

HEALTH AND SOCIAL CARE BOARD

POLICY FOR THE MANAGEMENT OF COMPLAINTS

October 2017

1. Introduction

- 1.1 This policy sets out how staff working within the Health and Social Care Board (HSC Board) should deal with complaints raised by service users or former service users. It outlines a consistent procedure on complaints relating to the HSC Board, its actions and decisions are to be handled; and also how the monitoring of complaints processes and outcomes relating to the HSC Board, HSC Trusts and Family Practitioner Services is conducted. These procedures reflect the new arrangements for dealing with complaints which became effective from 1 April 2009 and should be read in conjunction with "Complaints in Health and Social Care: Standards and Guidelines for Resolution and Learning" (thereafter the HSC Complaints Procedure).
- 1.2 The proper handling of complaints, suggestions or queries is a fundamental responsibility of the HSC Board. Complaints should therefore be dealt with promptly, sympathetically and constructively. It is important that every complainant should feel that his or her complaint has been dealt with appropriately.

What the Policy Covers

- 1.3 This policy deals with complaints about care or treatment, or about issues relating to the provision of health and social care. Complaints may, therefore, be raised about services provided by:
- The Health and Social Care Board (HSC Board)
 - Commissioning and purchasing decisions (for individuals);
 - Family Practitioner Services (FPS).

What the Policy does not cover

- 1.4 This policy does **not** deal with complaints about:
- Private care and treatment or services including private dental care or privately supplied spectacles; or
 - Services not provided or funded by the HSC, for example, provision of private medical reports.

1.5 Complaints may be raised within an organisation, which that organisation needs to address, but do not fall within the scope of the HSC Complaints Procedure. When this occurs, the HSC Organisation should ensure that there are other processes in place to deal with these concerns. For example:

- staff grievances
- an investigation under the disciplinary procedure
- an investigation by one of the professional regulatory bodies
- services commissioned by the HSC Board;
- a request for information under Freedom of Information;
- access to records under the Data Protection Act 1998
- an independent inquiry
- a criminal investigation
- the Child Order Representations and Complaints Procedure
- protection of vulnerable adults
- child protection procedures
- coroner's cases
- legal action.

1.6 HSC Board staff may complain about the way they have been dealt with under the HSC Complaints Procedure and, provided they have exhausted the local grievance procedure, may complain to the NI Public Services Ombudsman, (the Ombudsman). Family Health Services Practitioners may complain to the Ombudsman about the way they have been dealt with under the HSC Complaints Procedure.

Confidentiality

1.7 The HSC Board must be cognisant of the legal and ethical duty to protect the confidentiality of the service user's information as set out in the Data Protection Act 1998 and the Human Rights Act 1998. The common law duty of confidence must also be observed. Ethical guidance is provided by the respective

professional bodies. It is not necessary to obtain the service user's express consent to the use of their personal information to investigate a complaint. However the service user's wishes should always be respected, unless there is an overriding public interest in continuing with the matter (paras 2.8 and 2.9).

2. Standards for Complaints Handling

2.1 The standards and guidelines for complaints handling reflect the changing culture across health and social care with an increasing emphasis on the promotion of safety and quality and the need to be open, to learn and take action in order to reduce the risk of recurrence. The standards for HSC organisations in terms of complaints handling are: -

- Accountability
- Accessibility
- Receiving complaints
- Supporting complainants and staff
- Investigation of complaints
- Responding to complaints
- Monitoring
- Learning

These standards complement existing Controls Assurance Standards, the Quality Standards for Health and Social Care, the Nursing Homes and Residential Care Homes Standards and the Standards for Patient and Client Experience.

3. Standards and Guidelines for Resolution and Learning

3.1 These provide HSC organisations with detailed, yet flexible, complaints handling arrangements designed to: -

- Provide effective local resolution
- Improve accessibility
- Clarify the options for pursuing a complaint

- Promote the use and availability of support services, including advocacy
- Provide a well-defined process of investigation
- Promote the use of a range of investigative techniques
- Promote the use of a range of options for successful resolution, such as the use of independent experts, laypersons and conciliation
- Resolve complaints more quickly
- Provide flexibility in relation to target response times
- Provide an appropriate and proportionate response
- Provide clear lines of responsibility and accountability
- Improve record keeping, reporting and monitoring
- Increase opportunities for shared learning
- Provide confidentiality to protect staff and those who complain
- Promote fairness with clear procedures and guidance
- Increase openness through clear communications
- Value diversity, equality and human rights.

3.2 Complaints should be dealt with patience and empathy but there will be times when nothing further can reasonably be done to assist the complainant. The changes to the HSC Complaints Procedure introduce an “Unacceptable Actions” policy for handling unreasonable, vexatious or abusive complainants.

