

# **Policy & Procedure for the Management of Complaints**

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**HPC & CSP registered Physiotherapists**

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## 1. Introduction

### This Policy:

- gives guidance on how to investigate complaints
- identifies key roles and responsibilities
- identifies the objectives for handling complaints
- ensures that Prorehab Physio is compliant with the Statutory Instrument, and;
- regulations for the handling of complaints

## 2. Objective

2.1 Complaints provide a valuable insight into patient's, family's and significant other's experiences of Prorehab Physio services and how these services can improve. They provide Prorehab Physio with the opportunity to learn and change practice. The competent and consistent management of complaints can assist in reducing the number of disputes leading to litigation, encouraging a culture of openness between complainants and those complained against.

2.2 To provide a flexible approach towards handling individual complaints, which focuses on the needs and wishes of the people involved;

To provide the fullest possible opportunity for the investigation and local resolution of the complaint as quickly as is appropriate to the circumstances;

- To provide a co-ordinated handling of cross boundary complaints.
- To learn and change to improve services.

2.3 Investigations will be objective, impartial and open in accordance with the "Principles of Good Complaints Handling – Parliamentary and Health Service Ombudsman". Investigations will provide an explanation, usually an apology, (this isn't necessarily admission of responsibility but an acknowledgement that the patient or complainant felt they had good cause to complain), a description of lessons learned and the identification of guidance/policy/systems requiring review and/or amendment.

This will enable Prorehab Physio to:

- Handle complaints objectively, consistently and fairly;
- Bring complaints to a rapid and satisfactory conclusion;
- Maintain a constructive and non-punitive approach;
- Act proportionately;
- Maintain a positive relationship with the complainant;

- Identify and implement changes/improvements in practice/services.

### **3. Definitions**

- 3.1 A complaint can be defined as “an expression of dissatisfaction, grievance and/or injustice requiring a response.

### **4. Who May Complain**

A complaint may be made by:

- 4.1 Existing or former patients using the services or facilities of Prorehab Physio, or an individual who is affected, or likely to be affected, by the action, omission or decision of Prorehab Physio
- 4.2 A relative/significant other of the patient. If the patient is a child or is unable to put forward a complaint because of physical incapacity, lack of capacity within the meaning of the Mental Capacity Act 2005 or has requested a representative to act on their behalf, then the complaint will be accepted from a relative/significant other or suitable representative body, or any person who is affected by or likely to be affected by the act, omission or decision of Prorehab Physio, providing it is the subject of the complaint. The patient will, however, receive the written response unless his/her permission is received, authorising Prorehab Physio to correspond with a third party. If the patient is unable to act, by reason of incapacity, consent is not needed but the Service Director receiving the complaint, will determine whether the complainant has “sufficient interest” in the patient’s welfare and is conducting the complaint in the best interests to be suitable to act as a representative. If the Service Director determines that a person is not suitable, a full explanation outlining the reasons for the decision must be provided.
- 4.3 Relevant PCT commissioners and providers
- 4.4 All NHS bodies, and private and third-sector providers, supplying NHS services in England are required by law to take account of the NHS Constitution in their decisions and actions.

The NHS Constitution explains your rights when it comes to making a complaint. You have the right to:

- Have a complaint dealt with efficiently and have it properly investigated
- Know the outcome of any investigation into the complaint
- Take your complaint to the Independent Parliamentary and Health Service Ombudsman if you are not satisfied with the way the NHS has dealt with your complaint
- Have a complaint dealt with efficiently and have it properly investigated

- Make a claim for judicial review if you think you have been directly affected by an unlawful act or decision of an NHS body, and receive compensation where you have been harmed

You can see a copy of the constitution on the Department of Health website at:  
[www.dh.gov.uk](http://www.dh.gov.uk)

## **5. Independent Mental Capacity Advocates (IMCA)**

- 5.1 Patients who lack capacity to make particular decisions and have no one else to support them must be referred to an IMCA. In these circumstances and where there is a disagreement between the IMCA and the decision maker, then a complaint will be accepted.

