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**Health, Social Services
and Public Safety**

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AN ROINN

**Sláinte, Seirbhísí Sóisialta
agus Sábháilteachta Poiblí**

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an Fowk Siccar**

COMPLAINTS IN HEALTH AND SOCIAL CARE

Standards & Guidelines for Resolution & Learning

1 April 2009

SUMMARY

Complaints in Health and Social Care: Standards and Guidelines for Resolution and Learning replaces the existing HPSS Complaints Procedure 1996 and provides a streamlined process that applies equally to all health and social care (HSC) organisations. As such it provides a simple, consistent approach for staff who handle complaints and for people raising complaints across all health and social care services.

The standards and guidelines have been developed in conjunction with HSC organisations, following public consultation. They reflect the changing culture across health and social care with an increasing emphasis on the promotion of safety and quality and the need to be open, to learn and take action in order to reduce the risk of recurrence.

The changes to the new HSC complaints procedure include:

- the removal of Independent Review;
- the introduction of Standards for Complaints Handling;
- the introduction of an “Unacceptable Actions” policy for handling unreasonable, vexatious or abusive complainants; and
- clarity on the application of the Children Order Representations and Complaints Procedure.

This new single tier process also aims to provide:

- a strengthened, more robust, local resolution stage;
- an enhanced role for commissioners in monitoring, performance management and learning; and
- improved arrangements for driving forward quality improvements across the HSC.

The new process recognises that there will be times when local resolution will fail. Where this happens the complainant will be advised of their right to refer their complaint to the NI Commissioner of Complaints (the Ombudsman).

The guidelines for resolution and learning provide HSC organisations with detailed, yet flexible, complaints handling arrangements designed to:

- provide effective local resolution;
- improve accessibility;
- clarify the options for pursuing a complaint;
- promote the use and availability of support services, including advocacy;
- provide a well defined process of investigation;
- promote the use of a range of investigative techniques;
- promote the use of a range of options for successful resolution, such as the use of independent experts, lay persons and conciliation;
- resolve complaints more quickly;
- provide flexibility in relation to target response times;
- provide an appropriate and proportionate response;
- provide clear lines of responsibility and accountability;
- improve record keeping, reporting and monitoring; and
- increase opportunities for shared learning.

The standards for complaints handling are designed to assist HSC organisations in monitoring the effectiveness of their complaints handling arrangements locally and build public confidence in the process.

These new arrangements are effective from 1 April 2009.

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Definitions of Key Terms

Throughout the standards and guidelines the following terms have the meanings set out below:

complaint	means “an expression of dissatisfaction that requires a response”
complainant	means an existing or former patient, client, resident, family, representative or carer (or whoever has raised the complaint)
Chief Executive	means the Chief Executive of the HSC organisation
Complaints Manager	means the person nominated by an HSC organisation to handle complaints
Family Practitioner Service (FPS)	means family doctors, dentists, pharmacists and opticians
honest broker	this is the term used to describe HSC Board’s role in FPS complaints
HSC Board	means the Health and Social Care Board
HSC organisation	means a HSC organisation which commissions or provides health and social care services and for the purpose of this guidance includes the HSC Board, HSC Trusts, the Northern Ireland Ambulance Service (NIAS), the Business Services Organisation, the Public Health Agency, Family Practitioner Services, Out-of Hours Services, pilot scheme providers

the Ombudsman	The NI Commissioner for Complaints
out-of hours services	means immediate necessary treatment provided by FPS 6.00 pm to 8.00 am Monday – Friday, weekends and local holidays
PCC	means the Patient and Client Council
pilot scheme	refers to personal dental services provided by an HSC Trust
pilot scheme complaints procedure	means a complaint s procedure established by the pilot scheme
practice-based complaints procedure	means a FPS complaints procedure established within the terms of the relevant regulations
registered provider	person carrying on or managing the establishment or agency
RQIA	means the Regulation, Quality & Improvement Authority: the regulatory body responsible for regulating, inspecting and monitoring the standard and quality of health and social care services provision provided by independent and statutory bodies in Northern Ireland
registered establishments and agencies	for example, residential care homes, nursing homes, children’s homes, independent clinics/ hospitals, nursing agencies, etc. registered with and regulated by RQIA
regulated sector	means registered establishments and agencies
senior person (designated)	means the person designated to take responsibility for delivering

the organisation's complaints process e.g. a Director in the HSC Trust

service user

means a patient, client, resident, carer, visitor or any other person accessing HSC services

special agency

means the NI Blood Transfusion Agency

SECTION 1 - INTRODUCTION

Purpose of the Guidance

1.1 This guidance sets out how HSC organisations should deal with complaints raised by people who use or are waiting to use their services. It replaces existing guidance and provides a streamlined complaints process which applies equally to all HSC organisations, including the HSC Board, HSC Trusts, the Business Services Organisation, the Public Health Agency, the NI Blood Transfusion Service, Family Practitioner Services (FPS), Out of Hours services, pilot schemes and HSC prison healthcare. As such, it provides a simple, consistent approach for staff who handle complaints and for people raising complaints across all health and social care services.

1.2 This guidance aims to promote an organisational culture in health and social care that fosters openness and transparency for the benefit of all who use it or work in it. It is designed to provide ease of access, simplicity and a supportive and open process which results in a speedy, fair and, where possible, local resolution. The procedure provides the opportunity to put things right for service users as well as improving services. Dealing with those who have made complaints provides an opportunity to re-establish a positive relationship with the complainant and to develop an understanding of their concerns and needs.

Local resolution

1.3 The purpose of local resolution is to provide an opportunity for the complainant and the organisation to attempt a prompt and fair resolution of the complaint.

1.4 HSC organisations should work closely with service users to find an early resolution to complaints. Every opportunity should be taken to resolve complaints as close to the source as possible, through discussion and

negotiation. Where possible, complaints should be dealt with immediately. Where this is not possible, local resolution should be completed within 20 working days of receipt of a complaint (10 working days within FPS settings).

1.5 Local procedures should be easily accessible, open, fair, flexible and conciliatory and should encourage communication on all sides. They should include a well-defined process for investigating and resolving complaints. Complainants must be advised of their right to refer their complaint to the NI Commissioner for Complaints (the Ombudsman) if they remain dissatisfied with the outcome of the complaints procedure.

Principles of an effective complaints procedure

1.6 *Complaints in HSC* has been developed around four key principles:

- openness and accessibility – flexible options for pursuing a complaint and effective support for those wishing to do so;
- responsiveness – providing an appropriate and proportionate response;
- fairness and independence – emphasising early resolution in order to minimise strain and distress for all; and
- learning and improvement – ensuring complaints are viewed as a positive opportunity to learn and improve services.

Learning

1.7 Effective complaints handling is an important aspect of clinical and social care governance arrangements and, as such, will help organisations to continue to improve the quality of their services and safeguard high standards of care and treatment. Increased efforts should be made to promote a more positive culture of complaints handling by highlighting the added value of complaints within health and social care and making the process more acceptable/amenable to all.

1.8 Complaints are seen as a significant source of learning within health and social care and provide opportunities to improve:

- outcomes for services users;
- the quality of services; and
- service user experiences.

1.9 How HSC organisations handle complaints is an indicator of how responsive they are to the concerns of service users. An increase in the number of complaints is not in itself a reason for thinking the service is deteriorating. The important point is to handle complaints well, take appropriate action and feed the lessons learnt into quality improvement.

What the guidance covers

1.10 *Complaints in HSC* deals with complaints about care or treatment, or about issues relating to the provision of health and social care. Complaints may, therefore, be raised about services provided by, for example:

- The Health and Social Care Board (HSC Board)
 - commissioning and purchasing decisions (for individuals)
- Family Practitioner Services
- Health and Social Care (HSC) Trusts
 - hospital and community services
 - registered establishments and agencies where the care is funded by the HSC
 - HSC funded staff or facilities in private pay beds
 - HSC prison healthcare
- The Northern Ireland Blood Transfusion Service (NIBTS)
- The Business Services Organisation¹ (services provided relevant to health and social care)
- The Public Health Agency²

1.11 *Complaints in HSC* may be used to investigate a complaint about any aspect of an application to obtain access to health or social care records for deceased persons under the Access to Health Records (NI) Order 1993 as an alternative to making an application to the courts.

¹ Inserted by the Directions to the Regional Business Services Organisation on Procedures for Dealing with Health and Social Care Complaints - effective from 26 July 2010

² Inserted by the Directions to the Regional Agency for Public Health and Social Well-Being on Procedures for Dealing with Health and Social Care Complaints - effective from 26 July 2010

What the guidance does not cover

1.12 *Complaints in HSC* does **not** deal with complaints about:

- private care and treatment or services including private dental care³ or privately supplied spectacles; or
- services not provided or funded by the HSC, for example, provision of private medical reports.

1.13 Complaints may be raised within an organisation which that organisation needs to address, but which do not fall within the scope of the HSC

Complaints Procedure. When this occurs, the HSC organisation should ensure that there are other processes in place to deal with these concerns. For example:

- [staff grievances](#);
- [an investigation under the disciplinary procedure](#);
- [an investigation by one of the professional regulatory bodies](#);
- [services commissioned by the HSC Board](#) ;
- [a request for information under Freedom of Information](#);
- [access to records under the Data Protection Act 1998](#);
- [an independent inquiry](#);
- [a criminal investigation](#);
- [the Children Order Representations and Complaints Procedure](#);
- [protection of vulnerable adults](#) ;
- [child protection procedures](#);
- [coroner's cases](#);
- [legal action](#).

1.14 Complaints received that appear to indicate the need for referral under any of the processes listed above should be immediately passed to the Complaints Manager for onward transmission to the appropriate department. If any aspect of the complaint is not covered by the referral it will be investigated

³ The Dental Complaints Service deals with private dental and mixed health service and private dental complaints and can be contacted via the General Dental Council at <http://www.gdc-uk.org/>

under the HSC Complaints Procedure. In these circumstances, investigation under the HSC Complaints Procedure will only be taken forward if it does not, or will not, compromise or prejudice the matter under investigation under any other process. The complainant must be informed of the need for referral.

Staff Grievances

1.15 HSC organisations should have separate procedures for handling staff grievances. Staff may, however, complain about the way they have been dealt with under the HSC Complaints Procedure and provided they have exhausted the local grievance procedure, may take the matter up with the Ombudsman. Family practitioners may also complain to the Ombudsman about the way they have been dealt with under the complaints procedure.

Disciplinary Procedure

1.16 The HSC Complaints Procedure is concerned only with resolving complaints and learning lessons for improving services. It is not for investigating disciplinary matters though these can be investigated by the HSC organisation and may be referred to a professional regulatory body (see paragraph 1.20 below). The purpose of the complaints procedure is not to apportion blame, but to investigate complaints with the aim of satisfying complainants whilst being fair to staff.

1.17 Where a decision is made to embark upon a disciplinary investigation, action under the complaints procedure on any matter which is the subject of that investigation must cease. Where there are aspects of the complaint not covered by the disciplinary investigation, they may continue to be dealt with under the complaints procedure.

1.18 The Chief Executive (or designated senior person) must advise the complainant in writing that a disciplinary investigation is under way, that they may be asked to take part in that process and that any aspect of the complaint

not covered by the referral will be investigated under the HSC Complaints Procedure.

1.19 In drafting these letters, the overall consideration must be to ensure that when the investigation has moved into the disciplinary procedure, the complainant is not left feeling that their complaint has only been partially dealt with.

Investigation by a Professional Regulatory Body

1.20 A similar approach to that outlined above should be adopted in a case referred to a professional regulatory body ([Annexe 3](#)). The Chief Executive (or designated senior person) must inform the complainant in writing of the referral. This should include an indication that any information obtained during the complaints investigation may need to be passed to the regulatory body. The letter should also explain how any other aspect of the complaint not covered by the referral to the regulatory body will be investigated under the HSC Complaints Procedure.

