



# Can I help you?

Guidance for handling and learning from feedback, comments, concerns or complaints about NHS health care services

Updated April 2012

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## Foreword

Dear Colleague

The *NHS Quality Strategy* (2010) establishes our commitment to put people at the heart of everything the health service does in providing safe, effective and person-centred care. The Patient Rights (Scotland) Act 2011 builds on this and deliberately raises the status and focus of patients' rights and aims to improve patients' experience of using NHS services in Scotland. The aim is to ensure that patients recognise their rights and work in partnership with NHS staff and health service providers to support their own health, where this is possible.

We know that the NHS in Scotland already provides excellent care but we also know that sometimes things do go wrong. The Patient Rights (Scotland) Act 2011, together with supporting legislation, introduces the right to give feedback, make comments, raise concerns and to make complaints about NHS services and it also places a responsibility on the NHS to encourage, monitor, take action and share learning from the views they receive. The Patient Advice and Support Service (PASS), also established as part of the Act, will commence on 1 April 2012 to provide independent advice and support to patients and the public and to raise awareness of their rights and responsibilities.

The aim of this guidance is to help support relevant NHS bodies and their health service providers (which include Primary Care Service Providers) in handling feedback, comments, concerns and complaints. This will help develop a culture that actively encourages and welcomes feedback, comments, concerns and complaints. A culture where all staff, who can potentially be the first point of contact, value all of the views expressed whether these are good or bad in order to learn from peoples' experiences and make improvements. A culture where people feel comfortable about expressing their views of the NHS without fear of this affecting the treatment or service they receive or their relationship with the health care provider.

Our vision is that whatever the setting, care will be provided to the highest standards of quality and safety, with the patient at the centre of all decisions about their health care. It is important that we all work together to achieve this and to evidence how we put people first. I look forward to working with you all to meet this challenge and have the confidence that, together, we can deliver a truly person-centred service.

I acknowledge and am grateful to all of the members of the short-life Group and in particular, Laura Campbell, who reviewed and updated the guidance.



Nicola Sturgeon, MSP  
**Deputy First Minister and Cabinet Secretary for Health, Wellbeing and Cities Strategy**

# Principles for handling feedback, comments, concerns and complaints

This guidance is for NHS Health Boards, Special Health Boards, the NHS National Services Scotland<sup>1</sup> (hereafter referred to as relevant NHS bodies) and their health service providers, which will in the main be Primary Care Service Providers<sup>2</sup>, to assist them in handling and responding to feedback, comments, concerns and complaints raised in relation to health care in accordance with the Patient Rights (Scotland) Act 2011. The guidance sets out best practice for relevant NHS bodies and health service providers to ensure, their frontline staff are trained, supported and empowered to deal with feedback, comments, concerns and complaints in whatever form this takes where it is appropriate for them to do so.

The key points to note from this guidance are that local process and procedures should be developed to ensure that they:

- encourage, welcome and view feedback, comments, concerns and complaints as opportunities for ensuring the NHS provides person-centred care;
- promote learning and improvement from all forms of feedback received;
- are credible, independent, transparent and easy to use for members of the public and staff;
- are effective, fair and consistently applied;
- are well publicised and accessible to all and that information is available in other formats where this is appropriate;
- ensure that everyone, regardless of their race, age, religion, sexual orientation, gender or any disability or sensory impairment, has the support they need in order to access the services;
- promote the additional independent support services such as the Patient Advice and Support Service (PASS), advocacy, communication, translation and alternative dispute resolution services;
- provide staff with the training and support to consistently display sensitivity and understanding to everyone who uses the NHS and in particular to understand that people may feel vulnerable and stressed;
- empower staff to listen to and act upon feedback, comments, concerns and complaints given; and
- ensure that people who use NHS services can see what action is being taken to improve the patient experience and empower staff and patients to contribute to this.

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<sup>1</sup> Relevant NHS body/Relevant NHS bodies subsequently used throughout the guidance as collective reference to NHS Boards, Special Health Boards, and NHS National Services Scotland (also known as the Common Services Agency).

<sup>2</sup> Primary Care Service providers include General Practitioners, General Dental Practitioners, Opticians, Community Pharmacists and Ophthalmic medical practitioners (all are included in references to health service providers throughout the guidance.)



## Executive Summary

The Patient Rights (Scotland) Act 2011 aims to improve patients' experiences of using health services and to support people to become more involved in their health and health care. The Act raises the status and focus of patient rights and, together with supporting legislation, provides for the encouragement of feedback, comment, concerns and complaints on health care services and also clarifies the responsibilities of relevant NHS bodies and their health service providers in Scotland. Important provisions within the legislation which impact on this guidance are:

- Health service providers and relevant NHS bodies now have the same 20 day period to investigate and respond to complaints;
- The establishment of the Patient Advice and Support Service (PASS);
- The requirement on the relevant NHS bodies to appoint a Feedback and Complaints Manager and a Feedback and Complaints Officer;
- The requirement on health service providers to appoint a Feedback and Complaints Officer;
- The requirement for quarterly monitoring of complaints and annual publication of information about feedback, comments, concerns and complaints; and
- The requirement to demonstrate what learning and improvement has taken place as a result of feedback, comments, concerns and complaints.

The aim of the guidance is to assist the relevant NHS bodies and their health service providers in handling and responding to feedback, comments, concerns and complaints raised in relation to health care in accordance with the Patient Rights (Scotland) Act 2011. This will help to support the development of a culture across the whole of the NHS in Scotland that actively encourages and welcomes feedback, comments, concerns and complaints. A culture that values all forms of feedback whether this is good or bad in order to learn from patients', carers and service users experiences.

### Collecting and reporting data

The legislation places clear responsibility on the relevant NHS bodies and health service providers to record the data they receive in relation to feedback, comments, concerns and complaints:

- Relevant NHS bodies will collate and review complaints information quarterly and feedback, comments and concerns information annually;
- Quarterly reports will be prepared for complaints only;
- An annual report will be prepared and published by relevant NHS bodies for feedback, comments, concerns and complaints. There is a requirement to summarise what action has been or is to be taken to improve services as a result of feedback, comments, concerns and complaints received in the year;
- Health service providers will provide their respective relevant NHS body with complaints information as requested on a quarterly basis and feedback, comments and concerns data on an annual basis; and
- NHS bodies will submit complaints data annually to the Information Services Division (ISD), a Division of NHS National Services Scotland, for collation and publication of national complaints statistics.

The Act also places responsibility on Scottish Ministers to publish a Charter of Patient Rights and Responsibilities by 1 October 2012. The purpose of the Charter is to set out a summary of the rights and responsibilities of patients using the NHS in Scotland, and of people who have a personal interest in such patients' welfare. The Charter reflects a patient's right to be treated with dignity and respect; to have their privacy and confidentiality upheld; to have the right that the NHS services they receive take into account their individual needs, abilities and circumstances; the right to information and communication that helps them participate and make informed choices and decision about their health care; the right to give feedback, comments, concerns and complaints.

# Part 1 - Introduction

## 1.1 Background

1.1.1 This document provides guidance for relevant NHS bodies and their health service providers, which will mainly consist of Primary Care Service Providers, on encouraging, handling and learning from feedback, comments, concerns and complaints received in relation to NHS treatment and care. Responsibility for the provision of healthcare for prisoners was transferred to Health Boards with effect from 1 November 2011. Feedback, comments, concerns and complaints from patients who receive NHS treatment within a prison health centre should therefore also be handled in accordance with this guidance.

1.1.2 The aim of the guidance is to support the development of a culture within NHSScotland that actively encourages and welcomes feedback and views from its users in order to learn from their experiences. A culture that values all forms of feedback whether this is good or bad. The guidance sets out the need for systems and processes to facilitate and support staff to capture, respond to, and learn from the spectrum of feedback from a range of people and sources in order to appropriately focus continual improvements in the delivery of quality care.

1.1.3 The focus is on early and local resolution where possible and on well trained staff being empowered to deal with feedback, comments, concerns and complaints where it is appropriate for them to do so.

1.1.4 The document is set out in four parts with additional supporting information given in Annexes A, B and C:

|         |  |
|---------|--|
| Part 1  | Introduction, background, policies, legislation  |
| Part 2  | Encouraging, handling and learning from feedback, comments and concerns                      |
| Part 3  | Encouraging, handling and learning from complaints   |
| Part 4  | Information that may be useful in the handling of feedback, comments, concerns or complaints |
| Annex A | Patient Rights (Scotland) Act 2011 and Secondary legislation                                 |
| Annex B | Role of Feedback and Complaints Manager and Feedback and Complaints Officer                  |
| Annex C | References and links   |

1.1.5 *“Can I help you?”* which should be read in conjunction with statutory provisions, provides further information in relation to the requirements outlined in the Patient Rights (Scotland) Act 2011 and the supporting Regulations and Directions. Individual relevant NHS Bodies and their health service providers are responsible for ensuring the appropriateness of their actions and their interpretation of the associated legislation when dealing with feedback, comments, concerns or complaints.

## 1.2 Policies and strategies

1.2.1 The *Better Health Better Care: Action Plan*<sup>3</sup> published in 2007, set out the Scottish Government's programme to deliver a healthier Scotland by helping people to sustain and improve their health, especially in disadvantaged communities, ensuring better, local and faster access to health care. The plan sets out actions to create a mutual NHS in order to:

- Strengthen public ownership of the NHS by improving rights to participate;
- Embed patient experience information in the performance management of the NHS; and
- Further strengthen the collaborative and integrated approach to service improvement that is the hallmark of Scotland's NHS.

1.2.2 The plan introduced Better Together<sup>4</sup> Scotland's first patient experience programme which supports NHS Boards, frontline staff and patients in driving forward service improvement through the systematic collection and use of patient experience information. The programme also supports and facilitates the sharing of best practice across the NHS.

1.2.3 The NHSScotland *Quality Strategy*<sup>5</sup>, published in 2010, is a development of *Better Health, Better Care* and aspires to create high quality person-centred, clinically effective and safe healthcare service that is world-leading in approach. Three Quality Ambitions - person-centred; safe; and effective, provide the focus for everything NHSScotland does in its aim to deliver the best quality healthcare to the people of Scotland and, through this, make NHSScotland a world leader in healthcare quality. The Better Health Better Care Action plan also set out the vision for the development of the Patient Rights Act.

## 1.3 Previous research

1.3.1 The *Making It Better*<sup>6</sup> research on patients and carers' experiences of the NHS complaints system has helped inform the development of the Patient Rights (Scotland) Act 2011 which provided an opportunity to be explicit in relation to the provision of feedback. The aim was to help address the concern and reluctance that many patients have expressed about raising issues or making complaints because of the effect this might have on their relationship with the healthcare provider and on their future treatment and care.

1.3.2 The research also indicated that differences between the relevant NHS Bodies' hospital complaints processes and Primary Care Service Provider's complaints processes caused some confusion. There were concerns about the capacity to properly investigate a complaint about a Primary Care Service Provider within the shorter 10 day response timescale rather than the 20 days afforded to hospitals. The Patient Rights (Scotland) Act 2011, read together with the Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) (Regulations) 2012 aligns both procedures to 20 days and requires individual

<sup>3</sup>Scottish Government. *Better Health Better Care* [online] 2007 [cited 2012 March] available from: <http://www.scotland.gov.uk/Publications/2007/12/11103453/0>

<sup>4</sup><http://www.bettertogetherscotland.com>

<sup>5</sup> Scottish Government. *Quality Strategy* [online] 2010 [cited 2012 March] available from : <http://www.scotland.gov.uk/Publications/2010/05/10102307/0>

<sup>6</sup>Craigforth. *Making it Better* [online] 2009 [cited 2012 March] available from; [http://www.scottishhealthcouncil.org/publications/research\\_reports.aspx#Craigforth2009](http://www.scottishhealthcouncil.org/publications/research_reports.aspx#Craigforth2009)

relevant NHS bodies to ensure that their respective health service providers have appropriate arrangements in place for the handling of feedback, comments, concerns and complaints.

## 1.4 The Patient Rights (Scotland) Act 2011

1.4.1 The Patient Rights (Scotland) Act 2011<sup>7</sup> builds on existing policies, strategies and legislation in relation to the handling of feedback and complaints etc. The Act raises the status and focus of patient's rights and aims to improve patients' experience of using health services. Its implementation will be taken forward in conjunction with existing work, such as the NHSScotland *Quality Strategy* and the *Better Together* patient experience programme. The aim is to ensure that:

- patients recognise their rights and can access independent advice and support to help ensure these are met;
- patients work in partnership with staff to support their own health, where this is possible;
- staff fully recognise that patients have rights and feel comfortable with patients articulating them; and
- patients recognise and accept that they also have responsibilities to support their own health and in their use of the health care system treat staff with dignity and respect.

1.4.2 The Act introduces a right to provide feedback, comments, raise concerns and make complaints. It aims to underpin a person-centred NHS in which individual needs are considered and where patients feel that they have a say in their own treatment, and that their wishes are listened to and respected. It takes a principles based approach to patient rights and will have a positive effect on equal opportunities. The development and implementation of the Act has been informed by the context of equalities legislation<sup>8</sup>, the Human Rights Act 1998<sup>9</sup>, the European Convention of Human Rights<sup>10</sup>, as well as Article 12 of the International Covenant on Economic, Social and Cultural Rights.

1.4.3 A number of provisions in the Act are central to this guidance document and are detailed below. Secondary legislation has also been developed in relation to aspects of the Act. For the purposes of this guidance, the Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012 ("the Complaints Regulations")<sup>11</sup> and the Patient Rights (Feedback, Comments, Concerns and Complaints) (Scotland) Directions 2012 ("the Feedback, Comments Concerns and Complaints Directions") are of greatest relevance and are included at Annex A.

