a potential route for resolution.

These are only a few examples, and you must judge the matter in relation to each complaint.

As with complaints considered at the early resolution stage, the proportion of complaints that exceed the 20 working day limit will be evident from the annual complaints summary spreadsheet. These statistics will be reviewed at each partnership meeting (held 3 or 4 times / year).

If you are handling a complaint spanning health and social care services and the health aspects have been resolved but the social care aspects require an extension to continue investigation, you must tell the person that you are not yet in a position to respond to all aspects of the complaint and tell them when you will do so.

[Appendix 4](#_Appendix_3_-) provides further information on timelines.

### Mediation

Some complex complaints, or complaints where the person making the complaint and other interested parties have become entrenched in their position, may require a different approach to resolution. Where appropriate, you may consider using services such as mediation or conciliation, using suitably trained and qualified mediators to try to resolve the matter and to reduce the risk of the complaint escalating further.

Mediation will help both parties to understand what has caused the complaint, and so is more likely to lead to mutually satisfactory solutions. It can be particularly helpful in the context of complaints about primary care providers, and the Directions set out that Boards *must* provide alternative dispute resolution services in these circumstances, if both the person making a complaint about a primary care provider, and the person subject to the complaint, agree that it should be provided.

If you and the person making the complaint agree to mediation an extension to the investigation period is likely to be necessary and, revised timescales should be agreed.

###

### Closing the complaint at the investigation stage

In terms of best practice, the complaints process should always be completed by the Feedback and Complaints Manager. They must ensure that all necessary investigations and actions have been taken.

You must let the person making the complaint know the outcome of the investigation, in writing, and also, if applicable, by their preferred alternative method of contact. Our response to the complaint must address all areas that we are responsible for and explain the reasons for our decision. You must record the decision, and details of how it was communicated to the person making the complaint, on the annual complaints summary spreadsheet. The outcome of a complaint should be categorised as upheld, not upheld or partially upheld (see Appendix 6, indicator 6). In accordance with the Complaints Directions, the report must include the conclusions of the investigation and information about any remedial action taken or proposed as a consequence of the complaint. The report must be signed by either a Practice Manger or a Partner*.* You may send this report electronically, provided that the person making the complaint has consented to this in writing, and has not withdrawn their consent.

The quality of the report is very important and in terms of best practice should:

* be clear and easy to understand, written in a way that is person-centred and non-confrontational
* avoid technical terms, but where these must be used to describe a situation, events or condition, an explanation of the term should be provided
* address all the issues raised and demonstrate that each element has been fully and fairly investigated
* include an apology where things have gone wrong
* highlight any area of disagreement and explain why no further action can be taken
* indicate that a named member of staff is available to clarify any aspect of the letter
* indicate that if they are not satisfied with the outcome of the local process, they may seek a review by the Scottish Public Services Ombudsman. Details of how to contact the Ombudsman’s office should be included in the response.

### Meetings and post decision correspondence with the person making the complaint

As previously noted, it is often appropriate to meet with the person making the complaint at the outset of the investigation in order to fully understand the complaint, what the person making the complaint wants to achieve by complaining and to explain how the complaint will be handled.

A request for a meeting may also be received once the person making the complaint receives the decision on their complaint. The circumstances in which a meeting may be requested after the decision letter has been received include:

1. The person requests further explanation or clarification of the decision or suggests a misunderstanding of the complaint in terms of the response.
2. The person does not agree with some or all of the response in terms of the investigation’s findings or conclusions or with the decision on the complaint.
3. A combination of points 1 and 2 above, where for example the person suggests the complaint has not been fully understood and the decision is erroneous even in the aspects that have been properly considered.

It should be made clear that such a meeting is for explanation only and not a reinvestigation or reopening of the complaint.

### Independent external review

Once the investigation stage has been completed, the person making the complaint has the right to approach the SPSO if they remain dissatisfied.

The SPSO considers complaints from people who remain dissatisfied at the conclusion of our complaints procedure. The SPSO looks at issues such as service failures and maladministration (administrative fault), clinical decisions and the way we have handled the complaint.

The SPSO recommends that you use the wording below to inform people of their right to ask SPSO to consider the complaint.

|  |
| --- |
| **Information about the SPSO**The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about public services in Scotland. This includes complaints about the NHS in Scotland. If you remain dissatisfied with an NHS board or service provider after its complaints process has concluded, you can ask the SPSO to look at your complaint. The SPSO cannot normally look at complaints:* where you have not gone all the way through the complaints handling procedure
* more than 12 months after you became aware of the matter you want to complain about, or
* that have been or are being considered in court

The SPSO's contact details are:SPSOBridgeside House 99 McDonald Road Edinburgh EH7 4NSTheir freepost address is: **FREEPOST SPSO**Freephone: **0800 377 7330**Online contact [**www.spso.org.uk/contact-us**](http://www.spso.org.uk/contact-us)Website: [**www.spso.org.uk**](http://www.spso.org.uk/) |

#

# Governance of the Complaints Handling Procedure

## Roles and responsibilities

Our staff are trained and empowered to make decisions on complaints at the early resolution stage of this procedure. Our final position on a complaint, following a stage 2 investigation, must be signed off by a Practice Manager or Partner and we will confirm that this is our final response. This ensures that our senior management own and are accountable for the decision. It also reassures the person making the complaint that their concerns have been taken seriously.

