



NHS complaints reform

Making things right

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Contents

1.	Summary	3
2.	Introduction and vision	4
	Why do we need change?	4
	What needs to change?	5
	Our vision...	6
3.	How do we achieve the vision?	7
	Changing attitudes, positive relationships...	7
	– Better information for patients	7
	– Developing customer awareness	7
	– Improving communication skills	8
	– Demonstrable use of patient feedback to improve services	8
	Acting on concerns, getting the response right...	9
	– PALS	9
	– Modern matrons	10
	– Getting local resolution right, so that it's visible and effective	10
	– Promoting good practice	11
	– Visible and accessible	11
	– Providing the remedies, responses and support people want	11
	– Broadening the options for resolving complaints	12
	– Support for people making a complaint – Independent Complaints Advisory Services	12
	Truly Independent Review...	13
	– Providing true independence for Independent Review	13
	– Speedier, more effective resolution	14
	– Robust assessment of cases, more options	14
	– Harmonisation with social care	15
	Integrating complaints into wider systems...	15
	– Clear responsibilities	15
	– Improving quality and the patient experience	16
	– Developing the workforce	16
4.	A programme for reform...	17
5.	Conclusion	19
	Appendix 1: Background, evaluation and listening exercises	20
	Appendix 2: NHS Complaints Procedure – National Evaluation Summary of policy implications	25

Foreword

Improving the way in which we handle and respond to complaints is an important element of the work to improve patients' experience of the NHS.

This document responds to the views of patients and staff about the existing NHS complaints procedure. You told us you want a complaints procedure that is fair to all parties, consistent and resolves problems quickly. Patients' views, positive or negative about their experiences of the NHS should be welcomed, taken seriously and used to bring about change.

Even though the word features in my job title, I don't like "patient" – as it implies passivity. We seek, as patients to be active partners with clinicians in our own care. Patients understand their illnesses – they after all, suffer from them. They have views to offer about the way they are treated. The NHS must listen to this and learn from their expertise.

Patients need to know the truth about the health service they pay for and to have better information about their condition and its treatment. Most patients understand that there are uncertainties in clinical practice. They must be given the opportunity to understand what these are and to make choices about their care.

The changes set out in this document are based on what you have told us you want. It's an example of how we can involve patients and staff in developing policy and making the NHS more patient-centred. Patient and public involvement is not a new pseudo-science – it's an accelerator for change. Patient experience of the NHS can only be improved if patients tell us what they would like from their NHS and for them to be involved with staff to achieve it.

I welcome this document, and look forward to feeling and seeing the differences it describes.

GRO-C

Harry Cayton

National Director of Patient Experience and Public Involvement

1 Summary

1.1 This document sets out for all those with a stake in the NHS complaints procedure – patients and staff, as well as patient and professional groups at the local and national levels – the Government’s plans to improve the NHS complaints procedure, following:

- an independent, 2-year, UK-wide evaluation of the complaints procedure, which finished in early 2001, and
- a listening exercise to gather feedback in relation to the suggestions made by the team of researchers who conducted the evaluation study, which finished in October 2001.

as well as:

- *The NHS Plan*, which included an explicit commitment to reform the NHS complaints procedure in the light of the evaluation study, and
- *Delivering the NHS Plan*, which indicated that the new Commission for Healthcare Audit and Inspection would have responsibility for independent scrutiny of NHS complaints.

1.2 It sets out a comprehensive programme for reform – elements of which will be subject to primary legislation – to underpin the Department of Health’s commitment to providing a fair, effective, consistent and efficient complaints management system. The planned changes build on the existing procedure and will introduce operational improvements to ensure it lives up to patient, public and professional expectations, focused on:

- changing attitudes to complaints so they are valued for the focus they give to what needs to improve, leading to more positive relationships with patients,
- dealing with complaints and concerns positively as an integral part of the service, so that problems don’t escalate unless they need to,
- radical reform to the independent review stage – by placing responsibility for it with the new Commission for Healthcare Audit and Inspection (CHAI), and
- making sure that information about complaints and their causes are an integral part of the system that assures safe, high quality care, which is constantly improving.

2 Introduction

Why do we need change?

- 2.1 The National Health Service is the cornerstone of public service in this country, founded on the fundamental principle of providing treatment and care available free at the point of delivery to each of our citizens who need health services. It – and the hundreds of thousands of staff who work within it – is unique in its dedication to the values of equity and professionalism which run throughout its organisation and practice.
- 2.2 Whilst we and the NHS hold these values dear to our hearts, unfortunately it is not always the case that equity, professionalism and service translate into a positive experience for patients and users, carers and relatives. The vast majority of people who come into contact with the NHS are happy with their experience. But things can and do go wrong, or simply give cause for concern – and too often, the way people are dealt with when they express concern falls short of what they are entitled to expect from a 21st century service provider.
- 2.3 *The NHS Plan* set out ambitious plans to create a health service that is more responsive to the citizens who pay for it, and to the patients who use it. A patient-centred service demands more power for patients. *The NHS Plan* says “patient choice will be strengthened” and, for the first time patients in the NHS will have a choice about when and where they are treated. The reforms we are making will mark an irreversible shift away from the 1940s “top down” service.
- 2.4 *Improvement, Expansion and Reform: the next 3 years* – the Priorities and Planning Framework for 2003-2006 – supports this change through the priorities for improving access and choice and for improving patients’ overall experience of the NHS (www.doh.gov.uk/planning2003-2006).
- 2.5 Patient power will be backed by the new organisational arrangements we are making to put the voice of the patient at the heart of the NHS, most notably to establish statutory independent Patients Forums. Patients Forums will monitor and review the quality of local services from a patient perspective in each Trust, with representation via one of their members on Trust Boards
- 2.6 These changes are all about shifting the balance of power towards patients in the NHS. They will help change the relationship between patients and services. Patients will be in the driving seat.
- 2.7 In a patient-centred NHS, patients should feel able to express their views – positive and negative, complaints and concerns – about the treatment and services they receive, in the knowledge that they will be:
- taken seriously,
 - given a speedy and effective response,
 - that their views will inform learning and improvements in service delivery, and

