



National Waiting Time Centre Board

Complaint Policy

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Purpose and Structure of the Complaints Policy and Procedure

This Complaints Policy and Procedure (the Policy) sets out how the National Waiting Times Centre Board (Golden Jubilee National Hospital and Beardmore Hotel & Conference Centre) (NWTC) will deal with the comments, concerns and complaints of the people who use its services. It is in five parts:

- Part 1: provides an overview of the complaints procedure
- Part 2: places the complaints procedure in context as the final stage of a patient-focused quality improvement process by which the NWTC encourages feedback from the people who use its services
- Part 3: provides guidance on the operation and handling of the complaints procedure
- Part 4: contains information on related policies, procedures, legislation etc which may be useful in dealing with a complaint

Part 1 Overview of the Complaint Procedure

- 1.1 The NWTC is committed to delivering high quality, patient-focused healthcare and to using the views and experiences of the people who use its services as part of a process of continuous quality improvement. Wherever possible, the comments and concerns of patients and their families will be dealt with as they arise.
- 1.2 However, there will be occasions where an individual will be dissatisfied with the explanation or apology given and want to complain. Where this happens the service provider will attempt to resolve the complaint as directly and quickly as possible, with the primary aim of being fair to both the person making the complaint and to those who delivered the healthcare. The most satisfactory outcomes are achieved when a complaint is dealt with fully and effectively at this 'local resolution' stage.
- 1.3 Local resolution seeks to provide prompt investigation and resolution of a complaint at local level, aiming to satisfy the person making the complaint whilst being fair to staff. It is important that staff seek to assist complainants in finding a solution to their concerns at a local level. If staff are unable to deal with a complaint, details should be forwarded to their line manager or to the Risk Management Facilitator.
- 1.4 Where the person making the complaint remains dissatisfied with the outcome of local resolution, they may ask the Scottish Public Services Ombudsman (www.spsso.org.uk), who is independent of the NHS, to review their case. The person complained against can also seek an Ombudsman review in certain circumstances.
- 1.5 The NWTC clinical governance arrangements include procedures for ensuring that information gained from patient feedback, including complaints, is used to improve service quality.
- 1.6 The White Paper, *Partnership for Care* requires the NWTC to ensure that its 'services recognise and respond sensitively to the individual needs, background and circumstances of people's lives'. This requirement, which is now underpinned by a statutory duty to 'encourage equal opportunities', applies to our arrangements for handling complaints.

- 1.7 The Race Relations Act also places a legal obligation on the NWTC to actively promote race equality in all their work and requires them to ensure that they comply with the general duty to:
 - Eliminate unlawful racial discrimination
 - Promote equality of opportunity, and
 - Promote good race relations
- 1.8 This policy will use the *Equality and Diversity Impact Assessment Toolkit* to ensure our local arrangements fully meet the needs of potentially disadvantaged individuals or groups: This includes ensuring ready access to translation and interpretation services, including those for people with sensory impairment, and the provision of appropriate independent support and advocacy services for all who need it.
- 1.9 The NWTC will ensure that anyone wishing to make a complaint is provided with a copy of the Health Rights Information Scotland's leaflet '*Making a complaint about the NHS*' and information on accessing an independent advice and support service.

Part 2: Learning from Comments and Concerns

2.1 A Patient focused NHS

- 2.1.1 The NWTC aims to provide effective and efficient health care to the people of Scotland. However, in the thousands of encounters between the NWTC and the people it serves each day, there will inevitably be occasions when we will fail to meet our own expectations or those of the people who use our services. That is why we want to establish a modern, patient-focused healthcare system which:

"Listens to and acts on complaints from those who feel let down by the service they have received. It must also be quick to learn from what patients say has worked well for them" (*Our National Health: A plan for action, a plan for change, 2000*).
- 2.1.1 Our emphasis is on putting people, their views and experiences at the centre of the planning and delivery of our services; on tackling the shortcomings that concern the people who use our services; and on proactively addressing any comments or concerns they may have about the service they have received.
- 2.1.2 We are working to strengthen the voices and influence of people who use our services. We use a range of approaches and opportunities to hear their concerns, suggestions, worries or comments, learn from them and change the way that things are done. We must encourage meaningful involvement of those who know how services are currently delivered, and make a special effort to hear from those whose voice is not normally heard or who would otherwise be excluded. The NWTC is creating a culture where comments and suggestions are welcomed and acted upon by the staff delivering the care.
- 2.1.3 Being patient-focused puts people first. The NWTC will seeks to
 - Get to know and respect the people who use our services – and those who care for them
 - Treat the people who use our services as individuals who should be involved in decisions about their own care
 - Provide the people who use our services with clear, explicit and accessible information about local standards of service

- Listen to, understand and act upon the views, comments and expressed needs of the people who use our services
- Keep the people who use our service informed and involved
- Maintain politeness and mutual respect at all times
- Ensure that their services are accessible to all.

Local services must also:

- Train and support their staff to respond flexibly and sensitively to the specific
- Needs of individuals
- Ensure quick and effective action is taken to improve services
- Provide feedback on the action taken.

2.1.4 At all times NWTC staff will treat patients, carers and visitors politely and with respect. However, violence, racial, sexual or verbal harassment of staff will not be tolerated.

2.2 Active Listening

2.2.1 An important way to improve services is to listen to, understand and act upon the views and experiences of the people we serve. Most people do not actually want to enter a formal complaints procedure. However, they often feel they have no other recourse in order to communicate effectively with the people who could change things. Some of our service users may feel disempowered that they would never complain – or even voice their real concerns because they do not want to make a fuss or draw attention to themselves or because they are worried that their care could be prejudiced in the future. If this is the case then we may not be able to meet our objective of delivering quality improvement because many observations, worries or concerns will never reached the system.

