

Sheepcot Medical Centre



Complaints Procedure (England)

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1 Introduction

1.1 Policy statement

The purpose of this document is to ensure all staff at Sheepcot Medical Centre understand that all patients have a right to have their complaint acknowledged and investigated properly. This organisation takes complaints seriously and ensures that they are investigated in an unbiased, transparent, non-judgemental and timely manner.

The organisation will maintain communication with the complainant (or their representative) throughout, ensuring they know their complaint is being taken seriously.

In accordance with the [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014 \(Regulation 16\)](#), all staff at this organisation must fully understand the complaints process.

Supporting information including legislative requirements and additional reading on complaints management can be found at [Annex A](#).



[Complaints Management](#) and [Duty of Candour](#) eLearning are available in the [HUB](#).

1.2 Status

The organisation will aim to design and implement policies and procedures that meet the diverse needs of our service and workforce, ensuring that none are placed at a disadvantage over others, in accordance with the [Equality Act 2010](#). Consideration has been given to the impact this policy might have regarding the individual protected characteristics of those to whom it applies.

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time. For the avoidance of doubt, it does not form part of your contract of employment. Furthermore, this document applies to all employees of the organisation and other individuals performing functions in relation to the organisation such as agency workers, locums and contractors.

2 Requirements

2.1 Complaints management team

The organisation has a responsible person for complaints who is known as the Complaints Lead. This person is responsible for maintaining both legislative and regulatory requirements. This role is supported by the Complaints Manager who is responsible for the day-to-day management of any complaint that may be received.

Both named persons are detailed within the Complaints Leaflet.

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It should be noted that in [A Guide to Effective Complaints Resolution \(England\)](#), the responsible person and Complaints Manager can be the same person.

2.2 Definition of a complaint versus a concern

NHS England defines that a concern is something that a service user is worried or nervous about and this can be resolved at the time the concern is raised whereas a complaint is a statement about something that is wrong or that the service user is dissatisfied with which requires a response.

Should a service user be concerned and raise this as such, if they believe that it has not been dealt with satisfactorily, then they may make a complaint about that concern.

A concern may also be called a criticism.

2.3 Formal or informal?

While there is no difference between a 'formal' and an 'informal' complaint with both being an expression of dissatisfaction, ordinarily the distinction would be whether it can be resolved quickly or not. Unless the complainant specifically requests that their issue needs to be raised as a complaint, the Complaints Manager will consider whether it is logged as either a concern or complaint should they believe that it can be resolved quickly.

[CQC GP Mythbuster 103: Complaints management](#) states that a verbal complaint or concern does not need to be logged if resolved within 24 hours.

2.4 Complaints information

This organisation has prominently displayed notices within the practice detailing the complaints process. In addition, the process is included on the website and a complaints leaflet is also available at [Annex B](#) and at reception.

Any complainant should be provided with a copy of the complaints leaflet as this details the process, who to address the complaint to, advocacy support information and that they can escalate their complaint if they not content with the findings or outcome. A poster is available [here](#) that highlights how to make a complaint or the actions needed should there be a concern.

A desktop aide-memoire for staff on the complaints management process is detailed at [Annex C](#).

Should a patient or their representative wish to complete a complaints form, then templates for both are available at [Annex D](#) and [Annex E](#).

2.5 A duty of candour

The duty of candour is a general duty to be open and transparent with people receiving care

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at this organisation. Both the statutory duty of candour and professional duty of candour have similar aims, to make sure that those providing care are open and transparent with the people using their services whether something has gone wrong or not.

Further guidance can be sought from the [Duty of Candour Policy](#) and the CQC's [GP Mythbuster 32: Duty of Candour and General Practice \(regulation 20\)](#).

2.6 Parliamentary and Health Service Ombudsman (PHSO)

The [PHSO](#) role is to make final decisions on complaints that have not been resolved locally by either the organisation or the Integrated Care Board (ICB). The PHSO will look at complaints when someone believes there has been an injustice or hardship because an NHS provider has not acted properly or has given a poor service and not put things right.

