# NHS LA Complaints Policy

<table>
<thead>
<tr>
<th>Applies to:</th>
<th>NHS LA employees, contractors and Non Executive Directors</th>
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<tbody>
<tr>
<td>Date of Board Approval:</td>
<td>May 2014</td>
</tr>
<tr>
<td>Review Date:</td>
<td>May 2017</td>
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1. Introduction

The NHSLA is committed to taking seriously any complaints raised about our service, will seek to ensure their satisfactory resolution and aim to learn from complaints to improve our services. As an NHS organisation, the NHS LA is subject to the NHS Complaints Regulations (Regulations). This policy also reflects the Parliamentary and Health Service Ombudsman’s Principles of Good Complaints Handling. If we receive a complaint about NHS services, or any other part of the health and care system, we will respond where we can do so. Where the complaint falls outside the scope of this policy, we will assist the complainant to refer the matter to the relevant body, or with agreement we will refer the complaint directly.

The NHS LA has three functions:

- **Management of Claims**
  We provide indemnity cover for legal claims against the NHS, share lessons from claims to improve patient safety and provide other legal and professional services for the NHS and providers of NHS care.

- **National Clinical Assessment Service (NCAS)**
  NCAS supports the NHS to improve patient safety by helping to resolve concerns about the professional practice of doctors, dentists and pharmacists in the UK. NCAS provides expert advice and support, assessments and training to the NHS and other healthcare partners. NCAS also issues the Healthcare Professionals Alert Notices (HPAN).

- **Family Health Services Appeal Unit (FHSAU)**
  The FHSAU acts to resolve contract disputes between health practitioners, (including GPs, dentists, pharmacists and opticians), and their local primary care decision making body. The FHSAU maintain a list of primary care health practitioners in England, Wales, Scotland and Northern Ireland who have had restrictions placed on their work.

2. Scope

This policy sets out the framework by which complaints that cannot be resolved locally and quickly are escalated and managed. It will be implemented by all NHS LA employees, workers, contractors and non-executive directors receiving a written or verbal complaint about the NHS LA.

Any of the NHS LA’s service users may raise complaints about our services. Such concerns can be made verbally or in writing. Where a service user states that they wish to make a complaint, the complaints procedure at Annex 2 of this policy will be followed.

The following do not constitute complaints for the purposes of this Policy, but will be dealt with in accordance with the established procedures for dealing with such matters:

- Disagreements arising from the normal negotiation inherent in the management of liability claims handled by the NHS LA (including when compensation payments are refused

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1 Local Authority Social Services and NHS Complaints (England) Regulations 2009
because negligence has not been established and all appropriate processes for establishing such have been followed);

- Challenges to the FHSAU’s interpretation of regulations or procedures during the appeal process or to final decisions (a “come back”); and

- Dissatisfaction with decisions reached on matters of professional or clinical judgements which have been made in relation to the delivery of NCAS services (provided all appropriate procedures and practices have been followed).

3. **Time limits**

A complaint must be made within 12 months of an incident occurring, or on the date on which the complainant has become aware, (or should reasonably have become aware), of the matter of complaint if this is more than 12 months after the incident.

The time limit will be used sensitively and with flexibility according to the seriousness of the complaint, the practicality of carrying out an investigation and the circumstances of the complainant. The Chief Executive will determine whether a complaint which may be out of time should be reviewed under this policy.

4. **Definitions**

**Informal complaints**

4.1. The NHS LA defines a complaint as ‘an expression of dissatisfaction that requires a response’ made orally or in writing. Where an enquiry, comment, concern or expression of dissatisfaction is made orally and resolved to the complainant’s satisfaction within 3 working days, it does not need to be escalated as a formal complaint but is considered to have been dealt with informally.

**Formal complaints**

4.2. A formal complaint is one where an expression of dissatisfaction raised by a complainant has not been resolved quickly and informally, or where the complainant has expressed a wish for their complaint to be subject to a formal investigation. Formal complaints can be made verbally. However, where practicable, complainants should be encouraged to put forward complaints in writing.

4.3. If a complaint is received in a case where legal action is being taken or the police are involved, a decision will be made by the Chief Executive as to whether progressing the complaint might prejudice any subsequent legal action. The complaint should be put on hold only if there are good reasons for doing so, with the complainant being advised of this and given an explanation. However, the default position in cases where the complainant has expressed an intention to take legal proceedings would be to seek to continue to resolve the complaint unless there are clear legal reasons not to do so.

5. **Duties**
5.1. **Chief Executive:**

- To oversee the implementation of this Policy supported by the Senior Management Team on behalf of the NHS LA Board;

- To inform the NHS LA Chair and Board of any significant issues or learning identified from the handling of complaints under this policy;

- To oversee communications with the media in relation to complaints as necessary;

- To ensure that the Board is informed, at least six monthly, of complaints data, including causes, emerging trends and action taken to prevent recurrence;

- To ensure that written complaints are acknowledged within three days and, where appropriate, to offer to discuss the matter, (or delegate an appropriate person to discuss the matter), with the complainant in order to determine and agree how to proceed, and to initiate complaints investigations;

- Respond in writing to all written complaints within 25 working days beginning on the date upon which the complaint was received by the NHS LA (or later if such a date is agreed with the complainant). In some cases, this may include arranging a meeting if that is a preferred option by the complainant; and

- To ensure that information on complaints is recorded and appropriately reported.

