

# Dealing with Complaints

## Health & Social Care and Medical Specialist Group Policy

This policy describes the processes to be used when dealing with complaints including:

- who can complain;
- time limits;
- contact with complainants;
- complaints relating to external agencies;
- protection and support for staff;
- litigation;
- habitual and vexatious complainants;
- recording and monitoring;
- appeals process; and
- complaints involving HSC the Medical Specialist Group, Guernsey Therapy Group, Sarnia Medical Services Limited and any of the Primary Care Practices

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# Dealing with Complaints

## 1. Introduction

The Committee *for* Health & Social Care (HSC) and Medical Specialist Group (MSG) recognise the importance of an effective and efficient complaints policy, which is fair to all parties, consistent, and resolves concerns quickly. Service users' views, positive and negative, about their experiences should be welcomed, taken seriously, and used to bring about change. Any complaint must be seen as an opportunity to improve the quality of services and to learn lessons from events that have occurred in the past.

Where possible, minor verbal complaints should be resolved locally as they arise, and staff should strive to prevent minor verbal complaints from escalating into formal complaints.

This policy is based on current best practice and should be read in conjunction with the following HSC and MSG policies:

- Confidential Information (G122);
- Care Records (G304);
- Service User Information (COR003);
- Customer Care Policy (G119);
- Framework for Maintaining High Professional Standards in Secondary Care (Guernsey) (G627);
- Duty of Candour (G628);
- Retention and Destruction of Information (G102);
- States of Guernsey Employees Handbook, Whistleblowing Policy;
- Whistleblowers Policy (MSG);
- Care Records Policy (MSG); and
- Confidential Information Policy (MSG).

Throughout this document, reference is made to the Single Clinical Governance Group. For the avoidance of doubt, the Single Clinical Governance Group is also known across the Committee *for* Health & Social Care as the "Quality Governance Committee".

## 2. Policy Objectives

The objectives of this policy are:

- a) to ensure that there is one single service user feedback scheme for Secondary Healthcare (i.e. HSC and MSG) which enables service users to provide complaints, criticisms and concerns (whether written or verbal, made by service users or their representatives), that are taken seriously and handled appropriately and sensitively;
- b) that service users will have access to information on the complaints policy and procedures which is as user-friendly and accessible as possible;
- c) to reassure complainants that their complaints (which will be managed by a single team) will be fully investigated as quickly as is feasible;
- d) to ensure that complainants are provided with an explanation of what has happened and, where appropriate, an apology and an assurance that steps have been taken to prevent the problem recurring;
- e) to enable service users to express their comments, suggestions and complaints when they feel dissatisfied with the service provided;
- f) to ensure that there is a unified, consistent and appropriate approach to the handling of complaints;
- g) to assist in the monitoring of HSC and MSG services, and to ensure standards are maintained and, where possible, improved – this will include initiating systematic reviews and taking action to avoid future problems;
- h) to ensure systems for dealing with complaints are integrated with clinical governance and risk management processes;
- i) to ensure trends are identified and acted upon, lessons are learned, and that these are demonstrated in service improvements and development plans;

- j) to ensure that information about complaints and their causes forms part of the quality agenda in order to assure safe and high quality care which is constantly improving;
- k) to ensure there is an appeals process if the complainant is not content with the response to their formal complaint;
- l) to establish a robust system for monitoring compliance with recommendations for improvement; and
- m) to ensure that information about complaints, their causes, trends and compliance are reported to the Single Clinical Governance Group.

### 3. Policy Statement

HSC and MSG recognise the right of an individual to make a complaint about any matter reasonably connected with the exercise of the organisations' functions. All complaints will be dealt with seriously and sympathetically to ensure that the standard of service provided by HSC and MSG is monitored and maintained at a high level.

### 4. Definition of a Complaint

A complaint may be defined as an expression of dissatisfaction with some aspect of service the service user receives that requires a response. The following will not be registered as complaints:

- requests for clarification on HSC and MSG policies, services or contracts;
- For individual funding decisions refer to policy no G1002 entitled "Individual funding requests (IFRs)"
- issues arising from contracts between the HSC, MSG and other parties;
- staff grievances as these should be followed up using HSC and MSG organisational grievance procedures; and
- criminal matters where there are allegations relating to assault or other offences.

## 5. Who Can Complain

- Anyone using HSC or MSG services and facilities;
- Someone acting on behalf of existing or former service users;
- Any appropriate person in respect of a service user who has died, e.g. the next of kin.

Both HSC and the MSG are committed to ensuring that the complaints system is available to all members of the public, and will make adjustments to the complaints system in order to ensure its accessibility wherever possible. Effort will be made to ensure that support is available for all service users who require additional support in making a complaint, for example those people who wish to make a complaint in another language, or those for whom effective communication is through the spoken and not the written word. Support will be provided via the Customer Care Team, who where practicable will endeavour to provide information, such as leaflets, letters and documents, in the format most applicable to the recipient.

The assistance of a relative, carer or other representative may be necessary to enable the complainant's wishes to be expressed sufficiently for the complainant's intentions to be clear. The person assisting them can also be a staff member of HSC or MSG acting in the best interests of the service user.

### 5.1. Anonymous Complaints

Anonymous complaints, both written and by telephone, will be investigated and action taken if the complaint is found to be justified. However, anonymity makes it more difficult to properly investigate the complaint.

There are occasions when a complainant is prepared to give their name and address on condition that this is not passed on to the Investigating Officer. In this scenario, the complainant will receive a written response to the complaint.

## 5.2. Children and Young People

Children and young people are encouraged and supported in participating in all aspects of the planning and decision making process, as well as the service they receive, which includes the use of the complaints procedure. A young person under 16 should not normally need to provide written permission from a parent, guardian or other adult (for example, a teacher or social worker) to make a complaint on his or her behalf. In many cases a young person who makes a complaint will be supported by an appropriate adult but if this is not the case, this should not prevent him or her from making a complaint. HSC and MSG recognise their duty to listen and respond to the views of children however they are expressed and will facilitate their participation in the complaints and feedback process. Age and understanding are key criteria for determining the level of support a child requires in making their views known but should not be used to discount or diminish the child's rights.

Generally, a person who has parental responsibility can pursue a complaint on behalf of a child where the child does not have sufficient understanding of what is involved. The young person's wishes in relation to the involvement of an adult will be taken into account, having regard to the principle in case law that young people under the age of 16 are able to give valid consent (and refuse parental involvement) provided they have sufficient understanding and intelligence to enable them to understand fully what is proposed.

When communicating with young people about complaints, both HSC and the MSG will bear in mind that the system is complex and additional steps may be necessary to support the young person, both in their initial access to the complaints system and throughout. This will include consideration of the appointment of an independent person to support the child or young person through the complaints process. Where a child is accommodated in either residential or foster care, or any other form of accommodation that HSC directly provides or commissions, an independent person will be appointed.

HSC and MSG will highlight any safeguarding concerns with the appropriate HSC or MSG Director, in accordance with relevant policy and the Guidelines produced by the Islands Safeguarding Children Partnership

(also known as the Islands Child Protection Committee).

### 5.3. Complaints from HSC/MSG Employees

If an employee of HSC or MSG wishes to complain as a service user, the complaint will be treated in accordance with this policy. However, if an employee wishes to raise concerns about an aspect of service provision not directly affecting him/her as a service user, the matter should be referred to his/her line manager (unless they are representing a child or relative who lacks capacity, where consideration should be given to their responsibilities to represent them). Concerns about poor or unacceptable practice or misconduct should be dealt with under the relevant HSC and MSG policies.

