

# Complaints policy

## CG12

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## 1. Introduction

1.1 NHS Resolution is committed to taking seriously any complaints raised about our service, will seek to ensure their satisfactory resolution and aim to learn from complaints to improve our services. As an NHS organisation, NHS Resolution is subject to the NHS Complaints Regulations<sup>1</sup> (Regulations). This policy also reflects the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling. If we receive a complaint about NHS services, or any other part of the health and care system, we will respond where we can do so. Where the complaint falls outside the scope of this policy, we will assist the complainant to refer the matter to the relevant body, or with agreement we will refer the complaint directly.

1.2 NHS Resolution has a number of functions:

- **Management of Claims**

We provide indemnity cover for legal claims against the NHS, share lessons from claims to improve patient safety and provide other legal and professional services for the NHS and providers of NHS care.

- **National Clinical Assessment Service (NCAS)**

NCAS supports the NHS to improve patient safety by helping to resolve concerns about the professional practice of doctors, dentists and pharmacists in the UK. NCAS provides expert advice and support, assessments and training to the NHS and other healthcare partners. NCAS also issues the Healthcare Professionals Alert Notices (HPAN).

- **Family Health Services Appeal Unit (FHSAU)**

The FHSAU acts to resolve contract disputes between health practitioners, (including GPs, dentists, pharmacists and opticians), and their local primary care decision making body. The FHSAU maintain a list of primary care health practitioners in England, Wales, Scotland and Northern Ireland who have had restrictions placed on their work.

- **Safety and Learning**

The Safety and Learning team supports members to better understand their claims risk profiles to target their safety activity while sharing learning across the system.

- **Finance and Corporate Planning**

The Finance and Corporate Planning directorate provides finance, human resources/ organisational development, corporate governance and business development expertise.

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<sup>1</sup> Local Authority Social Services and NHS Complaints (England) Regulations 2009

- **IT and Facilities**

The IT and Facilities team enables the organisation to deliver its services effectively.

- **Membership and Stakeholder Engagement**

The Membership and Stakeholder Engagement team works at a corporate level to improve our customer-focused approach to delivery.

## 2. Scope

2.1 This policy sets out the framework by which complaints that cannot be resolved locally and quickly are escalated and managed. It will be implemented by all NHS Resolution employees, workers, contractors and non-executive directors receiving a written or verbal complaint about NHS Resolution.

2.2 Any of NHS Resolution's service users may raise complaints about our services. Such concerns can be made verbally or in writing. Where a service user states that they wish to make a complaint, the complaints procedure at Annex 2 of this policy will be followed. Annex 3 is a summary of our complaints policy which is available on our website. If users require additional support, a representative or advocate may make a complaint on their behalf.

2.3 The following do not constitute complaints for the purposes of this Policy, but will be dealt with in accordance with the established procedures for dealing with such matters:

- Disagreements arising from the normal negotiation inherent in the management of liability claims handled by NHS Resolution (including when compensation payments are refused because negligence has not been established and all appropriate processes for establishing such have been followed);
- Challenges to the FHSAU's interpretation of regulations or procedures during the appeal process or to final decisions (a "come back"); and
- Dissatisfaction with decisions reached on matters of professional or clinical judgements which have been made in relation to the delivery of NCAS services (provided all appropriate procedures and practices have been followed).

### 3. Time limits

- 3.1 A complaint must be made within 12 months of an incident occurring, or on the date on which the complainant has become aware, (or should reasonably have become aware), of the matter of complaint if this is more than 12 months after the incident.
- 3.2 The time limit will be used sensitively and with flexibility where we consider that the complainant had good reasons for not making the complaint within that time limit, such as not being properly advised about or signposted to the complaints procedure; poor health of complainant or close family member and/or bereavement. In the event of a delay in a complaint being raised, we will also consider whether it is still possible to investigate the complaint effectively and fairly. The Chief Executive will determine whether a complaint which may be out of time should be reviewed under this policy.

