

Complaints Procedure (England)

Version:	Review date:	Edited by:	Approved by:	Comments:
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2.0	01.02.2025	Alice Leckenby	Vicky Matson	

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1 Introduction

1.1 Policy statement

The purpose of this document is to ensure that all staff are aware of the complaints procedure within Scarborough Medical Group, affording patients or their representatives the opportunity to make a complaint about the care or treatment they have received by the organisation.

1.2 Status

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time.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.

1.3 Training and support

The organisation will provide guidance and support to help those to whom it applies to understand their rights and responsibilities under this policy. Additional support will be provided to managers and supervisors to enable them to deal more effectively with matters arising from this policy.

Scope

1.4 Who it applies to

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.

Furthermore, it applies to clinicians who may or may not be employed by the organisation but who are working under the Additional Roles Reimbursement Scheme (ARRS)¹

1.5 Why and how it applies to them

All patients have a right to have their complaint acknowledged and investigated properly. Scarborough Medical Group takes complaints seriously and ensures that they are investigated in an unbiased, transparent, non-judgemental and timely manner.

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

The organisation aims 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 with regard to the individual protected characteristics of those to whom it applies.

2 Guidance

2.1 Legislation

Every NHS facility has a complaints procedure. This permits a patient (or their nominated representative) to submit a complaint either to the NHS organisation or the organisation that has been commissioned by the NHS to provide a service.

This organisation adopts a patient-focused approach to complaint handling in accordance with the [National Health Service England Complaints Policy \(2017\)](#) whilst also conforming to guidance detailed in:

1. [Good Practice Standards for NHS Complaints Handling 2013](#)
2. [Parliamentary & Health Service Ombudsman's Principles of Good Complaints Handling 2009](#)
3. [My Expectations 2014](#)
4. [The NHS Constitution](#)
5. [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014: Regulation 16](#)
6. [The Local Authority Social Services and National Health Services Complaints \(England\) Regulations 2009](#)

2.2 Definition of a complaint

A complaint or concern is an expression of dissatisfaction about an act, omission or decision of NHS England, either verbal or written, and whether justified or not, which requires a response.²

There is no difference between a “formal” and an “informal” complaint. Both are expressions of dissatisfaction.

2.3 Responsible person

At Scarborough Medical Group, the responsible person is the Senior Partner. They are responsible for ensuring compliance with the complaints regulations and making sure action is taken as a result of the complaint.

2.4 Complaints manager

At Scarborough Medical Group, the complaints manager is the General Manager and Operations Manager. They are responsible for managing all complaints procedures and must be readily identifiable to service users. The responsible person and complaints manager can be the same person.³

2.5 Parliamentary and Health Service Ombudsman (PHSO)

The Ombudsman's role is to make final decisions on complaints that have not been resolved locally by the NHS in England. The Ombudsman looks at complaints where someone believes there has been injustice or hardship because an organisation has not acted properly or has given a poor service and not put things right. The Ombudsman can recommend that organisations provide explanations, apologies and financial remedies to service users and that they take action to improve services.

² [NHS\(E\) Complaints Policy 2017](#)

³ [A Guide to Effective Complaints Resolution England](#)

2.6 Complainant options

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

- a. This organisation via the complaints manager
- b. NHS England: Telephone 03003 112233, email england.contactus@nhs.net or in writing: NHS England, PO Box 16738, Redditch, B97 9PT. Patients can talk to NHS England in British Sign Language (BSL) via a video call to a BSL interpreter

2.7 Timescale

The time constraint on bringing a complaint is 12 months from the occurrence giving rise to 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 complaints 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 should be sought from NHS England by the complaints manager.

2.8 Responding to a concern

Should the complaints manager become aware that a patient, or the patient's representative, wishes to discuss a concern, there is no 'hard and fast' rule as to timescales to discuss the matter with them.