### 5.4. Complaints Received via the States of Guernsey's Deputies

Service users can contact Deputies or Committee Presidents, whether they are members of the Committee *for* Health & Social Care or not, about any health or social care concerns, requesting that the Deputies/Presidents undertake an advocacy role on their behalf.

Complaints passed on by Deputies/Presidents will be treated the same as any other third party complaint. Permission will be requested (using the Consent Letter in Appendix 2 and consent form in appendix 8) from the complainant in order to give a response containing personal details to the Deputies/Presidents. The consent letter will be sent out with the initial acknowledgement to the complaint.

When written complaints are received, with a copy sent to Deputies/Presidents, a copy of the response will be sent to the Deputies/Presidents, subject to permission being given by the complainant.

Where the complainant wishes his or her name to be withheld, the response to the Deputies/Presidents will be in general terms only.

## 6. Confidentiality

The right to confidentiality must be respected. Although it is not necessary

to obtain service users' express consent to use their personal information to investigate a complaint, care must be taken at all times to ensure that any information disclosed is confined to those who have a demonstrable need to know (for more information see Data Protection Policy G106).

It may sometimes be necessary to share information relating to the complaint with the HSC or MSG insurers or legal advisors. It may sometimes also be necessary to share information relating to the complaint with professional experts outside the HSC or MSG to obtain expert advice or reports on aspects of the complaint.

HSC's Caldicott Guardian and Data Protection Officer or MSG's Caldicott Guardian and Data Protection Officer can be used as sources of advice if there is uncertainty about sharing confidential data.

## 7. Time Limits

Complaints should be made as soon as possible after the event to which they relate. Generally, complaints will be investigated that are made within 6 months of the event; or made within 6 months of complainants realising that they have cause for complaint, as long as that is no more than 12 months after the event.

In exceptional circumstances, the Chief Nurse/ HSC Director of Governance and /or MSG Director of Clinical Governance have the discretion to extend these time limits where it would have been unreasonable or impossible for the complaint to have been made earlier.

## 8. Types of Complaint

### 8.1. Verbal Complaints

Service users 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. As these concerns can be expressed to any member of staff, it is important that all staff welcome service users' views and see them as an opportunity to improve the service.

The main principle when dealing with minor verbal complaints is to seek early resolution, resolving concerns at the earliest opportunity and as close to the point of service delivery as possible. The member of staff to whom the complaint is made can either address the concern themselves or ask an appropriate member of staff to deal directly with the concern. Many minor verbal complaints can be dealt with as they arise and the member of staff to whom the complaint is made will frequently be able to provide an acceptable response immediately.

When dealing with a minor verbal complaint, staff need to:

- Follow up with the complainant within 1 working day with the initial findings with a view to be able to fully respond within 3 working days;
- explain to the complainant why the problem occurred and if appropriate offer an apology (without implying liability);
- explain to the complainant the nature of any remedial action that has been or is to be taken; and
- ensure that if the complaint cannot be dealt with immediately, or the concern is sufficiently serious or complex, the complainant is advised to speak to the Customer Care Team.

## 8.2. Customer Care Team

The Customer Care Team (CCT) will provide impartial advice and assistance in answering questions and resolving concerns that service users, their relatives, friends and carers might have about accessing health and social care services. The CCT is designed to listen to service users' concerns, worries, fears and queries about their experience of care and to help resolve problems quickly on their behalf.

If a service user has a concern that has not been adequately answered or resolved by staff, or a query that the service user does not feel comfortable speaking about to staff they should be referred to the CCT.

The CCT can arrange for service users to meet the members of staff who are responsible for their care and where appropriate liaise with other

organisations on the service user's behalf, e.g. MSG, GP, etc.

If the CCT is unable to resolve a service user's concern they will provide the service user with information about the HSC/MSG formal complaints process and provide the service user assistance in making a complaint if required.

### 8.3. Formal Complaints

Formal complaints may be written or verbal. Written complaints are accepted on 'How are we doing?' forms, by letter or email. A written complaint is usually considered to be a formal complaint and should be forwarded straightaway to the CCT if received elsewhere. The CCT will then assess the complaint to see if it can be dealt with immediately.

For verbal formal complaints, the member of staff taking the complaint must complete the Verbal Complaints Form (Appendix 3). The complainant should be asked if they wish to use the CCT service or if they would like their concern to be treated as a formal complaint. They must be given the option of writing to detail their concerns, or, if preferred, to give details to the member of staff. If the complainant prefers to give details to the member of staff, the Verbal Complaints Form must be read back to the complainant and/or communicated in a letter to the complainant to ensure accuracy. The Verbal Complaints Form must be forwarded to the CCT who will forward a copy to the service user.

### 8.4. Responsibilities

#### **8.4.1. Single Clinical Governance Group**

The Single Clinical Governance Group is the joint liaison group made up of representatives from the States and MSG and others which is constituted under the applicable terms of reference set out in the Secondary Healthcare Contract. To ensure appropriate seniority, the Single Clinical Governance Group will appoint two of its members from the following specific list: Chief Nurse / HSC Director of Clinical Governance, Medical Director, MSG Chairman or MSG Director of Clinical Governance, who will be known as the 'Appointed Single Clinical Governance Group Members' to:

- Maintain an overview of the process;
- Agree and approve the Complaint Investigation Report and Response Letter;
- May request repeat/further investigation if required;
- Meet with the complainant if appropriate; and
- Provide advice to the Investigating Officer and the CCT as required.

All the above personnel should be fully trained in the handling of complaints and customer service.

#### **8.4.2. Customer Care Team**

The Customer Care Team is a single team made up from HSC and MSG members of staff. The Customer Care Team will:

- Receive and triage all contacts/complaints;
- Maintain a database for all paper and electronic documents relating to contacts/complaints on the Ulysses system;
- Acknowledge complaints from service users and service users' representatives;
- Identify the key service area and appoint an Investigating Officer from this area (ensuring that appropriate consideration is given to which officer is appointed);
- Receive and send all external correspondence relating to complaints; and
- Provide written reports quarterly to the Single Clinical Governance Group.

#### **8.4.3. Investigating Officer**

The Investigating Officer(s) will be (a) Senior Nurse or non-medical clinical professional, (b) an MSG Directorate Chair and/or an MSG Quality Manager, or (c) any other appropriate HSC or MSG Manager, and will:

- Identify any immediate remedial action that may be required;
- Contact the complainant using the Follow Up Form (Appendix 4) within

5 working days of being appointed to confirm that they will be undertaking the investigation;

- Identify the key questions to investigate and personnel involved;
- Obtain relevant documents and statements from staff to answer these key questions (for some complaints this may require obtaining reports from other service areas);
- Complete the Complaint Investigation Report (Appendix 5);
- Produce a draft Response Letter (Appendix 6) and/or meet with the complainant to close the complaint;
- Send the completed Complaint Investigation Report and draft Response Letter to the CCT; and
- Ensure that any action plans within the Complaint Investigation Report are completed.

## 9. Complaints Process

### 9.1. General Process

Where formal complaints are received by a department or staff member, they should be date stamped and immediately sent to the CCT. Complaints will be triaged according to severity and urgency and any immediate issues that are identified will be addressed. If the complaint is linked to an incident, The CCT will ensure this is recorded on the governance incident system and that a member of the governance team is aware of the incident. If the complaint is a potential serious incident then the Chief Nurse / HSC Director of Governance or the Medical Director must be informed. If the serious incident involves MSG the MSG Director of governance should also be informed.