### 4. Definitions

#### 4.1 Informal complaints

NHS Resolution defines a complaint as ‘an expression of dissatisfaction that requires a response’ made orally or in writing. . All NHS Resolution staff will try to resolve informal complaints at the time they are made or within 2 working days. Staff should try and establish if this is an informal complaint and whether the person complaining wishes a written response? Any concerns made directly to a member of staff which constitutes a complaint should be reported to the staff member’s line manager irrespective of whether it has been successfully resolved.

#### 4.2 Formal complaints

A formal complaint is one where an expression of dissatisfaction raised by a complainant has not been resolved quickly and by timescale in 3.1 and informally, or where the complainant has expressed a wish for their complaint to be subject to a formal investigation. Formal complaints can be made verbally. However, where practicable, complainants should be encouraged to put forward complaints in writing. Where NHS Resolution is made aware of comments or complaints made in social media posts, we will encourage the use of formal routes by directing such users to existing policies in order to respond to any concerns. We will always acknowledge receipt of any complaint.

4.3 If a complaint is received in a case where legal action is being taken or the police are involved, a decision will be made by the Chief Executive as to whether progressing the complaint might prejudice any subsequent legal action. The complaint should be put on hold only if there are good reasons for doing so, with the complainant being advised of this and given an explanation. However, the default position in cases where the complainant has expressed an intention to take legal proceedings would be to seek to continue to resolve the complaint unless there are clear legal reasons not to do so.

## 5. Duties

### 5.1 Chief Executive:

- To oversee the implementation of this Policy supported by the Senior Management Team on behalf of NHS Resolution Board;
- To inform NHS Resolution Chair and Board of any significant issues or learning identified from the handling of complaints under this policy;
- To oversee communications with the media in relation to complaints as necessary;
- To ensure that the Board is informed, at least six monthly, of complaints data, including causes, emerging trends and action taken to prevent recurrence;
- To ensure that written complaints are acknowledged within three days and, where appropriate, to offer to discuss the matter, (or delegate an appropriate person to discuss the matter), with the complainant in order to determine and agree how to proceed, and to initiate complaints investigations;
- Respond in writing to all written complaints within 25 working days beginning on the date upon which the complaint was received by NHS Resolution (or later if such a date is agreed with the complainant). In some cases, this may include arranging a meeting if that is a preferred option by the complainant; and
- To ensure that information on complaints is recorded and appropriately reported.

### 5.2 Chair:

- To investigate and respond to any appeals against the Chief Executive's decision on a complaint or to any complaint that the Chief Executive has not addressed on the complainant's complaints, where such an appeal is made by the complainant within 25 working days of receiving the Chief Executive's response to the original complaint.

### **5.3 Head of Corporate and Information Governance:**

- Responsible for managing the complaints function in accordance with the principles outlined in the policy;
- Acknowledgement of complaints, or ensuring that they are acknowledged, within 3 working days;
- Recording the receipt of complaints and providing notification to the Chief Executive in a timely fashion;
- Managing a complaints register of all formal complaints received;
- Recording all learning outcomes, ensuring that an action plan is created to learn from complaints, and monitoring against the action plan to ensure the action plan is executed;
- Preparing reports on complaints and learning for the Chief Executive, SMT and Board.
- Providing training to staff on complaints handling and processes.

### **5.4 Managers:**

- Ensure that all their staff understand the procedure for complaints (including reporting), and that they follow the complaints procedure when appropriate;
- Help to resolve informal complaints at a local level wherever possible;
- Ensure that all written complaints, including emails, are sent to the Head of Corporate and Information Governance the same working day the complaint is received or as soon as practical thereafter;
- Provide appropriate information in a timely manner to assist in any investigation;
- Ensure that, where appropriate, any member of staff is informed of any concern or complaint against them as soon as practical and is kept informed of developments;
- Provide appropriate support for staff involved in a complaint. Such support will include the provision of:
  - Immediate support, as appropriate, (internal and, if necessary, external), including time away from duties, e.g. in order to deal with any investigation, facilitate the preparation of statements and related meeting attendance;
  - Ongoing support, as appropriate, (internal and, if necessary, external), including the offer of meetings, as appropriate, to discuss progress and where a staff member experiences difficulties associated with the event, direction to the staff counselling service available via the Employee Assistance Programme (EAP); and

- Any other appropriate advice.
- To assist in drawing up action plans to address any issues raised by a complaint, and ensuring that the action plan is fully implemented.

