

Complaints Policy and Procedure

Lead Manager:	Board Complaints Manager
Responsible Director:	Board Nurse Director
Approved by:	Board Nurse Director
Date approved:	21 February 2017 by NHS Board
Date for Review:	31 March 2019
Coming into effect	1 April 2017
Replaces previous version: [if applicable]	Complaints Policy July 2015 v2.2

NHS Greater Glasgow and Clyde Complaints Policy and Procedure

Foreword

Our complaints policy and procedure reflects NHS Greater Glasgow and Clyde's commitment to welcoming all forms of feedback, including complaints, and using them to improve services, to address complaints in a person-centred way and to respect the rights of patients, families and staff involved. It will support our staff to resolve complaints and to conduct thorough and fair investigations so that we can make compassionate, yet evidence-based decisions, on the facts of the case.

This policy and procedure has been developed with reference to the national complaints handling procedure, developed in close conjunction with the Scottish Public Services Ombudsman, which aims to bring about consistency in complaints handling across NHS Scotland. It meets the requirements of the Patient Rights (Scotland) Act 2011, and accords with the Healthcare Principles introduced by the Act.

We aim to provide the highest quality services possible through the delivery of safe, effective and person-centred care. Whilst the vast majority of patients have a good experience, we cannot underestimate the emotional, and sometimes physical, impact on patients and families who have a less positive experience, bearing in mind the phrase 'perception is reality'. It is therefore essential that we produce open, honest and empathetic responses to complaints consistently across the organisation. Our complaints policy and procedure helps us to listen effectively to what people are telling us about our services, and to act with purpose on what we hear. It enables us to put things right when things go wrong, and to learn and take action so that the same problems do not happen again.

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

Whilst NHS Greater Glasgow and Clyde is responsible for the delivery of health services, the six Health and Social Care Partnership in our area have responsibility for the planning and direction of services in their area which have been delegated to them. The integration of health and social care requires staff from the NHS Board, local authority and third sector organisations to work together in order to provide joined up, person-centred services.

Under health and social care integration, there will remain two separate complaints handling procedures for health and for social care.



Mags McGuire
Nurse Director

Contents

Our Complaints Policy and Procedure	1
What is a complaint?	2
<i>Feedback</i>	<i>5</i>
<i>Comments.....</i>	<i>5</i>
<i>Concerns.....</i>	<i>5</i>
Publication.....	6
Primary Care service providers	6
Complaints from prisoners.....	8
Financial compensation.....	8
Handling anonymous complaints.....	8
Whistleblowing	9
Staff Grievance.....	9
Significant Clinical Incidents	9
Patient Opinion.....	10
Who can make a complaint?	10
What if the person raising the issue does not want to complain?	11
Complaints involving more than one NHS service or organisation	11
Overlap with other duties on NHS bodies.....	12
Complaints that span health and social care services	12
The complaints handling process	13
<i>What to do when you receive a complaint</i>	<i>14</i>
Stage one: early resolution.....	15
<i>Timelines.....</i>	<i>16</i>
<i>Extension to the timeline.....</i>	<i>16</i>
<i>Closing the complaint at the early resolution stage.....</i>	<i>17</i>
<i>When to escalate to the investigation stage.....</i>	<i>17</i>
Stage two: investigation.....	18
<i>What to do when you receive a complaint for investigation</i>	<i>18</i>
<i>Contact with the person making the complaint at the start of the investigation.</i>	<i>19</i>
<i>Timelines.....</i>	<i>19</i>
<i>Acknowledgements.....</i>	<i>19</i>
<i>Meeting with the person making the complaint during the investigation</i>	<i>20</i>
<i>Extension to the timeline</i>	<i>21</i>
<i>Mediation</i>	<i>22</i>
<i>Closing the complaint at the investigation stage</i>	<i>22</i>
<i>Meetings and post decision correspondence with the person making the complaint.....</i>	<i>23</i>
<i>Independent external review.....</i>	<i>24</i>
Governance of the Complaints Handling Procedure	25

Roles and responsibilities	25
<i>Chief Executive</i>	25
<i>Directors</i>	25
<i>Feedback and Complaints Manager:</i>	25
<i>Feedback and Complaints Officer</i>	26
<i>All staff in the organisation</i>	26
<i>The SPSO liaison officer</i>	27
Complaints about senior staff	27
Recording, monitoring, reporting, learning from and publicising complaints.....	27
<i>Recording complaints</i>	27
<i>Monitoring complaints</i>	28
<i>Reporting complaints</i>	28
Review by senior management	29
<i>Learning from complaints</i>	30
<i>Publishing complaints performance information</i>	30
<i>National monitoring</i>	31
Performance reporting by Primary Care service providers	31
Maintaining confidentiality	31
Data Protection Act 1998.....	31
Dealing with problem behaviour	32
Supporting the person making the complaint	32
Patient Advice and Support Service (PASS)	33
Time limit for making complaints	33
Appendix 1: Complaints	34
Appendix 2: Concerns	35
Appendix 3: Feedback, Comments, Concerns or Complaints Assessment Matrix ..	36
Appendix 4: Timelines	37
General.....	37
Timelines at the early resolution stage	37
Extension to the five-day timeline.....	37
Transferring cases from early resolution to investigation	38
Timelines at investigation	38
Acknowledgement.....	38
Investigation	38
Timeline examples	39
<i>Complaint 1</i>	39
<i>Complaint 2</i>	40
<i>Complaint 3</i>	40
<i>Complaint 4</i>	40
<i>Complaint 5</i>	40
<i>Complaint 6</i>	40

Appendix 5: The NHS complaints handling procedure	41
Appendix 6: Complaints Performance Indicators	42
<i>Indicator One: Learning from complaints</i>	<i>42</i>
<i>Indicator Two: Complaint Process Experience.....</i>	<i>42</i>
<i>Indicator Three: Staff Awareness and Training.....</i>	<i>43</i>
<i>Indicator Four: The total number of complaints received.....</i>	<i>43</i>
<i>Indicator Five: Complaints closed at each stage.....</i>	<i>43</i>
<i>Indicator Six: Complaints upheld, partially upheld and not upheld.....</i>	<i>43</i>
<i>Indicator Seven: Average times</i>	<i>44</i>
<i>Indicator Eight: Complaints closed in full within the timescales</i>	<i>44</i>
<i>Indicator Nine: Number of cases where an extension is authorised.....</i>	<i>44</i>
Appendix 7: Who submitted the complaint?	46
Appendix 8: Consent	47
Children and Young People.....	47
Adults who cannot give consent	48
Appendix 9: Consent form	49
Appendix 10: Helpful Links.....	51
Appendix 11: Unacceptable Behaviour and Vexatious Complaints.....	52

Our Complaints Policy and Procedure

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

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

The procedure supports us to meet the requirements of the Patient Rights (Scotland) Act 2011 and associated Regulations and Directions. It has been developed to take account of the *Scottish Public Services Ombudsman (SPSO) Statement of Complaints Handling Principles* and best practice guidance on complaints handling from the Complaints Standards Authority at the SPSO. <http://www.valuingcomplaints.org.uk>

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

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

This complaint policy and procedure is based on the human rights principles of:

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

What is a complaint?

NHS Greater Glasgow and Clyde's (GGC) definition of a complaint is:

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

A complaint may relate to:

- care and/or treatment;
- delays;
- failure to provide a service;
- inadequate standard of service;
- dissatisfaction with the organisation's policy;
- treatment by or attitude of a member of staff whilst at work;
- scheduled or unscheduled ambulance care;
- environmental or domestic issues;
- operational and procedural issues;
- NHS transport concerns, either to, from or within the healthcare environment;
- the organisation's failure to follow appropriate process;
- lack of information and clarity about appointments; and
- difficulty in making contact with departments for appointments or queries.

This list does not cover everything.

Examples of complaints we may receive and how these may be handled are available in the accompanying guidance document – see Appendix 1.

Not all issues may be for NHS bodies to resolve. In cases where an individual is dissatisfied with standards of conduct, ethics or performance by an individual health professional, it may be for the respective professional body to investigate. These include, for example, the Nursing and Midwifery Council, the General Medical Council, the General Dental Council, the General Pharmaceutical Council, and the General Optical Society. Where serious concerns about a registered healthcare worker are identified, a referral to the appropriate professional regulator should be made. If you have a query regarding this, please direct it to the Board Complaints Manager, or a nominated person on their behalf, in the first instance.