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<sup>7</sup> Patient Rights (Scotland) Act 2011 <http://www.legislation.gov.uk/asp/2011/5/contents/enacted>

<sup>8</sup> UK Government. Equality Act 2010 [online] [cited 2012 March] available from:

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>9</sup> UK Government. Human Rights Act 1998 [online] [cited 2012 March] available from:

<http://www.legislation.gov.uk/ukpga/1998/42/contents>

<sup>10</sup> European Court of Human Rights. European convention on Human Rights [online] 1950 [cited 2012 March] available from:

[http://www.echr.coe.int/NR/ronlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/ENG\\_CONV.pdf](http://www.echr.coe.int/NR/ronlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/ENG_CONV.pdf)

<sup>11</sup> The Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012: [http://www.legislation.gov.uk/ssi/2012/36/pdfs/ssi\\_20120036\\_en.pdf](http://www.legislation.gov.uk/ssi/2012/36/pdfs/ssi_20120036_en.pdf)

## **1.5 Patient Charter and Health Care Principles**

1.5.1 The Act places responsibility on Scottish Ministers to publish a Charter of Patient Rights and Responsibilities by 1 October 2012. The purpose of the Charter is to set out a summary of the rights and responsibilities of patients using the NHS in Scotland, and of people who have a personal interest in such patients' welfare. This reflects a patient's right to be treated with dignity and respect; to have their privacy and confidentiality upheld; the right that the NHS services they receive take into account their individual needs, abilities and circumstances; the right to information and communication that helps them participate and make informed choices and decision about their health care; the right to give feedback, comments, concerns and complaints.

1.5.2 Care, compassion, understanding and empathy all contribute to the health care experience and can have a direct impact on outcomes for patients. It is also essential that we ensure that staff and health care practitioners are reciprocally treated with dignity and respect by patients. This is reflected in the Charter which sets out the responsibility on patients to treat staff with dignity and respect. This is also supported by the national Partnership Information Network (PIN) on *Preventing and Dealing with Bullying and Harassment* in NHSScotland<sup>12</sup> which sets out the right of all health care staff to be treated with dignity and respect in the workplace regardless of situation.

1.5.3 The Schedule to the Act reflects these rights and provides a set of Health Care Principles to be upheld by relevant NHS bodies, as well as relevant service providers to the NHS. In the context of the Health Care Principles, the reference to "relevant service providers" means any person with whom a relevant NHS Body enters into a contract, agreement or arrangement to provide health care. This includes health care providers such as GPs, dentists, opticians, pharmacists, as well as other contractors such as cleaning or catering providers. A link to the Act is included at Annex A.

## **1.6 Access to independent advice and support**

1.6.1 The Act also provides for the establishment of the Patient Advice and Support Service (PASS) to provide independent advice and support services to patients and other members of the public in relation to the NHS in Scotland. In particular it will promote an awareness and understanding of existing rights and responsibilities and an awareness of the Charter. It will advise and support those who wish to give feedback, comments, raise concerns or make complaints about health care and will make them aware of other sources of advice and support such as advocacy, communication support and also the availability of alternative dispute resolution services. Relevant NHS bodies and health service providers should make people aware of this service and promote its use. Further information is contained in Part 4 of this guidance.

## **1.7 Roles and responsibilities**

1.7.1 The legislation sets out the requirement for each relevant NHS body and health service provider to appoint a Feedback and Complaints Officer. Relevant NHS bodies must also appoint a Feedback and Complaints Manager to ensure

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<sup>12</sup> Scottish Government. Preventing and Dealing with Bullying and Harassment in NHSScotland Pin policy [online] 2011 [cited 2012 March] available from: <http://www.scotland.gov.uk/Resource/Doc/364460/0123832.pdf>

compliance with the arrangements. These roles will support operational and strategic implementation of the legislation and supporting guidance ensuring that a culture of valuing feedback and learning from it is embedded in their organisation. The size and nature of the health care provision will determine the overall remit of the post holders, how these roles are combined with other duties, and how many staff will be employed in the actual handling and investigation of feedback and complaints. Further guidance can be found in Annex B, Role of Feedback and Complaints Manager and Officer.

## **1.8 Training**

1.8.1 Training, initially through induction, is key to ensuring that staff are empowered to handle feedback, comments, concerns and complaints if the procedures are to work effectively. Relevant NHS bodies and their health service providers have a responsibility to ensure that their staff are competent and confident, as appropriate to their role, in dealing with feedback, comments, concerns and complaints in a manner that is person-centred and aims to resolve issues as they arise and to get it right first time. A two year education programme led by NHS Education Scotland (NES), the Scottish Public Services Ombudsman (SPSO) and Scottish Government Health and Social Care Directorates will be taken forward from 1 April 2012 to provide core education, training and learning materials for use by relevant NHS Bodies and Health service providers to support existing training and education programmes.

1.8.2 The development and improvement of these skills must be a high priority for those delivering NHS services. It is important that training is delivered via a range of approaches suitable for all front line staff. Related training in issues around equality and diversity are pre existing requirements for NHSScotland. Relevant NHS bodies and health service providers are encouraged to consider this related agenda when delivering any feedback, comments, concerns and complaints training.

## **1.9 Accountability**

1.9.1 The legislation places an increased accountability on relevant NHS bodies for the annual publication of information about the feedback, comments, concerns and complaints they receive. These reports must also demonstrate to the public that action has been taken, where appropriate, as a result of the feedback etc to improve services. These reports must be easily accessible by the public and available in alternative formats if requested.

## **1.10 Role of the Scottish Public Services Ombudsman (SPSO)**

1.10.1 The Public Services Reform (Scotland) Act 2010<sup>13</sup> (PSR Act) gave the Scottish Public Services Ombudsman (SPSO) the authority to lead the development of simplified and standardised complaints handling procedures across the public sector. A Statement of Complaints Handling Principles<sup>14</sup> was published by SPSO in January 2011 and this guidance reflects those principles. SPSO has also set up an internal unit, the Complaints Standards Authority (CSA), to lead the development of sector specific standardised complaints handling procedures. The CSA will work in

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<sup>13</sup> Scottish Government. Public Services Reform (Scotland) Act 2010 [online] [cited March 2012] available from: <http://www.legislation.gov.uk/asp/2010/8/contents>

<sup>14</sup> SPSO Statement of complaints handling principles [online] 2011 [cited 2012 March] available from: <http://www.valuingcomplaints.org.uk/wp-content/uploads/2010/11/statement.pdf>

partnership with NHS Scotland to ensure our processes and procedures are in keeping with good practice on complaints handling. Further information is available at: [www.valuingcomplaints.org.uk](http://www.valuingcomplaints.org.uk) and in Part 4.



## **Part 2 - Encouraging, handling and learning from feedback, comments and concerns**

### **2.1 Background**

2.1.1 Listening to, understanding and acting to improve the patient experience are essential to the delivery of *the NHSScotland Quality Strategy* person-centred care ambition. Making a commitment to actively engage with patients and to respond to their feedback, comments and concerns whether these are positive or negative, and to deliver care which is person-centred and responsive to their needs are central to delivering a positive experience. Achieving the aim of continuous improvement in the quality of care and services at the point of delivery is reliant on this patient experience information as it allows the service to target and focus improvements appropriately. It is therefore of paramount importance that NHSScotland embeds a culture that actively encourages and welcomes feedback, comments and concerns.

2.1.2 Patients may offer their feedback and comments and often raise issues of concern without wishing to make a complaint. In many instances they may simply wish to provide their views on the service provided and this can be positive and complimentary identifying areas of good practice. Compliments are of considerable value and help the organisation to identify good practice, ensure that good experiences are maintained and share this positive practice throughout the organisation. In some instances individuals may need reassurance, additional information, advice and support or they may wish to talk to someone to share their experiences. Similarly they may wish to advise staff of their observations and make suggestions on how things might be done differently. Potentially, feedback, comments and concerns may identify shortcomings, areas for improvement, good practice and also reflect the level of satisfaction with the service provided and may often include compliments. Not all will require a response.

2.1.3 The Patient Rights (Scotland) Act 2011 and supporting legislation further supports the person-centred approach by requiring that relevant NHS bodies and health service providers ensure feedback etc. is handled promptly and appropriately. It also makes it a requirement for such bodies and providers to demonstrate that feedback, comments and concerns are monitored and used to identify areas of concern, improve performance and identify and share best practice.

### **2.2 Definition of feedback, comments and concerns**

2.2.1 It should be noted that feedback, comments and concerns are not complaints. Complaints must be handled in accordance with the process outlined in Part 3.

2.2.2 It is therefore necessary for staff to be able to distinguish between and identify issues that constitute a complaint using their judgement and discretion and to make the person aware of the options and the distinct process for dealing with complaints. Individuals should have an opportunity to consider whether the issues they are raising should more appropriately be handled as a complaint. Arrangements should be made to ensure that patients, carers, families and visitors are aware of the procedures for providing feedback, comments, concerns and complaints and have access to the relevant supporting patient information leaflets such as "Making a

complaint about the NHS”<sup>15</sup> which will help to support them if they want to make a complaint rather than provide feedback.

2.2.3 The patient information leaflets produced by HRIS are available in accessible formats such as large print, audio, CD rom, ethnic minority languages and web based information. This, and from 1 October 2012, the Patient Charter and any other necessary local information which will help improve accessibility should be provided free of charge and in an accessible format to any person who makes a request for it.

2.2.4 **Feedback** – may be in the form of views expressed orally or in writing as part of a survey, patient questionnaires, through PASS, or initiatives such as patient experience or via stakeholder electronic portals. The feedback may describe the patient or carer's individual experience of using NHS services and may include suggestions on things that could have been done better or identify areas of good practice.

2.2.5 **Comments** – may be comments, compliments or observations offered orally or in writing by visitors, patient, relatives for example on ward or hospital suggestion cards or through PASS, which reflect how someone felt about the service.

2.2.6 **Concerns** – may be expressed to staff or through PASS in relation to:

- proposed treatment (for example where someone has been referred to a consultant and is concerned about what this means). Patients may need reassurance or further explanation and information to help them understand why the healthcare provider is suggesting a particular course of action. Patients need to have access to the appropriate advice in order to ensure they are involved in and are equipped to make informed decisions about their healthcare but are often unsure of what they are allowed to ask. Staff should be alert to this and ensure that explanations are given and advice on additional support services is available and accessible to everyone. Staff should familiarise themselves with the additional information available for patients. This might include leaflets such as *Its OK to ask*.<sup>16</sup> a Scottish Government publication aimed at engaging patients in their healthcare management; or
- concerns may be expressed on any aspect of the service, from timing of appointments to getting to hospital for the proposed treatment or the actual treatment received. It will be particularly important for staff to use their discretion and judgement in supporting service users to decide whether this should be escalated to a complaint. There could be circumstances where the nature of the concern is sufficiently serious to warrant full investigation and if staff members are in any doubt they should seek advice from their line manager or the complaints and feedback officer.

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<sup>15</sup> HRIS. Making a complaint about the NHS [online] 2011 [cited 2012 March] available from: <http://www.hris.org.uk/index.aspx?o=1025>

<sup>16</sup> Scottish Government. Its OK to ask [online] 2008 [cited 2012 March] available from: <http://www.scotland.gov.uk/Publications/2008/03/13094805/0>

## **2.3 Staff Support**

2.3.1 Feedback, comments and concerns may be given to any member of staff, it is therefore important that all frontline staff are trained to welcome and encourage feedback, comments and concerns from patients, carers and families. It is important that staff see this as an opportunity to improve local services.

2.3.2 Staff should be empowered to respond to feedback, comments and concerns where appropriate and know how to report them through a known and consistent system.

2.3.3 Where staff are unable to deal with the feedback, comments or concerns personally they should provide re-assurance that it has been listened to, understood and outline how this will then be handled. The Complaints Directions place the onus on the relevant NHS body and in turn the health service provider to ensure training and support is available to staff.

## **2.4 Volunteers**

2.4.1 It is also important to recognise that there are currently over 5,000 volunteers who participate in volunteering opportunities across NHSScotland and any one of them could potentially be the first point of contact. As a matter of best practice, it is therefore important that they are aware of where to direct patients or the public in these situations.

## **2.5 Support people to give feedback**

2.5.1 There is also responsibility on the relevant NHS body and in turn their health service providers to ensure that its patient feedback, comments, concerns and complaints procedures are well publicised and easily accessible. It is important that patients, carers, families and visitors are aware of how they can provide feedback, make comments and raise concerns as well as the advice and support that is available to help them do so from:

- frontline staff;
- NHS inform;
- complaints staff/patient involvement staff; and
- additional support services such as PASS, communication, interpreting, and advocacy services.

## **2.6 Handling the feedback, comments and concerns process**

### **2.6.1 Approach**

2.6.1.1 The emphasis for all forms of feedback, comments and concerns should be on early and local resolution. Staff should always respond positively and appropriately to anyone who provides feedback, comments or concerns and:

- acknowledge the feedback, comment or concern in an open and honest way demonstrating sensitivity and understanding;
- ensure that the patient's immediate health care needs are being met as appropriate before dealing with the issue;

- clarify the nature of the feedback, comment or concern using the appropriate method of communication for the situation and the individual whilst demonstrating that the information has been listened to and understood;
- establish the expected outcome of the person providing the feedback comment or concern;
- discuss the matter of concern with the patient, encouraging them to speak freely; and
- provide an honest and objective response.

## **2.6.2 Response**

2.6.2.1 Responses may be given verbally or in writing depending on the circumstances of the situation. It may not always be appropriate or necessary to provide a response and indeed in some situations the feedback, comment or concern may have been given anonymously. Staff should make a judgement on appropriate action and on the response required based on their assessment of the situation, the nature of the feedback, comment or concern, and their knowledge of any previous similar situation(s). In some cases it may be appropriate to give an oral response on the spot or, where this is not possible, best practice would be to provide a response within 7 working days or within a timescale agreed with the patient. The response should include an explanation, an apology where appropriate and indicate any improvement that has been identified at this early stage. Any oral or written response about a clinical matter must be agreed with the relevant clinician.

