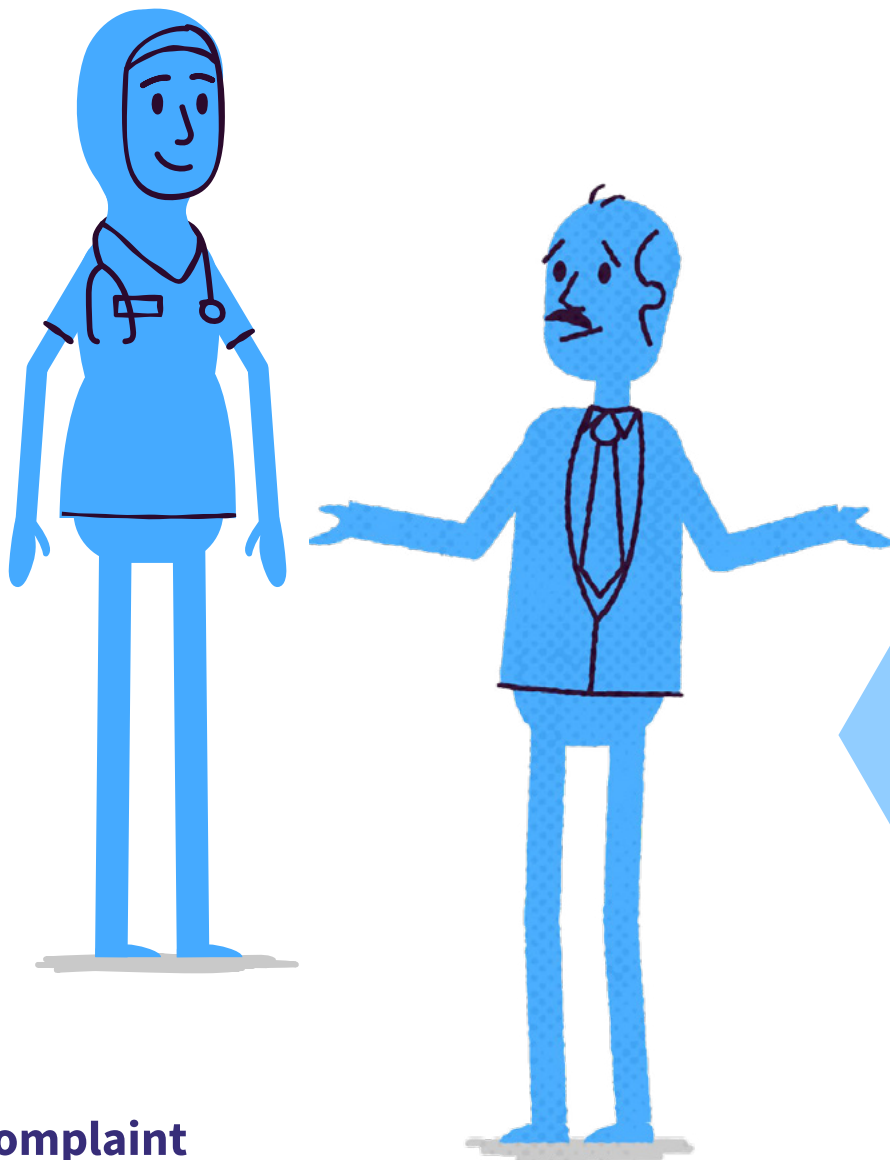


Report on Complaint Standards consultation





Contents

Executive summary	4
Headline data	5
‘You said, we did’ – action taken to improve the Standards based on feedback	6
Annex one: Details of feedback given in consultation survey	11

Executive summary

PHSO carried out a two-month public consultation on the Complaint Standards between July and September 2020.

The consultation included:

- Online surveys
- Virtual engagement events, where PHSO met with NHS staff, patient advocacy groups and other stakeholders to discuss the Standards and gather feedback
- A live public event, featuring a panel of senior leaders from PHSO and the health and care sectors

We also held two public focus groups.

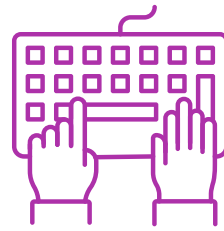
These activities enabled PHSO to obtain a wide range of views on the Complaint Standards from both healthcare sector professionals and members of the public.

This report captures key feedback given during the consultation on the main Standards document, the executive summary and the core expectations. It includes feedback given both inside and outside of the main survey structures.

Headline data



responses to consultation (433 online surveys, plus 13 written responses)



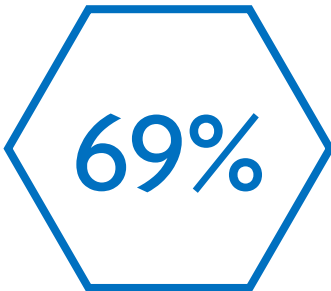
46% of respondents were members of the public



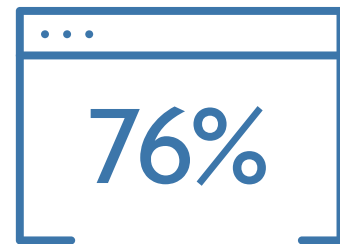
70% felt it was clear what organisations were expected to do



support what the Standards seek to achieve



of NHS staff said there were no factors that would prevent their organisation from embedding the Standards



agreed/strongly agreed that PHSO should be given legislative powers to set and enforce national complaint standards for the organisations we investigate



88% said PHSO should regularly report on how organisations are performing towards meeting the Standards' expectations

You
said

We
did

Action taken to improve the Standards based on feedback

You said

We did

Executive summary

-
- Give upfront detail on why Standards are needed, what issues they address, and what outcomes are sought.
 - Add references to Duty of Candour/Ask Listen Do/ NHS Constitution.
 - Make clear the Standards also cover independent healthcare providers delivering NHS-funded care.
 - Review diagram to see if it can be improved.
- Added a new introduction to the Standards.
 - Provided links to other relevant standards and duties.
 - Added details of independent healthcare providers.
 - Created a new diagram and executive summary layout.
-

You said

We did

Promoting a learning and improvement culture

- Add definition of what a just and learning culture is to Standards.
 - Research and identify potential solutions for how reporting on learning from complaints can be developed.
 - Make some of the expectations easier to understand.
- Renamed section 'Promoting a just and learning culture'.
 - Added just culture definition.
 - Set up a working group to look at how organisations can capture learning and report on it.
 - Amended expectations to make them clearer.