- that there is a system for taking action to address the full range of problems which occur – from minor difficulties to major failures in treatment and care.
- 2.8 Patients and staff alike have told us – informally, and formally through an independent evaluation study and subsequent listening exercise – that this is often not their experience of the NHS approach to complaints at present. More often:
- it is unclear how, and difficult to, pursue complaints and concerns,
 - there is often delay in responding when concerns arise,
 - too often there is a negative attitude to concerns expressed,
 - complaints don't seem to get a fair hearing,
 - patients don't get the support they need when they want to complain,
 - the Independent Review stage doesn't have the credibility it needs,
 - the process doesn't provide the redress patients want, and
 - there does not seem to be any systematic processes for using feedback from complaints to drive improvements in services.
- 2.9 Change is needed – to the complaints procedure itself and to the context within which it operates – so that when the NHS says it will act to deal with concerns, it does just that. We will reform the NHS approach to complaints so that it follows the four principles which the Government has established for public services, so:
- there are clear national standards and accountabilities,
 - there is devolution to clinicians and managers at the front line – backed up by independent scrutiny where appropriate,
 - there is flexibility, so that NHS organisations are able to tailor responses to complaints and concerns individually, and
 - patients can choose how they wish to pursue their concerns, and have the support they need to help them do so.

What needs to change?

- 2.10 The remainder of this document sets out the key elements of a comprehensive complaints reform programme, including:
- Changing attitudes to complaints so they are valued for the focus they give to what needs to improve, leading to more positive relationships with patients. Supporting initiatives for this will include:
 - customer care training,
 - communication skills induction and development programmes,

- systems for inviting feedback and using it to bring improvement.
- Dealing with complaints and concerns positively as an integral part of service provision, so that problems don't escalate unless they need to. Supporting initiatives for this will include:
 - support for the NHS to get the *Local Resolution* stage right,
 - Patient Advice and Liaison Services – PALS,
 - clarity about the range of remedies and responses people want and which NHS organisations should consider in addressing complaints, and
 - providing the support people need to complain.
- Radical reform to the *Independent Review* stage – by placing responsibility for it with the new Commission for Healthcare Audit and Inspection (CHAI) – so that people are confident in its:
 - independence
 - efficiency
 - ability to identify what action is required, and of whom, to put things right and ensure the lessons are learned
- Making information about complaints and their causes an integral part of the system to assure safe, high quality care which is constantly improving, by ensuring that :
 - responsibility for effective complaints management is taken at the highest level within NHS organisations,
 - there are effective links to wider systems for maintaining quality – clinical governance, patient safety, professional regulation,
 - workforce development supports staff so that they can meet that challenges which all this represents.

Our vision...

- 2.11 Our vision for a successful complaints procedure is of one which meets the needs of patients and staff by making the process:
- **open and easy to access** – by being flexible about the ways in which people can complain and providing effective support for people wishing to do so,
 - **fair and independent** – with the emphasis on early and effective resolution so minimising the strain and distress for all those involved,
 - **responsive** – providing appropriate and proportionate responses and redress,
 - **learning and developing** – ensuring complaints are viewed as a positive opportunity to listen and learn from patients views to drive continual improvement in services.

3 How do we achieve the vision?

Changing attitudes, positive relationships...

- 3.1 In 2000-01 there were 140,000 formal complaints about NHS services. Of the 95,000 complaints about hospital services, attitudes of staff (13%) and communication and information to patients (9%) were among the top 4 categories of complaint by subject (www.doh.gov.uk/complaints/)
- 3.2 Clear, honest, sensitive communication between NHS staff, patients and relatives is fundamental to patients' experience of the NHS. If we are serious about developing the patient-centred NHS which the NHS Plan sets out, the very nature of the relationship between the NHS and patients must change. We need to address shortcomings in communications between them if we are to help bring about that change.

Better information for patients

- 3.3 Ready access to information can make a critical difference to patients' experience of the NHS. Patients can already get access to high quality information and advice on keeping healthy, and a range of conditions and treatments, through *NHS Direct* and *NHS Direct Online*. We will improve the content and range of information available to patients and the public, along with the way it is made available to them.
- 3.4 The *National Knowledge Service* is being developed to improve the quality of information for patients through the creation of a single national resource carrying high quality information for patients which:
- reflects best clinical evidence,
 - has been reviewed by patients and plain English experts, and
 - is available in a range of languages and formats, to meet the needs of all citizens.
- 3.5 The aim is for patients and the public to have ready access to the information they need, enabling a more equal relationship with NHS professionals, where they take part in decision-making about their care and treatment.

Developing customer awareness

- 3.6 Awareness of how important the nature of day-to-day contact between patients, carers, relatives, and NHS staff is central to people's experience of the NHS. Making all NHS staff aware of that fact is the key to securing a positive relationship between the NHS and those it serves.

- 3.7 We are launching – under the banner of NHS Estates – a customer care training programme for support staff, which is currently being piloted in 10 trusts across the country. The programme addresses many different areas, including handling complaints and difficult situations, how to communicate effectively and maintaining a positive attitude. It recognises the impact that support staff can have on a patient's experience and gives them the skills they need to deal effectively with patients, visitors and colleagues. The programme will be available to the NHS in summer 2003, following evaluation of pilots.

Improving communication skills

- 3.8 The *NHS University* (NHSU) will also produce induction and development programmes designed to improve communications skills among new and existing NHS staff, as well as at post-registration and post-graduate level. In particular, NHSU is developing:
- a corporate *NHS Induction programme* – including a module on communications skills – aimed at all new NHS staff. This will include the basic principles and practice of communicating with patients, carers and colleagues, and will be capable of application in a range of care contexts and delivery on a stand-alone basis.
 - an *advanced communication skills programme* – beginning with a programme for healthcare professionals caring for cancer patients. NHSU will see how the content and approaches in this first programme can be extended and adapted for other care contexts and staff groups, including complaints staff who have a particular need for highly developed communication skills.

Both programmes will be piloted with plans for launch in Autumn 2003 and roll out in 2004.