2.2.2 As the people who use our services may have interesting and informative contributions to make to help improve these services, we must develop feedback systems that encourage them to express their views. We must become more responsive to the needs of the people we serve and focus on action to meet these needs by:

- Encouraging suggestions and comments as opportunities for change
- Ensuring that individuals are given the help they need to have their voice heard
- Providing staff with the training and support to consistently display sensitivity and understanding to people who are at a vulnerable and stressful point in their life
- Empowering staff to listen to and act upon the suggestions of the people they care for
- Letting people who use our services see action being taken to change a negative experience into one that empowers
- Forming a partnership between staff and patients that will improve the quality of care for everyone who uses that service.

2.2.3 It is communication that links every part or process of health and healthcare and good communication is key to delivering a patient-focused NHS. However, communication skills are such a fundamental part of everyday life that they are too often taken for granted. The reports of the Scottish Public Service Ombudsman repeatedly show that communication failings have a very significant impact on an individual's

treatment and general wellbeing. Effective communication with our patients, their families and carers when they are anxious and vulnerable is a skill, which requires care and attention.

- 2.2.4 The way in which we communicate is particularly important for people who may be marginalised whether on the grounds of their race, disability, sexual orientation, age, gender or religion. It is essential that local services develop an inclusive communications approach, which meets the specific requirements of individuals from these groups.
- 2.2.5 The most effective way of improving the quality of local services is therefore to listen to, understand and act upon the views and concerns of the people using our services. This requires local services to:
- Be open and honest
 - Show sensitivity and understanding
 - Use the appropriate method of communication for the situation and the individual
 - Use appropriate language for each group or individual
 - Listen to what is said and be sensitive to the reaction of others
 - Provide effective feedback
- 2.2.6 The NWTC will therefore ensure that all services, have effective 'patient focused' arrangements in place to encourage feedback from the people who use these services and that this feedback is dealt with quickly and sensitively in a way which ensures that lessons are learnt and shared

2.3 Comments and Concerns

- 2.3.1 Patients/guests often raise issues about which they are unhappy, without wishing to make a formal complaint. In many instances, they will simply be concerned and wish to receive an explanation and – if something has gone wrong – an apology. As these suggestions may be made to any member of staff, it is important that all staff are trained to welcome users of our services' views and see them as an opportunity to improve our services.
- 2.3.2 Staff should respond positively and appropriately if a patient/guest raises a concern. Staff should:
- Ensure that the complainant's immediate health care needs are being met before dealing with the suggestion or comment rapidly, sensitively and confidentially
 - Discuss the matter of concern with the complainant, encouraging them to speak freely
 - Provide an honest and objective response. The response should be given verbally, unless the patient/guest has requested a written reply or the member of staff considers a letter is appropriate. Oral responses should be given on the spot or, where this is not possible, a timescale for a way forward should be agreed with the complainant. The response should include an explanation, an apology where appropriate and indicate what is being done to avoid the problem happening again. Any oral or written response about a clinical matter should be agreed with an appropriate clinician.
 - Where a complainant has requested it, issue a written response, approved where appropriate by a clinician or senior member of staff. Details of the

concern and a copy of the written response should be sent to the Risk Management Facilitator

- Consider, based on their assessment of the situation, the nature of the concern, and their knowledge of any previous similar situation(s), what action is appropriate to share the information and ensure that the organisation learns from the process.

2.3.3 Staff should also understand that where they feel unable to respond themselves that they can:

- Call on the support of an appropriate senior member of staff, or
- Offer the complainant the option of discussing the matter with someone not directly involved in their care, for example someone from another ward or department, the Risk Management Facilitator or an independent advice and support organisation.

When asked to provide this type of support, staff should, ideally, respond immediately, but where this is not possible a timescale for a way forward should be agreed with the complainant.

2.3.4 If the complainant remains unhappy after receiving an oral or written response, they should be advised of the next appropriate step and given a copy of the Health Rights Information Scotland's leaflet *Making a complaint about the NHS*. This may involve the offer of speaking with a more senior member of staff or writing to the organisation's Complaints Officer, who is the Risk Management Facilitator. Complaints staff will be able to assist the complainant put their complaint in writing or, if they wish, put them in touch with an independent advice and support service.

2.4 Compliments

2.4.1 The potential value of complimentary remarks should not be underestimated. Local arrangements are in place to identify, recognise and where appropriate share the learning from good individual or team practice.

Part 3: The NWTC Complaints Procedure

3.1 An effective complaints procedure

3.1.1 The NWTC aims to operate a complaints procedure, which is credible, easy to use, demonstrably independent, effective and sensitively applied. Making a complaint can be stressful both for those making the complaint and for the staff involved. Local arrangements are designed to be fair to both sides, supporting the person making the complaint and the staff named in the complaint. These arrangements also ensure that the NWTC can learn and grow positively from the experience.

3.1.2 The NWTC arrangement:

- Are well publicised and accessible to all
- Provide an opportunity in a supportive, open environment, for investigation and resolution of a complaint with the minimum of delay, with the aim of reassuring the individual making the complaint, being fair to staff complained against and supporting organisational learning

- Contribute to achieving a patient-focussed health service where comments and suggestions are welcomed as a learning opportunity
- Ensure that everyone, regardless of their race, age, religion, sexual orientation, gender or any disability or sensory impairment, has equal access and support in raising a complaint through the provision of readily available advice and support services, including advocacy, interpreting and translation, and the provision of information in other formats, including British Sign Language, Braille, etc
- Have clear lines of accountability for complaints management and are integrated into the organisation's clinical governance and quality improvement arrangements
- Seeks to provide a response that fully addresses the matters raised in the complaint within a reasonable time frame.

3.2 Who can complain?

3.2.1 Complaints may be made by:

- A patient or former patient
- Any appropriate person in respect of a patient who has died, e.g. the next of kin or their agent
- Someone on behalf of an existing or former patient e.g. a patient's parent, carer, guardian or a visitor; an MP, MSP or local Councillor; or an advocate or member of an independent advice and support organisation.