Positively seeking feedback

- Look at whether any of the expectations can be combined/simplified.
 - Add more details on the role of PALS.
 - Look at replacing term 'feedback' in this section (and across Standards) to ensure it avoids confusion with broader NHS Feedback Standards.
 - Promote how complaints insight fits within overall NHS Feedback Standards.
- Reduced number of expectations.
 - PALS detail now clear.
 - Renamed section 'Positively welcoming complaints' and taken out references to 'feedback' where appropriate.
 - Link to overall NHS patient experience given in executive summary.

Being thorough and fair

- Review expectation on independent investigations to make clearer that this is not always possible.
 - Place more emphasis on demonstrating fairness and thoroughness.
- Replaced 'impartially' with 'fairly'.
 - Expectation on independent investigations where possible made clearer.
-

You said

We did

Giving fair and accountable decisions

- Remove reference to 'decision' as this is too formal for local complaints handling.
 - Review expectation on providing an early view on complaint to ensure it is used proportionately.
 - Ensure expectations in this section are clear and understandable to all audiences.
 - Provide a definition for 'human factors' approaches.
 - Provide more details on the importance of giving meaningful explanations and apologies.
- Renamed section 'giving fair and accountable responses' and made changes throughout.
 - 'Early view' expectation changed to reflect use only in complex cases
 - Overall refresh of section to make it clearer.
 - Removed 'human factors' references to keep things clear.
 - More definition given on meaningful apologies.

Other feedback

Feedback on what practical barriers may exist to embedding Standards

- Ensure more detail is given in Executive Summary to recognise the concerns given in the consultation and how these will be addressed (such as guidance/piloting).
 - Design senior level engagement materials (including training, development and guidance) to address cultural issues raised in consultation.
 - Ensure reporting on the pilots gives a clear account of the practical impact of the Standards, including cost-benefit analysis against clearly defined outcomes.
- Created guidance to address concerns, along with upfront information on PHSO's website about piloting/next steps.
 - Guidance on how to promote just and learning complaints culture under construction.
 - Reporting on pilots to include practical accounts of the Standards' impact.

You said

We did

Feedback on what the Standards aim to achieve

- Provide specific details on aims and objectives (including success measures) in Executive summary.
- Describe the fact that Standards are a collection of existing best practice in all the supporting documentation.

- More information given in Executive summary.

Feedback on what organisations are expected to do

- Explore producing a public-facing summary of the Standards that maps these expectations to the relevant outcomes in My Expectations.
- Ensure the Standards expectations align with 2009 NHS Complaints Regulations on asking organisations to publish their progress on embedding the Standards.
- Add further context of how the Standards work in accordance with 2009 NHS Complaints Regulations (and other relevant statutory duties).

- We will produce a public facing version of the Standards later in 2021.
- Standards reviewed to ensure compliance with 2009 NHS Regulations.

Feedback on My Expectations

- PHSO (with Healthwatch and LGSCO) to consider a review of My Expectations, to potentially include expansion to cover expectations of staff subject to a complaint.

- To be explored further and agree timings for review.
-

You said

We did

Feedback on what is missing from the Standards

- Provide a clear definition of ‘just and learning culture’ and how the Standards support that.
 - Explore how best to link Freedom to Speak Up (FTSU) with the Standards.
 - Explore whether more detail is needed upfront on expectations regarding timescales/key performance indicators.
 - Ensure there is a clearer link between complaints and patient safety.
- Definition of ‘just and learning culture’ now added
 - Further work to combine with FTSU to be developed within pilots.
 - Indicative timescales now given in model complaint handling process.
 - Links between Standards and patient safety to be addressed in guidance.
-

Annex one: Details of feedback given in consultation survey

1. Question 1: Breakdown of respondents

1.1 PHSO received 446 responses overall. 393 of those came via PHSO's main online survey, with a further 40 surveys submitted via PHSO's online Easy Read survey. PHSO also received 13 written responses from organisations outside the survey.

	Responses	Percent
Member of public	203	46%
NHS staff – complaints team	70	16%
Third sector (e.g. advocacy service)	52	12%
Other	46	10%
NHS staff – senior management	32	7%
NHS staff – other	26	6%
PHSO staff	13	3%
Government staff – other	3	<1%
Government staff – complaints team	1	<1%
Total	446	100%

2. Questions 2 to 5: Feedback on the executive summary

- 2.1 95% of main survey respondents agreed that the Complaint Standards' executive summary clearly explains what NHS organisations are expected to do (Q.2).
- 2.2 Of those who did not agree, two main themes were raised (Q.3):
 - The executive summary does not set out why the Standards are needed and what they aim to achieve; and
 - That more practical detail is needed on how NHS organisations are expected to deliver the Standards.
 - More information should be given on who/what the Standards cover. It needs to make clear that this will also cover independent healthcare providers who deliver NHS-funded care.

Feedback given outside survey

- 2.3 Other feedback reinforced the view that the introduction/summary needed to give more context on why the Standards exist, what they address, and what outcomes are sought. This feedback was also repeated in PHSO's engagement events.
- 2.4 83% of main survey respondents agreed that the diagram given in the executive Summary was helpful (Q.4). Free text responses from those who did not agree indicated many preferred text over visual diagrams (Q.5). However, some fed back that the use of a circle and arrows was confusing and made it look like it was a process diagram, and that it should be given as a triangular illustration (with 'promoting a learning and improvement culture' at its centre).