- 3.9 We are working with Universities UK, professional regulatory bodies and other interests to produce a joint statement of expectations about the standards, coverage and assessment of communications skills within pre-registration/undergraduate curricula, with a view to publishing in 2003.
- 3.10 We are also adding communication benchmarks to *The Essence of Care* resource pack. The eight existing sets of benchmarks are designed to help nurses and health care practitioners improve fundamental and essential aspects of patient care. These and the new benchmarks will help them improve patients' overall experience of the NHS.

Demonstrable use of patients' feedback to improve services

- 3.11 As well as improving professional/patient relationships at the individual level, so that there is more open dialogue between them about worries and concerns, there also need to be processes for gathering feedback from patients systematically to inform service improvement.
- 3.12 PALS are being established in every Trust and PCT and will ensure that patient and user feedback is captured and fed back into the organisation and service development cycle.
- 3.13 The NHS Plan stated that "all patients leaving hospital will be given the opportunity to record their views about the standards of care they have received...". We are helping NHS organisations to achieve this by developing model comment cards. This will provide patients with a means by which to air their views, comments, compliments or complaints, and provide PALS with a mechanism to obtain continuous patient feedback. PALS will be able to collate and record the comments/concerns, and ensure that action is taken to address the issues raised.

- 3.14 The national patient survey programme will also yield information about the patient experience to further inform improvements in services and highlight key areas in need of development. *Your Guide to Local Health Services* will provide information about the NHS locally, including feedback from patients and the action taken as a result, as the latest phase in our promise to provide better information, strengthen local accountability and place patient views at the centre of service improvement.
- 3.15 Increasingly, NHS organisations are finding new ways to gather feedback, comments and suggestions from patients and their friends, relatives or carers, to demonstrate that patients' views are important and inform improvements in services.

Nottingham City Hospital is committed to providing the best possible care for patients, relatives and the general public. It has successfully piloted a system for capturing comments, suggestions and views – good and bad – about their experience of the services it provides.

The system is promoted through a ward-based leaflet campaign which provides users with a form on which to give any comments they may have, either by posting in a box on the ward, at reception or returning by FREEPOST to the Patient Communication Team.

The system is voluntary, confidential and there are systematic processes for analysing the feedback to build on and improve services.

Acting on concerns, getting the response right...

- 3.16 It is unlikely that all of the events that led 140,000 people to make formal complaints last year needed to be dealt with through the NHS complaints procedure. Often concerns which are relatively minor and easy to deal with can escalate unnecessarily. We will promote the active management of complaints and concerns so that they are dealt with as close as possible to when and where they arise, and are responded to quickly, effectively and proportionately.

PALS

- 3.17 Every NHS Trust and Primary Care Trust in England is establishing its own Patient Advice and Liaison Service (PALS) to provide information and on-the-spot help for patients, their families and carers. PALS staff will listen and provide relevant information and support to help resolve users' concerns quickly and efficiently, there and then, if at all possible. They will liaise with staff and managers, and, where appropriate, with other PALS services, health and related organisations, to help resolve complaints so avoiding the need for patients to make a formal complaint in most cases. They will also act as one of the gateways to independent advice and advocacy support for people wanting to pursue formal complaints and act as a force for change and improvement within the organisation as a whole.

The East Kent Acute Healthcare Trust has an established PALS to provide information on services, 'on-the-spot' help with problems and concerns and act as a catalyst for change and improvement.

Among the issues the PALS has dealt with are poor communication, lack of confidence in staff, bereavement, access to services, cancellations of appointments, cancellations of surgery and lack of care or treatment.

In 2002, the number of formal written complaints received across the trust reduced from 85 in January, to just 27 in June.

Modern Matrons

- 3.18 Modern matrons – each accountable for a group of wards and easily accessible to patients and their relatives to help resolve problems when and where they occur – will also contribute to the objective of addressing concerns before they escalate into formal complaints.
- 3.19 In addition to their direct role in responding to the concerns of patients or their relatives, matrons are helping to reduce complaints by discharging their wider responsibilities, which are at the heart of improving the patient's experience, and include:
- leading by example – demonstrating to other nurses the high standards of care NHS patients can expect,
 - making sure patients get quality care – driving up standards of care and leading work to improve professional practice and patient services,
 - making sure wards are clean – setting and monitoring standards and taking action to ensure that specifications are met,
 - ensuring patients' nutritional needs are met – so patients get the right meals, at the right time, and that they are able to eat them, and
 - making sure patients are treated with respect – ensuring their privacy and dignity are protected and making sure they are addressed in the way they choose.

Getting *local resolution* right, so that it's visible and effective

- 3.20 Inevitably, in the small minority of cases, things can and do go more seriously wrong. In these cases, a formal process is needed through which people can make their complaint and know that it will be addressed.
- 3.21 The primary aim of local resolution has always been to promote the active resolution of complaints and concerns – formal as well as informal – before they escalate as the most speedy and effective approach for all concerned.

Promoting good practice

- 3.22 *Local Resolution* is usually successful. The vast majority (around 98%) of complaints do not progress beyond the *Local Resolution* stage. But there are inevitably areas of good and bad practice, causing concerns about variations in how the complaints procedure operates from one organisation to another, from one area to the next. To promote consistency in the way *Local Resolution* operates across the NHS, we will produce a *Good Practice Toolkit* for local resolution, which draws on existing good practice and provides the basis for consistent training and development. This will support those dealing with complaints in ensuring that their approach meets best practice and make the complaints procedure easier to understand and operate. We aim to launch the *Good Practice Toolkit* later in Spring 2003.
- 3.22 The toolkit will be added to and developed over time to reflect any further reforms to the system and share good practice in relation to the *Independent Review* stage.

