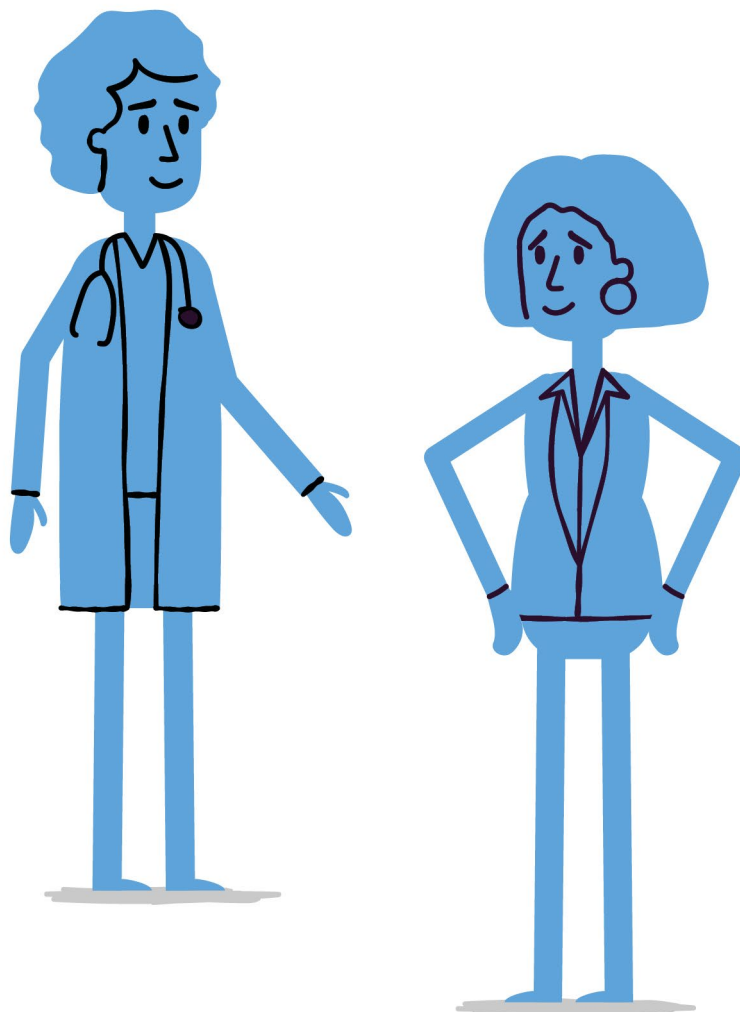


# Early resolution



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# 1. Introduction

- 1.1 This guide is part of a series of guidance modules that will help you implement and deliver the expectations in the [NHS Complaint Standards](#).
- 1.2 This module explains:
- how to decide whether a complaint is one that you can potentially resolve quickly (early resolution)
  - how to resolve a complaint early within the Regulations
  - how to capture any learning to help improve services for everyone
  - what to do if someone remains unhappy.
- 1.3 You should read this module alongside the [Model Complaint Handling Procedure](#) and the following modules:
- Making sure people know how to complain
  - Identifying a complaint
  - Who can make a complaint, consent and confidentiality
  - A closer look - clarifying the complaint and explaining the process
  - A closer look - the investigation
  - A closer look - providing a remedy
  - Independent NHS complaints advocacy and other specialist advice.

The guidance modules are available on the Ombudsman's [website](#).

- 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. The Complaint Standards and relevant legislation

- 2.1 The relevant Complaint Standards are:

### **Promoting a just and learning culture**

- Senior staff make sure staff are supported and trained in all aspects of dealing with complaints, from identifying a complaint to issuing a response, so that they meet the expectations set out in the Complaint Standards. This should include how to manage challenging conversations and behaviour.

### **Welcoming complaints in a positive way**

- All staff openly welcome complaints so they can identify and resolve issues quickly. Staff receive training to do this well and make sure people are listened to and treated with empathy, courtesy and respect.

- Organisations regularly promote their wish to hear from their service users and show how they use learning from all feedback (including complaints) to improve services.

### **Being thorough and fair**

- Staff look for ways they can resolve complaints at the earliest opportunity.
- Staff actively listen and demonstrate a clear understanding of what the main issues are for the person who has made the complaint, and the outcomes they seek.

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 complaint handling procedure. For the purposes of this guidance, the relevant aspects are:

- Regulations 4(2) and 4(3) allow the responsible body to authorise any person to perform the functions of its responsible person and complaints manager on its behalf.
- Regulation 8(1)(c) states that a complaint that 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 discuss with the person making the complaint how their complaint will be handled and the relevant timescales (Reg 13(7)).
- Regulation 14 states the responsible body must:
  - investigate the complaint in a manner appropriate to resolving 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 that includes the subject matter and outcome. (Reg 17(a) and (b)).