2.6.2.2 Where staff feel unable to respond themselves they should call on the support of an appropriate senior member of staff, or offer the option of discussing the matter with someone not directly involved in the care of the person providing the feedback. The emphasis should be on avoiding any non essential escalation which could cause anxiety to those involved. As before it is essential to provide reassurance that the feedback, comment or concern has been listened to, understood and outline how this will be handled via escalation.

2.6.2.3 If the person is raising concerns and remains unhappy after receiving an oral or written response, staff should explore the possible further options with them. They should consider whether a meeting with a senior manager might be appropriate or whether the person raising the concern should more appropriately be lodging a complaint. Feedback and Complaints handling staff will be able to assist. Further guidance on the handling of a complaint is contained in Part 3 of this document.

## **2.6.3 Record keeping**

2.6.3.1 In accordance with their monitoring obligations under the Complaints Directions, relevant NHS bodies and their health service providers are to have procedures in place for collecting, recording and disseminating the information, themes and good practice gained from patients' views and experiences to ensure they are used to improve service quality. In the case of relevant NHS bodies these procedures should be applied consistently across the whole service area. Local service managers and health service providers should be encouraged to share this information where appropriate and seek staff feedback and suggestions for further improvement.

2.6.3.2 As a matter of best practice details of the feedback, comments or concerns and a copy of the written response should be sent to the relevant NHS body's or

health service provider's feedback and complaints officer where the local recording systems do not automatically allow for this.

## **2.6.4 Monitoring, Learning and Improvement**

2.6.4.1 The extensive nature of views expressed in feedback, comments and concerns provides a wealth of management information that can be used to inform service improvement, share good practice, increase patient safety and in turn reduce the number of complaints. It is essential that this information is recorded and acted on locally via robust governance processes and procedures.

2.6.4.2 In accordance with the monitoring obligations set out in the Complaints Directions, relevant NHS bodies should make arrangements to monitor how they or those providing health care on their behalf deal with the feedback, comments and concerns they receive. Monitoring should be undertaken with due regard to patient confidentiality and to the principles of equality and diversity in terms of the person providing the information and the content of the feedback. In so doing the relevant NHS body should identify areas for action in relation to improvement. Feedback, comments and concerns received via PASS should also be monitored and action taken as appropriate.

2.6.4.3 Relevant NHS bodies have a responsibility to gather information on **their own services and the health service providers within their area** on an annual basis in relation to feedback, comments and concerns and those providers have a **duty to supply** this information to their respective relevant NHS Body as soon as is reasonably practicable after the year end (31 March).

## **2.6.5 Publication**

2.6.5.1 In accordance with the Complaints Directions, relevant NHS Bodies must publish annually details summarising the action which has been or is to be taken to improve services as a result of feedback, comments and concerns received in the year. The information required in relation to complaints statistics is described in Part 3.

## Part 3 - Encouraging, handling and learning from complaints

Detailed guidance on how to manage the process when complaints are received is given in this section. The key points are:

- A complaint, which can be made orally or in writing, is defined in the SPSO Model Complaints Handling Procedure as 'an expression of dissatisfaction about an action or lack of action or standard of care provided';
- Staff of relevant NHS bodies and health service providers will need to use their judgement and in the case of concerns should give individuals the opportunity to consider whether they want the issue to be considered under the complaints procedure rather than the arrangements for handling feedback, comments or concerns;
- Complaints can be raised by patients, on behalf of patients or by anyone who is, or is likely to be affected by an action or omission of the NHS;
- Where a complaint is made on behalf of a patient, in accordance with their duties under confidentiality laws and Article 8 of the ECHR, relevant NHS bodies and health service providers are expected to ascertain whether the patient has consented to that complaint being made. In circumstances where no such consent has been given, the body would have to take that into account when handling and responding to the complaint (and is likely to be constrained in what it can do in terms of investigating any such complaint);
- Generally complaints should be made within six months from the date on which the matter of the complaint comes to the complainants notice, provided that this is no later than 12 months after the date on which the matter of the complaint occurred;
- Complaints must be acknowledged in writing within three days and investigated within 20 working days or as soon as reasonably practicable;
- The Complaints Regulations set out how complaints are to be handled and how to deal with complaints that are not to be investigated under the NHS Complaints procedure. These are generally areas where a different policy or procedure will apply for example in the case of a disciplinary investigation;
- The complaint must be investigated appropriately;
- Complainants are to be informed of the support available through the Patient Advice and Support Service (PASS);
- Alternative Dispute Resolution Services in the form of mediation or conciliation may be used where both parties feel this would help resolve the complaint;

- Where something has gone wrong a meaningful apology can help both sides by calming emotions and allowing them to move on to put things right. It is often the first step to repairing a damaged relationship;
- When two bodies are involved in the complaint they will work together to investigate and respond to the complaint.

### **3.1 Background**

3.1.1 As previously mentioned the Patient Rights (Scotland) Act 2011 provides for the encouragement of feedback, comments, concerns and complaints with the aim of supporting a culture that actively encourages and welcomes views whether these are good or bad. Complaints should be valued alongside all of the other forms of feedback etc and actively welcomed and encouraged to help in continuous improvement in the way NHS services are delivered. This will also help to maintain the quality and safety of NHS services. It should always be the intention for the health care provider to handle the complaint as quickly and closely to the point of origin as possible. The emphasis will be on early and local resolution ensuring that learning is shared and improvements acted upon as soon as possible after the issue that gave rise to the complaint. The Complaints Regulations and Directions set out the steps to be followed in the handling and investigation of complaints. This section gives structured support to health care providers and their staff on the handling of complaints.

3.1.2 As highlighted earlier in Part 1, the 2009 *Making it Better* report suggested that people are often reluctant to make a complaint about the services provided by NHSScotland because they are concerned about the consequences. It is therefore important that local procedures and processes in relation to complaints provide reassurance to anyone raising a complaint that it will be handled consistently across the whole of the NHS in Scotland.

### **3.2 Definition of a complaint**

3.2.1 A complaint, which may be made orally or in writing, is defined by the SPSO Model Handling Complaints Procedure as 'an expression of dissatisfaction about an action or lack of action or standard of care provided'<sup>17</sup>. There may also be circumstances where anonymous feedback, comments, concerns or complaints from a service user highlights a serious issue and an investigation may be appropriate.

### **3.3 What does the complaints procedure cover?**

3.3.1 The potential subject of a complaint, as with any form of feedback etc is wide and not just related to the provision of health care. Each complaint must therefore be taken on its own merit and responded to appropriately.

3.3.2 As set down by the Patient Rights (Scotland) Act 2011 and the supporting Complaints Regulations and Directions a patient (or someone acting on their behalf) or any person who is affected by or likely to be affected by an action or omission of a relevant NHS body or health service provider may raise complaints about NHS services provided by (for example):

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<sup>17</sup> SPSO. Model Complaints Handling Procedure [online] 2011 [cited 2012 March] available from: <http://www.valuingcomplaints.org.uk/wp-content/uploads/2011/03/Guidance-on-a-Model-Complaints-Handling-Procedure.pdf>

- Hospitals and health centres;
- Prison healthcare centres;
- Health service providers\*;
- Community Services who provide health services such as community dentists, community nurses, physiotherapists, dieticians or health visitors etc;
- in private hospitals or care homes in which the patient is funded by the NHS;
- NHS funded catering, domestic and environmental matters.

\*where the complainant is uncomfortable making the complaint directly to the Health service provider the complaint can be made to the appropriate relevant NHS Body directly. As a matter of best practice the relevant NHS body and Health service provider should agree locally the management of the complaint under these circumstances and advise the complainant accordingly.

### **3.4 Issues handled under other procedures and processes**

3.4.1 Members of the public, including patients, may raise concerns with relevant NHS bodies or their health service providers, which need to be addressed, but which are not appropriate for an investigation under the NHS Complaints Procedure. Part 2 of this document provides guidance in relation to dealing with feedback, comments and concerns. Complainants should be informed that complaints which fall within the following areas are dealt with under other policies and procedures:

- complaints from one relevant NHS body to another in relation to any matter connected with the exercise of that body's functions;
- a complaint made by a service provider which relates either to any matter connected with the contract or arrangement under which the service provider provides health services;
- a complaint made by an employee of a relevant NHS body or health service provider in relation to any matter relating to the employment contract;
- a complaint that is being or has been investigated by the Scottish Public Services Ombudsman (SPSO);
- a complaint arising from an alleged failure to comply with a request for information under the Freedom of Information Act 2002<sup>18</sup>;
- a complaint about which a complainant has stated in writing that they intend to take legal proceeding;
- a complaint about which a relevant NHS body or health service provider is taking or proposing to take disciplinary proceedings in relation to the substance of the complaint against the person who is the subject of the complaint;
- a complaint which has already been investigated under the current or a former NHS complaints procedure.

3.4.2 If a complaint is received on any of these matters the member of staff receiving the complaint should immediately refer the matter to the appropriate person. In accordance with the Complaints Regulations the complainant must be informed in writing as soon as reasonably practicable that the complaint will not be investigated under the NHS Complaints procedure and given information as to the appropriate procedures to be followed for raising such a complaint. Where a relevant

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<sup>18</sup> UK Government. Freedom of Information Act 2002 [online] [cited 2012 March] available from: <http://www.legislation.gov.uk/ukpga/2000/36/contents>



NHS body or health service provider considers that an aspect of such a complaint could be investigated under the NHS Complaints Procedure, the NHS body or health service provider should satisfy itself that this would not compromise or prejudice the matter being investigated under separate arrangements.

### **3.4.3 Care Homes**

3.4.3.1 Where a relevant NHS body or a service provider is advised of a complaint about a regulated care home, the person making the complaint should be advised that this should be raised with the care home in the first instance. If this has been done or the person making the complaint considers that it would be inappropriate to do so, they should be referred to the Care Inspectorate. If the Care Inspectorate<sup>19</sup> investigates, they will liaise directly with the person making the complaint and any NHS service provider named in the complaint.

### **3.4.4 Private Healthcare**

3.4.4.1 Where an NHS body or health service provider is advised of a complaint about a private healthcare provider, private clinic or hospice it should advise the complainant that this should first be raised with the provider directly. If the complainant has done this and is still dissatisfied they can be referred to the regulatory body Healthcare Improvement Scotland<sup>20</sup> who will investigate how the complaint was handled by the provider only.

3.4.4.2 Complaints in relation to private dental services should also be referred to the provider directly or the Dental Complaints Service<sup>21</sup>.

3.4.4.3 The exception is where these private health care services have been commissioned by a relevant NHS Body and are being provided as part of the patient's NHS treatment and care. In these circumstances they would be handled by the relevant NHS Body in accordance with the Complaints Regulations and Directions (as supported by this Guidance).

### **3.4.5 Whistle blowing**

3.4.5.1 NHSScotland's freedom of speech policy is contained within the *implementing and reviewing whistle blowing arrangements* Partnership Information Network (PIN) Policy. This sets out the arrangements and procedures for staff wishing to raise concerns about the service in a confidential way. Encouraging staff to raise any serious concern they may have about malpractice or serious risk as early as possible, and responding appropriately, is integral to achieving a safe quality focused NHSScotland. The early identification of problems or concerns by staff allows relevant NHS bodies to deal with issues before any damage is done.

3.4.5.2 All relevant NHS bodies have in place a freedom of speech policy based on the PIN. In the PIN and in the individual relevant NHS body's policies, it is emphasised that the relevant NHS body will not tolerate harassment or victimisation of any member of staff who raises a concern (including informal pressure). Any instance of such behaviour will be treated as a serious disciplinary offence under the management of conduct arrangements.

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<sup>19</sup> <http://www.scswis.com>

<sup>20</sup> <http://www.healthcareimprovementscotland.org>

<sup>21</sup> <http://www.dentalcomplaints.org.uk>

## **3.5 Complaints that span more than one service or sector**

### **3.5.1 Two NHSScotland bodies**

3.5.1.1 Where a complaint relates to the actions of two or more NHSScotland bodies, (e.g. two relevant NHS bodies, or a Primary Care Service Provider and a relevant NHS body) best practice is that there should be agreement about who will take the lead in co-ordinating the complaint. The organisations are expected to co-operate fully throughout the investigation and share learning from the investigation and outcome.

3.5.1.2 The person making the complaint must be informed who will take the lead in dealing with the complaint and be advised that where possible a joint response will be provided. In cases where a joint response is not possible the two organisations should work together to ensure that there is consistency in the responses provided.

### **3.5.2 Two public sector bodies**

3.5.2.1 Given the increasing shared agenda for health and social care, particularly in relation to older people's services where a patient receives health and social care services while living in the community, the relevant NHS body and the local authority social work department should agree who will take the lead. They should work together to ensure that all matters raised are investigated simultaneously to consistent timescales. It is recognised that different complaints handling processes currently exist for NHS and social care services and the complainant should be advised of this particularly where this may impact on the timescales for responses. Learning and opportunities for improvement should also be shared between the two organisations.

3.5.2.2 The person making the complaint must be informed who will take the lead in dealing with the complaint and be advised that, where possible, a joint response will be provided. In cases where a joint response is not possible the two organisations must work together to ensure that there is consistency in the responses provided.

3.5.2.3 A situation may also arise where a complaint raised by a patient in relation to treatment received in a prison health centre also raises issues which are not health related and should be investigated by the prison service rather than the NHS. The health care staff should identify these quickly and advise the patient how their complaint will be handled.

## **3.6 Timescales for making a complaint**

3.6.1 Complaints are normally made at the time an individual becomes aware of an issue. They should be dealt with immediately to reduce the chance that the passage of time, with inevitable staff changes, could hamper its satisfactory investigation and resolution and to implement rapid improvement programmes as necessary.

