

NHS Complaints Procedure

30 June 2010

Preface

The Complaints Procedure of the South West Strategic Health Authority lays out the timescales, procedure and monitoring arrangements that will be followed when a complaint is made about the policy decisions, duties and functions of the Strategic Health Authority.

Sir Ian Carruthers OBE
Chief Executive
30 June 2010

South West Strategic Health Authority

Complaints Procedure

Table of contents

Page No.

Preface

Table of contents

Section 1	Introduction	1
Section 2	Scope of Procedure	1
Section 3	Management of Complaints	1
Section 4	Time Limits	2
Section 5	Local Resolution Procedures.....	2
Section 6	Habitual and Vexatious Complaints	3
Section 7	Monitoring Arrangements	3
Section 8	Complaints about Primary Care Trusts and NHS Trusts	8
Appendices		
Appendix 1	South West Strategic Health Authority Procedure for Dealing with Habitual and Vexatious Complainants	

1. Introduction

- 1.1 It is essential that where complaints arise within the National Health Service they are dealt with sensitively and effectively and in accordance with the regulations which underpin the NHS Complaints Procedure.
- 1.2 All NHS organisations are required to make arrangements for the handling of complaints in accordance with the National Health Service (Complaints) Regulations 2009 No 309

2. Scope of the Procedure

- 2.1 This procedure applies only to complaints about the South West Strategic Health Authority. It may receive complaints in respect of the two following areas of responsibility:

Policy Decisions

- 2.2 Complaints may arise where a complainant feels a policy or decision has been arrived at incorrectly, which could include complaints about the process of policy making. It is important that such complaints receive proper consideration and are not dismissed solely on the basis that the complaint challenges a policy decision.

Delivery of Duties and Functions

- 2.3 There could be occasions when the South West Strategic Health Authority receives complaints about the organisation or delivery of its duties and functions. Such complaints may involve such matters as communication, staff attitude, and other issues.
- 2.4 A complainant may chose to instigate legal proceedings over the subject of a complaint. If this occurs the complaint may no longer be investigated by the NHS. If the complainant states in writing that they intend to instigate legal proceedings they will be informed in writing that the complaints procedure will end at that stage.

3. Management of Complaints

- 3.1 The Chief Executive is accountable for ensuring that the NHS Complaints Procedure is followed in the South West Strategic Health Authority. The Director of Communications and Corporate Services will be responsible for the overall operation of the Complaints Procedure and will be assisted by the Associate Director of Corporate Business.
- 3.2 The Director of Communications and Corporate Services will be delegated with the responsibility for ensuring compliance with these procedures and for ensuring that any necessary actions are taken by the South West Strategic Health Authority as a result of the outcome of any complaints investigation.

4. Time Limits

- 4.1 Complaints will normally only be investigated if they are made within six months of the event.
- 4.2 Complaints made outside these time limits can be investigated at the discretion of the Strategic Health Authority if the complainant has good reasons for not making the complaint within the time limit and it is still possible to investigate the complaint effectively and efficiently.

5. Local Resolution Procedures

- 5.1 The key to the Complaints Procedure is local resolution. The purpose of local resolution is to provide the fullest possible opportunity for investigation and resolution of the complaint, as quickly as is sensible in the circumstances, aiming to satisfy the complainant, whilst remaining fair to staff. Most oral complaints should be resolved on the spot or within two working days.
- 5.2 All staff who receive an oral complaint of any description should record details and report them to the Associate Director of Corporate Business. Complaints in writing should be passed to the Associate Director of Corporate Business.
- 5.3 Complainants should be reassured that whatever they may say, it will be treated with appropriate confidence and sensitivity.
- 5.4 The complaint will be logged in the Register of Complaints and the following action will be taken:
 - a written acknowledgement will be sent to the complainant within two working days. At this stage the complainant will also be advised of the assistance available from the Independent Complaints Advocacy Service, together with an explanation of the Complaints Procedure of the South West Strategic Health Authority;
 - oral complaints that cannot be resolved on the spot or within two working days will be acknowledged in writing and accompanied by a written record of the complaint which the complainant will be asked to sign and return;
 - a copy of the complaint will be sent to the appropriate senior manager whose lead responsibility covers the nature of the complaint, seeking a draft written response or comments, where appropriate, within fifteen working days;
 - where the complaint is made about the action or attitude of a member of staff, the relevant Director will discuss the complaint and its implications with the member of staff concerned;

- where a complaint is made about the action or attitude of one of the Executive Directors, the Chief Executive will directly handle the complaint;
- where a complaint is made about the action or attitude of the Chief Executive, the Chairman will directly handle the complaint. This will not include complaints which are about the Chief Executive in his role as a signatory for correspondence containing information that complainants may dispute or express dissatisfaction with the outcome of a complaint. Such complaints will be dealt with through the normal local resolution procedures;
- a full investigation and resolution of all types of complaints should be sought within twenty five working days;
- if the complainant remains dissatisfied with the final response to the complaint they are entitled to ask the Health Service Ombudsman for a review.

6. Habitual and Vexatious Complaints

- 6.1 The South West Strategic Health Authority Procedure for handling Habitual or Vexatious Complainants is attached at Appendix 1.

7. Monitoring Arrangements

- 7.1 An effective system for monitoring complaints relating to the South West Strategic Health Authority is an essential requirement.
- 7.2 The Associate Director of Corporate Services will be responsible for preparing an annual report of complaints received against the South West Strategic Health Authority which details the following:
- source of the complaint;
 - date of receipt of the complaint;
 - summary of the complaint;
 - action taken;
 - date of reply;
 - response times.