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

This policy does not apply to the following issues, as set out in Regulations:

- a matter raised by one NHS body about the functions of NHSGGC;
- a matter raised by a service provider about any matter connected with the contract or arrangements under which that service provider provides health services;
- a matter raised by an employee of an NHS body about any issue relating to that person's employment;
- a complaint which is being or has already been investigated by the Scottish Public Services Ombudsman (SPSO);
- a matter arising out of an alleged failure to comply with a request for information under the Freedom of Information (Scotland) Act 2002(a);
- a matter about which the person raising the issue has commenced legal proceedings (whether or not these have concluded), or where the feedback and complaints officer considers that legal proceedings are so likely that it would not be appropriate to investigate the complaint under this policy and procedure;
- a matter about which the complainant wishes to receive compensation as an outcome of their complaint;
- a matter about which NHSGGC is considering the issue under the disciplinary policy; and
- a complaint, the subject matter of which has previously been investigated and responded to, to the degree that the local complaints process is exhausted.

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

This complaints policy and procedure offers a person-centred and effective way of ensuring that complaints are thoroughly investigated and that areas for learning and improvement are identified and actioned.

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

- to consider a routine first-time request for a service;
- a request for a second opinion in respect of care or treatment;
- matters relating to private health care or treatment;
- matters relating to services not provided by or funded by the NHS;
- a serious incident which is the subject of a formal and independent inquiry under Section 76 of the National Health Service (Scotland) Act 1978;
- matters which are being investigated by a professional regulatory body; and
- where it is believed that a criminal offence may have been committed.

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

We value all forms of feedback

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

It is necessary for staff to be able to distinguish between feedback, comments, concerns and complaints to ensure that any issues raised are handled through the appropriate

procedures. Where an issue raised is clearly not a complaint, staff should make arrangements to have the issue handled through the appropriate process and feed this back to the person raising the issue. The following paragraphs provide more information on feedback, comments and concerns.

Feedback

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

Comments

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

Concerns

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

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

It is particularly important for staff to use their discretion and judgement in supporting people to decide whether a matter is a concern or a complaint. The best way to do this is by talking to the person raising the issue to explain how concerns and complaints are handled and responded to. There may be circumstances where the nature of the concern is sufficiently serious to warrant full investigation under this complaints policy and procedure. Where the person states that they do not want to complain, if you are satisfied that the matter is clearly a complaint you should encourage them to pursue it via that route and explain the reasons why. If it is not possible to achieve that, we should still do all we can to resolve the issues and learn lessons in a way the person feels comfortable with. If staff members are in any doubt they should seek advice from the Board Complaints Manager, or a nominated person on their behalf.

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

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

Examples of matters that may be considered as concerns will be included in the guidance document to support this policy – see Appendix 2.

Publication

In accordance with the Complaints Directions, relevant NHS bodies must publish annual summaries of the action which has been or is to be taken to improve services as a result of feedback, comments and concerns received in the year. The annual report is published on the NHSGGC website - <http://www.nhsggc.org.uk/about-us/nhs-board/annual-reports-reviews/>

Primary Care service providers

Complaints about services at a GP surgery, NHS dental surgery, NHS optician's practice or a community pharmacy should be made directly to the practice or surgery. Practices are required to have in place and operate a practice based complaints procedure and to publicise this.

Primary Care service providers should take every opportunity to resolve complaints quickly and locally, and at the point of contact wherever possible. Early resolution is the most effective way of resolving the majority of complaints and should be attempted where the issues involved are straightforward and potentially easily resolved, requiring little or no investigation. Resolving complaints early and locally helps to resolve a person's

dissatisfaction as well as minimise costs. The fewer people involved in responding to a complaint, and the quicker a response is given, the lower the cost of that complaint to the Primary Care service provider in terms of resources and potential redress. Where early resolution is not possible, it remains the responsibility of the primary care provider to investigate and respond to formal complaints.

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

Where an individual believes that a Practice does not have a suitable procedure in place (rather than dissatisfaction with the outcome of a complaint), that concern may be raised with the Health Board. If there is evidence that a Practice does not have a suitable procedure in place, we will require that appropriate action is taken to address this failure. Continued failure by a Practice may result in disciplinary action being taken against the practitioners concerned.

In handling complaints we will have regard to the General Medical Council (GMC)'s, and other relevant regulatory bodies, standards to help to protect patients and improve medical education and practice in the UK. Specifically that 'patients who complain about the care or treatment they have received have a right to expect a prompt, open, constructive and honest response including an explanation and, if appropriate, an apology'. Therefore, the person making the complaint can expect an apology to include what happened, what action we will take to resolve the matter and what will be done to prevent a similar occurrence happening in the future. This is true for all complaints, and not just those related to primary care.

Complaints from prisoners

As with all complaints, we aim to resolve prisoner complaints quickly, and close to the point of service delivery. Healthcare teams within prisons will, therefore, be trained and empowered to respond to complaints at each stage of this procedure, wherever possible.

We will ensure that healthcare staff working with their local prisons are fully aware of this complaints policy and procedure, and that appropriate information on how to complain is freely available to ensure that prisoners have the same access to the NHS complaints procedure as other people. When a prisoner expresses dissatisfaction about the service they have or have not received, or about the standard or quality of that service, we will ensure quick and easy access to the complaints policy and procedure is available to them.

Financial compensation

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

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

Handling anonymous complaints

We value all complaints. This means we treat all complaints including anonymous complaints seriously and will take action to consider them further, wherever this is appropriate. All anonymous complaints are subject to this policy and procedure. The Board Complaints Manager, or nominated person in their absence, should make a decision on appropriate action to take based on the nature of information provided about the anonymous complaint and any other relevant factors. If, however, an anonymous complaint does not provide enough information to enable us to take further action, or to contact the complainant, we may decide that we are unable to complete the investigation.

Any decision not to investigate an anonymous complaint must be authorised by the Board Complaints Manager, or nominated person in their absence. Where appropriate, consideration should also be taken about whether the matter should be considered via the whistleblowing process.

Information about, and decisions made regarding all anonymous complaints will be recorded on the complaints recording system (to the extent that the information is available) to allow consideration of any action necessary. If we pursue an anonymous complaint further, we will record the issues (to the extent that the information is available),

actions taken and outcome. This will help to ensure the completeness of the complaints data we record and allow us to take corrective action where appropriate.

Whistleblowing

The NHS Scotland Staff Governance Standard places a specific obligation upon NHS employers to ensure that it is safe and acceptable for staff to speak up about wrongdoing or malpractice within their organisation, particularly in relation to patient safety. The Implementing & Reviewing Whistleblowing Arrangements in NHS Scotland Partnership Information Network (PIN) Policy, sets out the rights of staff in relation to whistleblowing. NHSGGC has in place a local whistleblowing Policy based on the national PIN and staff should raise any concerns they have about patient safety or malpractice through this and not through the complaints handling procedure.

Alternatively, staff may contact the NHS Scotland Confidential Alert Line. The principal purpose of the Alert Line is to provide an additional level of support to NHS Scotland employees, should they feel unsure about how or whether to report cases of patient safety or malpractice directly to their Board, or, if they feel they have exhausted procedures in place. The Alert Line also provides a safe space where staff who feel they may be victimised as a result of whistleblowing, may, if appropriate, have their concerns passed to a Board or Regulatory Body on their behalf. The Alert Line can be contacted on Freephone 0800 008 6112.

Further information on whistleblowing can be found in Appendix 10 – Helpful Links.

Staff Grievance

Any employee who wishes to raise concerns with regards to an issue concerning their employment should not use this complaints policy and procedure, but instead utilise the NHSGGC's Grievance Policy.

Significant Clinical Incidents

NHSGGC's policy on the Management of Significant Clinical Incidents (SCI) describes SCI's as: *those events that have or, could have significant or catastrophic impact on the patient and may adversely affect the organisation and its staff and have potential for wider learning (i.e. learning that can be gained for future care delivery).*

Complaints we receive may clearly meet the organisation's criteria for managing SCIs. For example, where the complaint is about the safety of care, and the organisation has a duty to proceed with an SCI Review, irrespective of whether a complaint has been made. Where, based on a complaint, it is deemed appropriate to undertake an SCI Review instead of a complaints investigation, we will advise the person making the complaint of this decision.

It is for a senior manager within the clinical service to decide whether an SCI Review should take place, and also to ensure the person raising the complaint is satisfied that the issues related to the SCI Review are clearly agreed. Any remaining issues (for example, those related to attitude and behaviour) should be progressed via the complaints process, parallel, but separate, to the SCI Review.