3.6.2 However, it is not always possible to make a complaint immediately. In clinical complaints, for example, a complication or other issue may not become apparent for sometime after the procedure. Similarly the grief associated with the death of a patient may make it difficult for their representatives or family members to deal with a complaint in the period immediately after the death.

3.6.3 Given the difficulties that the passage of time can make to the resolution of a complaint the timescale for accepting a complaint as set out in the regulations is within six months from the date on which the matter of the complaint comes to the complainants notice, provided that this is no later than 12 months after the date on which the matter of the complaint occurred. The timescale for acceptance of a complaint may be extended if the feedback and complaints officer considers it would be reasonable in the circumstances.

3.6.4 Where a decision is taken not to extend these timescales and the person raising the complaint is dissatisfied with the decision they may appeal to the Scottish Public Services Ombudsman to consider.

### **3.7 Roles and responsibilities**

3.7.1 Although it is recognised that complaints will be managed, in most circumstances, by a multi disciplinary team made up of those who are best placed to investigate complaints it is important that there are technically competent staff that can support and administer the process and assume accountability for its management.

3.7.2 The legislative requirement for the appointment of Feedback and Complaints Manager and a Feedback and Complaints Officer in terms of the Complaints Regulations are outlined in Part 1. Further detail on the responsibilities and remit for the post holders are given in Annex B.

### **3.8 Managing the complaints process**

#### **3.8.1 First point of contact**

3.8.1.1 The majority of written complaints will be addressed directly to the Feedback and Complaints Officer or Manager but this may not always be the case.

3.8.1.2 As described in Part 2 complaints can be made to any member of staff therefore everyone needs to be mindful of the importance of the first contact on that complaint. At the outset of any investigation it is important to ensure that the complainant feels listened to and understood as well as being provided with clarity on the process that will be followed in handling their complaint. It is the nature of the complaint (i.e. non-complex/non-contentious), rather than the means by which it is presented, that should determine whether a complaint can be handled immediately and directly by the member of staff or whether it should be referred to the complaints officer.

3.8.1.3 Where a complaint is made to a member of staff their first responsibility is to ensure that the patient's immediate health care needs are being met if this is relevant at the time the complaint is made. The member of staff receiving the complaint should involve the person making the complaint from the outset. They should establish whether they wish the matter to be dealt with under the NHS Complaints Procedure by explaining the process to them as far as they are able to. In some cases this may mean signposting the person to the feedback and complaints officer or the PASS. The staff member should involve the feedback and complaints officer and confirm to the complainant that they will receive an acknowledgement and further information and guidance at the point an investigation is launched.

3.8.1.4 It is also important to ask the complainant what they want to happen as a result of the complaint to establish whether those expectations can be met. It has been suggested that a common weakness of many local procedures was seeking to investigate and respond to a complaint without first establishing the outcome the person making the complaint would wish. If their expectations are entirely unrealistic, it is important to say so up front to minimise further disappointment.

3.8.1.5 Where a complaint is made on behalf of somebody else, it will be important to determine whether the person on whose behalf the complaint is being made has consented to the complaint being made as this will obviously have an impact on the way in which the complaint may be handled. Further information in relation to consent is found in Part 4.

3.8.1.6 At the outset each relevant NHS body and health service provider must ascertain the complainants preferred method of communication and where practicable and in keeping with patient confidentiality communicate in this way. Communication may be sent to the complainant electronically where they have consented to this and the consent has not been withdrawn. When complaints are made by patients in a prison health care setting staff should be aware that access to certain forms of communication and information may be restricted for security reasons. Staff should seek advice from their Feedback and Complaints Manager or Feedback and Complaints Officer if they have any queries.

3.8.1.7 Where a complaint is reasonably straight forward and non complex it may be managed without the requirement for a detailed investigation. If the complaint has been successfully resolved to the complainants' satisfaction within 3 working days and the outcome has been communicated to the complainant either by face-to-face, telephone or email communication, there is no additional requirement to send further written confirmation or carry out an investigation. Complaints that fall within this category must be recorded as normal to support organisational learning.

### **3.9 Acknowledging a complaint**

3.9.1 Complaints that cannot be resolved within 3 working days as described above should be acknowledged within 3 working days of receipt using the complainants preferred method of communication.

3.9.2 As a matter of best practice on receipt of a complaint about treatment provided to a patient within a Prison Health Centre the Centre staff should copy the complaint to their relevant NHS body to allow an acknowledgement to be sent and for recording, monitoring and progress of the investigation and response.

3.9.3 The Complaints Directions set out what must be included in a written acknowledgement of a complaint, which is as follows:

- contact details of the feedback and complaints officer;
- details of the advice and support available to the complainant including the PASS;
- information on the role and contact details for the SPSO; and
- a statement confirming that the complaint will normally be investigated within 20 working days or as soon as reasonably practicable (and where it is not

possible to send a report within 20 working days, the complainant will be provided with an explanation as to why there is a delay and, where possible, provided with a revised timetable).

In addition, the following general information may be helpful (although this list is not intended to be prescriptive as each complainant will require an individual response):

- thank the complainant for raising the matter;
- summarise the understanding of the complaint made (this may have been confirmed with the complainant via telephone prior to the acknowledgement being issued);
- where appropriate the initial response should express empathy and acknowledge the distress caused by the circumstances leading to the complaint;
- outline the proposed course of action to be taken or indicate the investigations currently being conducted stressing the rigour and impartiality of the process;
- offer the opportunity to discuss issues either with the investigation officer, the complaints staff or, if appropriate, with a senior member of staff;
- request that a consent form is completed where necessary advising that the investigation will not commence until the necessary consent is obtained (see Part 4);
- provide information on alternative dispute resolution services and other support service such as advocacy. Further information can be found below and in Part 4;
- provide a copy of the “patient guide to complaints” if this has not already been issued;
- advise that if email is the preferred method of communication consent for this must be given in writing and once done will remain the method of communication until such time as consent is withdrawn.

### **3.10 The Investigation**

3.10.1 Complaints handled by full investigation are typically those that are complex or require a certain amount of examination to establish the relevant facts before a response can be provided. At the investigation stage, staff should also be aiming to ‘get it right first time’. Their goal is to establish all of the facts relevant to the points raised and provide a full, objective and proportionate response that represents the definitive position. The feedback and complaints officer and manager or the staff nominated to act on their behalf, will be the main sources of expertise in the organisation, will oversee the investigation team and in most cases provide a main point of contact for the complainant.

3.10.2 The Feedback and Complaints Officer or the person authorised to act on his or her behalf will form an investigation team of the most relevant people to investigate the complaint and then support the investigation team staff to plan their approach. The investigation team will take into account the facts of the case, the resources at their disposal and the precedents set and lessons learned from previous cases to ensure the most efficient and effective approach to investigation of the complaint.

3.10.3 The investigation team may consider:

- face-to-face meetings;
- written statements which can be helpful where staff have left the organisation or are on extended leave;
- alternative dispute resolution services in the form of mediation or conciliation (see below).

3.10.4 It is important to ensure impartiality in an investigation. The investigating officer must approach the complaint with an open mind, being fair to all parties. The investigation should not be adversarial and should be conducted in a supportive, open and transparent atmosphere that demonstrates the principles of fairness and consistency. Anyone identified as the subject of a complaint should be provided with a full account of the reasons for the investigation and an opportunity to talk to the investigating officer who should ensure they are kept informed of progress.

3.10.5 Where it becomes evident during the course of an investigation that another process should be used (e.g. disciplinary process) and the complaint is no longer a complaint which can be investigated under the NHS Complaints Procedure (see 3.4), the complainant must be informed of this as soon as reasonably practicable. In such circumstances, best practice would be to compile a report of the investigation thus far. Where appropriate, this report should be made available to the person making the complaint, with, where possible, an indication of the expected timeframe for the other investigation process. The report should balance the need to provide reassurance that their complaint has been dealt with thoroughly and satisfactorily, with the need to protect the right of staff to confidentiality. The guiding principle should be that the person making the complaint should receive the same consideration and information as if the matter had been dealt with under the complaints procedure, where this is appropriate. Any outstanding unresolved element of the complaint may recommence when the other investigation has concluded.

### **3.11 Alternative Dispute Resolution (mediation or conciliation)**

3.11.1 The Complaints Directions also require relevant NHS bodies to consider and make provision for alternative dispute resolution services such as mediation or conciliation to help resolve complaints where this considered appropriate and agreed by the parties involved. The Directions also provide that where a Primary Care Service Provider requests alternative dispute resolution services the relevant NHS body is required to provide these services.

3.11.2 Some types of complaint are not easily resolved through written correspondence. Mediation or conciliation (referred to from now on as alternative dispute resolution) can be an effective tool in resolving dissatisfaction and can defuse problems before they escalate. Where parties agree, alternative dispute resolution can be used to facilitate communication between the complainant and the NHS body or health service provider they are complaining about, helping all concerned to get to the real issues and underlying issues. Alternative dispute resolution allows the complainant to voice their concerns in a safe and respectful setting, while also offering those complained about the opportunity to explain their actions and offer an apology where appropriate.

3.11.3 Alternative dispute resolution providers (“ADR providers”) appointed by relevant NHS bodies must be appropriately trained and qualified to perform the role.

The Complaints Directions require that relevant NHS bodies appoint adequate numbers of ADR providers for a period to be agreed between the relevant NHS body and the ADR provider of not more than one year (without prejudice to any re-appointment). A pool of ADR providers may be appointed and organised jointly between relevant NHS bodies.

3.11.4 Each relevant NHS body must, after consultation with any relevant area professional committee<sup>22</sup> establish and maintain a list of persons from among whom an ADR provider may nominate a person (“a professional adviser”) to assist them in the process of alternative dispute resolution. The nominated professional adviser must be a member of the same profession as the person who performed the service which is the subject of the complaint.

3.11.5 The benefits of alternative dispute resolution:

- It provides an efficient and fair process;
- It enables both parties to understand what is driving the complaint;
- It is more likely to result in mutually satisfactory solutions being reached or special arrangements being made and put in place quickly; and
- It often results in improved relationships and increased satisfaction rates.

3.11.6 It is acknowledged that the process of organising and facilitating alternative dispute resolution may mean that the 20 day timescale for completion will not be met and as such mediation is considered an allowable reason to extend the 20 day investigation period.

3.11.7 Information and guidance on arrangements for the provision of and the requirement for follow up reports after mediation have been developed and can be obtained from Feedback and Complaints handling staff or on the NCPAS<sup>23</sup> website which has a host of information relating to complaints handling for NHSScotland.

## 3.12 Report of the Investigation

3.12.1 In terms of best practice, for relevant NHS bodies, the complaints process should always be completed by the Feedback and Complaints Manager (or someone authorised to act on his or her behalf) reviewing the case to ensure that all necessary investigations and actions have been taken. For health service providers this will be the Feedback and Complaints Officer or someone nominated to act on his or her behalf. Where the complaint involves clinical issues, the draft findings and response should be shared with the relevant clinicians to ensure the **factual** accuracy of any clinical references.

3.12.2 If the Feedback and Complaints Manager/Officer is satisfied that the investigation process has been completed and that it has fully addressed all the issues raised, they should issue the report of the investigation. In accordance with the Complaints Directions, the report must include the conclusions of the investigation and information as to any remedial action taken or proposed as a consequence of the complaint. The quality of the report is very important and in terms of best practice should:

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<sup>22</sup> Area Professional Committee means an area medical committee, area dental committee, area nursing and midwifery committee, area pharmaceutical committee or area optical committee all within the meaning of section 9 of the 1978 Act

<sup>23</sup> <http://www.knowledge.scot.nhs.uk/ncpas.aspx>

- be clear and easy to understand, written in a way that is person-centred and non confrontational;
- avoid technical terms, but where these must be used to describe a situation, events or condition, an explanation of the term should be provided;
- address all the issues raised and demonstrate that each element has been fully and fairly investigated;
- include an apology where things have gone wrong (see 3.12.5);
- highlight any area of disagreement and explain why no further action can be taken;
- indicate that a named member of staff is available to clarify any aspect of the letter; and
- indicate that if they are not satisfied with the outcome of the local process, they may seek a review by the Scottish Public Services Ombudsman - details of how to contact the Ombudsman office should be included in the response.

3.12.3 In drafting and finalising the report, relevant NHS bodies and health service providers must of course be mindful of their general obligation to act in accordance with the European Convention of Human Rights, or any other relevant law such as the Data Protection Act 1998.

3.12.4 As described earlier the feedback and complaints manager can delegate or nominate a senior officer to act on their behalf. Where this is the case corporate and clinical governance arrangements should be made to ensure that the feedback and complaints manager can maintain an overview of the issues raised in complaints, the responses given and be assured that appropriate organisational learning has taken place.

3.12.5 Once the final report has been signed and issued, the complaints handling staff should file all correspondence, liaise with local senior managers to ensure that all necessary follow-up action is taken, for example sharing the outcome with those named in the complaint as appropriate and providing any necessary staff support or counselling. In the interests of patient confidentiality, it might not be appropriate to copy the response letter to all those involved in the investigation, but general feedback on the main conclusions and actions should be given as appropriate. In more serious cases a formal debrief for the staff involved in the complaint may be appropriate.

3.12.6 A meaningful apology where appropriate can help both sides by calming emotions and allowing them to move on to put things right. It is often the first step to repairing a damaged relationship. It can help to restore dignity and trust. It says that both sides share values about appropriate behaviour towards each other and that when they do not behave in line with those values it is appropriate to express regret. An apology in itself need not amount to an admission of negligence or breach of statutory duty. Further information on providing a meaningful apology can be found in the Scottish Public Services Ombudsman guidance on apology.<sup>24</sup>

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<sup>24</sup>SPSO. Our guidance on apology [online] 2011 [cited 2012 March] available from: [http://www.spsso.org.uk/files/2011\\_March\\_SPSO%20Guidance%20on%20Apology.pdf](http://www.spsso.org.uk/files/2011_March_SPSO%20Guidance%20on%20Apology.pdf)



### **3.13 Timescales**

3.13.1 It is important that a timely and effective response is provided in order to resolve a complaint, and to avoid escalation. Investigation of a complaint should therefore be completed and a response issued, wherever possible, within 20 working days following the date of receipt of the complaint.