An Acknowledgement Letter (Appendix 7) will be sent to the complainant from the CCT within 3 working days. On receipt of a complaint, the CCT will appoint an Investigating Officer who will normally be the line manager in the service area at the centre of the complaint.

It is expected that the Complaint Investigation Report and the draft Response Letter will be completed within 15 working days from acknowledgement date. Where a complaint involves a student nurse, then the Head of the Institute of Health and Social Care Studies should be informed.

The draft Response Letter (along with the Complaint Investigation Report) will be sent to the CCT who will provide copies to any medical staff and service managers/directors for approval before being sent to the appointed Single Clinical Governance Group Member for signing.

The response to the complainant should include an explanation of events, whether there was a failure in service provision and what steps have been taken to prevent recurrence and an apology, if appropriate.

A full response will be made to the complainant within 20 working days. If this is not possible, a Holding Letter (Appendix 9) will be sent to the complainant, giving progress so far and informing them that investigations are continuing. Complaints which need to be sent to external agencies for response may take longer than 20 working days, in which case the complainant will be informed of how the complaint is being actioned and given progress reports.

The aim will be to complete complaints involving external agencies within 30 working days. In the case of a complex complaint the appointed Single Clinical Governance Group Member may agree to extend the response time but this should not normally be more than 60 working days to align with the serious incident investigation process.

Complaints dealing solely with MSG treatment and care, will be reviewed by the MSG Director of Clinical Governance (or MSG senior colleague in their absence) prior to being sent to the appointed Single Clinical Governance Group Member.

On occasions, and dependent on the nature of the complaint, the Chief Nurse / HSC Director of Governance, Medical Director or MSG Director of Clinical Governance appointed as the Single Clinical Governance Group Member may refer the matter to the HSC Chief Secretary for signature. If a complainant is dissatisfied with the response, they may request that

their complaint be referred to the Appeals Process (see section 9.3).

If a recipient would like their response emailed to them instead of posted, the response email will be sent using the agreed procedures for sending sensitive personal information by email (Confidential Information G122 (HSC) and Confidential Information Policy (MSG)).

A flowchart showing the complaints process for doctors and staff is attached in Appendix 10 and a list of all Trigger Words is shown in Appendix 12.

## 9.2. Complaints Relating to Doctors

These investigations will follow a similar process to that described above.

If at any stage of the investigation, the appointed Single Clinical Governance Group Member, CCT or the Investigating Officer identifies concerns about patient safety or the performance of a doctor, the Medical Director/Responsible Officer must be informed. If the doctor is an MSG consultant, the MSG Director of Clinical Governance and the MSG Chairman must also be informed.

Flow charts indicating the actions to be taken are shown in Appendix 10 for all doctors and staff. Sample copies of draft reports, forms and letters are set out in Appendices 2 to 9. Procedures for complaints received about General Practitioners, Primary Care Practices or Sarnia Medical Services Limited is outlined in Appendix 13.

## 9.3. Appeals Process

If a complainant is dissatisfied with the response to their complaint, they have 25 working days to contact the CCT, in writing, requesting that the issue be referred to the Appeals Panel.

Once in receipt of the letter from the complainant, the CCT will determine whether a meeting with the complainant would be appropriate to try and address the issue/s. If a meeting is not considered appropriate, CCT will inform the complainant of the Appeals Process.

The HSC Chief Secretary will appoint the Appeals Panel (one MSG Board

member, one HSC Director and another senior member of staff from either HSC or MSG) and will ensure that no member of the panel has a conflict of interest that may give rise to bias. The HSC Chief Secretary will also confirm the chairperson out of the three appointed Appeals Panel members.

The Appeals Panel will endeavour to consider and respond to the appeal within 25 working days from receipt of the complainant's appeal letter. The date of the appeal will be confirmed to the complainant in a letter from the chairperson. The decision of the Appeal Panel would be to:

- uphold the grounds of the appeal;
- not uphold the grounds of the appeal; or
- ask for the complaint to be reinvestigated locally.

If the decision is to uphold the grounds of the appeal, the Appeals Panel will then determine whether the complaint will be sent to an independent authority. If the panel decides to refer the complaint to an independent authority, the panel will also determine the costs of commissioning this and proportion these costs in relation to the HSC and MSG.

The complainant will be informed of the decision in a response letter from the chairperson. The process for dealing with the Appeals Process is set out in Appendix 11.

## 10. Contact with Complainants

### 10.1. Making a Complaint

Any member of HSC/MSG staff may find that he/she is the first point of contact, either in person or by telephone, for someone who wishes to complain. Dealing with people who are distressed or angry is not easy, but the first contact in these situations is important. The complainant must be made aware that their concern will be dealt with professionally and sympathetically. At all times, staff must be calm and courteous. The staff member may say they are sorry that the person has had cause to complain but must not accept liability. For complaints made in person, a private

place should be offered to talk about the problem. However, staff should be aware of safety issues if the complainant is angry and may be abusive.

## 10.2. Response to Complainants

The response to someone who has made a formal complaint should be in writing. This is to ensure that there is a written record of all explanations or responses given to the complainant. This will avoid the possibility of misunderstandings occurring which may result in the complainant taking further action. If contact is made by the complainant, either in person or by telephone, the Verbal Complaints Form should be completed and forwarded to the CCT for inclusion in the file.

The response to a complainant should include the following if appropriate:

- statement on whose behalf the complaint response is being sent;
- recognition of the personal circumstance of the complainant,
- information on the conduct of the investigation such as who conducted it and how;
- response to the questions/concerns raised;
- evidence of action taken as a result of the complaint to prevent recurrence, with recognition that whilst it won't change the experience for the individual they may draw comfort that changes have been made;
- an apology for all actual aspects where the standard is below that expected; and
- end the letter with guidance aligned with the Complaints Policy (G107) about what the next stage of the process is, so that the complainant can pursue this if they are not satisfied with the response.

## 10.3. Meeting with Complainants

A complainant may be offered a face to face meeting with a member of the CCT or other appropriate individuals, at the earliest opportunity, to discuss early resolution and immediate improvements which can be made if necessary. The complainant themselves may at any stage request a meeting with the CCT or the Investigating Officer and this will be arranged.

Where a meeting has taken place, the meeting should be recorded with the complainant's consent and a copy of the recording provided to the complainant. If the complainant does not wish the meeting to be recorded, notes of the meeting should be provided within five working days.

## 11. Dealing with Complaints Relating to the Exercise of Clinical Judgement by Medical Staff

Complaints relating to the clinical work of medical staff (or their locums) should be dealt with in the same way as any other complaint. The CCT will acknowledge the complaint and the investigation will be carried out by the appropriate Investigating Officer. This investigation will follow the process described in section 9 above.

The same process, in the event that the complaint concerns a HSC-employed Associate Specialist, Staff Grade doctor or Medical Officer (or their locum), should be dealt with jointly by the consultant to whom the doctor reports and the appropriate Operational Director.

## 12. Complaints Relating to External Agencies

Complaints relating solely to General Practitioners providing services from a GP practice or Sarnia Medical Services Limited will be forwarded to the relevant Practice Manager to respond direct to the complainant.

Complaints received by the CCT relating to other agencies providing services under contract, such as the Guernsey Therapy Group, out-of-hours dentists and UK providers will be sent to the relevant agency, requesting that they respond directly to the complainant with a copy to the CCT.