8. Complaints about Primary Care Trusts and NHS Trusts: The Role of the Strategic Health Authority

8.1 The role of the South West Strategic Health Authority in relation to complaints about Primary Care Trusts and NHS Trusts can be summarised in the following functions:

- the provision of advice and support to complaints managers on the operation of the NHS Complaints Procedures;
- supporting networking and attending networking meetings;
- maintaining liaison with the Department of Health and the Office of the Parliamentary and Health Service Commissioner;
- reviewing the overall handling of complaints in the NHS South West.

8.2 The formal complaints guidance leaves room for interpretation and NHS South West Primary Care Trusts and NHS Trusts complaints managers will contact the office for clarification or an official line. Most of these queries are of a routine nature but occasionally a query will require additional advice from the Department of Health. Providing this support ensures that NHS complaints are handled in a consistent manner across the NHS South West.

Appendix 1

South West Strategic Health Authority Procedure for Dealing with Habitual of Vexatious Complainants

- once it is clear that complainants meet any one of the criteria in section 3 of the South West Strategic Health Authority Procedure for Dealing with Habitual and Vexatious Complainants, it may be appropriate to inform them in writing that they are at risk of being classified as habitual or vexatious. A copy of this procedure should be sent to them and they should be advised to take account of the criteria in any future dealings with the Strategic Health Authority and its staff. In some cases it may be appropriate at this point to copy this notification to others involved in the complaint and suggest that complainants seek advice in taking their complaint further;
- try to resolve matters before invoking this procedure, and/or the sanctions detailed within it, by drawing up a signed agreement with the complainant setting out a code of behaviour for the parties involved if the Strategic Health Authority is to continue dealing with the complaint. If this agreement is breached consideration would then be given to implementing other actions as outlined below;
- decline further contact with the complainant either in person, by telephone, fax, letter or electronically, or any combination of these, whilst ensuring that one form of contact is maintained. Alternatively, further contact could be restricted to liaison through a third party. A suggested statement has been prepared for use if staff are to withdraw from a telephone conversation with a complainant. This is attached at Annex 1;
- notify complainants in writing that the Chief Executive (or delegated deputies or representatives) has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. Complainants should be notified that correspondence is at an end and that further communications will be acknowledged but not answered;
- inform complainants that in extreme circumstances the Strategic Health Authority reserves the right to refer unreasonable or vexatious complaints to solicitors and, if appropriate, the police;
- temporarily suspend all contact with the complainant(s), or investigation of a complaint, whilst seeking legal advice or guidance from the Department of Health or other relevant agencies;
- in exceptional circumstances, consideration can be given to the possibility of referring the matter to the Health Services Ombudsman under Section 10 of the Health Service Commissioners Act 1993.

4.4 If this policy is to be implemented, it should be explained to the complainant(s) that any course of action taken as a result only relates to contact with the Strategic Health Authority over their specific complaint(s). It does not, and is not intended to, have any impact on any other dealings between the Strategic Health Authority and the complainant(s) on other, unrelated issues (e.g.

accessing information through the code of practice on openness in the NHS or registration with a general medical practitioner).

5. Withdrawing Habitual or Vexatious Status

- 5.1 Once complainants have been classified as habitual or vexatious, such status will continue to apply for a period of six months, at the end of which period habitual or vexatious status will automatically be withdrawn. However, there also needs to be a mechanism for withdrawing this status earlier if, for example, complainants subsequently demonstrate a more reasonable approach. If they submit a further complaint, relating to a new matter(s), the normal complaints procedures would apply.
- 5.2 Staff should have already used careful judgement and discretion in recommending or confirming habitual or vexatious status and similar judgement/discretion will be necessary when recommending that such status should be withdrawn. Where this appears to be the case, discussions will be held with the Chief Executive (or their delegated deputies or representatives) and, subject to their approval, normal contact with complainants and application of the national NHS Complaints Procedures will be resumed.
- 5.3 In any event, the status of a complainant(s) as habitual or vexatious will automatically be reviewed at the end of the six-month period. If it is decided that habitual or vexatious status will be re-imposed for a further period of six months, all relevant parties involved will be informed of this decision.

6. Review

- 6.1 This procedure will be reviewed annually and any proposed amendments submitted to the South West Strategic Health Authority for approval.
- 6.2 The existence and operation of this procedure will be shared with and explained to all relevant South West Strategic Health Authority staff.

ANNEX 1

STAFF OPERATIONAL GUIDANCE FOR HANDLING HABITUAL OR VEXATIOUS COMPLAINANTS

The following form of words – or a very close approximation – should be used by any member of South West Strategic Health Authority staff who intends to withdraw from a telephone conversation with a complainant. Grounds for doing so could be that the complainant has become unreasonably aggressive, abusive, insulting or threatening to the individual dealing with the call or in respect of other NHS personnel. It should not be used to avoid dealing with a complainant's legitimate questions/concerns that can sometimes be expressed extremely strongly. Careful judgement and discretion must be used in determining whether or not a complainant's approach has become unreasonable.

Form of Words

"I am afraid that we have reached the point where your approach has become unreasonable and I have no alternative but to discontinue this conversation. Your complaint(s) will still be dealt with by the Strategic Health Authority in accordance with the NHS Complaints Procedure. I am now going to put the telephone down but wish to assure you that the situation will shortly be confirmed in writing to you."

Follow-up Action

The incident should immediately be reported to the Head of Continuing Care and Legal Duties and agreement reached on future means of communication with the complainant together with any further action deemed necessary.