Visible and accessible

- 3.23 We will also promote and encourage more open and flexible access to the complaints procedure and other, less formal avenues for patients, their families and carers to raise their concerns. For example, NHS organisations should be able to deal with complaints made by e-mail in future.
- 3.24 We will also build on existing initiatives such as *NHS Direct* and *NHS Direct Online*, and others as they are introduced in the future, such as home digital TV, to provide both information on how to complain and new gateways into the complaints procedure.
- 3.25 In line with this thinking, we propose to enable patients to complain direct to their Primary Care Trust (PCT) – either informally through the PALS, or formally to the complaints manager – where they have concerns about a family health services practitioner but do not wish to raise these with the practice directly for whatever reason. PCTs, in turn, will have the role of ensuring that the complaint is dealt with – either by the practitioner, through conciliation or by conducting an investigation itself. PCTs will provide support and advice to FHS practitioners and promote good practice in handling complaints across their patch.
- 3.26 In addition, to promote consistency across the NHS, we propose to amend the existing time limits for local resolution of complaints so that they are consistent across primary and secondary care at 20 working days.

Providing the remedies, responses and support that people want

- 3.27 A common criticism of the NHS complaints procedure, which complements much of that about perceived weaknesses in the system for dealing with clinical negligence claims, is that neither really provides remedies and responses which people want. We want a system where responses to complaints deliver remedies more closely tailored to individual patients' needs – including explanations and apologies as well as practical measures – quickly and directly. We will review, in due course, existing guidance in relation to the financial redress and the relationship between the systems for dealing with complaints and clinical negligence claims – which are separate – in the light of the Chief Medical Officer's recommendations on clinical negligence reform.

Broadening the options for resolving complaints

- 3.28 Key to changing how the NHS deals with complaints is that there should be a more responsive and patient-focused approach, which is flexible about how resolution is achieved as well as what remedies might be available.
- 3.29 Conciliation is already used successfully in primary care, where it often provides the best means of reaching an understanding of the complainant's concerns and how to address them. Building on this, we will promote and facilitate the use of conciliation – as well as other forms of Alternative Dispute Resolution (ADR) – wherever possible, through the development of national standards and accreditation for conciliation providers.

Support for people making a complaint – Independent Complaints Advocacy Services

- 3.30 Making a complaint about an NHS service, or an individual member of staff, can be daunting. There is evidence that some people who might wish to complain don't do so because they don't know how, doubt they will be taken seriously or simply find the prospect intimidating. The NHS needs feedback from patients and users from all walks of life, and to avoid excluding individuals and groups from complaining we must provide support to help people articulate their concerns, which is independent when necessary.
- 3.31 Section 12 of the Health and Social Care Act 2001 places a legal duty on the Government to provide independent advocacy services to assist individuals making complaints against the NHS. *The Commission for Patient and Public Involvement in Health* (CPPIH) will identify and disseminate quality standards for *Independent Complaints Advocacy Services* (ICAS), set criteria for its provision and provide a national assessment of ICAS services. PCT Patients Forums will commission and/or provide ICAS for their local population against the standards set nationally by CPPIH. As well as PCT Patients Forums providing ICAS there will be a wide mix of ICAS providers to ensure that there is a range of expertise available. All providers will meet quality standards set by the Commission and be monitored against those standards.
- 3.32 ICAS will focus on helping individuals to pursue complaints about NHS services. It will aim to ensure complainants have access to the support they need to articulate their concerns and navigate the complaints system – maximising the chances of their complaint being resolved more quickly and effectively.
- 3.33 The service will be accessible through many avenues, including PALS and complaints managers at trust level. We will also promote access through other mechanisms, such as *NHS Direct*, as well as:
- national and local Departmental and NHS websites,
 - posters and general information leaflets in Trusts and GP practices across the country,
 - information on how to complain and reports on performance that are available to the public, such as patients prospectuses, and
 - advertisements in libraries, local press, the telephone book and the Yellow Pages.

How independent support can help resolve a complaint – example from Teeside Health Watch – Independent Complaints & Advocacy Service (ICAS) pilot

Mrs X was diagnosed with breast cancer, and told that her only option was to have a total mastectomy. She was not given the option of radiotherapy. Mrs X was very upset at this diagnosis and took some time to decide to go ahead with the mastectomy. Following surgery she did not feel that her care was up to standard. She came to the Teeside Health Watch for help in making a complaint. Along with her complaint Mrs X accessed her medical records. Following the written letter of complaint a meeting was offered with the Consultant to discuss the complaint. During the meeting it became apparent for the first time to Mrs X that her life would have been at risk if the mastectomy had not been performed. Mrs X then received a written response from the Trust and she was happy with the explanations given regarding her care.

- 3.34 Information about ICAS and the current range of pilot services is available at www.doh.gov.uk/complaints/.

Truly Independent Review...

- 3.35 Last year 140,000 people made a formal complaint and most were resolved at the local level. Only 3,500 (2.6%) felt the need to request an *Independent Review*. But as important as it is to promote pro-active resolution of complaints locally, it is also vital that people who remain dissatisfied by the response they have received from the *Local Resolution* process have access to a neutral and impartial review of their case which they can feel confident will provide a truly independent assessment of the facts.
- 3.36 The overwhelming consensus emerging from the evaluation and listening exercise which informed our review was that the *Independent Review* stage of the current procedure causes the most dissatisfaction with its users.

It “is not perceived by complainants to be impartial. Improving this aspect of the current procedure is the single most commonly cited suggestion for reform”. (Evaluation Report)

- 3.37 We will therefore reform the *Independent Review* stage radically – subject to legislation – by placing the responsibility for its operation with the new Commission for Healthcare Audit and Inspection (CHAI).

Providing true independence for Independent Review

- 3.38 We set out how we propose to change the way health and social services are regulated by establishing two new independent bodies – the Commission for Healthcare Audit and Inspection (CHAI) and the Commission for Social Care Inspection (CSCI) – in *Delivering the NHS Plan* (www.doh.gov.uk/deliveringthenhsplan).
- 3.39 The two new Commissions will:
- strengthen the accountability of those responsible for health and social services,
 - demonstrate to the public how the additional money being invested in these services is being spent and enable them to judge how performance is improving as a result, and

- achieve greater rationalisation of inspection arrangements for health and social care.
- 3.40 They will be responsible for independent scrutiny of NHS and social services, and for managing the independent stages of the NHS and social services complaints procedures respectively. Our vision for CHAI and CSCI, and an outline timetable to establish the new inspectorates, is set out in *The Commission for Healthcare Audit and Inspection and the Commission for Social Care Inspection – Statement of Purpose* (www.doh.gov.uk/statementofpurpose).
- 3.41 Giving CHAI and CSCI responsibility for *Independent Review* of complaints, and our vision for how the Commissions will exercise the function, will provide:
- the necessary independence for the Independent Review stage,
 - speedier resolution of complaints by allowing certain cases to be referred to the Ombudsman more quickly than is possible at present, and
 - a direct link into quality improvement processes.