The person who made the complaint should be advised that the Management of SCI policy operates within different investigation timelines to the complaints process i.e. normally within 12 weeks. We will also tell them they will have the right to ask SPSO to consider their issues further if they remain dissatisfied at the conclusion of the SCI process. The clinical service will take forward the SCI Review, and be the main contact point for the patient or their family (providing there is written consent if required).

For further information on the SCI process, please refer to Appendix 10 – Helpful Links.

Patient Opinion

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

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

Other forms of feedback are Universal Feedback (a system whereby every inpatient on a ward is offered a comment card at the point of discharge. It was introduced as one means to assist NHSGGC meet the requirements of the Patient Rights Act) and NHSGGC Online Patient Feedback (this provides a way for service users, carers and the wider public to share their healthcare experiences with NHSGGC, but these experiences are not visible to the wider public).

Who can make a complaint?

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

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

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

If a person expresses dissatisfaction in line with our definition of a complaint but does not want to complain, tell them that we do consider all expressions of dissatisfaction and concerns, and these also offer us the opportunity to improve services where things have gone wrong.

Encourage the person raising the issue to submit a complaint and allow us to deal with it through the complaints policy and procedure. This will ensure that they are updated on the action taken and get a response to their complaint.

If, however, the person insists they do not wish to complain, you should record the complaint as being a concern, respond appropriately and record it. Doing so will ensure that the person has the opportunity to pursue a complaint at the investigation stage of the policy and procedure should they subsequently raise the matter again.

Complaints involving more than one NHS service or organisation

If someone complains about the service of another NHS Board or Primary Care service provider, and our organisation has no involvement in the issue, the person should be advised to contact the relevant Board or service provider directly, or, where appropriate, we can pass on their complaint on their behalf, with the complainant's permission.

Where the complaint spans two (or more) NHS bodies, for example one Board using the services of another to provide care and treatment, you must tell the person making the complaint who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised. The NHS bodies involved should be mindful of the timescale within which the response should be issued and work jointly to achieve this.

There may be occasions where a complaint relates to two (or more) NHS bodies, however, each aspect of the complaint relates specifically to one, or other of the organisations. This could be, for example a complaint about pre-hospital care and a complaint about a delay in being seen in the accident and emergency department. Where this occurs it is important to communicate clearly with the person making the complaint to explain, and agree how the complaint will be handled. Where this applies each organisation should record, handle

and respond to the complaint about the service they provided and let the complainant know that they will receive two separate responses.

A complaint may relate to the actions of two or more of the organisation's services. Where this is the case, you must tell the person making the complaint who will take the lead in dealing with the complaint, and explain that they will get only one response from the organisation covering all of the issues they have raised.

Overlap with other duties on NHS bodies

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

The Duty of Candour procedure¹ may also be applied in circumstances which give rise to a complaint. This procedure will ensure that people will be told what happened, receive an apology, be told what will be done in response and how actions will be taken to stop a future reoccurrence.

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

Complaints that span health and social care services

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

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

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

Where these services are integrated, you must work together with the HSCP staff to resolve the complaint. A decision must be taken, by following the procedure that the HSCP has in place, as to whether the NHS or local authority will lead on the response. You must ensure that all parties are clear about this decision. It is important, wherever possible, to give a single response from the lead organisation, though ensure both organisations contribute to this. However, in complex cases where a single response is not feasible, you should explain to the person making the complaint the reasons why they will receive two separate responses, and who they can get in contact with about the social care aspects of their complaint.

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

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

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

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

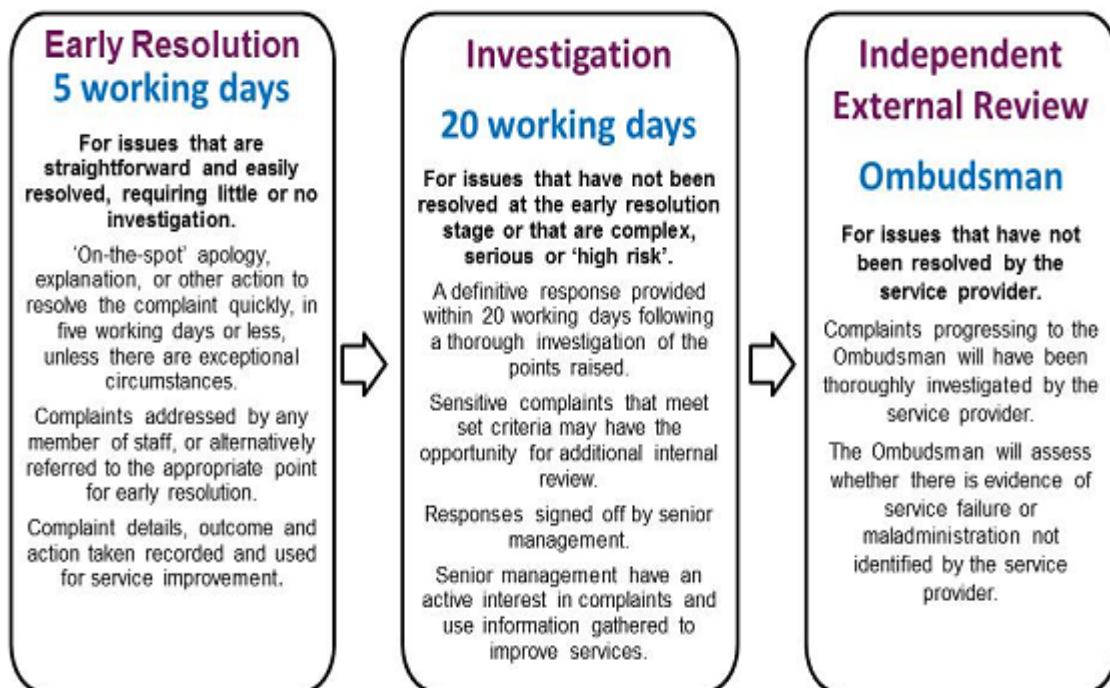
The complaints handling process

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

Our complaints process provides two opportunities to resolve complaints internally:

- early resolution; and
- investigation.

The NHS Model Complaints Handling Procedure



What to do when you receive a complaint

- 1 On receiving a complaint, you must first decide whether the issue can indeed be defined as a complaint. The person making the complaint may express dissatisfaction about more than one issue. This may mean you treat one element as a complaint, while directing the person to pursue another element through an alternative route (see Appendix 2).
- 2 If you have received and identified a complaint, send to the complaints department who will record the details on our complaints system.
- 3 Decide whether or not the complaint is suitable for early resolution. Some complaints will need to be fully investigated before you can give a suitable response. You must handle these complaints immediately at the investigation stage.
- 4 Where you think early resolution is appropriate, you must consider four key questions:
 - what exactly is the person's complaint (or complaints);
 - what do they want to achieve by complaining;
 - can I achieve this, or explain why not; and
 - if I cannot resolve this, who can help with early resolution?

What exactly is the person's complaint (or complaints)?

Find out the facts. It is important to be clear about exactly what the person is complaining of. You may need to ask for more information and probe further to get a full picture.

What do they want to achieve by complaining?

At the outset, clarify the outcome the person wants if this is unclear. You may need to probe further to find out what they want, and whether the expected outcome can be achieved. It may also be helpful to signpost people who complain to the PASS at this point as advisers can often help clients think about their expectations and what is a realistic/reasonable outcome to expect.

Can I achieve this or explain why not?

If you can achieve the expected outcome by providing an on-the-spot apology or explain why you cannot achieve it, you should do so.

The person making the complaint may expect more than we can provide, or a form of resolution that is not at all proportionate to the matter complained about. If so, you must tell them as soon as possible. An example would be where someone is so dissatisfied with their experience that they want the Chief Executive to be sacked.

You are likely to have to convey the decision face to face or on the telephone. If you do this, you are not required to write to the person as well, although you may choose to do so. It is important, however, to record full and accurate details of the decision reached and passed to the person, and to ensure that they understand the outcome. For example, this could be written in a file note and saved on the complaints recording system by complaints staff. You must also advise them of their right to have the complaint escalated to the investigation stage of the complaints policy and procedure if they are not satisfied with the outcome at the early resolution stage.

If I cannot resolve this, who can help with early resolution?

If you cannot deal with the complaint because, for example, you are unfamiliar with the issues or area of service involved, tell the person this and pass details of the complaint to someone who can attempt to resolve it. Keep the person making the complaint informed about what has happened to their complaint and who is responsible for taking it forward.