#### 5.5 All Staff:

- Take all complaints seriously;
- Resolve informal complaints at source whenever possible;
- Report all complaints to their line manager as soon as they are raised.

## 6. Document Control

Date	Author	Version	Reason for change
8.12.17	Tinku Mitra	V.01	Policy review
18.12.17	Tinku Mitra	V.02	Changes from SMT and JNC
25.1.18	Tinku Mitra	Final v3	Board approved

## Procedures for Managing Complaints

### 1. Informal complaints

1.1. All NHS Resolution staff will try to resolve informal complaints at the time they are made or within 2 working days. All complaints will be acknowledged on receipt. Any concern made directly to a member of staff should be reported to the staff member's line manager irrespective of whether it has been successfully resolved.

### 2. Formal complaints

2.1. If a member of staff or their line manager is not able to resolve a complaint satisfactorily, or if a written complaint is received, the matter should be referred to the Head of Corporate and Information Governance who will ensure that the Chief Executive is notified and a formal written acknowledgement is sent. Where the complaint is received by the Chief Executive's office, or by the Head of Corporate and Information Governance a copy of the complaint will be sent to the relevant Director and the Head of Corporate and Information Governance, unless there is any reason given by the complainant not to do so.

2.2. The Head of Corporate and Information Governance will discuss with the complainant the following:

- The handling of the complaint.
- Agreed preferred method of communication.
- Timescales for responding.
- Expectations and desired outcome if unclear

2.3. If the complaint has been made verbally, the complainant will be given a copy of their verbal statement which is considered the formal complaint and asked to confirm that it represents the issues they wish to raise.

2.4. The Chief Executive will ask the Head of Corporate and Information Governance or another manager who has not had any prior involvement of the matters which give rise to the complaint to carry out an investigation. We will ensure that the complainant is kept updated of the progress of the complaint.

### 3. Appeals

3.1. If a complainant remains dissatisfied after receiving the Chief Executive's written response, then they can appeal by writing to NHS Resolution Chair.

## **4. Ombudsman**

4.1. Complainants who are still dissatisfied at the conclusion of NHS Resolution's complaint procedure may put their complaint to the Parliamentary and Health Service Ombudsman.

## **5. Record Keeping**

5.1. In accordance with NHS guidance on records management, complaint records will be held by NHS Resolution for 10 years.

## **6. Being Open**

6.1. NHS Resolution's policy is to provide those raising concerns, complaints with a full and frank explanation of the events giving rise to their complaint. This will include:

- An explanation of how the complaint has been considered.
- An apology if appropriate
- An explanation based on facts.
- Whether the complaint in full or in part is upheld.
- The conclusions reached in relation to the complaint including any remedial action that the organisation considers to be appropriate.
- Confirmation that the organisation is satisfied any action has been or will be actioned.
- Where possible, we will respond to people about any lessons learnt.
- Information and contact details of the Parliamentary and Health Service Ombudsman as the next stage of the NHS complaints process.

6.2. The person raising the complaint will be assured that they will not be treated differently as a consequence of making the complaint.

## **7. Learning from Experience**

7.1. In order that lessons can be learnt from complaints, all complaints will be collated by the Head of Corporate and Information Governance and reported on a quarterly basis to the Senior Management Team together with learning outcomes and progress made. Complaints, including learning, will be reported to the Board at least twice a year.

## 8. Documentation and Statements

8.1. Full file notes must be made of all conversations with those raising complaints and any other relevant person.

8.2. If a statement of events is required, the following details should be included:

- Name (of person giving the statement);
- Job title (if relevant);
- What the person did or saw (who, what, where, when – give facts, not opinion); and
- The statement must be signed and dated.