Action taken on this feedback

- 2.5 PHSO has added more details to the executive summary on why the Standards are needed, and what they seek to achieve.
- 2.6 Overall, the main message of the feedback during the consultation was that people wanted to see more details about how the Standards will work in practice. This is being addressed via the creation of a Model Complaint Handling Process and related guidance. This guidance will be published alongside the Standards.
- 2.7 PHSO will review the diagram to improve its visual impact.

3. Questions 6 to 11: Promoting a learning and improvement culture

After reading this section (promoting a learning and improvement culture), how would you rate your understanding about what it aims to achieve?

Main survey and Easy Read	Responses	Percent
Very good	54	32%
Good	102	60%
Neither good nor poor	10	6%
Poor	4	2%
Very poor	0	0%
Total	170	100%

3.1 92% of all respondents had a very good/good understanding of the first set of expectations in the Standards (Q.6)¹. 23% of main survey respondents felt certain aspects were unclear in this section (Q.7). Feedback included (Q.8):

- Some struggled to understand what was meant by the first expectation regarding staff knowing how they can deliver a *‘just and learning culture in their role via specific objectives’*
- Some people were unclear what was meant by organisations providing *“meaningful opportunities”* to discuss what they have learnt from complaints with others outside their organisation
- Some people felt it was too wordy in places – particularly the second expectation about governance structures. One respondent felt that expectation should simply say *“Organisations must make sure senior staff regularly review the complaints and act on the issues raised by them.”*

¹ Question 2 of the Easy Read Survey. In the Easy Read survey, the question was formatted differently. Responses have been combined with the main survey results using the following approach: yes = good, no = poor, don't know – neither good nor poor.

- 3.2 Other comments centred on the practical challenges facing putting this section into practice across the NHS, including whether organisations will simply say they are already meeting these expectations without challenge. Some commented that the Standards' expectations are starkly different to existing NHS complaints culture:

“Great in theory but my experience would suggest that there needs to be a major change in culture for this to work. Currently the fear of litigation seems to prevent honesty, openness and learning.”

“...I think the entire complaints handling process needs to change and the NHS should not be allowed to investigate themselves. After my experience of having to complain, I learnt that the NHS will start with defensiveness and deception from the outset... and have no intention of learning or changing anything at all after a complaint. I don't believe that a complaint will ever be seen as a learning opportunity but rather something to 'get rid of' by any means possible, including attempting to silence complainants...”

3.3 People were asked to rank the most important expectations in this section:

Question 9: Top three important expectations in promoting a learning and improvement culture (main survey respondents)

Organisations have clear processes in place to show how they capture learning from concerns and complaints, report on it, and use it to improve services. Organisations report on the feedback they have received and how they have used that feedback to improve their services. This information is easy to compare with that of other organisations.	36%
Every organisation has appropriate governance structures in place to ensure that senior staff regularly review information arising from concerns and complaints. They are held accountable for making sure the learning taken from feedback is acted upon to improve services.	29%
All relevant staff know how they can deliver a just and learning culture in their role via specific objectives. Staff can demonstrate meeting these objectives via practical examples.	11%
Organisations ensure staff are trained to identify concerns and complaints in a manner that meets the expectations given in the Standards.	11%

3.4 83% of main survey respondents felt there was nothing missing from this section (Q.10).

Feedback given outside the survey

- 3.5 Participants in PHSO's engagement events also raised the perceived cultural differences between the Standards and what currently exists. Many felt that this was the main challenge, which will require significant cultural change.
- 3.6 One NHS membership organisation welcomed the Standards' emphasis on values and behaviours over process. On the expectation about reporting on learning from complaints, this organisation noted that exploration into how NHS organisations (at all levels) can collect and use patient experience data remains a complex and difficult practical challenge. This was echoed in the feedback from other NHS organisations and regulators.
- 3.7 One NHS organisation noted that any references to changes in governance arrangements need careful consideration as these would imply significant organisational change across various sectors in the NHS, which would be costly and complex. Feedback was also given on how reporting/sharing learning would look in primary care, given the involvement of CCG and regional commissioning teams.

3.8 Advocacy organisations welcomed the emphasis on promoting a learning and improvement culture, as well as ensuring that more is done to share the data and learning coming from complaints. One advocacy organisation noted that this will enhance patients feel that they have been heard, listened to, and taken seriously. It will also promote better opportunities for healthcare providers to work closely in the communities they serve.

Action taken on this feedback

3.9 PHSO has renamed this section “promoting a just and learning culture” along with descriptions of what a just culture means within the NHS. The Standards also refer to existing duties such as duty of candour, Ask Listen Do, and the NHS Constitution.

3.10 PHSO has also amended and combined several of the expectations in this section to make them clearer.

3.11 The issue of how learning can be shared regionally and nationally is important, but will not be solved easily, may involve significant privacy/data challenges, and may incur significant resource cost (if new systems need to be built). PHSO will work with relevant partners to explore and test this further within the pilot process, including analysis of existing research into these areas, and potential systems already in place.

4. Questions 12 to 17: Positively seeking feedback

After reading this section (positively seeking feedback), how would you rate your understanding of what it aims to achieve?

Main Survey and Easy Read	Responses	Percent
Very good	55	32%
Good	105	61%
Neither good nor poor	7	4%
Poor	4	2%
Very poor	1	1%
Total	172	100%

4.1 93% of all respondents had a very good/good understanding of this section (Q.12)². 11% of main survey respondents said they felt the expectations were unclear (Q.13). Feedback included (Q.14):

- Organisations make it easy for people to complain ‘when they want to’ (Expectation 6) – One respondent felt that would clash with the time limits given in the NHS complaints regulations.
- Some duplication of expectations, with several respondents suggesting that some can be combined.