Overall responsibility and accountability for the management of complaints lies with the practice Partners.

### Partners

The Partners provide leadership and direction in a way that guides and enables practice staff to perform effectively across the organisation. This includes ensuring that there is an effective complaints handling procedure with a robust investigation process that demonstrates how we learn from the complaints we receive. The Partners are likely to take a personal interest in many of the complaints or may delegate responsibility for the complaint handling procedure to Practice Managers. A complaint that proceeds to Level Two will always be overseen by a Partner.

### Practice Managers

On behalf of the Partners, Practice Managers may be responsible for:

* managing complaints especially those suitable for early resolution
* overseeing the implementation of selected actions required as a result of a complaint
* communicating with other staff members regarding a complaint
* documenting complaints on the annual complaints summary spreadsheet
* investigating complaints and gathering relevant information
* assisting the Partners in managing a complaint and / or
* deputising occasionally for the Partners

### Feedback and Complaints Manager

Each relevant NHS body must appoint a Feedback and Complaints Manager, in accordance with the 2012 Regulations. The Feedback and Complaints Manager is responsible for ensuring compliance with the requirements of this procedure. In particular they are responsible for ensuring that feedback, comments, concerns and complaints are monitored with a view to improving performance, and that action is taken as necessary following the outcome or any feedback, comment, concern or complaint. This function will be performed by the Senior Partner with another Partner acting in their absence.

### Feedback and Complaints Officer

According to the 2012 Regulations, each responsible body (including relevant NHS bodies and their service providers) must appoint a Feedback and Complaints Officer to manage the arrangements. The Feedback and Complaints Officer is responsible for the management and handling of feedback, comments, concerns and complaints operationally. This post holder(s) should be of sufficient seniority to be able to deal with any feedback, comments, concerns and complaints quickly and effectively without needing to refer, in all but the most exceptional circumstances, to the feedback and complaints manager. Feedback and complaints officers should be readily accessible to patients, the public and staff. It is important that arrangements are made so that the role of the complaints officer is not interrupted by one individual’s annual or sick leave. This role will be fulfilled by the Practice Manager with the Assistant Practice Manager or a Partner acting as deputy.

The functions of the Feedback and Complaints Officer may be performed personally or delegated to an authorised person as defined by the organisation. Although not intended to be prescriptive, the list below outlines the key duties of the Feedback and Complaints Officer:

* work across the organisation to develop mechanisms for encouraging fast, effective and efficient patient feedback including the use of emerging technology as appropriate;
* operationally manage the administration of this guidance and supporting local policies and procedures ensuring that:
* feedback and complaints recording systems are in place and records kept up to date; and
* organisational learning from the operation of the feedback and complaints process is captured and reported.
* determine whether a complaint is one which should not be investigated under the procedure because of the likelihood that legal action will be raised in respect of the same issue.
* provide specialist advice and support to patients and staff and others on the management of this process, including delivery of local training and awareness raising; have access to advice and support on associated issues, for example patient consent, confidentiality, the operation of related legislation such as the Data Protection Act, access to medical records, Freedom of Information, etc; and
* have an understanding of partner organisations and how to work with them on managing feedback, comments, concerns and complaints.

### All members of the practice team

A complaint may be made to any member of staff in the organisation. So all staff must be aware of the complaints handling procedure and how to handle and record complaints at the early resolution stage. They should also be aware of whom to refer a complaint to, in case they are not able to personally handle the matter. We encourage all staff to try to resolve complaints early, as close to the point of service delivery as possible.

## Complaints about Partners or Practice Managers

Complaints about Partners or Practice Managers can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint. When serious complaints are raised against these individuals, it is particularly important that the investigation is conducted by an individual who is independent of the situation. We must ensure we have strong governance arrangements in place that set out clear procedures for handling such complaints.

## Recording, monitoring, reporting, learning from and publicising complaints

Complaints provide valuable feedback. One of the aims of the complaints handling procedure is to identify opportunities to improve practice services. We must record all complaints in a systematic way using the annual complaints summary spreadsheet so that we can easily analyse the information and review regularly. By recording and using complaints information in this way, we can identify and address the causes of complaints and, where appropriate, identify training opportunities and introduce service improvements.

