

Listening

A guide to better
customer care

Responding

Improving

DH INFORMATION READER BOX

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It is designed to be accessible to all staff involved in receiving feedback and resolving concerns and complaints from people who use services and their representatives.

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For recipient's use

This guide has been developed to help complaints professionals who are working with colleagues to make their organisations better at listening, responding and learning from people's experiences.

It is designed to be accessible to anyone working in health and social care organisations who is involved in receiving feedback and resolving concerns and complaints from patients, service users and their representatives.

We have also produced additional advice sheets for complaints professionals, covering a range of specific issues. You can find more information about these in the 'Helpful resources for you' section at the back of this guide.

We hope you find this publication useful. If you have any suggestions for new advice sheets please email us at **makingexperiencescount@dh.gsi.gov.uk**

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INTRODUCTION

EXPERIENCES COUNT

In 2006, the Government committed to helping NHS and adult social care organisations to improve the way they deal with complaints, in order to make services more effective, personal and safe.

To achieve this, it was decided that a single approach would be introduced for dealing with complaints, to give organisations greater flexibility to respond and encourage a culture that seeks and then uses people's experiences of care to improve quality.

Other reforms have since helped to strengthen this policy. The NHS Constitution makes clear what people should expect when they complain. The combined health and social care regulator, the Care Quality Commission, will soon require registered providers of services to investigate complaints effectively and learn lessons from them.

After extensive consultation and testing on the ground, the new approach starts from April 2009. However, in many areas it has already been helping to make a difference.

IMPROVING CUSTOMER CARE: WHY DO THINGS NEED TO CHANGE?

Health and social care staff work very hard to get the job right first time but, with busy services, mistakes can happen. But if services can get their response to these mistakes right, the people affected are less likely to be unhappy and future problems can be prevented.

When a mistake has happened, it is important to acknowledge it, put things right quickly and learn from the experience.

This has been highlighted in many reports on NHS and social care complaints.

There is a clear need for services to get better at dealing with complaints.

In 2006/07, the NHS and local authorities received over 150,000 complaints about health and social care services.¹ In every case, those who complained should have felt confident that their complaint would be dealt with properly – in other words, that it would be handled efficiently and investigated

The *Making things better* report² highlights the problems faced by people using NHS services in getting a satisfactory response to a complaint and the failure of the NHS to learn lessons from complaints.

2005

2005

A survey³ finds that many people using adult social care services see 'no point' in making a complaint.

The story so far

thoroughly, and that they would be told the outcome. What's more, if they were in any way 'wronged', they should have felt assured that things would be put right.

Government policies, such as those outlined in the NHS Constitution,⁴ are already helping people understand their rights when it comes to making a complaint. However, this is not the only reason services need to get better at customer care.

By listening to people about their experiences of health and social care services, managers can resolve mistakes faster, learn new ways to improve and prevent the same problems from happening in the future. In short, by dealing with complaints more effectively, services can get better, which will improve things for the people who use them as well as for the staff working in them.

That's what this guide is all about. We hope you find it, and the new approach, useful.

WHAT IS THE NEW APPROACH?

From April 2009, there will be a single approach for dealing with complaints about NHS and adult social care services.

Organisations will be encouraged to ask people what they think of their care, to sort out problems more effectively and to use the opportunities to learn.

Announced in 2006⁵ and widely consulted upon since, the new approach ends the bureaucracy of the old system. It is also designed to bring real benefits for health and care organisations and for the staff working in them.

A government consultation⁶ says that people think the NHS complaints system is too inflexible and does not meet the needs of the person complaining.

2007

A Healthcare Commission review⁸ finds that many NHS complaints relate to the fundamentals of good healthcare: effective communication with patients, the attitude of staff, record-keeping, privacy and dignity. In 19% of cases, there was also a problem with the way in which the complaint was handled.

2009

2008

A National Audit Office report⁷ on health and social care services says that people find making a complaint too complex and that many complaints take too long to resolve.

From the front line

Paul Duffy works as a quality assurance manager for Oldham Council and is responsible for dealing with complaints about adult social services. He explains how the new approach has helped both his team and the services the council provides.

“Oldham is always looking for ways to improve the way it does things, so being able to try out the new approach to complaints has been really useful.

“In the old days, although we dealt with complaints well, we could get bogged down in the process. Now, because the focus is on getting the best outcome for both individuals and services, every complaint is seen as an opportunity to help make care better.

“We now have a much more proactive approach and, if we know that something may have gone wrong, we get in contact, say sorry and find out what we need to do to prevent the issue recurring.

“People’s needs, not the complaints process, now drive our work and this has already made a difference.”

What is the new system trying to achieve?

Put simply, the new system means:

Better results: The old, process-heavy system is being replaced with one that allows you and the person complaining to agree on the best way to get a satisfactory outcome.

A more personal approach: People who use services, whatever their background or circumstances, should find it easier to tell you what they think or make a complaint.

Helping organisations learn: The new system will also encourage services to learn from individual complaints and improve as a result.

Principles of Good Complaint Handling

The Health Service Ombudsman, which is responsible for investigating NHS complaints that can't be resolved locally, has published *Principles of Good Complaint Handling*. The Local Government Ombudsman has also issued guidance.

In summary, the six principles are:

1. getting it right
2. being customer focused
3. being open and accountable
4. acting fairly and proportionately
5. putting things right
6. seeking continuous improvement.

Over 90 health and social care organisations have already tested the new approach for dealing with complaints, which is based on these principles. We asked those organisations for their views and experiences and we have included them in this guide.

Complaints and the law

The law that dictates how NHS and local authority adult social care services need to deal with complaints is being simplified. From April 2009, it is changing to support the new complaints approach and give services more flexibility in how they handle complaints.

It is important that you understand all the legislation. From March 2009, you can download the regulations.

The new system in a nutshell

The new system applies to your organisation if...

... you provide or commission NHS care or are a local authority that funds adult social services.

Organisations will be encouraged to adopt good practice, which recommends that you:

- publicise your complaints procedures
- acknowledge a complaint when you receive it and offer to discuss the matter
- deal efficiently with complaints and investigate them properly and appropriately
- write to the person who complained once the complaint has been dealt with, explaining how it has been resolved and what appropriate action has been taken, and reminding them of their right to take the matter to the Health Service Ombudsman or Local Government Ombudsman if they are still unhappy
- have someone senior within your organisation who is responsible for both the complaints policy and learning from complaints
- help the person who is complaining to understand the complaints procedure
- produce an annual report about complaints that have been received and outline what has been done to improve things as a result.

Other things to know about the new system:

- Generally speaking, a complaint has to be made within 12 months of an incident happening.
- In the NHS, someone can choose to complain to a commissioner instead of the service provider.
- If the complaint involves two or more organisations, the person complaining should get one, co-ordinated response.