Speedier, more effective resolution

- 3.42 It can sometimes take 18 months or more to exhaust all elements of the NHS complaints system – from *Local Resolution* to an Ombudsman's report. We will change this – so that the system is more flexible and focused explicitly on effective resolution of complaints. This will be simpler for those who complain, and allow sensible judgements about the kind of investigation most likely to address the issues they are concerned about and provide the outcome they are looking for. How we plan to achieve this is set out in more detail below.

Robust assessment of cases, more options

- 3.43 Where they are dissatisfied following the Local Resolution stage, people complaining will be able to ask CHAI to review their case. CHAI's primary function in relation to complaints will be to assess how best to resolve each case, whether further action is required and, if so, what and by whom. It will have a range of options available and be able to:
- make recommendations for further action by the NHS organisation complained about – for example, if there are shortcomings in the way a complaint has been dealt with,
 - investigate cases in detail – either with the focus on resolving the individual complaint, or in the context of an inspection or inquiry about failures within the organisation complained about, or
 - refer cases to the Ombudsman, where the case is particularly complex.
- 3.44 CHAI will also be able to support and promote systematic use of feedback from complaints to drive continuous improvements in NHS services, through its wider inspection and review processes.

- 3.45 Where complaints fail to be resolved after CHAI's recommendations have been followed through, complainants will still have final recourse to the Ombudsman. The Ombudsman will be able to consider cases referred to her by CHAI, as well cases where the complainant still remains unhappy following action by CHAI, and will be able to make her own recommendations for resolution and redress.

Harmonisation with social care

- 3.46 Both CHAI and CSCI will have equivalent roles in relation to complaints about NHS and social services respectively, and will have a duty to co-operate with each other where complaints cut across health and social care. Subject to legislation, consequent changes to the underpinning legislation for both complaints procedures to allow cross-cutting complaints to be dealt with through the parallel operation of both procedures where appropriate. In this way, we will address the difficulties which currently exist for patients with complaints about services which are commissioned or provided under joint working arrangements or by Care Trusts.

Integrating complaints into wider systems...

- 3.47 As well as looking for explanations – and apologies where appropriate – reassurance that the same mistakes will not be repeated so that no-one else need have the same negative experience is high among the reasons that motivate people to complain. It is imperative that information about complaints and their causes form part of the system to assure safe, high quality care which is constantly improving and meets professional and patient expectations.

Clear responsibilities

- 3.48 The responsibility for effective management of complaints lies with the Board of each organisation in the NHS, and each will be required to identify an individual at Board level to take overall responsibility for the investigation of and learning from adverse events, complaints and negligence claims. Taking responsibility at the highest level within NHS organisations for the quality of complaints management, ensuring appropriate action is taken to address the issues highlighted by complaints and making sure lessons are learned, to minimise the chance of mistakes recurring, will reflect the important role complaints play in helping to improve services by prompting action to facilitate learning from mistakes.
- 3.49 We will support Board members to understand and meet their responsibilities. The aim for Boards will be to ensure that:
- information from complaints and other sources of feedback is taken seriously within their organisations,
 - complaints handling is supported by adequate resources,
 - complaints and concerns are acted on,
 - systems for dealing with complaints are integrated with clinical governance and risk management processes and systems for improving the patient experience, and
 - trends in the subjects of complaints are identified and that lessons are learned.

Improving quality and the patient experience

- 3.50 Safe, high quality, and co-ordinated care are essential features of a positive patient experience. Since the renewed focus on service and clinical quality and the introduction of a statutory duty of quality, a great deal has been achieved to assure patients of technical and clinical safety, and efficacy of care and clinical practice.
- 3.51 We have introduced a comprehensive programme of initiatives to maintain and improve quality and clinical excellence in the NHS. These include the clinical governance programme, promotion of evidence based clinical practice through clinical guidelines, audit and the national service frameworks, and a new adverse incident reporting system, as well as reform to the system for professional regulation and development. These have been supported by the establishment of specialist organisations including the Commission for Health Improvement (CHI), the National Institute for Clinical Excellence (NICE), the National Patient Safety Agency (NPSA) and National Clinical Assessment Authority (NCAA) and the Modernisation Agency, as well as reform to the existing professional regulatory machinery.
- 3.52 Through its promotion of effective risk management through the system of incentives within its Clinical Negligence Scheme for Trusts (CNST), the NHS Litigation Authority (NHSLA) has also played a key role in promoting quality among its scheme members.
- 3.53 We will promote the use of complaints and information about them within this wide programme of initiatives to ensure that the patient experience is embedded within the quality agenda.

Developing the workforce

- 3.54 The *NHS Plan* says, “NHS staff, at every level are the key to reform”. Giving front-line staff greater control over the way local health services are delivered is at the heart of our overall reform programme. To better support and involve staff in improving care for patients, we aim to liberate the talent and skills of all the workforce so that every patient gets the safe, high quality and responsive care that they need. The active involvement of staff in their own development is essential if we are to achieve the vision of a patient-centred NHS.
- 3.55 The NHSU – the ‘university for the NHS’ will contribute to the transformation of the NHS. It will help to secure radical improvements in healthcare by delivering learning for everyone involved in health and social care. It will play a key role in implementing policies for lifelong learning, the realisation of a ‘skills escalator’ and the development of improvement science in healthcare delivery (www.nhsu.nhs.uk).
- 3.56 So that all staff receive the training and support they need to enable them to deal with patients’ concerns quickly and effectively, we will work to ensure that the skills and competencies needed to deal with complaints effectively have the profile they deserve within education, training and professional development. We will also support the development of skills among those with specific roles in dealing with complaints and concerns.
- 3.57 As a first step, we are facilitating the development of a validated and accredited specification for a core curriculum and competency framework for education and training to improve NHS services through the effective management of complaints. This will be tested in collaboration with NHS staff and will inform the production of e-learning materials in collaboration with the NHS University and NHS Information Authority. It will complement training initiatives being developed by the National Patient Safety Agency to support the promotion of patient safety approaches in the NHS. We aim to ensure these products are available for piloting in the Spring, with a view to their being launched in Summer 2003.