If the complaint relates to more than one agency (apart from HSC and MSG) CCT will request that the individual agency responds to the issues in the complaint that relates to their agency. As the single governance process matures across the Bailiwick it may be appropriate to send a joint response and this will be kept under review.

The complainant will be required to provide written consent before the complaint is forwarded to outside agencies.

## 13. Complaints Which May Result In Litigation

If it is felt that there may be a possibility of legal action against the HSC or MSG arising from any complaint or incident, or if a complainant has indicated that legal advice has been or may be sought, the matter should be referred immediately to the appointed Single Clinical Governance Group Member. The complaint will be treated as a formal complaint. The appointed Single Clinical Governance Group Member will ensure that the States insurers and/or the appropriate MSG or HSC defence organisation are notified.

It is not always easy to identify those complaints that may result in litigation. Staff should be alert in cases where the complainant has:

- suffered an injury;
- been the subject of a serious incident;
- been the subject of alleged negligence;
- suffered some material loss or damage and the available evidence points to a lack of care on the part of any person for whom the HSC/MSG are responsible;
- indicated that they have taken or are taking legal advice; and
- instructed advocates to process the complaint.

The possibility of legal action should not prevent a full investigation from taking place and any revision of policies or procedures or action that is deemed necessary should be commenced immediately.

No admission of fault on the part of the HSC or MSG, its officers or staff should be made until legal advice has been obtained.

If legal action in connection with a complaint has already commenced, all contact with the complainant will be made through the legal advisor.

Data (including sensitive personal data) required by HSC or MSG may be shared with insurers, medical defence organisations or legal advisers (and their expert advisers) to defend a potential or actual claim.

## 14. Complaints that Result in Criminal Proceedings

Where criminal proceedings are likely to arise from any complaint or other incident, details of the complaint must be reported to the HSC Chief Secretary, Chief Nurse/HSC Director of Governance and MSG Director of Clinical Governance immediately.

Staff will be required to co-operate fully in assisting the police, the law officers and/or the defence association and their legal representatives with any criminal investigation, subject to any limitations arising from their professional code of conduct or other agreed policies and procedures.

## 15. Protection and Support for Staff

Staff against whom a complaint is made will be made aware of this by the appropriate manager. Staff involved in the investigation of a complaint must be advised of their right to seek advice from their professional association or trade union (or HR representative if applicable) before making a statement but this must not hold up staff submitting their statements to the organisation. Every effort should be made to provide support to staff during the investigation.

Complaints are investigated within a fair, open and transparent culture and are seen as an opportunity to learn from mistakes and, if appropriate, as an opportunity to identify training and development needs.

Medical or dental staff should be advised to contact their defence organisation in respect of a complaint that may result in litigation. States-employed medical staff must also inform the Medical Director/Responsible Officer and MSG partners and employees must notify the MSG Director of Clinical Governance.

Staff are advised to keep a factual record of any complaint including clear dates and times. Records should be kept of any statements made by witnesses, copies of relevant emails and file notes of telephone conversations. Incidents that staff believe could give rise to complaints at a later stage must be appropriately documented.

It is important that staff do nothing to prejudice the outcome of the

investigation.

## 16. Disciplinary Action and Performance Concerns

It is unusual for individual members of staff to be subject to disciplinary action or performance investigations as the result of a single complaint. However, if either the Investigating Officer or the appointed Single Clinical Governance Group Member identifies potential disciplinary matters or performance concerns that require investigation, this shall be directed to the appropriate disciplinary or Maintaining High Professional Standards processes.

## 17. Recording Complaints

The CCT will enter all complaints received by the HSC and MSG onto the Ulysses system. The database contains demographic details, details of the complaint, contact details, actions taken to investigate and rectify the problem, and the outcome. The CCT will notify the HSC Governance Team of any complaints involving clinical incidents which are not already linked on Ulysses. In addition, they will also notify the Chief Nurse/ HSC Director of Governance and the MSG Director of Clinical Governance of any complaints that may result in litigation.

## 18. Monitoring and Reporting Complaints

The complaints process will be monitored to ensure it meets the following criteria:

- provides a flexible, thorough and effective mechanism for resolving complaints;
- complaints are dealt with quickly and thoroughly within established time limits;
- complainants are kept informed of progress if the investigation takes longer than expected;
- action taken in response to complaints is documented;

- to determine the root causes of complaints, root cause analysis techniques may be applied to gain a better understanding of complaint causation and process;
- trends are identified and appropriate action taken to resolve the issue; and
- to enable HSC and MSG to identify lessons to improve services and that these are fed back to the appropriate teams.

The CCT will monitor all actions required following the investigation of a complaint.

The Chief Nurse/ HSC Director of Governance will provide quarterly quality reports to the Single Clinical Governance Group detailing the number and type of complaints received and the actions being taken as a result of those complaints. The MSG Director of Clinical Governance will present this report to the MSG Management Board.

The Medical Director/Responsible Officer requires specific information on doctors, and he/she should receive a quarterly quality report with the above information, together with the doctors' names. However, names should not be included in the report submitted to the Single Clinical Governance Group.

Feedback from complainants about the process will be sought in order to further improve the handling and management of complaints.

## 19. Habitual/Vexatious Complainants

Occasionally, a complainant will persist with a complaint when nothing further can reasonably be done to address the perceived problem. Complainants will be categorised as a habitual or vexatious complainant if they meet two or more of the following criteria:

- they persist in pursuing a complaint where the procedure has been fully and properly implemented and exhausted;
- the substance of the complaint is changed or new issues are raised or

- further questions are raised to prolong contact with staff (this criterion precludes further genuine issues that may be raised);
- they are unwilling to accept factual, documented evidence;
  - their concerns are outside the remit of the HSC/MSG;
  - they focus on trivial issues, which are out of proportion to their significance;
  - they threaten to or use physical violence towards staff;
  - they harass or abuse staff;
  - they make an excessive number of contacts, placing unreasonable demands on staff;
  - they make unauthorised recordings of meetings or telephone conversations without the prior knowledge of the parties involved; and
  - they have unreasonable demands or expectations and fail to accept that these are unreasonable.

When a complainant is categorised as habitual and/or vexatious, any action taken will be determined by the appointed Single Clinical Governance Group Member.

The appointed Single Clinical Governance Group Member will notify the complainant in writing that the CCT has responded fully to the points raised and that there is nothing further to add. The complainant should also be informed that the correspondence is at an end and that further letters will not be acknowledged or answered.

In extreme circumstances, it may be necessary for the appointed Single Clinical Governance Group Member to refer the matter for legal advice.

Habitual and/or vexatious status may be withdrawn if the complainant demonstrates a more reasonable approach or submits a new complaint needing investigation.

## 20. Training

Staff at all levels should be made aware of this policy and their responsibilities as part of their induction. Where staff are actively involved in the management of complaints, then training should be provided that is relevant to their role to enable them to be able to respond or investigate complaints appropriately.

Additional training should be arranged as appropriate. Such training could include, for example, customer care, dealing with difficult people, communication skills, interviewing skills and counselling. Training should be seen as enhancing the skills of individual staff and promoting HSC and MSG as providers of good quality services.

In order to provide assurance of training undertaken, audits will be conducted on attendance at training courses by the CCT.