LISTENING

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graph TD; A[LISTENING] --- B[ ]; A --- C[ ]; A --- D[ ]
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The image shows a diagram on a blue background. At the top center, the word "LISTENING" is written in bold, black, uppercase letters inside a white, rounded rectangular box with a black outline. A horizontal line extends to the left from the left side of this box. From the bottom of the box, a vertical line goes down, then turns right to form a horizontal branch. Further down, the vertical line turns left to form another horizontal branch. Finally, the vertical line continues down to the bottom of the page. All lines are black and have a consistent thickness.

ARE YOU REALLY LISTENING?

To gather people's views about the service they receive, organisations have to make it clear that they want to know what users think, they are listening and they want to learn from feedback.

Evidence suggests that people often don't know how to complain if they are unhappy or how to suggest an idea for improving things.

People who use NHS and social care services have also said they often don't say what they think because they feel inhibited or think services won't listen.

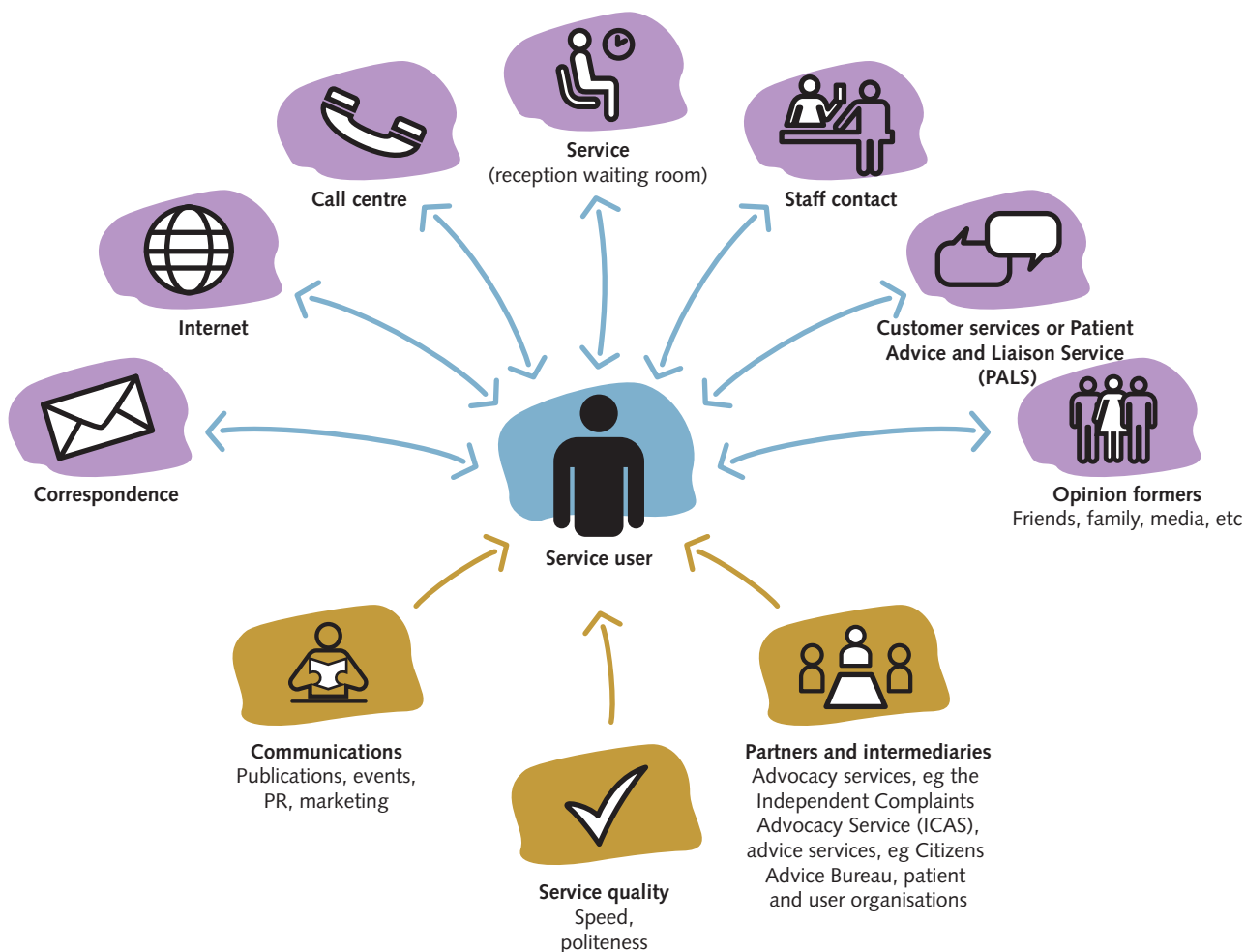
All NHS bodies and local authorities have to make clear how people can complain. However, there is a lot more your service can do to make it clear that all types of feedback – whether complaints, concerns or compliments – are welcome.

HOW EASY IS IT FOR PEOPLE TO GIVE YOU FEEDBACK?

This means thinking about all the different ways people find out about and interact with your service – from what your website says to the way your staff communicate with people.

How to reach people

People are confronted with many messages every day. To make sure yours get noticed, all of your communication channels need to work together to give a consistent message in a consistent tone. It's crucial to think about the way in which people use your service and structure your communications with that in mind.



From the front line

Liverpool City Council provides many different ways for people to tell them what they think about their social care services. Their scheme, called 'Have Your Say', is very well advertised. It allows people to give feedback:

- in person at reception points and accessible one-stop shops, with translation and interpretation facilities if needed
- by post using a Freepost address or email
- online using a 'Have Your Say' form, which asks people what ideally they would like to happen as a result of their feedback
- by phone using a 24-hour phone-line run by Liverpool customer services. This includes a Minicom phone service for people who are deaf
- using kiosks located in the street and in places such as libraries where people can text, email or video their views.

The council also uses an electronic management system to register and track feedback from receipt to resolution.

Many of Liverpool's services are run by independent providers. By asking the people who use them directly for their views, the council can spot issues and take action sooner.

Health check	YES	NO
Is your organisation good at letting people know you are listening and want to know what they think?		
If you have a reception or waiting area, is there a poster or video that asks for people's views?		
When someone first makes contact with your service, do you explain how they can offer feedback or complain?		
Do you have a suggestions box with pens and forms for people to complete?		
Do you regularly ask people who use your service about their experiences of the care you provide?		
If anyone working in your service was asked about your complaints process, would they be able to explain the basic system and tell the service user where they could get more information and support?		
Is the information you provide accessible to all the people who use your services? For example, if someone does not speak English fluently, would they still be able to complain?		
Is it clear to everyone working in your service, and the people who use it, what changes you have made in light of ideas or comments you have received?		
Has your organisation ever run, or been part of, a campaign to get people to give their views?		
Do you use other sources of information about people's experiences to help improve your service such as surveys and consultations?		