Points that should be considered are that:

- Should the patient be on the premises, then there will need to be a degree of interaction sooner than if it was a telephone call or email
- Many of the concerns raised are not a true complaint, simply a point to note or a 'grumble'. Although there is no official guidance on this matter, by discussing the concern with the complainant soonest, there is a potential that this could reduce any escalation to a more formalised complaint
- All facts need to be ascertained prior to any conversation
- Should an angry complainant be contacted too soon, this may inflame the situation further if they not receive the outcome that they desire
- 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
- Time management always needs to be considered

Whilst each concern will warrant its own response, generally at Scarborough Medical Group our procedure is to take as much information from the complainant at the earliest opportunity to ensure that the best response is always provided.

2.9 Responding to a complaint

The complainant has a right to be regularly updated regarding the progress of their complaint. The complaints manager at Scarborough Medical Group will provide an initial response to acknowledge any complaint within three

working days after the complaint is received. It should be noted that three working days is the maximum permitted under the NHS E Complaints Policy.

All complaints are to be added to the complaints log in accordance with [section 3.20](#).

The NHS E policy (2017) states that the complainant can expect that:

- They will be kept up to date with the progress of their complaint
- If a case has passed the 40 working day target (or the timescale agreed with the complainant if different), thereafter they (and their advocate if relevant) should receive an update every 10 working days after the target date has been surpassed. This could be by telephone, email or letter but the format should be agreed with the complainant
- They can expect to receive a quality response with assurance that action has been taken to prevent a recurrence
- They will be informed of any learning

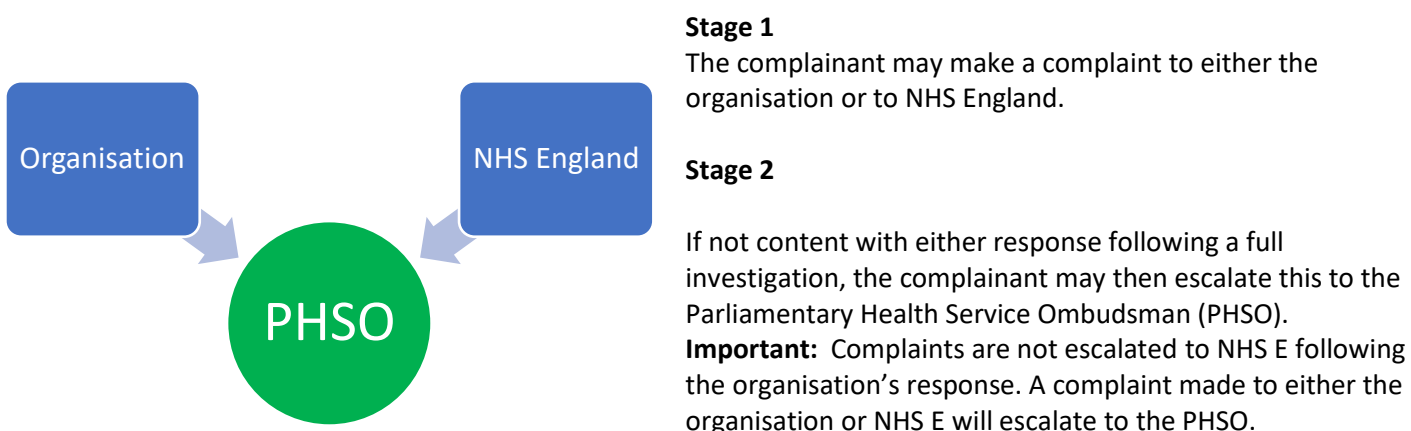
The MDU advises that, in addition to regular updates, a response or decision should be made within six months. If it extends beyond this time then the complainant must be advised.⁴

The complaints manager will advise the complaints procedure to the complainant or their representative. In many cases, a prompt response and, if the complaint is upheld, an explanation and an apology will suffice and will prevent the complaint from escalating (an apology does not constitute an admission of organisational weakness).

2.10 Route of a complaint

Patients can opt to complain either verbally or in writing. No matter what the cause of the complaint, all staff are to offer empathy when entering into discussions with the complainant. In accordance with Regulation 16⁵, all staff at Scarborough Medical Group must fully understand the complaints process.

The complainant should be provided with a copy of the organisation leaflet detailing the complaints process at [Annex D](#) and they should be advised that the process is a two-stage process as detailed below.