Stage one: early resolution

Early resolution aims to resolve straightforward complaints that require little or no investigation at the earliest opportunity. This should be as close to the point of service delivery as possible, if reported to us at that time. Any member of staff may deal with complaints at this stage. In practice, early resolution means resolving the complaint at the

first point of contact with the person making the complaint. This could mean a face-to-face discussion with the person, or it could mean asking an appropriate member of staff to deal directly with the complaint. In either case, you may settle the complaint by providing an on-the-spot apology where appropriate, or explaining why the issue occurred and, where possible, what will be done to stop this happening again. You may also explain that, as an organisation that values complaints, we may use the information given when we review service standards in the future.

Anyone can make a complaint. They may do so in writing, in person, by telephone, by email or online, or by having someone complain on their behalf. You must always consider early resolution, regardless of how you have received the complaint. All formal complaints must be sent to the complaints department or relevant HSCP colleague with complaints responsibility for correct recording and processing.

Timelines

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

Extension to the timeline

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

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

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

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

It is important that extensions to the timeline do not become the norm. All attempts to resolve the complaint at this stage must take no longer than **ten working days** from the date you receive the complaint.

The proportion of complaints that exceed the five working days timeline at the early resolution stage should be evident from reported statistics. These statistics should go to the Board on a quarterly basis.

Appendix 4 provides further information on timelines.

Closing the complaint at the early resolution stage

When you have informed the person making the complaint of the outcome at early resolution, you are not obliged to write to them, although you may choose to do so. You must ensure that our response to the complaint addresses all areas that we are responsible for and explains the reasons for our decision. It is also important to keep a full and accurate record of the decision reached and given to the person, for example, by taking a file note and a member of complaints staff recording that on the complaints system. The complaint should then be closed and the complaints system updated accordingly. In closing the complaint, the date of closure is the date that the outcome of the complaint at the early resolution stage is communicated to the person making the complaint.

When to escalate to the investigation stage

A complaint must be handled at the investigation stage when:

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

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

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

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

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

which the matter of the complaint comes to the person's notice, but no later than 12 months from the date of the issue or issues being complained about.

While attempting early resolution always take particular care to identify complaints that on fuller examination might be considered serious, high risk or high profile, as these may require particular action or raise critical issues that need senior management's direct input. This should be considered at the triage stage when the complaint is first received. If the person triaging the complaint is unsure about whether the complaint is high risk or high profile, they should seek advice from the Board Complaints Manager, or nominated person in their absence.

Stage two: investigation

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

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

What to do when you receive a complaint for investigation

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

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

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

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

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

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

Details of the complaint must be recorded on the system for recording complaints by the complaints department. Where applicable, this will be done as a continuation of the record created at early resolution and not as a new complaint. The details must be updated when the investigation ends.

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

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

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

Timelines

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

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

Acknowledgements

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

- contact details of a named member of staff in the complaints department;
- details of the advice and support available including the PASS;
- information on the role and contact details for the SPSO;
- a statement confirming that the complaint will normally be investigated, and the report of the investigation sent to the complainant, within 20 working days or as soon as reasonably practicable;

-
- a statement advising that, should it not be possible to send a report within 20 working days, the person making the complaint will be provided with an explanation as to why there is a delay and, where possible, provided with a revised timetable for the investigation; and
 - information on Data Protection Act requirements.

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

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

- thank the person making the complaint for raising the matter;
- summarise your understanding of the complaint made and what the person making the complaint wants as an outcome if there is any dubiety over this in their complaint (this information will be available to you from your actions at 'What to do when you receive a complaint' as documented above);
- where appropriate, the acknowledgement letter should express empathy and acknowledge the distress caused by the circumstances leading to the complaint;
- outline the proposed course of action to be taken or indicate the investigations currently being conducted, stressing the rigour and impartiality of the process;
- offer the opportunity to discuss issues with complaints staff;
- request that a consent form is completed where necessary;
- provide information on alternative dispute resolution services and other support service such as advocacy; and
- provide a copy of our complaints leaflet if this has not already been issued.

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

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

Meeting with the person making the complaint during the investigation

To effectively investigate the complaint, it may be necessary to arrange a meeting with the person making the complaint. Where a meeting takes place, we will always be mindful of the requirement to investigate complaints within 20 working days wherever possible. There is no flexibility within the Patient Rights (Scotland) Act 2011 to 'stop the clock' in the

complaints handling process. This means that where required, we should always aim to hold meetings within 20 working days of receiving the complaint wherever possible.

As a matter of good practice, where meetings between NHS staff and the person making the complaint do take place, a written record of the meeting should be completed and provided to the person making the complaint. Alternatively, and by agreement with the person making the complaint, you may provide a record of the meeting in another format, to suit their communications needs and preferences. You should discuss and agree with the person making the complaint, the timescale within which the record of the meeting will be provided.

Extension to the timeline

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

If there are clear and justifiable reasons for extending the timescale, the relevant complaints manager, in agreement with service colleagues, will set time limits on any extended investigation. You must keep the complainant updated on the reason for the delay and give them a revised timescale for completion where possible. If the person making the complaint does not agree to an extension but it is necessary and unavoidable, then the Board Complaints Manager, or nominated person in their absence, must consider and confirm the extension.

The reasons for an extension might include the following:

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

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

The proportion of complaints that exceed the 20-day limit will be evident from reported statistics. These statistics must go to the Board on a quarterly basis.

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

Appendix 4 provides further information on timelines.

Mediation

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

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

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

Closing the complaint at the investigation stage

In terms of best practice, for relevant NHS bodies, the complaints process should always be completed by the Feedback and Complaints Manager (or someone authorised to act on his or her behalf) reviewing the case. They must ensure that all necessary investigations and actions have been taken. For other health service providers this will be the Feedback and Complaints Officer or a senior officer nominated to perform this review. Where the complaint involves clinical issues, the draft findings and response should be shared with the relevant clinicians to ensure the factual accuracy of any clinical references. Where this is appropriate the relevant clinicians should always have regard to the timescales within which the decision should be issued.

You should let the person making the complaint know the outcome of the investigation, in writing, and also, if applicable, by their preferred alternative method of contact. Our response to the complaint must address all issues raised on areas that we are responsible

for and explain the reasons for our decision. You must record the decision, and details of how it was communicated to the person making the complaint, on the system for recording complaints. In accordance with the Complaints Directions, the response must include the conclusions of the investigation and information about any remedial action taken or proposed as a consequence of the complaint. The response must be signed by an appropriately senior person such as the Chief Executive or a Director. You may send this response electronically, provided that the person making the complaint has consented to this in writing, and has not withdrawn their consent.

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

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

Meetings and post decision correspondence with the person making the complaint

As previously noted, it may be appropriate to meet with the person making the complaint at the outset of the investigation in order to fully understand the complaint.

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

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

It should be made clear that such a meeting is to address any questions about the response or for further explanation, and is not a reinvestigation or reopening of the same issues.

Independent external review

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

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

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

Information about the SPSO

The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about public services in Scotland. This includes complaints about the NHS in Scotland. If you remain dissatisfied with an NHS board or service provider after its complaints process has concluded, you can ask the SPSO to look at your complaint. The SPSO cannot normally look at complaints:

- where you have not gone all the way through the complaints handling procedure;
- more than 12 months after you became aware of the matter you want to complain about; or
- that have been or are being considered in court.

The SPSO's contact details are:

SPSO
4 Melville Street
Edinburgh
EH3 7NS

Freepost SPSO
(You don't need to use a stamp)

Freephone: **0800 377 7330**
Online contact www.spsso.org.uk/contact-us
Website: www.spsso.org.uk
Mobile site: <http://m.spsso.org.uk>

Governance of the Complaints Handling Procedure

Roles and responsibilities

Our staff are trained and empowered to make decisions on complaints at the early resolution stage of this procedure. Our response to a complaint, following a stage two investigation, must be signed off by an appropriate senior officer. This ensures that our senior management own, and are accountable, for the decision. It also reassures the person making the complaint that their concerns have been taken seriously.

Overall responsibility and accountability for the management of complaints lies with the organisation's Chief Executive, Executive Directors and appropriate senior management.

Chief Executive

The Chief Executive provides leadership and direction in ways that guide and enable us to perform effectively across all services. This includes ensuring that there is an effective complaints handling procedure, with a robust investigation process that demonstrates how we learn from the complaints we receive. The Chief Executive may take a personal interest in all or some complaints, or may delegate responsibility for the complaint handling procedure to senior staff. Regular management reports assure the Chief Executive of the quality of complaints performance.