Services Commissioned by the HSC Board

1.21 Complaints about the HSC Board's purchasing decisions may be made by, or on behalf of any individual personally affected by a purchasing decision taken by the HSC Board. The HSC Complaints Procedure may not deal with complaints about the merits of a decision where the HSC Board has acted properly and within its legal responsibilities. Where general concerns about commissioning issues are raised with the HSC Board a full explanation of the HSC Board's policy should be provided. These issues should not, however, be dealt with under the HSC Complaints Procedure.

Access to Information

1.22 Although use and disclosure of service user information may be necessary in the course of handling a complaint, the complainant, or indeed

any other person, may at any time make a request for information which may, or may not, be related to the complaint. Such requests should be dealt with separately under the procedures set down by the relevant HSC organisation for dealing with requests for information under the Freedom of Information Act 2000 and requests for access to health or social care records under the Data Protection Act 1998.

Independent Inquiries and Criminal Investigation

1.23 Where an independent inquiry into a serious incident or a criminal investigation is initiated, the Chief Executive (or designated senior person) should immediately advise the complainant of this in writing. As the HSC Complaints Procedure cannot deal with matters subject to any such investigation, consideration of those parts of the original complaint must cease until the other investigation is concluded.

1.24 When the independent inquiry or criminal investigation has concluded, consideration of that part of the original complaint on which action was suspended can recommence if there are outstanding matters which remain to be dealt with.

Children Order Representations and Complaints Procedure

1.25 Arrangements for complaints raised under the Children Order Representations and Complaints Procedure are outlined in [Annexe 15](#). The HSC Board and HSC Trusts should familiarise themselves with Part IV of, and paragraph 6 of Schedule 5 to, the Children (NI) Order 1995.

Protection of Vulnerable Adults

1.26 Where it is apparent that a complaint relates to abuse, exploitation or neglect of a vulnerable adult then the regional *Safeguarding Vulnerable Adults – Regional Adult Protection Policy and Procedural Guidance*⁴ (Sept 2006) and

⁴ http://www.dhsspsni.gov.uk/ssi/safeguarding_vulnerable_adults.pdf

the associated *Protocol for Joint Investigation of Alleged or Suspected Cases of Abuse of Vulnerable Adults* should be activated by contacting the Adult Protection Co-ordinator at the relevant HSC Trust⁵. The HSC Complaints Procedure should be suspended pending the outcome of the safeguarding vulnerable adults' investigation and the complainant advised accordingly. When the safeguarding vulnerable adults' investigation has concluded, consideration of that part of the original complaint on which action was suspended can recommence if there are outstanding matters which remain to be dealt with.

Child Protection Procedures

1.27 Dissatisfaction with the process or about decisions made in relation to a Child Protection enquiry should be dealt with through the Child Protection Registration Appeals Process. *The Area Child Protection Committees' (ACPC) Regional Policy and Procedure (April 2005)*⁶ outlines the criteria for appeal under that procedure. These include:

- ACPC procedures in respect of the case conference were not followed;
- information presented at the case conference was inaccurate; incomplete or inadequately considered in the decision making process;
- the threshold for registration/deregistration was not met;
- the category for registration was not correct.

Coroner's Cases

1.28 With the agreement of the Coroner's Office, where there are aspects of the complaint not covered by the Coroner's investigation they will continue to be dealt with under the complaints procedure. Once the Coroner's investigation has concluded, any issues that are outstanding in relation to the matters considered by the Coroner can then be dealt with under the complaints procedure.

⁵ Information about and contact details for HSC Trusts can be accessed at:
<http://www.hscni.net/index.php?link=services>

⁶ <http://www.dhsspsni.gov.uk/acpcregionalstrategy.pdf>

Legal Action

1.29 Even if a complainant's initial communication is through a solicitor's letter it should not be inferred that the complainant has decided to take formal legal action.

1.30 If the complainant has either instigated formal legal action, or advised that he or she intends to do so, the complaints process should cease. The Chief Executive (or designated senior person) should advise the complainant and any person named in the complaint of this decision in writing.

1.31 It is not the intention of the HSC Complaints Procedure to deny someone the opportunity to pursue a complaint if the person subsequently decides **not to take legal action**. If he/she then wishes to pursue their complaint through the complaints process the investigation of their complaint should commence or resume. However, any matter that has been through the legal process to completion cannot then be investigated under the HSC complaints procedure.

SECTION 2 - MAKING A COMPLAINT

What is a complaint?

2.1 A complaint is “**an expression of dissatisfaction that requires a response**”. Complainants may not always use the word “complaint”. They may offer a comment or suggestion that can be extremely helpful. It is important to recognise those comments that are really complaints and need to be handled as such.

Promoting access

2.2 Service users should be made aware of their right to complain and given the opportunity to understand all possible options for pursuing a complaint. Complainants must, where appropriate, have the support they need to articulate their concerns and successfully navigate the system. They must also be advised on the types of help available through front-line staff, the Complaints Manager and the Patient and Client Council (PCC). HSC organisations should promote and encourage more open and flexible access to the complaints procedure and other less formal avenues in an effort to address barriers to access. Standard 2: *Accessibility* provides the criteria by which organisations should operate ([Annexe 1](#) refers).

Who can complain?

2.3 Any person can complain about any matter connected with the provision of HSC services. Complaints may be made by:

- a patient or client;
- former patients, clients or visitors using HSC services and facilities;
- someone acting on behalf of existing or former patients or clients, providing they have obtained the patient’s or client’s consent;
- parents (or persons with parental responsibility) on behalf of a child; and

- any appropriate person in respect of a patient or client unable by reason of physical or mental capacity to make the complaint himself or who has died e.g. the next of kin.

Consent

2.4 Complaints by a third party should be made with the written consent of the individual concerned. There will be situations where it is not possible to obtain consent, such as:

- where the individual is a child and not of sufficient age or understanding to make a complaint on their own behalf;
- where the individual is incapable (for example, rendered unconscious due to an accident; judgement impaired by learning disability, mental illness, brain injury or serious communication problems);
- where the subject of the complaint is deceased.

2.5 Where a person is unable to act for him/herself, his/her consent shall not be required.

2.6 The Complaints Manager, in discussion with the Chief Executive (or senior person), will determine whether the complainant has sufficient interest to act as a representative. The question of whether a complainant is suitable to make representation depends, in particular, on the need to respect the confidentiality of the patient or client. If it is determined that a person is not suitable to act as a representative, the Chief Executive (or senior person) must provide information in writing to the person outlining the reasons the decision has been taken. More information on consent can be found in the DHSSPS' good practice in consent guidance⁷.

2.7 Third party complainants who wish to pursue their own concerns can bring these to the HSC organisation without compromising the identity of the

⁷ http://www.dhsspsni.gov.uk/public_health_consent

patient/ client. The HSC organisation must consider the matter, investigate and address, as fully as possible, any identified concerns. A response will be provided to the third party on any issues which it is possible to address without breaching the patient's/ client's confidentiality.

Confidentiality

2.8 HSC staff should be aware of their legal and ethical duty to protect the confidentiality of the service user's information. The legal requirements are set out in the Data Protection Act 1998 and the Human Rights Act 1998. The common law duty of confidence must also be observed. Ethical guidance is provided by the respective professional bodies. A service user's consent is required if their personal information is to be disclosed but more detailed information can be found in the HSC guidance entitled *Code of Practice on Protecting the Confidentiality of Service User Information*.⁸

2.9 It is not necessary to obtain the service user's express consent to the use of their personal information to investigate a complaint. Even so, it is good practice to explain to the service user that information from his/her health or social services records may need to be disclosed to the people investigating the complaint, but only if they have a demonstrable need to know and for the purposes of investigating. If the service user objects to this, it should be explained to him/her that this could compromise the investigation and his/her hopes of a satisfactory outcome to the complaint. The service user's wishes should always be respected, unless there is an overriding public interest in continuing with the matter.

Third Party Confidence

2.10 The duty of confidence applies equally to third parties who have given information or who are referred to in the service user's records. Particular care must be taken where the service user's records contain information provided in

⁸ <http://www.dhsspsni.gov.uk/confidentiality-consultation-cop.pdf>

confidence, by, or about, a third party who is not a health or social services professional. Only that information which is relevant to the complaint should be considered for disclosure, and then only to those *within* the HSC who have a demonstrable need to know in connection with the complaint investigation. Third party information must not be disclosed to the service user unless the person who provided the information has expressly consented to the disclosure.

2.11 Disclosure of information provided by a third party outside the HSC also requires the express consent of the third party. If the third party objects, then it can only be disclosed where there is an overriding public interest in doing so.

Use of Anonymised Information

2.12 Where anonymised information about a patient/client and/or third parties would suffice, identifiable information should be omitted. Anonymising information does not of itself remove the legal duty of confidence but, where all reasonable steps are taken to ensure that the recipient is unable to trace the patient/client or third party identity, it may be passed on where justified by the complaint investigation. Where a patient/client or third party has expressly refused permission to use information, then it can only be used where there is an overriding public interest in doing so.

How can complaints be made?

2.13 Complaints may be made verbally or in writing and should also be accepted via any other method, for example, the telephone or electronically. The complainant should be asked to put the complaint in writing, or assisted to do so. It is helpful to establish at the outset what the complainant wants to achieve to avoid confusion or dissatisfaction and subsequent letters of complaint. HSC organisations should be mindful of technological advances and consider local arrangements to ensure there is no breach of patient/client confidentiality.

2.14 Complaints may be made to any member of staff - for example receptionists, clinical or care staff. In many cases complaints are made orally and front-line staff may either resolve the complaint “on the spot” or pass it to the Complaints Manager. It is important that front-line staff are trained and supported to respond sensitively to the comments and concerns raised and are able to distinguish those issues which would be better referred elsewhere. Front line staff should familiarise themselves with the Equality Good Practice Reviews’ principles for dealing with and managing complaints⁹.

Options for pursuing a complaint

2.15 Some complainants may prefer to make their initial complaint to someone within the relevant organisation who has not been involved in the care provided. In these circumstances, they should be advised to address their complaint to the Complaints Manager, an appropriate senior person or, if they prefer, in writing to the Chief Executive. All HSC organisations have named Complaints Managers. The following paragraphs outline the options available to complainants who want to raise complaints in relation to:

- Family Practitioner Services;
- Registered Establishments and Agencies; and
- Independent Sector Providers.¹⁰

Family Practitioner Services (family doctors, dentists, pharmacists, opticians)

2.16 All Family Practitioner Services (FPS) are required to have in place a practice-based complaints procedure for handling complaints. The practice-based complaints procedure forms part of the local resolution mechanism for

⁹ Guidance Note – Implementing the Equality Good Practice Reviews (January 2004)
<http://www.dhsspsni.gov.uk/eq-gprs-circ-hssps-29jan04.pdf>

¹⁰ Independent Sector Provider guidance inserted 20 June 2011

settling complaints. A patient may approach any member of staff with a complaint about the service or treatment he/she has received.

2.17 Alternatively, the complainant has the right to lodge his/her complaint with the HSC Board's Complaints Manager if he/she does not feel able to approach immediate staff (see flowchart page 41).

2.18 Where requested, the HSC Board will act as "[honest broker](#)" in the resolution of a complaint. The objective for the HSC Board should be, wherever possible, to restore the trust between the patient and the practitioner/practice staff. This will involve an element of mediation on the part of the HSC Board or the offer of conciliation services where they are appropriate. The HSC Board's Complaints Manager should seek - with the complainant's agreement - to involve the FPS Complaints Manager as much as possible in resolving the issues. The HSC Board's Complaints Manager is also available to practice staff for support and advice.

2.19 The HSC Board has a responsibility to record and monitor the outcome of those complaints lodged with them.

2.20 The HSC Board will provide support and advice to FPS in relation to the resolution of complaints. It will also appoint independent experts, lay persons or conciliation services, where appropriate.

2.21 Complainants must be advised of their right to refer their complaint to the Ombudsman if they remain dissatisfied with the outcome of the practice-based complaints procedure.

