

## Early resolution

**This is draft material and is not live guidance. It is shared for information and will be tested with organisations who have agreed to pilot the new Complaint Standards.**

### 1. Introduction

1.1 This guidance is part of a range of guidance modules produced to help you implement and deliver the expectations set out in the Complaint Standards.  
[Insert link](#)

1.2 This module sets out:

- how to decide whether a complaint can be resolved quickly
- how to resolve a complaint quickly within the Regulations
- how to capture any learning to help improve services for everyone
- what to do if someone remains unhappy

1.3 This guidance module should be read in conjunction with the following modules:

- Making sure people know how to complain [Insert Link](#)
- Identifying a complaint [Insert Link](#)
- Who can make a complaint, consent and confidentiality [Insert Link](#)
- A closer look - clarifying the complaint and explaining the process [Insert link](#)
- A closer look - the investigation [Insert Link](#)
- A closer look - providing a remedy [Insert Link](#)
- Independent NHS complaints advocacy and other specialist advice and support for people raising complaints [Insert Link](#)

1.4 You should deal with each complaint on a case-by-case basis and this guidance should not predetermine the outcome of a complaint.

### 2. Standards and relevant legislation

2.1 The relevant Complaint Standards are:

**Promoting a just and learning culture**

- Organisations make sure staff are trained to identify complaints in a way that meets the expectations set out in the Complaint Standards.

### Welcoming complaints in a positive way

- All staff have the freedom to actively promote how people can make a complaint and use this to identify and resolve issues quickly. Staff receive training in how to do this and make sure people are being listened to and treated with empathy, courtesy and respect.
- Organisations regularly promote their wish to hear from their users and promote how they use learning from all feedback (including complaints) to improve services.

### Being thorough and fair

- Staff actively listen and demonstrate a clear understanding of what the key issues are for the individual, and what outcomes they seek.
- At all times, staff have the freedom to look for ways they can resolve complaints at the earliest opportunity.

2.2 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (the 2009 Regulations) apply to all complaints handled under your Complaints Handling Procedure. For the purposes of this guidance, the relevant aspects are:

- Regulation 4(2) and 4(3) allows the responsible body to authorise any person to perform the functions of its Responsible Person and Complaints Manager on their behalf.
- Regulation 8(1)(c) states that a complaint which is made orally and is resolved to the satisfaction of the person making it “*not later than the next working day after the day on which the complaint was made*” do not need to be handled in accordance with the 2009 Regulations.
- Regulation 13 states that the responsible body must:
  - (for any complaint made orally) make a written record of the complaint and provide a copy to the person making the complaint (Reg.13(2))
  - acknowledge the complaint within three working days of receiving it (Reg 13(3)). This can be done orally or in writing (Reg 13(6)).
  - offer to meet with the person making the complaint to discuss the issues: how it will be handled and the relevant timescales (Reg 13(7)).
- Regulation 14 states the responsible body must:
  - Investigate the complaint in manner appropriate to resolve it speedily and efficiently and keep the person making the complaint informed of progress (Reg 14(1))
  - Provide a written response on how the complaint has been considered, conclusions reached and appropriate outcomes and proposed actions (Reg 14(2)(a) and (b)).

- Regulation 17 states the responsible body must maintain a record of each complaint received, which includes the subject matter and outcome. (Reg 17(a) and (b)).

### 3. What you should do

#### Everyday conversations with service users

- 3.1 Every day, frontline NHS Staff speak to people who use their service. This means they often see issues being raised that they can help with there and then, without the need for that person to make a complaint.
- 3.2 This is an important aspect of engaging with service users and is the best, most cost-effective and time-efficient way to deal with issues.
- 3.3 The rest of this guidance refers to those situations where it is not possible to resolve an issue as it arises, and someone wishes to go through your organisation's complaints process. This guidance explains what the 2009 Regulations require you to do, alongside good practice approaches to resolving complaints quickly.

#### Complaints made verbally that can be answered very quickly

- 3.4 Staff often handle complaints that are made to them in person and resolve them quickly at the time they are raised, or very soon after. It is good practice to do this. Under the 2009 Regulations a complaint that is made verbally (that is, in person or over the phone) and is resolved to the individual's satisfaction no later than the next working day **does not need** to go through your complaints process. This means that the rest of this guidance will not apply.
- 3.5 A complaint made verbally that is not resolved by the end of the next working day will need to go through your complaint process.

#### Identifying complaints that can still be resolved quickly

- 3.6 The rest of this guidance describes what you need to do when you receive a complaint under the 2009 Regulations alongside identifying whether the complaint can be resolved quickly.