The PHSO can recommend that organisations provide explanations, apologies and financial remedies to service users and that they take action to improve services.

2.7 Complainant options

The complainant, or their representative, can complain about any aspect of care or treatment they have received at this organisation to either:

Stage 1

- The organisation, or,
- Directly to the [ICB](#)

While there is no requirement for a complaint to be sent to NHS E, a complaint may still be received by NHS E directly. In this instance, the BMA provides guidance in its [Dealing with complaints made against you as a GP practice](#) document.

Stage 2

Should the complainant be dissatisfied with the response from either the ICB or the organisation then the next steps are to:

- Escalate the complaint to the PHSO. This process is as detailed within the [Local Authority Social Services and National Health Service Complaints \(England\) Regulations \(2009\)](#) with outlining information being found within the complaints leaflet

Specific details of how to complain to the ICB can be found within their webpage.

2.8 Timescale for making a complaint

The time constraint for bringing a complaint is 12 months from the occurrence giving rise to

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the complaint or 12 months from the time that the complainant becomes aware of the matter about which they wish to complain. If, however, there are good reasons for a complaint not being made within the timescale detailed above, consideration may be afforded to investigating the complaint if it is still feasible to investigate the complaint *effectively and fairly*.

Should any doubt arise, further guidance can be sought from the ICB.

2.9 Responding to a complaint

While each concern or complaint will warrant its own response, generally the outcome will always be to ensure that the best response is always provided. The following is to be the considered communication responses to any complaint:

- Should a patient be complaining in person, then this should be discussed face-to-face with them
- If via telephone, then it is acceptable to call back should the issue not be immediately resolved
- If by email/letter, then any response should be in writing

In the CQC's [GP Mythbuster 103 – Complaints management](#) practices are advised that they cannot insist that complainants 'put their complaints in writing' and that the tone of a response needs to be professional, measured and sympathetic.

Immediate response

Should a patient, or the patient's representative, wish to discuss a complaint or a concern, then this can be deemed to be a less formal approach. These are often simply a point to note or a concern and can be dealt with at this time.

Points that should be considered should an immediate response be given:

- All facts need to be ascertained prior to any escalation to the Complaints Manager
- Should the person be or become angry and if there is no risk of escalation, then suggest to the complainant that their concern is dealt with within a quiet space and away from other patients. When doing this, support from a colleague should be requested
- If needing to return the call to an angry patient then by allowing time to lapse can often be useful as this delay may diffuse their anger. However, this should ordinarily be within the same day as any extended delay could be counterproductive and the situation could then become more inflamed
- Time management always needs to be considered

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Consider any potential precedence that may be established and will any future concern be expected to always be dealt with immediately should any response be given too soon

Longer term response

This is normally when a more formal approach has been taken, although the concern or complaint could still be via a face-to-face discussion or telephone as it does not require to have been in writing to be considered.

When a concern, or complaint cannot be easily resolved, then the complainant has a right to be regularly updated regarding the progress of their complaint. With any complaint, the Complaints Manager will provide an initial response as an acknowledgement within three working days after the complaint is received.

Timescales

The Complaints Manager will provide an initial response to acknowledge any complaint within three working days after the complaint is received. A letter template can be found at [Annex F](#). Following any complaint, a full investigation will be undertaken and while primary care organisations can suggest a deadline for a response to be given, there is no obligation to do so.

NHS E current [guidance](#) states that it will attempt to complete any complaint within 40 working days. This document only supports complaints that have been made directly to NHS E. Guidance for primary care organisation is:

- [The Local Authority Social Services and National Health Complaint \(England\) Regulations 2009 Regulation 14](#)
- CQC's [GP Mythbuster 103: Complaints management](#)

Further reading can be sought from the NHS Resolution document titled [Responding to complaints](#).