## 3. What you should do

### Everyday conversations with patients and service users

3.1 Every day, staff interact with people who use (or are impacted by) your care and service. This means they often see and hear issues being raised that they can help with and resolve there and then, without the need for the person to make a complaint. This can include things like:

- a request for advice or an action
- a need for an explanation to resolve confusion about what is happening or about a care or service issue
- concern about an error that may have been made.

These are the sorts of everyday conversations that are not complaints. They are matters that can be sorted out immediately (or very quickly), without the person becoming dissatisfied and deciding to make a complaint.

3.2 This is an important aspect of engaging with patients and service users and is the best, most cost-effective and time-efficient way to deal with issues, before the person has an opportunity to become dissatisfied, and the issue becomes a complaint. Remember, though, that if you do not provide the action or explanation you promised, in the timescale discussed, then the issue can quite quickly become a complaint, so you should always deliver on what you say.

3.3 The rest of this guidance refers to those situations where it is not possible to resolve an issue as it arises and it becomes a complaint, or where you receive a complaint right from the start and it needs to be handled under the NHS Complaint Regulations, your complaints procedure and the NHS Complaint Standards. 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 by the next working day

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.

- 3.5 A complaint made verbally that is not resolved by the end of the next working day will need to go through your complaints process.

#### **What this guidance covers**

- 3.6 The rest of this guidance describes what you should do when you receive a complaint. This includes what you are required to do by the 2009 Regulations, along with how to identify whether the complaint can potentially be resolved quickly as an 'early resolution' or whether it is going to need a 'closer look' and a more detailed investigation.

#### **Deciding whether the complaint can 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 closer, more detailed consideration and investigation.
- 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.

For example, a complaint can often be resolved quickly if:

- 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 service being provided is having an immediate negative impact
- an error has been made that can be corrected quickly
- 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, the Complaint Standards and the Model Complaint Handling Procedure do not give a specific timeframe for how long early resolution of complaints should take. However, good practice would be to consider whether you can resolve the complaint in a matter of days. If that is possible, then the complaint is likely to be suitable for early resolution.

#### **What is not suitable for early resolution?**

- 3.10 Some complaints are complex, complicated, serious, or need significant work and time to investigate. These cases will clearly not be suitable for early resolution and will require a detailed 'closer look'. See the examples section for the types of complaint this may apply to.
- 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
  - give rise to concerns about potential systemic issues that may be affecting other service users

- involve safeguarding issues or a vulnerable person
- may attract media interest or present a risk to your organisation.

If in doubt, speak to your colleagues to get their view on the best approach to take. If you decide that the early resolution approach is not suitable, and you need to carry out a closer look and a more detailed investigation, see the relevant guidance modules.

### **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 and your organisation.
- 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 complaint early, 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 you are going to do and how long you think this will take.

Once you have looked into the matter:

- explain what happened and why, if you can
- if nothing has gone wrong, provide reassurance and an explanation
- if something has gone wrong, give a meaningful apology
- take action to put things right if you can (or with the support of others)
- if you cannot put things right, explain why and tell them what you can do instead

- 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 accept that you or your organisation have failed or made a mistake. It shows someone that you are listening and understand how this situation has made them feel - regardless of whether anyone is at fault. This initial conversation can also be an opportunity to request any important evidence to support the alleged impact so that if mistakes have been made, you can put them right as soon as possible.
  - 3.19 You should **acknowledge** the complaint by thanking the person for telling you about their dissatisfaction.
  - 3.20 Next, it is important to **ask what would put things right**. Often people want 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 long and complicated 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 what they really want is your organisation to learn from what has happened.
  - 3.22 Next tell them **what action you will take to look into the matter and how long you think it will take**.
  - 3.23 If, having looked into the matter, you find that nothing has gone wrong, you need to **provide reassurance and an explanation** to help the person understand. You may need to apologise if things were not explained clearly to them when they should have been.
  - 3.24 If, having looked into the matter, you find 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, where that is appropriate. If you can do this yourself, this might be the most positive outcome, but sometimes you will need the help of colleagues. If that is



the case, talk to your colleagues, agree what action is needed and then make sure it is carried out. If you cannot provide what the person is asking for, then you need to explain what you can provide instead so they can make an informed choice.

- 3.25 If something has gone wrong, **always be open and honest** about that. Explain what has happened and apologise. A simple acknowledgment of what went wrong and a meaningful apology is often what people want. These go a long way towards restoring faith and trust in your organisation.