Where this is the case and further communications would place inappropriate demands on the HSC Board, staff and resources, consideration may need to be given to classifying the person making a complaint as an unreasonable, demanding or persistent complainant.

In determining arrangements for handling such complaints, staff need to ensure that the Complaints Procedure has been correctly implemented, appreciating that even habitual complainants may have grievances which contain some substance and identify the stage at which a complainant has become habitual.

The Unacceptable Actions Policy should only be used a last resort after all reasonable measures have been taken to resolve the complaint. The HSC Board will record all incidents of unacceptable actions by complainants.

4. **Definitions**

4.1 **Complaint:**

The HSC Complaints Procedure (Para 2.1) defines a complaint as:

"an expression of dissatisfaction that requires a response".

A criticism of a service or the quality of care, whether written or oral, becomes a complaint when it requires a response. A single communication may include more than one complaint.

It should be noted that complainants may not always use the word 'complaint'. They may offer a comment or suggestion that can be extremely helpful. It is important to recognise those comments that are really complaints and need to be handled as such.

4.2 **Complainant:**

Complainants will be existing or former users of the HSC Board's services and facilities.

Where a complaint concerns family health services, complainants will be either existing or former patients of a practitioner who has arrangements with the HSC Board to provide family health services.

Complaints to the HSC Board may also be from existing or former users of services provided by a family health services practitioner where the complainant has requested that the HSC Board act as an "honest broker" or intermediary to assist in the local resolution of a complaint.

4.3 Consent

People may complain on behalf of existing or former patients/clients provided they have their consent. Complaints by a third party should be made with written consent of the individual concerned. There will be situations where it is not possible to obtain consent such as:

- where the individual is a child and not of sufficient age or understanding to make a complaint on their own behalf;
- where the individual is incapable (for example, rendered unconscious due to an accident; judgement impaired by learning disability, mental illness, brain injury, or serious communication problems);
- where the subject of the complaint is deceased.

4.4 Where a person is unable to act of him/herself, their consent shall not be required. However the Complaints Manager will determine whether the complainant has sufficient interest to act as a representative. The question of whether a complainant is suitable to make a representation depends, in particular on the need to respect the confidentiality of the patient. If it is determined that a person is not suitable to act as a representative, the Chief Executive (or senior person) must provide information in writing to the person outlining the reasons the decision has been taken.

5. **Complaints concerning commissioning decisions by the HSC Board**

5.1 The HSC Board has arrangements in place to deal with complaints about commissioning decisions it has made. It will also respond to complaints about its own actions and decisions.

5.2 Complaints about a commissioning decision of the HSC Board may be made by, or on behalf of, any individual personally affected by a commissioning decision taken by the HSC Board. The HSC

Complaints Procedure may not deal with complaints about the merits of a decision where the HSC Board has acted properly and within its legal responsibilities.

5.3 The public or the Patient and Client Council may wish to raise general issues about commissioning decisions with the HSC Board and they should receive a full explanation of the HSC Board's policy. These are not, however, issues for the HSC Complaints Procedure.

6. **Local resolution of complaints concerning commissioning decisions by the HSC Board**

6.1 The HSC Board must have a local resolution process and designated complaints officers to deal with commissioning complaints and other complaints about the HSC Board's own actions and decisions.

The HSC Board's complaints officers are based at 12-22 Linenhall Street, Belfast, BT2 8BS

Complaints Direct Line: 02895 363893 (Monday-Friday, 9am-5pm)

Text Relay: 18001 0289536 3893

Email: complaints.hscb@hscni.net

6.2 The primary objective of local resolution is to provide the fullest possible opportunity for investigation and resolution of the complaint, as quickly as is sensible in the circumstances. The emphasis is on complaints being dealt with quickly and, wherever possible, by those on the spot. The intention of local resolution is that it should be open, fair, flexible, and conciliatory. The complainant should be given the opportunity to understand all possible options for pursuing the complaint and the consequences of following any of these.

6.3 The process should encourage communication on all sides. The aim should be to resolve a complaint during this stage to the satisfaction of the complainant while being fair to staff. Rigid, bureaucratic, and legalistic approaches should be avoided at all stages of the procedure.

- 6.4 Complaints can be submitted, in writing via email or letter or in person. All complainants should receive a positive and full response, free of jargon. The aim should be to satisfy the complainant that their concerns have been heeded, and offer an apology and explanation as appropriate, referring to any remedial action that is to follow.
- 6.5 In the context of local resolution for the HSC Board, for example, a member of staff from a relevant Directorate may respond directly to a complainant about a commissioning decision. The HSC Board's Complaints Office should, however, be made aware of the nature of the complaint and response.
- 6.6 The HSC Complaints Procedure (para 3.41) states that the Chief Executive may delegate responsibility for responding to a complaint, where in the interests of a prompt reply, a designated senior person may undertake the task.

