

# Dealing with complaints ACP New Consultant Group

17<sup>th</sup> March 2018

## Aims and Objectives

- To aid understanding of what a complaint is.
- To appreciate why it is important to “get it right” hopefully the first time
- To gain confidence in providing a good quality response.
- To appreciate the Duty of Candour



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## What is a complaint?

*“A complaint or concern is an expression of dissatisfaction about an act, omission or decision of the provider, either verbal or written, and whether justified or not, which requires a response.”*

*NHS England Complaints Policy*

# Standards for complaint handling

- Principles of Good Complaint Handling

1. **Getting it right**
2. Being customer focussed
3. Being open and accountable
4. Acting fairly and proportionately
5. Putting things right
6. Seeking continuous improvement



Parliamentary  
and Health Service  
Ombudsman



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## Why is it important to “get it right”?

- You have a GMC obligation to provide an explanation and if appropriate, an apology.

*“You must respond promptly, fully and honestly to complaints and apologise when appropriate. You must not allow a patient’s complaint to adversely affect the care or treatment you provide or arrange.”*

*GMC, Good medical practice (2013) (para 61)*



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# Why is it important to “get it right”?

- You have an obligation to comply with the Local Authority Social Services and National Health Service Complaints [England] Regulations (2009).

STATUTORY INSTRUMENTS

**2009 No. 309**

**NATIONAL HEALTH SERVICE, ENGLAND**

**SOCIAL CARE, ENGLAND**

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

*Made - - - - 23rd February 2009*  
*Laid before Parliament 27th February 2009*  
*Coming into force in accordance with regulation 1(2) and (3)*

The Secretary of State, in exercise of the powers conferred by sections 113(1), (3) and (4), 114(1), (2) and (5), 115(1), (2), (4) and (5) and 195(1) and (2) of the Health and Social Care (Community Health and Standards) Act 2003(a), makes the following Regulations:

**Citation, commencement, effect and application**

**1.**—(1) These Regulations may be cited as the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.  
(2) These Regulations, except for regulations 2(3) and 11, come into force on 1st April 2009.  
(3) Regulations 2(3) and 11 come into force on 1st April 2010.  
(4) The following provisions shall cease to have effect on 1st April 2010—  
(a) regulation 2(2); and  
(b) regulation 10.  
(5) These Regulations apply in relation to England.

**Interpretation**

**2.**—(1) In these Regulations—  
“the 1993 Act” means the Health Service Commissioners Act 1993(b);  
“the 2004 Regulations” means the National Health Service (Complaints) Regulations 2004(c);  
“the 2006 Act” means the National Health Service Act 2006(d);  
“the 2006 Regulations” means the Local Authority Social Services Complaints (England) Regulations 2006(e);  
“adult” means an individual who has attained the age of 18;

(a) 2003 c. 43.  
(b) 1993 c. 46.  
(c) S.I. 2004/1768, amended by S.I. 2006/552, 562 and 2084, 2007/1898 and 2008/528.  
(d) 2006 c. 41.  
(e) S.I. 2006/1681.



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## Why is it important to get it right?

- Doctors are subject to the spectre of multiply jeopardy.