⁴ mdujournal.themdu.com

⁵ [Heath & Social Care Act 2008 Regulation 16](#)

2.11 Verbal complaints

If a patient wishes to complain verbally and if the patient is 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. If this should be the case, then the matter can be deemed to be closed, although the complaints manager should still be informed as this needs to be added to the complaints log in accordance with [section 3.20](#).

This local resolution is the quickest method of resolving a complaint and will negate the requirement for the complaint to proceed through the formal complaint process.

An acknowledgement of the verbal complaint will suffice and therefore the complaints manager does not need to subsequently respond in writing, although the verbal complaint must be recorded in the complaints log. This will enable any trends to be identified and improvements to services made if applicable. The complaints manager should record notes of the discussion (for reference only) which may be used when discussing complaints at meetings.

If the matter demands immediate attention, the complaints manager should be contacted 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 complaint's manager then a full explanation of the events leading to the complaint is to be given to allow any appropriate response.

2.12 Written complaints

Whilst this is not the preferred option due to the timescales involved in compiling a letter of complaint and any subsequent response for both the patient and the complaints manager, an alternative option can be offered for any complaint to be forwarded by letter or email to the complaints manager.

When a complaint is received then the response is to be as per [section 3.8](#).

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 best interests of the child.

- 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 we 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, this 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

In the case of a third party pursuing a complaint on behalf of the person affected we 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 we can contact them 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 be of the opinion that 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 the defence union or NHS England area complaints team to confirm prior to notifying the complainant in writing of any decision.

2.14 Complaints advocates

Details of how patients can complain and also how to find independent NHS complaints advocates are to be detailed within the organisation leaflet which is found on the Practice website.

Additionally, the patient should be advised that the local Healthwatch can help to find an independent NHS complaints advocacy services in the area.

Healthwatch North Yorkshire, The Centre @ Burnholme, Mossdale Avenue, York YO31 0HA telephone: 01423 788128

Independent advocacy services include:

1. [POhWER](#) – a charity that helps people to be involved in decisions being made about their care. POhWER's support centre can be contacted via 0300 456 2370
2. [Advocacy People](#) – gives advocacy support. Call 0330 440 9000 for advice or text 80800 starting message with PEOPLE
3. [Age UK](#) – may have advocates in the area. Visit their website or call 0800 055 6112
4. Local councils can offer support in helping the complainant to find an advocacy service. Visit <https://www.gov.uk/find-your-local-council>

2.15 Investigating complaints

Scarborough Medical Group will ensure that complaints are investigated effectively and in accordance with extant legislation and guidance.

This organisation will adhere to the following standards when addressing complaints:

1. 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.
2. The complaint undergoes initial assessment and any necessary immediate action is taken. A lead investigator is identified.
3. Investigations are thorough, where appropriate obtain independent evidence and opinion, and are carried out in accordance with local procedures, national guidance and within legal frameworks.
4. The investigator reviews, organises and evaluates the investigative findings.
5. The judgement reached by the decision maker is transparent, reasonable and based on the evidence available.
6. 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.
7. Both the complainant and those complained about are responded to adequately.
8. The investigation of the complaint is complete, impartial and fair.
9. 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 Final formal response to a complaint

A final response should only be issued to the complainant once the letter has been agreed by the Practice Manager and the person or clinician involved who will liaise with MDU as appropriate. Following this and upon completion of the investigation, a formal written response will be sent to the complainant and will include the following as per NHS Resolution (see extract)⁶:

- Be professional, well thought out and sympathetic
- Deal fully with all the complainant's complaints
- Include a factual chronology of events which sets out and describes every relevant consultation or telephone contact, referring to the clinical notes as required
- Set out what details are based on memory, contemporaneous notes or normal practice
- Explain any medical terminology in a way in which the complainant will understand

⁶ resolution.nhs.uk

- Contain an apology, offer of treatment or other redress if something has gone wrong
- The response should also highlight what the organisation has done, or intends to do, to remedy the concerns identified to ensure that the problem does not happen again
- The response should inform the complainant that they may complain to the Parliamentary and Health Service Ombudsman (PHSO) if they remain dissatisfied

Consideration must be given to the fact that the response is likely to be read by the complainant's family and possibly legal advisers.

