

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 other providers commissioned by HSC

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Dealing with Complaints

1. Introduction

The Committee *for* Health and Social Care (HSC) and the 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 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 handling of 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. Responsibilities

4.1. Single Clinical Governance Group/ Quality Governance Committee

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 terms of reference set out in the Secondary Healthcare Contract. To ensure appropriate seniority, the Single Clinical Governance Group will appoint from the following specific list: HSC Director of Clinical Governance, Medical Director (or nominee on their behalf), MSG Chairman, and MSG Lead Governance Partner, who will be known as the 'Appointed Single Clinical Governance Group Members' to:

- Maintain an overview of the complaint process;

- Agree and approve the response letter;
- request repeat and/or further investigation if required;
- Meet with the complainant, or nominate an appropriate person, if appropriate; and
- Provide advice to the Investigating Officer and the Customer Care Team as required.

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

4.2. Customer Care Team (CCT)

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.

4.3. Investigating Officer

A senior member of staff will conduct an investigation into the service user's concerns, and this will be (a) a senior nurse or clinical professional, (b) an MSG Directorate Chair and/or an MSG Directorate Manager, or (c) any other appropriate HSC or MSG Manager.

The Investigating Officer will:

- Identify any immediate remedial action that may be required;

- 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 and from local or other experts where necessary;
- Produce a draft Response Letter and/or meet with the complainant to close the complaint;
- Send the draft Response Letter to the CCT; and
- Ensure that any action plans are completed.

5. 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;
- “Individual funding requests (IFRs)” under policy no. G1002.
- issues arising from contracts between the HSC, MSG and other parties;
- any internal departmental concerns
- any concerns which relate solely to financial matters
- staff grievances: 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.

6. 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, for example, the person legally charged with looking after the service user’s

affairs after their death.

Both HSC and the MSG are committed to ensuring that the complaints system is available to all members of the public. Effort will be made to ensure that support is available for all service users who require it, 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 may also be a staff member of HSC or MSG acting in the best interests of the service user.

6.1. 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 may make it more difficult to properly investigate the complaint.

6.2. 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.

- For any young person under the age of 12 written permission is not normally required for a parent, guardian or other adult (for example, a teacher or social worker) to make a complaint on his or her behalf.
- Between 12 and 16, evidence that the young person would be happy for information to be shared is preferable, such as documentation in notes that the parent was present at consultation, or verbal consent from the child that they are happy for information to be discussed with their parents.

- Age 16+, information will be kept confidential to the patient, unless there is recorded confirmation that they consent for it to be shared with another person.

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. An independent mediator may also be sought by HSC in cases where a family and those healthcare professionals providing care to the child are unable to agree on components of care, as part of addressing the issue. 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 notify any safeguarding concerns to the appropriate HSC Director or MSG doctor, in accordance with relevant policy and the Guidelines produced by the Islands Safeguarding Children Partnership (also known as the Islands Child Protection Committee).

6.3. 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 someone such as 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.

6.4. Complaints Received via the States of Guernsey's Deputies

Service users may contact Deputies or Committee members, about any health or social care concerns, requesting that they undertake an advocacy role on their behalf. Any such complaints should be managed under this policy, with relevant consent from the patient.

Complaints passed on by such Deputies will be treated the same as any other third-party complaint. The original complainant will be asked whether they agree to share any response letter, which may contain personal information, with the Deputy involved..

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.

7. 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 the relevant Data Protection policy).

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.

8. 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 12 months of the event; or made within 12 months of a complainant realising that they have cause for complaint. This reflects the difficulty in investigating of events long ago including fading memories and staff moving on.

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

9. Types of Complaint

Customer Advice and Liaison Service (CALs)

The Customer Care Team or other appropriate individuals 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.

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. HSC, MSG, GP, etc.

If the CCT is unable to resolve a service user's concern within 5 working

days (or any short extension by agreement with the user), 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.

9.1. Formal Complaints

Formal complaints may be written or verbal. Written complaints are accepted on the 'We are listening?' forms, by letter or by 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.

10. Complaints Process

10.1. General Process

A handbook for staff sets out the administrative process to be followed on receipt of a formal complaint, and this will be kept updated. The handbook includes flow charts; samples of draft reports, forms and letters; and procedures for complaints received about General Practitioners, Primary Care Practices or Sarnia Medical Services Limited.

All complaints will be acknowledged where possible within 3 working days. The aim is to provide a written response to the complainant within 20 working days, although some complex complaints may require more time, in which case the complainant will be kept informed.

If at any stage of the investigation, the appointed Single Clinical Governance Group Member, CCT or the Investigating Officer identifies significant or serious 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 Lead Governance Partner and/or the MSG Chairman must also be informed.

10.2. Complaint Appeals Process

If a complainant is dissatisfied with the response to their complaint, they may use the complaint appeals process. Requests for an appeal must be

received in writing or email within 25 working days of the date of the response letter and must detail the issue to be referred to the Appeals Panel. In exceptional cases an appeal may be considered outside of this timescale at the discretion of The Director for Quality, Safety, Improvement & Safeguarding.