Regulated Establishments and Agencies

2.22 All regulated establishments and agencies must operate a complaints procedure that meets the requirements of applicable Regulations, relevant Minimum Standards and the HSC Complaints

Procedure. This includes, publicising the arrangements for dealing with complaints, ensuring that any complaint made under the complaints procedure is investigated, making sure that time limits for investigation are adhered to and complainants are advised of outcomes of the investigation. Complainants must also be advised of their right to refer their complaint to the Ombudsman if they remain dissatisfied with the HSC Complaints Procedure.

2.23 Complaints may be made by service users or by persons acting on their behalf providing they have obtained the service user's consent. Complainants should be encouraged to raise their concerns, at the outset, with the registered provider. The registered provider is required by legislation to ensure the complaint is fully investigated.

2.24 Individuals placed in a regulated establishment or who have their service provided by a regulated agency may, if they prefer, raise their concerns through the HSC Trust that has commissioned the care on their behalf (see flowchart page 42). The HSC Trust that has commissioned the care has a continuing duty of care to the service user and should participate in local resolution as necessary.

2.25 Where complaints are raised with the HSC Trust, the Trust must establish the nature of the complaint and consider how best to proceed. For example, the complaint may be about an aspect of the "care plan" and can, therefore, only be fully dealt with by the Trust. The complaint may also trigger the need for an investigation under child protection or protection of vulnerable adults procedures or indeed, might highlight non-compliance with statutory requirements. It is not the intention to operate parallel complaints procedures, however, if the RQIA is notified of a breach of regulations or associated standards it will review the matter and take whatever appropriate action is required. It is important, therefore, that Trusts work closely

with the registered providers, other professionals and the RQIA to enable appropriate decisions to be made.

2.26 HSC Trusts must assure themselves that regulated establishments and agencies which deliver care on their behalf are effective and responsive in their handling of complaints. Service users may approach the Ombudsman if they remain dissatisfied. It is possible that referrals to the Ombudsman where complaints are dealt with directly by the registered provider without HSC Trust participation in local resolution will be referred to the HSC Trust by the Ombudsman for action.

2.27 Copies of all correspondence relating to regulated sector complaints should be retained. RQIA will use this information to monitor all regulated services including those services commissioned by the HSC Trust.

2.28 In due course, these arrangements will also apply to other services which will be regulated by RQIA, including Fostering Agencies and Voluntary Adoption Agencies.

Independent Sector Providers (ISPs)

2.29 This section of the guidance has been developed for use in complaints against Independent Sector Providers (ISP) contracted by HSC Trusts. Complaints against regulated establishments and agencies, such as, residential and nursing homes should be handled in accordance with paragraphs 2.22 to 2.28 above.

2.30 On occasions HSC organisations may make use of ISPs to provide services for patients / clients. This form of treatment and / or care is subcontracted to the ISP and funded by the respective HSC organisation. An example where this may be the case is in the maintenance of waiting lists for elective forms of treatment.

2.31 Such contracts are agreed and managed by HSC Trusts and the respective providers are selected from the HSC Board approved list. ISPs may have their own premises but may also be contracted to perform treatments or procedures on Trust premises, which may require use of Trust equipment and facilities and, on occasion, members of Trust staff.

2.32 Trusts must be assured, that ISPs with which they contract have appropriate governance arrangements in place for the effective handling, management and monitoring of all complaints. This should include the appointment of designated officers of suitable seniority to take responsibility for the management of the in-house complaints handling procedures, the investigation of complaints and the production of leaflets, or other literature (available and accessible to patients / clients) that outline the provider's complaints procedure.

2.33 Complaints relating to contracted services provided by ISPs may be received directly by the ISP or by the contracting Trust. The general principle in the first instance would be that the ISP investigates and responds directly to the complainant.

2.34 Where complaints are raised with the Trust, the Trust must establish the nature of the complaint and consider how best to proceed. It may simply refer the complaint to the ISP for investigation, resolution and response or it may decide to investigate the complaint itself where the complaint raises serious concerns or where the Trust deems it in the public interest to do so. This may also be considered preferable should the Trust premises and / or staff have been involved (see flowchart on page 43).

2.35 In all cases, appropriate communication should be made with the complainant to inform them of which organisation will be investigating their complaint.

2.36 In complaints investigated by the ISP: -

- A written response will be provided by the ISP to the complainant and copied to the Trust;
- Where there is a delay in responding within the target timescales¹¹ the complainant will be informed and a revised date for conclusion of the investigation provided; and
- The letter of response must advise the complainant that they may progress their complaint to the Trust for further consideration if they remain dissatisfied. The Trust will then determine whether the complaint warrants further investigation and, if so, who should be responsible for conducting it. The Trust will work closely with the ISP to enable appropriate decisions to be made.

2.37 The complainant must also be informed of their right to refer their complaint to the Ombudsman if they remain dissatisfied with the outcome of the complaints procedure.

2.38 It is possible that referrals to the Ombudsman where complaints are dealt with directly by the ISP without Trust participation in local resolution will be referred to the Trust by the Ombudsman for action.

2.39 Trusts should have agreed arrangements in place to ensure that ISPs regularly provide information relating to all complaints received and responded to directly by them. This information should be made available to the Trust for monitoring purposes. This should include details of the number, source and type(s) of complaint, action taken and outcome of investigation.

2.40 The ISP should also indicate if the learning from complaints has been disseminated to all relevant staff.

¹¹ Under the HSC Complaints procedure this is 20 working days

What information should be included in the complaint?

2.41 A complaint need not be long or detailed, but it should include:

- contact details;
- who or what is being complained about, including the names of staff if known;
- where and when the events of the complaint happened; and
- where possible, what remedy is being sought – e.g. an apology or an explanation or changes to services.

Supporting complainants and staff

2.42 Advice and assistance is available to complainants and staff at any stage in the complaints process from the Complaints Manager. Independent advice and support for complainants is available from the PCC ([Annexe 6](#) refers). Independent advocacy and specialist advocacy services are also available ([Annexe 7](#) refers). Standard 4: *Supporting complainants and staff* provides the criteria by which organisations should operate ([Annexe 1](#) refers).

What are the timescales for making a complaint?

2.43 A complaint should be made as soon as possible after the action giving rise to it, normally within six months of the event. HSC organisations should encourage those who wish to complain to do so as soon as possible after the event. Investigation is likely to be most effective when memories are fresh.

2.44 If a complainant was not aware that there was cause for complaint, the complaint should normally be made within **six months** of their becoming aware of the cause for complaint, or within **twelve months** of the date of the event, whichever is the earlier.

2.45 There is discretion for the Complaints Manager to extend this time limit where it would be unreasonable in the circumstances of a particular case for the complaint to have been made earlier and where it is still possible to

investigate the facts of the case. This discretion should be used with sensitivity. The complainant should be advised that with the passage of time the investigation and response will be based largely on a review of records.

2.46 In any case where a Complaints Manager has decided not to investigate a complaint on the grounds that it was not made within the time limit, the complainant can request the Ombudsman to consider it. The complainant should be advised of the options available to him/her to pursue this further.

2.47 The Complaints Manager must consider the content of complaints that fall outside the time limit in order to identify any potential risk to public or patient safety and, where appropriate, the need to investigate the complaint if it is in the public's interest to do so or refer to the relevant regulatory body.

SECTION 3 - HANDLING COMPLAINTS

Accountability

3.1 Accountability for the handling and consideration of complaints rests with the Chief Executive (or Clinical Governance Lead in FPS settings). The HSC organisation must designate a senior person within the organisation to take responsibility for the local complaints procedure and to ensure compliance with the regulations and that action is taken in light of the outcome of any investigation. In the case of HSC Trusts, a Director should be designated (or a Clinical Governance Lead in FPS setting). All staff must be aware of, and comply with, the requirements of the complaints procedure. These arrangements will ensure the integration of complaints management into the organisation's governance arrangements. Standard 1: *Accountability* provides the criteria by which organisations should operate ([Annexe 1](#) refers).

3.2 Where care or treatment is provided by an independent provider, for example residential or nursing home care, the commissioning body must ensure that the contract includes entitlement, by the HSC organisation, to any and all documentation relating to the care of service users and a provision to comply with the requirements of the HSC Complaints Procedure.

Performance Management

3.3 Complaints provide a rich source of information and should be considered a vital part of the HSC organisation's performance management strategy. HSC organisations need to be able to demonstrate that positive action has been taken as a result of complaints and that learning from complaints is embedded in the organisation's governance and risk management arrangements.

3.4 Complaints should be used to inform and improve. HSC organisations should aim for continuous change and improvement in their performance as a

result of complaints. Where something has gone wrong or fallen below standard the organisation has the opportunity to improve and avoid a recurrence. By making sure that lessons from complaints are taken on board and followed up appropriately, services and performance can be greatly improved for the future.

Co-operation

3.5 Local arrangements must be such as to ensure that a full and comprehensive response is given to a complainant and to that end there is all necessary co-operation in the handling and consideration of complaints between:

- HSC organisations;
- Regulatory authorities e.g. professional bodies, DHSSPS
Pharmaceutical Inspectorate;
- NI Commissioner for Complaints (the Ombudsman); and
- The Regulation and Quality Improvement Authority (RQIA).

3.6 This general duty to co-operate includes answering questions, providing information and attending any meeting reasonably requested by those investigating the complaint.

Complaints Manager

3.7 HSC organisations must have a designated Complaints Manager of appropriate authority and standing who is readily accessible to both the public and members of staff. While it is not essential that this title be used, it is nevertheless important that the person with the role is easily identifiable to service users. The Complaints Manager is responsible for co-ordinating the local complaints arrangements and managing the process and is supported in his/her role by the designated senior person. The Complaints Manager should:

- deal with complaints referred by front-line staff;
- be easily identifiable to service users;

- be available to complainants who do not wish to raise their concerns with those directly involved in their care;
- advise and support vulnerable adults;
- consider all complaints received and identify and appropriately refer those falling outside the remit of the complaints procedure;
- provide support to staff to respond to complaints and be aware of the role of the Medical and Dental Defence organisations to assist staff;
- have access to all relevant records (including personal medical records);
- take account of any corroborative evidence available relating to the complaint e.g. witness to a particular event;
- identify training needs associated with the complaints procedure and ensure these are met;
- ensure all issues are addressed in the draft response, taking account of information obtained from reports received and providing a layman's interpretation to otherwise complex reports;
- compile a summary of complaints received, actions taken and lessons learnt and maintain records;
- assist the designated senior person in the examination of trends, monitoring the effectiveness of local arrangements and the action taken (or proposed) in terms of service improvement; and
- assist the designated senior person in ensuring compliance with standards, identifying lessons and dissemination of learning in line with the organisation's governance arrangements.

3.8 Complaints Managers should involve the complainant from the outset and seek to determine what they are hoping to achieve from the process. The complainant should be given the opportunity to understand all possible options for pursuing the complaint and the consequences of following these options. Throughout the process, the Complaints Manager should assess what further action might best resolve the complaint and at each stage keep the complainant informed.

Publicity

3.9 HSC organisations must ensure that the complaints process is well publicised locally. This means that service users should be made aware of:

- their right to complain;
- all possible options for pursuing a complaint, and the types of help available; and
- the support mechanisms that are in place.

3.10 Ready access to information can make a critical difference to the service user's experience of HSC services. Information about services and what to expect, the various stages involved in the complaints process, response targets and independent support and advice should be available. Clear lines of communication are required to ensure complainants know who to communicate with during the lifetime of their complaint. The provision of information will improve attitudes and communication by staff as well as support and advice for complainants.

3.11 Local information should:

- be visible, accessible and easily understood;
- be available in other formats or languages as appropriate;
- be provided free of charge;
- outline the arrangements for handling complaints, how to contact complaints staff, the availability of support services, and what to do if the complainant remains dissatisfied with the outcome of the complaints process.

Training

3.12 All staff should be trained and empowered to deal with complaints as they occur. Appropriately trained staff will recognise the value of the complaints process and, as a result will welcome complaints as a source of learning. Staff have a responsibility to highlight training needs to their line

managers. Line managers, in turn, have a responsibility to ensure needs are met to enable the individual to function effectively in their role and HSC organisations have a responsibility to create an environment where learning can take place. It is essential that staff recognise that their initial response can be crucial in establishing the confidence of the complainant.