2.10 Meeting with the complainant

To support the complaints process, [BMA guidance](#) suggests that a meeting should be arranged between the complainant and the complaints lead. While not a CQC requirement, having a meeting is considered as being best practice due to there often being a more positive outcome.

2.11 Verbal complaints

If a patient wishes to complain verbally and should the patient be content for the person dealing with the complaint to deal with this matter and if appropriate to do so, then complaints should be managed at this level. After this conversation, the patient may suggest that no further action is needed, then the matter can be deemed to be closed.

If the matter demands immediate attention, the Complaints Manager should be contacted

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who may then offer the patient an appointment or may offer to see the complainant at this stage. Staff are reminded that when internally escalating any complaint to the Complaints Manager then a full explanation of the events leading to the complaint is to be given to allow an appropriate response.

Verbal complaints that are not resolved within 24 hours should be added to the Complaints Log.

2.12 Written complaints

It is a complainant's choice as to the method of communication that they use when making a complaint and as detailed at [Section 2.9](#).

When a written complaint is received, a full investigation and response will always be provided. As part of the investigation process, often other clinical governance tools will be used to complete this action, such as meetings, audit, significant event and training etc. Even should the complaint not be upheld, this organisation will scrutinise the event in the desire to improve patient outcomes.

2.13 Who can make a complaint?

A complaint may be made by the person who is affected by the action, or it may be made by a person acting on behalf of a patient in any case where that person:

- Is a child (an individual who has not attained the age of 18)

In the case of a child, this organisation must be satisfied that there are reasonable grounds for the complaint being made by a representative of the child and furthermore that the representative is making the complaint in the child's best interests.

- Has died

In the case of a person who has died, the complainant must be the personal representative of the deceased. This organisation will require to be satisfied that the complainant is the personal representative.

Where appropriate, the organisation may request evidence to substantiate the complainant's claim to have a right to the information.

- Has physical or mental incapacity

In the case of a person who is unable by reason of physical capacity or lacks capacity within the meaning of the [Mental Capacity Act 2005](#) to make the complaint themselves, the organisation needs to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is made.

- Has given consent to a third party acting on their behalf

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In the case of a third party pursuing a complaint on behalf of the person affected, the organisation will request the following information:

- Name and address of the person making the complaint
- Name and either date of birth or address of the affected person
- Contact details of the affected person so that they can be contacted for confirmation that they consent to the third party acting on their behalf

The above information will be documented in the file pertaining to this complaint and confirmation will be issued to both the person making the complaint and the person affected.

- Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs
- Is an MP, acting on behalf of and by instruction from a constituent

Should the Complaints Manager believe a representative does or did not have sufficient interest in the person's welfare, or is not acting in their best interests, they will discuss the matter with either medico-legal defence or [NHS Resolution](#) to confirm prior to notifying the complainant in writing of any decision.

2.14 Complaints advocates

Details of how patients can complain and how to find independent NHS complaints advocates are detailed within the complaints leaflet at [Annex B](#). Additionally, the patient should be advised that the local Healthwatch can help to find an independent complaints advocacy service in the area.

The PHSO provides several more advocates within its webpage titled [Getting advice and support](#).

2.15 Investigating complaints

This organisation will ensure that complaints are investigated effectively and in accordance with extant legislation and guidance. Furthermore, it will adhere to the following standards when addressing complaints:

- The complainant has a single point of contact in the organisation and is placed at the centre of the process. The nature of their complaint and the outcome they are seeking are established at the outset
- The complaint undergoes initial assessment and any necessary immediate action is taken. A lead investigator is identified
- Investigations are thorough, where appropriate obtain independent evidence and opinion, and are carried out in accordance with local procedures, national guidance

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and within legal frameworks

- The investigator reviews, organises and evaluates the investigative findings
- The judgement reached by the decision maker is transparent, reasonable and based on the evidence available
- The complaint documentation is accurate and complete. The investigation is formally recorded with the level of detail appropriate to the nature and seriousness of the complaint
- Both the complainant and those complained about are responded to adequately
- The investigation of the complaint is complete, impartial and fair
- The complainant should receive a full response or decision within six months following the initial complaint being made. If the complaint is still being investigated, then this would be deemed to be a reasonable explanation for a delay

2.16 Conflicts of interest

During any response, any staff member should consider and declare if their ability to apply judgement or act as a clinical reviewer could be impaired or influenced by another interest that they may hold. This could include, but is not limited to, having a close association with or having trained or appraised the person(s) being complained about, and/or being in a financial arrangement with them previously or currently.