## 9. Confidentiality

9.1. Any information gained in an investigation of any kind will be treated with appropriate level of confidentiality. The information governance policies and procedures must be followed to protect personal data.

## 10. Timescales for Complaints

The following timescales should be achieved:

Stage		Timescale
Informal complaint [Local resolution]		Response either verbal or in writing which is resolved immediately or by within 2 working days.
Stage 1	Verbal or written complaint	Acknowledgement by the Head of Corporate and Governance Manager within 3 working days of receipt within the organisation.
		Investigation carried out as requested by Chief Executive.
		Full written response from Chief Executive within 25 working days of receipt of complaint.
Stage 2		Timescale
Appeal	Written response does not satisfy complainant	Letters of appeal should be received within 25 days of the Chief Executive's response and be addressed to the Chair.
		The Chair will investigate and respond to the complainant within a further 25 working days.

## 11. Training and Support

- 11.1. All persons handling complaints covered by this Policy will be appropriately trained to do so.
- Induction training (ongoing) will be provided for all new staff to introduce them to the complaints policy.
  - Managers with responsibility for staff are required to read and understand this Policy in order that they can support their staff in the event of a complaint being received and any subsequent investigation.
  - Individuals affected will be provided with feedback on the complaint by their line manager.

## 12. Conduct

- 12.1. We are committed to dealing with all people fairly and impartially and to providing a high-quality service. In order to do this it is important that we are able to communicate with someone bringing a complaint to us so we can make sure we fully understand it. We therefore do not normally limit the contact that people have with us.
- 12.2. In doing so, we do not expect our staff to tolerate any form of behaviour that could be considered abusive, offensive or threatening, or that becomes so frequent it makes it more difficult for us to complete our work or help other people. We will take action under this policy to manage this type of behaviour and this applies to all contact with us including the use of social media.
- 12.3. We will make reasonable adjustments to ensure our service is accessible to everyone. It is important to us though, that we provide a safe environment for our staff to work in, which may mean we decide to restrict how someone can contact us. This will be agreed with the Chief Executive and may include:
- Asking for contact in a particular form (for example, email only);
  - Only allowing contact with a specific member of staff or at specific times;
  - Asking the person to enter into an agreement about their future behaviour; and/or actions designed to specifically meet the needs of the person.
- 12.4. In all cases we will write to tell the person why we believe their behaviour is unreasonable, what action we are taking and how long that action will last. We will also tell them how they can challenge the decision if they disagree with it. If, despite any adjustments we have made, a person continues to behave in a way which is unreasonable, we may decide to end contact with that person.

12.5. There will be occasions where we decide that a person's behaviour is so extreme that it threatens the immediate safety and welfare of our staff or others. In these instances we will consider stopping all contact immediately, reporting what has happened to the police or taking legal action. In such cases, we may not warn the person before we do this.

### **13. Equality Impact Assessment**

13.1. This policy has been reviewed and an impact assessment undertaken.

## How to make a complaint about NHS Resolution

1. NHS Resolution is committed to taking seriously any complaints raised about our service, will seek to ensure their satisfactory resolution and aim to learn from complaints to improve our services. As an NHS organisation, NHS Resolution is subject to the NHS Complaints Regulations<sup>2</sup> (Regulations). This policy also reflects the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling.

2. NHS Resolution has three functions:

- **Management of Claims**

We provide indemnity cover for legal claims against the NHS, share lessons from claims to improve patient safety and provide other legal and professional services for the NHS and providers of NHS care.

- **National Clinical Assessment Service (NCAS)**

NCAS supports the NHS to improve patient safety by helping to resolve concerns about the professional practice of doctors, dentists and pharmacists in the UK. NCAS provides expert advice and support, clinical assessment and training to the NHS and other healthcare partners.

- **Family Health Services Appeal Unit (FHSAU)**

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- **Safety and Learning**

The Safety and Learning team supports members to better understand their claims risk profiles to target their safety activity while sharing learning across the system.

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The Finance and Corporate Planning directorate provides finance, human resources/ organisational development, corporate governance and business development expertise.