### Recording complaints

Certain information must be recorded by virtue of the 2012 Regulations and the Complaints Directions, and to comply with SPSO guidance on minimum requirements. Staff should ensure that all complaints are recorded even those resolved at the early resolution stage within five working days (although these do not require an acknowledgement or a written report of the investigation to be sent to the person making the complaint). To collect suitable data, it is essential to record all complaints information as follows:

* the person’s name, address and email address, where that is their preferred method of communication
* the patient’s name and Community Health Index number where relevant
* in the event that the complainant is making the complaint on behalf of another person, whether that other person has given consent for the complaint to be made on his or her behalf
* the date when the complaint was received
* the subject matter of the complaint and the date on which it occurred
* how the complaint was received
* the service the complaint refers to
* the date the complaint was closed at the early resolution stage (where appropriate)
* the date the complaint was escalated to the investigation stage (where appropriate)
* action taken at the investigation stage (where appropriate)
* the date the complaint was closed at the investigation stage (where appropriate)
* the outcome of the complaint at each stage
* the underlying cause of the complaint and any remedial action taken

This information will be recorded on the annual complaints summary spreadsheet.

This will provide a detailed record of services that have failed to satisfy people, and the actions we have taken to improve services as a result.

If, subsequently, the complaint is referred to the SPSO, this may result in a request for all relevant papers and other information to be provided, in good time, to the Ombudsman's office. Complaints records should be kept separate from health records, due to the need to only record information which is strictly relevant to the patient’s health in their health record. These documents will be scanned and stored electronically in a practice, confidential shared folder which the Practice Managers and Partners can access.

### Monitoring complaints

We have arrangements in place to monitor how we deal with the complaints we receive.

We recognise that an increase in the number of complaints should not in itself be a reason for thinking a service is deteriorating. It could mean that our arrangements for handling feedback, comments, concerns and complaints are becoming more responsive. The important point is to ensure that complaints (and feedback, comments and concerns) are handled sympathetically, effectively and quickly and that lessons are learned and result in service improvement.

### Reporting complaints

In accordance with the Complaints Directions, relevant NHS bodies have a responsibility to gather and review information from their own services and their service providers on a quarterly basis in relation to complaints. Service providers also have a duty to supply this information to their relevant NHS body as soon as is reasonably practicable after the end of the three month period to which it relates. Data required for these quarterly reports is outlined in the NHS Complaints Performance Indicators; this includes:

* A statement outlining changes or improvements to services or procedures as a result of consideration of complaints.
* A statement to report the person making the complaint’s experience in relation to the complaints service provided.
* A statement to report on levels of staff awareness and training.
* The total number of complaints received (other than complaints to which this procedure does not apply).
* Complaints closed at stage one and stage two of this procedure as a percentage of all complaints closed.
* Complaints upheld, partially upheld and not upheld at each stage of this procedure as a percentage of complaints closed in full at each stage
* The average time in working days for a full response to complaints at each stage of this procedure.
* The number and percentage of complaints at each stage which were closed in full within the set timescales of 5 and 20 working days.
* The number of complaints at stage 1 where an extension was authorised as a percentage of all complaints at stage 1.
* The number of complaints at stage 2 where an extension was authorised as a percentage of all complaints at stage 2.

Appendix 6 provides further information on these Complaints Performance Indicators.

Complaints details are analysed for trend information to ensure we identify service failures and take appropriate action. Regularly reporting the analysis of complaints information helps to inform management of where services need to improve.

Our regular reporting demonstrates the improvements resulting from complaints and shows that complaints can influence our services. It also helps ensure transparency in our complaints handling service and will help show people using our services that we value their complaints.

We should also

* report on a quarterly basis about the trends that are evident in complaints and the actions taken as a result; and
* use case studies and examples to demonstrate how complaints have helped improve services.

This information should be reported regularly, and at least quarterly, in accordance with the reporting arrangements outlined by Primary & Community Services at NHS Borders.

## Review by Partners

The Partners will review the information gathered from complaints regularly at each partnership meeting (held 3 or 4 times / year) and consider how our services could be improved or internal policies and procedures updated. The Feedback and Complaints Manager or another Partner is involved in a review of each of the quarterly reports with a view to identifying areas of concern, agreeing remedial action and improving performance. Where appropriate, the review must also consider any recommendations made by the SPSO in relation to the investigation of NHS complaints.

### Learning from complaints

At the earliest opportunity after the closure of the complaint, the complaint handler should always make sure that the person making the complaint and the members of staff involved are given feedback and, where applicable, understand the findings of the investigation and any recommendations made.

As a minimum, we must:

* use complaints data to identify the contributory factors to complaints
* take action to reduce the risk of recurrence
* record the details of corrective action in the complaints file and
* systematically review complaints performance reports to improve service delivery

Where we have identified the need for service improvement:

* an action plan should be developed where appropriate
* there will be a determination of the appropriate level of urgency of the remedial action and a target date for completion will be set
* an individual should be designated the ‘owner’ of each issue, with responsibility for ensuring the action is taken
* the designated individual must follow up to ensure that the action is taken within the agreed timescale and report progress to the Feedback and Complaints Manager
* we must ensure that our staff learn from complaints

The General Medical Council’s education standards set out the requirements of NHS bodies and primary care providers, in terms of the organisation and provision of medical education and training. It places a particular emphasis on the need for the learning environment and organisational culture to value and support education and training, so that learners are able to demonstrate the responsibilities, values, behaviours and learning outcomes required. Where appropriate we will ensure appraisers place emphasis on the role of learning from complaints in individual appraisals to identify where we can develop or change our approach to improve patient care. Partners should include information about relevant complaints in their annual appraisal documentation and use the opportunity to discuss these with their appraiser.