4 A programme for reform...

- 4.1 The vision we have outlined for dealing with complaints and concerns, and how we aim to achieve it, reflects the very nature of the process of modernisation which the NHS as a whole is embarked upon. It will be achieved through a combination of changes to the structure and operation of the complaints procedure itself, recognition of complaints within the context of wider systems for promoting quality and the patient experience, and cultural change among NHS staff and the patients they serve. It will not become a reality overnight.
- 4.2 A programme of reform and development is required to deliver the changes needed, including primary legislation, procedural change and organisational and workforce development. This will be supported by the development of clear national standards and new systems for assessing and monitoring performance against them through the establishment of CHAI.

Reform to stage 2

- 4.3 Because of the need for primary legislation to establish them, CHAI and CSCI will not be fully operational before April 2004. This dictates the timetable for comprehensive reform of the NHS complaints procedure as a whole. Technical changes to the procedure itself will be made as part of the process for establishing the CHAI complaints function and reform to stage 2. It follows that there will be no significant changes in the short term.

Establishing the CHAI complaints function

- 4.4 *The Commission for Healthcare Audit and Inspection and Commission for Social Care Inspection – Statement of Purpose* set out the arrangements which are in place to ensure that this work is appropriately managed and that the transition to CHAI and CSCI is seamless. The Department of Health has established implementation teams, which include senior secondees from the existing organisations to help establish CHAI and CSCI. Project Boards have been established including senior representatives from the bodies whose functions are coming together in CHAI and CSCI.
- 4.5 To complement these arrangements, the Department will work with representatives from the organisations and groups who hold a stake in the operation of CHAI complaints function – not least the Ombudsman given the need to complement her role – to inform and feed into its implementation.

Developmental approach to change

- 4.6 In the meantime, the current complaints procedure will continue to operate. We will, however, pursue supporting initiatives to reinforce the many messages from the evaluation and listening exercises which point to improvements in the general approach to complaints in the NHS, and to reinforce the reforms which will come about, subject to primary legislation. In the short term, therefore, will be concentrating on initiatives to:

- improve accessibility,
- change attitudes to complaints, customer awareness and communication skills,
- promoting harmonisation between NHS and Social Service complaints procedures through the agreement of common principles and protocols,
- development of PALS and support for complainants through establishment of ICAS, as well as,
- developing organisational competence and capacity in PCTs and StHAs through the Modernisation Agency and strengthening the management of performance of complaints handling.

4.7 To support improvement in these areas, we expect to launch in Spring 2003:

- a national specification for training in complaints investigation and dispute resolution,
- training seminars for NHS Board members and staff in relation to their role in ensuring complaints are managed effectively,
- a good practice toolkit to support improvements in the delivery of local resolution – to which we will add as reforms to the independent review stage come about, followed later by
- a new Clinical Assessors Database, as well as,
- nationwide provision of independent advocacy services for people making complaints.

4.8 In addition, we will consider any implications for the development of complaints handling, in the light of the Chief Medical Officer's recommendations for reform to the system for dealing with clinical negligence claims when they are published.

5 Conclusion

- 5.1 In this document we have set out how we plan to reform the NHS complaints procedure as well as the context within which it operates. The aim is to see that complaints, concerns and problems are dealt with properly whenever and wherever they arise, that responses are relevant and appropriate and that the NHS manages complaints information as an integral part of systems for constantly improving the quality of services provided to patients.
- 5.2 The package we have outlined will address both the structural change necessary to improve the procedure itself, as well as support the organisational development required to deliver real change to complaints handling. As a result, the NHS will be more responsive overall to patients when they express concerns about the care that they receive.
- 5.3 Dealing with complaints and concerns effectively is a crucially important element of patients', carers' and users' experience of the NHS, and therefore a key part of our programme for improving people's overall experience. The ability to use complaints positively in the context of clinical governance and other processes for maintaining and improving quality and clinical safety is also important if we are to deliver a service which is truly centred around patients and their experience of the treatment and care the NHS provides.

Appendix 1: Background, evaluation and listening exercises

Background

The current NHS complaints procedure was introduced in 1996 following the Wilson report *“Being Heard”* which was published in 1994. From the outset, there was an explicit intention and commitment to evaluate the complaints procedure once it was established with a view to considering whether any improvements were necessary.

This document follows a lengthy evaluation study, which involved consultation with a cross-section of people with experience of the NHS complaints procedure. The evaluation team’s findings reflected the views of complainants and patient representatives as well as NHS staff who have either had complaints made against them or are involved in running the complaints management system. The evaluation study was followed by a comprehensive listening exercise in which all those with an interest in the complaints procedure had a chance to express their views in relation to the suggestions for improvement made by the evaluation team.

The Evaluation Study

The first stage of our review of the complaints procedure involved an independent, 2-year, UK-wide study of the system, commissioned by the Department of Health in collaboration with its counterparts in the devolved administrations. The study was carried out by a team comprising of the York Health Economics Consortium and NFO System Three Social Research during 1999 and 2000.

The terms of references for the study were:

“to provide an evaluation of how the new complaints procedures are operating across all parts of the NHS...and to meet the information needs of policy makers and managers concerned with the future development of the system”.

Evaluation research methods

To ensure that the evaluation was informed by the views of as wide a range of people as possible to obtain a practical and realistic analysis based as far as possible on the actual experiences of those using and operating the procedure, the research study included:

- Over 4000 questionnaires sent to chief executives, complaints managers, conveners, lay chairmen and panel members, conciliators, and clinical assessors,
- Over 300 interviews with complainants, staff complained against, and regional & national complaints leads,
- Focus group meetings with those associated with primary care,

- Workshops with key stakeholders, and
- Analysis of written submissions and meetings with NHS staff and individuals with experience of the complaints procedure.