## **6. Roles and Responsibilities**

- 6.1 The post holder with overall responsibility for the management of complaints within Prorehab Physio is the Practice Manager who reports to and is accountable to Prorehab Physio director for the proper management of complaints, under The Local Authority Social Services and National Health Service (England) Regulations 2009. Patients may appeal the decision of the investigation and in these circumstances; the Service Director will sign the written responses to complaints which have been addressed to him/her.

### **The Practice Manager**

- 6.2 The PM supervises Prorehab Physio complaints policy, ensuring best practice with regard to the handling and management of complaints on behalf of the Prorehab Physio Board. Our policy is that the handling and management of complaints should be dealt with as close to the point of service as possible. Therefore the initial investigation of the complaint will be dealt with by Service Director with responsibility for the care of the patient making the complaint.

The PM investigating the complaint will meet complainants where necessary to resolve issues of concern at the Local Resolution Stage.

- 6.3 The Practice Manager will provide advice and support to relevant staff involved at all stages of the Complaints Procedure.
- 6.4 The Practice Manager will prepare reports to the Board of Directors on investigations undertaken by the Parliamentary and Health Service Ombudsman, liaising with involved staff and ensuring follow-up action is taken as agreed.

- 6.5 The Practice Manager will maintain a database of complaints information.
- 6.6 The Practice Manager will work with colleagues, using information gained from the investigation of complaints to ensure that practices, which minimise the risk of re-occurrence, are shared and implemented across the organization.
- 6.7 The Practice Manager will evaluate adverse clinical incidents, which may lead to a complaint and ensures statements are obtained and all material evidence preserved.

### **The Role of Staff**

- 6.8 Where appropriate the recipient of the complaint will ensure the immediate health care needs of the patient are met.
- 6.9 Consultant staff receiving written complaints will notify the Operations Director immediately.
- 6.10 Staff will often receive informal comments and suggestions and these may include expressions of dissatisfaction. If staff receives verbal comments from patients/service users, the person receiving the comment should establish the facts and clarify whether a complaint is being made. Staff are encouraged, to deal with verbal complaints to which they can provide an immediate response. The aim is to resolve the matter causing concern, to reassure the complainant, to learn from the complainant's experience and to eliminate the potential for similar problems.
- 6.11 Where the recipient of the complaint is unable to investigate and resolve the complaint adequately, or feels unable to provide the outcome that the complainant is seeking, then with the complainant's consent, the complaint will be referred to the Service Director
- 6.12 Some complainants may prefer to make their initial complaint to someone who has not been involved in their care. In these circumstances, they should be advised to address their complaint to the Board of Directors.

### **7. Time Limits**

- 7.1 Complaints must not be made later than 12 months after the material event, or within 12 months of the date of knowledge. Those received outside this time-scale will be investigated at the discretion of the Practice Manager, taking into account the reasons for not making the complaint within the time-scale; and whether it is still possible to investigate the complaint effectively and fairly.

## **8. Complaints and Disciplinary Procedures**

- 8.1 If any complaint indicates a prime facie need for a referral for an investigation under Prorehab Physio disciplinary procedures, one of the professional regulatory bodies, an independent inquiry into a serious incident under Section 84 of the NHS Act 1977 or investigation of a criminal offence, the Service Director will refer the case to the Board of Directors.

## **9. Possible Claims for Negligence**

- 9.1 Where a possible clinical negligence claim is intimated before a complaint has been resolved, the Service Director will consider whether by dealing with the complaint it might prejudice the potential defence of the clinical negligence claim. Where it is thought that dealing with the complaint might prejudice the legal action, resolution of the complaint will be deferred until the legal action is concluded. The Service Director must inform the complainant why the complaint process has been put on hold. In those circumstances where following an investigation under the complaints procedure there is a prime facie case of clinical negligence, a full explanation will be provided and if appropriate, an apology offered to the complainant.

## **10. Procedures**

### **Local Resolution**

- 10.1 A complaint may be made orally, in writing or electronically.

On receipt of a local complaint, consideration will be given by the Service Director to conciliation, mediation or a meeting with the complainant for the purposes of resolving the complaint.

- 10.2 All complaints will be acknowledged within 2 days of the date received. The complaint will be logged locally if that is the point of receipt, or head office if the complaint has been sent there.

The acknowledgement letter will include an offer to discuss with the complainant the manner in which the complaint is to be handled, the period within which the investigation of the complaint is likely to be completed and when the response is likely to be sent to the complainant.

