

Complaints Procedure



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1. INTRODUCTION

NHS National Services Scotland (NSS) is committed to delivering high quality services and to using feedback from service users to enhance and improve services. NSS acknowledges, however, that from time to time complaints will occur and recognises that the act of complaining demonstrates the importance of the matter to the complainant. As such, this provides NSS with the opportunity to identify shortcomings, improve services and increase customer satisfaction.

The NHSScotland Complaints Procedure was introduced 1 April 2005 to deal specifically with patient complaints. NSS has developed this procedure to comply with the NHSScotland Complaints Procedure and, in the interests of consistency, has extended the same standards, principles and timescales to respond to complaints from other services users, including primary care contractors.

When a complaint is made, NSS is committed to investigating it thoroughly and impartially then resolving it as directly and quickly as possible. The most satisfactory outcomes are achieved when a complaint is dealt with fully and effectively at 'local resolution' stage.

NSS is committed to ensuring equality of access to its complaints procedure and providing information in suitable formats to help those wishing to make a complaint.

2. OVERVIEW OF THE AGENCY COMPLAINTS PROCEDURE

2.1 Timescales for Making a Complaint

Complaints to NSS about its services must be made either:-

- Within 6 months of the date on which the matter which is the subject of the complaint occurred, or
- Within 6 months of the date on which the matter came to the notice of the complainant;
- But normally no later than 12 months from the event.

Complaints received after this period may be investigated if the Chief Executive accepts that it would have been unreasonable for the complainant to make it earlier and where it is still possible to investigate the facts.

2.1 Local Resolution

Local resolution seeks to provide prompt investigation and resolution of a complaint whilst being fair to staff. This stage should, normally, be completed within 20 working days of receipt of a complaint.

2.2 Ombudsman Review

Where the person making the complaint remains dissatisfied with the outcome of local resolution, they may ask the Scottish Public Services Ombudsman¹, who is independent of the NHS, to review their case. The person complained against can also seek an Ombudsman review in certain circumstances.

¹ www.scottishombudsman.org.uk

3. GUIDANCE ON THE OPERATION OF THE NHS NATIONAL SERVICES SCOTLAND (NSS) COMPLAINTS PROCEDURE

For the purpose of this procedure, NSS has defined a complaint as:

“An expression of dissatisfaction relating to the activities and services of NSS”

However, as there is a very fine line between a complaint and a concern, it is advisable to give people the opportunity to decide if they wish the matter they are raising to be considered under the NSS Complaints Procedure.

All relevant personnel will be trained in dealing with complaints and identifying the most appropriate course of action.

3.1 Who may complain?

The following people may make verbal or written complaints:

- A patient;
- Someone who has been requested to act on behalf of a patient;
- Anyone who is a user, or who contributes to NSS's services or activities, or is affected by the content of NSS's services.

This procedure is not available to NSS staff; staff grievance should be raised through the NSS Grievance and Appeals Policy.

3.2 Roles and Responsibilities

The roles and responsibilities for dealing with feedback and complaints from patients, from anyone who has been requested to act on behalf of a patient and from other service users are detailed in **Appendix 1**.

Details of NSS Complaints Officers are contained at **Appendix 2** and on the NSS website, www.nhsnss.org

3.3 Acknowledging a Complaint

Complainants will receive a written acknowledgement of their complaint within 3 working days of receipt of the complaint. The letter should:-

- Thank the complainant for raising the issue;
- Outline the proposed course of action to be taken, or the investigations being conducted;
- Offer the opportunity to discuss issues either with the Divisional/Unit Complaints Officer or, if appropriate, with a senior member of staff;
- Where the complainant is a patient, or someone who has been requested to act on behalf of a patient, offer the opportunity to seek advice and support from an organisation independent of the NSS.²
- Correspondence should be sent by first class post and marked 'Private and Confidential' or 'Personal'.

² For further information, see Item 4 Advice & Support

3.4 The Investigation

It is important that a timely and effective response is provided in order to resolve a complaint, and to avoid escalation. An investigation of a complaint should therefore be completed, wherever possible, to ensure that a response can be given to the complainant within 20 working days following the date of receipt of the complaint. Where it appears the 20 day target will not be met, the person making the complaint, and anyone named in the complaint, must be informed of the reason for the delay with an indication of when a response can be expected. The investigation should not normally be extended by more than a further 20 days.

