



# Complaints Procedure

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## Complaints Handling Procedure

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## 1 What is a complaint?

For the purpose of this procedure, a complaint may be defined as:

'A written or verbal expression of dissatisfaction by one or more individuals about the standard of service, action or lack of action by or on behalf of the Trust.'

A complaint may relate to:

- the quality and standard of service
- failure to provide a service
- the quality of facilities or resources
- treatment by or attitude of a staff member, volunteer or contractor
- inappropriate behaviour by a staff member, volunteer or contractor
- the failure of the Trust to follow an appropriate administrative process
- dissatisfaction with the Trust's policy, although it is recognised that policy is set at the discretion of the Trust

The definition of a complaint is very broad and the list above is not exhaustive. However, not every concern raised with the Trust is a complaint. For example, the following **are not complaints**:

- a request for information or an explanation of policy or practice
- an issue which is being, or has been, considered by a court or tribunal
- an attempt to have a complaint reconsidered where the Trust's procedure has been completed and a decision has been issued
- a grievance by a member of staff which is eligible for handling through the grievance procedure

## 2 Who can make a complaint?

This Complaints Handling Procedure (CHP) covers complaints from anyone who receives, requests or is affected by the Trust's services.

Complainants should note that, if you raise a complaint,

- you will not suffer any disadvantage as a result of making the complaint;
- everyone who responds to or investigates complaints is required to do so impartially and will not be permitted to act in any matter in which they have a material interest or in which any potential conflict of interest may arise;
- your privacy and confidentiality will be respected as far as possible at all stages of the process, but you should note that limited disclosure of some complaints will be necessary in order to take your complaint forward; and
- your complaint will be considered on its own merits and on its particular facts and circumstances so that natural justice may be done.

## 3 Complaints by Third Parties

Sometimes individuals may be unable or reluctant to make a complaint on their own. The Trust will accept complaints brought by third parties (such as parents, friends or solicitors) provided they are **accompanied by a signed statement** from the individual confirming that

the third party is acting on their behalf. The Trust will not investigate the complaint until a signed statement has been received. Complaints made by a third party, with the explicit permission of the complainant, will be dealt with according to the same timescales as all other complaints.

## 4 Anonymous Complaints

Complaints submitted anonymously will be considered if there is enough information in the complaint to enable the Trust to make further enquiries. If, however, an anonymous complaint does not provide enough information to take it forward, the Trust may decide not to pursue it further. Nonetheless, consideration may be given to the issues raised and the complaint recorded so that corrective action can be taken as appropriate.

Any decision not to pursue an anonymous complaint must be authorised by a senior member of staff. If an anonymous complaint contains serious allegations, it will be referred to the CEO immediately.

## 5 Time limit for making complaints

Complaints should be raised with the Trust as soon as problems arise to enable prompt investigation and swift resolution. A complaint made more than **six months** after the complainant first became aware of the problem, will not be considered unless there are special circumstances for the complaint not being made within this timescale.

Beyond the six-month time limit, the Trust will exercise discretion in the way that the time limit is applied.

## 6 The Complaints Handling Procedure (CHP)

This CHP is intended to provide a quick, simple and streamlined process with a strong focus on early resolution by empowered and well-trained staff. The procedure involves up to two stages:

**Stage 1 Frontline resolution** seeks to resolve straightforward complaints swiftly and effectively at the point at which the complaint is made, or as close to that point as possible.

**Stage 2 Investigation** is appropriate where a complainant is dissatisfied with the outcome of frontline resolution or where frontline resolution is not possible or appropriate due to the complexity or seriousness of the case.

### 6.1 Stage 1: frontline resolution – to be completed within 5 working days

Anyone who has a complaint should raise it initially at the time, or as close to the time, of becoming aware of it as possible and with the department or service area in which the issue arose. Complaints at this stage may be made face-to-face, by phone, in writing or by email.

The purpose of frontline resolution is to attempt to resolve, as quickly as possible, complaints which are straightforward and require little or no investigation. Complaints at this stage of the process may be addressed by any relevant member of the Trust's staff and may be handled by way of a face-to-face discussion with the complainant or by asking an appropriate member of staff to deal with the complaint. All complaints **must** be recorded on the complaints recording system

Members of staff to whom complaints are made will consider some key questions:

- Is this a complaint or should the individual be referred to another procedure?
- What specifically is/are the complaint(s) about and which area(s) of the Trust is/are involved?

- What outcome is the complainant hoping for and can it be achieved?
- Is the complaint straightforward and likely to be resolved with little or no investigation?
- Can the complaint be resolved on the spot by providing an apology /explanation / alternative solution?
- Can another member of staff assist in seeking a frontline resolution?
  - What assistance can be provided to the complainant in taking this forward?