5.2. **Chair:**

- To investigate and respond to any appeals against the Chief Executive’s decision on a complaint or to any complaint that the Chief Executive has not addressed on the complainant's complaints, where such an appeal is made by the complainant within 25 working days of receiving the Chief Executive’s response to the original complaint.

5.3. **Corporate Governance Manager**

- Responsible for managing the complaints function in accordance with the principles outlined in the policy;

- Acknowledgement of complaints, or ensuring that they are acknowledged, within 3 working days;

- Recording the receipt of complaints and providing notification to the Chief Executive in a timely fashion;

- Managing a complaints register of all formal complaints received;

- Recording all learning outcomes, ensuring that an action plan is created to learn from complaints, and monitoring against the action plan to ensure the action plan is executed;

- Preparing reports on complaints and learning for the Chief Executive, SMT and Board.
• Providing training to staff on complaints handling and processes.

5.4. Managers:

• Ensure that all their staff understand the procedure for complaints (including reporting), and that they follow the complaints procedure when appropriate;

• Help to resolve informal complaints at a local level wherever possible;

• Ensure that all written complaints, including emails, are sent to the Corporate Governance Manager the same working day the complaint is received or as soon as practical thereafter;

• Provide appropriate information in a timely manner to assist in any investigation;

• Ensure that, where appropriate, any member of staff is informed of any concern or complaint against them as soon as practical and is kept informed of developments;

• Provide appropriate support for staff involved in a complaint. Such support will include the provision of:

  - Immediate support, as appropriate, (internal and, if necessary, external), including time away from duties, e.g. in order to deal with any investigation, facilitate the preparation of statements and related meeting attendance;

  - Ongoing support, as appropriate, (internal and, if necessary, external), including the offer of meetings, as appropriate, to discuss progress and where a staff member experiences difficulties associated with the event, direction to the staff counselling service available via the Employee Assistance Programme (EAP); and

  - Any other appropriate advice.

• To assist in drawing up action plans to address any issues raised by a complaint, and ensuring that the action plan is fully implemented.

5.5. All Staff:

• Take all complaints seriously;

• Resolve informal complaints at source whenever possible;

• Report all complaints to their line manager as soon as they are raised.
Annex 2 Procedures for Managing Complaints

1. Informal complaints

All NHS LA staff will try to resolve informal complaints at the time they are made. Any concern made directly to a member of staff should be reported to the staff member’s line manager irrespective of whether it has been successfully resolved.

2. Formal complaints

If a member of staff or their line manager is not able to resolve a complaint satisfactorily, or if a written complaint is received, the matter should be referred to the Corporate Governance Manager who will ensure that the Chief Executive is notified and a formal written acknowledgement is sent.

The Chief Executive may ask the Corporate Governance Manager or another manager to investigate the complaint.

3. Appeals

If a complainant remains dissatisfied after receiving the Chief Executive’s written response, then they can appeal by writing to the NHS LA Chair.

4. Ombudsman

Complainants who are still dissatisfied at the conclusion of the NHS LA’s complaint procedure may put their complaint to the Parliamentary and Health Service Ombudsman.

5. Record Keeping

In accordance with NHS guidance on records management, complaint records will be held by the NHS LA for 10 years.

6. Being Open

The NHS LA’s policy is to provide those raising concerns, complaints with a full and frank explanation of the events giving rise to their complaint. Care should be taken to ensure that sufficient information is given to explain what has happened and any subsequent action that might be necessary. Where appropriate, a full apology should be given. The person raising the complaint should be assured that they will not be treated differently as a consequence of making the complaint.

7. Vexatious Complainants

Occasionally correspondence will be received from those raising complaints, or from others who are dissatisfied, which can be threatening or verbally aggressive. In the event of receiving such correspondence, either in writing or by phone, staff should report the matter immediately to their line manager who in turn should ensure that the Chief Executive is informed. The Chief Executive will decide what action is to be taken.
8. Learning from Experience

In order that lessons can be learnt from complaints, all complaints will be collated by the Corporate Governance Manager and reported on a quarterly basis to the Senior Management Team together with learning outcomes and progress made. Complaints, including learning, will be reported to the Board at least twice a year.

9. Documentation and Statements

Full file notes must be made of all conversations with those raising complaints and any other relevant person. If a statement of events is required, the following details should be included:

- Name (of person giving the statement);
- Job title (if relevant);
- What the person did or saw (who, what, where, when – give facts, not opinion); and
- The statement must be signed and dated.

10. Confidentiality

Any information gained in an investigation of any kind will be treated with appropriate level of confidentiality. The information governance policies and procedures must be followed to protect personal data.