7. HSC Board involvement in local resolution of complaints concerning Family Practitioner Services

- 7.1. Where requested the HSC Board will act as 'honest broker' or intermediary in the resolution of a complaint. The objective for the HSC Board should be wherever possible to restore the trust between the patient and the practitioner/practice staff. In addition, if requested by a complainant and/or a Family Practitioner Service (FPS), the HSC Board's Complaints Office with the agreement of both parties may arrange for a lay person or conciliator to be appointed to assist in resolution of the complaint. The advice of an independent expert will only be sought to provide clarification on clinical matters or where there is a risk to patient/client safety.
- 7.1.1 Once agreement has been received for the HSC Board to act as Honest Broker, the HSC Board Complaints staff (on behalf of FPS) will make necessary arrangements. The HSC Board (on behalf of

FPS) is responsible for communicating with, ascertaining the availability of and formally appointing an appropriate lay person, conciliator or independent expert.

7.2 Lay Persons

The HSC Board has a number of Independent Lay Persons who will operate as a pool for all HSC organisations. Lay Persons may be beneficial in providing an independent perspective of non-clinical or technical issues within the local resolution process.

They are not intended to act as advocates, conciliators or investigators and neither do they act on behalf of the Family Practitioner Service nor the complainant. The Lay Person's involvement is to bring about a resolution to the complaint and to provide assurances that the action taken was reasonable and proportionate to the issues raised.

Input from a Lay Person is valuable when testing issues such as communication, quality of written documents, attitudes and behaviours and access arrangements.

7.3 Conciliation

Conciliation is a process of examining and reviewing a complaint with the help of an independent person. The conciliator will assist all concerned to a better understanding of how the complaint has arisen. They will work to ensure that good communication takes place between both parties involved to enable them to resolve the complaint. It may not be appropriate in the majority of cases but it may be helpful in situations:

- where staff or practitioners feel the relationship with the complainant is difficult;
- when trust has broken down between the complainant and the practice/pharmacy/HSC organisation and both parties feel it would assist in the resolution of the complaint;

- when there are misunderstandings with relatives during the treatment of the patient.

Conciliation is a voluntary process available to both the complainant and those named in the complaint. Either may request conciliation, but both must agree to the process being used. The HSC Board has developed a select list of providers for HSC and the HSC Board's Complaints Office holds these details.

7.4 Independent Experts

The use of an independent expert in the resolution of a complaint may be requested by the complainant or FPS at any time, or suggested by the HSC Board. The HSC Board complaints office may, however, seek an assurance from Integrated Care Professionals that the use of an Independent Expert is appropriate. In deciding whether independent advice should be offered, consideration must be given, in collaboration with the complainant, to the nature and complexity of the complaint and any attempts at earlier enhanced local resolution.

An independent expert may be considered beneficial where the complaint:

- cannot resolved locally;
- indicates a risk to public or patient safety;
- could give rise to a serious breakdown in relationships;
- threaten public confidence in services or damage reputation;
- to give an independent perspective on clinical issues.

The HSC organisation may decide to involve an independent expert in a complaint without the complainant's consent, outside the procedure, for the purposes of obtaining assurances regarding health and social care practice.

8. Receipt of Complaints

- 8.1 Complaints received orally should be dealt with by staff promptly, sympathetically and constructively. A statement should be taken and a record kept on file. Such complaints should be dealt with according to the principles of local resolution and should be resolved immediately or within two days of receipt.
- 8.2 Oral complaints which cannot be resolved to the complainant's satisfaction should be referred to the HSC Board's Complaints Office. Similarly a statement should be taken from the complainant and a record kept.
- 8.3 Complaints received through the Private Office of the Department of Health (NI) will be forwarded to the HSC Board's Complaints Office which will arrange for an acknowledgement and the preparation of a response. When the reply is ready it will be signed by the Chief Executive (or designated senior person).
- 8.4 Complaints addressed directly to the HSC Board Chairman or Chief Executive, such as those from Members of Parliament, Members of the Legislative Assembly, District Councillors etc, will be dealt with as in 8.3 above.
- 8.5 Complaints received from members of the public and others not specified above, will be forwarded to the HSC Board's Complaints Office who will arrange for an acknowledgement and the preparation of a response from the Chief Executive (or designated senior person).
- 8.6 Complaints concerning a HSC Board staff member will be investigated by the relevant Directorate who will take the appropriate action. The HSC Board's Complaints Office should, however, be made aware of the nature of the complaint and response.