4.2 The most important expectations in this section were ranked as follows:

Question 15: Top three expectations in positively seeking feedback (main survey respondents)

All staff have the freedom to actively seek feedback to improve services and resolve issues quickly and effectively. Staff receive training in how to do this and how to ensure people know they are being listened to and treated with empathy, courtesy and respect. 25%

Organisations make it easy for anyone to raise a concern or make a complaint when they want to. It is easy for everybody to understand how the process works, including who can raise a concern or make a complaint and what will happen next. 19%

Organisations make sure people know how to access advice and support to raise a concern or make a complaint, including giving details of appropriate independent complaints advocacy and advice providers and other support networks. 13%

² Q.4 of the Easy Read Survey. In the Easy Read survey, the question was formatted differently. Responses have been combined with the main survey results using the following approach: yes = good, no = poor, don't know – neither good nor poor.

4.3 11% of main survey respondents felt that something was missing from this section (Q.16). Feedback included (Q.17):

- No reference to treating people with compassion
- More promotion of early informal resolution to avoid formal complaint.
- Better description of what PALS is (as PALS is unknown outside NHS)
- More emphasis needed on ensuring future/ongoing care is not compromised if a complaint is raised. Some respondents felt that should say that there will be no 'retaliation'.

Feedback given from outside survey

4.4 Two organisations suggested that the Standards should not refer to 'feedback'. One organisation noted that 'feedback' has a defined meaning within the NHS, which covers a range of sources aimed at seeking both positive and critical reviews of NHS services to provide a well-rounded view.

4.5 Another organisation said that complaints are just one source of feedback, and any interchangeable references to 'feedback' and 'complaints' could cause confusion. It was suggested that the Standards only refer to complaints.

4.6 Other responses outside the survey placed emphasis on the importance of advertising and signposting to advocacy, which is a key expectation in this section. One NHS organisation noted their full support for ensuring NHS staff clearly signpost to NHS complaints advocacy at the earliest stage, but noted that signposting has become a challenge in recent years in terms of having up-to-date knowledge of who is the local and current provider.

Action taken on this section

4.7 PHSO has renamed this section 'positively welcoming complaints' to address the issues raised about the distinct definition 'feedback' has within the NHS. PHSO has also removed most references to 'feedback' within the Standards.

4.8 PHSO has amended the expectations in this section to make them clearer where appropriate, alongside giving more detail on the role of PALS.

5. Questions 18 to 23: Being thorough and fair

After reading this section (being thorough and fair), how would you rate your understanding about what it aims to achieve?

Main survey and Easy Read	Responses	Percent
Very good	59	34%
Good	98	57%
Neither good nor poor	10	6%
Poor	5	3%
Very poor	1	<1%
Total	173	100%

5.1 91% of all respondents had a good/very good understanding of this section (Q.18)³, with 15% of main survey respondents saying they felt the expectations were unclear (Q.19). Feedback was as follows (Q.20):

- A lot of feedback centred on expectation 3 (impartial investigations/no prior involvement/avoiding conflict of interest). Many respondents felt providing such an ‘independent’ investigation would be problematic, as this was simply not possible in all settings. Some respondents interpreted this as a requirement that somebody ‘outside the business/area’ should investigate, which would cause significant logistical issues.
- Several comments that this section needed more plain English (e.g. use of ‘conflict of interest’ and ‘holistic’).

³ Q.6 of Easy Read Survey. In the Easy Read survey, the question was formatted differently. Responses have been combined with the main survey results using the following approach: yes = good, no = poor, don’t know – neither good nor poor.

5.2 Other comments elaborated on the importance of this section in getting the investigation approach right:

“Listening to the patient/patient relatives and the staff is essential. Those investigating the complaint need training in sensitive and excellent communication skills to get this right. This should be training to those in the complaint teams as well as senior managers, and this should be up to and including board level.”

“There needs to be a ‘no blame’ culture in the Unit. Fairness should include honesty, lack of prejudice, openness, kindness and tolerance.”

“It would be beneficial to set clear guidance around the behaviours and quality standards [to investigating a complaint].”

5.3 The most important expectations ranked in this section were:

Q.21 - Three top expectations in being thorough and fair (main survey respondents)

Organisations make sure all staff who look at concerns and complaints have the appropriate resources, support and protected time to do so in order to consistently meet the expectations given in the Standards.	26%
All staff handling concerns and complaints do so impartially. Where possible, organisations make sure they assign concerns or complaints to staff who have had no prior involvement or who have no actual or perceived conflict of interest. Where that is not possible, staff take clear steps to demonstrate their impartiality and how they will avoid any conflict of interest.	17%
Organisations make sure staff are properly trained and have the appropriate level of experience and authority to take a thorough look into concerns and complaints.	13%
Staff make sure everyone involved in a concern or complaint can give their views and respond to emerging information. Staff act openly and transparently and with empathy when discussing this information and make sure they take everyone’s comments into account.	13%

5.4 12% of main survey respondents felt that something was missing from this section (Q.22). Feedback included (Question 23):

- Not enough detail on training staff to be thorough and fair
- More emphasis on being thorough and fair for staff complained about
- Proportionality needs to run throughout all expectations in this section
- More detail on what is meant by 'protected time' and how this looks.

Feedback given outside survey

5.5 Some NHS organisations fed back their concerns that it will be very difficult to ensure that somebody without any connection to the complaint is available to investigate. It was felt this would have a particularly disproportionate impact on primary care services if the complaint is put directly to a GP practice. However, these concerns were echoed in other areas of healthcare too.

5.6 Particularly in engagement events, members of the public strongly felt that the NHS must do more to ensure complaints are investigated away from any perceived or actual conflict of interest and are truly independent. This is because of the perception that, regardless of any assurances or mitigations to avoid a conflict of interest, many people do not feel they will get a fair investigation.

5.7 Two NHS organisations fed back their concerns about the expectation that staff should share and discuss provisional views with others before finalising them, as this adds an extra 'step' that will "*cause further disputes earlier in the process in some cases.*"

5.8 One response noted that, while the Standards state that organisations should publish a local complaints procedure that meets the Complaint Standards, any procedure must also meet the 2009 NHS Complaints Regulations and regulation 16 of the Health & Social Care Act 2008 (Regulated Activities) Regulations 2014.