## Performance reporting by Primary Care service providers

The requirement to record and report on complaints applies equally to all Primary Care service providers. NHS Boards should ensure that arrangements are in place for all contractors to comply with this requirement so that they can include this information in their own reporting of complaints handling performance. This reporting should clearly differentiate between the Board and its contractors.

## Maintaining confidentiality

Confidentiality is important in complaints handling. This includes maintaining the person’s confidentiality and explaining to them the importance of confidentiality generally. We must always bear in mind legal requirements, for example, data protection legislation, as well as internal policies on confidentiality and the use of personal information.

## Data Protection Act 1998

The NHS complaints procedure may be used for complaints arising from rights given by the Data Protection Act (1998). If this route is chosen, complaints staff should take the matter forward in conjunction with the designated Data Protection Officer and Partners who take decisions on what information is stored and how it is processed by the practice. Where a person remains unhappy with the outcome of local resolution they should be advised to contact the UK Information Commissioner.

## Dealing with problem behaviour

People may act out of character in times of trouble or distress. The circumstances leading to a complaint may result in the person acting in an unacceptable way. People who have a history of challenging or inappropriate behaviour, or have difficulty expressing themselves, may still have a legitimate complaint. Behaviour should not be viewed as unacceptable just because the person making the complaint is forceful or determined. In fact, being persistent can be a positive advantage when pursuing a complaint. However, the actions of people who are angry, demanding or persistent may result in unreasonable demands on time and resources or unacceptable behaviour towards staff.

NHS Scotland seeks to protect their staff and alongside the national Partnership Information Network (PIN) guidance on Preventing and Dealing with Bullying and Harassment in NHS Scotland, NHS bodies and health service providers should have policies and procedures in place for managing persistent or unreasonably demanding people.

We will apply our policies and procedures to protect staff from unacceptable behaviour such as unreasonable persistence, threats or offensive behaviour from people. Where we decide to restrict access to a person under the terms of the practice “Unacceptable Actions Policy”, we will endeavour to find alternative, safe means to communicate that decision, notify the person of a right of appeal, and review any decision to restrict contact with us. This will allow the person to demonstrate a more reasonable approach later.

## Supporting the person making the complaint

All members of the community have the right to equal access to our complaints handling procedure. People who do not have English as a first language may need help with interpretation and translation services, and others may have specific needs that we will seek to address to ensure easy access to the complaints handling procedure.

We must always respect human rights and take into account our commitment and responsibilities to equality as defined within the Equality Act (2010). This includes making reasonable adjustments to our services where appropriate.

Several support and advocacy groups are available to support people to pursue a complaint and they should be signposted to these as appropriate.

## Patient Advice and Support Service (PASS)

The Patient Rights Act provided for the establishment of the Patient Advice and Support Service (PASS). PASS operates independently of the NHS, and provides free, confidential information, advice and support to anyone who uses the NHS in Scotland. The service promotes an awareness and understanding of the rights and responsibilities of patients and can advise and support people who wish to give feedback, make comments, raise concerns or make complaints about treatment and care provided. Further information can be found on the PASS web site:

[www.patientadvicescotland.org.uk](http://www.patientadvicescotland.org.uk)

## Time limit for making complaints

It is recognised that it is not always possible to make a complaint immediately. In clinical complaints, for example, a complication or other issue may not become apparent for some time after the procedure. Similarly the grief associated with the death of someone may make it difficult for their representatives or family members to deal with a complaint in the period immediately after the death.

Given the difficulties that the passage of time can make to the resolution of a complaint the timescale for accepting a complaint as set out in the regulations is within six months from the date on which the matter of the complaint comes to the person's notice, provided that this is also no later than 12 months after the date on which the matter of the complaint occurred.

The timescale for acceptance of a complaint may be extended if the Feedback and Complaints Officer considers it would be reasonable in the circumstances. Where a decision is taken not to extend the timescales a clear explanation of the basis for the decision should be provided to the person making the complaint, and the person should be advised that they may ask the Scottish Public Services Ombudsman to consider the decision.

# Appendix 1: Complaints

The following tables give examples of complaints that may be considered at the early resolution stage, and suggest possible actions to achieve resolution.