Actions on receipt of a complaint

3.13 Standard 3: *Receiving Complaints* provides the criteria by which organisations must operate ([Annexe 1](#) refers).

3.14 All complaints received should be treated with equal importance regardless of how they are submitted. Complainants should be encouraged to speak openly and freely about their concerns and should be reassured that whatever they may say will be treated with appropriate confidence and sensitivity. Complainants should be treated courteously and sympathetically and where possible involved in decisions about how their complaint is handled and considered. However received, the first responsibility of staff is to ensure that the service user's immediate care needs are being met. This may require urgent action before any matters relating to the complaint are addressed.

3.15 The involvement of the complainant throughout the consideration of their complaint will provide for a more flexible approach to the resolution of the complaint. Complaints staff should discuss individual cases with complainants at an early stage and an important aspect of the discussion will be about the time it may take to complete the investigation. Early provision of information and an explanation of what to expect should be provided to the complainant at the outset to avoid disappointment and subsequent letters of complaint. Each complaint must be taken on its own merit and responded to appropriately. It may be appropriate for the entire process of local resolution to be conducted informally. Overall, arrangements should ensure that complaints are dealt with quickly and effectively in an open and non-defensive way.

3.16 Where possible, all complaints should be recorded and discussed with the Complaints Manager in order to identify those that can be resolved immediately, those that will require a formal investigation or those that should be referred outside the HSC Complaints Procedure. Front-line staff will often find the information they gain from complaints useful in improving service quality. This is particularly so for complaints that have been resolved “on the spot” and have not progressed through the formal complaints process. Mechanisms for achieving this are best agreed at organisational level.

Acknowledgement of Complaint

3.17 A complaint should be acknowledged in writing within **2 working days** of receipt. FPS complaints should be acknowledged within 3 working days in line with legislative requirements. (See Legal Framework at [Annexe 2](#)) A copy of the complaint and its acknowledgement should be sent to any person subject to complaint unless there are reasonable grounds to believe that to do so would be detrimental to that person’s health or well-being. The acknowledgement letter should always thank the complainant for drawing the matter to the attention of the organisation.

3.18 There should be a statement expressing sympathy or concern over the incident. This is a statement of common courtesy, not an admission of responsibility.

3.19 It is good practice for the acknowledgement to be conciliatory, and indicate that a full response will be provided within **20 working days**. FPS acknowledgement should indicate that a full response will be provided within 10 working days. Where these response timescales are not possible an explanation must be provided to the complainant.

3.20 The acknowledgement should:

- seek to confirm the issues raised in the complaint;

- offer opportunities to discuss issues either with a member of the complaints staff or, if appropriate, a senior member of staff; and
- provide information about the availability of independent support and advice.

3.21 Complaints Managers should provide the complainant with further information about the complaints process. This may include locally produced information leaflets or those provided by the Ombudsman's Office or the RQIA. It is also advisable to include information about the disclosure of patient information at this stage.

Joint Complaints

3.22 Where a complaint relates to the actions of more than one HSC organisation the Complaints Manager should notify the other organisation(s) involved. The complainant's consent must be obtained before sharing the details of the complaint across HSC organisations. In cases of this nature there is a need for co-operation and partnership between the relevant organisations in agreeing how best to approach the investigation and resolution of the complaint. It is possible that the various aspects of the complaint can be divided easily with each organisation able to respond to its own area of responsibility. The complainant must be kept informed and provided with advice about how each aspect of their complaint will be dealt with and by whom.

Out of Area Complaints

3.23 Where the complainant lives in Northern Ireland and the complaint is about events elsewhere, the HSC Board or HSC Trust that commissioned the service or purchased the care for that service user is responsible for co-ordinating the investigation and ensuring that all aspects of the complaint are investigated. HSC contracts must include entitlement, by the HSC organisation, to any and all documentation relating to the care of service users

and a provision to comply with the requirements of the HSC Complaints Procedure.

Investigation

3.24 HSC organisations should establish a clear system to ensure an appropriate level of investigation. The purpose of investigation is not only “resolution” but to ascertain what happened, to establish the facts, to learn, to detect misconduct or poor practice and to improve services. Standard 5: *Investigation* provides the criteria by which organisations must operate ([Annexe 1](#) refers).

3.25 An investigation into a complaint may be undertaken by a suitable person appointed by the HSC organisation. Investigations should be conducted in a manner that is supportive to all those involved, without bias and in an impartial and objective manner. The investigation must not be adversarial and must uphold the principles of fairness and consistency. The investigation process is best described as listening, learning and improving. Investigators should be able to seek advice from the Complaints Manager/ senior person, wherever necessary, about the conduct or findings of the investigation. Whoever undertakes the investigation should seek to understand the nature of the complaint and identify any issues not immediately obvious. Complaints must be approached with an open mind, being fair to all parties. The complainant and those identified as the subject of a complaint should be advised of the process, what will be investigated and what will not, those who will be involved, the roles they will play and the anticipated timescales. All those involved should be kept informed of progress throughout. Those staff involved in the investigation process should familiarise themselves with the Equality Good Practice Reviews’ principles for staff undertaking complaints investigation¹².

¹² Guidance Note – Implementing the Equality Good Practice Reviews

Assessment of the complaint

3.26 It is unrealistic to suggest that all complaints should be investigated to the same degree or at the same level within the organisation. HSC organisations must ensure that a robust risk assessment process is applied to all complaints to allow serious complaints, such as those involving unsafe practice, to be identified. The use of assessment tools to risk assess and categorise a complaint may be helpful in determining the course of action to take in response. It can help ensure that the process is proportionate to the seriousness of the complaint and the likelihood of recurrence. HSC organisations should refer to the DHSSPS' guidance *How to classify adverse incidents and risks*¹³ to assist them in developing processes to assess complaints.

Investigation and resolution

3.27 The HSC organisation should use a range of investigating techniques that are appropriate to the nature of the complaint and to the needs of the complainant. Those responsible for investigation should be empowered to choose the method that they feel is the most appropriate to the circumstances.

3.28 The investigator should establish the facts relating to the complaint and assess the quality of the evidence. Depending on the subject matter and complexity of the investigation the investigator may wish to call upon the services of others. There are a number of options available to assist HSC organisations in the resolution of complaints. These should be considered in line with the assessment of the complaint and also in collaboration with the complainant and include the involvement of:

- senior managers/ professionals at an early stage;
- [honest broker](#);
- [independent experts](#);

¹³ http://www.dhsspsni.gov.uk/ph_how_to_classify_adverse_incidents_and_risk_-_guidance.pdf

- [lay persons](#); or
- [conciliators](#).

3.29 It is not intended that HSC organisations utilise all the options outlined above as not all these will be appropriate in the resolution of the complaint. Rather HSC organisations should consider which option would assist in providing the desired outcome. The HSC Board will provide the necessary support and advice to FPS in relation to access and appointment of these options, where appropriate.

Completion of Investigation

3.30 Once the investigator has reached their conclusion they should prepare the draft report/response. The purpose is to record and explain the conclusions reached after the investigation of the complaint. The Department's *HSC Regional Template and Guidance for Incident Investigation/ Review Reports*¹⁴ will assist HSC organisations in ensuring the completeness and readability of such reports.

3.31 Where the complaint involves clinical/ professional issues, the draft response must be shared with the relevant clinicians/ professionals to ensure the factual accuracy and to ensure clinicians/ professionals agree with and support the draft response.

3.32 All correspondence and evidence relating to the investigation should be retained. The Complaints Manager should ensure that a complete record is kept of the handling and consideration of each complaint. Complaints records should be kept separate from health or social care records, subject only to the need to record information which is strictly relevant to the service user's on-going health or care needs.

¹⁴ http://www.dhsspsni.gov.uk/hsc_sqsd_34-07_guidance.pdf

3.33 HSC organisations should regularly review their investigative processes to ensure the effectiveness of these arrangements locally.

Circumstances that might cause delay

3.34 Some complaints will take longer than others to resolve because of differences in complexity, seriousness and the scale of the investigative work required. Others may be delayed as a result of circumstance, for example, the unavailability of a member of staff or a complainant as a result of holidays, personal or domestic arrangements or bereavement. Delays may also be as a result of the complainant's personal circumstances at a particular time e.g. a period of mental illness, an allegation of physical injury or because a complaint is being investigated under another procedure (as outlined in paragraphs 1.12 to 1.31).

Periods of acute mental illness

3.35 If a service user makes a complaint during an acute phase of mental illness, the Complaints Manager should register the complaint and consideration should be given to delaying the complaint until his/her condition has improved. A delay such as this will need either the agreement of the complainant or someone who is able to act on his/her behalf including, where appropriate, consultation with any advocate. The decision about whether a complainant is well enough to proceed with the complaint should be made by a multi-disciplinary team, and the Complaints Manager should refer regularly to this team to establish when this point has been reached.

Physical Injury

3.36 Where a complainant is alleging physical injury, a physical examination should be arranged without delay and with the consent of the injured person. Medical staff undertaking the physical examination should clearly report their findings. If a person refuses a physical examination, or if his or her mental

state (for example, degree of agitation) makes this impossible, this should be clearly documented.

3.37 Whatever the reason, as soon as it becomes clear that it will not be possible to respond within the target timescales, the Complaints Manager should advise the complainant and provide an explanation with the anticipated timescales. While the emphasis is on a complete response and not the speed of response, the HSC organisation should, nevertheless, monitor complaints that exceed the target timescales to prevent misuse of the arrangements.

Responding to a complaint

3.38 A full investigation of a complaint should normally be completed within 20 working days (10 working days within FPS). Standard 6: *Responding to complaints* provides the criteria by which organisations must operate ([Annexe 1](#) refers).

3.39 Where appropriate, HSC organisations must consider alternative methods of responding to complaints whether through an immediate response from front-line staff, a meeting, or direct action by the Chief Executive (or senior person). It may be appropriate to conduct a meeting in complex cases, in cases where there is serious harm/death of a patient, in cases involving those whose first language is not English, or, for example in cases where the complainant has a learning disability or mental illness. Where complaints have been raised electronically the HSC must obtain a postal address for the purposes of the response to maintain appropriate levels of confidentiality.

Responses should not be made electronically.

3.40 Where a meeting is scheduled it is more likely to be successful if the complainant knows what to expect and can offer some suggestions towards resolution. Complainants have a right to choose from whom they seek support and should be encouraged to bring a relative or friend to meetings. Where

meetings do take place they should be recorded and that record shared with the complainant for comment.

3.41 The Chief Executive (or Clinical Governance Lead) may delegate responsibility for responding to a complaint, where, in the interests of a prompt reply, a designated senior person may undertake the task (or the governance lead within FPS settings). In such circumstances, the arrangements for clinical and social care governance must ensure that the Chief Executive (or Clinical Governance Lead) maintains an overview of the issues raised in complaints (including those FPS complaints lodged with the HSC Board), the responses given and be assured that appropriate organisational learning has taken place. HSC organisations should ensure that the complainant and anyone who is a subject of the complaint understand the findings of the investigation and the recommendations made.

3.42 The response should be clear, accurate, balanced, simple and easy to understand. It should avoid technical terms, but where these must be used to describe a situation, events or condition, an explanation of the term should be provided. The letter should:

- address the concerns expressed by the complainant and show that each element has been fully and fairly investigated;
- include an apology where things have gone wrong;
- report the action taken or proposed to prevent recurrence;
- indicate that a named member of staff is available to clarify any aspect of the letter; and
- advise of their right to take their complaint to the Ombudsman if they remain dissatisfied with the outcome of the complaints procedure.

