Summary

MPS understands that handling complaints can be complex and stressful. It requires time and commitment during a period when individuals are feeling at their most vulnerable. The GMC says you must respond promptly, fully and honestly to complaints and apologise where appropriate. Getting it right can pay huge dividends and this factsheet aims to provide you with what you need to know about HSC complaints.

The HSC complaints procedure has two stages

- The first stage is local resolution, where the practice or Board tries to resolve the complaint.
- The second stage is where the complaint is not resolved in the practice and the complainant asks for an independent review by the NI Commissioner for Complaints (the Ombudsman).

The complaints procedure forms part of the GP contract and any failure to comply could be considered a potential breach of contract.

Unified system

Broadly speaking, the same complaints procedure applies across all Health and Social Care (HSC) services, including Family Practitioner Services (FPS), HSS Boards, HSC Trusts, Special Agencies, Out of Hours services and HSC prison healthcare, to provide ease of access and a speedy, fair and, where possible, local resolution. There are some slight differences with respect to the time frames for responses to a complaint.

The complaints procedure does not cover staff grievances, criminal or coroners’ cases, legal action or disciplinary investigations. It does not cover private care and treatment or services, including private dental care or privately supplied spectacles.

Responsibility for complaints

General practices must have a designated complaints manager. MPS recommends that this role is designated to an individual with sufficient seniority to ensure effective complaints management, such as a senior partner. Depending on the nature of the complaint, the complaints manager will attempt to resolve the matter to the satisfaction of the complainant. If a patient does not wish to report the complaint to the practice complaints manager, they can complain to the HSS Board’s complaints manager instead, who should liaise with the FPS complaints manager as much as possible.

Publicising the procedure

The practice’s complaints procedure should be publicised to your patients so they know about their right to complain, how the procedure works, how to get independent support and advice, and details on how to complain to the Ombudsman.

Who can complain?

A complaint can be made by a patient or person affected, or likely to be affected, by the action or decision of a practitioner. A complaint can also be made by someone acting on behalf of the patient or person with their written consent. In the circumstances of a child or someone lacking physical or mental capacity to complain, but who otherwise would have complained, a parent (or someone with parental responsibility) or an appropriate person, respectively, can complain on their behalf.

Receiving and acknowledging complaints

- FPS complaints should be acknowledged in writing within three working days of receipt.
- The acknowledgment letter should explain the procedure, clarify issues arising from the complaint,
and always thank the complainant for drawing the matter to the organisation’s attention. There should be a statement of sympathy or concern over the incident – this is not an admission of liability.

- The acknowledgement sent to the complainant must include information about their right to seek assistance from the Patient and Client Council.

- If a complaint is made verbally and documented by the practice, the complainant should be asked to confirm in writing that they agree with what has been recorded.

- With the complainant’s permission there should be co-operation with other organisations if necessary, for example, HSC organisations, regulatory authorities, the Ombudsman, and the Regulation and Quality Improvement Authority (RQIA).

**Learning from complaints**

Complaints provide opportunities to improve:

- Outcomes for service users
- The quality of services
- Service user experiences.

**Replying to the complainant**

- Where possible, complaints should be dealt with immediately.

- Local resolution should be completed within ten working days of receipt of a complaint and a full response sent. If this is not possible, the complainant should be contacted with an explanation for the delay and a full response should be provided as soon as is reasonably practicable.

- The complaints manager should identify those complaints which can be resolved immediately, those that require a formal investigation, and those which should be referred outside the HSC complaints procedure.

The way a response is written, or the way a meeting is conducted, can often be the deciding factor as to whether or not a complaint proceeds further. Sometimes, acknowledging that the person’s feelings of frustration or anger at what happened are real and understandable, regardless of whether the complaint is justified or not, is enough to defuse the situation.

The complaints manager should inform the complainant of the results of the investigation in writing. This should include a detailed account of what happened. It should also include an apology, full explanation of events, lessons learned and reassurance of any changes which might be implemented in the future.