MAKING INFORMATION ENGAGING AND ACCESSIBLE

It is important to provide information that explains very clearly how people can give their views. To encourage them to tell you what they really think, this information needs to be engaging and accessible.

What makes an effective complaints leaflet?

- Make your sentences short, punchy and to the point. Use everyday language and avoid jargon.
- Explain that you want to know what people think.
- Don't just focus on complaints; make it clear that you also welcome compliments, concerns and any other comments.
- Use good design to make your materials stand out and the information accessible.
- Make it clear that the information is available in different formats and languages.
- Make it clear how people can get more information and support.

It is also helpful to give people tangible examples of how you have changed things in response to their feedback.

DEALING WITH COMPLAINTS: HOW TO GET IT RIGHT FIRST TIME

The people who use health and social care services understand that mistakes sometimes happen. When something goes wrong, often all the person affected wants to know is how it happened, that you are sorry, and that steps will be taken to prevent it from happening again.

The initial contact an organisation has with a person who is unhappy about their service is key. It is crucial to obtain all the information that will allow you to assess someone's concerns correctly, resolve them quickly if you can and build a good ongoing relationship with them.

Often the reason people give for being unhappy about how their complaint has been handled is poor communication by services.

Things to remember to do when someone says they are unhappy:

1. Ask the person how they would like to be addressed – as Mr, Mrs, Ms or by their first name.
2. If someone has phoned you, offer to call them back and give them the chance to meet face to face to discuss the issue.
3. Ask them how they wish to be kept informed about how their complaint 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 answerphone.
 - If they say by post, make sure that they are happy to receive correspondence at the address given.

4. 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?).
5. Offer to meet the person at a location convenient to them.
6. Make the person aware that they can request an advocate to support them throughout the complaints process, including at the first meeting.
7. Systematically go through the reasons for the complaint with the person who is unhappy – it is important that you understand why they are dissatisfied. (See 'Assessing how serious the complaint is' on page 18 for how to assess an issue.)
8. 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.
9. Agree a plan of action, including when and how the person complaining will hear back from your organisation. (See 'Responding in the right way every time' on page 22 for more information on developing a plan).
10. 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.
11. 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.

WHAT RIGHTS DO PEOPLE HAVE?

When someone is unhappy with your service, it is important to let them know their rights when it comes to making a complaint. In the NHS, these rights are articulated by the NHS Constitution.

The NHS Constitution states that "any individual has the right to:

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

People who use social care services have the right to take their complaint to the Local Government Ombudsman.

From the front line

Gemma Seymour, Consumer Experience Development Manager for Hampshire Partnership Trust, explains what she does when someone first gets in contact to say they are unhappy.

“When someone first complains – whether by phone or in person – it is essential that you understand the situation through their eyes. To do this, you need to listen and let them tell their own story, in their own time.

“Doing this helps me to establish the facts, which I always check with the complainant to ensure they are correct. At this stage, I also ask them what they would like to see happen and explain what the organisation can realistically do. Once I understand the situation, if I can sort it out immediately I will – for example, by offering an apology.

“We get most of our complaints by phone and people are often distressed or angry. I try to make things as easy as possible. If someone needs advocacy support I help arrange this. If someone wants to meet I offer them the chance to do that.

“People also appreciate being given as much of a say as possible. There is normally more than one way of resolving a complaint, so I like to offer at least a couple of options that are realistic for both parties. If someone wants their concerns investigated, we involve them in putting together the plan of action.

“The fundamental point is that when you listen, involve and engage people, it makes it much easier to sort out the problem to everyone’s satisfaction.”



RESPONDING

ASSESSING HOW SERIOUS THE COMPLAINT IS

By correctly assessing the seriousness of a complaint about a service, the right course of action can be taken. Many NHS and social care organisations use a three-step process to gauge the impact of complaints on the people involved, the potential risks to the organisation and the response required.

It is useful to categorise a complaint when you first receive it, and then review that category based on the results of any investigation.

It is also important to remember that a complaint can have a very different effect on an organisation compared with an individual. This is especially important if someone is vulnerable for any reason, such as poor health, communication difficulties or recent bereavement.

The following process can help you assess the seriousness of an issue and take the relevant action.

Step 1: Decide how serious the issue is

Seriousness	Description
Low	Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care. OR Unsatisfactory service or experience related to care, usually a single resolvable issue. Minimal impact and relative minimal risk to the provision of care or the service. No real risk of litigation.
Medium	Service or experience below reasonable expectations in several ways, but not causing lasting problems. Has potential to impact on service provision. Some potential for litigation.
High	Significant issues regarding standards, quality of care and safeguarding of or denial of rights. Complaints with clear quality assurance or risk management issues that may cause lasting problems for the organisation, and so require investigation. Possibility of litigation and adverse local publicity. OR Serious issues that may cause long-term damage, such as grossly substandard care, professional misconduct or death. Will require immediate and in-depth investigation. May involve serious safety issues. A high probability of litigation and strong possibility of adverse national publicity.

Step 2: Decide how likely the issue is to recur

Likelihood	Description
Rare	Isolated or 'one off' – slight or vague connection to service provision.
Unlikely	Rare – unusual but may have happened before.
Possible	Happens from time to time – not frequently or regularly.
Likely	Will probably occur several times a year.
Almost certain	Recurring and frequent, predictable.

Step 3: Categorise the risk

Seriousness	Likelihood of recurrence				
	Rare	Unlikely	Possible	Likely	Almost certain
Low	Low				
		Moderate			
Medium					
			High		
High				Extreme	

EXAMPLES OF DIFFERENT TYPES OF INCIDENTS

Low	(simple, non-complex issues)	Delayed or cancelled appointments. Event resulting in minor harm (eg cut, strain). Loss of property. Lack of cleanliness. Transport problems. Single failure to meet care needs (eg missed call-back bell). Medical records missing.
Moderate	(several issues relating to a short period of care)	Event resulting in moderate harm (eg fracture). Delayed discharge. Failure to meet care needs. Miscommunication or misinformation. Medical errors. Incorrect treatment. Staff attitude or communication.
High	(multiple issues relating to a longer period of care, often involving more than one organisation or individual)	See moderate list. Event resulting in serious harm (eg damage to internal organs).
Extreme	(multiple issues relating to serious failures, causing serious harm)	Events resulting in serious harm or death. Gross professional misconduct. Abuse or neglect. Criminal offence (eg assault).

Assessing an issue in practice

Here are a couple of examples to give an idea of how different complaints would be graded.

Low

When visiting the home of an 89-year-old man, a district nurse commented that the man seemed mobile and could have come to the clinic for treatment.

The man's son called to complain about the service. The complaint was passed to the service manager.

On the same day, the service manager received a similar complaint by post from the family of another service user.