Resolution may be achieved by providing an on-the-spot explanation of why the issue occurred and/or an apology and, where possible, what will be done to stop this happening in the future.

If responsibility for the issue being complained about lies in the staff member's area of work, every attempt will be made to resolve the problem at source. If responsibility lies elsewhere, the staff member receiving the complaint will liaise with the relevant area rather than simply passing the complainant on to another office.

## **6.2 Extension to the five day timeline**

Frontline resolution should normally be completed within 5 working days, though a resolution may be achieved more quickly. In exceptional circumstances, a short extension of time may be necessary in order to resolve the complaint at the frontline resolution stage (for example, by obtaining information from other areas where no single area of the Trust is responsible for the issue(s) being complained about). Where an extension is required this must be signed off by an appropriate senior manager. The complainant must be told of the reasons for extending the deadline and advised of the new timescale for resolution. The maximum extension which can be granted is 5 working days (i.e. not more than 10 working days in total from the date of receipt of the complaint).

## **6.3 Closing the complaint at the frontline resolution stage**

The outcome will be communicated to the complainant face-to-face, by phone, in writing or by email. There is no requirement to send out further written communication to the complainant. The response to the complainant must address all the issues for which the Trust is responsible, and explain the reasons for the decision. Once a decision has been issued, the record of the complaint must be updated on the complaints recording system

## **7 Stage two: investigation – to be completed within 20 working days**

These complaints may already have been considered at the frontline resolution stage, or they may be complaints identified, upon receipt, as appropriate for immediate investigation.

A complaint will be moved to the investigation stage when:

- frontline resolution was attempted, but the complainant remains dissatisfied. This may be after the case has been closed following the frontline resolution stage
- the complainant refuses to recognise or engage with the frontline resolution process and is insistent that the issue be addressed by a more senior member of staff
- the issues raised are complex and will require detailed investigation
- the complaint relates to issues that have been identified by the Trust as high risk or high profile.

Special attention will be given to identifying complaints considered high risk /high profile, as these may require particular action or may raise critical issues requiring direct input from senior management. Potential high risk /high profile complaints may:

- involve a death or terminal illness
- involve serious service failure, for example major delays in service provision or repeated failures to provide a service
- generate significant and on-going press interest
- pose a serious operational risk to the Trust
- present issues of a highly sensitive nature.

Complaints at this stage may be made in writing, in person, by telephone, by email or online or by having someone complain on the individual's behalf (provided written permission is provided for the third party to act). Where it is clear that a complaint will be immediately considered at the investigation stage, the complainant will be asked to complete the appropriate complaint form to provide full details of the complaint and any relevant documentation. If the complainant would prefer to complain in person, the complaint form will be completed with them and a letter to confirm the scope of the complaint issued to them.

The purpose of conducting an investigation is to establish all of the facts relevant to the points made in the complaint and to provide a full, objective and proportionate response to the complainant that represents the Trust's definitive position.

## **7.1 What the Trust will do when it receives a complaint for investigation**

A complaint for investigation should be made or referred to the appropriate Manager who will allocate the complaint to a Complaints Investigator. It is important to be clear from the start of the investigation stage exactly what is being investigated, and to ensure that both the complainant and the complaints investigator understand the scope of the investigation. In discussion with the complainant, three key questions will be considered:

1. What specifically is/are the issue(s) being complained about?
2. What does the complainant want to achieve by complaining?
3. Do the complainant's expectations appear to be reasonable and achievable?

If the complainant's expectations appear to exceed what the Trust can reasonably provide or are not within the Trust's power to provide, the complainant will be advised of this as soon as possible in order to manage expectations about possible outcomes.

Details of the complaint will be recorded in the complaints log. At the conclusion of the investigation the log will be updated to reflect the final outcome and any action taken in response to the complaint. Where the complaint has been through the frontline resolution stage, this will also be shown in the complaints log.

## **7.2 Timelines**

The following deadlines will be used for cases at the investigation stage of the CHP:

- complaints will be acknowledged in writing (usually by email) within 3 working days
- the Trust will provide a full response to the complaint as soon as possible but not later than 20 working days from the time that the complaint was received for investigation.

### 7.3 Extension to the timeline

Not all investigations will be able to meet this deadline; for example some complaints are so complex that they will require careful consideration and detailed investigation beyond the 20 working days timeline. Where there are clear and justifiable reasons for extending the timescale, senior management will exercise judgement and will set time limits on any extended investigation, with the agreement of the complainant. If the complainant does not agree to an extension but it is unavoidable and reasonable, then senior management will consider and confirm the extension. In such circumstances, the complainant will be kept updated on the reason for the delay and given a revised timescale for bringing the investigation to a conclusion. It is expected, however, that this will be the exception and that the Trust will always strive to deliver a definitive response to the complaint within 20 working days.

