

# **Handling Complaints**

Dr Emily Shepherd  
MBBS BMedSci DRCOG MA

# Complaints

- Statutory basis for the NHS Complaints Procedure (*The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*).
- A complaint should be considered to be any expression of dissatisfaction.
- Oral complaints that are satisfactorily resolved within 24 hours are not subject to the Regulations.
- All UK jurisdictions operate a two tier procedure – local resolution and Ombudsman.

# Who can complain?

- Patients
- A “representative” if the patient:
  - has requested them to act
  - has died
  - is a child who can not complain on their own behalf
  - is unable to complain due to physical incapacity
  - lacks capacity under the Mental Health Act
- Someone ‘who is affected by the action, omission or decision of the responsible body which is the subject of the complaint’.

# Who can receive a complaint?

- Individual/Doctor/Nurse
- Hospital Trust via PALs
- NHS England / CCG
- GMC
- Police
- Press

# Complaints

- **GMC investigation, 2014**
- “What’s behind the rise in complaints about doctors from members of the public?”
  - Fitness to practice complaints: 3615 (2007) to 6154 (2012)
  - Change in expectations, attitude and behaviour of the public
    - Rise of social media
    - Patients taking greater ownership of their health
    - Higher expectations
    - Less deference to doctors than in the past

## **Health and Social Care Information Centre (HSCIC)**

2013-14 - 114,300 complaints about NHS hospitals and community health services:

### ***Where?***

- inpatient hospital acute services	34,400 (30.1 %)
- outpatient hospital acute services	31,100 (27.2 %)
- mental health services	12,200 (10.7 %)
- A&E hospital acute services	9,920 (8.7 %)

### ***Who?***

The medical profession (hospital doctors and surgeons)	45.6%
Nursing, midwifery and health visiting	21.7 %

### ***What?***

All aspects of clinical care	45.6%
Attitude of staff	11.6 %
Communication/information to patients	10.0 %

# **NHS Complaints Procedure**

- Covers NHS and social care
- Emphasis on local resolution
- Parliamentary and Health Service Ombudsman
- In Cross-Boundary complaints, bodies involved have a duty to co-operate in the investigation and to provide the complainant with a co-ordinated response.

# **Matters excluded from the NHS complaints procedure**

- One NHS body against another
- Previously resolved issues
- NHS employees relating to their work
- Related to private practice only – however, good practice to follow a similar framework.

- Professional GMC guidance ***Good Medical Practice***

*"You must respond promptly, fully and honestly to complaints and apologise when appropriate. You must not allow a patient's complaint to adversely affect the care or treatment you provide or arrange."*  
**(Para 61)**

*"You must cooperate with formal inquiries and complaints procedures and must offer all relevant information while following the guidelines in Confidentiality."* **(Para 73)**

# What do patients want?

- Apology – a sincere expression of regret
- Investigation and Explanation
- “To be heard”
- Improvement to service
- Ownership of errors

**Is it ok to say sorry?**

**YES!**

**Compensation Act 2006**

An apology, an offer of treatment or other redress, shall not of itself amount to an admission of negligence or breach of statutory duty



	England	Scotland	Wales	N. Ireland
Time limits to raise complaint (extended at discretion)	12 months after incident	6 months	12 months	6 months
Early Resolution	N/A	Apology 5 days	N/A	N/A
Acknowledgement	3 working days	3 working days	2 working days	3 working days
Full response	No limit – timely, advise of time scale	20 working days	30 working	10 working days
2 <sup>nd</sup> Tier	Parliamentary and Health Services Ombudsman	Scottish Public Services Ombudsman	Public Services Ombudsman for Wales	Northern Ireland Public Services Ombudsman
Concurrent Claim?	Can run simultaneously	Complaints process ceases until claim ended or settled	Can run simultaneously	Complaints process ceases until claim ended or settled

# Key points

- In secondary care, a written response may be sent from the chief executive, or the responsible person on the chief executive's behalf.
- A record must be kept of each complaint (including issues, conclusion and administrative details). This may be requested under the Freedom on Information Act.
- annual report to the NHS England Local Area Team, highlighting:
  - The number of complaints and summary of concerns, learning points
  - The number of complaints escalated for independent review (e.g. PHSO).