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

- 3.26 If you can answer or address the issues raised, it is good practice to talk to the person who has made the complaint and make sure they are satisfied that this resolves the matter.
- 3.27 In keeping with the 2009 Regulations, you must send them a written response that sets out:
- how their complaint has been considered,
  - the conclusions reached
  - the outcome and proposed actions.

You can do this by email, simple form or letter in line with the person's preferences. You must have delegated authority to issue this response on the responsible person's behalf under the 2009 Regulations.

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

- 3.28 Organisations see far too many complaints about things that happen 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 2009 Regulations, **make a simple record of the complaint and 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:
- identify emerging themes or issues
  - build a better picture of the impact of your services on service users
  - 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.

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

- 3.29 If the person making the complaint is unhappy with your resolution, you should consider whether your organisation can and should carry out more work to try and resolve the matter. This might include taking a closer look into the complaint. You may want to discuss what has happened with your

manager or complaints lead to help you decide if you should do further work. If you are satisfied you have done all you can to resolve the matter, you should signpost the person to the Parliamentary and Health Service Ombudsman. You should also explain how they can get help and support to refer their complaint to the Ombudsman.

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

- 3.30 If you decide that you cannot deal with the complaint quickly, you (or another colleague) will need to take a closer look and carry out a more detailed investigation. You should discuss this with your manager and your complaints lead/manager/team to decide whether this is the right thing to do. If you (or another colleague) decide that the complaint needs a closer look, you should explain this to the person who has raised the complaint and tell them what will happen next and how they can access help and support with their complaint if they need it.

## 4. Examples and case studies

- 4.1 To help colleagues identify if a complaint may be suitable for early resolution or not, you could use a simple table like the example below. This table can be amended to reflect the types of complaint your organisation might receive.

Categories of complaint examples
<p><u>Early resolution may be suitable if:</u></p> <ul style="list-style-type: none"> <li>• a service has not been provided that should have been</li> <li>• a service has not been provided to an appropriate standard</li> <li>• a request for a service has not been answered or actioned</li> <li>• a service being provided is having an immediate negative impact</li> <li>• an error has been made that can be corrected quickly</li> <li>• a member of staff was perceived as rude or unhelpful</li> <li>• a staff member or contractor did not attend a scheduled appointment.</li> </ul> <p><u>A closer look may be suitable if:</u></p> <ul style="list-style-type: none"> <li>• the issues raised are complex and will require detailed investigation</li> <li>• the complaint is about more than one area of care/service or multiple organisations</li> <li>• the complaint is about both health and social care</li> <li>• the complaint raises issues that might affect other service users</li> <li>• the complaint relates to issues that have been identified as serious or high risk/high profile.</li> </ul> <p><u>A complaint may be serious or high risk/high profile if it:</u></p>

- involves a death or terminal illness
- involves patient safety issues
- involves safeguarding issues
- 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 Example of an early resolution