## 21. Accountability

The HSC Chief Nurse/ HSC Director of Governance and MSG Director of Clinical Governance are accountable to their respective organisations for ensuring that this policy is implemented. HSC Directors and MSG Directorate Chairs are responsible for ensuring that their staff understand and carry out the procedures required by this policy.

## 22. Compliance Monitoring

It is the responsibility of the Chief Nurse/ HSC Director of Governance and MSG Director of Clinical Governance to ensure that compliance monitoring of this policy is undertaken. All HSC Directors and MSG Directorate Chairs are required to ensure compliance monitoring within their directorates.

The President and deputies of the Committee *for* Health and Social Care from time to time require to be assured of the standard of complaint responses. Providing service user consent has been obtained the President and Deputies of the Committee *for* Health & Social Care may review complaint responses for this purpose.

The Committee *for* Health & Social Care will receive reports on the number

of complaints, trends and action taken as a result of complaints in an anonymised format.

## 23. Accessibility

HSC/MSG will ensure that all users of its services users will have access to information on its complaints policy and procedures. We will endeavour to provide information which is as user friendly and accessible as possible. Upon request information will be provided in alternative formats and languages as quickly as possible. We will ensure that standard information such as leaflets are readily available in accessible formats such as large print and easy read.

## 24. Distribution

This policy will be placed on HSC's PoliPlus and on MSG's Intranet. Paper copies will be made available to staff who do not have access to the intranet.

## 25. Review Period

This policy will be reviewed by the Chief Nurse/ HSC Director of Governance and MSG Director of Clinical Governance as required but at a frequency of not less than every three years.

Clause 32.1 of the Secondary Healthcare Contract dated 3 March 2017 states that no changes can be made to this Policy without the written consent of HSC and MSG. However this consent shall not be unreasonably withheld or delayed.

## 26. Policy Removal

This policy replaces policy numbered G107, approved by the Board of the former Health and Social Services Department on 1 August 2015 and will be retained on each organisation's intranet system until such time as its replacement has been approved.

## 27. Effective Date

This policy has been approved by the Committee for Health and Social Care and the MSG Management Board and will come into effect on the date of issue shown on the title page.

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**Appendix 1: Capacity**

**Capacity** is defined as the cognitive ability to reach a decision.

- Every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise.
- People must be given all appropriate help before anyone concludes that they cannot make their own decisions (see links below for guidance/ assistance).
- Individuals must retain the right to make what might seem eccentric or unwise decisions.
- Anything done for on behalf of people without capacity must be in their best interests. In order for a clear and robust rationale for this decision, a best interests meeting must take place.
- Anything done for or on behalf of people without capacity should be the least restrictive of their basic rights and freedoms.
- Assessment of mental capacity is specific for each individual decision at any particular time.
- No specific diagnosis should be assumed to imply incapacity.

All service users are deemed to have capacity unless one or more of the following criteria apply:

- the service user does not appreciate their predicament;
- the service user does not have the ability to understand the choices available;
- the service user does not have the ability to retain information long enough to be able to make a decision;
- the service user is unable to use or weigh up the information to make a decision; or
- the service user is unable to communicate their decision by any means.

If the person is incapable and unable to act for him or herself, his or her consent is not required. However, care must be taken not to disclose personal

health or social care information to the complainant.

If there is concern that the person making the complaint on behalf of an incapable service user is not a suitable person to pursue the complaint, the HSC Chief Secretary may refuse to deal with the complainant and nominate another person to act with respect to the complaint. The refusal to deal with a complainant will only be used in exceptional circumstances and will not be used indiscriminately. The situation where a person may be deemed to be unsuitable to represent an incapacitated person might include where the person has a serious conflict of interest; or where the person has no legitimate interest in the welfare of the service user.

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**Appendix 2: Consent Letter and Consent Form**

Our ref: [complaint no/initials]

**To be opened by the addressee only**

[Service User's Name]

[Service User's Address]

[Service User's Address]

[Service User's Address]

[Service User's Address]

[Date]

Dear [Service User]

You may be aware that we have received a complaint involving your care.

So that we can proceed with investigating and responding to the issues raised, it will be necessary for you to provide written consent for information to be shared with your [relative / representative] [Name] as the response may contain confidential (clinical) information. If you agree to this, please find enclosed a copy of the consent form and return it to me in the pre-paid envelope provided as soon as possible. Alternatively, if you prefer we can respond to you directly.

If you have any queries please do not hesitate to contact me on [725241] or [238565].

Yours sincerely,

[Name]

Customer Care Team

**CONSENT FORM**

<b>Name of service user:</b>	
<b>Service user's address:</b>	
<b>Service user's date of birth:</b>	
<b>Name of complainant:</b>	
<b>Relationship to the service user:</b>	
<b>Complaint details:</b>	

Please delete as appropriate

1. I hereby give my consent for the above named person to make a complaint on my behalf.

I understand that some clinical information, in relation to the complaint, may be disclosed to my representative as part of the complaints process and I give my consent for this information to be released. I understand that a copy of the response will also be sent to me for my information.

**or**

2. I would like the response to the complaint to be made directly to myself.

**Signature of service user:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Appendix 3: Verbal Complaints Form



**VERBAL COMPLAINTS FORM**  
(Telephone or Meeting)

<b>Name of complainant:</b>	
<b>Complainant's contact number:</b>	
<b>Service user's name:</b>	
<b>Service user's date of birth:</b>	
<b>Service user's unit number:</b>	
<b>Staff name and title who received and handled the complaint:</b>	
<b>Date/time complaint received:</b>	<b>Date/time complaint resolved:</b>
<b>Complaint details:</b>	
<b>How was it resolved (and resolution communicated to the complainant)</b>	
1	
2	
3	
4	
5	
<b>Is the complainant satisfied with the outcome? Yes / No</b>	
If no, please provide assistance to the complainant to send in a complaint to the Customer Care Team	

## Appendix 4: Follow Up Form



**FOLLOW UP FORM**  
(To be completed by the Investigating Officer)

<b>Name of Investigation Officer:</b>	
<b>Name of complainant:</b>	
<b>Complaint number:</b>	
<b>Date of contact (<i>within 5 working days of acknowledgement letter sent</i>):</b>	
<b>Attempts at contact (where not successful):</b>	

<b>Service User Details (Where Different)</b>	
<b>Name:</b>	
<b>Address:</b>	

<b>I have discussed with the complainant:</b>	
Who I am and explained my role	Y/N
How the complaint will be handled and obtained consent to share the complaint with other external agencies (if appropriate)	Y/N
When the investigation is likely to be completed	Y/N
When the complainant is likely to receive a response	Y/N

<b>Summary of issues raised by complainant in addition to the existing complaint</b>

<b>What outcome does the complainant want to resolve the complaint?</b> <i>e.g. apology, explanation, compensation</i>

**Once completed please email the form to the Customer Care Team  
([customercare@health.gov.gg](mailto:customercare@health.gov.gg))**

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## Appendix 5: Complaints Investigation Report



## Complaint Investigation Report

<b>Complaint number:</b>	
<b>Date of complaint received:</b>	
<b>Date complaint entered on system and by whom:</b>	
<b>Investigating Officer:</b>	

<b>Complainant Details</b>	
Name:	
Address:	
Date of birth:	
Relationship to service user:	

<b>Service User Details (Where Different)</b>	
Name:	
Address:	

<b>List of concerns and responses <i>(please note that your comments will be copied and used in the final response letter to the complainant)</i></b>
<ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> <li>4.</li> </ol>

Investigation Notes <i>(include all evidence i.e. medical records if necessary)</i>
 Mrs X's Clinic letter.docx

Learning Points
1.
2.
3.
4.
5.