Action taken on this section

5.9 On the issue of independent investigations, feedback was divided between those making complaints, and those handling them. PHSO has amended the expectation to make it clear that this should be done if possible, but we acknowledged it cannot happen in every NHS organisation. Where that cannot happen, the Standards place more emphasis on the key component of demonstrating fairness and accountability – regardless of who is investigating.

5.10 PHSO has replaced the term 'impartiality' with 'fairness' to make that clearer

6. Questions 24 to 29: Giving fair and accountable decisions

After reading this section (giving fair and accountable decisions), how would you rate your understanding about what it aims to achieve?

Main survey and Easy Read	Responses	Percent
Very good	54	32%
Good	103	60%
Neither good nor poor	10	6%
Poor	2	1%
Very poor	2	1%
Total	171	100%

6.1 92% of all survey respondents had a good/very good understanding of this section (Q.24)⁴, with 13% going on to say that some expectations were unclear (Q.25). Feedback on how to improve was as follows (Q.26):

- On expectation 6, some respondents were unclear as to what the ‘lead organisation’s role’ would be in providing a single response to a multi-organisation complaint
- Clarity is needed on what is meant by expectation 2 (about giving people meaningful opportunities to respond to initial views) and how this works in practice
- The expectations do not make clear the need for the response to be understandable and jargon free
- More detail needed about financial remedies
- Confusion over what is meant by ‘human factors’ (expectation 4)
- Overall that these expectations should use plain English.

4 Q.8 of Easy Read Survey. In the Easy Read survey, the question was formatted differently. Responses have been combined with the main survey results using the following approach: yes = good, no = poor, don’t know – neither good nor poor.

6.2 The most important expectations ranked in this section were:

Q.27 – Top three priority expectations for giving fair and accountable decisions (main survey respondents)

Organisations ensure staff have the confidence to be open and honest when things have gone wrong or where improvements can be made. Staff ensure the right balance between taking accountability and identifying what learning can be taken from a complaint and how the learning will be acted on to improve services and support staff. 47%

Staff give a clear, balanced account of what happened based on established facts. Each account compares what happened with what should have happened, and gives clear references to any relevant standards, policies or guidance, based on objective criteria. 26%

Wherever possible, staff explain why things went wrong. Staff take human factors into account, and ensure any learning is acted upon. Staff use any learning to support staff complained about. 11%

6.3 Just 8% of main survey respondents felt there was something missing from this section (Q.28). Feedback on what should be added covered the following (Q.29):

- More details on guidance for how to provide appropriate remedy
- Better description of what is meant by ‘what happened vs what should have happened’
- More about staff working with complainants to reach resolutions (during investigation period in particular)
- Concerns given about providing an ‘early view’ on potential findings. Many felt that this might be disproportionate in every case.

Feedback given outside survey

6.4 Feedback outside the survey welcomed the need for more guidance and consistency on how to progress multi-organisation complaints (particularly those that span both health and social care issues).

6.5 Many complainants who fed back placed importance on the NHS improving how they communicate decisions to complainants, citing poor experiences. Many noted that these decisions often raise more questions, and often lead to further breakdown in the relationship. Some noted that many complaint responses fail to offer a ‘human’ approach, and often failed to provide a meaningful apology or explanation.

- 6.6 One NHS organisation felt that the Standards should not use the language of ‘final decision’ as it may preclude the wish of NHS complaints teams to keep open dialogue with the complainant – even after their view on a complaint has been given. The organisation felt that saying a decision was final might drive more cases to the Ombudsman.

Action taken on this section

- 6.7 PHSO has renamed this section ‘giving fair and accountable responses’ to reflect feedback that complaint handling at local level involves an ongoing user/provider relationship, and that the term ‘decision’ felt final and formal.
- 6.8 PHSO removed the reference to ‘human factors’ as this is a technical term.
- 6.9 PHSO has made clear the need for proportionality in looking at whether NHS organisations should share emerging views with complainants. Instead, the Standards make clear this should happen in complex cases, with discretion given for whether this is necessary in more straightforward responses.
- 6.10 PHSO has made clear the vital need for organisations to provide meaningful apologies and explanations, which balance accountability with learning. This will be supported via guidance and training on providing meaningful explanations (including apologies and broader remedies).

7. Questions 30 to 32: Next steps and practical challenges to embedding the Standards

- 7.1 Q.30 in the main survey asked respondents to rank what next steps should be taken once the final Standards are in place. These were (listed in order of priority):
- Issue detailed guidance on how to deliver these expectations
 - Ensure senior staff commit to embedding the Standards in their organisation
 - Design and deliver training for NHS staff
 - Provide more funding to NHS complaints
 - Provide more funding to NHS and specialist complaints advocacy
 - Design effective reporting on how the Standards are being embedded
 - Design new reporting systems to ensure learning is captured and reported regularly.

7.2 69% of NHS staff responding to the main survey said that there were no factors that would prevent their organisation from embedding the Standards (Q.31). Of the 31% who said there were preventative factors, the most common were (Q.32):

- 'Buy in' from senior staff: many NHS staff noted that the Standards will not work if senior staff across NHS organisations do not get behind them.
- Significant culture change: linked to the senior staff issue, lots of NHS staff said it would be difficult/slow for these expectations to be embedded in their organisation as it would require a significant cultural change, which will take up resources.
- Capacity: some NHS staff said they were worried about their capacity to embed the Standards' expectations. This is linked to the dedicated/protected time theme below.
- Dedicated/protected time: a number felt it will be challenging to get protected time to investigate a complaint under the Standards when many NHS staff must do this alongside their normal role.
- Training investment: many noted that complaint staff have little or no training, and so significant investment would be needed. Some respondents felt that their organisations will not be willing to provide NHS complaint staff with time and resource to train complaint handlers.
- Competing priorities: many noted that all staff are under increasing pressure to implement several improvement areas as well as the pressures brought about by the Covid pandemic.

Action taken on this feedback

7.3 PHSO and its working group partners have acted on this by developing a Model Complaints Handling Process and detailed guidance to support the Standards. Within this, PHSO is developing guidance on how to promote a just and learning culture and will work with key partners across the NHS to develop training materials on this.