The manager contacted both unhappy parties. After discussing their concerns, she asked them if she could look into the issue and call them back within a few days. Both agreed.

The manager discussed the issues with the district nurse, who agreed that the comments were inappropriate. The nurse explained how stressed he was with his current workload, and that this could be affecting his work.

The service manager rang both parties, apologised on the nurse's behalf and explained that, although his behaviour was out of character, action would be taken.

A different nurse was assigned to each case and both parties said that they were satisfied with the response.

The nurse's workload was reviewed in light of the stress he was experiencing. A note was also made on his staff record in case something similar occurred again.

Extreme

The family of an elderly lady with mild learning disabilities became concerned about the standard of service in her residential care home. They expressed their concerns to the local authority. A social worker visited the lady and was so concerned at her condition that he arranged for her immediate admission to hospital.

The lady had not been eating or drinking, and her toenails were so long she couldn't walk properly. Her condition improved while in hospital and she was soon placed in another care home. Social services ordered a full investigation.

Once safeguarding procedures were complete, an investigation began. A case conference decided this was an example of abuse though neglect.

The investigating officer upheld the complaint and identified the main reason for the neglect: the home's lack of knowledge about the lady's mental capacity. Staff had assumed the lady was exercising choice when she refused food and treatment. It also turned out the patient had somehow fallen between learning disability and community health team jurisdictions.

Since this case, staff have received training on mental capacity, a review of learning disabilities services is under way and the home is being monitored to ensure that this type of situation does not occur again.


HANDLING ISSUES INVOLVING MORE THAN ONE SERVICE

Lots of people receive care from more than one health and social care organisation. If something goes wrong with that care and a complaint is made, it is important that the organisations involved provide a single point of contact and a single response.

In many areas, services have already agreed a protocol for handling complaints. Doing this can:

- avoid any confusion for service users about how complaints will be dealt with and by whom
- provide clarity about the respective roles and responsibilities of each organisation
- ensure that complaints professionals communicate regularly
- ensure that any lessons that need to be learned are identified and addressed by the relevant organisation.

There is now a draft protocol to help complaints professionals from different services work better together. See 'Helpful resources for you' for more information.



The best plans for dealing with complaints are developed with input from those who make them

RESPONDING IN THE RIGHT WAY EVERY TIME

How can services ensure that they respond in the right way to every complaint? The following steps can go a long way towards improving the quality of your responses.

Step 1: Having a plan

Step 2: Deciding what to do

Step 3: Deciding how long it should take

What a plan might include

The best plans for dealing with complaints are developed with input from those who make them, and those whose job it is to resolve them. The most effective plans also focus on the reactions or observations that can help your service improve.

Any plan you agree on needs to be proportionate, achievable and cost-effective, and it is important to update it as the issue progresses.

Any action plan also needs to take into account:

1. a person's legal rights when they make a complaint (see 'What rights do people have?' on page 15)
2. what your service has agreed to do to resolve the issue
3. a timescale for doing so
4. how and when you will update the person on any progress
5. any support the person complaining might need
6. the immediate actions staff might take, such as an apology
7. how the complaint is categorised (see 'Assessing how serious the complaint is' on page 18).

Step 1: Having a plan

If you can agree a clear plan and a realistic outcome with the person complaining from the start the issue is more likely to be resolved satisfactorily. Having a plan can help you respond appropriately. It also gives the person who is complaining more confidence that you are taking their concerns seriously.

Step 2: Deciding what to do

Having a clear understanding of the complaints process is also crucial in helping managers decide on the best response.

See the decision tree on the next page to help you.

Step 3: Deciding how long it should take

If someone makes a complaint, your organisation has to acknowledge it within three working days. The person making the complaint will want to know what is being done – and when. However, accurately gauging how long an issue may take to resolve can be difficult, especially if it is a complex matter involving more than one person or organisation.

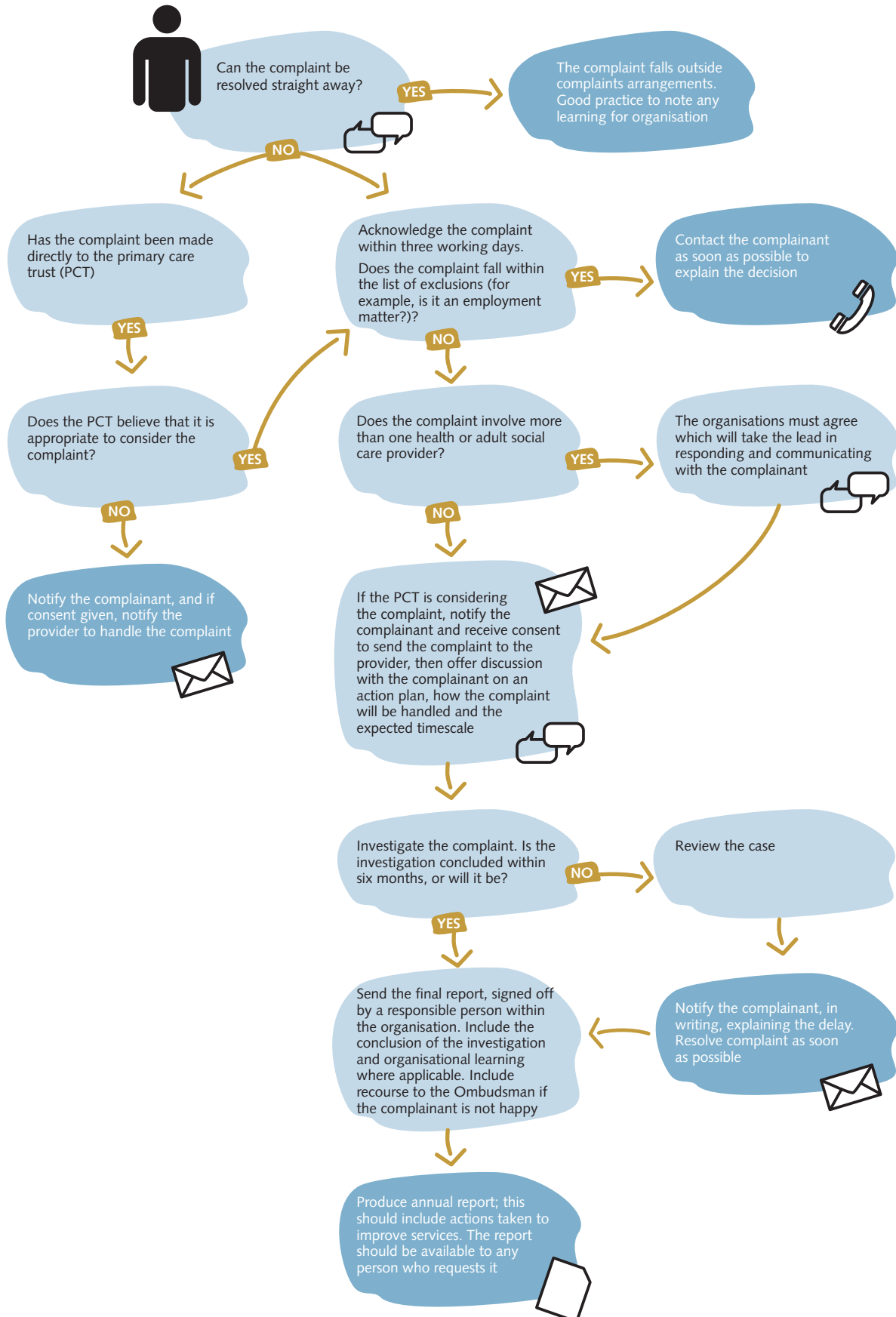
To help judge how long a complaint might take to resolve, it is important to:

- address the concerns raised as quickly as possible
- stay in regular contact with whoever has complained to update them on progress
- stick to any agreements you make – and, if for any reason you can't, explain why.

It is good practice to review any case lasting more than six months, to ensure everything is being done to resolve it.

REGULAR COMMUNICATION ✓

CONSIDER APPROPRIATE SUPPORT ✓



GIVING PEOPLE SUPPORT AND ADVICE WHEN THEY COMPLAIN

People using health or social care services often need support if they wish to complain or they want to suggest an idea to improve something. It is essential that staff are able to help people find and use this advice and support effectively.

There are many reasons why someone might need support (eg disability, language, age), and a number of services that can help. (See 'Top questions' and 'Helpful resources for you' for more information on hard-to-reach groups.)

Who can help?

Customer services: Your NHS or local authority customer service team or Patient Advice and Liaison Service (PALS) can provide valuable advice and support to people who use your service, and their representatives. The type of support may vary from area to area, but can include:

- information about NHS and social care services
- help resolving concerns or problems
- information on how to complain and how to access independent help and advice
- helping people share their concerns, suggestions and experiences and using this information to improve services
- putting people in touch with support groups and agencies who can offer additional help
- showing people how to get involved in shaping local health and social care services
- early warning systems for specific problems or gaps in services.

Advocacy: Some people will need help making their complaint, and ongoing support while it is resolved for them. Independent advocacy support can be invaluable here. In the NHS, advocacy is provided by the Independent Complaints Advocacy Service (ICAS).

For social care services, there are a number of local voluntary, community and self-help groups who can offer this kind of support. It is a good idea to make the people who use your service aware of the local organisations that can help.

Independent advocates can support whoever's complaining by:

- helping them speak to someone independent and impartial in strict confidence
- making their options clear to them
- supporting them throughout the complaint process (eg helping them write letters, supporting them at meetings, contacting third parties, etc).

To find out more about the advice and support available in your area, speak to customer service or the PALS team (www.pals.nhs.uk), or visit:

www.nhschoices.nhs.uk

www.direct.gov.uk

INVESTIGATING SOMEONE'S CONCERNS

When something has gone wrong, it is vital to establish the facts about what happened in a systematic way. For some serious complaints, it may be necessary to ask an independent investigator to look into the case. But most complaints will be investigated by someone from within the organisation, who should be appropriately trained and independent of the part of the service that is being complained about.

Investigations need to collect and examine evidence in a variety of ways, which may include:

- carrying out interviews
- looking at written records and copies of documents
- carrying out site visits
- taking expert advice (for example, on clinical issues).

Once all the evidence has been gathered, it will need to be assessed in order to decide what is fair and reasonable in the circumstances of each case. Where two sides of a story seem to be at odds, the investigator will try to decide, on the basis of all the available evidence, which version of events is more likely to have happened.

As the complaint progresses, it is important to update the original plan to give a more complete record of how the case has been handled. Updates could include:

- details from your investigation (interviews, statements and facts)
- details of mediation or advice from clinicians or the results of an independent investigation
- details of any policies, protocols or guidelines that have or have not been followed properly
- the final report
- anything that could help your service learn and improve
- the sign-off by the senior manager responsible for your complaints policy.

To help complaints professionals, we have also developed a separate advice sheet on investigating complaints. You will find this in 'Helpful resources for you'.

WHEN TO MEDIATE IF AN ISSUE CAN'T BE RESOLVED

If someone is dissatisfied with your service, in most cases you will be able to resolve the issue directly with them. However, some complaints are more difficult to resolve, particularly when there is a breakdown in a relationship. In these cases, mediation can be useful.

What is mediation?

Put simply, mediation is a way to help resolve disagreements. An impartial mediator helps both parties reach an acceptable conclusion. It can also help to re-establish a good relationship with the person who is unhappy.

Mediation is particularly useful when there is a risk of communication breaking down. When emotions are running high, the mediation process can help both parties express their frustration or anger without affecting progress towards an effective solution.

What does mediation involve?

Mediation can involve several stages. The mediator may first spend time meeting each party separately to get to the bottom of the complaint issues. They may then bring both parties together to discuss the problem.

What does it not involve?

Mediation should not be confused with:

- advocacy, which involves speaking on behalf of one party only
- counselling, guidance or advice
- arbitration – a mediator does not normally make decisions or offer solutions to the problem
- investigation into the complaint.⁹

Why does mediation work?

Mediation gives everyone a chance to think about how they could put the situation right. It allows all the parties involved to come up with their own ways to rebuild relationships by working together towards the same goal. Mediation can also save time and money and lead to quicker solutions. Crucially, it can prevent problems becoming worse.

REMEDIES TO HELP PUT THINGS RIGHT

Often, when someone first complains, they simply want to understand how the problem occurred and get an apology or reassurance that the same thing won't happen again.

Those who want some kind of redress often just want to be in the position they were in before they felt the need to complain.

Complaints can be resolved more effectively if you are clear from the outset what the person complaining expects as an outcome. Also, if you agree a plan with them and explain how the issue has been resolved, all parties can benefit from the process. (See 'Responding in the right way every time' on page 22 for more information on developing a plan).

Both the Health Service Ombudsman and the Local Government Ombudsman have made it clear that if a service is in the wrong it must try to put things right.

There are a number of remedies that can be used. The remedy needs to be proportionate to the circumstances.

Offering a full explanation

When someone makes a complaint about your service, they have the right to a response which explains how their concerns have been resolved, what action has been taken and their right to take the matter further.

Every response will be different, especially for complex issues, but it may include some or all of the following:

- a summary of each element of the complaint
- details of policies or guidelines followed
- a summary of the investigation
- details of key issues or facts identified by an investigation
- conclusions of the investigation: was there an error, omission or shortfall by your organisation? Did this disadvantage the complainant, and if so, how?
- what needs to be done to put things right
- an apology, if one is needed
- an explanation of what happens next (eg what will be done, who will do it, and when)
- information on what the person complaining should do if they are still unhappy (eg your organisation's appeals process)
- information on the relevant Ombudsman.