A full explanation and apology may assist in avoiding a claim. However, if a patient subsequently brings a claim for compensation, the complaint file is likely to be used in those proceedings so it is important that any response to a complaint is clear and well explained and can be supported by evidence.

The full and final response should ordinarily be completed within six months, although should it be likely that this will go beyond this timescale, the complaints manager will contact the complainant to update and give a projected completion timescale.

* Note, it is not a mandatory requirement to forward all complaint response letters to the defence union 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 the most significant complaints to the defence union.

2.17 Confidentiality in relation to complaints

Any complaint is investigated with the utmost confidence 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.

2.18 Persistent and unreasonable complaints

The management of persistent and unreasonable complaints at Scarborough Medical Group is achieved by following the guidance detailed at [Appendix 2](#) of the NHS England Complaints Policy.

2.19 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.

2.20 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 the complaints manager at the earliest opportunity. The complaints manager will then liaise with the other organisation's manager.

2.21 Multi-agency complaints

Should a complaint be received that references other organisations, the complaint is to be investigated in collaboration with all the organisations that are involved. Complaints managers from each organisation will need to determine which the lead organisation will be and the lead organisation will then be responsible for coordinating the complaint.

2.22 Complaints involving locum staff

Scarborough Medical Group will ensure that all locum staff, be it GPs, nurses or administrative staff, are aware of both the complaints process and that they will be expected to partake in any subsequent investigation, even if they have left the organisation (keeping in mind the 12-month time frame to complain).

Locum staff must receive assurance that they will be treated equally and that there is no difference between locum staff, salaried staff or partners.

2.23 Significant events

When a complaint is raised, it may prompt other considerations, such as a significant event (SE). SEs are an excellent way to determine the root cause of an event Scarborough Medical Group can benefit from the learning outcomes as a result of the SE.

It is advised that the complainant, their carers and/or family are involved in the SE process. This helps to demonstrate to the complainant that the issue is being taken seriously and investigated by Scarborough Medical Group. NHS(E) see too many instances where complainants are not involved in the SE process.

2.24 Fitness to practise

When a complaint is raised, consideration may need to be given to whether the complaint merits a fitness to practise referral. Advice may need to be sought from the relevant governing body such as the GMC, NMC, HCPC etc.

At Scarborough Medical Group, the Senior Partner will be responsible for firstly discussing the complaint with the clinician involved and then seeking guidance from the relevant governing body where applicable.

2.25 Logging and retaining complaints

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

All evidence of complaints is compiled within the [KO14b Complaints Log Toolkit](#).

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 submission⁷

⁷ digital.nhs.uk

This data is submitted by the General Manager to NHS E within the KO14b complaints report by 31 March annually.

2.26 CQC expectations

When the CQC inspect an organisation, the inspection team will seek assurance that:⁸

- People who use the service know how to make a complaint or raise concerns.
- People feel comfortable, confident and are encouraged to make a complaint and speak up.
- The complaints process is easy to use. People are given help and support where necessary.
- The complaints process involves all parties named or involved in the complaint and they have an opportunity to be involved in the response.
- The provider uses accessible information or support if they need to raise concerns
- The complaints are handled effectively including:
 - Ensuring openness and transparency
 - Confidentiality
 - Regular updates for the complainant
 - A timely response and explanation of the outcome
 - A formal record
- Systems and processes protect people from discrimination, harassment or disadvantage
- Complaints are logged and monitored to assess trends and shared with the wider team. They are used to learn and drive continuous improvement. Trends are used to highlight where changes or improvements may be needed.

3 Summary

The care and treatment delivered by Scarborough Medical Group is done so with due diligence and in accordance with current guidelines. However, it is acknowledged that sometimes things can go wrong. By having an effective complaints process in place, this organisation is able to investigate and resolve complaints in a timely manner, achieving the desired outcome for service users, whilst also identifying lessons learned and ultimately improving service delivery.

⁸ [CQC GP mythbuster 103: Complaints management](#)