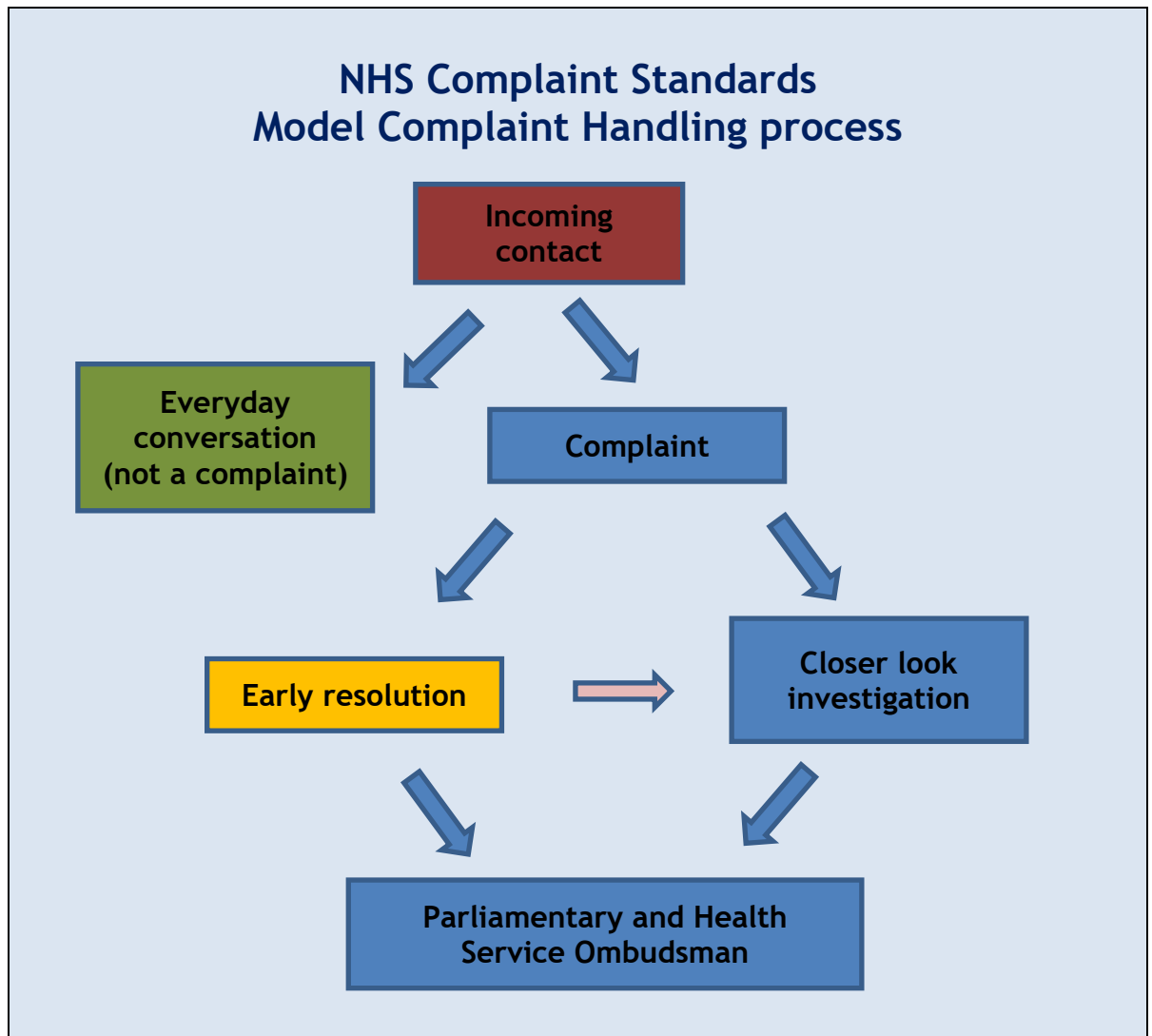
- Alan's story - NHS Resolution - [Alan's story - Saying sorry - NHS Resolution](#)

## 5. Practical tools

### 5.1 Below is a simple desk aid to help identify if something is a complaint or not.

Everyday conversation	<ul style="list-style-type: none"> <li>• The service user is asking for something or just needs an explanation.</li> </ul>
Complaint	<ul style="list-style-type: none"> <li>• The service user is clearly dissatisfied with something that has or has not actually happened to them</li> <li>• The matter needs looking into</li> <li>• They require a response.</li> </ul>

- 5.2 Example flowchart of the NHS Complaint Standards Model Complaint Handling Procedure that can be tailored and amended to reflect your organisation's process.



5.3 Desk reminder for important steps to consider when resolving a complaint early.

**How to resolve a complaint early**

When trying to resolve a complaint early, you should:

- listen to make sure you understand the problem or issues
- 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 how you will look into the matter and how long you think this will take.

Once you have looked into the matter:

- explain what happened and why, if you can
- if nothing has gone wrong, provide reassurance and an explanation
- if something has gone wrong, give a meaningful apology
- carry out actions to put things right if you can (or with the support of others)
- if you can't put things right, explain why and what you can do instead.

If something has gone wrong, capture any learning to share with colleagues and improve services for others.

5.4 Helpful guides:

- 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](https://www.spsso.org.uk/files/2018_SPSO_Apology_Guidance)
- Saying Sorry - NHS Resolution, [guidance from NHS Resolution on how to make a meaningful apology](#).

5.5 An example form is set out below for you to use and adapt if there is no other available system for capturing complaints that are resolved early.

## 6. Version control

Final - December 2022

# 7. Example form for capturing complaints at early resolution

Insert organisation logo here

Person raising the complaint:

Contact details:

Reference:

Person dealing with the complaint:

Contact details:

Issue and action requested	How resolved	Improving services
Set out the main complaint issues, how they have affected the service user and what the service user is looking for as a good outcome or resolution	Set out what you have done to look into the matter, what you found and what action you took to resolve the complaint	Set out any learning you have identified and how you have shared it with colleagues, other teams, your complaints team, etc., to make sure this does not happen again

I have shared/offered to share this form with [name of the person raising the complaint]. They have confirmed that they are happy with [insert details of how matter has been resolved eg explanation, apology, action etc].

Signed:

Date:

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

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