Overall the team conducted:

- 315 Interviews with complainants and NHS staff complained against,
- 9 Focus groups with 83 attendees, and
- 9 initial Stakeholder workshops, four workshops at the end of the first year, and a final series at the end of the project.

The evaluation began in January 1999 and a final report was submitted in March 2001. The findings and recommendations for change were outlined in *NHS Complaints Procedure – National Evaluation*, published in September 2001 at the same time as *Reforming the NHS Complaints Procedure: a listening document*.

Key issues identified by the evaluation study

The evaluation confirmed that, whilst patients and staff alike continue to support the principles of local resolution and independent review, the process can be cumbersome and distressing for all involved and there are areas where patients, NHS organisations and their staff agreed there was scope for improvement:

- Many complainants felt dissatisfied with their experience of the complaints procedure and were unhappy with the length of time it took to deal with their complaint, both at local resolution and for independent review.
- Similarly, those involved in operating the complaints procedures felt that it was time-consuming and costly to operate, particularly independent review, and that the performance targets relating to the timescales for deciding on and conducting an independent review are difficult to meet.
- Many complainants felt that attitudes to them and communication by staff was poor and that information and support for complainants should be improved.
- There is a strong perception that the procedure itself is not sufficiently independent from those being complained about, with particular concern about whether the role of the convener allowed the Independent Review stage to be sufficiently independent.
- Both complainants and staff felt that there was no systematic way of ensuring that lessons were learned from their experiences of services, and of the complaints procedure, or for making improvements to service provision as a result.

Based on what the evaluation study told them, the evaluation team made 27 detailed suggestions about how the complaints procedure and arrangements for managing it could be improved. These are set out in Appendix 2, and in general terms focus on the need to:

- change the way the NHS deals with complainants by:
 - ensuring that all staff receive the training and support required to enable them to deal with patients' concerns quickly and effectively so that a higher proportion of complaints and concerns are resolved when first raised
 - providing improved support and advice for patients and
 - improved communications between patients and staff
- develop and support consistency across the NHS by:
 - providing better quality guidance and support by utilising and sharing good practice across the NHS
 - making the complaints procedure easier to understand, more accessible and simpler for staff to operate, and
 - placing responsibility for effective management of complaints at a sufficiently high level within individual organisations
- ensure that the Independent Review element of the complaints procedure is genuinely independent and that complainants have access to the support that they need to articulate their concerns and navigate the complaints system to maximise the chances of their complaint being resolved as quickly and effectively as possible
- strengthen monitoring and accountability within the procedure by:
 - ensuring Trust Boards are accountable for monitoring of the quality of complaints handling within their organisation and ensuring that action is taken as a result of them, and lessons learned
 - involving patient representative organisations in monitoring of complaints handling and action to improve delivery of services
 - supporting accountability and monitoring at national level within the performance assessment framework.

The full evaluation report is available on the Department of Health complaints web-pages at www.doh.gov.uk/complaints/evaluation.

Listening Exercise

Reforming the *NHS Complaints Procedure: a listening document* was published at the same time as the National Evaluation Report in September 2001. The listening document drew on the issues and suggestions raised by the evaluation team and sought views of reforms to make the system fairer, more consistent and effective and less distressing.

The listening document asked for the views of patients, the public and staff on the proposals suggested to improve the process and reiterated the commitment set out in the *NHS Plan* to consider reforms to the complaints procedure in the light of what the evaluation study told us.

Publication of the listening document launched a six-week listening exercise. As part of the listening exercise, the Department of Health hosted a series of regional events throughout the country to gauge views from NHS staff and patient representative groups, including CHC staff. In addition, the Department commissioned Opinion Leader Research to seek the views of people in socially excluded, hard-to-reach groups, for example children in care, young runaways, homeless and rough sleepers, people with mental health problems and ex-prisoners.

We received nearly 600 written responses to the listening exercise from the full range of groups with a stake in how the NHS complaints procedure operates, including:

- NHS organisations [Chief Executives, Chairmen, complaints managers and conveners were targeted]
- Patient Representative Groups
- Community Health Councils
- Voluntary organisations
- Professional and regulatory bodies
- Local Authorities
- Individual patients and members of the public.

The listening exercise was completed on 12 October 2001.

The response to the listening document confirmed the key issues which need to be addressed and what the priorities for changing the complaints procedure should be. Building on the concerns outlined in the national evaluation report, feedback from the listening exercise reinforced the need to:

- See complaints as a chance for getting feedback on why things go wrong and how they can be improved
- Get local resolution right as this could, and should be the best solution for all involved
- Reform independent review to make it fair and unbiased
- Invest in training for staff so they can confidently handle complaint
- Allocate staff and resources for the system to be supportive, effective and time-efficient
- Harmonise NHS and social services complaints systems.

Feedback from the listening exercise also identified the following areas that we should concentrate on to improve the complaints procedure, which are:

- Improved accessibility and making it easier to complain
- Monitoring and accountability
- Guidance and support
- Time scales for dealing with complaints
- Mediation and conciliation
- Scope for patients to complain direct to Primary Care Trusts in relation to family health service practitioners
- Scope to bring certain complaints to the attention of the Ombudsman more quickly.

The issues highlighted have helped identify the way forward for improving the NHS complaints procedure and the areas which it is best to focus on. These are:

- Encouraging, empowering and supporting staff to take a patient-centred, more positive approach to complaints and concerns
- Improving accessibility and communication of information to patients
- Providing genuinely independent support for people wishing to make a complaint
- Raising expectations in relation to investigation of complaints at the local resolution stage so that investigations are more thorough and can provide the basis for making judgements about appropriate redress
- Reforming the Independent Review stage so that it is completely independent and has the confidence of patients and staff
- Developing a new Clinical Assessors Database to support a more effective 2nd stage
- Clarifying roles and responsibilities of the different players inside and outside the NHS to promote accountability, better quality monitoring, performance management and learning from complaints
- Promoting harmony between the systems for dealing with complaints about health and social services.