Complaints can be resolved more effectively if you are clear from the outset what the person complaining expects as an outcome

Different ways to put things right

Your response to a complaint will naturally depend on the circumstances of each case. However, the Local Government Ombudsman has some useful advice:

“There are some simple principles you can follow when you want to put things right. Whenever possible: put someone in the position they would have been if the fault had not occurred, make the remedy appropriate and proportionate to the harm suffered, take specific action if it's needed, offer compensation if appropriate and always apologise if you are at fault. Also consider whether any practices, procedures or policies should be reviewed.”

For more information on putting things right, see the Health Service Ombudsman's *Principles for Remedy* guidance.

If you offer financial redress, it is a good idea to be familiar with the Treasury's advice.

There are lots of ways you can put things right:

- Apologise.
- Explain what happened.
- Explain how you will try to ensure it does not occur again.
- Take action to put things right.

WHAT TO DO IF THE COMPLAINT STILL CAN'T BE RESOLVED

If you have done everything you can to resolve a complaint, and a person is still not satisfied, they can ask the Health or Local Government Ombudsman to review the matter.

It is important that you are able to advise whoever is complaining about how they can exercise this right and the steps involved.

The Ombudsman – your questions answered

How does someone contact the relevant Ombudsman?

If an issue is about an NHS service, the complainant can contact the Health Service Ombudsman by:

- visiting www.ombudsman.org.uk
- calling the complaints helpline 0345 015 4033 (Mon–Fri 8:30am–5:30pm)
- emailing phso.enquiries@ombudsman.org.uk
- faxing 0300 061 4000
- writing to:

The Parliamentary and Health Service
Ombudsman
Millbank Tower
Millbank
London SW1P 4QP

If an issue is about an adult social care service, the person complaining can contact the Local Government Ombudsman by:

- visiting www.lgo.org.uk
- calling the LGO Advice Team on 0845 602 1983 (Mon–Fri 8:30am–5:00pm)
- texting 'call back' to 0762 480 4323
- faxing 024 7682 0001
- emailing: advice@lgo.org.uk
- writing to:

The Local Government Ombudsman
PO Box 4771
Coventry CV4 0EH

What factors does the Ombudsman look at?

The Health Service Ombudsman bases their decisions on *Principles of Good Complaint Handling*, while the Local Government Ombudsman has published guidance to help you understand what they regard as good practice.

How does the Ombudsman process work?

Step 1: After ensuring that the complaint is within their jurisdiction the Ombudsman may check that everything has been done to resolve the issue locally. If they think more can be done, they will refer the issue back to the service.

Step 2: Before taking the matter on, the Ombudsman will consider several factors: What has gone wrong? What injustice has this caused? What is the likelihood of achieving a worthwhile outcome?

Step 3: If the Ombudsman believes there is a case to answer, they will direct the organisation to put things right.

HANDLING UNREASONABLE COMPLAINANTS

On rare occasions, despite your best efforts to resolve a complaint, the person making it can become aggressive or unreasonable. It is important to know how to handle circumstances such as these.

There are a number of ways to help manage the situation:

- Make sure contact is being overseen by a manager at an appropriate level in the organisation.
 - Provide a single point of contact with an appropriate member of staff and make it clear to the complainant that other members of staff will be unable to help them.
 - Ask that they contact you only in one way, appropriate to their needs (eg by phone).
 - Place a time limit on any contact with the complainant.
 - Restrict the number of calls or meetings you will have with them during a set period.
 - Ensure that any contact involves a witness.
 - Refuse to register repeated complaints about the same issue.
- Only acknowledge correspondence you receive about a matter that has already been closed.
 - Explain that you do not respond to correspondence that is abusive.
 - Make contact through a third person such as a specialist advocate.
 - Ask the complainant to agree how they will behave when dealing with your service in the future.
 - Return any irrelevant documentation and remind them that it will not be returned again.

When using any of these approaches to manage contact with unreasonable or aggressive people, it is important to explain what you are doing and why, and to keep a detailed record of the ongoing relationship.

You can read more advice on dealing with unacceptable behaviour and unreasonably persistent complainants.



IMPROVING

HOW TO KEEP IMPROVING YOUR SERVICE

Listening to feedback about your services can uncover new ideas to help improve the way in which you do things. This is increasingly important for health and social care organisations, who are expected to show how they use feedback to improve care.

Improving customer focus

What is a customer-focused service?

According to the Office of Government Commerce, a customer-focused service:

- understands its customers
- makes sure that the way it operates is totally focused on the customer
- forms strong relationships with customers and encourages feedback
- uses its knowledge of the customer to improve and develop the service it provides.

What makes a happy customer?

Public services can raise levels of customer satisfaction when they:

- do what people expect of them
- handle problems effectively
- provide a prompt service
- provide accurate, comprehensive information and regular progress reports
- have professional, competent staff who treat people fairly
- are friendly, polite and sympathetic to individual needs.

Tips for improving your customer focus

1. Take a consistent approach to customer contact, across all services.
2. Know what other services your customers use.
3. Share information about customers and communities across the services – to reduce unnecessary duplication.
4. Always create an opportunity for people to give feedback or become involved if they can.¹⁰

Using the 'four Cs'

You can use any comments, compliments, concerns and complaints you receive to:

- tell you what's working
- help you identify potential service problems
- help you identify risks and prevent them from getting worse
- highlight opportunities for staff improvement
- provide the information you need to review your services and procedures effectively.

Using feedback to provide more effective care

Every day, managers and commissioners across the country are using feedback to help improve services. Here are a few examples.

Identifying service problems

Following a road traffic accident, the Disablement Service Centre assessed Mr T for a wheelchair. Having waited a long time for his initial assessment, Mr T was unhappy with the subsequent delay in receiving his chair – and the failure of the service to explain why. Eventually Mr T had to hire his own chair.

Mr T complained directly to the commissioner of the service and the matter was investigated. As a result, Mr T was compensated and the delivery of his chair prioritised.

Following this complaint, along with an assessment of other complaints made, the contracts were reviewed and the service was improved. Mr T, and other people who had complained, were told that their feedback was being used to improve standards.

Improving staff learning

Mrs L's mother was being cared for at a community hospital during her final illness. She fell, broke her hip and died shortly afterwards. Mrs L felt that the fall, and a general lack of care, contributed to her mother's early death – and robbed the family of the last few precious months with her.

The hospital's customer service team received a complaint, which resulted in several meetings between Mrs L and the matron in charge. As well as the specifics of the complaint, the meetings raised additional concerns about communication with the families of patients.

The complaint was eventually resolved to Mrs L's satisfaction – she has also helped to make improvements by sharing her experience in staff training sessions.