The Appeals Process is designed to review how the complainant's concerns were investigated and handled. It will not reinvestigate the complaint, but might refer the complaint back for reinvestigation either locally or externally.

The CCT may offer the complainant a meeting with the HSC Director of Governance, the MSG Lead Governance Partner, or any other senior colleague from either organisation to discuss their ongoing concerns. If the complainant does not wish to meet, their complaint will be dealt with under the Appeals Process. Any meeting that takes place will not prejudice the complainant's right to ask for an Appeals Panel review.

An Appeals Panel will normally consist of 3 members. Their appointment and the choice of chair must be approved by the States of Guernsey Director of Quality, Safety, Improvement and Safeguarding. In exceptional circumstances the approving officer may approve one or more additional Panel member(s). The Panel chair will be someone at Director level in HSC or an MSG Board member. Two other members of the Panel must be senior staff members; both HSC and MSG must be represented on the Panel. No member of the Panel may have a conflict of interest that might give rise to bias.

The Appeals Panel will meet, consider and respond to the appeal within 25 working days from receipt of the complainant's appeal letter. The Appeals Panel may make the following decisions:

- uphold the appeal;
- not uphold the appeal; or
- ask for the complaint to be reinvestigated either locally or externally.

If the decision is to uphold the grounds of the appeal, the Appeals Panel will then determine whether the complaint should 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.

11. Meeting with Complainants

A complainant may be offered a face-to-face meeting with a member of the CCT or other appropriate individuals. Such meetings might, for example, discuss early resolution and possible immediate improvements. Requests from a complainant to meet with a member of the CCT or the Investigating Officer will normally be granted. If a request for a meeting is not granted then reasons will be given.

Where a meeting has taken place, the meeting may 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, then a summary of the meeting should be provided within five working days.

12. 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) may be investigated under this policy when appropriate. Any complaint that might be relevant to a doctor's fitness to practice will also be notified to the Responsible Officer. (See also section 17.)

13. 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 directly to the complainant.

Complaints received by the CCT relating to other agencies providing services under contract, such as the Guernsey Therapy Group, SJARS, out-of-hours dentists and visiting service 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. In appropriate cases a joint response may be agreed. .

The complainant will be required to provide written consent before such a complaint is forwarded to an outside agency for investigation.

14. Complaints Which May Result in Litigation

The Complaints process is not to be used as a gateway to litigation, which is a separate process.

Insurers will be notified of any complaint which is felt likely to result in legal action. The staff handbook has further information on the administrative process for this.

If legal action in connection with a complaint has already commenced, all contact with the complainant will be made through the relevant legal advisor. If litigation has already commenced, then complaints may be investigated for purposes of learning and improvement, but a detailed response may not be provided to the complainant. The complainant will be notified if this is the case.

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.

15. Complaints that Result in Criminal Proceedings

Where criminal proceedings may potentially arise from a complaint or other incident, details of the complaint must be reported to the HSC Director of Operations, HSC Director of Governance and MSG Lead Governance Partner immediately. If the concern relates to a doctor the Responsible Officer must also be informed.

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.

16. 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 have the 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. Staff should be reminded about the Employment Assistance Programme.

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 Lead Governance Partner.

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.

17. Disciplinary Action and Performance Concerns

If a complaint identifies potential disciplinary or performance concerns about a member of staff the matter will be directed to the appropriate

process, eg disciplinary, Maintaining High Professional Standards policy, regulatory or other. As previously noted, concerns about fitness to practice for doctors will be notified to the Responsible Officer.

18. 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 Quality & Safety Team of any complaints involving clinical incidents which are not already linked on Ulysses.

19. Monitoring and Reporting Complaints

The complaints process will be monitored to ensure it meets the objectives of the policy and 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 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. The MSG Lead Governance Partner will present this report to the MSG Management Board. 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.

20. Habitual/Vexatious Complaints

Occasionally, a complainant will persist with a complaint when nothing further can reasonably be done to address the perceived problem.

Complaints may be categorised as being unreasonable and persistent 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 complaint 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 will also be informed that the correspondence is at an end and that further letters relating to this matter will be acknowledged but not be further investigated or responded to.

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.

21. 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, 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.

22. Accountability

The HSC Director of Governance and MSG Lead Governance Partner 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.

23. Compliance Monitoring

It is the responsibility of the HSC Director of Governance and MSG Lead Governance Partner to ensure that compliance monitoring of this policy is undertaken.

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

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

24. 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.

25. 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. A copy is also available on the States of Guernsey website.

26. Review Period

This policy will be reviewed by the HSC Director of Governance and MSG Lead Governance Partner 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.

27. Policy Removal

This policy will be retained until such time as its replacement has been approved.

28. Effective Date

Version 2 of policy was approved by the Committee for Health and Social Care and the MSG Management Board. This is version 3, approved by the Quality Governance Committee on 6 October 2023.