7.4 Piloting in 2021-22 will involve the development of training for NHS staff on how to embed the Standards in practice. PHSO will ensure the learning from the pilot project is shared with NHS organisations as it progresses.

8. Questions 33 to 34: Clarity on what the Standards are trying to achieve

8.1 83% of all respondents felt it was clear what the Standards are trying to achieve (Q.33)⁵. Of the 18% who said it was not clear, the following themes were given (Q.34):

- Some felt that the Standards are ‘re-badging’ existing expectations and do not come up with anything new or improved
- Sense that this is simply another ‘PR exercise’ that looks nice on paper but will not lead to any change
- Too lengthy and detailed for members of the public to navigate
- No definition of what success will look like
- There needs to be a stronger emphasis that complaints data should help organisations ‘learn and grow’.

Action taken on this feedback

8.2 Overall, most responses felt it was clear what the Standards seek to address. PHSO will emphasise that the Standards are largely a collection of existing best practice, as this helps to provide context and reassure users that we are not adding a wholly new set of expectations to NHS complaints handling.

9. Questions 35 to 37: Support for the Standards/clarity on what organisations need to do

9.1 91% of all survey respondents support what the Standards seek to achieve (Q.35)⁶. 70% of all respondents felt it was clear what organisations are expected to do (Q.36)⁷. Of the 30% who said the Standards were unclear (Q.37) the core themes were:

- Significant feedback indicating a desire for detailed guidance to answer specific issues. For example, the Standards do not cover the issue of timescales; how will organisations report on learning from complaints?
- Many respondents felt the expectations are too vague or general, allowing organisations the freedom to interpret them as they wish.
- Misses the opportunity to encompass complaints and more general feedback to provide a wholesale ‘Improvement Standards’.
- Lack of detail for who will independently oversee investigations within the NHS.
- Lack of definition for certain terms, such as just and learning culture.
- Concerns over how the Standards will work across the diverse range of NHS services.

5 Q.10 of Easy Read Survey

6 Q.12 of Easy Read Survey

7 Q.14 of Easy Read Survey

- 9.2 Several responses here raised concerns that there is no mention of the complainant's needs, and that the Standards do not appear to be public-facing. One response noted that the Standards risk forgetting patients and their families by failing to place emphasis on an empathetic and compassionate complaints system. Whilst the Standards refer to what an individual should experience when they make a complaint (as described in My Expectations), more should be done to make clear the Standards also cover what the families of patients and others should experience.
- 9.3 While most respondents gave their clear backing for the Standards, some NHS organisations raised questions over what exactly they are expected to do, and how the Standards fit with the 2009 NHS Complaints Regulations.

Action taken on this feedback

- 9.4 PHSO will make clear that the Standards are primarily aimed at NHS staff. PHSO will consider producing a shorter public-facing summary of the Standards later in 2021. This summary will ensure the outcomes given in My Expectations are listed side-by-side with the Standards' expectations where relevant.

10. Question 38: Impact of Covid-19

- 10.1 Respondents were asked if there was anything different or new that the Standards should focus on, considering the pandemic. This question prompted a lot of feedback, although most of this noted that the Standards do not need to take a different approach. Responses suggested that it was important to keep the complaints process open during this period to help the NHS respond to and learn from experiences. Other themes included:
- Recognition that, in the short term, resources are stretched due to responding to the pandemic
 - Promoting opportunities to use digital channels more to engage with users
 - Promoting the need for swift responses to complaints, with emphasis on resolution to avoid build-up of cases
 - Building better ways of sharing complaints insight across NHS organisations
 - How the pandemic has highlighted the need for better partnership working across Health and Social Care.

11. Questions 39 and 40: What is missing from the Standards

- 11.1 43% of main survey respondents said there was something missing, or not fully explained in the Standards (Q.39). When asked for details (Q.40), it was clear that many want to see detailed guidance on how the expectations would be applied, alongside questions on how the Standards will address specific issues. These included:
- Introducing standardised timeframes on responding to complaints
 - Definition of just and learning culture
 - Details of what patients/complainants should expect to see
 - More reference to face-to-face contact and meaningful engagement
 - More prominence/detail on the role of PALS in the complaints process
 - More references to installing a 'no blame' culture
 - References to Duty of Candour and Freedom to Speak Up
 - Ensuring that all healthcare complaint data and insight is standardised and uses one reporting format.
- 11.2 A public services ombudsman fed back that the Standards should provide clear timeframes, as seen in their Complaints Handling Principles, which recommend as few steps as necessary within an agreed and transparent timeframe.
- 11.3 One advocacy organisation said the Standards should place more emphasis on ensuring complaints staff are better informed about the role of independent complaints advocacy and how to signpost to it. They suggested that the expectation given on advocacy should be changed to *“Organisations make sure people know how to access advice and support to raise a concern or make a complaint. This includes proactively signposting complainants to appropriate independent complaints advocacy and advice providers and other support networks.”*
- 11.4 One organisation also noted the need for the Standards to speak to independent healthcare providers who work within the NHS-funded model.
- 11.5 Feedback indicated that more consideration needs to be given to how the Standards will operate alongside patient safety investigations and processes.

Feedback on this section from outside survey

- 11.6 This question saw the most feedback on wanting more detail/guidance.
- 11.7 Some organisations referred to the need for stronger alignment of the Standards to patient safety. One organisation noted that clarity on how the Standards sit alongside the new Patient Safety Incident Management System was needed, noting that the new Patient Safety Incident Response Standards places emphasis that *“those managing complaints and those managing patient safety incidents must work closely together to align their approaches given the sizeable overlap in these valuable sources of learning.”*

Action taken on this feedback

- 11.8 PHSO has amended the Standards to give clear references to key concepts like a just and learning culture. PHSO will also consider how best to link the Standards to Freedom to Speak Up via the pilots planned for 2021.
- 11.9 The issue of timeframes is well known, and the Standards seek to ensure there is a clear description of what approaches should be taken. Yet there is no clear consensus for whether there should be a national set of timeframes for NHS complaints handling. The 2009 Complaint Regulations do not provide an explicit approach, save for a three-day target for acknowledging complaints, and a requirement for organisations to notify a complainant (in writing) the reasons for why they cannot provide a response within six months.⁸
- 11.10 These factors make it difficult for the Standards to set out detailed KPI's on timescales. To balance this, PHSO's Model Complaints Handling Process provides some indicative timescales that align with the 2009 NHS Complaint Regulations.
- 11.11 The Standards now benefit from having stronger links to national approaches to patient safety, although these will be covered in the detailed guidance rather than the Standards themselves.

