

# Developing a Complaints Procedure



This information sheet suggests some key things to consider when developing or reviewing your organisation's complaints procedure. It may also be a good idea to take a look at some complaints procedures available on the internet to get ideas about how to present the information and examples of good practice you may wish to learn from.

## 1. The procedure

Your complaints procedure will be a public document that should be easily accessible. Think about wording things as clearly as possible and presenting the information in a way that can be understood by all. You should clearly set out the following information by means of introduction:

- What the complaints procedure is for
- What the procedure includes
- Key principles and ways of working
- Context

You should make reference to regulations and any legal requirements relating to your type of service. For example social care complaints are covered in the Children Act 1989 Representations Procedure (England) Regulations 2006, and The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

## 2. Scope

It is important for the complaint procedure to set out what can be complained about and what is exempt from the complaints procedure. Commonly, a complaint would relate to:

- An unwelcome or disputed decision (if no appeal process applies)
- Concern about the quality or appropriateness of a service
- Delay in decision making or provision of services
- Delivery or non-delivery of services
- Quantity, frequency, change or cost of a service
- Attitude or behaviour of staff (unless it warrants internal disciplinary action)

There are some issues that you may decide are not covered by your complaints process and these could be:

- An employee issue (you should handle these through your disciplinary and grievance procedures).
- A complaint resolved on the spot, to the complainant's satisfaction, without the need for an investigation.
- A complaint that is not appropriate (perhaps relating to a service provided by a different organisation).
- A complaint that has already been investigated and resolved.
- An issue that can be taken forward through another formal process such as an appeals process, insurance claim, court proceedings etc.

If a complaint falls outside of your complaints procedure you should inform the complainant as soon as possible that you will not be taking the complaint forward and clearly explain the reason for your decision.

Your complaints procedure should also set out how you will consider a complaint regarding external contractors or subcontractors you are responsible for. This may commonly involve the provider responding in the first instance before your involvement at a second stage of the process.

## 3. Time Limit

It is common practice to set a time limit for complaints. If an incident has happened a long time ago it can be very difficult to fairly investigate and provide a decision. It is usual to expect a complaint to

be made within 12 months of: a) the date the event occurred or b) the date the event came to the notice of the complainant.

You may choose to make an exception to this rule if you feel the complainant can give a good reason for not making the complaint sooner or that, despite the time lapse it is still possible to fairly and comprehensively investigate the complaint.

#### **4. Claims Process and Relationships to Other Procedures**

Your organisation may have a process for accepting compensation claims and this should be referred to within your complaints procedure. There may also be other procedures that link to your complaints procedure (such as an unreasonably persistent or vexatious procedure) and you should explain how these work together so that customers understand what they can expect and whether or not they should be progressing their concerns through another route.

#### **5. Ways to complain**

Your complaints procedure should set out the various ways in which someone can make a complaint. You should state how people can complain, for example:

- Face to face
- Over the telephone
- In writing or by email.

Where a complaint is made in person or on the telephone tell the complainant you will:

- make a written record of the complaint
- provide a copy of the written record within an acknowledgement letter/email.

The ways in which people can complain should be set out in a complaints leaflet and on your website. It would be good practice to offer customers:

- Assistance to enable them to understand the complaint procedure
- Guidance concerning any local advocacy services they may use
- The option to seek information in other languages and formats such as braille or audio (on request).

#### **6. Who may complain**

You may find it difficult to investigate anonymous complaints because you may not have enough information to determine the nature of the complaint or event/incident described. If you decide not to investigate anonymous complaints you should make this clear within your procedure.

Some people may complain on behalf of someone else. Your procedure should set out the circumstances under which you will accept a complaint from a representative. For example you may accept a complaint from a representative if:

- You know that the customer has consented, either verbally or in writing to the representative making a complaint on their behalf; or
- The service user cannot complain unaided and cannot give consent because they lack capacity within the meaning of the Mental Capacity Act 2005; and/or
- The representative is acting in the customer's best interests (for example, where the matter complained about, if true, would be detrimental to the service user) and you cannot see any reason why information could not be shared (you should consider data protection and information sharing issues if you are taking on a complaint without consent).

#### **7. Your Framework for Managing Complaints**

Your complaints procedure will need to clearly set out the framework your organisation will use to handle complaints and the process, stages and timescales you have in place. Consider the following examples and adapt accordingly.

Timescales

- It is common practice to aim to acknowledge complaints within 3 to 5 working days (this will depend on the size of your organisation and your capacity to respond).

- You should aim to respond to complaints within 20 to 30 working days (many organisations aim to respond within 20 working days or less but it will depend on the nature of your service and size of your organisation).
- The LGO suggests a 12 week (60 working days) total process (completing all stages) for adult social care complaints. These tend to be more complex than other forms of complaint so aim for 12 weeks or less depending on the nature of the service you provide.
- When setting timescales make sure you say working days if that is what you mean.