3.2.1 Where someone other than the patient or their authorised agent wishes to make a complaint, they should be advised that they must be able to demonstrate that they have obtained the patient's (normally written) consent to:

- Make a complaint on their behalf;
- Members of staff examining the patient's health records, if this should prove necessary as part of the investigation of the complaint.

3.2.2 It is for the Risk Management Facilitator, possibly in discussion with the Chief Executive, to determine whether the person making a complaint is suitable to represent a patient. This decision will depend; in particular, on the need to respect the confidentiality of the patient, for example, the patient may have made it known that their information should not be disclosed to third parties. If it is decided that a person is not suitable to act as the patient's representative, they must be provided with an explanation in writing outlining the reasons for that decision.

3.3 What can be complained about?

3.3.1 The potential subject of a complaint is wide and not just related to medical care. A complaint may, for example, be about a decision taken by the NWTC that is likely to affect the person making the complaint. Each complaint must therefore be taken on its own merit and responded to appropriately.

3.3.2 However, this Policy primarily deals with concerns about the provision of care and hotel services, or about issues related to or having an impact on patient care and the provision of services. Complainants or their authorised representatives may raise issues or concerns about any care or service provided by the NWTC.

3.4 What the Policy Doesn't Cover

- 3.4.1 Members of the public, including patients, may raise concerns with NWTC, which we need to address, but which do not fall within the scope of the NHS Complaints Procedure. The NWTC will ensure that there are other appropriate management processes in place to deal with these concerns, which might include:
- Matters which are/have been subject to an NHS consultation process or where there are other appropriate avenues for comment
 - Complaints about the way a candidate perceives an NHS job interview to have been conducted.
- 3.4.2 The NHS Complaints Procedure is unable to look at concerns about:
- Private care and treatment or services
 - Services not provided or funded by the NHS, for example provision of private medical reports, etc
 - Some aspects of care where social work services have responsibility – in these cases the person making the complaint should be advised of where to direct their complaint.
- 3.4.3 If any complaint received by an employee appears to raise matters normally dealt with:
- Under the disciplinary procedure
 - By a professional regulatory body
 - An independent inquiry into a serious incident under Section 76 of the National Health Service (Scotland) Act 1978
 - An investigation of a criminal offence, including fraud
 - A possible claim for negligence
 - Under Freedom of Information

They should immediately refer the matter to the person appointed by Board to deal with such matters – the Risk Management Facilitator will be able to advise on who this is.

This reference may be made at any point when dealing with a complaint. In these circumstances, investigation of other aspects of the complaint will only be taken forward if they do not, or will not, compromise or prejudice the matter under investigation.

- 3.4.4 Where it is decided to take action about an aspect covered by another procedure before a complaint investigation is completed, a full report of the investigation thus far should be made. 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 covering letter must balance the need to provide reassurance that their complaint has been dealt with seriously 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. They therefore have a right to know what happened; why it happened; and what action has been taken to prevent it happening again. Any outstanding unresolved element of the complaint may recommence when the other investigation has concluded.

3.5 Staff Grievances

The NWTC has a Grievance Policy for handling staff concerns about the way in which they have been dealt with under the complaints procedure. Staff may also take their concerns to the Ombudsman. The Ombudsman would normally expect staff to have followed local procedures for resolving their complaint. However, the Ombudsman has the power to consider complaints that have not been through the NWTC Complaints process and/or where the internal procedure has not been exhausted if, in the circumstances of the particular case, it is not reasonable to expect this.

3.6 When can a Complaint be made?

- 3.6.1 Complaints are normally made at the time a person becomes aware of an issue or a concern. Wherever possible they should be dealt with immediately to reduce the chance that the passage of time, with inevitable staff changes etc., could hamper resolution. However, it is not always possible for a complaint to be made immediately. In clinical complaints, for example, a complication or other issue may not become apparent to the patient for sometime after the procedure.
- 3.6.2 Given the difficulties that the passage of time can make to the resolution of a complaint the **recommended** timescale for accepting a complaint is:
- Up to 6 months after the event which is the cause for the complaint, **or**
 - Up to 6 months from the person becoming aware of a cause for complaint;
 - **But**, normally, no longer than 12 months from the event.

However, the NWTC will operate these guidelines flexibly and accept a complaint where it would have been unreasonable for the complaint to be made earlier and where we believe it is still possible to investigate the facts. Any decision not to extend these timescales will be agreed by the Chief Executive, recognising that the complainant can appeal to the Scottish Public Services Ombudsman against a decision not to accept their complaint.

3.7 Joint Complaints

- 3.7.1 Where a complaint relates to the actions of two or more NHS bodies, for example, the NWTC and another Board, or a Family Health Service practitioner and the NWTC, an agreement will be made about who will take the lead in co-ordinating the complaint and full co-operation between the organisations to resolve the complaint. The person making the complaint must be informed about who will take the lead in dealing with the complaint.

3.8 Roles and Responsibilities

- 3.8.1 The NWTC Board will ensure that all staff that provides services on their behalf are aware of and are trained in the procedures to be followed when dealing with patient feedback and complaints.
- 3.8.2 The Chief Executive is statutorily responsible for the quality of care delivered by the NWTC, and has appointed the Director of Nursing take responsibility for delivering the organisation's patient feedback and complaints processes and for ensuring that all necessary organisational learning takes place.