- 10.3 Where a complaint is made orally, the acknowledgement must be accompanied by the written record.

- 10.4 An investigation will be initiated on the same day or next working day. A copy of the complaint, together with the original healthcare record if appropriate, will be forwarded when necessary to the relevant consultant/clinician/staff member, by the Service Director, requesting a written response to the Service Director within 10 working days.

The Service Director will ensure all relevant non-medical staff have access to the letter of complaint and healthcare records, where appropriate, to assist staff in responding to a complaint. Any staff involved in responding to the complaint including Consultant staff will aim to respond to the Service Director within 10 working days.

- 10.5 A Holding Letter will be sent to the complainant 10 working days after receipt of the complaint, should the investigation be incomplete.
- 10.6 A Reminder Letter will be sent to those involved with the investigation should the complaint not have been resolved within 10 working days.

If the response cannot be sent within the agreed timescale the Service Director, will notify the complainant in writing and explain the reason why. A response will thereafter be sent as soon as is reasonably practicable.

- 10.7 The final reply must be sent within 25 working days of the initial receipt of the letter of complaint.

Responses will include the following:

- An explanation of how the complaint has been considered;
- An explanation of events;
- The conclusions reached, including any matters for which remedial action is needed;
- An apology where appropriate;
- Confirmation as to whether Prorehab Physio is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken;

- 10.8 Alternatively the complainant may wish to have their complaint referred directly to the Parliamentary and Health Service Ombudsman.
- 10.9 Once the formal response has been sent, it will be shared with those involved in the investigation and named in the complaint.
- 10.10 Complainants must not be discriminated against during or after a complaint investigation.
- 10.11 Correspondence pertaining to the complaint will not be filed in the patient's healthcare records.

- 10.12** The Parliamentary and Health Service Ombudsman (PHSO) considers complaints made by or on behalf of people who have suffered injustice or hardship because of unsatisfactory treatment or service by the NHS or by independent health providers who have provided NHS funded treatment to the individual such as Medical Imaging Partnership

Complainants can contact the Parliamentary and Health Service Ombudsman at:

Parliamentary and Health Service Ombudsman  
Millbank Tower  
Millbank  
London SW1P 4QP

Telephone: 0345 015 4033  
Fax: 0300 061 4000

- 10.13** The Practice Manager will notify the Board of Directors and those complained against, of any requests to the PHSO. In those circumstances where a request is accepted by the PHSO, the Service Director will provide the following information to the appointed PHSO Case Manager:

- chronology of the case;
- copies of correspondence;
- copies of any relevant healthcare records;
- notes from local resolution meetings;
- any local investigation documents;
- relevant/related policies and procedures;
- Company's views on the complaint;
- final response given to the complainant.

- 10.14** Following receipt of the PSHO's findings and conclusions, the Managing Director will:

- Write to the complainant within 25 working days informing of any action Prorehab Physio is taking as a result of the PSHO's deliberations.

- 10.15** The Practice Manager will:

- Report on individual cases to the Board of Directors on a quarterly basis.

- 10.16 If the PSHO investigates a complaint which is not upheld and there are no substantial additional issues, Prorehab Physio will not re-open the complaints process and will advise the complainant accordingly.

## **11. Complaints Recording and Computer Held Records**

- 11.1 Each complaint received at local level will be registered on the locally held Complaints Log and for those received directly at head office each complaint will be registered on the head office Complaints Log, after which a complaint file opened. By the end of an investigation a complaints file will include:

- The original complaint;
- A copy of the acknowledgement letter;
- A copy of the memo sent to staff for investigation;
- If appropriate a copy of a completed Incident form;
- File note of telephone calls or discussion;
- Statements;
- Notes of meetings or discussions;
- Written response

- 11.2 All files will be kept for 10 years

## **12. Reporting and Monitoring**

- 12.1 All types of complaints report must be anonymous to ensure patient/complainant confidentiality.

- 12.2 The complaints report will be reviewed at the Clinical Governance meetings

- Number and subject matter of the complaint;
- Response times and extension requests;
- Outcomes;
- Lessons learned and remedial action taken;
- PSHO reviews;
- Collaboration with external agencies.