**Time limits for making a complaint**

Normally a complaint should be made within six months of the incident that caused the problem, or within six months of the complainant discovering the problem – as long as this is not more than one year after the event. However, MPS encourages members to investigate complaints that are ‘out-of-time’, where it is practical to do so.

**Confidentiality issues**

Under the monitoring arrangements, there is a requirement for the practitioner to obtain the complainant’s consent to share the letter of complaint and response with the Board, where the complainant has not done so. You must ensure that the patient has given their written consent before you can disclose clinical information to a third party. It can be a complex matter, particularly if the patient has died, was a child or was an adult without capacity: in such cases we advise you to contact MPS for further advice.

**Possible claims for compensation**

If you are aware through a complaint that a patient intends to pursue a claim for compensation, please contact MPS as soon as possible – as this is excluded from the HSC complaints procedure, the complaints process should cease.

If a complainant later decides not to take legal action, and wishes to pursue their complaint through the complaints process, the investigation of their complaint should commence or resume.

**Out of area complaints**

If the complainant lives in Northern Ireland and the complaint is about events elsewhere, the HSS Board or HSC Trust that commissioned the service, or purchased the care for that service user, is responsible for co-ordinating the investigation and ensuring that all aspects of the complaint are investigated.

**Deputising and out of hours services**

Where there is a complaint against a deputising doctor, it can be made directly to the deputising service, or the practice may make the complaint on behalf of the complainant.

The registered GP would not necessarily be involved in the investigation at all, though he/she should be told of the complaint out of courtesy. If the practice had opted out of providing out of hours services, the trust is responsible for ensuring that the complaint is investigated.
Locums or doctors in training

Complaints against locums or doctors in training should be investigated by the practice and, if they have left the practice, the doctors concerned contacted, if possible, for their comments.

Keeping records

A separate file must be kept for complaints records; these should not be included in the patient’s medical records. Clear and accurate documentation is essential for complaints handling. In cases where a complaint has been resolved by the practice procedures, the practice should keep records of complaints for ten years. This should include copies of all correspondence between the complainant and the practice, but not draft documentation, unless you are prepared for the possibility that this might be disclosed in the future.

Conciliation

You may wish to consider using a conciliation service, or independent advocates or experts, to facilitate a discussion or meeting. The HSC Board will act as an “honest broker” where requested to try to restore trust between a patient and the practice. Please contact your local board for further information.

HSC complaints procedure – the Northern Ireland Commissioner for Complaints (the Ombudsman)

Most complaints are resolved at practice level. However, in some cases the complainant may not be satisfied and may ask the NI Commissioner for Complaints (the Ombudsman) to investigate their complaint.

Complainants must be advised of their right to refer their complaint to the Ombudsman. You must tell complainants that they should contact the Ombudsman no later than 12 months after the event they are complaining about.

In any case where the complaints manager does not investigate a complaint on the grounds that it was not made within the time limit, the complainant can request the Ombudsman to consider it.

Unhappiness about the outcome of the complaints process is not sufficient cause for the Ombudsman to investigate; complainants will need to provide reasons why they are still dissatisfied and consider whether or not they have suffered hardship or injustice. The Ombudsman does not investigate all cases.

Family practitioners may also complain to the Ombudsman about the way they have been dealt with under the complaints procedure.

Further information

- DHSSPSNI Standards – www.dhsspsni.gov.uk/hsccomplaints.htm
- Northern Ireland Commissioner for Complaints (the Ombudsman) – www.ni-ombudsman.org.uk

For medicolegal advice please call us on:

0845 605 4000
or email us at: querydoc@mps.org.uk

www.mps.org.uk

This factsheet provides only a general overview of the topic and should not be relied upon as definitive guidance. If you are an MPS member, and you are facing an ethical or legal dilemma, call and ask to speak to a medicolegal adviser, who will give you specific advice.

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