- 3.8.3** The Director of Nursing is responsible for overseeing the way in which the NWTC's Directorates deal with patient feedback.
- 3.8.4 Hospital Managers and Medical Staff are responsible for ensuring that they are aware of, and can engage in, arrangements for complaints handling within the NWTC.
- 3.8.5 All staff are responsible for being aware of this policy and supporting its implementation appropriately. Services must recognise and respond sensitively to the individual needs, background and circumstances of people's lives. The NWTC will ensure that this requirement, which is underpinned by a statutory duty to promote equality and diversity, as well as equal opportunities, applies to local arrangements for handling complaints, while being as fair as possible to staff who are the subject of complaints.
- 3.8.6 The Risk Management Facilitator, will work with staff responsible for other relevant policies to:
- Develop ways of encouraging effective patient feedback, including for example telephone and internet-based systems
 - Manage the operation of the NWTC Complaints Policy and Procedure within the Statutory Directions, so that staff have the training, support and help they need to deal effectively with comments, concerns and complaints, including those which are unreasonably demanding or persistent
 - Can advise the person making the complaint on how it will be dealt with, including providing them with a copy of *Health Rights Information Scotland's* leaflet *Making a complaint about the NHS*, and about the role, availability and how to contact:
 - Advice and support services
 - Specialist services, for example those that provide information, translation, interpretation etc
 - Know when to seek assistance and advice from senior staff
 - 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 how professional organisations such as the Royal College of Nursing (RCN), the Medical and Dental Defence Union of Scotland (MDDUS), etc. can assist them.
 - Establish procedures to record the handling and consideration of each complaint
 - Establish procedures to ensure organisational learning from the operation of the NWTC's patient feedback and complaints process. The Risk Management Facilitator will ensure that a complete record is kept of the handling and consideration of each complaint. These records will be particularly important if the complaint is referred to the Ombudsman. 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.

The Risk Management Facilitator is readily accessible to patients, the public and staff and arrangements are in place to ensure that the role of the Risk Management Facilitator is not interrupted by annual or sick leave, with cover provided through the Clinical Governance & Risk Management Development Unit (CGRMDU).

3.9 Dealing with a Complaint

- 3.9.1 A complaint may be made in writing, by phone or in person.
- 3.9.2 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. They should then contact the organisation's complaints staff.
- 3.9.3 The complaints procedure is built around the processes of Local Resolution. Local resolution seeks to provide prompt investigation and resolution of a complaint or concern as near as possible to the source of the complaint or concern, with the aim of satisfying the person raising the issue(s) while being scrupulously fair to staff complained against. The process should be open, honest, transparent, free from discrimination and conducted in a polite and conciliatory manner. Complaints may be received verbally or in writing. In all cases, the aim should be to resolve matters quickly and fairly by providing a positive and full response. Except in exceptional circumstances, complaints made on behalf of patients should be made with the patient's consent.
- 3.9.4 The Risk Management Facilitator will involve the person making the complaint from the outset. They should establish that they wish the matter dealt with under the NHS Complaints Procedure by explaining the process to them. It is also important to ask them what they want to happen as a result of the complaint. Research carried out in developing this guidance indicates 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 at once. They should be informed of this gently, but firmly.
- 3.9.5 Where a complaint is made on behalf of somebody else, the Risk Management Facilitator should ensure that the person making the complaint can demonstrate that they have obtained the patient's consent to:
- Make a complaint on their behalf
 - Members of staff examining the patient's health records, if this should prove necessary as part of the investigation of the complaint.
- 3.9.6 Where the person wishes to proceed, the Risk Management Facilitator should agree the details of the complaint and confirm them in a letter of acknowledgement.

3.10 Acknowledging a complaint

- 3.10.1 Complaints will be acknowledged or an initial response issued in writing within 3 working days of receipt. The acknowledgement letter will normally thank the complainant for raising the matter and wherever appropriate, they also express sympathy or concern over the incident.
- 3.10.2 The letter will also:

- Outline the proposed course of action to be taken or the investigations being conducted
- Offer the opportunity to discuss issues either with the Risk Management Facilitator or, if appropriate, with a senior member of staff
- Provide information about the availability of independent support and advice, or the possible use of conciliation where this may help and may be agreeable to both parties.

3.10.3 First class post – or, exceptionally, special/recorded delivery – will be used in correspondence with the person making a complaint and practitioners. All communications should be marked ‘Private and confidential’ or ‘Personal’.

3.11 The Investigation

- 3.11.1 It is important that a timely and effective response is provided in order to resolve a complaint, and to avoid escalation. An investigation of a complaint should therefore be completed, wherever possible, within 20 working days following the date of receipt of the complaint. Where it appears the 20-day target will not be met, the person making the complaint, and anyone named in the complaint, will be informed of the reason for the delay with an indication of when a response can be expected. The investigation should not, normally, be extended by more than a further 20 working days.
- 3.11.2 While it may be necessary to ask the person making the complaint to agree to the investigation being extended beyond 40 working days, for example because of difficulties caused by e.g. staff illness, they should be given a full explanation in writing of the progress of the investigation, the reason for the requested further extension, and an indication of when a final 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.
- 3.11.3 A complaint may best be resolved through face-to-face meetings being arranged with members of staff and early consideration will be given to this approach. Equally, the Risk Management Facilitator may decide, on a case-by-case basis that other action would be helpful, for example offering conciliation. However, a record will be kept of all meetings and discussions and a letter issued setting out the agreements reached and any action to be taken. It is important that staff are supported if asked to attend such a meeting and it may be helpful, where appropriate, to advise that they speak to a trade union representative, if available, for advice.
- 3.11.4 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 must not be adversarial and must be conducted in a supportive, blame free atmosphere that demonstrates the principles of fairness and consistency. Anyone identified, as the subject of a complaint will be provided with a full account of the reasons for the investigation and a proper opportunity to talk to the investigating officer who should ensure they are kept informed of progress. The person making the complaint and the person complained against should be informed of the support services that are available to them. The process is best described as listening, learning and improving.

- 3.11.5 The Risk Management Facilitator will ensure that all information relevant to the investigation is recorded and kept in a case file. 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 that is strictly relevant to the patient's health in their health record.
- 3.11.6 Where the complaint involves clinical issues, the draft findings and response must be shared with the relevant clinicians to ensure the **factual** accuracy of any clinical references. Where the complaint involved an allegation about the conduct of a member of staff, the accuracy of this must also be checked – with staff and/or their trade union representative.