# Key points



- An adverse outcome is one seen from the **perspective of the patient** and often there is no suggestion of error, negligence or threat to patient safety.
- Evidence from the Harvard Medical Practice Study 2002, still a key study analysing adverse events in Healthcare, found that 1/3 of complaints or lawsuits will arise from passages of care that were entirely straightforward.



# Key points

In the UK, patient has multiple ways to escalate dissatisfaction:

- 1) Direct Complaint
- 2) Refer to the GMC
- 3) Seek monetary compensation by raising a civil claim

## What can you do to minimise the dissatisfaction ?

### Manage patient expectations

Patient's reasonably expect the following:

- competence
- safety
- respect
- to be listened to
- to be kept informed and given timetables



## Complaints and Disciplinary action



- NHS complaints process requires a clear separation from disciplinary action.
- If a disciplinary investigation is to occur, action under the complaints procedure on any matter which is the subject of that investigation must stop.
- Unrelated aspects of the complaint may continue to be dealt with under the complaints procedure. GMC investigations adopt a similar approach.
- If a complainant requests the outcome of a disciplinary investigation, they should be given the same information as if dealt with under the complaints procedure:
  - what happened, why it happened and what action has been taken to prevent it happening again. They can also be told, *in general terms*, that disciplinary action may be taken as a result of the complaint.

## Is it possible to prevent a complaint?

- Imagine that a woman returns from the dry-cleaners with an expensive blue dress that still has a visible stain on it after the cleaners have laundered it. Which following scenario is most likely to generate a complaint?
- **Scenario 1:** "When I took the dress in last week, they did not seem at all interested; they just took it and offered me a receipt. I am not even sure that they attached the stub of the receipt to the dress or just hoped for the best when I came back in to collect it. I was not at all surprised when the stain was as bad as ever. They did not have a clue what they were doing."
- **Scenario 2:** "When I took the dress in, the cleaners asked to look at the stain. They asked what it was. When I could not tell them, they said: 'It is a nasty stain which spoils a beautiful dress and we can see why you want to get it out. Because we don't know what it is, it may be difficult even with our best efforts. Although we offer a 24-hour turnaround, this may take a bit longer if it's a very stubborn stain so please let us have an extra day'. Well, I knew it would be difficult for them but they have obviously tried really hard and you can hardly see the stain now."

- Mr A has survived his emergency AAA repair with kidney, cerebral and myocardial function intact. He is complaining bitterly about a minor stitch abscess.
- You are on your 7<sup>th</sup> night shift and it's 4 am.
- You might be tempted to tell the patient not to be so pathetic and be grateful he is still alive. While you might feel better, the patient will almost inevitably escalate his grumbles.
- Only a minority of dissatisfied people are looking for compensation or retribution; most will be satisfied with "empathetic validation".

- 1) Acknowledge the problem, which is very real to Mr A.
- 2) Empathise by showing how sorry you are that he is upset and let him tell his story while you (actively) listen.
- 3) Reassure the Mr A that his concerns have been heard and understood. Do this by active listening and feeding back short summarising sentences.
- 4) Tell him how you are going to act on his concerns.
- 5) Feedback with your findings or next course of action

## **Remember:**

Empathetic Validation will of course not always resolve a complaint, but it's always a good start.

80% of complaints are made by 20% of patients.

You will always encounter people who will remain unhappy no matter how you answer their dissatisfaction.



**I've been asked to respond to a  
complaint.... What do I do?!**





UK INDEMNITY, ADVICE & SUPPORT

**Consent...**

**Consent...**

**Consent ...**



## Responding to a complaint



1. Keep it conciliatory.
2. Keep it factual, avoid speculation.
3. Chronological account of your involvement
4. Apologise where appropriate.
5. Don't forget the detail.
6. Explain medical terminology in layman's terms.
7. Highlight the source of your comments.
8. Write in the first person.
9. Avoid commenting on care provided by others.
10. Outline personal reflections and learning points
11. Offer to meet.
12. The ombudsman.
13. Keep an anonymised reference to discuss at your ARCP/Appraisal.

# What not to do...



- Panic
- Take offence and respond aggressively
- Forget confidentiality
- Alter previous medical entries
- Criticise the actions of another colleague



We were set up by Parliament to help both individuals and the public.

Role is to investigate complaints that individuals have been treated unfairly or have received poor service from government departments and other public organisations and the NHS in England.

Our powers are set out in law and our service is free for everyone.



[eshepherd@mddus.com](mailto:eshepherd@mddus.com)