While it might be necessary, very exceptionally, to ask the complainant to agree to an extension beyond 40 working days, they must be given a full written explanation of the progress of the investigation, the reasons for the extension and an indication of when a final response can be expected. The letter should also indicate that the Ombudsman may be willing to review the case at this stage if they do not accept the reasons for the requested extension.

A complaint may best be resolved through face-to-face meetings being arranged with members of staff and early consideration should be given to this approach. Equally, it may be decided, on a case by case basis, that other action would be helpful. However, a record should be kept of all meetings and discussions and a letter issued setting out the agreements reached and any action to be taken.

Investigations must be impartial and approached objectively in a fair and consistent manner. If a member of staff is the subject of a complaint, they must be provided with a full account of the reasons for the investigation, given the opportunity to talk to the investigating officer and be kept informed of progress. If the complainant is a patient, or acting on behalf of a patient, they should be advised of the support services that are available to them. The complained against should be similarly advised of the support available to them.

The Complaints Officer should ensure that all information relevant to the investigation is recorded and kept in a case file. If, subsequently, the complaint is referred to the Ombudsman, this may result in a request for all relevant papers and other information to be provided in good time to the Ombudsman's Office. See **Appendix 3** Complaints & Statistical Summary Record.

3.5 Completing Local Resolution

The complaints process will be completed by the appropriate Divisional Director/Head of Service or the NSS's Complaints Officer, on behalf of the Chief Executive, reviewing the case to ensure that all necessary investigations and actions have been taken. If they are satisfied that the complaints process is complete, a letter will be issued to the person making the complaint. The letter will:-

- Address all the issues raised and show that each element has been fully and fairly investigated;
- Include an apology where things have gone wrong;
- Report action taken or proposed to prevent any recurrence;
- Highlight any area of disagreement and explain why no further action can be taken;
- Indicate that a named member of staff is available to clarify any aspect of the letter;
- Indicate that if they are not satisfied with the outcome of the local process, they may seek a review by the Scottish Public Services Ombudsman. Contact details of how to contact the Ombudsman should be included; and
- Correspondence should be sent by first class post and marked 'Private and Confidential' or 'Personal'.

4. **ADVICE AND SUPPORT**

4.1 Patients should have access to complaints information, support and advice provided independently of NSS. This includes:

- The patient information leaflet, 'Making a Complaint about the NHS', available on the NSS website, www.nhsnss.org
- The Independent Advice and Support Services, commissioned by NHS Boards, through local Citizens Advice Bureaux.

For further information on accessing these local Independent Advice and Support Services refer to **Appendix 4**.

4.2 **Confidentiality of Patient Information**

The requirement to maintain confidentiality is absolute during the complaints procedure. Staff should be aware of the requirements of the Data Protection Act 1998,³.

4.3 **Data Protection Act 1998**

Patients may use the NHS complaints procedure for complaints arising from rights given by the Act, and if this route is chosen, complaints staff will take the matter forward in conjunction with the Data Protection Officer. (See **Appendix 2**).

5. **ROLE OF THE OMBUDSMAN**

The Scottish Public Services Ombudsman Act 2002 established a 'one-stop shop' ombudsman service, headed by the Scottish Public Services Ombudsman⁴, to deal with complaints formerly handled by the Scottish Parliamentary Ombudsman, the Scottish Health Service Ombudsman, the Scottish Local Government Ombudsman and the Housing Association Ombudsman for Scotland. The new Ombudsman also took over the Mental Welfare Commission's⁵ function of investigating complaints relating to mental health.

The Ombudsman's Office can generally consider complaints only when they have been fully considered under the NSS Complaints Procedure, and generally within 12 months of the events giving rise to a complaint or of the complainant becoming aware that there were grounds for complaint.

The complaint must be made in writing and should include copies of all relevant correspondence.

³ www.nhsnss.org - NHS National Services Scotland's Data Protection policy.

⁴ The circular 'a modern complaints system: the new Scottish Public Services Ombudsman' provides further information about the legislation governing the Ombudsman's work at: www.scotland.gov.uk/library5/government/amcs-oo.asp

⁵ www.mwscot.org.uk

The Ombudsman's contact details are:

The Scottish Public Services Ombudsman
Freepost EH641
EDINBURGH
EH3 0BR
Telephone 0870 011 5378
E-mail ask@spsso.org.uk

Website, which includes a complaints form, www.scottishombudsman.org.uk

6. MONITORING AND LEARNING FROM COMPLAINTS

- 6.1 Complaints provide valuable feedback from users of NSS's services, inform service development and contribute to quality improvement. It is important therefore that information on complaints is collected, monitored and acted upon.