<b>Date response was sent to the Customer Care Team:</b>	
----------------------------------------------------------	--

<b>Date approval sought from the appointed Single Clinical Governance Group Member:</b>	
<b>Date response signed:</b>	
<b>Date response posted:</b>	

Action List			
	Action	Target Date	Responsible Manager
1			
2			
3			
4			
5			

**Once completed please email the form to the Customer Care Team  
 (customercare@health.gov.gg)**

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**Appendix 6: Response Letter**

Our ref: [complaint no/initials]

**To be opened by the addressee only**

[Service User's Name]

[Service User's Address]

[Service User's Address]

[Date]

Dear [name]

I am writing in response to your recent complaint dated [date]. I am sorry that you have needed to raise these concerns and would like to begin by apologising for any distress we may have caused you.

In order to consider the details of your complaint, I asked [Name of Investigating Officer] to conduct an investigation on my behalf in accordance with the formal complaints process.

As part of the investigation, [say what the investigation involved, i.e. asking for consultant's comments, checking medical records, etc.]. [Name of Investigating Officer] has now concluded his/her investigation and we would like to take this opportunity to respond to each of your concerns:

[Within this section use information from the Complaint Investigation Report Form]

Please let me take this opportunity to reassure you that as part of our commitment to delivering the best standards of care possible for service users, families and carers, we take all complaints received very seriously. They provide us with opportunities to review and reflect upon current practices, and allow us to consider changes that will enhance the standards of care we strive to achieve.



**Appendix 7: Acknowledgment Letter and ‘How we deal with your Complaint’**

Our ref: [complaint no/initials]

**To be opened by the addressee only**

[Complainant's Name]

[Complainant's Address]

[Complainant's Address]

[Complainant's Address]

[Complainant's Address]

[Date]

Dear [name]

[Patient Name if not complainant]

Thank you for your letter which was received on [date] regarding the [summary of issue]. This matter has been brought to my attention and your concerns will be investigated through the Complaints Policy G107.

I am sorry to hear that you were not satisfied with the [services/treatment] we have provided and can confirm that we will be conducting a thorough investigation into your concerns. An Investigating Officer will be appointed from the appropriate department and will contact you within the next 5 working days to confirm who will be undertaking the investigation [see Follow-Up Form].

*As you have written to Deputy [ ] you may like a copy of the complaint response to be copied to them. In order to protect your confidentiality we need your permission to do this. Please complete the attached consent form and return it to us in the pre-paid envelope so that we have your permission to send Deputy [ ] a copy of the response.*

From time to time the Committee *for* Health & Social Care require to be assured of the standard of complaint responses. Please complete the attached consent form so that your complaint response may be reviewed by the President and deputies of the Committee *for* Health & Social Care for this purpose.

The Committee *for* Health & Social Care will receive reports on the number of complaints, trends and action taken as a result of complaints in an anonymised format.

For your convenience, please also find enclosed our 'Complaint Information Sheet' which explains how we will deal with your complaint. If you would like to obtain a full copy of our policy this can be found on our website ([www.gov.gg](http://www.gov.gg) or [www.msg.gg](http://www.msg.gg)).

If you have any queries or wish to discuss this further please contact the Customer Care Team on [725241 (HSC) or 238565 (MSG)]

Yours sincerely,

[Name]

Customer Care Team

Enc. Complaint Information Sheet

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## Complaint Information Sheet

### Introduction

1. Our aim is to give you a good service at all times. However, if you have a complaint you are invited to let us know as soon as possible.
2. Please note that Health & Social Care (HSC) and Medical Specialist Group (MSG) will only consider complaints that are raised within 6 months from the date of act/omission.

### Complaints Made By Telephone

3. You may wish to make a complaint in writing and, if so, please follow the procedure outlined below. However, if you would rather speak on the telephone about your complaint then please contact the Customer Care Team on either 725241 or 238565. The person you contact will make a note of the details of your complaint and discuss with you how you would like your concerns to be addressed. If the matter is resolved he/she will record the outcome, check that you are satisfied with the outcome and record that you are satisfied. You are also invited to record the outcome of the telephone discussion in writing if you so wish.
4. If your complaint is not resolved on the telephone you will be invited to write to us about it so it can be investigated formally.

### Complaints Made in Writing

5. Please give the following details:
  - a. your name and address;
  - b. who you are complaining about;
  - c. the details of your complaint; and
  - d. how you would like the complaint to be resolved.

Please address your letter to The CCT, The Office of the Committee for Health & Social Care, Le Vauquiedor Office, Rue Mignot, St Andrew, Guernsey GY6 8TW. We will acknowledge receipt of your complaint within 3 working days and provide you with details of how your complaint will be dealt with.

6. HSC and MSG both have Directors of Clinical Governance who are experienced members of the team that considers written complaints. We will respond to your complaint within 20 working days and the response will be set out as follows.
  - a. the nature and scope of the investigation;
  - b. the conclusion on each complaint and the basis for the conclusion; and
  - c. If your complaint is justified, the proposals for resolving the complaint.

### Appeals Process

7. If you are unhappy with the outcome, you may raise your concerns in writing to the CCT and ask for your complaint to be referred to the Appeals Process. An Appeals Panel will meet and discuss the investigation and will respond to you within 25 working days. For more information on this stage, please contact the CCT.

### Confidentiality

8. All conversations and documents relating to the complaint will be treated as confidential and will only be disclosed to the extent that it is necessary. Disclosure will be to anyone involved in the complaint and its investigation. Such people will include the HSC Chief Secretary and MSG Chief Executive, the Director of Clinical Governance for both organisations, the CCT, MSG Directorate Chairs and any clinicians referenced in the complaint. It may sometimes be necessary to share information relating to the complaint with HSC/MSG insurers or legal advisors. It may sometimes also be necessary to share information relating to the complaint with professional experts outside the HSC/MSG to obtain expert advice/reports on aspects of the complaint.

### Our Policy

9. As part of our commitment we make a written record of any complaint and retain all documents and correspondence generated by the CCT for a period of eight years (Retention and Destruction of Information (HSC) Policy G102). The Single Clinical Governance Group (which includes both organisations) inspects an anonymised record of all complaints regularly with a view to improving services.

**Appendix 8: Form of Consent for the Disclosure of Data to a Member of the States**

The form attached below must be completed by a member of the public before a States Member is permitted to discuss any personal information disclosed to them by that individual with other parties on their behalf.



**Form of Consent  
for the Disclosure of Data to a  
Member of the States**

I/We *(state name in full of each person giving consent)* .....

.....  
.....

of *(state address including postcode)* .....

.....  
.....

hereby authorize *(state the name of the States' Committee to be authorized)*

.....  
.....

to discuss with, and disclose to, *(state name of each States Member being authorized)*

.....  
.....

any information that it holds in respect of *(state subject matter of information to be disclosed)*

.....  
.....

I/We authorize\* / do not authorize\* *(delete as appropriate)* the disclosure of sensitive personal data such as medical, police or court records etc.

.....  
Signature

.....  
Signature

Date: .....

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**Appendix 9: Holding Letter**

Our ref: [complaint no/initials]

**To be opened by the addressee only**

[Service User's Name]

[Service User's Address]

[Service User's Address]

[Date]

Dear [Patient Name]

I write further to my letter of [date], acknowledging receipt of your complaint in which you raised concerns about [xxxx].