#### Good practice: can the complaint be resolved quickly?

- 3.7 When you first receive a complaint you should decide whether you can resolve it quickly, or if you need to give it a closer, more detailed consideration.
- 3.8 If there is something you (or your organisation) can do in a relatively short space of time that will resolve the issue(s) fully, you may be able to resolve the complaint quickly.

A complaint can often be resolved quickly where:

- a service has not been provided that should have been
- a service has not been provided to an appropriate standard
- a request for a service has not been answered or actioned
- a member of staff was seen as rude or unhelpful
- a staff member or contractor did not attend a scheduled appointment.

What does 'quickly' mean?

- 3.9 The 2009 Regulations do not give a set timeframe for how long early resolution should take. However, good practice would be to consider whether you can resolve the complaint within ten working days. If that is possible, then it is likely to be suitable for early resolution. However, you can take longer if you know you will be able to provide a suitable outcome soon after that. You should discuss this with the person who made the complaint.

What is not suitable for early resolution?

- 3.10 Some complaints will clearly not be suitable for early resolution. These are likely to be complaints that are complex, serious or require significant work and time to investigate. Such cases will most often require a detailed, closer look. See the examples section for the types of complaint this may apply to [Insert link](#).
- 3.11 Even if the issues look straightforward, a complaint still may require a closer look - particularly where the issues give rise to concerns about patient safety or suggest there may be a wider problem or learning for your organisation. If in doubt, speak to your colleagues to get their view on the best approach. If your organisation should carry out a closer look - see the relevant guidance [\[insert link\]](#)

**How to resolve a complaint through early resolution**

- 3.12 If you cannot resolve a verbal complaint by the end of the next working day, the 2009 Regulations say you must record it in writing and share the details with the person who made the complaint. This can be done by email, letter or using a simple form - whichever is easiest and meets the needs of the person making the complaint.
- 3.13 The 2009 Regulations also say you must acknowledge complaints within three working days. This can be done in writing (as part of your contact above) or verbally. In addition, the Regulations say you must offer to discuss the complaint with the person at a convenient time. This discussion should cover how you are planning to approach the complaint and how long you think it will take to respond.
- 3.14 If the person making the complaint does not want to discuss the complaint, you must still write to them setting out how you plan to respond.

Good practice for early discussions

3.15 When somebody makes a complaint, the most important thing to do is to talk to them - either face to face or by phone or video call. If you think a complaint can be resolved quickly, this initial engagement is a good way to acknowledge the complaint, discuss the issues, explore how you can resolve them and set out how long this may take.

3.16 When trying to resolve a straightforward complaint you should:

- listen to make sure you understand the problem or issue(s)
- ask about the impact this is having and how this feels
- ask what they would like to happen to put things right
- acknowledge the complaint and discuss what action you are going to take and how long you think it will take
- explain what happened and why, if you can
- give a meaningful apology, if appropriate
- carry out actions to put things right if you can (or with the support of others) - but if you can't, explain why
- if something has gone wrong, capture any learning to share with colleagues and improve services for others.

3.17 You should always start by listening to make sure you **understand what the problem is**. If it is not clear, ask questions.

3.18 You should **ask about and acknowledge the impact** the problem or issue is having on the person, or the person they are representing. People react differently to situations, so ask rather than assume. It can be helpful to reflect the language the person uses, focusing particularly on any emotive words. For example, they may say that delays in being seen by a specialist has been 'a nightmare' and you can reflect this language back saying something like 'I've heard you say this has been a 'nightmare' for you - could you tell me more about how that made you feel.' Acknowledging impact and how someone is feeling does not mean you are accepting that you have failed or made a mistake. It shows someone that you are listening and understanding how this situation has made them feel - regardless of whether your organisation is at fault.

3.19 You should **acknowledge** the complaint by thanking the person for telling you about their dissatisfaction and discuss with them **what action you are going to take and how long you think it will take**.

3.20 Next, it is important to **ask what would put things right**. Often people are looking for a simple acknowledgement, explanation, action and apology when things are not going to plan, particularly at the very early stages. Many complaints that go on to become complex could have been resolved much earlier by an explanation or action, an apology and effective communication.

- 3.21 It can also help if you ask the person how they would feel if you provided what they are asking for. For example, someone who says initially that all they are looking for is an apology may say that actually what they are really looking for is your organisation to learn from what has happened.
- 3.22 If something has gone wrong, it is important to **try and put things right straight away**, ideally by providing what the person raising the complaint has asked for, if that is appropriate. If you can do that yourself that is great, but sometimes you will need the help of colleagues. If that is the case, discuss with your colleagues, agree what action is needed and then make sure it is carried out.
- 3.23 If something has gone wrong, **always be open and honest** about that. Explain what has happened and apologise. Receiving a simple acknowledgment of what has happened and a meaningful apology is often what most people are looking for.