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# Multiple Jeopardy



## What do people complain about?

**208,415** number of all reported written complaints in 2016-17.

**571** average number of written complaints made to the NHS per day.

**41.1%** of the complaints made about hospital and community services were about medical staff

**43.1%** of the complaints made about primary care were about GPs

*NHS Digital, Data on Written Complaints in the NHS 2016-17*

# What do people complaint about?- Hospitals

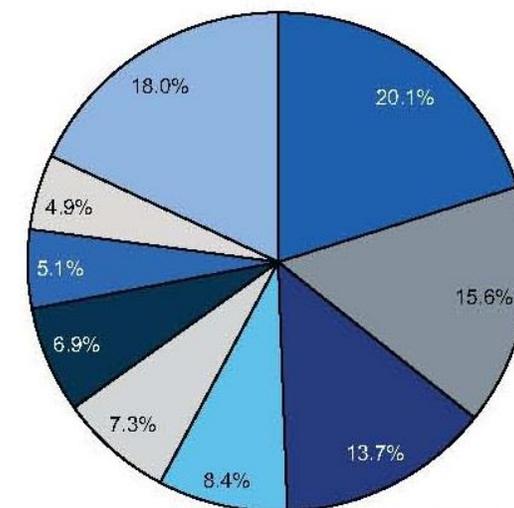
- Complaints about communication are the single biggest group in the NHS in Secondary care
- 33.8% of complaints in England related to communication and attitude/behaviour

*NHS Digital, Data on Written Complaints in the NHS 2016-17*

## Hospital and Community Health Services (HCHS) by Subject

Figure 5: 2016-17 HCHS Written Complaints by Subject Area - excluding clinical treatment areas

Communications	28,274
Patient Care including Nutrition / Hydration	21,930
Values & Behaviours (Staff)	19,287
Appointments including delays and cancellations	11,767
Other	10,281
Admissions, discharge and transfers	9,665
Access to treatment or drugs	7,189
Transport (Ambulances only)	6,883
Subject (non clinical) <4%	25,309
<b>Total</b>	<b>140,585</b>



Source: NHS Digital



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## Why do patients complain?

- To prevent similar problems happening to others in the future.
- To seek a proper explanation of what happened and why.
- To gain financial compensation - for actual losses, pain and suffering, or future care costs.
- To hold someone accountable for a wrongful act.

## How do I respond?

- Breathe
- This is not personal
- Whilst you may not agree, this was the experience of the patient
- Is this the experience that you would have wanted them to have?

# What do patients want?

- Explanation
- To feel 'heard'
- Apology
- Improvements to the service
- Willingness to right wrongs
- Ownership

## Not

- Denial/trivialisation
- Blame
- Excuses
- Multiple procedural stages



## How do I respond?

- Your opening paragraph can be a deal breaker
  - Think about the tone of your language
  - “Sad but glad”
- Describe how the investigation was undertaken
- Who has been involved in producing the response?



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## How do I respond?

- Give a full, chronological account of the care given
- Refer to clinical records
- Answer the issues raised
- Don't be selective about what you respond to

## How do I respond?

- Apologise if appropriate
  - “*I’m sorry that...*” not “*I’m sorry if you feel...*”
- If things could have been better, then say so clearly
- What have you learned as a result of this complaint?
  - most complainants want it to be better for someone else or for them next time
- Next steps
  - Meeting with the patient, right of review by the PHSO

## Apologising- The legal status of apologies

- Compensation Act 2006 – England and Wales

*“An apology, an offer of treatment or other redress, shall not of itself amount to an admission of negligence or breach of statutory duty.”*

- Any apology made outside of legal proceedings is not admissible as evidence of liability, and cannot be used to prejudice the person who made the apology

## What makes for a meaningful apology?



“There’s no easy way to say this: we made a pledge, we didn’t stick to it – and for that I am sorry.

When you’ve made a mistake you should apologise. But more importantly - most important of all – you’ve got to learn from your mistakes. And that’s what we will do. I will never again make a pledge unless as a party we are absolutely clear about how we can keep it.”

*Nick Clegg Sept 2012*



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# Learning from Complaints

- Reflective practice
- Presentation of factual evidence and a review of local policies and relevant clinical guidance
  - What happened?
  - Why did it happen?
  - What has been learned?
  - What has been changed or actioned?
- Remediation



## Reflective Practice

“You must reflect on all aspects of your professional work. This should be informed by discussion with others and by specific evidence, such as data from audit, complaints and compliments, significant events, information about service improvements, results of workplace-based assessments and feedback from patients and colleagues.”