I regret to inform you that the investigations into these matters are not yet complete and we will contact you as soon as we are able to provide you with a response to your concerns.

*or*

I write further to my letter of [date] informing you that the investigations into these matters were not yet complete and I apologise for the delay in not responding to you in full.

I can now confirm that the investigation into the concerns you raised are now complete and we are in the process of drafting a response to you and this will be sent as soon as possible.

In the meantime, please do not hesitate to contact me should you require any further information.

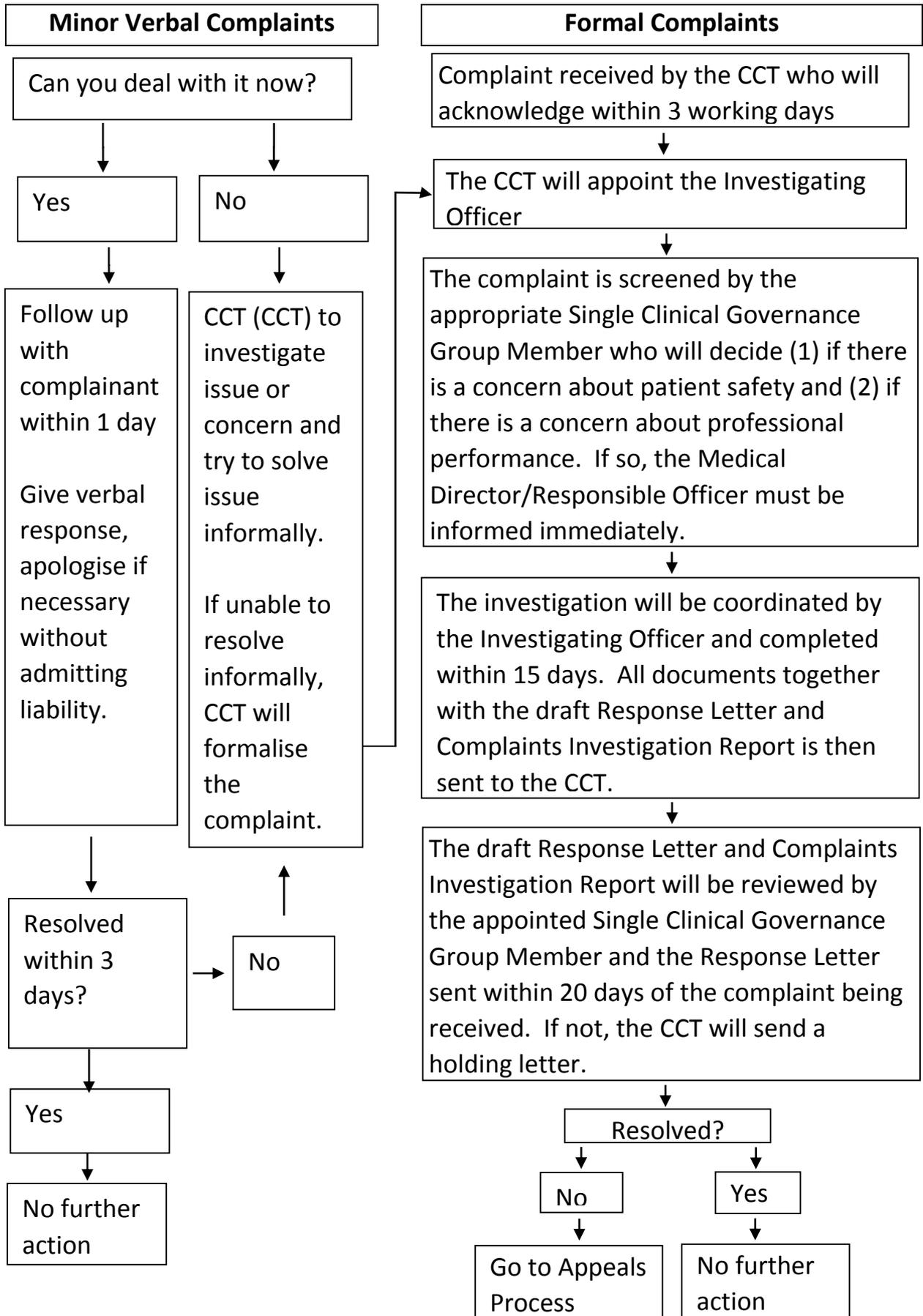
Yours sincerely,

[Name]