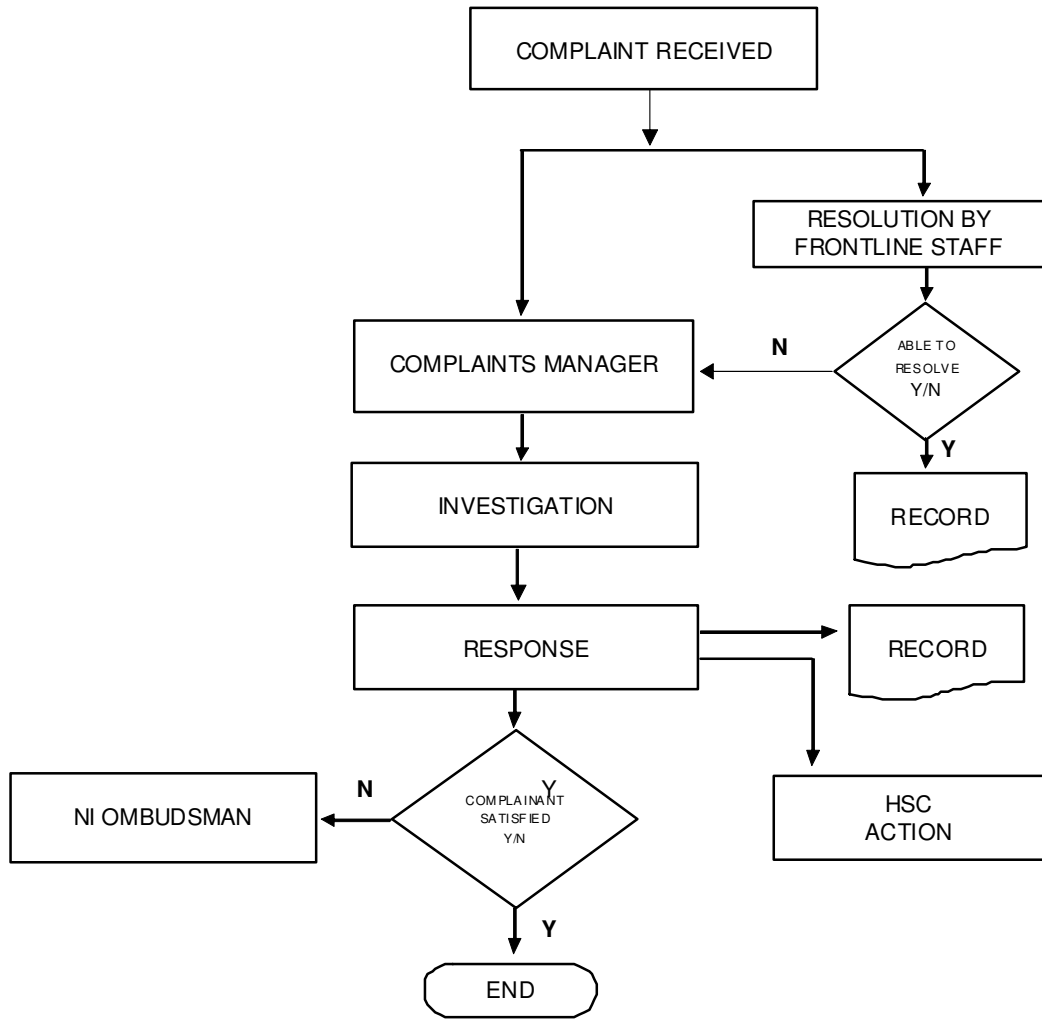
Concluding Local Resolution

3.43 The HSC organisation should offer every opportunity to exhaust local resolution. While the final response should offer an opportunity to clarify the response this should not be for the purposes of delaying “closure”.

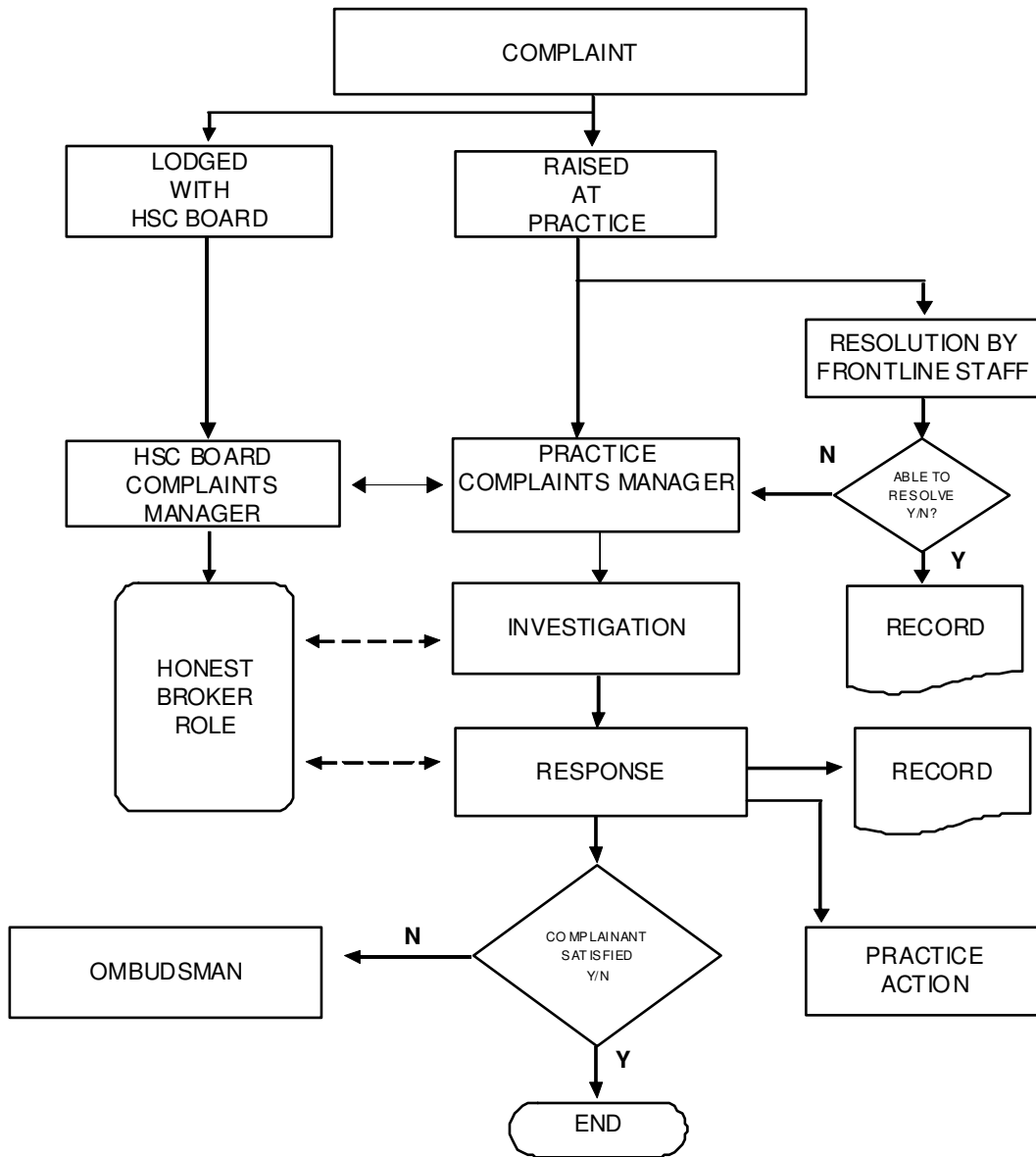
3.44 Once the final response has been signed and issued, the Complaints Manager, on behalf of the Chief Executive/Clinical Governance Lead, should liaise with relevant local managers and staff to ensure that all necessary follow-up action has been taken. Arrangements should be made for any outcomes to be monitored to ensure that they are actioned. Where possible, the complainant and those named in the complaint should be informed of any change in system or practice that has resulted from their complaint.

3.45 This completes the HSC Complaints Procedure. Complainants must be advised of their right to refer their complaint to the Ombudsman if they remain dissatisfied with the outcome of the complaints procedure.

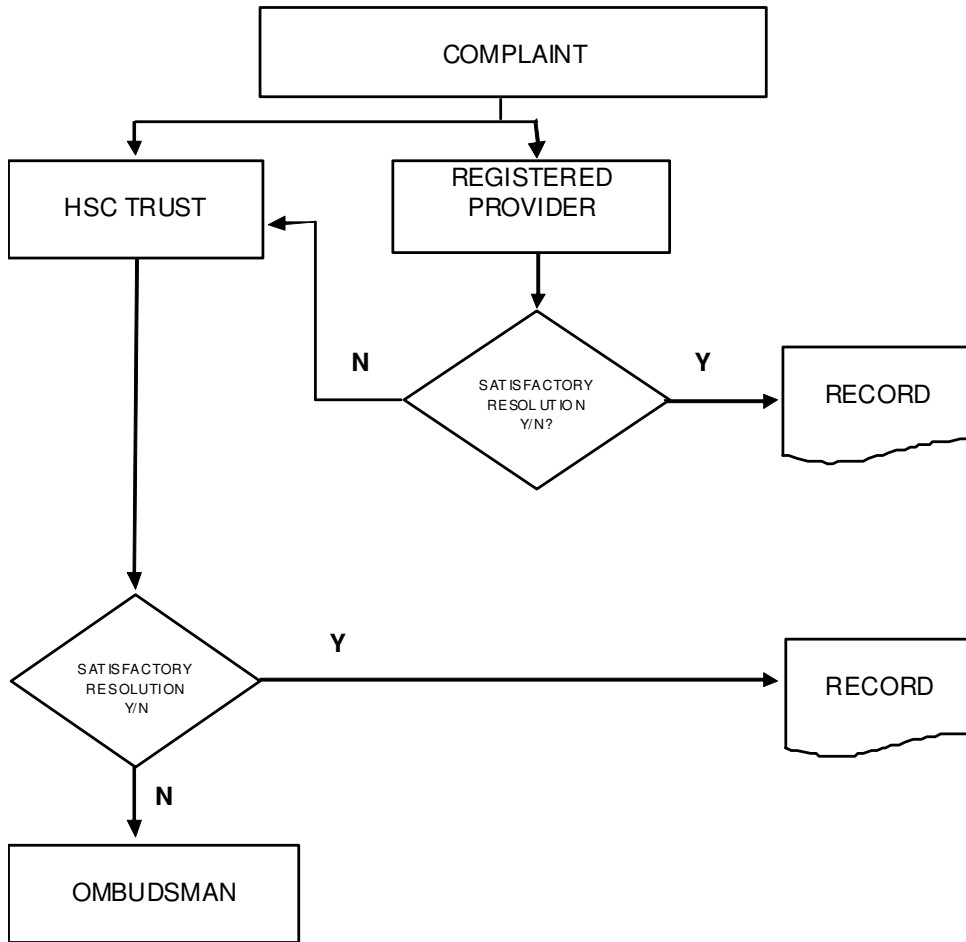
HOSPITAL OR COMMUNITY COMPLAINTS FLOWCHART