⁸ Reg 14(3) and (4).

12. Questions 41 and 42: My Expectations

12.1 55% of main survey respondents said that My Expectations fully captures what patients should expect to see when making a complaint. 25% said it did not, with a further 20% saying that they were not able to review My Expectations as part of the consultation. (Q.41). When asked for what is missing, the following themes stood out (Q.42):

- The language used in My Expectations is not plain English, and the detail should be cut back
- No reference to what is expected on timescales
- More emphasis on not having your care compromised if making a complaint
- Calls for a truly independent local stage in NHS complaints handling
- No details on how these expectations are to be measured
- Need for better linkage/referencing to My Expectations in the Standards (resulting guidance).

12.2 One organisation told PHSO that My Expectations would benefit from an expansion to include the expectations of those who are subject to a complaint. In addition, NHSE indicated that My Expectations remains a key document that the Standards can use to help monitor and measure progress.

Action taken on this feedback

12.3 Overall, feedback highlighted that there would be benefit in PHSO (working with LGSCO and Healthwatch) undertaking a review of My Expectations in the future, to ensure it is up to date and meets user needs. This should include expansion to cover the expectations of staff, which will ensure My Expectations fairly balances up the needs of all key users of the complaints process.

12.4 PHSO will discuss this with Healthwatch and LGSCO later in the year, to explore whether a review of My Expectations is possible.

13. Questions 43 to 46: PHSO's role in embedding the Standards.

13.1 Q.43 asked for views on what steps PHSO should take to ensure NHS organisations embed the Standards into their own complaints processes. The predominant theme in this section was for PHSO to monitor and report on how organisations are doing to embed the Standards, alongside ensuring NHS Regulators adopt the Standards into their activities.

“Have an open access feedback mechanism so that patients can feed back directly to the PHSO in the first year of operation. Have something on [PHSO's] website which allows complainants to complete a short survey about whether the organisation they have used has followed the Standards. Patients will provide the best evidence of how organisations are embedding the Standards in their own complaints processes.”

“Ensure complaints managers have recognised qualification, each organisation's complaints policy should be ‘PHSO approved’, and each organisation must identify a complaints manager responsible for oversight of the policy/processes.”

“[we consider] that The Standards should be included in CQC “related guidance” on complaints and inspection Standards. In addition, that the NHS Standard Contract Service Conditions (for example such as SC16 on Complaints) should be updated to include reference to the Complaint Standards.”

“PHSO should not report on how organisations are performing towards meeting Standards expectations because that would add yet another layer of upward reporting for hard-pressed providers. They already spend too much time processing complaints data and not enough time learning from it.”

“Clear information about the Standards to CEOs and person responsible for complaints. Organisation to undertake a self-assessment against the Standards. High level reporting against the Standards (not too onerous) with expectation of stepped changes

“This could be an annual self-assessment. Regularly ask organisations to submit examples of good practice or how practice has been developed - so this can be included in PHSO publications - and ensures examples are from all types of organisations, nationwide.”

“I think this may be a challenge if they are principles rather than a mandatory/statutory Standards. For NHS providers PHSO should engage with CQC, who can enforce Regulation 16 of the H&SC Regulations 2015 around receiving and acting on complaints.”

“It is really important that the new Standards herald a culture change, so that running the complaints process is viewed as a crucial function of NHS services. This is a prime opportunity to embed a learning culture that values complaints to do better and avoid repeating the same mistakes. The first step must be to monitor and report on how the Standards are being implemented in different parts of the health and social care system.”

Conclusions on this feedback

- 13.2 The helpful feedback given to this question supports the planned activity for PHSO's role in supporting organisations to embed the Standards and report on progress. Other ideas for next steps given above have already been identified and will be progressed in the next stages.

14. Questions 44 to 46: PHSO and complaint standards authority powers

- 14.1 88% of main survey respondents said PHSO should regularly report on how organisations are performing towards meeting the Standards' expectations (Q.44). This correlates with feedback given previously that PHSO's main role should be to monitor and report on progress. 92% of all respondents said PHSO should undertake regular reviews/updates of the Standards (Q.45).⁹

To what extent would you agree or disagree that PHSO should be given legislative powers to set and enforce national complaint standards for the organisations it investigates?

Strongly agree	207	48%
Agree	125	29%
Neither agree nor disagree	58	13%
Disagree	17	4%
Strongly disagree	18	4%
Don't know	10	2%
Total	435	100%

- 14.2 76%¹⁰ of all respondents either agreed or strongly agreed that PHSO should be given legislative powers to set and enforce national complaint standards for the organisations it investigates (Q.46)¹¹. Of the remainder of answers, it is worth noting only 8% overall disagreed or strongly disagreed with PHSO having such powers, with 13% neither agreeing nor disagreeing, and 2% saying they did not know.

⁹ Q.19 of the Easy Read Survey

¹⁰ Please note that, due to rounding, individual percentages in the table may not sum to the total of combined percentages.

¹¹ Q.21 of the Easy Read Survey

“It is always going to be challenging to ensure organisations embed the Standards into their processes when this is merely best practice guidance. We would therefore support the PHSO’s plans to gain legislative powers in this area, which will place more pressure on organisations to comply.”