| **Complaint** | **Possible actions to achieve resolution** |
| --- | --- |
| The complaint relates to clinical treatment.The person is unhappy that several attempts to draw blood were not successfully completed, and that there was a lack of pain management to address her discomfort. | Apologise for the pain and discomfort caused. Explain the appropriate procedure for taking blood and agree with the person making the complaint how this will be approached in the future. Perhaps ensure that an experienced person draws the blood and suggest an alert could be added to EMIS.  |
| The complaint relates to clinical treatment.The person disagrees with their management plan and wants it evaluated by an alternative clinician. | Thank the person for bringing this matter to your attention. Confirm with them their reasons for disagreeing with the management plan. Check with appropriate staff to ensure the management plan accurately reflects the agreed care needs and addresses any issues raised by the person. Explain to the person the action you have taken, and the basis for the care plan.If the person continues to disagree with your response, advise them that the complaint will be escalated to stage 2 of the complaints procedure for further investigation. |
| The complaint relates to a lack of privacy at the reception desk.The person complained that other patients in the waiting room could overhear her conversation with the receptionist. She felt humiliated by this. | Apologise for the distress felt by the person. Advise her of the normal procedure for discussing details information with patients at the reception desk. Explain that patients may request to speak to the receptionist in a private room if confidential information is to be shared. |
| The complaint relates to staff attitude.It is alleged that when asked to explain why a procedure had been delayed, the nurse was rude, insensitive to the person’s needs and did not explain the reason for the delay. | Thank the person for bringing the complaint to your attention. Apologise, recognising that they feel the nurse did not respond appropriately to the enquiry. Make sure that you provide a full response to the person's request for information about the procedure and any reasons for delay. Explain that you will record the complaint and ensure that staff are made aware of the need to respond fully and appropriately to all enquiries. Discuss the complaint with appropriate staff, to understand the issue from their perspective. If and where appropriate, provide support to staff to respond appropriately to enquiries. |
| The complaint relates to a lack of facilities within the waiting area of the medical practice. The person complained that she had no direct access to drinking water and when she asked at reception for a glass of water she was advised that this could not be provided. | Thank the person for bringing this matter to your attention. Apologise, recognising how frustrating the situation must have been for her. Explain that drinking water is available from a water fountain in reception and that this should have been provided. Advise that due to infection control measures, this cannot be made directly available to patients in the waiting room but is available at any time on request. |
| The complaint relates to communication with the person.The letter sent by the practice to explain a diabetic annual review used jargon that the person did not understand and said that details of the appointment date and time were enclosed when in fact they were not. | Thank the person for bringing the complaint to your attention. Advise that the use of jargon in letters is inappropriate and should not be used. Tell the person that you will bring this matter to the attention of the responsible GP and Practice Manager. Immediately confirm the patient’s appointment date and time. Tell them that you are sorry that this has happened, and that her complaint should help the practice to amend future letters to ensure that this does not occur again. |

# Appendix 2: Concerns

The following tables give examples of matters that may be considered as concerns.

| **Concerns** | **Suggested action** |
| --- | --- |
| A person was worried about his forthcoming minor surgery procedure. He did not fully understand the procedure that would be followed and the implications in relation to his employment. | Arrange a telephone call with the GP performing the surgery to have a full explanation of the surgery and the wound care arrangements. |
| A person raised a concern about when they would be seen in the diabetic clinic as the last clinic had overrun resulting in her not being seen for her appointment. | The service should contact the person to apologise for the earlier missed appointment and to inform her that action has been taken to ensure the clinic is not overbooked. The person should be reassured that their concerns have been noted, and that arrangements are in place to ensure that they are seen at the stated appointment time next time. |
| A person said that his appointment letter was sent in an unsealed envelope, and he just wanted the practice to be aware of this. | Apologise to the man, and explain that staff will now be reminded to ensure that all letters are properly sealed before postage. |
| A patient suffers from a recurring problem with chest infections. This has been the case for several years. He is unhappy that his GP has refused to prescribe him another course of antibiotics. | The GP meets with the person to understand the reasons for his dissatisfaction, and to explain the basis for the decision not to continually prescribe antibiotics.The GP may arrange for further tests if appropriate. |

# Appendix 3: Feedback, Comments, Concerns or Complaints Assessment Matrix

The person bringing the issue to your attention may be very clear from the outset that they do not want to complain. If however, the matter meets the definition of a complaint, the person should be offered an explanation that complaints provide valuable information that allow organisations to learn and improve services. Where it is not clear, after discussion with the person bringing the matter, whether it should be recorded as feedback, a comment, a complaint, or a concern, the matrix below may help you to arrive at the appropriate decision.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Insignificant or None | Minor | Moderate | Significant or Certain |
| Your assessment of the rigour and extent of dissatisfaction expressed | Feedback or Comment | Concern | Concern | Complaint |
| The way in which the person raising the issue expresses their level of dissatisfaction | Feedback or Comment | Concern | Complaint | Complaint |
| Your assessment of the likely impact on patient care | Feedback or Comment | Concern or Complaint | Complaint | Complaint |
| Your assessment of the risks to the patient, patients or others | Feedback or Comment | Concern or Complaint | Complaint | Complaint |
| Your assessment of the risks to the NHS body | Feedback or Comment | Concern | Complaint | Complaint |
| The learning opportunities that may arise as a result of looking at the matter raised | Feedback or Comment | Concern | Complaint | Complaint |

It is expected that you will use professional judgement in deciding whether an issue can be looked at as a 'Concern' or whether it is appropriate to handle the matter through the complaints handling procedure. Where an issue is looked at as a ‘Concern’ and the person raising the matter remains dissatisfied with your response, you must then investigate the matter as a complaint, at stage 2 of the complaints handling procedure.