## **13. References**

- The Local Authority Social Services England and NHS Complaints (England) Regulations 2009 SI No 309
- Explanatory Memorandum to the NHS England, Social Care, England The Local Authority Social Services and NHS Complaints (England) Regulations 2009 No 309

- “The NHS Constitution”
- DOH “Listening, Responding, Improving – A Guide to better customer care” 2009
- DOH “Listening, Responding, Improving Advice Sheet 1 – Investigating Complaints” 2009
- DOH “Listening, Responding, Improving Advice Sheet 2 – Joint working on complaints” 2009
- DOH “Listening, Responding, Improving Advice Sheet 3 – Dealing with serious complaints” 2009
- Parliamentary and Health Service Ombudsman “Principles of Good Complaints Handling”

#### 14. Appendix 1 - Guidance on Grading Complaints and their Consequence

It is recognised that some complaints will also have been recorded as adverse events and should consequently be managed together.

##### Measurement of the Likelihood

Consider the likelihood of existing measures that have been put in place to reduce the risk.

Level	Descriptor	Description
1	Rare	May only occur in exceptional circumstances (i.e. one off event)
2	Unlikely	Could occur at some time, but is unlikely (i.e. even that is unlikely to occur more than once every few years)
3	Possible	Might well occur at some time (i.e. not more than once every 12 months)
4	Likely	Will probably occur in most circumstances (i.e. at least once a year)
5	Almost certain	Is expected to occur in most circumstances (i.e. several times a year)

##### Measurement of the Consequence of the Risk

Risk Score	Descriptor	Clinical	Financial/Business	Organisational
1	Insignificant	“First aid” treatment or some limited litigation	Low financial/business problem dealt with through budgetary control	Localised effect in capability to provide services to patients; dealt with internally
2	Minor	Minor injuries	Medium financial/business that can be contained within existing resources	Loss in capability for providing services to patients requiring some outside intervention

<b>3</b>	Moderate	Extensive injuries incurred or significant compensation / litigation	High financial/business problem requiring some corrective action to meet statutory requirements	Significant loss in capability for providing services to patients requiring outside intervention
<b>4</b>	Major	Death of severe injuries incurred or high compensation / litigation	Major financial/business requiring severe corrective action	Major impact on the operation of Prorehab Physio, seriously damaging the company's ability to provide services to patients, requiring extensive outside intervention
<b>5</b>	Catastrophic	Multiple death or major compensation / litigation	Huge financial/business problem leading to failure to meet statutory requirements	Life threatening; The company would not be able to provide services to its patients in a safe environment

### Calculating the Risk Score

Insert the Consequence and Likelihood scores from the complaint/ incident form and consult the matrix below.

### Measurement of overall risk

Likelihood	Consequence				
	1	2	3	4	5
<b>1</b>	Low	Low	Low	Medium	Medium
<b>2</b>	Low	Low	Low	Medium	Medium
<b>3</b>	Low	Low	Medium	Medium	HIGH
<b>4</b>	Low	Medium	Medium	HIGH	HIGH
<b>5</b>	Low	Medium	HIGH	HIGH	HIGH

**Reporting the Complaint in order to Learn Lessons.**

Having graded the complaint, the following table sets out the recommended management

<b>Overall risk</b>	<b>Action</b>
<b>High (i.e. 15 to 25)</b>	<p>PM to inform the board of Directors. Subsequently informed of the gaps in control and/or assurance and the planned actions as per Complaints Policy time scales</p> <p>There should be consistency between the complaint risk grading and that as an adverse event.</p> <p>The Service Director to submit anonymised complaint, action plan and progress to next meeting of Board and the Clinical Governance Committee for information and review.</p>
<b>Medium (i.e. between 9 and 15)</b>	<p>PM to determine whether the complaint contains issues which should be brought to the attention of the Board of Directors. Where the Consequence is 5. The High Risk process should be followed.</p> <p>But in the majority of cases a complaint graded at Medium Risk will be investigated as per the Complaints Policy and submitted anonymously for review at the Clinical Governance Committee</p>
<b>Low (i.e. lower than 9)</b>	<p>PM to investigate the complaint as per the Complaints Policy and submitted anonymously for review by the Board of Directors</p>