3.13.2 There may be circumstances where some complaints are so complex in nature that the detailed investigation takes longer than 20 working days. Difficulties accessing relevant staff and the use of alternative dispute resolution are examples of situations which may make it difficult to meet the 20 working day target

3.13.3 Where it appears the 20 working day target will not be met, the person making the complaint, their representatives if appropriate and anyone named in the complaint, must be informed of the reason for the delay with an indication of when a response can be expected. The letter should also indicate that the Ombudsman may be willing to review the case at this stage if they do not accept the reasons for the requested extension.

### **3.14 Record keeping**

3.14.1 Staff should ensure that all complaints are recorded even those resolved to the complainants satisfaction within 3 working days (although these do not require an acknowledgement or a written report of the investigation to be sent to the complainant). All information relevant to complaints including the investigation process is recorded as statistics from this data will be required for quarterly and annual reporting in an anonymous form. The Information Services Division's (ISD), recognised national coding<sup>25</sup> must be used for recording of complaints ensuing the minimum dataset is always recorded to ensure the comparability of the data from year to year. Further detail can be obtained from the feedback and complaints officer.

3.14.2 If, subsequently, the complaint is referred to the Ombudsman, this may result in a request for all relevant papers and other information to be provided in good time to the Ombudsman's office. Complaints records should be kept separate from health records, subject only to the need to record information which is strictly relevant to the patient's health in their health record. These documents should be managed with regard to the 2011 Records Management Code of Practice.<sup>26</sup>

### **3.15 Unreasonable complaints**

3.15.1 Staff should be trained to respond with patience and empathy to the needs of people who make a complaint, however there will be times when there is nothing further which can reasonably be done to assist them or to rectify a real or perceived problem. People may act out of character in times of trouble or distress. If there have been upsetting or distressing circumstances leading up to a complaint, in a small number of cases this can lead to a patient, carer or service user acting in an unacceptable way. Examples of behaviour that may be considered unacceptable include:

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<sup>25</sup>ISD. NHS complaints definition document [online] 2012 [cited march 2012] available from: <http://www.isdscotland.org/Health-Topics/Quality-Improvement/NHS-Complaints-Statistics/Statistics/>

<sup>26</sup> Scottish Government. Records management NHS code of practice (Scotland) [online] 2012 [cited 2012 March] available from: <http://www.scotland.gov.uk/Publications/2012/01/10143104/0>

- persistent refusal to accept a decision made in relation to a complaint;
- persistent refusal to accept explanations relating to what can or cannot be done about the complaint, and continuing to pursue a complaint without presenting any new information;
- Aggressive or intimidating behaviour towards staff.

3.15.2 Behaviour should not be viewed as unacceptable just because a patient, carer or service user is forceful or determined. In fact, being persistent can be a positive advantage when pursuing a complaint. However, the actions of people who are angry, demanding or persistent may result in unreasonable demands on time and resources or unacceptable behaviour towards staff. NHSScotland seeks to protect their staff and alongside the national Partnership Information Network (PIN) guidance on *Preventing and Dealing with Bullying and Harassment in NHSScotland*<sup>27</sup> and NHS bodies and health service providers should have policies and procedures in place for managing persistent or unreasonably demanding complainants. Guidance on the formulation of this policy can be found in the SPSO Guidance on a model complaints handling procedure.

### 3.16 Monitoring of complaints, learning and improvement

3.16.1 In accordance with the Complaints Directions, relevant NHS bodies and in turn their health service providers are required to make arrangements to monitor how they, or those providing health services on their behalf deal with the complaints they receive. In so doing relevant NHS bodies should identify areas for action in relation both to improvement. In taking this forward, such bodies must be mindful of their obligations in terms of ECHR, confidentiality law and the Data Protection Act 1998.

3.16.2 An increase in the number of complaints should not in itself be a reason for thinking the service is deteriorating. It could mean that the NHS body's or the health service provider's arrangements for handling patient feedback, comments, concerns and complaints are becoming more responsive. The important point is to ensure that complaints (and feedback, comments and concerns) are handled sympathetically, effectively and quickly and that lessons are learned and result in service improvement.

### 3.17 Quarterly reports

3.17.1 In accordance with the Complaints Directions, relevant NHS bodies have a responsibility to gather and review information from **their own service and their health service providers** on a quarterly basis in relation to complaints and those providers have a **duty to supply** this information to their relevant NHS body as soon as is reasonably practicable after the end of the 3 month period to which it relates. Data required for these quarterly reports is outlined below:

- numbers of complaints received;
- number of complaints where alternative dispute resolution was used;
- whether the best practice response period of 20 working days was complied with;
- summarise the key themes of complaints received; and

<sup>27</sup>Scottish Government. Preventing and Dealing with bullying and harassment in NHS Scotland PIN policy [online] 2011 [cited 2012 March] available from: <http://www.scotland.gov.uk/Resource/Doc/364460/0123832.pdf>

- summarise what action has been taken to improve services as a result of complaints.

### **3.18 Review by Senior Management**

3.18.1 Each relevant NHS body must ensure that the feedback and complaints manager or someone senior acting on his or her behalf is involved in a review of the quarterly reports **at least twice a year** with a view to identifying areas of concern, agreeing remedial action and improving performance. Where appropriate, the review must also consider any recommendations made by the SPSO in relation to the investigation of NHS complaints.

### **3.19 Publication**

3.19.1 Relevant NHS bodies must publish anonymous details annually on patient feedback, comments, concerns and complaints which provides evidence that action is or has been taken, where appropriate, to improve services and show where lessons have been learned. The reports must be easily accessible to members of the public and available in alternative formats as requested. These annual reports will build on the complaints data collected each quarter from each NHS body's own services and those of the health service providers in their respective area. Data required for the annual report includes:

- numbers of complaints received;
- number of complaints where alternative dispute resolution was used;
- whether the response period of 20 working days was complied with a summary of the key themes of complaints received;
- a summary of what action has been taken to improve services as a result of complaints; and
- a summary of what action has been or is to be taken to improve services as a result of feedback, comments and concerns.

3.19.2 The Complaints Directions set out that the details of the publication must be sent to Scottish Ministers, the relevant PASS, Healthcare Improvement Scotland (to inform improvement, scrutiny and assurance activity), SPSO and where appropriate the Scottish Prison Service.

### **3.20 National Monitoring**

3.20.1 In accordance with the Complaints Directions complaints statistics gathered through the quarterly reports referred to at paragraph 3.17 must be submitted by relevant NHS bodies to the Information Services Division (ISD), a Division of NHS National Services Scotland, within 3 months of the year end<sup>28</sup> to which the details relate. The information must be in an appropriate format to allow collation and publication of national complaints statistics.

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<sup>28</sup> Year means a period of 12 months ending with 31 March

## **Part 4 - Information that may be useful in dealing with feedback, comments, concerns and complaints**

4.1 This section provides information on related policies, procedures, legislation etc which may impact on the handling of a complaint. It is intended to be a guide to some of the issues on which relevant NHS bodies and their health service providers should have local policies. It is not meant to be all-embracing or to cover every contingency, and the general advice it offers is purely advisory. Relevant NHS bodies and health service providers remain responsible for ensuring the appropriateness of their actions and for their local interpretation of related legislation. They are encouraged, within the scope of the Patient Rights (Scotland) Act 2011, Regulations and Directions, to develop local initiatives and training in a way that ensures the management and operation of the procedure to meet local circumstances.

### **4.2 Advocacy**

4.2.1 Advocacy aims to help people by supporting them to gain access to information, explore and understand their options, express their own needs and make informed choices. It empowers people who need a stronger voice by enabling them to express their own needs and make their own decisions. Advocacy is an important way of supporting and protecting vulnerable people and is a key element of delivering a patient centred NHS.

4.2.2 Under the Mental Health (Care and Treatment) (Scotland) Act 2003<sup>29</sup> every person with a mental disorder has a right of access to independent advocacy. The Act places a duty on each local authority, in collaboration with the (or each) relevant Health Board to secure the availability, to persons in its area who have a mental disorder, of independent advocacy services.

4.2.3 In the handling of feedback, comments, concerns and complaints, NHS staff and their health service providers should be aware of what is available for patients in terms of advocacy services and the arrangements within their respective areas for requesting the provision of independent advocacy services for individuals who need advocacy support.

4.2.4 The Scottish Independent Advocacy Alliance<sup>30</sup> (SIAA), promotes, supports and defends the principles and practice of independent advocacy across Scotland. The SIAA website provides guidance and information on advocacy.

### **4.3 Confidentiality of Patient Information**

4.3.1 In establishing arrangements for handling and responding to patient feedback, comments, concerns or complaints in accordance with the Patient Rights (Scotland) Act 2011 and supporting legislation, relevant NHS bodies and their health service providers must act in accordance with their obligations under Article 8 of the ECHR, confidentiality laws, and any other law such as the Data Protection Act 1998. NHS staff and staff of their health service providers should be aware of the requirements

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<sup>29</sup> <http://www.legislation.gov.uk/asp/2003/13/contents>).

<sup>30</sup> <http://www.siaa.org.uk>

of the Data Protection Act 1998<sup>31</sup>, the contents of NHSScotland Caldicott Guardians – Principles into Practice<sup>32</sup>, and of HDL (2003)37 on 'The Use of Personal Health Information'<sup>33</sup>, the NHS Code of Practice on Confidentiality and any relevant provisions in their local staff code of conduct. Staff should also be aware of the 2011 Information Commissioner's Office publication *Access to information held in complaint files*<sup>34</sup> which helps to clarify issues of data protection and freedom of information.

## 4.4 Obtaining Express Consent to Use Information in Health Records

4.4.1 Where a patient makes a complaint that relates to a clinical matter, they should be informed that information from their health records may need to be disclosed to those handling the complaint, but this information will only be shared on a need-to-know basis. All complaints leaflets must contain this information and a leaflet should always be sent to the patient when acknowledging receipt of the complaint. If the patient objects to this, they should be advised that refusal to allow information sharing could affect the ability to fully investigate a complaint.

### 4.4.2 Deceased Patients

4.4.2.1 In the case of a deceased patient, the Access to Health Records Act (1990)<sup>35</sup> applies and the patient's personal health information can be disclosed to the patient's representative and 'any person who may have a claim arising out of the patient's death'.

4.4.2.2 However, doctors are also bound by GMC guidance, which states that they still have an obligation to keep personal information confidential after a patient dies. The extent to which confidential information may be disclosed after a patient's death will depend on the circumstances. These include the nature of the information, whether that information is already public knowledge or can be anonymised, and the intended use to which the information will be put. You should also consider whether the disclosure of information may cause distress to, or be of benefit to, the patient's partner or family.

4.4.2.3 The NHS complaints procedure may also be used to investigate a complaint about any aspect of an application to obtain access to the health records of deceased persons under the Access to Health Records Act (1990). This does not affect the patient's representative's right to take the matter to a court if they remain dissatisfied with the outcome of an investigation.

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<sup>31</sup> UK Government. Data Protection Act 1998 [online] [cited 2012 March] available from:

<http://www.legislation.gov.uk/ukpga/1998/29/contents>

<sup>32</sup> Scottish Government. NHSScotland Caldicott Guardians: Principles into Practice [online] 2011 [cited 2012 March] available from: <http://www.scotland.gov.uk/Publications/2011/01/31115153/12>

<sup>33</sup> Scottish Government. The use of personal health information in NHSScotland to support patient care [online] 2003 [cited 2012 March] available from:

[http://www.sehd.scot.nhs.uk/mels/HDL\\_2003\\_37.pdf](http://www.sehd.scot.nhs.uk/mels/HDL_2003_37.pdf)

<sup>34</sup> Information Commissioner's Office. Access to information in complaint files [online] 2011 [cited 2012 March] available from [http://www.ico.gov.uk/~media/documents/library/Data\\_Protection/Practical\\_application/access\\_to\\_information\\_held\\_in\\_complaint\\_files.ashx](http://www.ico.gov.uk/~media/documents/library/Data_Protection/Practical_application/access_to_information_held_in_complaint_files.ashx)

<sup>35</sup> UK Government. Access to health records Act 1990 [online] [cited 2012 March] available from:

<http://www.legislation.gov.uk/ukpga/1990/23/contents>

### **4.4.3 Pre 1991 records**

4.4.3.1 Access to records compiled before November 1991 is at the discretion of the record holder, having regard to the fact that such records were not compiled in the expectation that they would be disclosed to the patient. For records compiled after November 1991 it remains the responsibility of the record holder to decide whether access should be granted. Decisions to withhold information should be taken by the Chief Executive.

### **4.4.4 Reporting**

4.4.4.1 Care must be taken in reporting the outcome of a complaints investigation about access to health records to ensure that the complainant does not obtain information to which he/she would not be entitled under the Access to Health Records Act (1990). This is particularly important in the following circumstances:

- where access was denied on the grounds that it might cause serious damage to the physical or mental health of the patient's representative or another individual;
- where the information relates to, or was provided by a third party who could be identified from the information and who has not consented to its disclosure.

### **4.4.5 Third Party Information**

4.4.5.1 Third party information must not be disclosed unless the person who has provided that information, or about whom information is held, has expressly consented to its disclosure. This also applies where the information would enable the third person to be identified as the source of the information.

4.4.5.2 The duty of confidentiality applies equally to third parties who have given information or who are referred to in the patient's records, unless they are health professionals who either contributed to the record or were involved in the care of the patient. The Data Protection Act (1998) sets out only 2 circumstances in which information relating to a third person can be disclosed:

- where the other individual has consented to the disclosure of this information;
- or where it is reasonable in all the circumstances, e.g. an overriding public interest, to comply without the consent of the third person.