Divisional/Unit Complaints Officers must be kept informed of the progress of the action taken to resolve each individual complaint. When the local resolution process is complete the member of staff responsible for responding to the complaint must forward the completed Complaints Form to the Divisional/Unit Complaints Officer. These will be monitored on a regular basis in order to:-

- Monitor arrangements for local complaints handling;
- Consider trends in complaints;
- Consider any lessons which can be learned from complaints, particularly for service improvements;
- Identify training needs.

- 6.2 Quarterly returns will be compiled by NSS Divisions/Units as at 30 June, 30 September, 31 December and 31 March (see **Appendix 5**), comprising information on the number of complaints received, the actions taken to resolve them and resulting service improvements. This will be submitted to the Head of Corporate Affairs as the NSS Complaints Officer.

- 6.3 The Head of Corporate Affairs as NSS's Complaints Officer will provide Quarterly reports on complaints to the Clinical Governance sub-Committee of the CSA Board in August, November, February, with an annual report in May each year.

7. DEALING WITH UNREASONABLY DEMANDING OR PERSISTENT COMPLAINTS

From time to time, NSS staff may have contact with a small number of complainants who absorb a disproportionate amount of NSS resources in dealing with their complaints. Guidance has been developed for dealing with unreasonably demanding or persistent complainants and identifies situations where the complaint might be considered to be unreasonably demanding or persistent and suggests ways of responding to these situations. It should be noted that the Chief Executive and Chairman (or appropriate deputies in their absence) will determine what action to take.

Guidance for Dealing with Unreasonably Demanding or Persistent Complaints is attached at **Appendix 6**.

8. **STAFF TRAINING**

Training will be provided to relevant personnel. The training will cover the following topics:-

- Understanding the difference between a complaint and an enquiry;
- Obtaining a shared understanding of the complaint;
- Analysis and investigation techniques;
- The complaints procedure itself.

9. **PROMOTION OF THE COMPLAINTS PROCEDURE**

Customers will be informed of their right to complain and advice about how to use the complaints procedure, including the local resolution process, through our website at www.nhsnss.org

ROLES AND RESPONSIBILITIES

NHS National Services Scotland Board Should be satisfied that all staff are aware of and are trained to deal appropriately with patient feedback and complaints and accept a quarterly report which identifies the trends in complaints, the effectiveness of complaints handling, the lessons learned and shared and the result in terms of service improvement. This responsibility has been delegated to the Clinical Governance Committee of the NSS Board.

Chief Executive Has statutory responsibility for the quality of services provided and must ensure that there is an effective complaints and feedback process which allows organisational learning to take place.

Head of Corporate Affairs Is the member of the Executive Management Team with delegated authority for complaints management and has strategic responsibility to oversee the way in which NHS National Services Scotland deals with feedback and complaints.

Divisional Directors, Heads of Unit/Service The Chief Executive of NHS National Services Scotland, Divisional Directors, Head of Corporate Affairs and Heads of Unit/Service may sign off a formal response to a complainant once the complaint investigation is complete. They should be satisfied that the investigation is complete and the response:

- Addresses all of the issues raised and includes an apology whether things have gone wrong;
- Reports on any action taken to prevent any recurrence;
- Highlight any area of disagreement and explain why no further action can be taken;
- Identifies a named member of staff to clarify any aspect of the letter;
- Ensure that the complainant is aware of what to do if they are dissatisfied with the response.

They have responsibility for ensuring that appropriate arrangements are in place for an effective complaints management system and that the issue arising from complaints and patient feedback are addressed within the clinical governance framework.

Divisional Complaints Officers Each Division/Unit within NSS has a Complaints Officer. The role of the Complaints Officer includes:

- Advising service users and NSS staff on the operation of the NSS Complaints Procedure
- Ensuring that complaints are acknowledged, investigated and responded to within the timescales of the procedure
- Maintain records of all complaints received
- Compiling quarterly reports on complaints handling within the Division/Unit.