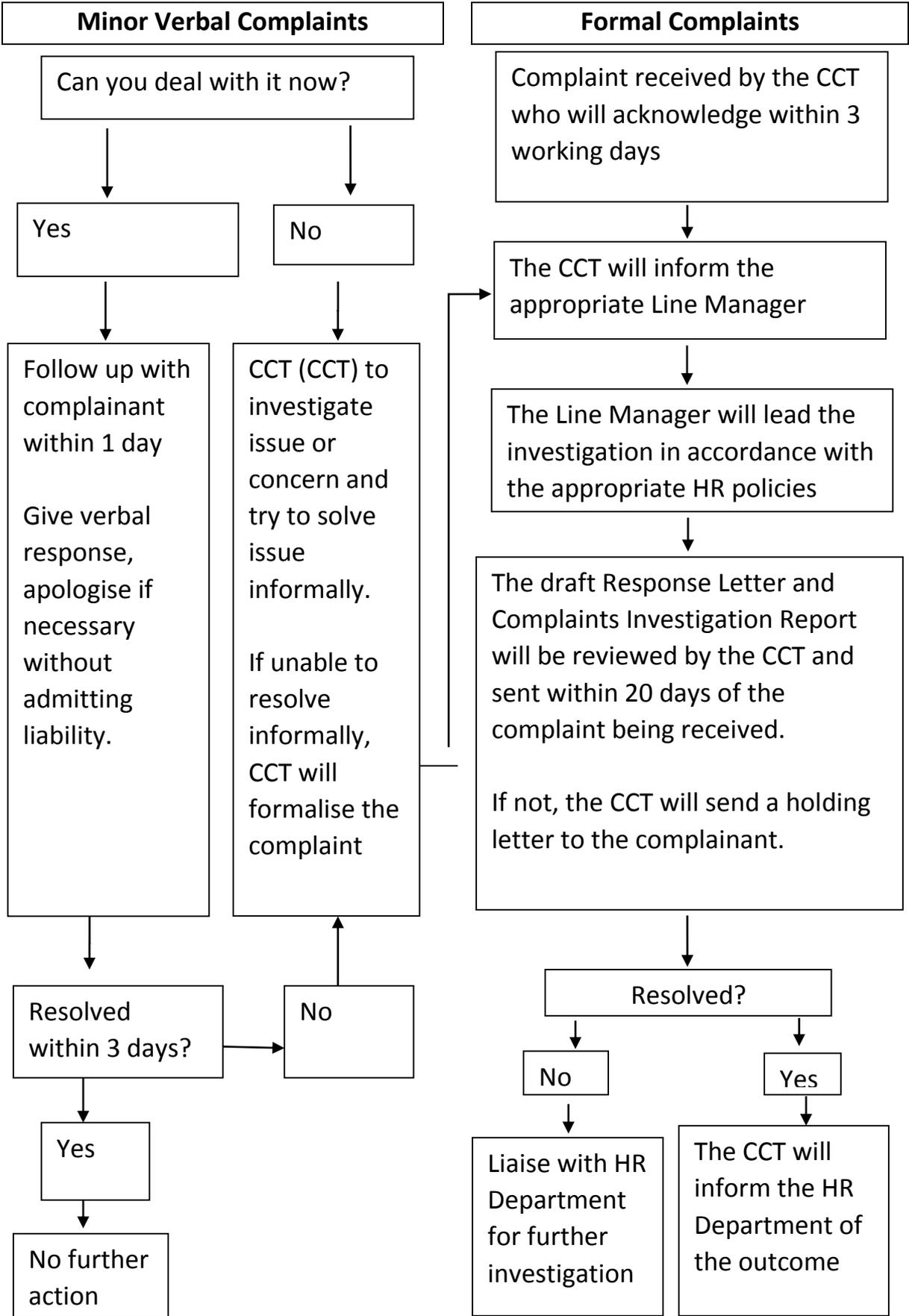
Customer Care Team

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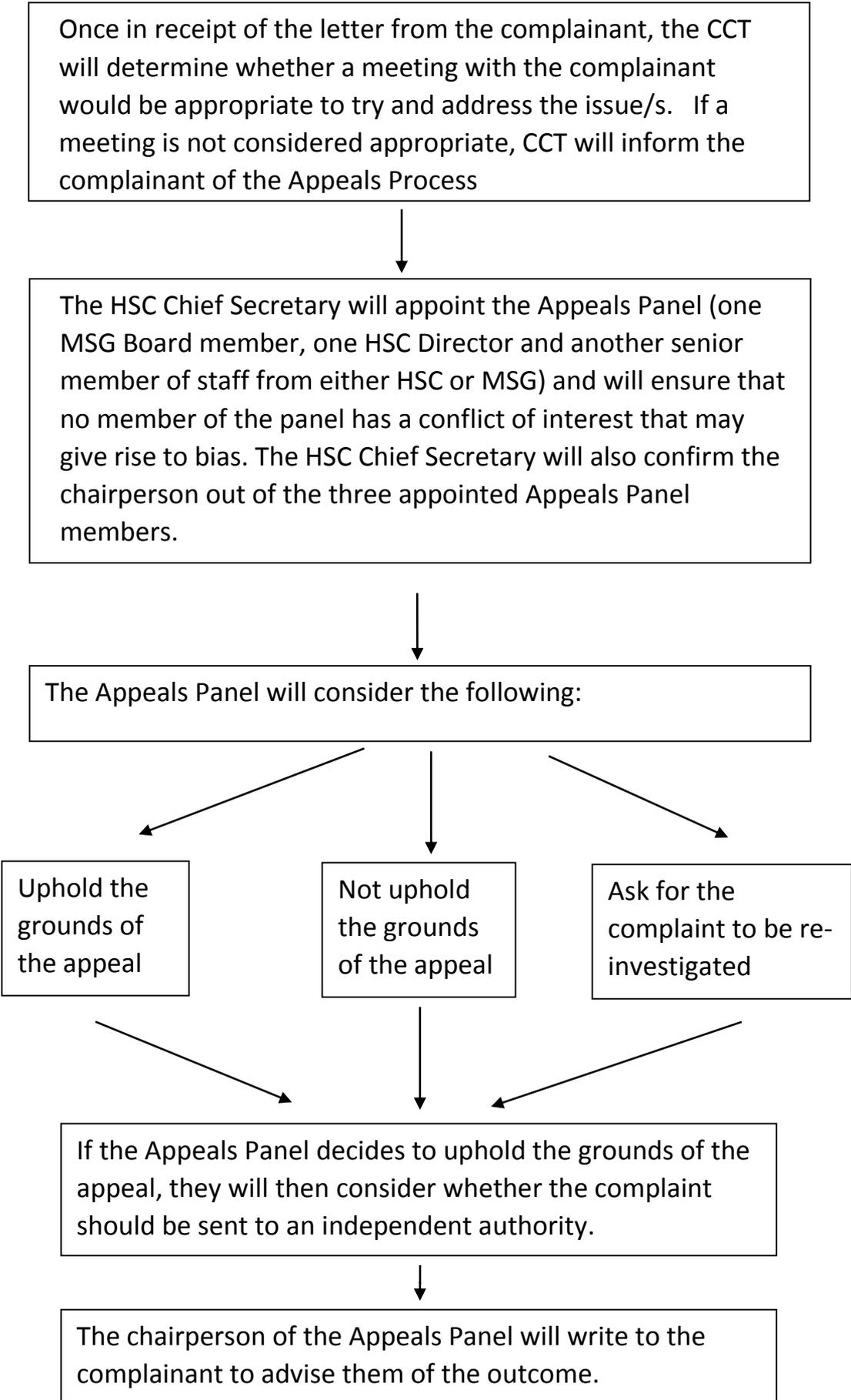
**Appendix 10: Dealing With Complaints (Doctors and Clinical Staff)**



**Appendix 10: Dealing With Complaints (Non-Clinical Staff)**



**Appendix 11: Appeals Process**



## Appendix 12: Complaints Handling Trigger Words

When you receive a letter of complaint or a call, always be aware of the level of risk to both the service user and the organisation (HSC or MSG).

Sometimes ‘trigger words’ are used by the complainant which can signify a risk such as a potential safeguarding issue with vulnerable people. In addition, it can also signify a risk of litigation in which you may need to initiate immediate action by notifying the relevant people who can help such as safeguarders, lawyers and insurers. We have provided a set of trigger words in groups to help you, however please note that this list is illustrative but not exhaustive.

<b>Person-Centred</b>	
Abuse (child, domestic, sexual)	Self-harm
Aggressive	Struck
Harm	Suicidal
Hit	Threat
Injury	Violence
Scared	

<b>Legal/Criminal</b>	
Assault	Negligence
Compensation	Police
Data Protection	Steal
Drugs	Stolen
Law	Theft
Litigation	Violent
Narcotics	

<b>Discriminatory</b>	
Anti-Semitic	Islamophobic
Bullying	Prejudiced
Disabled	Racist
Discriminated	Religious
Harassment	Sexist
Hate	Transphobic
Homophobic	

## **Appendix 13: Primary Care Practices, Sarnia Medical Services Limited (SMSL) and HSC**

### **Complaints received by HSC that relate solely to a General Practitioner working in a Primary Care Centre/Practice**

- If the complaint relates solely to charges levied by a Primary Care Practice, then the complaint will be dealt with by the relevant Practice Manager, who will investigate the complaint and respond to the patient in accordance with his/her own Practice policy.
- If the complaint relates solely to a General Practitioner's clinical care, the relevant Practice/SMSL Manager will investigate the complaint and send a response to the complainant with a copy to the Customer Care Team and the relevant doctor(s) involved in the patient's care during this episode.

Complaints received regarding a General Practitioner will be acknowledged by the CCT who will advise the complainant that the relevant Primary Care Practice/SMSL will be responding.

The CCT will write to the relevant Practice Manager enclosing the original written complaint and a copy of the acknowledgement letter.

The Practice/SMSL will respond according to its own complaints procedure.

Where the complaint is received from a third party, the relevant Practice Manager will obtain consent from the patient, before any action is taken.

### **Complaints received by HSC regarding different sectors of healthcare providers including a General Practitioner working in a Primary Care Centre/Practice**

In this eventuality, the appointed Single Clinical Governance Group Member will request a response to the issues in the complaint relating to the General Practitioner from the relevant Practice Manager. A composite reply will then be drafted by HSC and sent to that Practice Manager for comments. A copy of the final response is also sent to the Practice Manager.