3.12 Completing Local Resolution

- 3.12.1 The complaints process is completed by the Chief Executive reviewing the case to ensure that all necessary investigations and actions have been taken. If the Chief Executive is satisfied that the complaints process is complete, they will issue a letter to the person making the complaint. The letter will be clear and easy to understand. It will avoid technical terms, but where these must be used to describe a situation, events or condition, an explanation of the term will be provided. The letter will:
- Address all the issues raised and show that each element has been fully and fairly investigated
 - Include an apology where things have gone wrong
 - Report action taken or proposed to prevent any recurrence
 - 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
 - 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 will be included.
- 3.12.2 There may be some circumstances where the Chief Executive decides that it is appropriate to nominate a senior officer to 'sign off' responses on their behalf. In such circumstances, the Medical Director will deputise for the Chief Executive.
- 3.12.3 Once the final response has been signed and issued, the Risk Management Facilitator will 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 and providing any necessary staff support or counselling, and report to the NWTC's Clinical Governance Committee when this has been done. In the interests of 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. In more serious cases the NWTC Board may wish to consider a formal debrief for the staff involved in the complaint.
- 3.12.4 Arrangements should also be made for any outcomes to be monitored through the Directorate Clinical Governance Groups to ensure that they are actioned. It is good

practice to keep the person who made a complaint and those named in the complaint informed of progress and the final outcome when all actions have been taken.

3.13 Learning from Complaints

- 3.13.1 It is good practice to collect data on complaints, even when they are not confirmed in writing, so that lessons can be learned which might help improve service delivery throughout the organisation. The NWTC has in place procedures for collecting and disseminating the information, themes and good practice gained from patients' views, experiences and complaints and ensuring they are used to improve service quality. Local managers are encouraged to share this information and seek staff feedback and suggestions for further improvement.

3.14 Role of the Ombudsman

- 3.14.1 The Scottish Public Services Ombudsman Act 2002 established a 'one-stop shop' ombudsman service, headed by the Scottish Public Services Ombudsman, to deal with complaints formerly handled by the Scottish Parliamentary Ombudsman, the Scottish Health Service Ombudsman, the Scottish Local Government Ombudsman and the Housing Association Ombudsman for Scotland. The new Ombudsman also took over the Mental Welfare Commission's function of investigating complaints relating to mental health.
- 3.14.2 The Ombudsman can in principle investigate complaints from aggrieved persons that have sustained injustice or hardship as a result of maladministration or service failure on the part of an authority within the Ombudsman's jurisdiction. Such authorities (referred to as "listed authorities") include all NHS bodies and family health service providers in Scotland.
- 3.14.3 The Ombudsman's office can generally consider complaints only when they have been fully considered under a listed authority's internal complaint procedures - 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.
- 3.14.4 The Scottish Public Services Ombudsman Act 2002 requires listed authorities, such as NHS Boards and family health service providers, to take reasonable steps to publicise -
- The right conferred by the Act to make a complaint to the Ombudsman
 - The time limit for doing so
 - How to contact the Ombudsman.

The Ombudsman's contact details are:
The Scottish Public Service Ombudsman
Freepost EH641, EDINBURGH, EH3 0BR
Telephone 0870 011 5378 Email enquiries@scottishombudsman.org.uk
Website, which includes a complaints form, www.scottishombudsman.org.uk

3.15 Monitoring Of Complaints

- 3.15.1 NHS Boards are required to make arrangements to monitor how they, or those providing care on their behalf deal with the complaints they receive. Monitoring should be undertaken with due regard to the principles of equality and diversity in terms of the person making the complaint, the person complained against and the content of the complaint. In so doing the NWTC will identify areas for action in relation both to service improvement and their responsibilities to deliver a service that is *Fair for All*. The NWTC Board will receive a quarterly report, which identifies:
- Trends in complaints
 - The effectiveness of local complaints handling
 - The lessons learned and shared and the result in terms of service improvement.
- 3.15.2 This data will be regularly supplemented by surveys of patient views on the way in which their feedback is acted upon.
- 3.15.3 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 organisation's patient feedback arrangements are becoming more responsive. The important point is to ensure that complaints (and comments, concerns and compliments) are handled effectively, sympathetically and quickly and that lessons are learned and result in service improvement.
- 3.15.4 The NWTC will include in their Annual Report a report on patient feedback and complaints handling which explains some of the statistics, expands on lessons learned and the action plans developed. Care will be taken in compiling these reports to avoid any possible breaches of patient confidentiality.
- 3.15.5 The Information and Statistic Division (ISD) will continue to collect statistics on the number and type of complaints made to NHS Boards.
- 3.15.6 The Risk Management Facilitator will provide regular reports to the Risk Management Steering Group and respective Directorate Clinical Governance Groups/Health & Safety Committee. A quarterly NWTC report highlighting trends and actions taken in response to complaints will be prepared by the Risk Management Facilitator for consideration by the Board
- 3.15.7 An Annual Report will be produced by the CGRMDU detailing patient feedback and complaints handling which explains some of the statistics, expands on lessons learned and the action plans developed and extracts will be included in the Boards Annual Report. Care must be taken in compiling the complaint report to avoid any possible breaches of patient confidentiality.

3.16 Review

- 3.16. This policy and its associated procedure will be reviewed annually by the Risk Management Facilitator or more frequently if appropriate guidance is issued. Any amendments will be approved through the Clinical Governance Committee,

Part 4: Information that may be useful in dealing with comments, concerns and complaints

This section provides information on related policies, procedures, legislation etc that may impact on the handling of a complaint. It is intended to be a guide to some of the issues on which the NWTC 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. The NWTC remain responsible for ensuring the appropriateness of their actions and for their interpretation of related legislation. They are encouraged, within the scope of the Directions, to develop local initiatives and training in a way that ensures the management and operation of the procedure meets local circumstances.