Should such circumstances arise, the organisation should seek to appoint another member of the organisation as the responsible person with appropriate complaint management experience.

2.17 Final formal response to a complaint

A final response should only be issued to the complainant once the letter has been agreed by medico-legal defence*.

Following this, and upon completion of the investigation, a formal written response will be sent to the complainant and will include the following as detailed within the NHS Resolution document titled [Responding to complaints](#).

The full and final response should ordinarily be completed within six months and signed by the responsible person. Should it be likely that this will go beyond this timescale, the Complaints Manager will write to the complainant to explain the reasons for the delay and outline when they can expect to receive the response. At the same time, the organisation will notify the complainant that they have a right to approach the PHSO without waiting for local resolution to be completed.

Further reading can be found in the MDU document titled [How to respond to a complaint](#).

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* Note, it is not a mandatory requirement to forward all complaint response letters for medico-legal defence consideration prior to sending to the complainant. This has simply been added to reduce any potential risk of litigation. Organisations may therefore wish to continue to forward only those most significant complaints.

A template example of the final response letter can be found at [Annex G](#).

2.18 Confidentiality in relation to complaints

Any complaint is investigated with the utmost confidentiality and all associated documentation will be held separately from the complainant's medical records.

Complaint confidentiality will be maintained, ensuring only managers and staff who are involved in the investigation know the particulars of the complaint.

2.19 Persistent and unreasonable complaints

The management of persistent and unreasonable complaints at this organisation will follow the [Dealing with Unreasonable, Violent or Abusive Patients Policy](#) although advice will be sought from the ICB prior to any acknowledgment of a persistent, unreasonable or vexatious complainant.

2.20 Complaints citing legal action

Should any complaint be received and the content states that legal action has been sought then, prior to any response, consideration should be given to contacting the defence union for guidance.

- It is strongly suggested that should any organisation receive a complaint that highlights that legal action has been taken then they should be cautious
- By doing nothing with any complaint of this type, this could affect the outcome of a CQC assessment and/or the organisation's relationship with the ICB
- Should any complainant cite legal action that refers to an incident after 1 April 2019, contact NHS Resolution and they will assist under the [Clinical Negligence Scheme for General Practice \(CNSGP\)](#). Refer to the NHS Resolution Guidance for general practice document [here](#)

While detailed records will always be maintained following any complaint, it is of particular importance when a complaint cites legal action. This is to ensure that all information can be forwarded for medico-legal defence support as required.

2.21 Multi-agency complaints

The [Local Authority Social Services and NHS Complaints \(England\) Regulations 2009](#) state that organisations have a duty to co-operate in multi-agency complaints.

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If a complaint is about more than one health or social care organisation, there should be a single co-ordinated response. Complaints Managers from each organisation will need to determine which the lead organisation will be, and the lead organisation will then be responsible for co-ordinating the complaint, agreeing timescales with the complainant.

If a complaint becomes multi-agency, the organisation should seek the complainant's consent to ask for a joint response. The final response should include this and, as with all complaints, any complaint can be made to the provider/commissioner but not both.

2.22 Complaints involving external staff

Should a complaint be received about a member of another organisation's staff, then this is to be brought to the attention of their Complaints Manager at the earliest opportunity. The Complaints Manager will then liaise with the other organisation's manager.

2.23 Complaints involving locum staff

This organisation will ensure that all locum staff are aware of the complaints process and that they will be expected to partake in any subsequent investigation, even if they have left the organisation.