Identifying risks

Mrs X's husband was diagnosed with depression and referred to the local community mental health service.

After waiting some time for her husband to receive any service, and fearing that his condition was deteriorating, Mrs X complained. The complaints team arranged for a clinical psychologist to talk to Mrs X and hear her concerns.

It became clear that Mrs X had received confusing and conflicting information from different members of staff. She was offered an apology and her husband was placed on the priority list for treatment.

The psychologist felt that effective care had been hindered by miscommunication. This could have had serious consequences for a more vulnerable patient. As a result, the service reviewed its procedures to minimise the chances of a similar incident happening again.

Showing that lessons are learnt

From April 2009, health and social care managers will have to show how they use feedback to learn and improve.

Under new complaints legislation, organisations will need to produce an annual report detailing:

- the number of complaints they receive
- the issues that these complaints raise
- whether complaints have been upheld, and
- the number of cases referred to an Ombudsman.

Organisations will also need to record any significant issues raised by complaints, the lessons learnt and actions taken.

Other ways in which providers will be held accountable:

- Commissioners already have to show how feedback and data relating to people's experiences affect future decisions. From April 2009, people can complain directly to a commissioner.
- The NHS Constitution clearly states the standards people expect when using services.
- The Care Quality Commission also requires registered providers of services to investigate complaints effectively and learn lessons from them.

TRAINING FOR FRONTLINE STAFF AND MANAGERS

Everyone who works for a health or social care service has a role to play in identifying mistakes, putting them right and learning from them, as quickly as possible. But to do this effectively, staff need the right knowledge and skills.

It is important that everyone who works in your service has a good understanding of the complaints system and how it works within your organisation.

Staff also need to know how to handle, progress and resolve concerns and complaints – and help each other develop key skills, through learning and ongoing training.

The importance of being friendly

A 2006 review¹¹ found that staff attitude was one of the main factors influencing customer satisfaction.

The following tips may seem obvious, but they are frequently highlighted by service users as things that concern them, and they serve as a useful reminder of how important it is to be friendly and polite and show empathy:

- Answer the phone or greet people as quickly as possible.
- Introduce yourself, so people know who they're talking to.
- Take their name and contact details.
- Listen to what is being said – try not to interrupt.
- Ask clarifying questions to ensure that you understand the issue.
- Act on what the person tells you and offer a solution if you can.
- If you can't help, find someone who can.
- If necessary, take the details and get back to the person promptly.¹²

Understanding the steps that can help to resolve a complaint

Until March 2009, the Healthcare Commission¹³ reviewed NHS complaints that could not be resolved locally. The Commission recommended a number of steps that organisations can take to help to get a complaint resolved. It is a good idea to ensure that people who handle complaints regularly understand these steps:

1. Acknowledge the person's right to complain.
2. Ensure that the complaint is assessed upon receipt, so that any concerns about a risk to the safe care of other patients can be identified promptly.
3. Clarify what the person's concerns are and manage expectations about possible outcomes to the investigation of the complaint.
4. Consider the various options for resolving the complaint – for example, a meeting or reimbursement of costs.
5. Ensure that the person is kept informed of progress throughout the life of the complaint.
6. Confirm to the person what support is available to assist in making a complaint – for example, the Independent Complaints Advocacy Service (ICAS).
7. Take statements from, and interview if necessary, those staff involved in the events leading up to the complaint. This should be done as soon as possible, so that events are still fresh in the memory.
8. Where necessary, obtain clinical advice on the matters raised. This advice must have a high degree of independence – for example, by obtaining advice from the trust's medical director or from a clinician at another trust.

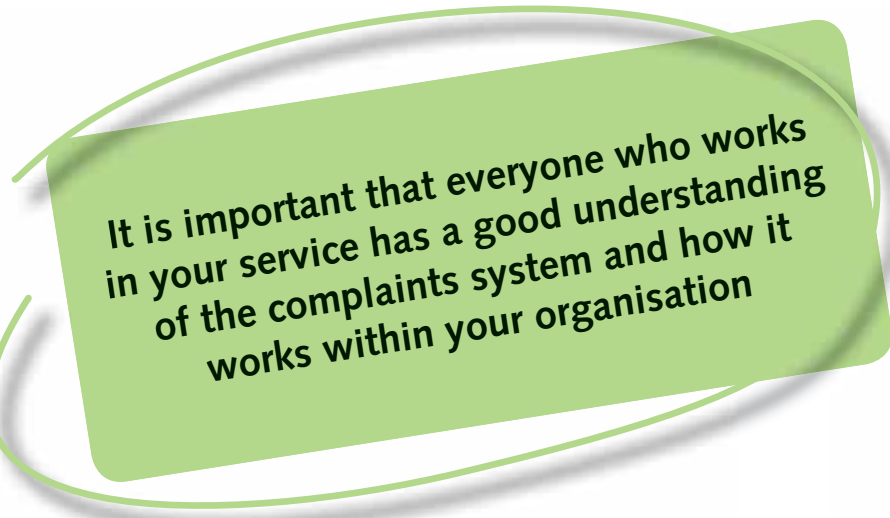
9. Ensure that any letters to the person making the complaint are written in plain English and are as free as possible of clinical or other technical terminology.
10. Offer an apology if appropriate.
11. Ensure that general learning is taken from specific complaints and is embedded into the system of care for the future.
12. Ensure that the boards of trusts are satisfying themselves that all the above are happening.

Supervision: helping people who deal with complaints

People who handle complaints regularly, from front-of-house staff to complaints managers, can benefit from the chance to talk about their experiences.

Regular supervision provides:

- an environment that encourages professional development
- a confidential way to reflect on the work being done, and the impact it may have on staff and their ability to do their jobs
- an opportunity to identify the key skills and knowledge needed to perform the role effectively
- ongoing assessment of any training and development needs
- an opportunity to monitor personal strengths and weaknesses, and to ensure that staff receive appropriate training and support.



It is important that everyone who works in your service has a good understanding of the complaints system and how it works within your organisation

Skills for managers who deal with complaints regularly

If you are a manager who deals with complaints regularly or with people who are unhappy about your service, there are certain skills that, if you develop them, can help you do your job. The list below was compiled from suggestions made by complaints managers themselves.

It helps if you:

- have excellent communication skills
- have a good understanding of the complaints system and the rights of health and social care service users
- understand policies and procedures relating to the handling of complaints
- understand the different ways to resolve complaints and concerns
- have good problem-solving and negotiating skills
- have mediation and counselling experience
- can work effectively with internal and external stakeholders
- understand different cultural and special needs
- have knowledge of local procedures such as child protection, court, disciplinary and grievance
- have an understanding of national procedures relating to the courts, professional regulators and the Independent Safeguarding Authority
- have an understanding of data protection, health and safety and human rights legislation.

