



New NHS Complaints Procedure

Subtle evolution or radical reform?

The new shared complaints procedure for both health and social care; 'Listen, Respond, Improve' came into force on 1st April 2009. The premise for the change was to make the procedures more personal and flexible whilst ensuring that all those involved in an actual complaint learned appropriate lessons that could be used to improve service provision. We examine the new procedure and invite the rhetorical question – does the revised version represent a subtle evolution or a radical reform.

Introducing the procedure

The new complaints procedure represents a significant attempt to improve the management of patient, carer and public concerns in a complainant-centred manner. Each healthcare organisation will, of course, need to develop its own policy and guidelines based closely on the guidance within the new procedure and it is therefore essential that this is both addressed in a timely manner and appropriately migrated down through the chain to the clinical coalface.

Certainly extended from the procedure it replaced, the newer version marries formal complaint handling with the important principle of ongoing feedback, recommending that all organisations providing healthcare develop a variety of mechanisms for receiving feedback on their services, for example 24 hour phone lines, postal questionnaires and feedback stations throughout their organisation. By combining these two principles, the new procedure provides some basis for organisational performance management & improvement through patient & public involvement, as long as provider organisations themselves appreciate the benefits of not only viewing complaints as standalone incidents.

Why was there a need for a change in policy?

It is well recognised that when complaints are dealt with in an effective manner there is a reduction in legal recourse. Many patients however still do not feel their complaints are adequately addressed or that "it is not even worth bothering as no one will listen".

When people complain, the majority want one or both of two things:

- An apology
- Reassurance that lessons will be learnt and the same thing will not happen again i.e. that they have not complained in vain

Despite the need for an apology, which was prominent in the existing guidance too, a significant proportion of the medical profession remain convinced that we should not apologise to patients because this could increase the likelihood of subsequent litigation. However, in both guidance and in law, apologising does not in itself mean admission of a mistake. We can all apologise for the distress caused or the feelings endured, for example "I regret the discomfort experienced" or "I apologise for the anxiety this incident has caused to you and your family".

The new procedure seeks to reassert these principles and ensure that an appropriate apology is forthcoming as early as possible in the complaint time course.

The right to have any complaint they make about NHS services dealt with efficiently and to have it properly investigated

The NHS Constitution – the basis for the principles

The new NHS Constitution (published January 09) states that every patient and carer has:

- The right to have any complaint they make about NHS services dealt with efficiently and to have it properly investigated
- The right to know the outcome of any investigation into their complaint
- The right to take their complaint to the independent Health Service Ombudsman, if they are not satisfied with the way their complaint has been dealt with by the NHS
- The right to make a claim for judicial review if they think they have been directly affected by an unlawful act or decision by an NHS body
- The right to compensation where they have been harmed by negligent treatment

The NHS constitution also commits to a number of other principles or rights, including that complainants are treated with courtesy and



receive appropriate support throughout the handling of a complaint, as well as that making a complaint will not adversely affect future treatment. It also reinforces the two main wishes of the majority of complainants:

- When mistakes happen, to acknowledge them, apologise, explain what went wrong and put things right quickly and effectively
- To ensure that the organisation learns lessons from complaints and claims and uses these to improve NHS services

How does the new procedure differ from the old procedure?

The new procedure differs from the one it replaces in both direct and subtle ways, including:

- Patients now have 12 months from the event happening or becoming aware of the event to complain (previously 6 months). This time period can be extended if it is still possible to investigate the complaint. Reasons for extending the timescales would include such things as the complainant undergoing grieving or other traumas e.g. severe anxiety as a result of the complaint
- There are now only 2 stages to the complaints procedure; local resolution and recourse to the parliamentary and health service ombudsman. The Healthcare Commission (now the Care Quality Commission) no longer plays a role, although providers will obviously need to consider that complaints in their own right could precipitate the Care Quality Commission 'taking interest' in a provider, as Mid Staffs was evidence of
- Complainants should have initial contact within 3 working days of complaining. At this initial contact it should be acknowledged the complaint has been received. Ideally at that point or an agreed future point the complainant should have their complaint fully listened to, should be asked what they wish to see happen as a result of their complaint, should be asked how they would like their complaint dealt with e.g. face to face or in writing and they should be informed of the plan for and likely time scales involved in reviewing the complaint.
- The new system allows increased flexibility e.g. to meet with the complainant and/or have a meeting with all parties concerned with the complaint
- Complainants should be made aware of both the organisation's Patient Advice and Liaison Services (PALS) and the Independent

Complaints Advisory Service (ICAS)

- PALS advise complainants on how to take their complaint forward or resolve it informally. They do not take up the complaint on behalf of the complainant
- ICAS is a free, confidential and independent service which helps parents and carers make a formal complaint about NHS services.
- Serious complaints need to continue to be brought to the CEOs attention and so local policies and education processes need to have clear guidance on what constitutes a complaint that is sufficiently serious as to want this escalation
- Ideally the investigation report should be reviewed by both the complainant and the staff concerned prior to its final publication. In the past, the complainant received a letter or report but did not have the opportunity to actively contribute to this, increasing the likelihood that complainants could feel not listened to or unfairly judged, which in itself could lead to further escalation
- The time scale of 25 days for a written response from the CEO has been removed. However it is envisaged that regular contact is maintained with the complainant and all complaints as investigated thoroughly in a timely manner. Where delays beyond 6 months occur, the reasons for this must be communicated to the complainant
- Lessons should be learnt from all complaints and these should be disseminated through the organisation as appropriate and an annual report produced

This guidance does represent a significant departure from the previous procedure in that it introduces more flexibility under the premise that providers will work collaboratively and openly with complainants, who in turn can escalate complaints to the ombudsman if that is not happening. This does remove some of the rigid formality which in itself could lead to complainants feeling that services are cold and hard, rather than warm and conciliatory.