Locum staff must receive assurance that they will be treated equally and that the process will not differ between locum staff, salaried staff or partners.

2.24 Additional governance requirements

When a complaint is raised, it may prompt other considerations, such as a significant event, audit or supporting training requirements.

Detailed reading can be found in [The Governance Handbook](#) or the specific governance policies, such as:

- Highlighting a concern by raising a significant event (SE) as per the [Significant Event and Incident Policy](#). Note the external reporting process as detailed within CQC [GP Mythbuster 24: Recording patient safety events with the Learn from patient safety events \(LFPSE\) service](#).

The complainant, their carers and/or family can be involved in the SE process as this helps to demonstrate that the issue is being taken seriously

- To scrutinise any process, refer to the [Quality Improvement and Clinical Audit Policy](#)
- Any remedial training considerations are supported within:
 - [The Training Handbook](#)
 - [Training Needs Assessment](#)

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- [Training Evaluation Form](#)

2.25 Fitness to practise

If the complaint is of a clinical nature, the Senior Partner will be responsible for discussing this with any clinician cited in the complaint. Should the complaint merit a fitness to practise referral, advice is to be sought from the relevant governing body.

2.26 Staff rights to escalate to the PHSO

It should be noted that any staff who are being complained about can also take the case to the PHSO. An example may be that they are not satisfied with a response given on their behalf by the organisation or the commissioning body.

2.27 Private practices and the PHSO

Independent doctors are unable to use the PHSO as they have no legal requirement to have an appeals mechanism. It is good practice to provide independent adjudication on any complaint by using a service such as [Independent Sector Complaints Adjudication Service](#) (ISCAS).

2.28 Logging and retaining complaints

All organisations will need to log their complaints and retain as per the [Records Retention Schedule](#).

Evidence required includes:

- a. Logging, updating and tracking for trends and considerations
- b. Details of all dates of acknowledgement, holding and final response letters and the timely completion of all correspondence relating to the complaint
- c. Compliance with the complaints in the categories that are required to complete the annual [KO14b submission](#) to NHS Digital

This data is submitted to NHS E within the KO14b complaints report annually and then published by NHS Digital. Any reporting period covers the period from 1 April until 31 March.

Evidence of complaints can be compiled within the [KO14b Complaints Log Toolkit](#).



Alternatively, a complaint can be recorded in [Complaints Manager](#), likewise a concern or criticism can be logged into the [Criticism Manager](#) within the [Compliance Package](#) in the HUB.

3 Use of complaints as part of the revalidation process

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3.1 Outlined processes

As part of the revalidation process, GPs must declare and reflect on any formal complaints about them in tandem with any complaints received outside of formal complaint procedures at their appraisal for revalidation. These complaints may provide useful learning.

The following information is to support the appraisal and revalidation process for various healthcare professionals:

GPs	Royal College of General Practitioners (RCGP)
Nurses	Nursing and Midwifery Council (NMC)
Pharmacists	General Pharmaceutical Council (GPhC)
Other healthcare professionals	Healthcare Professionals Council (HCPC) For Physician Associates, refer to the Royal College of Physicians

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Annex A – Legislation and further reading

The following links support complaints management:

- [The Local Authority Social Services and National Health Services Complaints \(England\) Regulations 2009](#)
- [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014: Regulation 16](#)
- [The Data Protection Act 2018](#)
- [Public Interest Disclosure Act 1998](#)
- [The NHS Constitution](#)
- [PHSO - Principles of Good Complaint Handling](#)
- [PHSO - NHS Complaint Standards](#)
- [PHSO – An opportunity to improve](#)
- [Good Practice standards for NHS Complaints Handling](#)
- [CQC GP Mythbuster 103 – Complaints Management](#)
- [General Medical Council \(GMC\) ethical guidance](#)
- [Assurance of Good Complaints Handling for Primary Care – A toolkit for commissioners](#)