FPS Complaints received by the Board

- 8.7 Complainants will receive an acknowledgement within 2 working days, their complaint will be investigated thoroughly, treated confidentially and responded to fully in writing within 20 working days.
- 8.8 If there is a delay in meeting the timescales set, the complainant will be advised of the situation and when a response is expected. Complainants will be also advised of what action they can take should they remain dissatisfied following consideration of the response.

Board Complaints received by the HSCB

- 8.9 Complainants will receive an acknowledgement within 2 working days, their complaint will be investigated thoroughly, treated confidentially and responded to fully in writing within 20 working days.
- 8.10 Written responses to complaints will be under the signature of the Chief Executive or a designated senior person.
- 8.11 Complainants will be advised of what action they can take should they remain dissatisfied following consideration of the response, which will include recourse to the Northern Ireland Public Services Ombudsman (the Ombudsman). Complainants must bring their complaint to the Ombudsman within 6 months following completion of the HSC Board's internal complaints process.

Northern Ireland Public Services Ombudsman
33 Wellington Place
Belfast
BT1 6HN
Freephone: 0800 343424
Email: nipso@nipso.org.uk

8.12 Where a complaint is received by the HSC Board in error, the Complaints Office should ensure that it is passed immediately to the correct body with the consent of the complainant.

8.13 If timescales will not be adhered to, the complainant will be provided with an explanation for the delay and when a response should will be expected.

9. Northern Ireland Public Services Ombudsman

9.1 All papers relating to the local resolution stage will be made available to the Ombudsman where such a case has been referred by the complainant to the Ombudsman for investigation.

10. Complaints Monitoring

10.1 Under the HSC Complaints Procedure the complaints handling role and responsibilities of the HSC Board are to monitor complaints processes, outcomes and service improvement; and dissemination of learning. The use of this information will also inform commissioning processes and purchasing decisions.

10.2 The operation and effectiveness of the HSC Complaints Procedure will be monitored continuously. A Regional Complaints Sub-Group (HSC Board/Public Health Agency/Patient & Client Council) has been established and will meet on a bi-monthly basis to consider analysis of information pertaining to HSC Board complaints, Family Practitioner complaints and HSC Trust complaints. The Regional Complaints Sub-Group, will identify what learning should be cascaded regionally to ensure policies and practices are amended as a result of complaints. This information will inform a regional learning communication.

10.3 This includes monitoring of the subject of complaints raised, the particular specialties they relate to and/or their locality, as well as ensuring that there are appropriate systems in place to manage complaints, that complaints are responded to comprehensively and in a timely manner and that in enhancing the local resolution stage,

complaints can be resolved more quickly and as close to the source as possible.

10.4 Monitoring information will be: -

(i) **Health and Social Care Board**

Regular statistical information must be made available in respect of complaints received from existing or former service users regarding commissioning decisions of the HSC Board, or from those being denied a service as a consequence of commissioning decisions of the HSC Board, and its actions and responses.

(ii) **Family Practitioner Services**

The HSC Complaints Procedure requires Family Practitioners to forward to the HSC Board's Complaints Office an anonymised copy of each complaint and its subsequent response within 3 working days of issue of the response. Family Practitioners are also required to forward to the HSC Board's Complaints Office any other significant correspondence or report relating to the complaint and; copies of any correspondence received from the Ombudsman.

(lii) **Health and Social Care Trusts**

HSC Trusts will supply monthly returns that provide a summary of all complaints received, their site location, classification of complaint (eg treatment and care, communication, staff attitude), response time and a summary of the outcome of the investigation and any actions taken or to be taken. These returns will also include details of complaints relating to out of hours services, independent sector providers (where the Trust has commissioned the care/service) and prison healthcare (South Eastern HSC Trust).

HSC Trusts will supply information relating to the investigation of any complaint(s) that the HSC Board considers necessary for monitoring and learning purposes.

In addition, Trusts will also advise the Board of the number of complaints received in a month, and the numbers reopened. In particular Trusts will highlight those which have progressed to the Ombudsman, or those from which learning has occurred.

11. Role of the Patient and Client Council

Advice should be made available at all stages of the HSC Complaints Procedure about the role of the Patient and Client Council in giving individuals advice and support on making complaints. Details of other advocacy or support organisations can also be identified.

12. Equality

- 12.1 The HSC Board takes account of duties under Section 75 Equality Legislation, other Equality Legislation and Human Rights Legislation in a way that promotes equality of opportunity, good relations and human rights. Where a particular need is identified we will consider the best way to respond to this is a way that values diversity.
- 12.2 The HSC Board will not treat a complainant less favourably because of their gender, age, disability, marital status, race, sexual orientation, religious or political opinion or if they have dependents.
- 12.3 This document can be made available on request and where reasonably practicable in an alternative format, Easy Read, Braille, audio formats (CD, mp3 or DAISY), large print or minority languages to meet the needs of those for whom English is not their first language.