# Appendix 4: Timelines

## General

References to timelines throughout the complaints handling procedure relate to working days. When measuring performance against the required timelines, we do not count non-working days, for example weekends, public holidays and days of industrial action where our service has been interrupted.

## Timelines at the early resolution stage

You must aim to achieve early resolution within five working days. The day you receive the complaint is day 1. Where you receive it on a non-working day, for example at the weekend or on a public holiday, day 1 will be the next working day.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Day 1 | Day 2 | Day 3 | Day 4 | Day 5 |
|  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Day 1:**Day complaint received by the organisation, or next working day if day of receipt is a non-working day. |  |  | **Day 5:**Early resolution achieved or complaint escalated to the investigation stage. |

 *The date of receipt will be determined by the organisation's usual arrangements for receiving and dating of mail and other correspondence.]*

## Extension to the five-day timeline

If you have extended the timeline at the early resolution stage in line with the procedure, the revised timetable for the response must take no longer than 10 working days from the date of receiving the complaint.

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Day 1 | Day 2 | Day 3 | Day 4 | Day 5 | Day 6 | Day 7 | Day 8 | Day 9 | Day 10 |
|  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Day 1:**Day complaint received by the organisation, or next working day if date of receipt is a non-working day. |  | In a few cases where it is clearly essential to achieve early resolution, you may authorise an extension within five working days from when the complaint was received. You must conclude the early resolution stage within 10 working days from the date of receipt, either by resolving the complaint or by escalating it to the investigation stage. |  | **Day 10:**Early resolution achieved or complaint escalated to the investigation stage. |

## Transferring cases from early resolution to investigation

If it is clear that early resolution has not resolved the matter, and the person wants to escalate the complaint to the investigation stage, the case must be passed for investigation without delay. In practice this will mean on the same day that the person is told this will happen.

## Timelines at investigation

You may consider a complaint at the investigation stage either:

* after attempted early resolution, or
* immediately on receipt if you believe the matter to be sufficiently complex, serious or appropriate to merit a full investigation from the outset.

## Acknowledgement

All complaints considered at the investigation stage must be acknowledged within **three working days** of receipt. The date of receipt is:

* the day the case is transferred from the early stage to the investigation stage, where it is clear that the case requires investigation, or
* the day the person asks for an investigation after a decision at the early resolution stage. You should note that a person may not ask for an investigation immediately after attempts at early resolution, or
* the date you receive the complaint, if you think it sufficiently complex, serious or appropriate to merit a full investigation from the outset.

## Investigation

You should respond in full to the complaint within **20 working days** of receiving it at the investigation stage.

The 20-working day limit allows time for a thorough, proportionate and consistent investigation to arrive at a decision that is objective, evidence-based and fair. This means you have 20 working days to investigate the complaint, regardless of any time taken to consider it at the early resolution stage.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Day 1 | Day 5 | Day 10 | Day 15 | Day 20 |
|  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Day 1:**Day complaint received at investigation stage, or next working day if date of receipt is a non-working day. Acknowledgement issued within three working days. |  |  | **Day 20:**Organisation's decision issued to person making the complaint or agreement reached with person to extend the deadline. |

Exceptionally you may need longer than the 20-day limit for a full response. If so, you must explain the reasons to the person, and agree with them a revised timescale.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Day 1 | Day 5 | Day 10 | Day 15 | Day 20+ |
|  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Day 1:**Day complaint received at investigation stage, or next working day if date of receipt is a non-working day. Acknowledgement issued within three working days. |  |  | **By Day 20:**In agreement with the person making the complaint where possible, decide a revised timescale for bringing the investigation to a conclusion. | **By agreed date:**Issue our final decision on the complaint. |

## Timeline examples

The following illustration provides examples of the point at which we conclude our consideration of a complaint. It is intended to show the different stages and times at which a complaint may be resolved.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Day 1 | Day 3 | Day 8 | Day 20+ |  |
|  |
|  |  |  |  |  |  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Complaint1 | Complaint2 | Complaint3 | Complaint4 | Complaint5 | Complaint6 |

The circumstances of each complaint are explained below:

### Complaint 1

Complaint 1 is a straightforward issue that may be resolved by an on-the-spot explanation and, where appropriate, an apology. Such a complaint can be resolved on day one.

### Complaint 2

Complaint 2 is also a straightforward matter requiring little or no investigation. In this example, resolution is reached at day three of the early resolution stage.

### Complaint 3

Complaint 3 refers to a complaint that we considered appropriate for early resolution. We did not resolve it in the required timeline of five working days. However, we authorised an extension on a clear and demonstrable expectation that the complaint would be satisfactorily resolved within a further five days. We resolved the complaint at the early resolution stage in a total of eight days.

### Complaint 4

Complaint 4 was suitably complex or serious enough to pass to the investigation stage from the outset. We did not try early resolution; rather we investigated the case immediately. We issued a final decision to the person within the 20-day limit.