4.4.5.3 Even if these circumstances apply, only that information which is relevant to the complaint should be considered for disclosure, and then only to those within the NHS who have a demonstrable need to know in connection with the complaint investigation.

### **4.4.6 Use of anonymised information**

4.4.6.1 Where anonymised information about patients and/or third parties would suffice, identifiable information must be omitted. Anonymisation does not of itself remove the legal duty of confidence, but, where all reasonable steps are taken to ensure that the recipient is unable to trace the patient/third party identity, it may be passed on where justified by the complaint investigation.

## **4.5 Consent**

4.5.1 Where someone (including MPs, MSPs and local Councillors) other than the patient or their authorised agent wishes to make a complaint on behalf of the patient, it will be for the relevant NHS body or health service provider (as the case may be) to ensure that any such complaint is handled in accordance with their obligations under the ECHR, confidentiality laws and any other law to which they are subject, such as the Data Protection Act 1998. In such circumstances it will, for example, be relevant for the body to check whether consent has been received from the patient for the complaint to be made on their behalf.

4.5.2 In the event that consent has not been received, the relevant NHS body or service provider would have to take this into account when handling and responding to the complaint. In such circumstances the responsible body is likely to be constrained as to what it can do in terms of investigating any such complaint, or in terms of the information which can be included in the report of such an investigation.

4.5.3 In circumstances where the patient does not have the capacity to consent to the complaint being made on his or her behalf, it is likely to be relevant (for example) to check that the person making the complaint on the patient's behalf has a legitimate interest in the patient's welfare and that there is no conflict of interest. It would also be good practice to keep the patient on whose behalf the complaint is being made informed of the progress of any investigation into the complaint, in so far as that is possible and appropriate.

### **4.5.4 Children and Young People**

4.5.4.1 All NHS bodies and their health service providers should have and operate clear policies in relation to obtaining consent where the patient who is the subject of a complaint is a child. These procedures should reflect any guidance or advice that may be issued by the Commissioner for Children and Young People in Scotland. The principles in that guidance will be equally relevant to the local operation of the NHS complaints procedure. A number of patient information leaflets for young people are available on NHS inform including *Confidentiality – Your Rights*<sup>36</sup>.

4.5.4.2 Generally, a person with parental responsibility can pursue a complaint on behalf of a child where the NHS body or health service provider judges that the child does not have sufficient understanding of what is involved. While in these circumstances, the child's consent is not required, it is considered good practice to explain the process to the child and inform them that information from their health records may need to be disclosed to those investigating the complaint.

4.5.4.3 Where an NHS body or health service provider judges that a child has sufficient maturity and understanding, the child can either pursue the complaint themselves or consent to it being pursued on their behalf by a parent or third party of their choice. It is also good practice to obtain the child's written consent to information from their health records being released.

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<sup>36</sup> HRIS. Confidentiality your rights [online] 2009 [cited 2012 March] available from: <http://www.hris.org.uk/patient-information/information-for-young-people/>



#### 4.5.5 Adults who cannot give consent

4.5.5.1 Where a patient is unable to give consent the NHS body or health service provider can agree to investigate a complaint made on their behalf by a third party. However, before doing so they should satisfy themselves that the third party has:

- no conflict of interest;
- a legitimate interest in the patient's welfare, for example if they are a Welfare attorney acting on behalf of an individual covered by the Adults with Incapacity Act (2000).<sup>37</sup>

#### 4.6 Data Protection Act 1998

4.6.1 Complainants may use the NHS complaints procedure for complaints arising from rights given by the Data Protection Act (1998)<sup>38</sup>, and if this route is chosen, complaints staff should take the matter forward in conjunction with the Data Protection Officer or Data Controller (or nominated person who takes decisions on what information is stored and how it is processed) by the NHS body or health service provider. Where a patient remains unhappy with the outcome of local resolution they should be advised to contact the UK Information Commissioner.

#### 4.7 Negligence claims

4.7.1 If a complaint reveals a prima facie case of negligence, or the likelihood of legal action, best practice would be for the complaints officer to inform, and seek advice from those responsible for dealing with risk/claims management. Complaints staff should not infer that the person making the complaint has decided to take formal legal action, even if their initial communication is via a solicitor's letter. This point is particularly important when considering complaints related to patients who receive their health care in a prison health centre or from patients with additional support needs where it may be commonplace for them to raise a complaint with the support of a solicitor.

4.7.2 In the early part of the complaints process it may not be clear whether the complainant simply wants an explanation and apology, with assurances that any failures in service will be rectified for the future, or whether they are in fact seeking information with litigation in mind. It is important that at this stage all complainants are treated with an open and sympathetic approach. Even prima facie evidence of negligence should not delay a full explanation of events and, if appropriate an apology: an apology need not be an admission of liability.

4.7.3 However, if the complainant indicates in writing an intention to instigate or actually instigates legal proceedings, **the complaints procedure should be immediately suspended**. In such circumstances, in accordance with the Complaints Regulations, the relevant NHS body or health service provider must write to the complainant as soon as reasonably practical to say that this complaint will not be investigated under the Complaints Procedure. Best practice would be for the Chief Executive of the relevant NHS body to advise the person making the complaint and

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<sup>37</sup>Scottish Government. Adults with incapacity (Scotland) Act 2000 [online] [cited 2012 March] available from:

<http://www.legislation.gov.uk/asp/2000/4/contents>

<sup>38</sup>UK Government. Data Protection Act 1998 [online] [cited 2012 March] available from:

<http://www.legislation.gov.uk/ukpga/1998/29/contents>



any person(s) named in the complaint of this decision in writing. All papers relating to the complaint should be passed to the relevant person appointed to deal with such matters and local complaints staff will be able to advise on who this is.

4.7.4 The Scottish Government Health and Social Care Directorates are currently considering the report and recommendations of the No-fault Compensation Review Group established by the Cabinet Secretary for Health and Wellbeing in 2009. The group recommended consideration of a system based on the model in operation in Sweden for medical injuries that occur in Scotland. A consultation to help in the understanding of the practical implications of introducing such a scheme is proposed in 2012.

## **4.8 Patient Advice and Support Service (PASS)**

4.8.1 The requirement to provide a PASS service is outlined in section 17 of the Patient Rights (Scotland) Act 2011. This makes provision for the Common Services Agency (also known as NHS National Services Scotland) to commission an independent Patient Advice and Support Service to provide a national independent and consistent service across Scotland. The geographical NHS Health Boards will contribute to the funding of the service but it is available for everyone who uses NHS Services. Relevant NHS bodies and Primary Care Service Providers should also raise awareness of its availability.

4.8.2 The purpose of the PASS which will commence on 1 April 2012 is to provide free, inclusive and accessible, confidential advice and support to patients and other members of the public in relation to NHSScotland. The service will promote an awareness and understanding of the rights and responsibilities of patients and will advise and support people who wish to give feedback, make comments, raise concerns or make complaints about treatment and care provided. The PASS will work co-operatively with all relevant NHS bodies and health service providers in the provision of their service particularly in relation to the requirements for quarterly and annual reporting, training, support and relationship building.

4.8.3 The PASS will also assist people to deal with other issues that may be impacting on their health and signpost them and raise awareness of the availability of other support services such as advocacy, translation and interpreting services, other communication support and alternative dispute resolution services that may be available.

4.8.4 The PASS framework agreement highlights that relevant NHS bodies and the PASS provider have the following joint responsibilities in relation to the PASS service:

- Cooperate to develop the service locally;
- Make available information about the PASS service to patients/staff/service providers through the use of posters, leaflets and other materials in a format appropriate to the audience;
- Shared understanding of and joint training in the local feedback, comments, concerns and complaints processes;
- Effective information systems in place to facilitate effective data sharing between PASS and the local NHS Health Board.

#### 4.8.5 The PASS does NOT

- Provide advocacy (NHS Boards commission independent advocacy from other providers);
- Provide legal or clinical/medical advice on healthcare issues;
- Investigate complaints;
- Signpost to clinical advice other than to their healthcare provider;
- Assist with complaints about private healthcare services except where these have been commissioned by the NHS and are being provided as part of the patients NHS treatment and care;
- Support a patient/carer/relative to attend a fatal accident enquiry. Support for patients in these circumstances should be delivered by a qualified legal advisor;
- Advocate on behalf of patients to shorten waiting times or seek a clinically advantageous service in comparison to other patients.

4.8.6 Further information can be found at: [www.cas.org.uk/Projects/patientadvice](http://www.cas.org.uk/Projects/patientadvice). The provision of the service will be monitored and evaluated by the Scottish Health Council<sup>39</sup>.

### 4.9 Scottish Public Services Ombudsman

4.9.1 The Ombudsman can investigate complaints from aggrieved persons that have sustained injustice or hardship as a result of maladministration (failure in administrative procedures or processes) or service failure on the part of a listed authority which includes all relevant NHS bodies and Primary Care Service Providers in Scotland. The Ombudsman is also entitled to question the merits of a decision taken by a relevant NHS body without maladministration where that decision relates to clinical judgment.

4.9.2 The Ombudsman's office can generally consider complaints only when they have been fully considered under the NHS complaints procedure although this requirement can be waived in exceptional circumstances. Complaints should generally be made to the Ombudsman within 12 months of the events giving rise to them, or within 12 months of the complainant becoming aware that there were grounds for complaint, although there is scope to waive this requirement if there are special circumstances.

4.9.3 The Scottish Public Services Ombudsman Act 2002 requires listed authorities to take reasonable steps to publicise:

- the right conferred by the 2002 Act to make a complaint to the Ombudsman;
- the time limit for doing so;
- how to contact the Ombudsman.

4.9.4 The Ombudsman's contact details are:

|                   |  |                |                  |
|-------------------|--|----------------|------------------|
| 4 Melville Street |  | Freepost EH641 |                  |
| Edinburgh         |  | Edinburgh      |                  |
| EH3 7NS           |  | EH3 0BR        |                  |
| Telephone         | 0800 377 7330  | From overseas  | +44 131 225 5300 |
| Fax               | 0800 377 7331  | Text           | 0790 049 4372    |
| Website           | <a href="http://www.spsso.org.uk">www.spsso.org.uk</a> |                |                  |

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<sup>39</sup> [www.scottishhealthcouncil.org](http://www.scottishhealthcouncil.org)

## **Annex A      Legislation**

### **Patient Rights (Scotland) Act 2011**

<http://www.legislation.gov.uk/asp/2011/5/contents/enacted>

### **Regulations**

The Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012

[http://www.legislation.gov.uk/ssi/2012/36/pdfs/ssi\\_20120036\\_en.pdf](http://www.legislation.gov.uk/ssi/2012/36/pdfs/ssi_20120036_en.pdf)

### **Directions**

The Patient Rights (Feedback, Comments, Concerns and Complaints) (Scotland) Directions 2012

(The Regulations and Directions have been issued under CEL 7 (2012) and are available on the SHOW website at:

<http://www.show.scot.nhs.uk/publications/publication.asp>)

The Directions are also included below.

## NATIONAL HEALTH SERVICE

### The Patient Rights (Feedback, Comments, Concerns and Complaints) (Scotland) Directions 2012

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The Scottish Ministers make the following Directions in exercise of the powers conferred on them by sections 14(6), 15(4)(b) and (5) and 25(5) of the Patient Rights (Scotland) Act 2011<sup>(40)</sup> and all other powers enabling them to do so.

#### PART 1

#### COMMENCEMENT AND INTERPRETATION

##### Commencement

1. These Directions come into force on 1st April 2012.

##### Interpretation

- 2.—(1) In these Directions—

“the Act” means the Patient Rights (Scotland) Act 2011;

“the 1978 Act” means the National Health Service (Scotland) Act 1978<sup>(41)</sup>;

“the Regulations” means the Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012<sup>(42)</sup>;

“ADR provider” means the independent and impartial third party appointed by virtue of direction 17 of these Directions to conduct alternative dispute resolution;

“alternative dispute resolution” means mediation or conciliation;

“area professional committee” means an—

- (a) area medical committee;
- (b) area dental committee;
- (c) area nursing and midwifery committee;
- (d) area pharmaceutical committee; or
- (e) area optical committee,

all within the meaning of section 9 of the 1978 Act;

“arrangements” means, unless the context otherwise requires, arrangements that are required by virtue of section 15 of the Act;

“feedback and complaints officer” means the person appointed under regulation 3(1) of the Regulations;

“feedback and complaints manager” means the person appointed under regulation 3(3) of the Regulations;

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<sup>(40)</sup> 2011 asp 5.

<sup>(41)</sup> 1978 c.29.

<sup>(42)</sup> S.S.I. 2012/36.

“Healthcare Improvement Scotland” means the body established under section 10A of the 1978 Act;  
“the PASS” means the patient advice and support service secured by the Agency under section 10ZA of the 1978 Act;

“primary care provider” means a person or body who-

- (a) provides primary medical services in accordance with the 1978 Act;
- (b) provides general dental services in accordance with arrangements made under section 25 of the 1978 Act;
- (c) provides personal dental services in accordance with a pilot scheme;
- (d) provides general ophthalmic services in accordance with arrangements made under section 26 of the 1978 Act;
- (e) provides pharmaceutical services in accordance with arrangements made under section 27 of the 1978 Act, or additional pharmaceutical services in accordance with directions made under section 27A of the 1978 Act;

“service provider” means any person who provides health services for the purposes of the health service under a contract, agreement or arrangements made under or by virtue of the 1978 Act;

“SPSO” means the Scottish Public Services Ombudsman;

“staff” means any person employed by a relevant NHS body (or by a service provider as the case may be), or otherwise engaged to provide services to such a body (whether under a contract, agreement or other arrangement);

“writing” includes any communication sent by electronic means if it is received in a form which is legible and capable of being used for subsequent reference.