#### **Action to take if you can resolve the complaint**

- 3.24 If you can answer or address the issues raised, it is good practice to talk to the person making the complaint and make sure they are satisfied that this resolves the matter.
- 3.25 You must send them a written response setting out how their complaint has been considered, the conclusions reached, the outcome and proposed actions. This can be done by email, simple form or letter in line with the person's preferences. Your organisation should give you delegated authority to issue this response on the Responsible Person's behalf under the 2009 Regulations.

#### **Recording the complaint, identifying and capturing the learning**

- 3.26 Organisations see far too many complaints about things that are happening time and time again simply because too little attention is paid to what service users (and often their own staff) are telling them. To avoid this, and as required by the Regulations, **make a simple record of the complaint, the outcome and action taken (if any) to resolve the issue and improve services**. Combined with other sources of feedback, this will help your organisation build a better picture of the impact of your services on service users and ultimately improve those services for everyone. If you do not already have a system for capturing this information you could create a simple form like the example in the practical tools section below [INSERT LINK](#).

#### **What to do if the person remains dissatisfied**

- 3.27 If the person making the complaint is unhappy with your resolution, you should consider whether your organisation can carry out further work to resolve the matter. This might include taking a closer look into the complaint. However, if your organisation is satisfied you have done all you

can to resolve the matter you should signpost the person to the Parliamentary and Health Service Ombudsman (see guidance [Insert link](#)) You should also explain how they can get help and support to refer their complaint to the Ombudsman. See guidance [INSERT LINK](#)

### **What to do if the matter is serious or complex or it cannot be dealt with quickly**

- 3.28 If a complaint cannot be resolved quickly, raises patient safety issues, is very serious or complicated or requires significant work to investigate, the best course of action is to take a closer look. You should discuss this with your manager and your Complaints Manager/Team to decide whether this is the right thing to do. If you decide to take a closer look, explain this to the person raising the complaint, tell them what will happen next and how they can access help and support if they need it.

## **4. Examples and case studies**

### **4.1 Categories of complaint**

#### **Categories of complaint examples**

##### Early resolution may be suitable where:

- a service has not been provided that should have been
- a service has not been provided to an appropriate standard
- a request for a service has not been answered or actioned
- a member of staff was perceived as rude or unhelpful
- a staff member or contractor did not attend a scheduled appointment.

##### A closer look may be suitable where:

- the person does not want to engage in early resolution
- the issues raised are complex and will require detailed investigation
- the complaint is about more than one organisation
- the complaint is about both health and social care
- the complaint relates to issues that have been identified as serious or high risk/high profile

##### A complaint may be serious or high risk/high profile where it:

- involves a death or terminal illness
- involves patient safety issues
- involves homelessness
- involves a vulnerable person
- involves child protection issues
- involves major delays in service provision or repeated failure to provide a service
- has attracted media interest
- may present a risk to the organisation

## 4.2 Examples of early resolutions

- Alan's story - NHS Resolution - [Alan's story - Saying sorry - NHS Resolution \(google.co.uk\)](#)
- How to make a good apology - Scottish Public Services Ombudsman [How to make a good apology - SPSO www.spsso.org.uk › files › 2018 SPSO Apology Guidance \(google.co.uk\)](#)
- Saying Sorry - NHS Resolution  
<https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjyl9ffjcbtAhUCoVwKHdBLDVAQFjABegQIAxAC&url=https%3A%2F%2Fresolution.nhs.uk%2Fwp-content%2Fuploads%2F2017%2F07%2FNHS-Resolution-Saying-Sorry-Final.pdf&usq=AOvVaw2hA-ytSM9ZAsM7sgVoe6nH>

## 5. Practical Tools

### 5.1 Template form - [see below](#)

## 6. Version control

### 6.1 Pilot draft - March 2021



## Example Form for capturing complaints at early resolution

Person raising the complaint:

Contact details:

Person dealing with the complaint:

Contact details:

Issue and action requested	How resolved	Improving services

I have shared/offered to share this form with the person raising the complaint.

Signed:

Date:

I confirm that I have entered relevant data on to [Insert organisational data capture/learning platform]

I confirm that this form has been passed to [insert key contact or team for data capture/learning] to enter onto our learning platform.

DRAFT