“A common standard for organisations to adhere to and set their own standards by can only be a good thing. It is essential that a standard is set by the body that has the legislative power to enforce this as well. The ultimate focus is to use complaints as a tool to improve and shape services, detailing where things go wrong and improving services can only be a good thing in the long term.”

“It needs credibility and the ability to monitor and impose sanctions if needed. It needs to be clear that organisations use the same system...It needs to become mandatory to work.”

“It really needs to be a requirement that organisations take complaints seriously and not be dismissive when a person attempts to complain. People in particular in mental health units feel that if they complain it will impact on how they are treated while in hospital.”

“CQC should continue to monitor NHS Complaints handling, I do not see this as a role for the PHSO which should remain an arm’s length body independently investigating NHS Complaints. It should not be both investigator and monitor.”

“It should be passed as an act of law that this is how NHS will act when complaints are received.”

“Our experience [of having CSA powers] is (and continues to be) very positive in terms of engendering public sector practice and learning... having legislative powers has been the catalyst for change...and has resulted in a positive impact on public service delivery.”

“Make it mandatory to follow the Standards. From past experience in an actual hospital setting...it is very difficult to have...concerns and complaints acted on quickly, if at all.”

“Ideally, PHSO should have the powers to audit this area, though in the first place there needs to be a comprehensive training plan across all NHS bodies, a buy-in with relevant Senior Management, especially in the governance process... and adequate staff resourcing. The approach is not about ‘a big stick’ it needs to be around a collaborative approach with demonstration of tangible benefits for all parties.”

“Ensure the PHSO Standards aligns with the NHS regulations before committing to the final [version].”

“I worry the PHSO is overstepping in some ways, as you are not a regulator – if given powers only then you can measure how organisations are implementing the Standards, which mirrors My Expectations and is best practice, which has been in place for some time.”

“Please lobby to get yourself some legislative teeth and give us (complaints managers) the authority to make things happen in the organisations. We all know how to do it, we just don’t have the authority!”

Feedback given outside survey

- 14.3 Considerable support was given within the public engagement events to PHSO having a statutory role in setting complaint standards. This was felt to address concerns that, as a voluntary process, some NHS organisations may not commit to embedding the Standards. Feedback from NHS complaint teams also supported this approach if it could be used to provide support and development.
- 14.4 Several NHS organisations supported PHSO having a more defined role in setting complaint standards in their formal responses. Two organisations generally noted they were not yet convinced as to why PHSO should have complaint standards authority powers, although no further details were given.

Conclusions on this feedback

- 14.5 The overall support given to PHSO having future statutory powers in this area provides an important evidential base for future Ombudsman reform. Respondents noted PHSO's 'final-tier' adjudication role in the NHS complaints process means we are ideally placed for this role. However, some felt that PHSO's main role as an independent adjudicator may well conflict with becoming a complaint standards authority. PHSO should continue to look carefully at how it develops its role to address these concerns.
- 14.6 Public feedback made clear that such a role was needed to ensure the Standards are embedded consistently, while feedback from UK Ombudsmen highlighted the positive impact such powers can ultimately have on public service delivery across the devolved nations, and that setting and monitoring complaint standards can live side-by-side with an Ombudsman's core role.

15. Question 47: Any other comments on the Standards

- 15.1 This question raised further support to several themes already identified, and provided some further factors to consider:
- PHSO needs to consider the impact of complaints on staff and what support should be provided during and after an investigation. This is set alongside feedback that more funding is needed for those who advise and advocate for complainants
 - Accessibility for patients in prison should be given specific focus during the first stages of embedding the Standards
 - Place importance on the use of advocacy at the earliest opportunity, not just when it becomes a formal complaint
 - The Standards provide a golden opportunity to understand why patients from a range of different communities are less likely to complain and how this should be addressed
 - Warning that the Standards cannot be operated as a 'one size fits all' arrangement, and that a "*common Standards that all organisations can build on is a good practical solution.*"
 - Make the Standards simpler, and more outcomes focused.

15.2 Overall, in this section many respondents detailed their ‘hopes and fears’ for improving the NHS complaints system, and the challenge that awaits to embed the Standards. Many felt that the Standards make sense in theory, but their practical application will be difficult, and will require significant investment. However, many stated that such investment is vital if there is to be a real cultural and system change in how the NHS responds to, and learns from, complaints.

“As a Head of Complaints and having worked in a complaints role for 18 years, I am very excited about this new Standards and look forward to taking this forward. I think the public deserve this support and Trusts should be required to provide adequate resources to make this a significant change in the culture of the NHS and the importance of listening and learning from patients and visitors. Thank you for doing this.”

“[We welcome] the Complaints Standards as they address that Public bodies can still view complaints negatively and not as a valuable learning opportunity. It also highlights that NHS organisations can deal with complaints and feedback in a variety of ways and the Standards aim to provide a consistent way in which staff are expected to handle and resolve complaints. The Standards recognise that NHS staff who have responsibility for investigating complaints do not always get consistent access to training to support them in their complex role and [we agree] that complaint handling should be recognised as a professional skill.”

“I feel strongly that patients should be supported actively through the process and this will help to reduce the degree of vague, ambiguous answers. There should be someone who has powers to help patients when they are unable to get answers. I can honestly say that my experience with the NHS complaints system is the most traumatic thing I have gone through and I would not wish this on anyone.”

“I’d like there to be a way of allowing BAME groups to express their experiences openly without feeling afraid... There needs to be a commitment to these efforts and there needs to be a defined way to ensure they are met...”

“Feedback and complaints are an opportunity to co-produce improvement.”

“The Standards are well thought out, well written and I agree that had this proposed system been in place during many previous complaints to another department, I could have had the complaints resolved much sooner, more efficiently and with a consideration of the impact on my wellbeing that an incompetent complaints procedure was causing.”

“In general, we support the development of the Complaint Standards and agree that a single vision for how staff are expected to handle and resolve complaints will help reduce confusion and contribute to creating a shared standard for dealing with complaints from patients.”

If you would like this document in a different format, such as Daisy or large print, please contact us.

Let's
#MakeComplaintsCount