(2) Unless the context otherwise requires, other words and phrases used in these Directions have the same meaning as they do in the Act.

## PART 2 GENERAL

### **Arrangements in writing**

3. Each relevant NHS body must make information available in writing to any person who requests such information, as to the arrangements for handling and responding to feedback or comments given, or concerns or complaints raised.

### **Handling feedback, comments, concerns, complaints**

4. Each relevant NHS body must take reasonable steps to ensure that any person who gives feedback or comments, or raises a concern or complaint under the arrangements is treated in a courteous and sympathetic manner by any person handling the feedback, comments, concern or complaint.

### **Staff training**

5. Each relevant NHS body must ensure that:

- (a) all frontline staff, who could potentially be the first point of contact for a patient, are aware of the arrangements and are able to signpost patients appropriately pursuant to sub-paragraph (b)(ii) below;
- (b) all staff who handle feedback, comments, concerns and complaints under the arrangements:
  - (i) receive relevant training and guidance in order to do so;
  - (ii) are aware of the advice and support available to persons who give feedback or comments, or raise concerns or complaints, specifically the feedback and complaints officer and the PASS.

## PART 3

### DEALING WITH COMPLAINTS

#### **Requirement to deal with complaints**

6.—(1) Pursuant to regulation 6(1)(a) of the Regulations, each relevant NHS body must ensure that a written record of the complaint specifies (where known and where relevant and appropriate):

- (a) the patient's name and Community Health Index number;
- (b) the name of the complainant;
- (c) in the event that the complainant is making the complaint on behalf of another person, whether that other person has given consent for the complaint to be made on his or her behalf;
- (d) the date when the complaint was received;
- (e) the date on which the matter which is the subject of the complaint occurred; and
- (f) the subject matter of the complaint.

(2) Pursuant to regulation 6(1)(b) of the Regulations, each relevant NHS body must ensure that a written acknowledgement of the complaint includes the following information:

- (a) contact details of the feedback and complaints officer or the person authorised to act on his or her behalf;
- (b) details of the advice and support available to the complainant including the PASS;
- (c) information on the role of and contact details for the SPSO;
- (d) a statement confirming that the complainant shall be:
  - (i) sent a report of the investigation into the complaint within 20 working days of the date on which the complaint was made or as soon as reasonably practicable; and
  - (ii) notified in the event that it is not possible to send such a report within 20 working days, and provided with an explanation as to why there is a delay and, where possible, provided with a revised timetable.

#### **Investigation and result of a complaint**

7.—(1) A complaint may be investigated in any manner which is appropriate for resolving the complaint efficiently and effectively, and may include in particular offering the complainant:

- (a) a meeting with senior staff;
- (b) the use of alternative dispute resolution services.

(2) In so far as it is appropriate and reasonably practicable, each relevant NHS body must ensure that during the investigation of the complaint:

- (a) the complainant; and
- (b) any person who was involved in the matter which is the subject of the complaint,

are informed as to the progress of the investigation, and are given the opportunity to comment on the investigation.

(3) Each relevant NHS body must keep a record of all complaints in accordance with the arrangements, but such records, including copies of all correspondence relating to complaints, must be kept separately from patients' health records.

#### **Report of the investigation**

8.—(1) The report of the investigation referred to in regulation 6(1)(c) of the Regulations must:

- (a) include the conclusions of the investigation and information as to any remedial action taken or proposed as a consequence of the complaint; and
- (b) be signed by an appropriately senior person.

(2) Each relevant NHS body must ensure in so far as it is reasonably practicable and appropriate to do so, that any person who was involved in the matter which is the subject of the complaint is given feedback following resolution of the complaint.

### **Form of communication**

9.—(1) When investigating a complaint pursuant to the arrangements, each relevant NHS body must ascertain the complainant's preferred method of communication and where reasonably practicable communicate with the complainant by this means.

(2) Any communication which is required by these Directions to be made to a complainant may be sent to the complainant electronically where the complainant:

- (a) has consented to this in writing; and
- (b) has not withdrawn such consent in writing.

## **PART 4**

### **MONITORING AND PUBLICITY**

#### **Monitoring**

10.—(1) For the purposes of monitoring the arrangements, each relevant NHS body must:

- (a) prepare a report in accordance with paragraph (2) below every 3 months;
- (b) ensure that each of its service providers prepares a report in accordance with paragraph (2) below every 3 months and submits that report to it as soon as reasonably practicable after the end of the 3 month period to which it relates;
- (c) prepare a report at the end of each year summarising action taken as a result of feedback, comments and concerns received in that year;
- (d) ensure that each of its service providers prepares a report at the end of each year summarising action taken as a result of feedback, comments and concerns received in that year and submits that report to it as soon as reasonably practicable after the end of the year to which the report relates.

(2) The report referred to in paragraph (1)(a) and (b) must, in relation to the 3 month period to which it relates:

- (a) specify the number of complaints received other than complaints specified in regulation 7(2) of the regulations;
- (b) specify the number of complaints where alternative dispute resolution services were used;
- (c) specify the number of complaints where the report of the investigation specified in regulation 6(1)(c) of the Regulations was sent to the complainant within 20 working days of the date on which the complaint was received; and
- (d) summarise:
  - (i) the key themes of the complaints received;
  - (ii) what action has been taken or will be taken to improve services as a consequence of the complaints.

(3) In relation to the reports referred to in paragraph (1)(a) and (b) above the relevant NHS body must:

- (a) review the reports with a view to identifying any area of concern and whether any further action is required in order to improve the exercise of its functions or the exercise of its service providers functions as the case may be;
- (b) ensure that the feedback and complaints manager or suitably senior person acting on his or her behalf is involved in these reviews at least twice a year; and
- (c) ensure that where appropriate the review considers any recommendations made by SPSO in relation to the investigation of NHS complaints.

## **Annual reports**

**11.**—(1) At the end of each year, each relevant NHS body must publish—

- (a) a summary of the reports which have been prepared that year by virtue of direction 10(1)(a) and (b) of these Directions; and
- (b) details summarising the action which has been taken or is to be taken to improve services as a result of feedback, comments or concerns received and handled in relation to health care in that year and reported by virtue of direction 10(1)(c) and (d) of these Directions.

(2) In paragraph (1), ‘year’ means a period of 12 months ending with 31st March.

(3) Each relevant NHS body must ensure that—

- (a) the details referred to in direction 10(1)(a) and (b) are submitted to the Agency within 3 months of the year end to which the details relate in an appropriate format to allow collation and publication of national complaints statistics; and
- (b) that the details referred to in paragraph (1)(a) and (b) above are sent to:
  - (i) the Scottish Ministers;
  - (ii) the relevant PASS;
  - (iii) Healthcare Improvement Scotland;
  - (iv) SPSO; and
  - (v) where appropriate, the Scottish Prison Service,

as soon as is reasonably practicable after the end of the year to which the details relate.

## **Publicity**

**12.**—(1) Each relevant NHS body must take reasonable steps to ensure that the persons listed in paragraph (2) below are informed of:

- (a) the arrangements;
- (b) the name, postal and email address of the relevant feedback and complaints officer;
- (c) the details of the advice and support which is available to patients, including the PASS.

(2) The persons referred to in paragraph (1) above are:

- (a) patients and carers;
- (b) staff of the relevant NHS body;
- (c) persons exercising functions of the relevant NHS body under a contract or other arrangement with it; and
- (d) where appropriate, the PASS.

## **Application to service providers**

**13.** Each relevant NHS body must ensure that each of its service providers has arrangements in place pursuant to directions 3, 4, 5, 6, 7, 8, 9, 10(1)(b) and (2), and 12 (but as if references to a “relevant NHS body” were to a “service provider”).

# **PART 5**

## **ALTERNATIVE DISPUTE RESOLUTION**

**14.** Each Health Board must provide alternative dispute resolution services in accordance with this Part if:

- (a) a request is made, orally or in writing, to the Health Board by:
  - (i) a primary care provider; or



- (ii) a complainant; and
- (b) any of the circumstances set out in direction 15 apply.

**15.—**(1) The circumstances referred to in direction 14 are that:

- (a) a person wishes to raise a complaint about a primary care provider;
- (b) a complaint about a primary care provider is in the course of investigation;
- (c) the investigation of a complaint about a primary care provider has been completed and the complainant is dissatisfied with the result of that investigation,

and in each case the complainant, where the complaint is made on behalf of another person, that other person and the person subject to the complaint have agreed that alternative dispute resolution services should be provided.

(2) In this direction, the reference to a “complaint” means a complaint, other than a complaint specified in regulation 7(2) of the Regulations.

### **Requirement to provide alternative dispute resolution services**

**16.** Where it is agreed pursuant to direction 7(1) of these Directions that alternative dispute resolution is appropriate, or the Health Board is required to provide such services in accordance with direction 14, the feedback and complaints officer of the relevant NHS body must, as soon as practicable, refer the matter to the ADR provider.

### **Appointment of ADR provider and assistants**

**17.—**(1) ADR providers are to be appointed by each relevant NHS body for a period to be agreed between the relevant NHS body and the ADR provider of not more than one year (without prejudice to any re-appointment), to conduct the process of alternative dispute resolution upon referral of the matter in accordance with direction 16.

(2) Without prejudice to paragraph (3), each relevant NHS body must ensure that adequate numbers of ADR providers are appointed in relation to each relevant NHS body.

(3) A pool of ADR providers may be appointed and organised jointly between relevant NHS Bodies.

(4) Each relevant NHS body must, after consultation with any relevant area professional committee or such bodies as appear to it to be appropriate, establish and maintain a list of persons from among whom an ADR provider may nominate a person (“a professional adviser”) to assist them in the process of alternative dispute resolution.

(5) A professional adviser nominated under paragraph (4) must be a member of the same profession as the person who performed the service with which the subject matter of the complaint is most closely connected.

### **Alternative dispute resolution procedure**

**18.** The ADR provider may, in consultation with the parties involved, adopt such procedures as he or she considers appropriate for conducting the alternative dispute resolution process.

### **Conclusion and Report of alternative dispute resolution**

**19.—**(1) In so far as it is appropriate, on conclusion of the alternative dispute resolution process, the ADR provider must notify the results of the process in writing to:

- (a) the complainant;
- (b) any person who was involved in the matter which is the subject of the complaint, and
- (c) the relevant NHS body.

(2) Each relevant NHS body must require the ADR provider to submit on an annual basis an anonymised report, which will provide a statement of the result of ADR services provided by virtue of direction 16.

PART 6  
REVOCATIONS

20. The Directions to Health Boards, Special Health Boards and the Agency on Complaints Procedures, made on 31 March 2005 and brought into force on 1st April 2005 are revoked.



Fiona Montgomery

A Member of the Staff of the Scottish Ministers

Directorate for Chief Nursing Officer, Patients, Public and Health Professions  
Edinburgh

22 March 2012

## **Annex B      Role of Feedback and Complaints Manager and Officer**

### **Feedback and Complaints Manager**

The feedback and complaints manager is responsible for assuring compliance with the arrangements and in particular for ensuring that action is taken as necessary following the outcome or any feedback, comment, concern or complaint. This function may be performed by the Chief Executive who is responsible for the quality of care delivered by his or her organisation. This person may appoint an appropriately senior person to act on their behalf in relation to patient feedback and complaints.

### **Feedback and Complaints Officer**

The feedback and complaints officer is responsible for the management and handling of feedback, comments, concerns and complaints operationally. This post holder(s) should be of sufficient seniority to be able to deal with any feedback, comments, concerns and complaints quickly and effectively without needing to refer, in all but the most exceptional circumstances, to the feedback and complaints manager. Feedback and Complaints officers should be readily accessible to patients, the public and staff. It is important that arrangements are made so that the role of the complaints officer is not interrupted by one individual's annual or sick leave.

The functions of the feedback and complaints officer may be performed personally or delegated to an authorised person as defined by the organisation. Although not intended to be prescriptive below are considered to be the key duties of the feedback and complaints officer:

- Work across the organisation to develop mechanisms for encouraging fast, effective and efficient patient feedback including the use of emerging technology as appropriate;
- Operationally manage the administration of this guidance and supporting local policies and procedures ensuring that;
  - Feedback and complaints recording systems are in place and records kept up to date;
  - organisational learning from the operation of the Board's feedback and complaints process is captured and reported;
- Provide specialist advice and support to patients and staff on the management of this process including delivery of local training and awareness raising;
- have access to advice and support on associated issues, for example patient consent; confidentiality; the operation of related legislation, such as the Data Protection Act, access to medical records, Freedom of Information, etc;
- have an understanding of partner organisations and how to work with them on managing feedback, comments, concerns and complaints.

