

Complaints policy

CG12

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Applies to:	All service users
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- **Introduction**

1. NHS Resolution is committed to supporting a just and learning culture and taking seriously any complaints raised about our service. We 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 2009 (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 but we are not able to enforce any NHS body to take action arising from a complaint about their services. 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.

2. **NHS Resolution has a number of services:**

- **Claims Management**

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.

- **Practitioner Performance Advice**

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

- **Primary Care Appeals**

Primary Care Appeals acts to resolve contract disputes between health practitioners, (including GPs, dentists, pharmacists and opticians), and their local primary care decision making body. The Appeals service maintains a record of primary care health practitioners in England, Wales, Scotland and Northern Ireland who have had restrictions placed on their work and discloses information under Performers Lists Regulations.

- **Safety and Learning**

The Safety and Learning team supports members and scheme beneficiaries 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.

- **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.

- **Scope**

3. 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.
4. 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.
5. 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 handling practices and negotiation inherent in the management of 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). This will include complaints that may have other minor contributing factors but the principle complaint is centered around the management of the claim;
 - Challenges to the Primary Care Appeal 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 Practitioner Performance Advice services (provided all appropriate procedures and practices have been followed).
 - This policy does not provide for ex gratia payments.

Where matters raised are deemed out of scope of this policy, the issues raised will be referred to the relevant business area for further consideration.

- **Time limits**

6. 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.
7. 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.

- **Definitions**

8. **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 two 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 at the time that the complaint was made or soon as practicably thereafter. Where it is not a complaint identified to a specific business area, or it is a general enquiry, these should be referred to the Head of Corporate and Information Governance for advice on responding.

9. **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 either by email or letter. 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.

10. 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 Director of the business area, or other suitably delegated deputy 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.

- **Duties**

11. Chief Executive:

- The Chief Executive has responsibility to:
 - Oversee the implementation of this Policy supported by the Head of Corporate and Information Governance and the Senior Management Team on behalf of NHS Resolution Board;
 - Inform NHS Resolution Chair and Board of any significant issues or learning identified from the handling of complaints under this policy;
 - Oversee communications with the media in relation to complaints as necessary;
 - Ensure through the Head of Corporate and Information Governance that an investigation of the facts has been carried out and learning outcomes identified and disseminated throughout the organisation.
 - Respond to all written complaints escalated to the Chief Executive 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 appropriate and agreed; and
 - 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
 - Seek assurance from Directors that learning points have been addressed.
 - Ensure that information on complaints is recorded and appropriately reported.
- Where relevant, any matters escalated under section 12 of the policy related to conduct will be considered and a decision made to inform future handling.

Where a complainant remains dissatisfied by the Chief Executive's response to a complaint, matters may be referred to the Chair.

12. Chair

- The Chair is independently appointed.
- The Chair will investigate and respond to any appeals against the Chief Executive's decision on a complaint or to any complaint where the Chief Executive has not addressed all of the issues raised in the complaint, where such an appeal is made by the complainant within 25 working days of receiving the Chief Executive's response to the original complaint. If not satisfied by the Chair's response, a complainant may refer matters to the Parliamentary and Health Service Ombudsman.
- The Chair will from time to time be required to investigate complaints where the Chief Executive has declared a conflict or any other rationale, which precludes the involvement of the Chief Executive from handling.

- The Chair's review will be designed to consider in accordance with the policy whether matters raised have been satisfactorily addressed, and that where relevant learning outcomes have been identified,
- The Chair is not able to review matters which are deemed out of scope of the policy and where there are technical and legal judgements made in respect of case handling, unless in his review the actions of NHS Resolution have been unreasonable or unjust. The Chair is able to make findings and recommendations regarding overall handling and any issues of conduct or behaviours which might inform such handling. The Chair will seek advice as necessary from the Senior Management Team on any aspects which might inform the complaints investigation, and to consult where necessary on any prospective findings which might impact on our Statutory framework or where there are wider policy implications.
- The Chair will inform the Chief Executive about findings and any learning outcomes from his/her review, and will seek assurance of actions taken to address these learning points, or any follow up necessary from the original complaint.

13. Directors

- Ensure all their staff understand the procedure for complaints (including reporting), and that they follow the complaints procedure and when appropriate;
- Help to resolve informal complaints at a local level wherever possible;
- Ensure that a complainant is made aware if they remain dissatisfied that they may refer a complaint to the Chief Executive.
- 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 as requested by the Chief Executive;
- Provide access to subject matter experts (SME)
- 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:
 - 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
- To assist in drawing up action plans to address any issues raised by a complaint, and ensuring that the action plan is fully implemented.

14. 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 they are acknowledged, within 3 working days;
- Recording the receipt of complaints and providing notification to the Chief Executive, or other designated individual in a timely fashion;
- Managing a complaints register of all formal complaints received;
- Recording all learning outcomes, ensuring 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.

15. Managers:

- Ensure that all their staff understand the procedure for complaints (including reporting), and they follow the complaints procedure;
- Help to resolve informal complaints at a local level wherever possible;
- Ensure 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.

16. All Staff:

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

17. 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
October 2019	Tinku Mitra	V3.1	Review
November 2019	Tinku Mitra	V4	Board approved
March 2021	Evelyn Lucien	V4	Change of Address – NHS Resolution

Appendix 1

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.
- 1.2. Where it is not a complaint identified to a specific business area, or it is a general enquiry, these should be referred to the Head of Corporate and Information Governance for advice on responding.

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 appropriate senior member of staff 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. Where possible, the Head of Corporate and Information Governance, or a designated deputy will agree with the complainant the following:
 - The handling of the complaint.
 - Agreed preferred method of communication.
 - Timescales for responding.
 - Expectations and desired outcome if unclear

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. We will make reasonable adjustments to make sure that our policy is accessible to everyone.

- 2.3. 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 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

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, or other nominated Director/Head of Service
		Full response from Chief Executive or other nominated Director/Head of Service 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 of complainant

- 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. 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.

Appendix 2

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 Regulations¹ (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.

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

 - **Primary Care Appeals**
Primary Care Appeals acts to resolve contract disputes between health practitioners, (including GPs, dentists, pharmacists and opticians), and their local primary care decision-making body. The Appeals service maintains a record of primary care health practitioners in England, Wales, Scotland and Northern Ireland who have had restrictions placed on their work and discloses information under Performers Lists Regulations.

 - **Safety and Learning**
The Safety and Learning team supports members and scheme beneficiaries 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.

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

¹ 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@resolution.nhs.uk / Complaints@resolution.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
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU

or e-mail generalenquiries@resolution.nhs.uk / Complaints@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 Head of Corporate and Information Governance at NHS Resolution at the address given above. The Chair will respond to an appeal request within 25 working days.

Appendix 3

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

- **For complaints in Northern Ireland:**

The Ombudsman
Freepost BEL 1478
Belfast,
BT1 6BR
Tel: 028 9023 3821
Website: 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

- **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