#### Process

You will need multiple stages within your complaints process. This will help you to move complaints forward and refer externally if a solution cannot be found at the initial stage. A common approach is:

- Complaint made
- Appointment of investigator
- Acknowledgement
- Stage 1 Investigation and Response
- Stage 2 Review (by the service or the commissioning body) and Response
- Signposting to external body (for example Ombudsman, CQC etc.)

An example of signposting to the LGO is given below:

Once your complaint has been fully dealt with by [name of care provider], if you are not satisfied with the outcome you can complain to the Local Government Ombudsman (LGO). The LGO provides a free, independent service. You can contact the LGO Advice Team for information and advice, or to register your complaint.  
 T: 0300 061 0614  
 W: [www.lgo.org.uk](http://www.lgo.org.uk)  
 Or write to: The Local Government Ombudsman, PO Box 4771, Coventry CV4 0EH

The Local Government Ombudsman suggests that all stages of the complaints process should be completed within 6 months but with very complex cases where multiple responses/correspondence is made at each stage that may not be possible. Make sure you keep complainants informed of progress within the process.

### 8. Investigations

Investigating complaints does require some core skills and you should ensure your organisation has a number of investigators with the seniority to resolve issues. The person with responsibility for acting as your 'complaints manager' should have a role in supporting your investigators and understand legal requirements and how the complaints process sits with other procedures. Some key points to consider include:

- Consider at an early stage whether any immediate action can be taken to resolve the complaint.
- The investigator must be independent of the complaint that has been made.
- The investigator should consider what happened, what should have happened and whether there is a difference between those two things.
- The investigator must be clear what they are investigating. Ensure the investigator understands the complaint being made.
- Ensure investigators have confidential storage and know where to record their work.

Some top tips for investigators are:

- Set clear objectives and plan the investigation well.
- Be objective, fair and impartial
- Record everything
- Obtain all the relevant evidence you can
- Conduct a sufficient investigation so as to establish all the relevant and material facts.

- Conduct interviews with those involved
- Following the proper process
- Do not include any unproven assumptions and/or unsubstantiated evidence
- Ensure your investigation will be in line with the complainant's expectations and communicate well.
- Present conclusions in a clear and logical manner
- Make realistic recommendations.
- Seek specialist advice where it is needed.

In reaching a conclusion consider:

- Potential failures – these may include human error or inappropriate behaviour by a member/members of staff, poor application of resources e.g. too late, insufficient, procedural or administrative problems; services not able to deliver the requirement; and the organisation failing to understand or accept its responsibilities.
- Working through all the points until there is a view on every aspect of the complaint.
- Include explanations.
- When making recommendations, try to make them practical, proportionate and constructive.
- In reaching a conclusion there are usually three options a) to uphold the view of one party because this is clearly supported by the evidence, b) to request additional information to explore the matter further; and c) to decide that the available evidence will never be conclusive.
- Clearly setting out a decision (see 9. Reaching a Decision below).

## 9. Reaching a Decision

It is helpful to apply three main outcomes for a complaint:

- a) Upheld - A complaint is upheld when the outcome of the investigation finds in the complainant's favour.
- b) Partly Upheld - The investigation finds in the complainant's favour, in part. Elements of a complaint may be upheld and others not upheld.
- c) Not Upheld - If a complaint is not upheld the investigation finds in the service provider's favour: the service provided was of a standard a reasonable person could expect.

The outcome or decision should be clearly recorded. If the complainant disagrees with the decision at Stage 1 it may be necessary to move to the next stage of the process.

## 10. The Duty to Co-operate

For health and social care services there is a duty to cooperate. This applies to local authorities and the NHS but if you are providing a service on behalf of those organisations you may become involved in what is commonly referred to as a 'joint complaint'. A joint complaint is usually coordinated by one body and information gathered from other service providers in order to provide one, comprehensive response and investigation. Local arrangements are in place to agree that, in these circumstances, one body will coordinate the handling of the complaint, communicate with the complainant, attend meetings, obtain consent forms etc.

## 11. Example Procedures

You can find example complaints procedures using the internet. Shropshire Council's complaints procedures are available here. <https://www.shropshire.gov.uk/feedback/>

More information on developing a complaints procedure and example documents are available from the Local Government Ombudsman. Although developed for social care providers they can be adapted for general use. Find the guidance here.

<http://www.lgo.org.uk/adult-social-care/resources-for-care-providers>

## 12. Guidance on Running a Complaints System

The LGO has produced a useful guidance document to support Council's in their work to design and implement a complaints system. It is a helpful document that could be applied to different types of organisations. Find a copy of guidance on running a complaints system here.

<http://www.lgo.org.uk/information-centre/reports/advice-and-guidance/guidance-notes>