TOP QUESTIONS

I am a GP, dentist, optician or pharmacist. Does the new complaints system apply to me?

It applies to all independent contractors that provide NHS services in a primary care setting. We will be publishing a supplement to this guide, to help you provide a bespoke service in your particular setting. However, there are some things you need to consider and implement immediately, including:

- publicising that you want to receive feedback of various kinds, including complaints
- ensuring that anyone using your services and their families know how to complain and to whom
- making someone responsible for handling and responding to complaints
- acquainting yourself with the new regulations and guidance to ensure that you are meeting the legal requirements.

I am a chief executive or director of social care. How can I help to implement the new approach, and what is my ongoing role?

- Ensure that all staff are aware of the new approach and that they adapt to it accordingly. This means welcoming feedback and advising people who want to complain about their rights and what to do.
- Make sure that all staff receive training on the new approach to complaints.
- Provide leadership and face-to-face support for customer services and complaints staff.
- Ensure that what staff report is acted on, so that you learn from complaints and use the information to continually improve services.

- Ensure that you work with partners in other local health and social care organisations to provide a coherent, single approach for complaints involving pathways of care.
- Have a single point of contact for people wishing to complain.
- Support your local complaints network, offer peer support and share best practice – to help to ensure that all organisations embed the new arrangements quickly and successfully.

I am a service manager. What is the best way to resolve complaints about my area?

- Make yourself available and approachable to people wishing to complain.
- Communicate and investigate. Find out what went wrong and why, offer an apology and be prepared to acknowledge what went wrong and what shouldn't have happened – or should have happened and didn't.
- Offer a full explanation and, if appropriate, a solution or redress. Give assurance that you have taken the information on board, and will ensure that it won't happen again.
- Ensure that your complaints manager has all the information and support they need to resolve issues satisfactorily.
- Ensure that any staff you are responsible for are fully aware of the new approach – and what it means in terms of being open, receptive, empathetic and responsive.

I am a medical director. How can I best help to resolve complaints?

- Provide leadership for your clinical colleagues. Complaints are a valuable source of information about people's experiences, not just of colleagues' clinical expertise but also their general approach – which is equally important.
- Remember that most people simply want an explanation, an apology and assurance that it won't happen again, to them or to anyone else.
- Ensure that you and your teams are flexible about how you communicate with people throughout the complaints process – that doesn't have to be a report; a meeting can be the best means of explaining things. Also have arrangements in place for people with other first languages or communication difficulties.
- Ensure that your teams understand the new complaints approach and equal treatment requirements, and that they support their complaints and management colleagues when they are attempting to resolve issues.
- Following a complaint, ensure that you and your teams make the necessary improvements, to show that lessons are learnt, and prevent the problem occurring again for other patients.

I am a commissioner of services. How can I access and help 'hidden populations' to engage equally?

- Commissioners need to carry out a clear risk analysis of the people for whom they commission services. They then need to identify those who may find it difficult to express their views and experiences (including concerns and complaints). These difficulties could be due to:
 - the environment where their care takes place
 - the person's own barriers
 - factors such as language or culture
 - the relationships between the users and people who provide services, for example the GP or residential care staff.
- All organisations need to ensure that they understand the diverse needs of their local population, so that anyone wishing to complain or express concern about health and social care services can do so.
- Organisations also need to make sure that specialist, high-quality support is available for people making complaints. This could be through PALS, customer services, advocacy services, counselling services, independent organisations with specialist advisers, or peer support for specific people or groups.

How can complaints inform the commissioning of services?

Commissioners can only introduce and develop services if they are in meaningful contact with the people they serve. Any information and feedback should be a two-way process, and help to inform the development of the most effective services.

According to World Class Commissioning Competency level 3:

- the role of the commissioner is to “proactively build continuous and meaningful engagement with the public and patients, to shape services and improve health”
- public and patient engagement is “information from patients and the public that has a direct impact on quality and improvement”
- in order to improve the patient experience, it is essential that organisations obtain “real-time feedback from users on services” and then demonstrate “how ongoing, integrated patient experience data systematically drives commissioning decisions”
- commissioners should “effectively manage systems and work in partnership with providers to ensure contract compliance and continuous improvement in quality, outcomes and value for money”.

What does ‘inform the commissioning of services’ mean for providers?

Providers need to show that they are using complaints and other forms of feedback to continuously improve services.

- They need to ensure that they have introduced improvements as a result of complaints, comments or concerns.
- They need to report on these improvements and be able to demonstrate how they are a direct result of individual complaints raised.
- They will be best placed to achieve this by:
 - ensuring that patients and users who wish to make a complaint are fully equipped with the information and means to do so, and
 - implementing the new approach, and applying the learning from complaints as part of overall resolution and organisational responsiveness.

**listening
responding
improving**

HELPFUL RESOURCES FOR YOU

Advice sheets for complaints professionals

Investigating complaints

This advice sheet sets out some of the issues that you might want to consider if you are involved in investigating a complaint.

Joint working on complaints

Organisations that provide care together can find it useful to have a joint protocol for handling complaints. This advice sheet includes an example protocol, an example consent form and a flow chart showing how joint complaints might be handled.

Dealing with serious complaints

This advice sheet outlines some of the things you should bear in mind when dealing with a complaint that has safety implications for service users or the public.

www.dh.gov.uk/mec

Advice from the Ombudsmen

Principles of good complaint handling

The Health Service Ombudsman has published six principles of good complaint handling.

Principles for remedy

The Health Service Ombudsman has published principles for remedy.

Running a complaints system, good administrative practice and remedies

The Local Government Ombudsman has produced good practice notes covering different aspects of complaint handling.

Dealing with unreasonably persistent complainants and unreasonable complainant behaviour

The Local Government Ombudsman has produced good practice notes on this issue.

People's rights

NHS Constitution

In the NHS, patients have certain rights when it comes to making a complaint. These are set out in full in the NHS Constitution and the accompanying handbook.

ENDNOTES

- 1 Healthcare Commission, *Spotlight on complaints: A report on second-stage complaints about the NHS in England*, 2009.
- 2 The Health Service Ombudsman for England, *Making things better? A report on reform of the NHS complaints procedure in England*, The Stationery Office, 2005.
- 3 Department of Health commissioned survey, 2005.
- 4 Department of Health, *The NHS Constitution*, 2009.
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- 8 Healthcare Commission, *Spotlight on complaints: A report on second-stage complaints about the NHS in England*, 2009.
- 9 Source: Health Mediation Service for Kent leaflet.
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- 11 *The Customer Voice in Transforming Public Services*, independent report by Bernard Herdan, Cabinet Office, 2006.
- 12 Source: Southampton University Hospitals NHS Trust.
- 13 Healthcare Commission, *Spotlight on complaints: A report on second-stage complaints about the NHS in England*, 2009.



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