11. Timescales for Complaints

The following timescales should be achieved:

<table>
<thead>
<tr>
<th>Stage 1</th>
<th>Timescale</th>
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<tbody>
<tr>
<td>Local Resolution (formal)</td>
<td>Acknowledgement by the Corporate Governance Manager within 3 working days of receipt within the organisation.</td>
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<tr>
<td></td>
<td>Investigation carried out as requested by Chief Executive.</td>
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<td></td>
<td>Full written response from Chief Executive within 25 working days of receipt of complaint.</td>
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<table>
<thead>
<tr>
<th>Stage 2</th>
<th>Timescale</th>
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<tr>
<td>Appeal</td>
<td>Letters of appeal should be received within 25 days of the Chief Executive’s response and be addressed to the Chair.</td>
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<td></td>
<td>The Chair will investigate and respond to the complainant within a further 25 working days.</td>
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12. Training and Support

All persons handling complaints covered by this Policy will be appropriately trained to do so.

- Induction training (ongoing) will be provided for all new staff to introduce them complaints policy.
- Managers with responsibility for staff are required to read and understand this Policy in order that they can support their staff in the event of a complaint being received and any subsequent investigation.
- Individuals affected will be provided with feedback on the complaint by their line manager.

13. Equality Impact Assessment

This policy has been reviewed and an impact assessment undertaken.
Annex 3  How to make a complaint about the NHS LITIGATION AUTHORITY (NHS LA)

The NHS LA is committed to taking seriously any complaints raised about our service, will seek to ensure their satisfactory resolution and aim to learn from complaints to improve our services. As an NHS organisation, the NHS LA is subject to the NHS Complaints Regulations\(^2\) (Regulations). This policy also reflects the Parliamentary and Health Service Ombudsman’s Principles of Good Complaints Handling.

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We try to work in a professional, fair and courteous way at all times. We recognise, however, that things can go wrong and we encourage anyone who wishes to make a complaint to talk to their contact at the NHS LA who may be able to deal with your complaint quickly. If that is not possible, or you remain dissatisfied with your response please contact the Corporate Governance Manager at generalenquiries@nhsla.com who can advise you about how you may want to pursue your complaint.

We have set up a procedure for dealing with complaints raised with us. The aim of our complaints procedure is to:

- Be simple and easy to follow;
- Provide a speedy acknowledgement and full written response, where appropriate;
- Investigate complaints thoroughly and fairly;
- Ensure we say sorry if something has gone wrong;
- Keep you informed if there are delays;
- Be fair to complainants and staff; and
- Ensure that we learn from our complaints and to identify areas where we need to improve our services.

\(^2\) Local Authority Social Services and NHS Complaints (England) Regulations 2009
Who can use this complaints policy?

This procedure is aimed at anyone who is a service user or directly affected by our services. Complaints can be raised by you directly, or by your authorised representative.

Written complaints

Where a complaint cannot be resolved straight away, or where you wish to make a complaint in writing, please write or contact the Corporate Governance Manager at the following details:

Corporate Governance Manager  
NHS Litigation Authority  
2nd Floor  
151 Buckingham Palace Road  
London  
SW1W 9SZ

or e-mail generalenquiries@nhsla.com

The Corporate Governance Manager will make an initial assessment as to whether your complaint is one that falls within the terms of the complaint policy. If the complaint would best be pursued by a different process, we will advise you accordingly.

Your complaint will be passed to the Chief Executive. The Chief Executive will:

- ensure that written complaints are acknowledged within three working days of receipt;
- ensure that an appropriate investigation is carried out; and
- respond to you within 25 working days.

Appeals

If you remain dissatisfied after receiving the response from the Chief Executive, you can choose to appeal against the decision. Your appeal should be made in writing within 25 working days of you receiving the Chief Executive's response. In this case the NHS LA Chair will investigate your complaint. Your letter should be sent to the Board Secretary at the NHS Litigation Authority at the address given above. The Chair will respond to an appeal request within 25 working days.
Parliamentary Health Service Ombudsman

Complaining to the Ombudsman

Complainants who remain dissatisfied at the conclusion of the NHS LA’s complaint procedure may put their complaint to the Parliamentary Health Service Ombudsman in England, or the respective offices in Northern Ireland, Scotland and Wales. Complainants are advised to contact the relevant office for further guidance about whether the Ombudsman can consider your complaint.

The office details are as follows:

- **For complaints in England:**
  
  The Parliamentary and Health Service Ombudsman  
  Millbank Tower  
  Millbank  
  London  
  SW1P 4QP  
  Tel: 0845 015 4033  
  Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

- **For complaints in Northern Ireland:**

  The Ombudsman  
  Freepost BEL 1478  
  Belfast,  
  BT1 6BR  
  Tel: 028 9023 3821  
  Website: [www.ni-ombudsman.org.uk](http://www.ni-ombudsman.org.uk)

- **For complaints in Scotland:**

  Scottish Public Services Ombudsman  
  4 Melville St  
  Edinburgh  
  EH3 7NS  
  Tel: 0800 377 7330  
  Website: [www.spso.org.uk](http://www.spso.org.uk)

- **For complaints in Wales:**

  Public Services Ombudsman for Wales  
  1 Ffordd yr Hen Gae,  
  Pencoed,  
  CF35 5LJ  
  Tel: (01656) 641 150  
  Website: [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)