Directors

On the Chief Executive's behalf, directors may be responsible for:

- investigating complaints;
- managing complaints and the way we learn from them;
- overseeing the implementation of actions required as a result of a complaint and, or
- deputising for the Chief Executive on occasion.

However, directors may decide to delegate some elements of complaints handling (such as investigations and the drafting of response letters) to other senior staff. Directors should retain ownership and accountability for the management and reporting of complaints. They may also be responsible for signing response letters, so they should be satisfied that the investigation is complete and their response addresses all aspects of the complaint.

Feedback and Complaints Manager:

The Feedback and Complaints Manager is the Board Nurse Director. The Feedback and Complaints Manager is responsible for ensuring compliance with the requirements of this procedure. In particular they are responsible for ensuring that feedback, comments, concerns and complaints are monitored with a view to improving performance, and that

action is taken as necessary following the outcome or any feedback, comment, concern or complaint.

Feedback and Complaints Officer

The Acute Chief Officer and their Directors, and the HSCP Chief Officers, are the Feedback and Complaints Officers responsible for the management and handling of feedback, comments, concerns and complaints operationally. These post holders are of sufficient seniority to be able to deal with any feedback, comments, concerns and complaints quickly and effectively without needing to refer, in all but the most exceptional circumstances, to the feedback and complaints manager. Feedback and complaints officers should be readily accessible to patients, the public and staff.

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

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

All staff in the organisation

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

The SPSO liaison officer

Our SPSO liaison officer's role will include providing complaints information in an orderly, structured way within requested timescales, providing comments on factual accuracy on our behalf in response to SPSO reports, and confirming and verifying that recommendations have been implemented.

Complaints about senior staff

Complaints about senior staff can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint. When serious complaints are raised against senior staff, it is particularly important that the investigation is conducted by an individual who is independent of the situation. We must ensure we have strong governance arrangements in place, appropriate to the scheme of delegation, for handling such complaints. If the complaint is about the Chief Executive, the complaint should be handled and investigated on behalf of the Chairman. If there is any concern or query about complaints regarding senior staff, guidance should be sought from the Board Complaints Manager, or nominated person in their absence.

Recording, monitoring, reporting, learning from and publicising complaints

Complaints provide valuable feedback. One of the aims of the complaints handling procedure is to identify opportunities to improve services across NHSGGC. We must record all complaints in a systematic way so that we can use the complaints data for analysis and management reporting. By recording and using complaints information in this way, we can identify and address the causes of complaints and, where appropriate, identify training opportunities and introduce service improvements.

Recording complaints

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

- the person's name, address and email address, where that is their preferred method of communication;
- the patient's name and Community Health Index number where relevant;
- in the event that the complainant is making the complaint on behalf of another person, whether that other person has given written consent for the complaint to be made on his or her behalf;
- the date when the complaint was received;
- the subject matter of the complaint and the date on which it occurred;

-
- how the complaint was received;
 - the service the complaint refers to;
 - the date the complaint was closed at the early resolution stage (where appropriate);
 - the date the complaint was escalated to the investigation stage (where appropriate);
 - action taken at the investigation stage (where appropriate);
 - the date the complaint was closed at the investigation stage (where appropriate);
 - the outcome of the complaint at each stage; and
 - the underlying cause of the complaint and any remedial action taken.

We have structured systems for recording complaints, their outcomes and any resulting action. These provide a detailed record of services that have failed to satisfy people, and the actions we have taken to improve services as a result.

If, subsequently, the complaint is referred to the SPSO, this may result in a request for all relevant papers and other information to be provided, in good time, to the SPSO's office. Complaints records should be kept separate from health records, due to the need to only record information which is strictly relevant to the patient's health in their health record. These documents should be managed with regard to the current Scottish Government Records Management Code of Practice.

Monitoring complaints

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

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

Reporting complaints

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

- A statement outlining changes or improvements to services or procedures as a result of consideration of complaints.

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

Appendix 6 provides further information on these Complaints Performance Indicators.

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

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

We should also:

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

This information should be reported regularly, and at least quarterly, to the Board.

Review by senior management

The Board will review the information gathered from complaints regularly (and at least quarterly), and consider how our services could be improved or internal policies and procedures updated. The Feedback and Complaints Manager or someone senior acting

on their behalf is involved in a review of each of the quarterly reports with a view to identifying areas of concern, agreeing remedial action and improving performance. There must also be arrangements for senior staff to review any recommendations made by the SPSO in relation to the investigation of NHS complaints. The outcomes of these reviews should be reported via the Board's Acute Services Committee or equivalent in the HSCPs.

Learning from complaints

As a minimum, we should:

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

Where we have identified the need for service improvement, a member of the service team where the subject of the complaint has taken place must ensure:

- an action plan has been developed, if appropriate;
- the action needed to improve services is prioritised for implementation;
- they are the designated the 'owner' of the issue, with responsibility for ensuring the action is taken;
- a target date should be set for the action to be taken;
- they follow up to ensure that the action is taken within the timescale;
- where appropriate, performance in the service area is monitored to ensure that the issue has been resolved; and
- that our staff learn from complaints.

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

Publishing complaints performance information

Each year we must publish a report setting out our performance in handling complaints, concerns, comments and feedback. This summarises and builds on the quarterly reports we have produced about our own services and received from service providers in our area. It includes details of the numbers and types of complaints and information about the stage at which complaints were resolved, the time taken to do so, and about the actions

that have been or will be taken to improve services as a result of complaints, concerns, comments and feedback.

These reports must be easily accessible to members of the public and available in alternative formats as requested.

The Complaints Directions require this publication to be sent to Scottish Ministers, the PASS, Healthcare Improvement Scotland, SPSO and where appropriate, the Scottish Prison Service.

This section relates to the duties of NHS Boards, but not Primary Care service providers who provide their performance information to the relevant Board.

National monitoring

In accordance with the Complaints Directions, complaints statistics gathered through the quarterly reporting of complaints must be submitted by relevant NHS bodies to the Information Services Division at National Services Scotland, within three months of the year end. This information should include the performance information of Primary Care providers which has been submitted to the Board. The information must be in an appropriate format to allow collation and publication of national complaints statistics.

Performance reporting by Primary Care service providers

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

Maintaining confidentiality

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

Data Protection Act 1998

The NHS complaints procedure may be used for complaints arising from rights given by the Data Protection Act (1998). If this route is chosen, complaints staff should take the matter forward in conjunction with the Information Governance Manager/Caldicott Guardian (or other nominated person) who takes decisions on what information is stored and how it is processed by the NHS body or health service provider. Where a person remains unhappy with the outcome of local resolution they should be advised to contact the UK Information Commissioner.

Dealing with problem behaviour

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

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

We will apply our policies and procedures to protect staff from unacceptable behaviour such as unreasonable persistence, threats or offensive behaviour from people. Where we decide to restrict access to a person under the terms of an unacceptable actions policy, we have a procedure in place to communicate that decision, notify the person of a right of appeal, and review any decision to restrict contact with us. This will allow the person the opportunity to demonstrate a more reasonable approach later.

Further advice on our policy on handling unacceptable behaviour with regards to complaints can be found in Appendix 11.

Supporting the person making the complaint

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

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

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

Patient Advice and Support Service (PASS)

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

Time limit for making complaints

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

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

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

Appendix 1: Complaints

Examples of complaints that may be considered at the early resolution stage, and suggested possible actions to achieve resolution, are available in the accompanying guidance document.

Appendix 2: Concerns

Examples of matters that may be considered as concerns are also available in the accompanying guidance document.