## Annex C Useful links

| <b>LEGISLATION</b>   |   |   |
|--|---|---|
| Equalities Act 2010  | Legislation on equality   | <a href="http://www.legislation.gov.uk/ukpga/2010/15/contents">http://www.legislation.gov.uk/ukpga/2010/15/contents</a>   |
| European Convention on Human Rights  | Legislation on human rights   | <a href="http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/ENG_CONV.pdf">http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/ENG_CONV.pdf</a> |
| Human Rights Act (1998)  | Legislation on human rights   | <a href="http://www.legislation.gov.uk/ukpga/1998/42/contents">http://www.legislation.gov.uk/ukpga/1998/42/contents</a>   |
| Mental Health (Care and Treatment) (Scotland) Act 2003   | Legislation on mental health  | <a href="http://www.legislation.gov.uk/asp/2003/13/contents">http://www.legislation.gov.uk/asp/2003/13/contents</a> ).  |
| Patient Rights (Scotland) Act 2011   | Legislation on patients rights and responsibilities   | <a href="http://www.legislation.gov.uk/asp/2011/5/contents/enacted">http://www.legislation.gov.uk/asp/2011/5/contents/enacted</a>   |
| The Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012 | The Complaints Regulations  | <a href="http://www.legislation.gov.uk/ssi/2012/36/pdfs/ssi_20120036_en.pdf">http://www.legislation.gov.uk/ssi/2012/36/pdfs/ssi_20120036_en.pdf</a>   |
| Public Services Reform (Scotland) Act 2010   | Legislation to simplify the public services   | <a href="http://www.legislation.gov.uk/asp/2010/8/contents">http://www.legislation.gov.uk/asp/2010/8/contents</a>   |
| Adult Support and Protection (Scotland) Act 2007   | Legislation to protect vulnerable adults  | <a href="http://www.legislation.gov.uk/asp/2007/10/contents">http://www.legislation.gov.uk/asp/2007/10/contents</a>   |
| <b>NATIONAL POLICIES</b>   |   |   |
| <i>Better Health Better Care: Action Plan</i>  | Scottish Government's programme to deliver a healthier Scotland   | <a href="http://www.scotland.gov.uk/Publications/2007/12/11103453/0">http://www.scotland.gov.uk/Publications/2007/12/11103453/0</a>   |
| NHSScotland <i>Quality Strategy</i>  | Aspires to create high quality person-centred, clinically effective and safe healthcare service that is world-leading in approach | <a href="http://www.scotland.gov.uk/Publications/2010/05/10102307/0">http://www.scotland.gov.uk/Publications/2010/05/10102307/0</a>   |

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| Informing, engaging, and consulting people in developing health and community care services.                | Guidance to Health Boards on engaging their communities   | <a href="http://www.sehd.scot.nhs.uk/mels/CEL2010_04.pdf">www.sehd.scot.nhs.uk/mels/CEL2010_04.pdf</a>  |
| <b>PATIENT SUPPORT INFORMATION</b>  |   |   |
| Health Rights Information Scotland's (HRIS) leaflet "Making a complaint about the NHS"                      | Information to support patients (HRIS will move to NHS inform mid 2012)   | <a href="http://www.hris.org.uk/index.aspx?o=1025">http://www.hris.org.uk/index.aspx?o=1025</a>   |
| <i>Its OK to ask</i>  | Information to support patients   | <a href="http://www.scotland.gov.uk/Publications/2008/03/13094805/0">http://www.scotland.gov.uk/Publications/2008/03/13094805/0</a>   |
| <b>PIN POLICIES</b>   |   |   |
| <i>Preventing and Dealing with Bullying and Harassment</i> in NHSScotland                                   | National policy on bullying and harassment  | <a href="http://www.scotland.gov.uk/Resource/Doc/364460/0123832.pdf">http://www.scotland.gov.uk/Resource/Doc/364460/0123832.pdf</a>   |
| <i>Implementing and reviewing whistle blowing arrangements</i> Partnership Information Network (PIN) Policy | National policy for staff to raise concerns where they are witness to risk, malpractice or wrongdoing that affects others | <a href="http://www.scotland.gov.uk/Publications/2011/12/06141807/0">http://www.scotland.gov.uk/Publications/2011/12/06141807/0</a>   |
| <b>NATIONAL GUIDANCE</b>  |   |   |
| Shaping Bereavement Care  | National guidance   | <a href="http://www.sehd.scot.nhs.uk/mels/CEL2011_09.pdf">http://www.sehd.scot.nhs.uk/mels/CEL2011_09.pdf</a>   |
| Spiritual Care Matters  | Educational Resource  | <a href="http://www.nes.scot.nhs.uk/media/3723/spiritualcaremattersfinal.pdf">http://www.nes.scot.nhs.uk/media/3723/spiritualcaremattersfinal.pdf</a>   |
| SPSO model complaints handling process  | Model process   | <a href="http://www.valuingcomplaints.org.uk/wp-content/uploads/2011/03/Guidance-on-a-Model-Complaints-Handling-Procedure.pdf">http://www.valuingcomplaints.org.uk/wp-content/uploads/2011/03/Guidance-on-a-Model-Complaints-Handling-Procedure.pdf</a> |
| <b>ORGANISATION CONTACT DETAILS</b>   |   |   |
| Better Together   | Patient experience programme  | <a href="http://www.bettertogetherscotland.com/bettertogetherscotland/CCC_FirstPage.jsp">http://www.bettertogetherscotland.com/bettertogetherscotland/CCC_FirstPage.jsp</a>   |

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| Care Inspectorate                            | Regulator of Care Homes   | <a href="http://www.scswis.com">http://www.scswis.com</a>   |
| Complaints standards authority               | internal organisation of the SPSO   | <a href="http://www.valuingcomplaints.org.uk">http://www.valuingcomplaints.org.uk</a>   |
| Healthcare Improvement Scotland              | Regulator of private healthcare   | <a href="http://www.healthcareimprovementscotland.org/welcome_to_healthcare_improvement.aspx">http://www.healthcareimprovementscotland.org/welcome_to_healthcare_improvement.aspx</a> |
| Scottish Mediation Network                   | Mediation membership organisation   | <a href="http://www.scottishmediation.org.uk">www.scottishmediation.org.uk</a>  |
| NCPAS  | Web based knowledge sharing site for complaints staff   | <a href="http://www.knowledge.scot.nhs.uk/ncpas.aspx">http://www.knowledge.scot.nhs.uk/ncpas.aspx</a>   |
| PASS   | Patient Advice and Support Service  | <a href="http://www.cas.org.uk/Projects/patientadvice">www.cas.org.uk/Projects/patientadvice</a>  |
| Scottish Independent Advocacy Alliance       | Advocacy membership organisation (not providers of advocacy)  | <a href="http://www.siaa.org.uk">http://www.siaa.org.uk</a>   |
| Scottish Public Services Ombudsman (SPSO)    | Main website for SPSO   | <a href="http://www.spsso.org.uk">www.spsso.org.uk</a>  |
| <b>REGULATORY BODIES</b>                     |   |   |
| Council for Healthcare Regulatory Excellence | Promotes the health and well-being of patients and the public in the regulation of health professionals   | <a href="http://www.chre.org.uk">http://www.chre.org.uk</a>   |
| General Dental Council                       | Organisation that regulates the dental profession in the UK   | <a href="http://www.gdc-uk.org">www.gdc-uk.org</a>  |
| General Medical Council                      | Registers doctors to practice medicine in the UK. Their purpose is to protect, promote and maintain the health and safety of the public by ensuring proper standards in the practice of medicine. | <a href="http://www.gmc-uk.org">http://www.gmc-uk.org</a>   |
| General Optical Council                      | Protect the public by promoting high standards of education, conduct and performance amongst opticians  | <a href="http://www.optical.org">http://www.optical.org</a>   |

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| General Pharmaceutical Council            | The independent regulator for pharmacists, pharmacy technicians and pharmacy premises in Great Britain  | <a href="http://www.pharmacyregulation.org">http://www.pharmacyregulation.org</a> |
| Health Professions Council                | Regulate professions: regulate 15 health professions: arts therapists, biomedical scientists, chiropodists / podiatrists, clinical scientists, dieticians, hearing aid dispensers, occupational therapists, operating department practitioners, orthotists, paramedics, physiotherapists, practitioner psychologists, prosthetists / orthotists, radiographers, and speech and language therapists. | <a href="http://www.hpc-uk.org">http://www.hpc-uk.org</a>                         |
| Nursing and Midwifery Council             | The nursing and midwifery regulator for England, Wales, Scotland, Northern Ireland and the Islands  | <a href="http://www.nmc-uk.org">http://www.nmc-uk.org</a>                         |
| <b>ROYAL COLLEGES/PROFESSIONAL BODIES</b> |   |   |
| Academy of Medical Royal Colleges         | The Academy's role is to promote, facilitate and where appropriate co-ordinate the work of the Medical Royal Colleges and their Faculties for the benefit of patients and healthcare  | <a href="http://aomrc.org.uk/">http://aomrc.org.uk/</a>                           |
| Association of Optometrists               | As the leading professional organisation in the UK for optometrists, the AOP promotes the profession and development of high professional and clinical standards, as well as representing the needs and interests of individual optometrists and dispensing opticians   | <a href="http://www.aop.org.uk/">http://www.aop.org.uk/</a>                       |

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| British Dental Association                     | Professional association and trade union for dentists in the United Kingdom  | <a href="http://www.bda.org/">http://www.bda.org/</a>   |
| British Medical Association Scotland           | The BMA is the doctors' professional organisation established to look after the professional and personal needs of our members. The BMA represents doctors in all branches of medicine all over the UK.  | <a href="http://www.bma.org.uk/sc/about_bma/AboutScotland.jsp">http://www.bma.org.uk/sc/about_bma/AboutScotland.jsp</a> |
| Chartered Society of Physiotherapists Scotland | Founded in 1894, the Chartered Society of Physiotherapy has grown to become the profession's largest membership organisation   | <a href="http://www.csp.org.uk/nations-regions/scotland">http://www.csp.org.uk/nations-regions/scotland</a>             |
| Medical and Dental Defence Union of Scotland   | An independent mutual organisation offering expert medico-legal advice, dento-legal advice and professional indemnity for doctors, dentists and other healthcare professionals throughout the UK.  | <a href="http://www.mddus.com/mddus/home.aspx">http://www.mddus.com/mddus/home.aspx</a>                                 |
| Medical Protection Society                     | As a not-for-profit mutual organisation, MPS offers support to members with legal and ethical problems that arise from their professional practice.  | <a href="http://www.medicalprotection.org/uk">http://www.medicalprotection.org/uk</a>                                   |
| Optometry Scotland                             | Non-profit making organisation established to develop and represent the views of the entire Optometry sector of Optometrists, Dispensing Opticians and Optical Bodies Corporate to the Scottish Parliament, the Scottish Government Health Directorates and other relevant stakeholders. | <a href="http://www.optometriscotland.org.uk">http://www.optometriscotland.org.uk</a>                                   |



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| Royal College of General Practitioners              | Membership body of family doctors committed to delivering excellence in general practice and patient care, in the UK and overseas.  | <a href="http://www.rcgp.org.uk/">http://www.rcgp.org.uk/</a>   |
| Royal College of Midwives                           | The UK's only trade union, professional organisation led by midwives for midwives and those that support them. The vast majority of the midwifery profession are our members.   | <a href="http://www.rcm.org.uk/">http://www.rcm.org.uk/</a>   |
| Royal College of Nursing                            | The RCN represents nurses and nursing, promotes excellence in practice and shapes health policies   | <a href="http://www.rcn.org.uk/">http://www.rcn.org.uk/</a>   |
| Royal College of Physicians and Surgeons of Glasgow | By offering postgraduate medical education, examinations and assessments, as well as continuing professional development, our Fellows and Members are equipped to deliver the best possible care and medical practice that Scotland has to offer.   | <a href="http://www.rcpsg.ac.uk/Pages/RCPSG_Welcome.aspx">http://www.rcpsg.ac.uk/Pages/RCPSG_Welcome.aspx</a> |
| Royal College of Physicians Edinburgh               | Professional membership organisation. Our principal concern is to develop and oversee an ongoing programme of medical examinations, education and training for qualified doctors who wish to undertake postgraduate education and training in order to pursue a career in specialist (internal) medicine. | <a href="http://www.rcpe.ac.uk/">http://www.rcpe.ac.uk/</a>   |
| Royal College of Speech & Language Therapists       | The RCSLT is the professional body for speech and language therapists in the UK; providing leadership and setting professional standards.   | <a href="http://www.rcslt.org/">http://www.rcslt.org/</a>   |

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| Royal College of Surgeons Edinburgh                         | Dedicated to the maintenance and promotion of the highest standards of surgical practice, through its keen interest in education, training and rigorous examination and through its liaison with external medical bodies | <a href="http://www.rcsed.ac.uk/">http://www.rcsed.ac.uk/</a>   |
| Royal Pharmaceutical Society                                | Professional body for pharmacists and pharmacy   | <a href="http://www.rpharms.com/home/home.asp">http://www.rpharms.com/home/home.asp</a>   |
| Society of Chiropractors and Podiatrists                    | Professional Body and Trade Union for registered podiatrists   | <a href="http://www.feetforlife.org">http://www.feetforlife.org</a>   |
| <b>DATA AND RECORDS</b>                                     |  |   |
| Data Protection Act 1998                                    | Legislation  | <a href="http://www.legislation.gov.uk/ukpga/1998/29/contents">http://www.legislation.gov.uk/ukpga/1998/29/contents</a>   |
| HDL (2003)37 on 'The Use of Personal Health Information'    | National guidance on data  | <a href="http://www.sehd.scot.nhs.uk/mels/HDL_2003_37.pdf">http://www.sehd.scot.nhs.uk/mels/HDL_2003_37.pdf</a>   |
| ISD recognised national coding                              | National guidance on datasets  | <a href="http://www.isdscotland.org/Health-Topics/Quality-Improvement/NHS-Complaints-Statistics/Statistics/">http://www.isdscotland.org/Health-Topics/Quality-Improvement/NHS-Complaints-Statistics/Statistics/</a> |
| NHSScotland Caldicott Guardians – Principles into Practice' | National guidance on data  | <a href="http://www.scotland.gov.uk/Publications/2011/01/31115153/12">http://www.scotland.gov.uk/Publications/2011/01/31115153/12</a>   |
| 2010 Records Management Code of Practice                    | National guidance on recording and managing data   | <a href="http://www.sehd.scot.nhs.uk/mels/CEL_2010_31.pdf">http://www.sehd.scot.nhs.uk/mels/CEL_2010_31.pdf</a>   |
| <b>OTHER</b>  |  |   |
| Making It Better  | Research in to patients experiences of complaining   | <a href="http://www.scottishhealthcouncil.org/publications/research_reports.aspx#Craigforth2009">http://www.scottishhealthcouncil.org/publications/research_reports.aspx#Craigforth2009</a>                         |



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