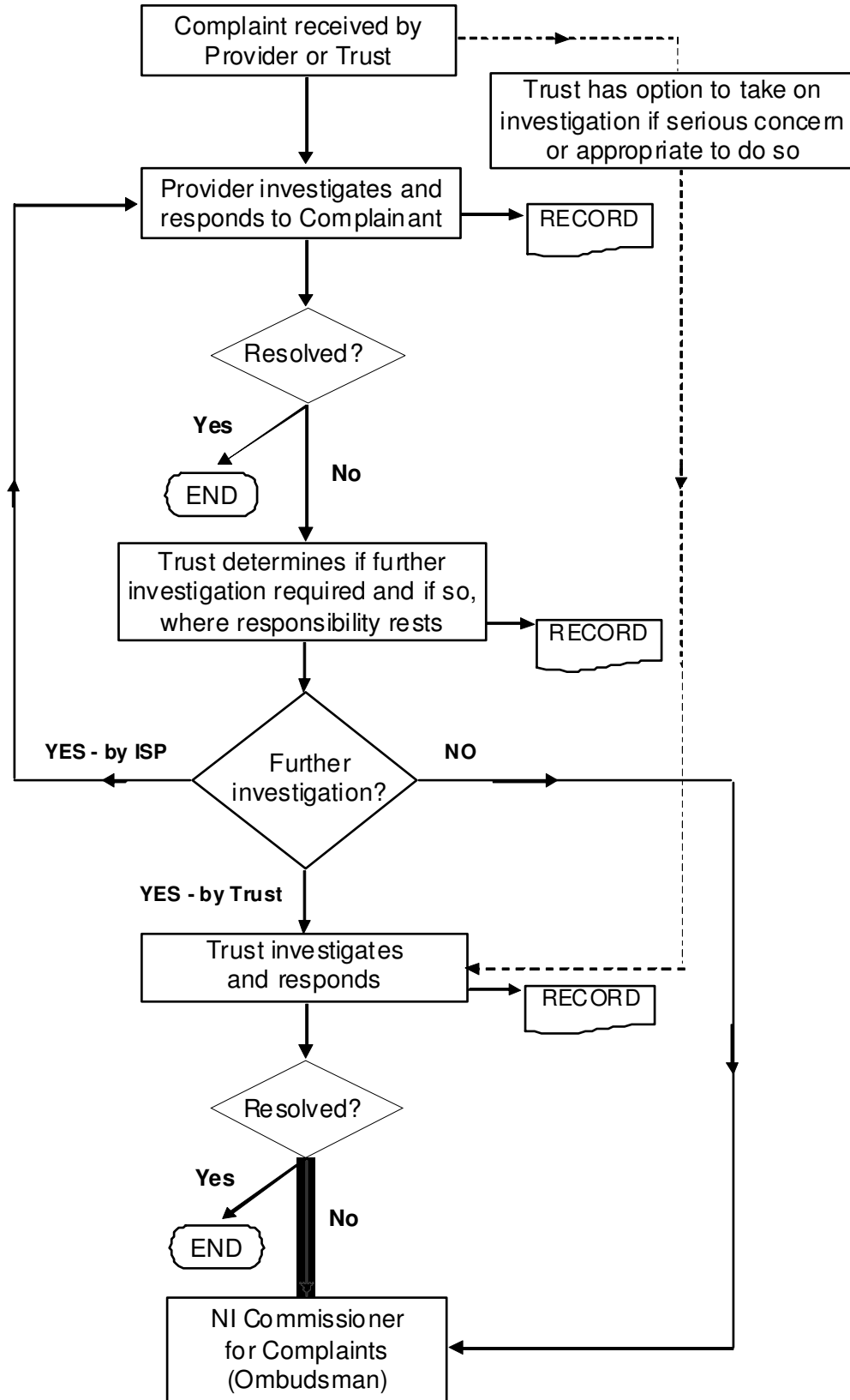
FAMILY PRACTITIONER SERVICE COMPLAINTS FLOWCHART



REGISTERED ESTABLISHMENTS & AGENCIES FLOWCHART
(services commissioned by HSC)



INDEPENDENT SECTOR PROVIDER (ISP) COMPLAINTS FLOWCHART



SUMMARY OF TARGET TIMESCALES

EVENT	TIMESCALE
Making a complaint	within 6 months of the event, or 6 months after becoming aware of the cause for complaint, but no longer than 12 months from the event
Acknowledgement Family Practitioner Services	within 2 working days* of receipt within 3 working days
Response Family Practitioner Services	within 20 working days within 10 working days

* A working day is any weekday (Monday to Friday) which is not a local or public holiday.

SECTION 4 - LEARNING FROM COMPLAINTS

Reporting & Monitoring

4.1 Each HSC organisation has a legal duty to operate a complaints procedure and is required to monitor how they, or those providing care on their behalf, deal with and respond to complaints. This includes the regular reporting on complaints in line with governance arrangements and monitoring the effectiveness of the procedure locally. The HSC organisation must:

- regularly review its policies and procedures to ensure they are effective;
- monitor the nature and volume of complaints;
- seek feedback from service users and staff to improve services and performance; and
- ensure lessons are learnt from complaints and use these to improve services and performance.

4.2 HSC organisations are also required to keep a record of all complaints received, including copies of all correspondence relating to complaints. HSC organisations must have effective processes in place for identifying and minimising risk, identifying trends, improving quality and safety and ensuring lessons are learnt and shared. HSC organisations must ensure regular and adequate reporting on complaints in line with agreed governance arrangements¹⁵.

4.3 The *Standards for Complaints Handling* ([Annexe 1](#) refers) provide the criteria by which organisations must operate and will assist organisations in monitoring the effectiveness of their complaints-handling arrangements locally. HSC organisations should also involve service users and staff to improve the

¹⁵ Controls Assurance Standard, Risk Management, Criterion 5 http://www.dhsspsni.gov.uk/risk_07_pdf.pdf

quality of services and effectiveness of complaints-handling arrangements locally.¹⁶

4.4 The HSC must ensure they have the necessary technology/ information systems to record and monitor all complaints. For the purposes of measuring the effectiveness of the procedures, HSC organisations must maintain systems as described below.

The HSC Board

4.5 The HSC Board must maintain an oversight of all Family Practitioner Service and HSC Trust complaints received (including HSC prison healthcare) and be prepared to investigate any patterns or trends of concern or clusters of complaints against individuals, practices, or organisations.

4.6 The HSC Board must provide the Department with quarterly complaints statistics in relation to all FPS and, where appropriate, out-of-hours services.

4.7 The HSC Board must produce an annual report on complaints outlining the number of FPS and, where appropriate, out-of-hours services complaints received, the categories to which the complaints relate and the response times. The annual report should also include the number of FPS complaints in which the HSC Board acted as “honest broker”. Copies should be sent to the PCC, the RQIA, the Ombudsman and the DHSSPS. Reports must not breach patient/ client confidentiality.

HSC Trusts

4.8 HSC Trusts (including the Northern Ireland Ambulance Service) must provide the Department with quarterly statistical returns on complaints.

¹⁶ Circular HSC (SQSD) 29/07: Guidance on Strengthening Personal and Public Involvement in Health and Social Care http://www.dhsspsni.gov.uk/hsc_sqsd_29-07.pdf

4.9 HSC Trusts must provide the HSC Board with quarterly complaints reports outlining the number and type of complaint received, the investigation undertaken and actions as a result including those relating to registered establishments and agencies, the Children Order and, where appropriate, out-of-hours services, pilot schemes and HSC prison healthcare;

4.10 HSC Trusts must produce an annual complaints report to include the number of complaints received, the categories to which the complaints relate, the response times and the learning from complaints. Copies should also be made available to the HSC Board, PCC, RQIA, the Ombudsman and the DHSSPS. Reports must not breach patient/ client confidentiality.

Quarterly reports

4.11 The management boards of the HSC Board and HSC Trusts should receive quarterly reports summarising the categories, emerging trends and the actions taken (or proposed) to prevent recurrence in order to:

- monitor arrangements for local complaints handling;
- consider trends in complaints; and
- consider any lessons that can be learned and shared from complaints and the result in terms of service improvement.

4.12 The HSC Board's quarterly reports to their management board should include a breakdown of complaints received in relation to **all** Family Practitioner Services and, where appropriate, out-of-hours services.

4.13 HSC Trusts' quarterly reports to their management board should include a breakdown of all complaints received including those received by, or on behalf of, residents in statutory or independent residential care and nursing homes and, where appropriate, out-of-hours services, pilot schemes and HSC prison healthcare.

Family Practitioner Services

4.14 Family Practitioner Services must provide the HSC Board with:

- quarterly complaints statistics outlining the number of complaints received; and
- copies of all written complaints received - within 3 working days of receipt.

Arrangements should ensure that the complainant is aware and agrees to his/her complaint being forwarded to the HSC Board.

4.15 The HSC Board must record and monitor the outcome of all FPS complaints lodged with them.

Other HSC organisations

4.16 All other HSC organisations must publish annually a report on complaints handling. Copies should be sent to the PCC, HSC Board and the DHSSPS. Reports must not breach patient/client confidentiality.

Regulated establishments and agencies

4.17 All regulated establishments and agencies are required to provide RQIA, on request, with a statement containing a summary of complaints made during the preceding 12 months and the action that was taken in response. RQIA will record and monitor all outcomes and will report on complaints activity within the regulated sector.

DHSSPS

4.18 The DHSSPS will continue to collect statistics on the number, type and response times of complaints made to HSC organisations. A regional

breakdown of complaints statistics will be provided via the Departmental website on an annual basis.

Learning

4.19 All HSC organisations are expected to manage complaints effectively, ensuring that appropriate action is taken to address the issues highlighted by complaints and making sure that lessons are learned, to minimise the chance of mistakes recurring. Learning should take place at different levels within the HSC organisation (individual, team and organisational) and the HSC organisation must be able to demonstrate that this is taking place¹⁷.

4.20 Learning is a critical aspect of the HSC Complaints Procedure and provides an opportunity to improve services and contribute to and learn from regional, national and international quality improvement and patient safety initiatives. The HSC, RQIA and Ombudsman must share the intelligence gained through complaints.

4.21 The HSC Board must have in place area-wide procedures for collecting and disseminating the information, themes and good practice derived from complaints ensuring they are used to improve service quality. HSC Trusts and FPS should be encouraged to share learning and seek feedback from service users for further improvement.

¹⁷ The Quality Standards for Health and Social Care, Theme 5 (8.3 (k)) - http://www.dhsspsni.gov.uk/qpi_quality_standards_for_health_social_care.pdf

SECTION 5 - ROLES AND RESPONSIBILITIES

HSC Board

5.1 The HSC Board is required to monitor how they, or those providing care on their behalf, deal with and respond to complaints. This will include monitoring complaints processes, outcomes and service improvements. The *Standards for Complaints Handling* provides a level against which HSC service performance can be measured ([Annexe 1](#) refers).

5.2 The HSC Board must maintain an oversight of all FPS and HSC Trust complaints received and, where appropriate, out-of-hours services. The HSC Board must be prepared to investigate any patterns or trends of concern or clusters of complaints against individual clinicians/ professionals.

5.3 The HSC Board must have in place area-wide procedures for collecting and disseminating learning and sharing intelligence.

5.4 The HSC Board will provide a vital role in supporting FPS complaints that includes:

- providing support and advice;
- the role of “honest broker” between the complainant and the service provider;
- providing independent experts, lay persons, conciliation services, where appropriate;
- recording and monitoring the outcome of all complaints;
- addressing breaches of contractual arrangements; and
- sharing complaints intelligence with appropriate authorities e.g. the DHSSPS Pharmaceutical Inspectorate.

HSC Organisations

5.5 HSC organisations must:

- make arrangements for the handling and consideration of complaints and publicise these arrangements locally;
- appoint a Complaints Manager with responsibility for co-ordinating the local complaints arrangements and managing the process;
- appoint a senior person to take responsibility for delivering the organisation's complaints process and ensuring that all necessary organisational learning takes place;
- ensure that all staff who provide services on their behalf are aware of, and trained in, the procedures to be followed when dealing with complaints;
- ensure that complainants and staff are supported and made aware of the availability of support services;
- ensure that there is full co-operation between organisations/bodies in the handling and consideration of complaints;
- integrate complaints management into the organisation's clinical and social care governance and risk management arrangements;
- monitor the effectiveness of local complaints handling arrangements;
- have in place area-wide procedures for collecting and disseminating the information, themes and good practice derived from complaints; and
- where appropriate, publish annually a report on complaints handling.

The Regulation and Quality Improvement Authority (RQIA)

5.6 The Regulation and Quality Improvement Authority (RQIA) is an independent non-departmental public body. RQIA is charged with overall responsibility for regulating, inspecting and monitoring the standard and quality of health and social care services provided by independent and statutory bodies in Northern Ireland.

5.7 RQIA has a duty to assess and report on how the HSC and the regulated sector handle complaints in light of the standards and regulations laid down by the DHSSPS. RQIA will assess the effectiveness of local procedures and will use information from complaints to identify wider issues for the purposes of raising standards.

5.8 RQIA has a duty to encourage improvement in the delivery of services and to keep the DHSSPS informed on matters concerning the provision, availability and quality of services.