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

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

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

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

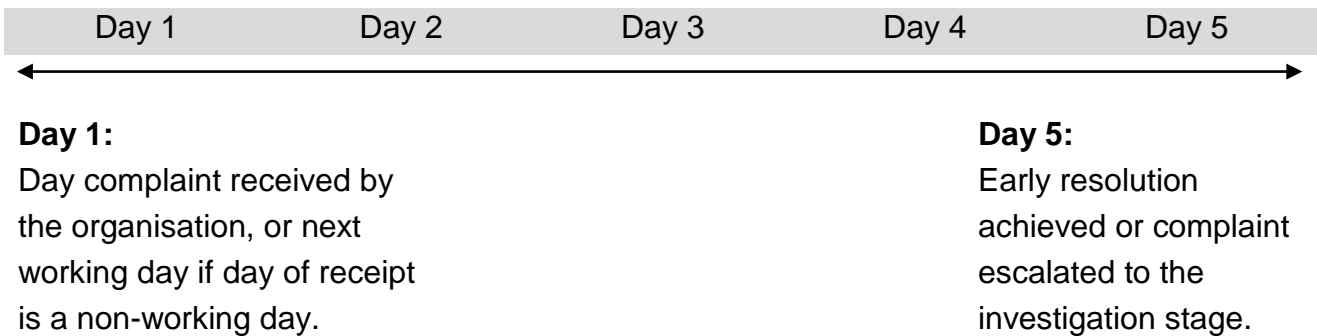
Appendix 4: Timelines

General

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

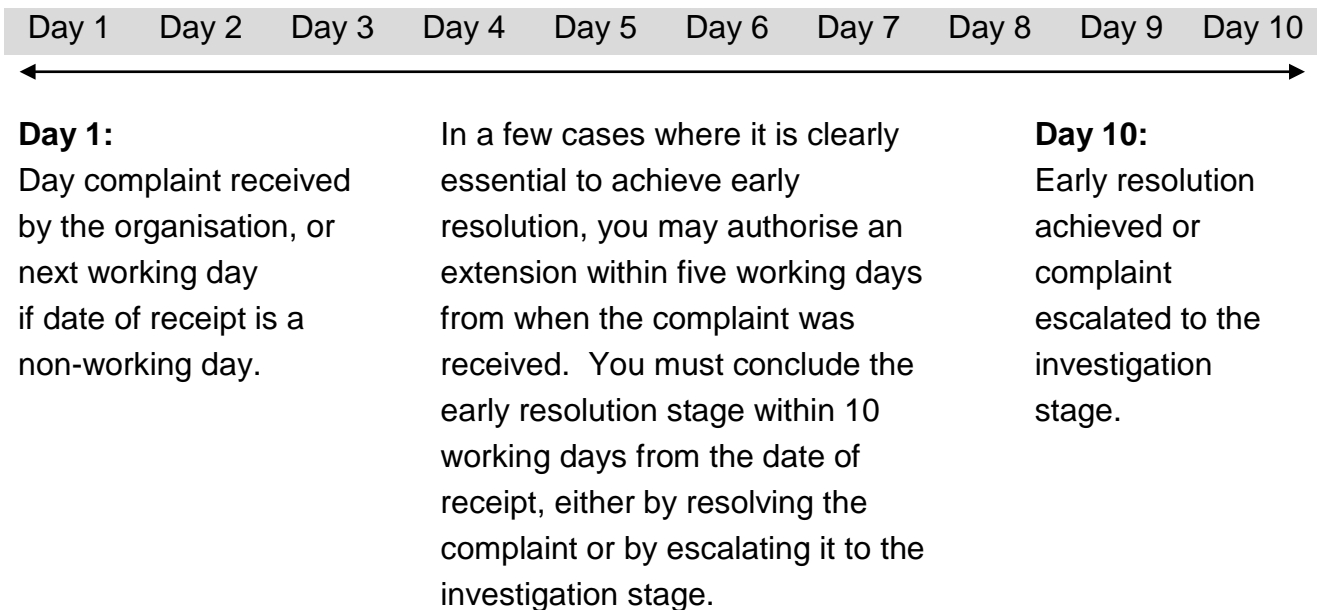
Timelines at the early resolution stage

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



Extension to the five-day timeline

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



Transferring cases from early resolution to investigation

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

Timelines at investigation

You may consider a complaint at the investigation stage either:

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

Acknowledgement

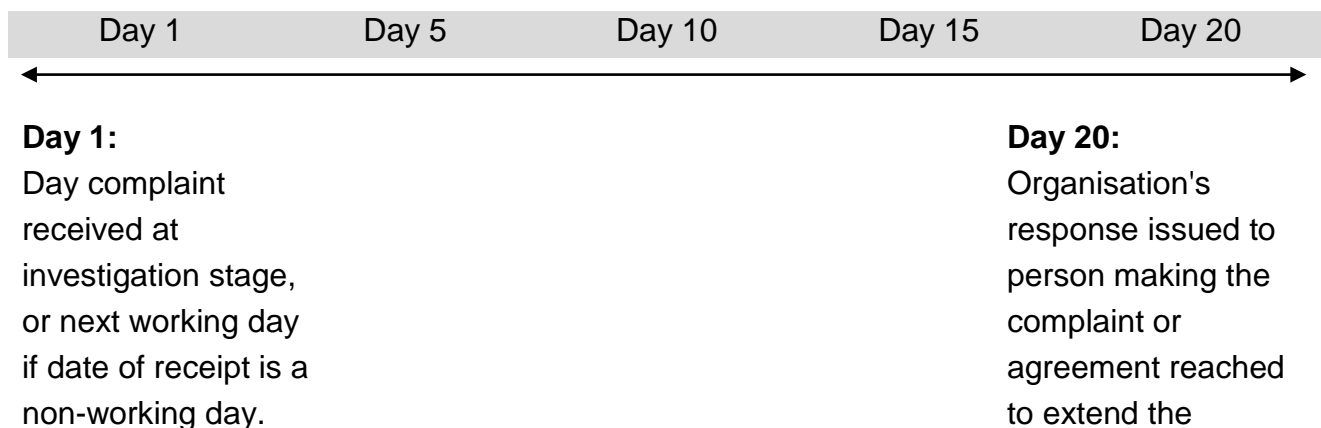
All complaints considered at the investigation stage must be acknowledged within **three working days** of receipt. The date of receipt is:

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

Investigation

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

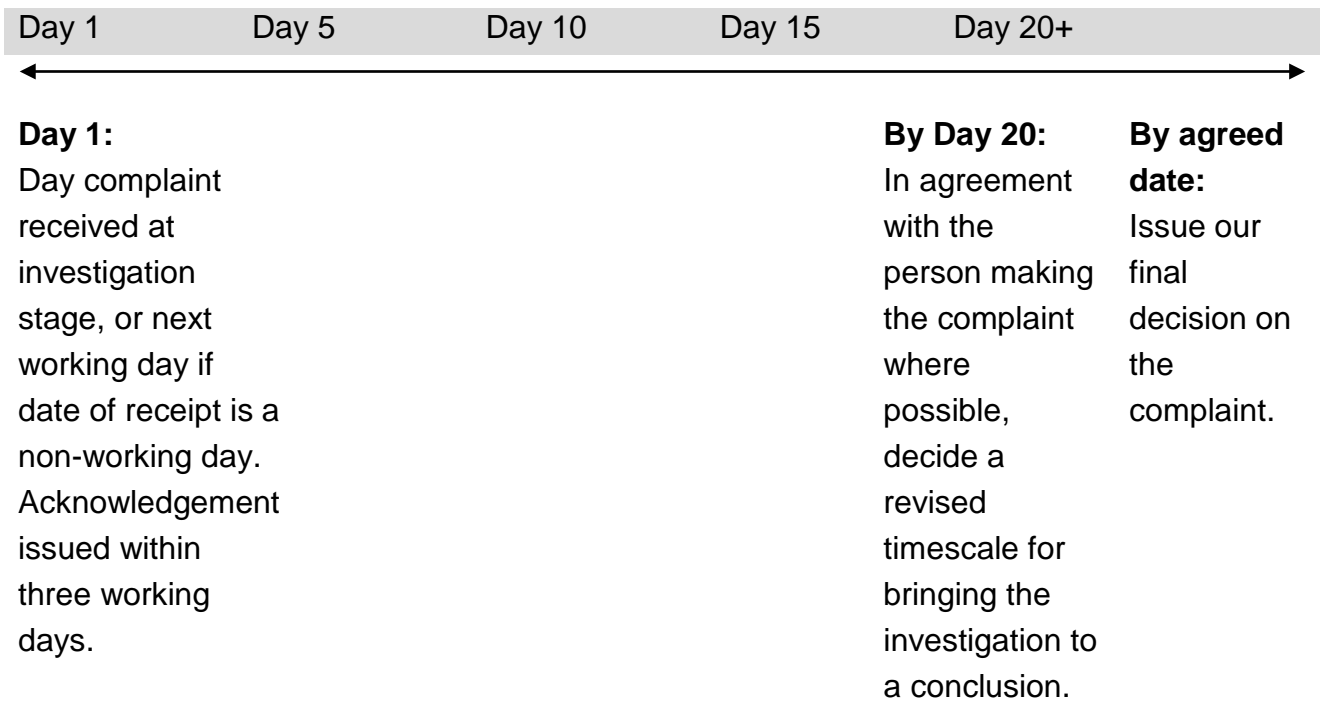
The 20-working day limit allows time for a thorough, proportionate and consistent investigation to arrive at a decision that is objective, evidence-based and fair. This means you have 20 working days to investigate the complaint, regardless of any time taken to consider it at the early resolution stage.