- **IT and Facilities**

The IT and Facilities team enables the organisation to deliver its services effectively.

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<sup>2</sup> Local Authority Social Services and NHS Complaints (England) Regulations 2009

- **Membership and Stakeholder Engagement**

The Membership and Stakeholder Engagement team works at a corporate level to improve our customer-focused approach to delivery.

3. We try to work in a professional, fair and courteous way at all times. We recognise, however, that things can go wrong and we encourage anyone who wishes to make a complaint to talk to their contact at NHS Resolution who may be able to deal with your complaint quickly. If that is not possible, or you remain dissatisfied with your response please contact the Head of Corporate and Information Governance at [generalenquiries@nhs.uk](mailto:generalenquiries@nhs.uk) who can advise you about how you may want to pursue your complaint.
4. We have set up a procedure for dealing with complaints raised with us. The aim of our complaints procedure is to:
  - Be simple and easy to follow;
  - Provide a speedy acknowledgement and full written response, where appropriate;
  - Investigate complaints thoroughly and fairly;
  - Ensure we say sorry if something has gone wrong;
  - Keep you informed if there are delays;
  - Be fair to complainants and staff; and
  - Ensure that we learn from our complaints and to identify areas where we need to improve our services.

## 5. Who can use this complaints policy?

5.1. This procedure is aimed at anyone who is a service user or directly affected by our services. Complaints can be raised by you directly, or by your authorised representative.

### 5.2. Written complaints

Where a complaint cannot be resolved straight away, or where you wish to make a complaint in writing, please write or contact the Head of Corporate and Information Governance at the following details:

Head of Corporate and Information Governance  
NHS Resolution  
2<sup>nd</sup> Floor  
151 Buckingham Palace Road  
London  
SW1W 9SZ

or e-mail [generalenquiries@resolution.nhs.uk](mailto:generalenquiries@resolution.nhs.uk)

The Head of Corporate and Information Governance will make an initial assessment as to whether your complaint is one that falls within the terms of the complaint policy. If the complaint would best be pursued by a different process, we will advise you accordingly.

Your complaint will be passed to the Chief Executive. We will confirm with you:

- How your complaint will be handled?
- Agree with you your preferred method of communication.
- Expectations and desired outcome if unclear
- Ensure that an appropriate investigation is carried out; and
- The timescale for responding to you.

### 5.3. Appeals

If you remain dissatisfied after receiving the response from the Chief Executive, you can choose to appeal against the decision. Your appeal should be made in writing within 25 working days of you receiving the Chief Executive's response. In this case NHS Resolution Chair will investigate your complaint. Your letter should be sent to the Board Secretary at the NHS Litigation Authority at the address given above. The Chair will respond to an appeal request within 25 working days.

## Parliamentary Health Service Ombudsman

Complaining to the Ombudsman

Complainants who remain dissatisfied at the conclusion of NHS Resolution's complaint procedure may put their complaint to the Parliamentary Health Service Ombudsman in England, or the respective offices in Northern Ireland, Scotland and Wales. Complainants are advised to contact the relevant office for further guidance about whether the Ombudsman can consider your complaint.

The office details are as follows:

- **For complaints in England:**

The Parliamentary and Health Service Ombudsman  
Millbank Tower  
Millbank  
London  
SW1P 4QP  
Tel: 0845 015 4033  
Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

- **For complaints in Northern Ireland:**

The Ombudsman  
Freepost BEL 1478  
Belfast,  
BT1 6BR  
Tel: 028 9023 3821  
Website: [www.ni-ombudsman.org.uk](http://www.ni-ombudsman.org.uk)

- **For complaints in Scotland:**

Scottish Public Services Ombudsman  
4 Melville St  
Edinburgh  
EH3 7NS  
Tel: 0800 377 7330  
Website: [www.spsso.org.uk](http://www.spsso.org.uk)

- **For complaints in Wales:**

Public Services Ombudsman for Wales  
1 Ffordd yr Hen Gae,  
Pencoed,  
CF35 5LJ  
Tel: (01656) 641 150  
Website: [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)