5.9 RQIA may be contacted at:

9th Floor, Riverside Tower

Lanyon Place

Belfast

BT1 3BT

Tel: 028 90 517500

Fax: 028 90 571501

<http://www.rqia.org.uk/home/index.cfm>

ANNEXE 1: STANDARDS FOR COMPLAINTS HANDLING

Standards for complaints handling

1. The following standards have been developed to address the variations in the standard of complaints handling across HSC organisations. These will assist organisations in monitoring the effectiveness of their complaints handling arrangements locally and will build public confidence in the process by which their complaint will be handled.

2. **These are the standards to which HSC organisations are expected to operate.** These standards complement existing Controls Assurance Standards, the Quality Standards for Health and Social Care, the Minimum Standards in relation to registered establishments and agencies and the Standards for Patient and Client Experience¹⁸. The standards for complaints handling are:

[Standard 1: Accountability](#)

[Standard 2: Accessibility](#)

[Standard 3: Receiving complaints](#)

[Standard 4: Supporting complainants and staff](#)

[Standard 5: Investigation of complaints](#)

[Standard 6: Responding to complaints](#)

[Standard 7: Monitoring](#)

[Standard 8: Learning](#)

¹⁸ http://www.dhsspsni.gov.uk/improving_the_patient_and_client_experience.pdf

STANDARD 1: ACCOUNTABILITY

HSC organisations will ensure that there are clear lines of accountability for the handling and consideration of complaints.

Rationale:

HSC organisations will demonstrate that they have in place clear accountability structures to ensure the effective and efficient investigation of complaints, to provide a timely response to the complainant and a framework whereby learning from complaints is incorporated into the clinical, social care and organisational governance arrangements.

Criteria:

1. Managerial accountability for complaints within HSC organisations rests with the Chief Executive (or Clinical Governance Lead in FPS settings);
2. HSC organisations must designate a senior person to take responsibility for complaints handling and responsiveness locally;
3. HSC organisations must ensure that complaints are integrated into clinical and social care governance and risk management arrangements;
4. HSC organisations will include complaints handling within its performance management framework and corporate objectives;
5. Each HSC organisation must ensure that the operational Complaints Manager is of appropriate authority and standing and has appropriate support;
6. All staff must be aware of, and comply with, the requirements of the complaints procedure within their area of responsibility;
7. Where applicable, HSC organisations will ensure that independent provider contracts include compliance with the requirements of the HSC Complaints Procedure;
8. Each HSC organisation is responsible for quality assuring its complaints handling arrangements.

STANDARD 2: ACCESSIBILITY

All service users will have open and easy access to the HSC Complaints Procedure and the information required to enable them to complain about any aspect of service.

Rationale:

Those who wish to complain will be treated impartially, in confidence, with sensitivity, dignity and respect and will not be adversely affected because they have found cause to complain. Where possible, arrangements will be made as necessary for the specific needs of those who wish to complain, including provision of interpreting services; information in a variety of formats and languages; at suitable venues; and at suitable times.

Criteria:

1. Arrangements about how to make a complaint are widely publicised, simple and clear and made available in all areas throughout the service;
2. Arrangements for making a complaint are open, flexible and easily accessible to all service users, no matter what their personal situation or ability;
3. Flexible arrangements are in place in order that individual complainants may be suitably accommodated in an environment where they feel comfortable;
4. All staff have appropriate training about the needs of service users, including mental health, disability and equality awareness training.

STANDARD 3: RECEIVING COMPLAINTS

All complaints received will be dealt with appropriately and the process and options for pursuing a complaint will be explained to the complainant.

Rationale:

All complaints are welcomed. Effective complaints handling is an important aspect of the HSC clinical and social care governance arrangements. All complaints, however or wherever received, will be recorded, treated confidentially, taken seriously and dealt with in a timely manner.

Criteria:

1. Flexible arrangements are in place so that complaints can be raised in a variety of ways (e.g. verbally or in writing), and in a way in which the complainant feels comfortable;
2. Complaints from a third party must, where possible, have the written consent of the individual concerned;
3. HSC staff are aware of their legal and ethical duty to protect the confidentiality of service user information;
4. Attempts to resolve complaints are as near to the point of contact as possible, and in accordance with the complainant's wishes;
5. Where possible, the complainant should be involved in decisions about how their complaint is handled and considered;
6. Complaints are appropriately recorded and assessed according to risk in line with agreed governance arrangements;

STANDARD 4: SUPPORTING COMPLAINANTS AND STAFF

HSC organisations will support complainants and staff throughout the complaints process.

Rationale:

The HSC will support service users in making complaints and will encourage feedback through a variety of mechanisms. Information on complaints will outline the process as well as the support services available. Staff will be trained and empowered to deal with complaints as they arise.

Criteria:

1. HSC organisations will ensure the provision of readily available advice and information on how to access support services appropriate to the complainant's needs;
2. The HSC organisation's Complaints Manager will offer assistance in the formulating of a complaint;
3. HSC organisations will promote the use of independent advice and advocacy services;
4. HSC organisations will facilitate, where appropriate, the use of conciliation;
5. HSC organisations will adopt a consistent approach in the application of DHSSPS guidance on responding to unreasonable, vexatious or abusive complainants;
6. HSC organisations will ensure that staff receive training on complaints, appropriate to their needs;
7. HSC organisations will ensure that mechanisms are in place to support staff throughout the complaints process.

STANDARD 5: INVESTIGATION OF COMPLAINTS

All investigations will be conducted promptly, thoroughly, openly, honestly and objectively.

Rationale:

HSC organisations will establish a clear system to ensure an appropriate level of investigation. Not all complaints need to be investigated to the same degree. A thorough, documented investigation will be undertaken, where appropriate, including a review of what happened, how it happened and why it happened. Where there are concerns, the HSC organisation will act appropriately and, where possible, improve practice and ensure lessons are learned.

Criteria

1. Investigations are conducted in line with agreed governance arrangements;
2. Investigations are robust and proportionate and the findings are supported by the evidence;
3. A variety of flexible techniques are used to investigate complaints, dependent on the nature and complexity of the complaint and the needs of the complainant;
4. Independent experts or lay people are involved during the investigation, where identified as being necessary or potentially beneficial and with the complainant's consent;
5. People with appropriate skills, expertise and seniority are involved in the investigation of complaints, according to the substance of the complaint;
6. All HSC providers/ commissioners and regulatory bodies will co-operate, where necessary, in the investigation of complaints;
7. The HSC organisation will investigate and take necessary action, regardless of consent, where a patient/client safety issue is raised;

8. All correspondence and evidence relating to the investigation will be retained in line with relevant information governance requirements;

STANDARD 6: RESPONDING TO COMPLAINTS

All complaints will be responded to as promptly as possible and all issues raised will be addressed.

Rationale:

All complainants have a right to expect their complaint to be dealt with promptly and in an open and honest manner.

Criteria:

1. The timescales for acknowledging and responding to complaints are in line with statutory requirements;
2. Where any delays are anticipated or further time required the HSC organisation will advise the complainant of the reasons and keep them informed of progress;
3. HSC organisations will consider a variety of methods of responding to complaints;
4. Responses will be clear, accurate, balanced, simple, fair and easy to understand. All the issues raised in the complaint will be addressed and, where appropriate, the response will contain an apology;
5. The Chief Executive may delegate responsibility for responding to a complaint where, in the interests of a prompt reply, a designated senior person may undertake this task (or a clinical governance lead in FPS settings);
6. Complainants should be informed, as appropriate, of any change in system or of practice that has resulted from their complaint;
7. Where a complainant remains dissatisfied, he/she should be clearly advised of the options that remain open to them.

STANDARD 7: MONITORING

HSC organisations will monitor the effectiveness of complaints handling and responsiveness.

Rationale:

HSC organisations are required to monitor how they, or those providing care on their behalf, deal with and respond to complaints. Monitoring performance is essential in determining any necessary procedural change that may be required. It will also ensure that organisations have taken account of the issues and incorporated improvements where appropriate.

Criteria:

1. HSC organisations should ensure the regular and adequate reporting on complaints in accordance with agreed governance arrangements;
2. HSC organisations must produce and disseminate, where appropriate, an Annual Report on Complaints;
3. HSC organisations must ensure that they have in place the necessary technology/information system to record and monitor all complaints and outcomes;
4. HSC organisations should have a mechanism to routinely request feedback from service users and staff on the operation of the complaints process;
5. HSC organisations must review the arrangements for complaints handling and responsiveness.

STANDARD 8: LEARNING

HSC organisations will promote a culture of learning from complaints so that, where necessary, services can be improved when complaints are raised.

Rationale:

Complaints are viewed as a significant source of learning within HSC organisations and are an integral aspect of its patient/client safety and quality services ethos. Complaints will help organisations to continue to improve the quality of their services and safeguard high standards of care and treatment. HSC organisations must have effective structures in place for identifying and minimising risk, identifying trends, improving quality and safety and ensuring lessons are learnt and shared.

Criteria:

1. HSC organisations will monitor the nature and volume of complaints so that trends can be identified and acted upon;
2. HSC organisations will ensure there are provisions made within governance arrangements for the identification of learning from complaints and the sharing of learning locally and regionally;
3. Learning will take place at different levels within the HSC (individual, team and organisational);
4. HSC organisations will ensure that they have adequate mechanisms in place for reporting on progress with the implementation of action plans arising from complaints;
5. HSC organisations will incorporate learning arising from any review of findings of an investigation;
6. HSC organisations will contribute to, and learn from, regional, national and international quality improvement and patient safety initiatives;
7. HSC organisations will include learning from complaints within its Annual Report on Complaints, where Annual Reports are required.

ANNEXE 2: LEGAL FRAMEWORK

HPSS Complaints Procedure Regulations:

- The Health and Personal Social Services (General Medical Services Contracts) Regulations (NI) 2004;
- The Health and Personal Social Services General Dental Services Regulations (NI) 1993;
- The General Ophthalmic Services Regulations (NI) 2007;
- The Pharmaceutical Services Regulations (NI) 1997.

Pilot Scheme Directions

- Directions to Health and Social Services Boards concerning the implementation of pilot schemes (personal dental services) (NI) 2008

The Children (NI) Order 1995:

- The Representations Procedure (Children) Regulations (NI) 1996.

HSC Complaints Procedure Directions:

- The Health and Social Care Complaints Procedure Directions (NI) 2009;
- Directions to the Health and Social Care Board on Procedures for Dealing with Complaints about Family Health Services Practitioners and Pilot Scheme Providers (NI) 2009;
- Amendment Directions to the Health and Social Care Board on Procedures for Dealing with Complaints about Family Health Services Practitioners and Pilot Scheme Providers (2009);
- Directions to the Regional Business Services Organisation on Procedures for Dealing with Health and Social Care Complaints (2010);
- Directions to the Regional Agency for Public Health and Social Well-being on Procedures for Dealing with Health and Social Care Complaints (2010).