Acknowledgement issued within three working days.

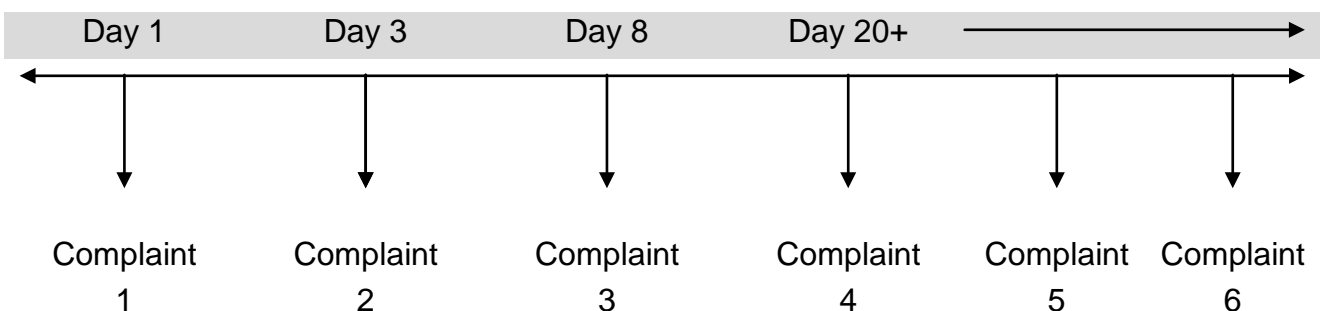
deadline.

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



Timeline examples

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



The circumstances of each complaint are explained below:

Complaint 1

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

Complaint 2

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

Complaint 3

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

Complaint 4

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

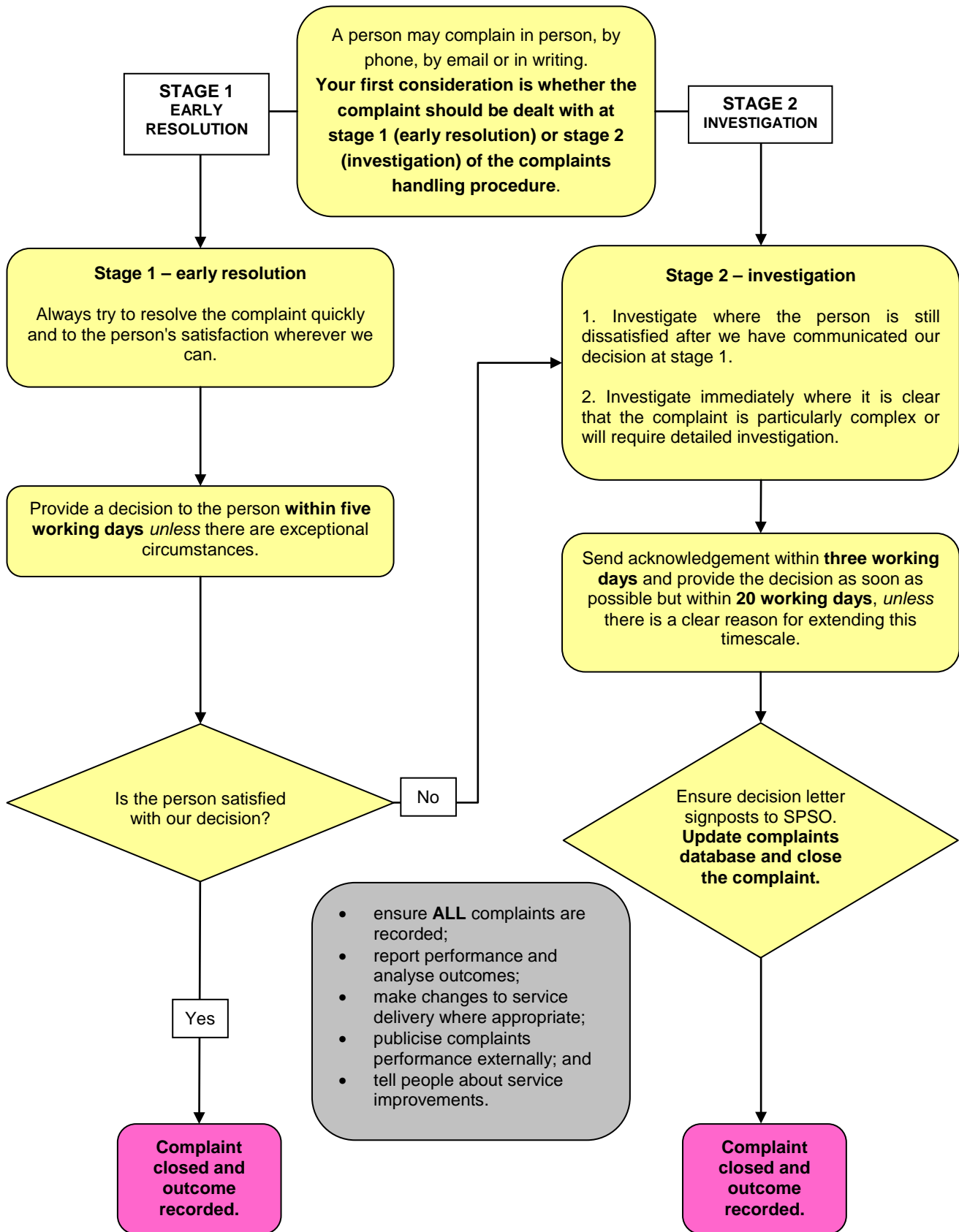
Complaint 5

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

Complaint 6

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

Appendix 5: The NHS complaints handling procedure



Stage 3: SPSO

If complainant remains unhappy after local complaints process is exhausted, they have the option of referring their case to the SPSO.

Appendix 6: Complaints Performance Indicators

Indicator One: Learning from complaints

A statement outlining changes or improvements to services or procedures as a result of consideration of complaints including matters arising under the duty of candour. This should be reported on quarterly to senior management and the appropriate sub-committees, and include:

- Trends and actions should be published externally quarterly together with a summary of information communicated to patients/customers/service users and signposting to Patient Opinion. Further to this, reporting can consider the complaints where an explanatory meeting was offered, and if this was accepted, the outcome of such meetings in terms of lessons learned, as well as the percentage of persons making the complaints who wished to have an explanatory meeting after the complaint was resolved.
- Qualitative data on complaints should be reported internally quarterly and externally annually. Trends should be highlighted and explained.
- Any services changed, improved or withdrawn should be highlighted with an explanation of any change.
- Actions taken to reduce the risk of reoccurrence should also be highlighted, as well as details of how this has been communicated across the Board.
- A section on feedback, concerns and comments (including compliments) should be included.

Indicator Two: Complaint Process Experience

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

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

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

Indicator Three: Staff Awareness and Training

A statement to report on levels of staff awareness and training. This may also cover those staff who have been trained in mediation (for example) and how many times mediation is used across the organisation in any given year. Training on adverse events and duty of candour may also be included under this heading, as well as training on root cause analysis and human factors. Suggested headings for providing information under this indicator are:

- How often internal communications are issued on complaints and training and the take up of training after such communications.
- The number of staff, including managers, senior managers and Board members to complete mandatory or bespoke training.
- The number of staff who are undertaking or have completed training in this field.
- NHS bodies should consider adding complaints and specifically, learning from complaints, into senior manager objectives.

Indicator Four: The total number of complaints received

The key point is to get a consistent benchmark and therefore it is suggested that a core measure is used which would measure complaints against the number of staff employed by the NHS Body. For example:

- Acute Hospital Services – per episode of patient care
- Prisons – per average population
- GPs – percentage of patients registered with practice
- Pharmacy – per script dispensed per annum
- Dental – percentage patients registered with the practice
- Ophthalmic – per episode of care
- Mental Health – per episode of care
- NHS24 – per call demand in 000s

Indicator Five: Complaints closed at each stage

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

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

Indicator Six: Complaints upheld, partially upheld and not upheld

There is a requirement for a formal outcome (upheld, partially upheld or not upheld) to be recorded for each complaint. This indicator should report:

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

Indicator Seven: Average times

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

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

Indicator Eight: Complaints closed in full within the timescales

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

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

Indicator Nine: Number of cases where an extension is authorised

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

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

Appendix 7: Who submitted the complaint?