4.1 Advice and Support

- 4.1.1 It is important that individuals are able to navigate and be provided with information on local NHS systems. When things go wrong, as they inevitably do within a large organisation such as the NHS, people sometimes need support to help them understand and use the NHS Complaints Procedure. People who are normally confident and articulate may feel less able to cope because of illness, anxiety, or lack of knowledge and may feel intimidated by professional attitudes that seem paternalistic or authoritarian.
- 4.1.2 The NWTC has in place arrangements to:
- Ensure patients (or their representatives) have access to information and advice about local healthcare services
 - Provide information, advice and support to patients to identify and explore options about making a complaint when they are dissatisfied with aspects of the treatment or care provided to them by the NWTC
 - Provide information, advice and support to patients and carers to assist them to cope with the direct and indirect effects of illness or disability, helping to reduce anxiety and stress.
- 4.1.3 As patients should have access to a complaints support and advice service provided independently of NHS organisations. Patients at the NWTC who required such independent advice can access this through our advocacy provider whilst in hospital. When discharged, patients can access arrangements provided by their local NHS Board through the local Independent Advice and Support Service.

4.2 Advocacy

- 4.2.1 Advocacy services are an important way of enabling people to make informed choices about, and to remain in control of, their own health care. Advocacy helps people have access to information they need, to understand the options open to them and to make their views and wishes known. In these ways it provides support to people in reaching decisions about their care and treatment. Advocacy in NHS Scotland therefore has two main themes:
- Protecting vulnerable people; and
 - Supporting them in making their wishes and needs known.

- 4.2.2 Advocacy is not new. People act as advocates every day for their children, for their elderly or disabled relatives, and for their friends. Concerned individuals do it for people who are particularly vulnerable or undervalued. In the NHS, advocacy has been mainly available for vulnerable groups, such as people with mental health problems, learning disabilities, and older people (including those with dementia).
- 4.2.3 NHS Boards, working with Local Authorities and other partner organisations, are required to provide access to independent advocacy services to all users of NHS services who need it. Further information on advocacy services can be obtained from the:

Advocacy Safeguards Agency
1-2 St Andrew Square, Edinburgh, EH2 2BD
Tel: 0131 524 9380/Fax: 0131 524 9381

or

Scottish Independent Advocacy Alliance
138 Slateford Road, Edinburgh EH14 1LR
Phone: 0131 455 8183 /Fax: 0131 455 8184

- 4.2.4 The NWTC has in place independent advocacy arrangements with Lomond and Argyle Advocacy Project. Information packs on the services offered are available in all ward areas.

4.3 Conciliation

- 4.3.1 Conciliation is a **voluntary process** which seeks to resolve difficulties and which may help the resolution of a complaint at local level. It is a process of examining and reviewing a complaint with outside assistance. Conciliation is often useful in resolving difficulties arising from a breakdown of a relationship, for example between a clinician and a patient. The NWTC must make suitably trained, competent and accredited conciliators available where this assistance is requested. Either party may request conciliation, but both parties must agree to the process being used.
- 4.3.2 The aim of conciliation is to enable both parties to address the issues in a non-confrontational manner with the aim of reaching an agreement. The function of the conciliator is to assist the process, **not to impose a solution**. Any resolution of the complaint must come from the parties concerned. The conciliator seeks to clarify the issues and to help in exploring the options. Essentially, the conciliator works to ensure that good communication takes place between the parties.
- 4.3.3 Confidentiality is vital in the conciliation process. The conciliator should encourage the participants to explore the issues involved in the complaint in an open manner. The content of the conciliation process remains confidential and neither the conciliator nor the participants should provide information from the process to any other person. The conciliator should advise when conciliation has ceased and whether a resolution was reached. No further details should be provided.
- 4.3.4 Where conciliation fails and the complainant wishes to pursue the complaint, the process should continue in the normal way with a final response letter being sent

from the NWTC. However, as the conciliation process is confidential, neither party can use anything said during that process to support their case.

4.4 Confidentiality of Patient Information

4.4.1 The requirement to maintain confidentiality is absolute during the complaints procedure. Staff in the NWTC should be aware of the requirements of the Data Protection Act 1998, the contents of 'Protecting and Using Patient Information - a Manual for Caldicott Guardians' (SEHD, 1999), and of HDL (2003) 37 on 'The Use of Personal Health Information' and any relevant provisions in their local staff code of conduct.

4.5 Obtaining Express Consent to Use Information in Health Records

4.5.1 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 handling of the complaint.

4.6 Deceased Patients

4.6.1 In the case of a deceased patient, the 1990 Access to Health Records Act 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*'. However, doctors are also bound by GMC guidance, which warns that '*you 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*' (see also Access to Health Records Act).

4.6.2 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.

4.6.3 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.

4.6.4 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.

4.7 Third Party Information

- 4.7.1 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.
- 4.7.2 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.
- 4.7.3 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.

4.8 Use of anonymised information

- 4.8.1 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.

4.9 Consent

- 4.9.1 Where someone (including MPs, MSPs and local Councillors) other than the patient or their authorised agent wishes to make a complaint, they should be advised that they must be able to demonstrate that they have obtained the patient's consent to:
- Make a complaint on their behalf;
 - Members of staff examining the patient's health records, if this should prove necessary as part of the investigation of the complaint.
- 4.9.2 Exceptions are if that individual is a child or is deemed by a clinician as incapable of acting on their own behalf: for example where the individual has been rendered unconscious by an accident; or their judgment is impaired by a learning disability, psychiatric illness, dementia or brain injury; serious communication problems or where the individual has died.

- 4.9.3 The NWTC has and operates 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.
- 4.9.4 Generally, a person with parental responsibility can pursue a complaint on behalf of a child where the NWTC 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.
- 4.9.5 Where the NWTC judges that a child has sufficient maturity and understanding, they 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.
- 4.9.6 Where a patient is unable to give consent, or where the patient has died, the NWTC 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, and
 - 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.