Where an extension has been agreed, this will be recorded appropriately and the proportion of complaints that exceed the 20 working day-limit will be evident from reported statistics.

### 7.4 Closing the complaint at the investigation stage

The outcome of the investigation will be communicated to the complainant in writing. The decision, and details of how and when it was communicated to the complainant, will be recorded in the Complaints recording system.

### 7.5 Information about the Charities Commission and OSCR

The Charities Commission (England and Wales) and OSCR (Scotland) can deal with major complaints of fraud and illegal activity regarding charities in the UK.

Regulatory issues that they would want to know about include:

- Charities that are being used for private gain
- Where a charity's independence is being called into question. We expect charity trustees to act independently of any private, government or political interest
- When it is not clear who is in charge of the charity. For example:
  - one charity trustee seems to be in overall control of the charity
  - an employee seems to be in overall control of the charity, or
  - none of the charity trustees is taking responsibility - this can result in serious governance problems, which could harm the charity
- When it appears that the charity's assets are at risk or not being used for charitable purposes
- The charity is not carrying out the charitable purposes defined in its governing document
- When an organization is calling itself a charity when it is not (you can check if the organization is entered in the Scottish Charity Register and/or the Charities Commission Register).

The three examples below should, in the first instance, be reported to the police service.

- Serious harm or danger of harm to the people that the charity helps
- Criminal or illegal activity within or involving a charity (this includes charities that are set up for an illegal or improper use)
- Serious financial loss to a charity - this could include theft or embezzlement.

Web links:

Charities Commission (England and Wales)

<https://www.gov.uk/government/publications/complaints-about-charities>

Scottish Charity Regulator (OSCR):

<https://www.oscr.org.uk/charities/raise-a-concern-about-a-charity>

## 8 Governance of the Complaints Handling Procedure

### 8.1 Roles and Responsibilities

All staff will be aware of:

- the CHP
- how to handle and record complaints at the Stage 1 frontline resolution
- who they can refer a complaint to if they are unable to handle the matter personally
- the need to try and resolve complaints early and as locally (within their department) as possible and
- their clear authority to attempt to resolve any complaints they may be called upon to deal with.

Managers will ensure that:

- the Trust's final position on a complaint investigation is signed off by an appropriate person in order to provide assurance that this is the definitive response of the Trust and that the complainant's concerns have been taken seriously
- they maintain overall responsibility and accountability for the management and governance of complaints handling within the Trust
- they have an active role in, and understanding of the CHP (although not necessarily involved in the decision making process of complaints handling)
- mechanisms are in place to ensure a consistent approach to the way complaints handling information is managed, monitored, reviewed and reported at all levels in the Trust, and
- complaints information is used to improve services, and this is evident from regular publications.

**The Board of Trustees:** The Board of Trustees provide leadership and direction to the Trust. This includes ensuring that there is an effective CHP with a robust investigation process which demonstrates that organisational learning is in place. The Board of Trustees delegates responsibility for the procedure to the CEO and receives assurance of complaints performance by way of regular reporting. The CEO will ensure that complaints are used to identify service improvements and that these improvements are implemented and learning fed back to the wider organisation as appropriate.

**Members of Management Team:** As managers they will be responsible for checking and signing response letters to complainants and must be satisfied that the investigation is complete and that the response addresses all aspects of the complaint. Where appropriate, this task may be delegated to suitable nominees but this will not divest the Management Team member of overall responsibility.

**Complaints Investigator:** The Complaints Investigator is a suitably trained staff member responsible for the overall conduct of the complaints investigation and is involved in the investigation and the co-ordination of all aspects of the response to the complainant. This may include co-ordinating the efforts of secondary Complaints Investigators in the case of particularly complex complaints, preparing a comprehensive written report, including details of any recommended procedural changes to service delivery, and recording outcomes. Complaints Investigators have a clear remit to investigate effectively and reach robust decisions on more complex complaints. This includes clear direction and support from senior management on the extent and limits of discretion and responsibilities in investigating and

resolving complaints, including the ability to identify failings, take effective remedial action and apologise, where it is appropriate to do so.

**All staff:** A complaint may be made to any member of staff. All staff will, therefore, be aware of the CHP and how to handle and record complaints at the frontline resolution stage. They will also be aware of who to refer a complaint to, if they are not able to handle the matter personally. Staff are encouraged to try to resolve complaints early, as close to the point of service delivery as possible, and quickly to prevent escalation.