Appendix 2: NHS Complaints Procedure – National Evaluation

Summary of policy implications

Local Resolution

1. The board of every NHS organisation should be held accountable for the performance of the organisation in handling complaints. In particular, the board should ensure that: (a) all staff are adequately trained to deal with complaints and are supported in the event of a complaint being made against them. Training in handling complaints should be a compulsory part of induction and continuing education; (b) staff managing complaints are appropriately trained, have adequate administrative resource and access to senior managerial supervision and support; (c) the complaints procedure is integrated into the clinical governance/ quality framework of the organisation.
2. The board of an NHS organisation should insist on receiving appropriate information at least quarterly on the causes of complaints and on the action which has been taken, or is proposed, to prevent recurrence. The board should take responsibility for ensuring that agreed actions are implemented.
3. The quarterly report to the board should provide an analysis of the causes of complaints, emerging trends and the action taken (or proposed) to prevent recurrence. This report should be presented to the board in person by the complaints manager or the chief executive.
4. The quarterly report to the board should be copied to the local health council (or equivalent), the proposed Patients' Forum in England and equivalent organisations which may be established in Scotland, Wales and Northern Ireland. The chief executive of the trust or health authority/ board should invite these organisations to monitor the implementation of action plans agreed in response to complaints.
5. The regional offices of the NHS Executive in England and the appropriate central NHS bodies in Wales, Scotland and Northern Ireland should be required to demonstrate that complaints- handling is an explicit part of the performance management of chairs and chief executives. These bodies should ensure that the information available to them is timely and relevant to this responsibility.
6. Consideration should be given to the development of a National Service Framework or its equivalent for the management of complaints. A service framework would provide clear guidance to NHS organisations on the standards which are expected and it would establish a framework for performance management.
7. The same principles should apply to family health services as to other services. The board of a primary care group (PCG), (local health group (LHG) in Wales) or primary care trust (PCT) should have the responsibility in relation to complaints against contractors which currently lies with the health authority. In particular:
 - The board should work with practices in order to assist members in ensuring that acceptable procedures are in place to deal with complaints

- The board should receive information quarterly from practices on the causes of complaints and on action taken or proposed
 - Where appropriate, the board should offer support to practices in dealing with complaints.
8. The board of a PCG/ LHG/ PCT should be responsible for providing access for complainants to a named individual whose responsibility it is to handle complaints about member practices.
 9. Where primary care groups do not yet exist (as in Northern Ireland), alternative approaches will need to be considered to improve the handling of FHS complaints.
 10. Less discretion should be available to individual organisations to decide the functions of, and resources available to, the complaints manager. More detailed guidance should be offered from the centre, based on an analysis of current best practice.
 11. The complaints manager should play a central part in ensuring that front-line staff are adequately trained and supported in dealing with complainants. Training should be provided on a regular basis.
 12. Wider use of conciliation should be encouraged. Organisations should review their policy on offering conciliation and should assess the availability of trained conciliators locally. Trusts and health authorities/ boards, in conjunction with the relevant regional or central NHS bodies, should then address remuneration, recruitment and training needs.
 13. There does not appear to be any compelling reason why targets for a full response to a complaint at local resolution should be shorter for FHS contractors. Performance targets should be the same in all sectors.
 14. It is not reasonable that staff should be subject indefinitely to the threat of a complaint and, subject to the exercise of discretion in appropriate cases, the existing time limits on complaints should be retained.
 15. Central NHS bodies in England and Wales should disseminate examples of good practice in dealing with vexatious complainants.

Independent Review

16. The criteria for granting an independent review should be publicised and should be applied consistently throughout the NHS.
17. Although a decision must be made in each country, consideration should be given to the proposal that in future both the convening decision and the conduct of a review should be the responsibility of a regional or sub-regional lay panel appointed for the purpose.
18. A further decision must be made in each country about the framework within which a lay panel would be accountable. Two options have been suggested:
 - Panels are accountable to the regional offices of the NHS Executive (in England) or to the relevant national or sub-national bodies in Scotland, Wales and Northern Ireland
 - Panels are accountable to regional or sub-regional offices of a new national complaints authority which is independent of the NHS locally and regionally

19. If regions are to have greater responsibility for Independent Review, there must be a clear statement of the minimum standards which are expected and a commitment from the centre that regional directors will be assessed on their performance in managing the Independent Review procedure.
20. Further consideration should be given to the suggestion of the Health Committee that an independent review panel should have formal powers to summon witnesses and take evidence. In addition, the Health Service Commissioner should be consulted about the feasibility of a 'fast-track' procedure and, if appropriate, might be asked to suggest a protocol for referral.
21. The board of an NHS organisation should take active responsibility for all aspects of complaints-handling. The board should receive a copy of an independent review panel (IRP) report relating to the organisation (or to a member practice in the case of a PCG/ LHG/ PCT). The board should accept responsibility for ensuring that an action plan is produced and that agreed actions are implemented.
22. The regional and national bodies responsible for NHS performance should ensure, through the performance management framework, that an acceptable action plan is produced following recommendations of an IRP and that the plan is implemented. Regional and national bodies should receive copies of all relevant IRP reports and the action plan which is produced in response to a report.
23. IRP reports and action plans should be copied to the local health council (or equivalent), the proposed Patients' Forum in England and equivalent organisations which may be established in Scotland, Wales and Northern Ireland. One of the functions of the local health councils/ Patients' Forum should be to monitor compliance with agreed action plans.
24. In England, a report of an Independent Review panel, together with the agreed action plan, should be copied to the Commission for Health Improvement.
25. There should be a review of the training offered to all those involved in the complaints procedure. There is a need for more central guidance in order to reduce the extent of variability between organisations in the amount and type of training which is offered. There may be a need to make some training compulsory, particularly for convenors, chairs and other lay members.
26. In Scotland and Northern Ireland the list of clinical assessors was recently updated but in other parts of the UK it is acknowledged that the list is out-of-date and in need of revision. This should be addressed as a matter of urgency by the NHS Executive centrally. Consideration should be given to whether current fee rates for assessors and advisers are adequate.
27. Consideration should be given to standardising expenses and subsistence payments for chairs and lay members and to replacing loss of earnings compensation with an annual retainer or a fixed fee per case.



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