### Complaint 5

We considered complaint 5 at the early resolution stage, where an extension of five days was authorised. At the end of the early resolution stage the person was still dissatisfied. At their request, we conducted an investigation and issued our final response within 20 working days. Although the end-to-end timeline was 30 working days we still met the time targets for investigation.

### Complaint 6

Complaint 6 was considered at both the early resolution stage and the investigation stage. We did not complete the investigation within the 20-day limit, so we agreed a revised timescale with the person for concluding the investigation beyond the 20-day limit.

# Appendix 5: The NHS complaints handling procedure

A person may complain in person, by phone, by email or in writing.

Your first consideration is whether the complaint should be dealt with at stage 1 (early resolution) or stage 2 (investigation) of the complaints handling procedure.

**Stage 1 – early resolution**

Always try to resolve the complaint quickly and to the person's satisfaction wherever we can.

**Stage 2 – investigation**

1. Investigate where the person is still dissatisfied after we have communicated our decision at stage 1.

2. Investigate immediately where it is clear that the complaint is particularly complex or will require detailed investigation.

Is the person satisfied with our decision?

Send acknowledgement within **three working days** and provide the decision as soon as possible but within **20 working days**, *unless* there is a clear reason for extending this timescale.

Ensure decision letter signposts to SPSO.

Update complaints database and close the complaint.

Provide a decision on the person **within five working days** *unless* there are exceptional circumstances.

**Complaint closed and outcome recorded.**

No

Yes

**STAGE 1**

**EARLY**

**RESOLUTION**

**STAGE 2**

**INVESTIGATION**

**Complaint closed and outcome recorded.**

* ensure **ALL** complaints are recorded;
* report performance and analyse outcomes;
* make changes to service delivery where appropriate;
* publicise complaints performance externally; and
* tell people about service improvements.

# Appendix 6: Complaints Performance Indicators

### **Indicator One:** Learning from complaints

The following information will be presented, reviewed and discussed at each partnership meeting (held 3 or 4 times / year):

* The annual complaints spreadsheet
* A summary of changes, improvements of withdrawal of services in response to feedback
* Actions taken to reduce the risk of recurrence of identified problems
* A summary of feedback, concerns and comments (including compliments) received by the practice including those from Patient / Care Opinion
* Relevant SEAs

### **Indicator Two:** Complaint Process Experience

A statement to report the person making the complaint’s experience in relation to the complaints service provided.

NHS bodies should seek feedback from the person making the complaint of their experience of the process. Understandably, sometimes the person making the complaint will not wish to engage in such a process of feedback. However a brief survey delivered in easy response formats, which take account of any reasonable adjustments, may elicit some response. Information should be sought on:

* Ease of access to the process, including how easy it is to find on websites and via search engines.
* How the person making the complaint was treated by staff (for example were they professional, friendly, polite, courteous etc).
* Whether empathy was shown or an apology offered.
* Timescale in terms of responses being issued or updates as the case may be.
* Clarity of decision and clarity of reasoning.

### **Indicator Three:** Staff Awareness and Training

A summary of staff awareness and training.

This may include:

* Internal communications regarding complaints
* The number of staff who have completed relevant training
* Opportunities or suggestions for future staff training in response to feedback

###

### **Indicator Four:** The total number of complaints received

To achieve a consistent, comparable benchmark.

### **Indicator Five:** Complaints closed at each stage

The term “closed” refers to a complaint that has had a response sent to the patient ~~customer~~ and at the time no further action is required (regardless at which stage it is processed and whether any further escalation takes place). This indicator will report:

* the number of complaints closed at stage one as % all complaints
* the number of complaints closed at stage two as % all complaints
* the number of complaints closed at stage two after escalation as % all complaints.

### **Indicator Six:** Complaints upheld, partially upheld and not upheld

There is a requirement for a formal outcome (upheld, partially upheld or not upheld) to be

recorded for each complaint. This indicator will report:

* the number of complaints upheld at stage one as % of all complaints closed at stage one
* the number of complaints not upheld at stage one as % of all complaints closed at stage one
* the number of complaints partially upheld at stage one as % of all complaints closed at stage one
* the number of complaints upheld at stage two as % of all complaints closed at stage two
* the number of complaints not upheld at stage two as % of all complaints closed at stage two
* the number of complaints partially upheld at stage two as % of all complaints closed at stage two
* the number of escalated complaints upheld at stage two as % of all escalated complaints closed at stage two
* the number of escalated complaints not upheld at stage two as % of all escalated

complaints closed at stage two

* the number of escalated complaints partially upheld at stage two as % of all escalated complaints closed at stage two.

### **Indicator Seven:** Average times

This indicator represents the average time in working days to close complaints at stage one and complaints stage two of the model CHP. This indicator will report:

* the average time in working days to respond to complaints at stage one
* the average time in working days to respond to complaints at stage two
* the average time in working days to respond to complaints after escalation

### **Indicator Eight:** Complaints closed in full within the timescales

The model CHP requires complaints to be closed within 5 working stays at stage one and 20 working days at stage two. This indicator will report:

* the number of complaints closed at stage one within 5 working days as % of total number of stage one complaints
* the number of complaints closed at stage two within 20 working days as % of total number of stage two complaints
* the number of escalated complaints closed within 20 working days as a % of total number of escalated stage two complaints

### **Indicator Nine:** Number of cases where an extension is authorised

The model CHP requires an extension to the timescales to be authorised in certain circumstances. This indicator will report:

* the number of complaints closed at stage one where extension was authorised, as % all complaints at stage one.
* number of complaints closed at stage two where extension was authorised, as % all

complaints at stage two.