4.10 Continuing Care

- 4.10.1 The review procedure for continuing care is not part of the NWTC's complaints procedure. Where someone has had their case considered by a continuing care review procedure they can use the NHS complaints procedure to complain about, for example, the original decision on discharge, or the continuing care review process.
- 4.10.2 Alternatively, they may choose to complain directly to the Ombudsman, who has discretion to decide whether, in the circumstances of the particular case, to waive the normal requirement that, before there is an investigation by the Ombudsman, the NHS complaints procedure should have been invoked and exhausted. As with all complaints, the Ombudsman will need to be convinced that there are clear grounds for an investigation related to hardship or injustice.

4.11 Criminal Investigation and independent Inquiries

- 4.11.1 As the complaints procedure cannot deal with matters subject to a criminal investigation or an independent inquiry into a serious incident, consideration of those parts of a complaint affected by that investigation must be suspended until the other investigation is concluded. The Chief Executive should immediately advise the complainant of this in writing.
- 4.11.2 Where such an investigation is initiated before the NHS complaints procedure has been completed, a full report of the investigation to that point should be made

available to the complainant under cover of a letter from the Chief Executive indicating that this information may need to be passed to the criminal/independent investigation and how any other aspect of their complaint not affected by these investigations will be dealt with under the complaints procedure.

- 4.11.3 When the independent inquiry or criminal investigation has concluded, consideration of any outstanding part of the original complaint on which action was suspended can recommence.

4.12 Data Protection Act 1998

- 4.12.1 Patients may use the NHS complaints procedure for complaints arising from rights given by the Act, and if this route is chosen, complaints staff will take the matter forward in conjunction with the Data Protection Officer or Data Controller within the NWTC. Where a complainant remains unhappy with the outcome of local resolution they should be advised to contact the UK Information Commissioner
- 4.12.2 Under the Data Protection Act 1998, patients or their representatives may also make a request to the Information Commissioner for an assessment about any aspect of their own health records, or any other aspect related to the processing and storage of their personal health information. This is an assessment of how well the organisation has complied with the Act in processing their data.
- 4.12.3 The Data Protection Act 1998 lists a number of categories of personal information which are exempt from access by the patient:
- UK human fertilisation and embryology information
 - Information contained in adoption and parental order records and reports
 - Information provided by reporters for the purposes of a children's hearing and prohibits access to information where:
 - it might cause serious damage to the physical or mental health of the patient or another individual, including a health professional
 - Someone acting on behalf of a patient has requested access to the patient's data, but the patient has given the information on the condition that it would not be disclosed, e.g. in the case of a young person requesting contraception where 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.
- 4.12.4 Care must be taken to ensure that in reporting the outcome of an investigation into a complaint about access to health records that the patient does not obtain information to which he/she is not entitled under the Data Protection Act 1998.

4.13 Disciplinary Action and Investigation by a Professional Organisation

- 4.13.1 The NWTC Complaints process requires a clear separation of complaints **from discipline**. The latter is essentially concerned with an individual's contract of employment/Terms of Service, while complaints can take in wider issues - e.g. an individual's demeanour.
- 4.13.2 Where a decision is made to embark upon a disciplinary investigation, action under the complaints procedure on any matter, which is the subject of that investigation, must cease. Where there are aspects of the complaint not covered by the

disciplinary investigation, they may continue to be dealt with under the complaints procedure.

- 4.13.3 The Chief Executive must advise the complainant in writing that a disciplinary investigation is under way; that they may be asked to take part in that process; and that:
- Issues affected by the disciplinary investigation cannot be taken forward until the disciplinary investigation is complete
 - How issues not affected by the disciplinary investigation will be taken forward as part of the complaints procedure.
- 4.13.4 In drafting these letters, care must be taken to ensure that the complainant is not left feeling that their grievance has only been partly dealt with.
- 4.13.5 If a complainant asks to be informed of the outcome of the disciplinary investigation, the NHS Board's response must balance the need to reassure the complainant that their grievance has been dealt with seriously and satisfactorily, with the need to protect the right of confidentiality of its staff. The guiding principle should be that the complainant should receive the same consideration and information as if the matter had been dealt with under the complaints procedure. They therefore have a right to know what happened; why it happened; and what action has been taken to prevent it happening again. They can also be told, in general terms, that disciplinary action may be imposed as a result of the complaint.

4.14 Investigation By A Professional Body

- 4.14.1 A similar approach should be adopted in a case referred to a statutory professional or regulatory body, for example the NMC for nurses, midwives and health visitors. The Chief Executive must:
- Inform the complainant in writing of the referral to the regulatory body;
 - Explain that the NWTC now has no control over what happens or over how long the process will take;
 - Give as full a response as possible on the matter indicating that this information may need to be passed to the regulatory body;
 - Indicate how any other aspect of their complaint not covered by the reference to the regulatory body will be investigated under the complaints procedure.

4.15 Fatal Accident Inquiries/Procurator Fiscal Cases

- 4.15.1 The NWTC must report to the Procurator Fiscal any death where a complaint has been received about the medical treatment given to the patient.
- 4.15.2 Where a complaint is about an incident, which may result in a Fatal Accident Inquiry (FAI) being held, the Chief Executive should consider whether it would be appropriate to proceed with investigating a complaint before the FAI is held and, if necessary, seek advice from the Procurator Fiscal's Office. It may be more appropriate to recommence the complaints procedure after the completion of the FAI to consider any matters not dealt with by it.