What should I be doing as a front line clinical staff member?

It is envisaged that NHS organisations will develop their customer service roles specifically to deal with complaints in the new manner. All front line teams should be encouraged to think in terms of 'customer service' anyway, as greater emphasis is placed

on the importance of public and patient opinion in everything from outcome measures to assessment of quality to funding and patient choice.

When receiving a formal complaint it is essential you follow your local procedure by liaising with your complaints officer or department. However, what simple advice can front line staff heed now, taken directly from Listen, Respond, Improve?

- Ask the person how they would like to be addressed – as Mr, Mrs, Ms or by their first name
- If someone has phoned you, offer to call them back and give them the chance to meet face to face to discuss the issue
- Ask them how they wish to be kept informed about their complaint and how it is being dealt with – by phone, letter, email or through a third party such as an advocacy or support service
 - If they say by phone, ask them for times when it is convenient to call and check that they are happy for messages to be left on their answer phone
 - If they say by post, make sure that they are happy to receive correspondence at the address given
- Check if the person has any disabilities or circumstances you need to take account of (for example, do they require wheelchair access, or are they on medication that can make them drowsy?)
- Offer to meet the person at a location convenient to them
- Make the person aware that they can request an advocate to support them throughout the complaints process, including at the first meeting
- Systematically go through the reasons for the complaint with the person who is unhappy – it is important that you understand why they are dissatisfied
- Ask them what they would like to happen as a result of the complaint (for example, an apology, new appointment, reimbursement for costs or loss of personal belongings or an

explanation). Tell them at the outset if their expectations are not feasible or realistic

- Agree a plan of action, including when and how the person complaining will hear back from your organisation
- If you think you can resolve the matter quickly without further investigation do so as long as the person complaining is happy with that and there is no risk to other service users
- For any complaint, remember to check if consent is needed to access someone’s personal records, and let the complainant know the name and contact details of the manager who will investigate their complaint

In Conclusion

In conclusion, the new procedure is sufficiently different in the direction of open collaboration to make a significant difference to the way patients & public feel in complaint situations. However, the true difference is always in the interpretation and implementation of the procedure. In that, only time will tell whether this quiet revolution is delivering the benefit it is designed to deliver.

Further information

Further information can be found on the DH website where you can search directly for the following publications:-

- DH_095439
- DH_095445
- DH_095447
- DH_095448
- DH_095450

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Description

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The Programme - This is a 1 day conference, 5 CPD points

0830 - 0920	Registration, Coffee & Exhibition
0920 - 0930	Opening Remarks
0930 - 1000	The Physician's Role in Creating and Sustaining Patient-Centred Care Sir Donald Irvine M.D., Chairman, Picker Institute Europe, Former President of the General Medical Council
1000 - 1030	Placing patient & service user experience at the heart of our health service – understanding the cultural shift
1030 - 1100	Real time versus snapshot approaches to capturing patient experience – balancing usability with completeness Dr Sara Watkin, Consultant Paediatrician, Lead Consultant for Clinical Excellence, Governance & Experience, Medicology Ltd
1100 - 1115	Questions
1115 - 1145	Morning Coffee
1145 - 1215	Driving quality, performance & outcome improvements through the experience route Mr Andrew Vincent, Managing Director & Lead
1215 - 1245	Measuring up – understanding the SHA viewpoint on quality, governance and experience

1245 - 1300	Questions
1300 - 1345	Lunch
1345 - 1415	Improving outcome assessment & measurement – stimulating improvement by better understanding the present
1415 - 1445	Improving clinical quality systemically – team approaches & new ways of working
1445 - 1515	Delivering effective and comprehensive clinical governance in the modern healthcare environment Dr Sara Watkin, Consultant Paediatrician, Lead Consultant for Clinical Excellence, Governance & Experience, Medicology Ltd
1510 - 1530	Questions
1530 - 1545	Afternoon Tea
1545 - 1630	Keynote Lecture What do you do when you find quality, governance and experience faltering?
1630 - 1645	Questions
1645	Closing Remarks

Cost & Booking Information

Consultants & Business Professionals Doctors in Training, SAS Grades & Nursing Staff

- £215 + VAT early bird
- £249 + VAT standard rate
- £125 + VAT early bird
- £175 + VAT standard rate

The early bird rate applies to bookings received more than 56 days before the course date.

Book online at www.qualitygovernanceexperience.co.uk, email us at: customer.services@medicology.co.uk or book over the phone by calling the customer services team on 01332 821260

Group Bookings

£700 + VAT 5 places
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Please contact Dean at dean@medicology.co.uk or by calling 01332 821261