COMPLAINTS OFFICERS

Contact Names

Complaints Officer: Mrs Jan Lyell,
 Head of Corporate Affairs
 NHS National Services Scotland
 Telephone Number: 0131 275 6449

Contact names for Divisions:

Central Legal Office	- Lois Bourletsika	0131 275 6246
Practitioner Services	- Lorna Ramage	0131 275 6699
Information Services	- Deborah Dunn	0131 275 7049
National Procurement	- Mr Ian Ferguson	0131 275 6269
National Services Division	- Kathy Collins	0131 275 6157
Health Protection Scotland	- Mr David Reynolds	0141 300 1100
Scottish Healthcare Supplies	- Mr Ian Ferguson	0131 275 6269
SNBTS	- Ms Margaret Higgins	0131 536 5725
Headquarters	- Mrs Jan Lyell	0131 275 6449
Counter Fraud Service	- Ms Maggie Worsfold	01506 705 200
Scottish Health Service Centre	- Ms Alison Bogle	0131 623 2500

Data Protection Officer

Kim Kingan Tel: 0131 275 7176

Options and Rights of the Customer

Customers are entitled to:

- complain if they are dissatisfied with the service or activities that NSS provide;
- a full investigation by the NSS following receipt of the complaint;
- receive a positive and full response following the investigation;
- have the investigation completed within the agreed timetable;
- refer complaint to the Scottish Public Services Ombudsman if they are dissatisfied with the response as a result of the local resolution process.

NATIONAL SERVICES SCOTLAND
 COMPLAINTS
 STATISTICAL SUMMARY RECORD

Complaints Reference Number

Name of Division/Department:

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Local Resolution

Scottish Public Services Ombudsman Review

Date Received

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Date Review requested.

--	--	--	--	--	--

Date Acknowledged

--	--	--	--	--	--

Date decision made Ombudsman

--	--	--	--	--	--

Details of Complainant

Decision of Ombudsman

Name
 Division
 Full Details of Complaint

Please indicate: Verbal/Written

Date response sent to complainant:

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No. of working days to respond:

Outcome

Date response sent to Complainant:

--	--	--	--	--	--

Agency Contact Person:

ACTION	DATE	TIME	ANALYST

Number of documents/pages attached: _____

HOW TO COMPLETE THE COMPLAINTS FORM

Once a complaint is received, details of the complainant, a synopsis of the complaint, the date and time and the name of the Agency contact person needs to be completed immediately. The mode of complaint should be circled.

The reference number will be assigned by the Divisional Complaints Officer.

The “action” box will be completed as the investigation progresses. All action taken to investigate the complaint should be noted down with the date and time the action took place along with the name of the person carrying out the action.

The number of documents/pages should be completed at the end of the investigation and the service level manager must ensure that copies of all correspondence is attached to the form before it is handed to the Divisional Complaints Officer.

INDEPENDENT ADVICE AND SUPPORT SERVICES

The Scottish Executive Health Department has worked with Citizens Advice Scotland, the NHS, the voluntary sector and Citizens Advice Bureaux to develop a national framework for the provision of Independent Advice and Support Services (IASS).

The IASS are commissioned by geographical NHS Boards from Citizens Advice Bureaux in their area and comprise two essential components:

- advice and support service to patients, including their families, carers and representatives, wishing to make a complaint or raise concerns about NHS services; and
- information and advice to patients on a variety of issues that impact on their health and well-being in order to maintain or improve these

The IASS operating in geographical NHS Board areas also provide advice and support to patients, including their families, carers and representatives, who want to complain about a service provided by NHS National Services Scotland.

Details of local IASS are available from complaints officers in geographical NHS Boards. When acknowledging a complaint from a patient, including their families, carers and representatives, NHS National Services Scotland will provide contact details for the IASS local to the complainant.



QUARTERLY COMPLAINTS SUMMARY RECORD

Name of Division/Department:

Return for the Quarter Ending:

Number of Complaints Received in Period:	
Please indicate how many of these complaints relate to the following issues: <ol style="list-style-type: none"> 1. Race 2. Disability 3. Gender 4. Sexual Orientation 5. Age 6. Religion/Faith 	
Number of Complaints Resolved:	
Number of Complaints Unresolved:	
Of this number: <ol style="list-style-type: none"> 1. Number of Complaints still under investigation: 2. Number of Complaints Referred to Independent Review Panel: 	

Background information on Complaints received for the quarter. (Please complete a separate sheet if necessary)

Completed by:

Telephone Number:

Date:

To be completed and returned to The Head of Corporate Affairs, Executive Office, within 3 weeks of period end.