## 8.2 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. The complaint should be directed to the CEO (or Chair of the Board of Trustees if the complaint is against the CEO) in the first instance. When serious complaints are raised against senior staff the Trust will ensure that a contact person is available that will maintain a neutral role in the complaints investigation and that the investigation is conducted objectively by an individual who is independent of the situation.

## 9 Recording, reporting, publicising and learning from complaints

One of the objectives of the CHP is to identify opportunities to improve provision of services across the Trust. Complaints can provide valuable feedback. All complaints are recorded for data analysis and management reporting. By recording and using complaints information in this way the causes of complaints can be identified, addressed and, where appropriate, training opportunities can be identified and improvements introduced.

### 9.1 Recording complaints

It is essential that all complaints are recorded in sufficient detail in order to ensure that the resulting data can be appropriately analysed and used for monitoring and reporting purposes. The minimum requirements are as follows:

- name and contact details of the complainant and Donorflex number (if applicable)
- date of receipt of the complaint
- how the complaint was received
- category of complaint
- staff member responsible for handling the complaint
- department to which the complaint relates
- action taken and outcome at frontline resolution stage
- date the complaint was closed at the frontline resolution stage
- date the investigation stage was initiated (if applicable)
- action taken and outcome at investigation stage (if applicable)
- date the complaint was closed at the investigation stage (if applicable)
- underlying cause and remedial action taken (if applicable)
- response times at each stage

The Trust has a system for recording complaints, their outcomes and any resulting action so that the complaint data can be used for internal reporting as indicated below. The system can be accessed by staff on the shared drive in the Complaints folder.

### 9.2 Reporting of complaints

The Trust has mechanisms for the internal reporting of complaints information. Regularly reporting the analysis of complaints information helps to inform management of where improvements are required. Information reported internally will include:

- performance statistics, detailing complaints volumes, types and key performance information, for example on time taken and stage at which complaints were resolved
- the trends and outcomes of complaints and the actions taken in response including examples to demonstrate how complaints have helped improve services.

This information will be reported quarterly to Management Team and annually to Board of Trustees.

### 9.3 Publicising complaints performance information

The Trust will report on complaints handling performance in the Annual Report to demonstrate the Trust's approach to improving services on the basis of complaints and show that complaints can influence Trust services. It will also help ensure transparency in the Trust's

complaints handling service and will help to demonstrate to members of the public that the Trust values complaints.

## 9.4 Learning from complaints

The Complaints Investigator will always try to ensure that all parties involved understand the findings of the investigation and any decisions made. Senior management will ensure that the Trust has procedures in place to act on issues that are identified. These procedures will facilitate:

- using complaints data to identify the root cause of complaints
- taking action to reduce the chance of this happening again
- recording the details of corrective action in the complaints file
- systematically reviewing complaints performance reports to improve performance.

The analysis of management reports detailing complaints performance will help to ensure that any trends or wider issues, which may not be obvious from individual complaints, are quickly identified and addressed. Where the Trust identifies the need for service improvement:

- a member of staff (or team) will be designated the 'owner' of the issue with
- responsibility for ensuring that any identified action is taken
- a target date will be set for the action to be implemented and followed up on to ensure delivery within this timescale
- where appropriate, performance in the area concerned will be monitored to ensure that the issue has been resolved.

## 10 Maintaining confidentiality

Confidentiality is an important factor in conducting complaints investigations. Complaints will be handled with an appropriate level of confidentiality and information released only to those who need it for the purposes of investigating or responding to the complaint. The Trust will always have regard to legislative requirements such as data protection legislation and internal policies on confidentiality and the use of complainant information.

Where a complaint has been raised against a volunteer or member of staff and has been upheld, the complainant will be advised of this. However, specific details affecting specific volunteers or staff members will not normally be shared, particularly where disciplinary action is taken.

## 11 Managing unacceptable behaviour

It is recognised that people may act out of character in times of trouble, distress or as a symptom of certain types or stages of illness. Forceful or determined behaviour is not, in itself, considered unacceptable. Complainants who display difficult behaviour may still have a legitimate complaint and the Trust will therefore treat all complaints seriously and assess them properly. However, the actions of complainants who are angry, demanding or persistent may result in unreasonable demands on the Trust services or aggressive behaviour towards staff. The Trust will seek to protect staff from such unacceptable behaviour.

## 12 Supporting the complainant

Any volunteer or member of the public who receives, requests or is directly affected by the services the Trust provides has the right to access this CHP. Some complainants may have specific needs and the Trust will seek to make reasonable adjustments to enable such complainants to access the CHP