# Appendix 7: Who submitted the complaint?

The table below shows the definition of who may submit a complaint as developed by Information Services Division.

|  |  |
| --- | --- |
| **Code** | **Description** |
| Patient | Patient or former patient |
| Kin | Next of Kin |
| Partner | Partner |
| Parent | Parent |
| Child | Child |
| Sibling | Sibling |
| Relative | Other relative |
| Carer | Carer |
| Friend | Friend |
| Neighbour | Neighbour |
| Minister | Minister |
| GP | General Practitioner (GP) |
| Media | Media |
| Councillor | Local Councillor |
| Parliament | MP / MSP |
| Solicitor | Solicitor |
| Cab | Member of CAB (PASS worker) |
| Advocate | Advocate |
| Visitor | Visitor to the NHS |
| Public | Member of the public |
| Veteran | Person who has worked in the Armed Forces |
| Other | Other |

# Appendix 8: Consent

Where someone other than the person to whom the complaint relates, or their authorised agent, (including MPs, MSPs and local Councillors), wishes to make a complaint on behalf of a person, we will ensure that any such complaint is handled in accordance with the common law duty of confidentiality and data protection legislation.

In such circumstances we will, for example, check whether consent has been received from the person for the complaint to be made on their behalf. In the event that consent has not been received, we will take this into account when handling and responding to the complaint. In such circumstances we are likely to be constrained as to what we can do in terms of investigating a complaint, or in terms of the information which can be included in the report of such an investigation.

In circumstances where the person does not have the capacity to consent to the complaint being made on their behalf, it is likely to be relevant (for example) to check that the person making the complaint on the person’s behalf has a legitimate interest in the person’s welfare and that there is no conflict of interest. It would also be good practice to keep the patient on whose behalf the complaint is being made, informed of the progress of any investigation into the complaint, in so far as that is possible and appropriate.

The Scottish Government's guidance *Handling Requests for Access to Personal Health Data* provides information to assist NHS organisations (Boards, GP practices, etc) through the process of handling data access requests to personal health data in accordance with the relevant law and subsequent considerations. It also details, for example, helpful guidance in relation to parental responsibilities and rights. It can be accessed here:

<http://www.ehealth.nhs.scot/wp-content/uploads/sites/7/documents/Access-to-Health-Data-Guidance-Note-November-2011.pdf>

## Children and Young People

All NHS bodies and their health service providers should have and operate clear policies in relation to obtaining consent. These should include where the person who is the subject of a complaint is a child. These procedures should reflect any guidance or advice that may be issued by the Commissioner for Children and Young People in Scotland. The principles in that guidance will be equally relevant to the local operation of the NHS complaints procedure. A number of information leaflets for young people are available on NHS inform including *Confidentiality – Your Rights*.

Generally, a person with parental responsibility can pursue a complaint on behalf of a child where the NHS body or health service provider judges that the child does not have sufficient understanding of what is involved. While in these circumstances, the child's consent is not required (nor is the consent of the other parent), it is considered good practice to explain the process to the child and inform them that information from their health records may need to be disclosed to those investigating the complaint.

Where an NHS body or health service provider judges that a child has sufficient maturity and understanding, the child can either pursue the complaint themselves or consent to it being pursued on their behalf by a parent or third party of their choice. It is also good practice to obtain the child’s written consent to information from their health records being released.

## Adults who cannot give consent

Where a person is unable to give consent the NHS body or health service provider can agree to investigate a complaint made on their behalf by a third party. However, before doing so they should satisfy themselves that the third party has:

* no conflict of interest; and
* a legitimate interest in the person’s welfare, for example if they are a welfare attorney acting on behalf of an individual covered by the Adults with Incapacity Act (2000).

# Appendix 9: Consent form

[*insert name and address of NHS organisation]*

**Consent to release patient information to a third party**

I hereby authorise [*Name of NHS organisation*] to disclose personal information relating to my healthcare to the person named below for the purposes of replying to a complaint.

**Name and address of person to whom disclosure is to be made:**

|  |  |
| --- | --- |
| Name |  |
| Address |  |

**Patient’s details:**

|  |  |
| --- | --- |
| Name |  |
| Address |  |
| Date of Birth |  |

I understand that to ensure a comprehensive response to my complaint, staff who are bound by a code of confidentiality, may have to refer to my medical record, and I have no objection to this.

|  |  |
| --- | --- |
| Signature |  |
| Date |  |

1. *NB - the duty of candour procedure is not in operation at the date of publication of this model CHP. It will apply once the relevant provisions of the Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016 are brought into force.* [↑](#footnote-ref-1)