4.16 Grievance Procedure

- 4.16.1 The NWTC complaints procedure does not address the concerns of staff. There are separate procedures for handling staff grievances. For the NWTC these are undertaken through the Grievance Policy. NHS Circular GEN (1993) 10 and associated guidance sets out the rights and responsibilities of staff when raising issues of concern about health care matters. Local procedures also cover more general grievances.
- 4.16.2 NWTC staff may complain about the way they have been dealt with under the complaints procedure and, provided they have exhausted the local grievance procedure, may take the matter up with the Ombudsman.

4.17 Negligence Claims

- 4.17.1 If a complaint reveals a *prima facie* case of negligence, or the likelihood of legal action, the Risk Management Facilitator should 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. Reacting to a complaint in a hostile or defensive manner is more likely to encourage the person making the complaint to seek a remedy through the courts.
- 4.17.2 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 is not an admission of liability.
- 4.17.3 However, if the complainant indicates an intention to instigate or instigates legal action, **the complaints procedure should be immediately suspended**. The Chief Executive should advise the person making the complaint and any person(s) named in the complaint of this decision in writing.
- 4.17.4 All papers relating to the complaint should be passed to the Risk Management Facilitator appointed to deal with such matters.

4.18 Private pay beds in the NWTC

- 4.18.1 The NWTC's complaints procedure covers any complaint made about the NWTC's staff or facilities relating to care in private pay beds, but it does not cover private medical care provided by NHS staff outside their NHS contract (including any financial redress). These issues will need to be taken this up with the consultant direct and/or contact the General Medical Council. We will provide assistance to those making a complaint in this regard, as practical.

4.19 Publicity

- 4.19.1 The NWTC will ensure that their patient feedback and complaints procedures is well publicised locally. This means that patients, guests and visitors should be aware of:
- The right to complain
 - Advice about how to access the complaints procedure, and the types of help available from:
 - frontline staff
 - complaints staff
 - advocacy and advice and support services.
- 4.19.2 The NWTC will also ensure that patients and their families have access to Health Rights Information Scotland's (HRIS) leaflet *Making a complaint about the NHS*. The HRIS information is available in accessible formats, as follows:
- leaflets in large (14 point) print in English
 - easy-read leaflets with illustrations
 - audio format in English
 - CD-rom with British Sign Language
 - Leaflets and audio formats in ethnic minority languages
 - Accessible web-based information
- 4.19.3 This and any other necessary local information to enable access should be provided free of charge to any person who makes a request for it.

4.20 Training

- 4.20.1 Training, initially through induction, is key to making the NWTC complaints procedure work effectively. The NWTC will ensure that staff are competent and confident in dealing with expressions of concern or complaint. The improvement of these skills throughout the NWTC is a high priority of the Chief Executive and the NWTC Board. Good practice suggests that the NWTC's key players in the complaints process benefit from regular informal discussion of matters of common interests for example local complaints data and the publication of the Ombudsman's Report. Such information will be discussed at the Clinical Governance Committee.

4.21 Unreasonably Demanding or Persistent Complaints

- 4.21.1 The NWTC staff will be trained to respond with patience and empathy to the needs of people who make a complaint, but 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. Where this is the case and further communications would place inappropriate demands on NWTC staff and resources, consideration may need to be given to classifying the person making a complaint as an unreasonably demanding or persistent complainant.
- 4.21.2 The NWTC will ensure that, as part of our local complaints process, we have a policy for considering whether a person making a complaint is being unreasonably demanding or persistent.
- 4.21.3 Classifying a person making a complaint as unreasonably demanding or persistent should only occur in exceptional circumstances when it can be shown that:
- The complaints procedure has been correctly implemented
 - All reasonable measures have been taken to resolve the complaint

- No material element of the complaint has been overlooked or inadequately addressed and a full written case has been submitted to and approved by the Chief Executive and Chair of the NHS Board.

4.21.4 Before agreeing to classify a correspondent as unreasonably demanding or persistent, consideration should be given to dealing with future correspondence in one or more of the following ways:

- By drawing up a signed "agreement" with the correspondent (and if appropriate involving any relevant practitioner in a 2-way agreement) which sets out a code of behaviour for the parties involved if the complaint is to continue being processed. If these terms are contravened, consideration would then be given to implementing other action as indicated in this section. declining contact with the correspondent either in person, by telephone, by fax, by letter or any combination of these, provided that one form of contact is maintained
- Temporarily suspending all contact with the correspondent or investigation of a complaint whilst seeking legal advice or guidance from other relevant agencies.

4.21.5 Where a decision is taken to classify a correspondent as an unreasonably demanding or persistent complainant, the Chief Executive must notify the person in writing of the reasons why they have been so classified and the action which will be taken with future correspondence or calls. The letter should provide a summary of the organisation's position on their complaint, indicating that:

- they have responded fully to the points raised and, as there is nothing more to add, continuing contact on the matter will serve no useful purpose
- that further correspondence will simply be acknowledged unless it raises a new matter of substance.

4.21.6 In extreme cases the correspondent might also be advised that the NWTC reserves the right to pass future correspondence to their solicitors.

4.21.7 This notification letter may be copied for the information of others involved in the process, e.g. conciliator, MSP, etc. A record must be kept of the reasons why a complainant has been classified as unreasonably demanding or persistent.

Note: it is an important when considering classifying an individual from equality group as an unreasonably demanding or persistent complainant to make appropriate checks to ensure that the decision is in no way based on institutional discrimination or on a lack of knowledge of the specific needs of that individual.

4.21.8 The NWTC also sets out arrangements for reviewing or removing the designation of 'unreasonably demanding or persistent complainant' from an individual at a later date if, for example, they subsequently demonstrate a more reasonable approach. Staff who previously have used their judgement in recommending 'vexatious or habitual' status should similarly be prepared to use it in recommending that this status be withdrawn where appropriate. Once again, the Chief Executive and Chairman should make any such decision. Subject to their approval, the normal contact arrangements under the NWTC complaints procedure should then be resumed. This change of status should be copied to anyone whom previously was informed of the decision to classify the correspondent as unreasonably demanding or persistent.