*Para 17 GMC Guidance on CPD*

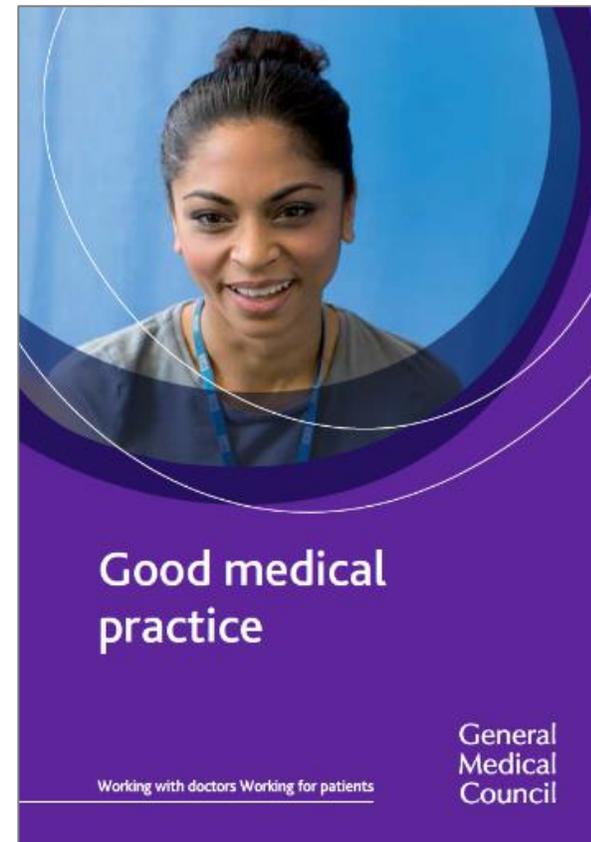
## Is the Duty of Candour engaged?

- You have a GMC obligation to be open and honest if something has gone wrong.

*“You must be open and honest with patients if things go wrong. If a patient under your care has suffered harm or distress, you should:*

- a. put matters right (if that is possible)*
- b. offer an apology*
- c. explain fully and promptly what has happened and the likely short-term and long-term effects.”*

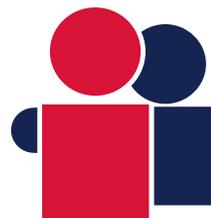
*GMC, Good medical practice (2013) (para 55)*



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## Key Principles – Statutory Duty

The organisation must:



Tell the patient  
(or their representative) in  
person if a patient safety  
incident occurs



Give full explanation of what  
is known at the time



provide an apology and keep  
a written record of the  
notification to the patient



## Key principles

- A notifiable patient safety incident has a specific statutory meaning:

**An unintended or unexpected incident that could (or has) in the reasonable opinion of the clinician resulted in...**

death, severe harm, moderate harm or prolonged psychological harm. Severe and moderate harm definitions are derived from the NPSA's Seven Steps to Patient Safety.

## Thresholds – severe harm

### Severe harm

*a permanent lessening of bodily, sensory, motor, physiologic or intellectual functions, including removal of the wrong limb or organ or brain damage, that is related directly to the incident and not related to the natural course of the service user's illness or underlying condition.*



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## Thresholds – moderate harm

### Moderate harm

- (a) harm that requires a moderate increase in treatment, and*
- (b) significant, but not permanent, harm;*

### Moderate increase in treatment

*an unplanned return to surgery, an unplanned readmission*

### Prolonged episode of care

*extra time in hospital or as an outpatient, cancelling of treatment, or transfer to another treatment area (such as intensive care);*



## Thresholds – prolonged psychological harm

### Prolonged psychological harm

*Psychological harm which a service user has experienced, or is likely to experience, for a continuous period of at least 28 days*



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# Avoiding trouble - the seven Cs

1. Competence
2. Communication
3. Consent
4. Chaperones
5. Confidentiality
6. Clinical Records
7. Customer service

## Summary

- Complaints are common
- A good response can help avoid escalation
- Apologise if appropriate
- Did something go wrong?
  - Reflection and remediation
  - Is the duty of candour engaged?
- Seek the advice of your defence organisation

# Questions?



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