Guidance For Dealing With Unreasonably Demanding or Persistent Complaints

1. Classifying a complainant as unreasonably demanding or persistent should only be required in exceptional cases and where it and it can be demonstrated that:-
 - The complaints procedure has been correctly implemented;
 - All reasonable measures have been taken to resolve the complaint;
 - No material element of the complaint has been overlooked or inadequately addressed,
 - A full written case has been submitted to and approved by the Chief Executive and Chairman of the Agency, or their deputies in their absence.

The definition of an unreasonably demanding or persistent complaints is attached at **Appendix 5 A**.

- 1.1 Before agreeing to classify a correspondent as unreasonably demanding or persistent, consideration should be given to dealing with future correspondence in one or more of the following ways:-
 - By drawing up a signed “agreement” with the correspondent which sets out a code of behaviour for the parties involved if the complaint is to continue being processed;
 - Declining contact with the correspondent either in person, by telephone, by fax, by letter or any combination of these, provided that one form of contact is maintained;
 - Temporarily suspending all contact with the correspondent or investigation of a complaint whilst seeking legal advice or guidance from other relevant agencies.
- 1.2. Where a decision is taken to classify a correspondent as an unreasonably demanding or persistent complainant, the Chief Executive (or nominated deputy in his absence) will notify the person in writing of the reasons why they have been so classified and the action which will be taken with future correspondence or calls. The letter will provide a summary of NSS’s position on the complaint, indicating that:-
 - NSS has responded fully to the points raised and, as there is nothing more to add, continuing contact on the matter will serve no useful purpose;
 - That further correspondence will simply be acknowledged unless it raises a new matter of substance.

This notification letter may be copied for the information of others involved in the process, e.g. conciliator, MSP etc. A record must be kept of the reasons why a complainant has been classified as unreasonably demanding or persistent.

- 1.3 It is important when considering classifying an individual from an equality group as an unreasonably demanding or persistent complainant to make appropriate checks to ensure that the decision is no way based on institutional discrimination or on a lack of knowledge of the specific needs of that individual.
- 1.4 **Withdrawing Unreasonably Demanding or Persistent Status**

If a complainant that has been classified as unreasonably demanding or persistent, subsequently demonstrate a more reasonable approach or submits a further complaint for which normal complaints procedures would appear appropriate, the classification should be reviewed. Staff who previously have used discretion in recommending ‘unreasonably demanding or persistent’ status should similarly be prepared to use in recommending that this status be withdrawn where appropriate. Once again, the Chief Executive and the Chairman (or their deputies) should make any such decision. Subject to their approval, normal contact arrangements under the NSS complaints procedure should be resumed. This change of status should be notified to anyone whom previously was informed of the decision to classify the complainant as unreasonably demanding or persistent.

DEFINITION OF AN UNREASONABLY DEMANDING OR PERSISTENT COMPLAINT

Complainants (and/or anyone acting on their behalf) may be deemed to be unreasonably demanding or persistent complainants where previous or current contact with them shows that they meet **two or more** of the following criteria:

Where complainants –

- Persist in pursuing a complaint where the NHS National Services Scotland (NSS) complaints procedure has been fully and properly implemented and exhausted.
- 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. (Care must be taken not to discard new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints.)
- Are unwilling to accept documented evidence of treatment given as being factual, eg. drug records, treatment 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.
- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of
- Focus on a trivial matter to an extent that is out of proportion to its significance and continue to focus on this point. It is recognised that determining what is a 'trivial' matter can be subjective and careful judgement must be used in applying this criteria.
- Have threatened or used actual physical violence towards staff at any time – this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the compliant will, thereafter, only be pursued through written communication. All such incidences should be documented.
- Have, in the course of addressing a registered complaint, had an excessive number of contacts with NSS, placing unreasonable demands on staff. A contact may be in person or by telephone, letter or fax. Discretion must be used in determining the precise number of 'excessive contacts' applicable under this section, using judgement based on the specific circumstances of each individual case.
- Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this. They should document all incidents of harassment.)
- Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.