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

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

Appendix 8: Consent

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

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

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

The Scottish Government's guidance *Handling Requests for Access to Personal Health Data* provides information to assist NHS organisations (Boards, GP practices, etc) through the process of handling data access requests to personal health data in accordance with the relevant law and subsequent considerations. It also details, for example, helpful guidance in relation to parental responsibilities and rights. It can be accessed here: <http://www.ehealth.nhs.scot/wp-content/uploads/sites/7/documents/Access-to-Health-Data-Guidance-Note-November-2011.pdf>

Children and Young People

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

Generally, a person with parental responsibility can pursue a complaint on behalf of a child where the NHS body or health service provider judges that the child does not have

sufficient understanding of what is involved. While in these circumstances, the child's consent is not required (nor is the consent of the other parent), it is considered good practice to explain the process to the child and inform them that information from their health records may need to be disclosed to those investigating the complaint.

The law generally recognises through the Children Scotland Act (2000) that children aged 12 and over have the required maturity and understanding to have a say in decisions that affect them (unless there any additional factors arguing against such competence). It is a commonly held presumption in law that children of this age have maturity and understanding.

Whilst there is no specific legislation detailing how complaints from children should be handled, it is reasonable that we use the Children Scotland Act as our guidance and should therefore request the consent of children aged 12 and over.

In this case, the child can either pursue the complaint themselves or consent to it being pursued on their behalf by a parent or third party of their choice.

Adults who cannot give consent

Where a person is unable to give consent we can agree to investigate a complaint made on their behalf by a third party. However, before doing we should satisfy ourselves that the third party has:

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

Appendix 9: Consent forms

Consent form (able to consent)

Consent to release patient information to a third party

I hereby authorise NHS Greater Glasgow and Clyde to disclose personal information relating to my healthcare to the person named below for the purposes of replying to a complaint.

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

Name	
Address	
Relationship to patient	

Patient's details:

Name	
Address	
Date of Birth	

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

Signature	
Date	

Please return to:

Complaints Department [insert address]

Consent form (unable to consent)

Consent to release patient information to a third party

I hereby authorise NHS Greater Glasgow and Clyde to disclose personal information relating to my healthcare to the person named below for the purposes of replying to a complaint.

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

Name	
Address	
The below noted patient is unable to give their consent and I confirm that I am authorised to act on their behalf because I am their:	

Patient's details:

Name	
Address	
Date of Birth	
Reason patient cannot give consent	

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

Signature	
Date	

Please return to:

Complaints Department [insert address]

Appendix 10 – Helpful links

NHSGGC – Complaint Internet Pages

<http://www.nhsggc.org.uk/get-in-touch-get-involved/complaints/>

NHSGGC – Complaints Intranet Pages

<http://www.staffnet.ggc.scot.nhs.uk/Corporate%20Services/Complaints/Pages/NHSComplaints.aspx>

NHSGGC – Significant Clinical Incident Toolkit

<http://www.staffnet.ggc.scot.nhs.uk/Corporate%20Services/Complaints/Pages/NHSComplaints.aspx>

NHSGGC – Whistleblowing Information

<http://www.nhsggc.org.uk/working-with-us/hr-connect/policies-and-staff-governance/policies/whistleblowing-policy/>

Patient Advice and Support Service

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

Scottish Mediation Network

<https://www.scottishmediation.org.uk/>

Scottish Public Services Ombudsman

www.spsso.org.uk

General Medical Council

www.gmc-uk.org

General Dental Council

www.gdc-uk.org

Nursing and Midwifery Council

www.nmc.org.uk

General Optical Council

www.optical.org

Royal Pharmaceutical Council

www.pharmacyregulation.org

Appendix 11 – Unacceptable Behaviour and Vexatious Complainants

Definition of unacceptable behaviour

Complainants (and/or anyone acting on their behalf) may be deemed to be displaying unacceptable behaviour where previous or current contact with them shows that they meet **TWO OR MORE** of the following criteria or meet criterion number 10 alone:

1. Persist in pursuing a complaint where the NHSGGC Complaints Policy and Procedure has been fully and properly implemented and exhausted.
2. Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. We will, where reasonable, aim not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints.
3. Repeatedly unwilling to accept documented evidence of treatment given as being factual, for example, drug records, nursing records or deny receipt of an adequate response in spite of correspondence specifically answering their questions, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
4. Repeatedly do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of NHSGGC to help them specify their concerns and/or where the concerns identified are not within the remit of NHSGGC to investigate.
5. Regularly focus on trivial matters to an extent which is out of proportion to the significance, and continue to focus on this point or points. We recognise that determining what a trivial matter is subjective and careful judgement will be used in applying this criteria.
6. Have, in the course of addressing a registered complaint, an excessive number of contacts with NHSGGC, placing unreasonable demands on staff. For the purposes of determining an excessive number, a contact would be made in person, by telephone, letter or email. Discretion will be used in determining the precise number of excessive contacts applicable under this paragraph, using judgement based on specific circumstances of an individual case.
7. Have harassed or demonstrated abusive behaviour (whether in person or in writing about an individual) or been verbally aggressive on more than one occasion towards staff. We recognise that complainants may act out of character in times of stress, anxiety or distress and we will make reasonable allowances for this. We will document all instances of harassment, abusive or verbally aggressive behaviour. This includes behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened or abused.

-
8. Are known to have tape recorded meetings or face to face/telephone conversations without the prior knowledge and consent of other parties involved.
 9. Make unreasonable demands on the patient/complainant relationship with NHSGGC staff and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the NHS Complaints Policy or normal recognised practice.
 10. Have threatened or used physical violence towards staff at any time. This will, in itself, cause personal contact with the complainant and/or their representatives to be discontinued. All such instances will be documented. NHSGGC has determined that any complainant who threatens or uses actual physical violence towards staff will be regarded as an demonstrating unacceptable behaviour and will receive such written confirmation from the Board Chief Executive / Acute Chief Officer / HSCP Chief Officer. This will also inform the complainant of what action may be taken with regard to any further communications received.

Dealing with Unacceptable Behaviour by Complainants

Before classifying a complainant's behaviour as unacceptable we will consider how best to deal with future correspondence in one or more of the following ways:

- By drawing up a signed "agreement" with the complainant (and if appropriate, involving any relevant Practitioner in a two-way agreement) which sets out a code of behaviour for the parties involved if the complaint is to continue being processed. If these terms are contravened, consideration would then be given to implementing other action.
- Declining contact with the complainant either in person, by telephone, by email, by letter or any combination of these, provided that one form of contact is maintained.
- Temporarily suspending all contact with the complainant (or investigation of the complaint) whilst seeking legal advice or guidance from other relevant agencies.
- Threatening or using physical violence towards NHSGGC staff, at any time, will be grounds for invoking the Protocol and terminating future contact. Such incidents will be reported to the Police.

Where a decision is taken that an individual's behaviour is unacceptable the Board Chief Executive / Acute Chief Officer / HSCP Chief Officer will notify the person in writing of the reasons why they have been so classified and the actions which will be taken with future correspondence or calls. This letter will provide a summary of the Board's position on their complaint, including where appropriate:

- We are dealing with (or have fully responded) to the points raised and, as there may be nothing more to add, continuing contact on the matter will serve no useful purpose.
- Further correspondence will simply be acknowledged unless it raises a new matter of substance.

-
- In extreme cases, the complainant may also be advised that we reserve the right to pass future correspondence to our solicitors.

This letter may be copied **in confidence** for the information of others involved in the process (for example, a conciliator, MSP, MP, MEP, local councillor, Citizens Advice Bureau, SPSO) and a record will be kept of the reasons why a complainant's behaviour is considered unacceptable.

Change of Status

NHSGGC may also review or withdraw from classifying a person's behaviour as unacceptable where, for example, the complainant subsequently demonstrates a more reasonable approach. Once again, the Board Chief Executive / Acute Chief Officer / HSCP Chief Officer will make such a decision. Subject to their approval, the normal contact arrangements under the NHS Complaints Policy will be resumed. This change of status will be copied to anyone who previously was informed of the decision to classify the correspondent as unreasonably demanding or persistent.

Monitoring Arrangements

NHSGGC receives quarterly a report with statistical information on complaints. That report will include data on the number of complainants whose behaviour has been classified as unacceptable or vexatious.