The Health and Personal Social Services (Quality, Improvement and Regulation) (NI) Order 2003

- The Residential Care Homes Regulations (NI) 2005;
- The Nursing Homes Regulations (NI) 2005;
- The Independent Health Care Regulations (NI) 2005;
- The Nursing Agencies Regulations (NI) 2005;
- The Adult Placement Agencies Regulations (NI) 2005;
- The Day Care Settings Regulations (NI) 2007;
- The Residential Family Centres Regulations (NI) 2007;
- The Domiciliary Care Agencies Regulations (NI) 2007;

ANNEXE 3: PROFESSIONAL REGULATORY BODIES

<p>General Chiropractic Council (GCC) Chiropractors Phone: 020 7713 5155 www.gcc-uk.org</p>	<p>Nursing and Midwifery Council (NMC) Nurses, midwives and specialist community public health nurses Phone: 020 7333 6622 www.nmc-uk.org</p>
<p>General Dental Council (GDC) Dentists, dental therapists, dental hygienists, dental nurses, dental technicians, clinical dental technicians and orthodontic therapists Phone: 020 7887 3800 www.gdc-uk.org</p>	<p>Royal Pharmaceutical Society of Great Britain (RPSGB) Pharmacists, pharmacy technicians (on the voluntary register) and pharmacy premises Phone: 020 7735 9141 www.rpsgb.org</p>
<p>General Medical Council (GMC) Doctors Phone: 0845 357 8001 www.gmc-uk.org</p>	<p>Pharmaceutical Society of Northern Ireland Pharmacists and pharmacy premises in Northern Ireland Phone: 02890 326927 www.psni.org.uk</p>
<p>General Optical Council (GOC) Opticians Phone: 020 7580 3898 www.optical.org</p> <p>General Osteopathic Council (GOsC) Osteopaths Phone: 020 7357 6655 www.osteopathy.org.uk</p>	<p>Council for Healthcare Regulatory Excellence (CHRE) aims to protect the public, promote best practice and encourage excellence among the nine regulators of healthcare professionals listed. www.chre.org.uk</p>
<p>Health Professions Council (HPC) Arts therapists, biomedical scientists, chiropodists, podiatrists, clinical scientists, dieticians, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, prosthetists and orthotists, radiographers, speech and language therapists Phone: 020 7582 0866 www.hpc-uk.org</p>	<p>Northern Ireland Social Care Council (NISCC) Social care workers, qualified social workers, and social work students on approved degree courses in Northern Ireland Phone: 02890 417600 www.niscc.info</p>

ANNEXE 4: HSC PRISON HEALTHCARE

1. From 1 April 2008 responsibility for HSC prison healthcare was transferred to the DHSSPS. From that date the DHSSPS has delegated responsibility for commissioning those health and social services to the Eastern Health and Social Services Board (EHSSB). From 1 April 2009 this responsibility has transferred to the HSC Board. The South Eastern HSC Trust has responsibility for providing or securing the provision of health and social care services for prisoners.

2. Complaints raised about care or treatment or about issues relating to the provision of prison healthcare will be dealt with under the HSC Complaints Procedure.

ANNEXE 5: THE NI COMMISSIONER FOR COMPLAINTS

1. The NI Commissioner for Complaints (the Ombudsman) can carry out independent investigations into complaints about poor treatment or service or the administrative actions of HSC organisations. If someone has suffered because they have received poor service or treatment or were not treated properly or fairly – and the organisation or practitioner has not put things right where they could have – the Ombudsman may be able to help.

2. The Ombudsman's contact details are:

Mr Tom Frawley
Northern Ireland Ombudsman
Progressive House
33 Wellington Place
Belfast
BT1 6HN

Tel: (028) 9023 3821

3. Further information can be accessed at:

www.ni-ombudsman.org.uk

ANNEXE 6: THE PATIENT AND CLIENT COUNCIL

1. The Patient and Client Council (PCC) is an independent non-departmental public body established on 1 April 2009 to replace the Health and Social Services Councils. Its functions include:

- representing the interests of the public;
- promoting involvement of the public;
- providing assistance to individuals making or intending to make a complaint; and
- promoting the provision of advice and information to the public about the design, commissioning and delivery of health and social care services.

2. If a person feels unable to deal with a complaint alone, the staff of the PCC can offer a wide range of assistance and support. This assistance may take the form of:

- information on the complaints procedure and advice on how to take a complaint forward;
- discussing a complaint with the complainant and drafting letters;
- making telephone calls on the complainants behalf;
- helping the complainant prepare for meetings and going with them to meetings;
- preparing a complaint to the Ombudsman.
- referral to other agencies, for example, specialist advocacy services;
- help in accessing medical/social services records;

3. All advice, information and assistance with complaints is provided free of charge and is confidential. Further information can be obtained from:

www.patientclientcouncil@hscni.net; or

Freephone 0800 917 0222

ANNEXE 7: ADVOCACY

1. Some people who might wish to complain do not do so because they do not know how, doubt they will be taken seriously, or simply find the prospect too intimidating. Advocacy services are an important way of enabling people to make informed choices. Advocacy helps people have access to information they need, to understand the options available to them, and to make their views and wishes known. Advocacy also provides a preventative service that reduces the likelihood of complaints escalating. Advocacy is not new. People act as advocates every day for their children, for their elderly or disabled relatives and for their friends.

2. Within the HSC sector, advocacy has been available mainly for vulnerable groups, such as people with mental health problems, learning disabilities and older people (including those with dementia). However, people who are normally confident and articulate can feel less able to cope because of illness, anxiety and lack of knowledge and be intimidated by professional attitudes.

3. HSC organisations should encourage the use of advocacy services and ensure complainants are supported from the outset and made aware of the role of advocacy in complaints, including those services provided by the PCC. Advocacy in complaints must be seen to be independent to retain confidence in the complaints process.

ANNEXE 8: CONCILIATION

1. Conciliation is a process of examining and reviewing a complaint with the help of an independent person. The conciliator will assist all concerned to a better understanding of how the complaint has arisen and will aim to prevent the complaint being taken further. He/she will work to ensure that good communication takes place between both parties involved to enable them to resolve the complaint. It may not be appropriate in the majority of cases but it may be helpful in situations:

- where staff or practitioners feel the relationship with the complainant is difficult;
- when trust has broken down between the complainant and the practice/ pharmacy/ HSC organisation and both parties feel it would assist in the resolution of the complaint;
- where it is important, e.g. because of ongoing care issues, to maintain the relationship between the complainant and the practice/ pharmacy/ HSC organisation; or
- when there are misunderstandings with relatives during the treatment of the patient.

2. All discussions and information provided during the process of conciliation are confidential. This allows staff to be open about the events leading to the complaint so that both parties can hear and understand each others' point of view and ask questions.

3. Where a complainant is considered unreasonable, vexatious or abusive under the *Unacceptable Action Policy* ([Annexe 14 refers](#)) then conciliation would NOT be an appropriate option.

4. Conciliation is a voluntary process available to both the complainant and those named in the complaint. Either may request conciliation but both must agree to the process being used. In deciding whether conciliation should be

offered, consideration must be given to the nature and complexity of the complaint and what attempts have already been made to achieve local resolution. The decision to progress to conciliation must be made with the agreement of both parties. The aim is to resolve difficulties, for example, if there is a breakdown in the relationship between a doctor or practitioner and their patient.

5. Conciliation may be requested by the complainant, the practice/pharmacy or the HSC organisation. In FPS complaints it may be suggested by the HSC Board.

FPS arrangements

6. The Practitioner/ Practice/ Pharmacy Manager should approach the HSC Board Complaints Manager for advice.

7. Where a request for a conciliator is received the HSC Board Complaints Manager will liaise with the relevant FPS lead to consider the best way forward. Where it is considered that conciliation would aid resolution then the HSC Board Complaints Manager will advise the FPS practice/ pharmacy. In some cases the HSC Board may consider an alternative to conciliation, such as, an honest broker.

Agreement by parties involved

8. The FPS Practice/ Pharmacy Manager/ HSC organisation must contact the complainant and discuss the rationale for involving a conciliator and provide an opportunity to allow the complainant to agree to such an approach and consent to share information. It is important that all parties involved are aware of the confidentiality clause attached to conciliation services. Once agreement is received, the HSC organisation or the HSC Board Complaints Manager (on behalf of FPS) will make the necessary arrangements.

9. Where it has been agreed that the intervention of a conciliator is appropriate, the HSC organisation or HSC Board (on behalf of FPS) should clearly define the remit of the appointment for the purposes of:

- explaining the issue(s) to be resolved;
- ensuring all parties understand what conciliation involves;
- agreeing the timescales;
- agreeing when conciliation has ended; and
- explaining what happens when conciliation ends.

10. The conciliator must advise the practice/pharmacy/ HSC organisation when conciliation has ceased and whether a resolution was reached. No further details should be provided. The practice/pharmacy must then notify the HSC Board of the outcome.

11. Using conciliation does not affect the right of a complainant to pursue their complaint further through the HSC organisation or HSC Board (for FPS) if they are not satisfied. Neither does it preclude the complainant from referring their complaint to the Ombudsman should they remain dissatisfied.

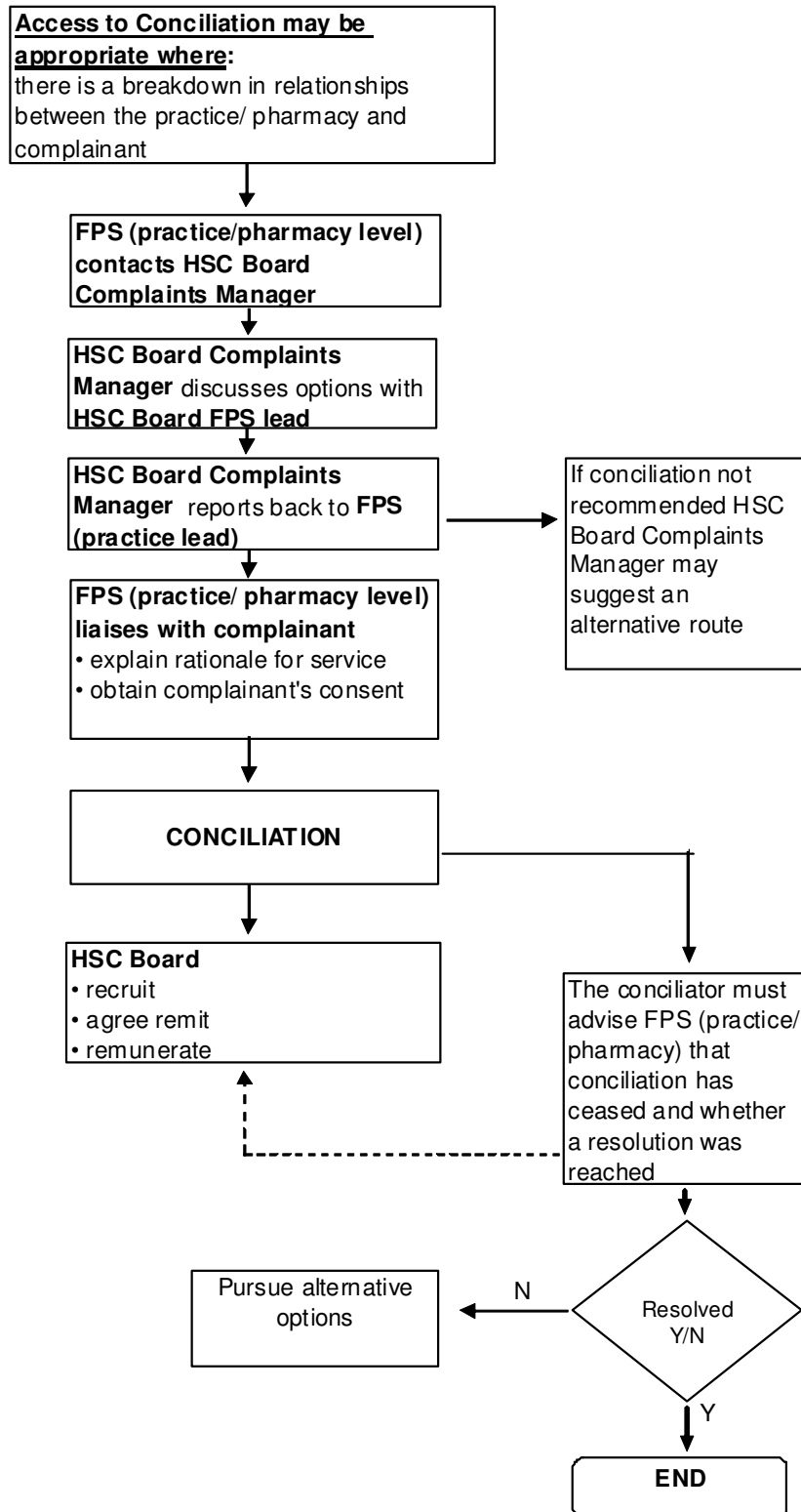
Appointment of conciliators

12. The HSC organisation or HSC Board (on behalf of FPS) is responsible for communicating with, ascertaining the availability of and formally appointing an appropriate conciliation service. In addition it is responsible for all other arrangements, including remuneration.

Monitoring

13. The HSC Board will monitor the effectiveness and usage of conciliation arrangements within HSC Trusts and FPS.

Conciliation – FPS Access



ANNEXE 9: INDEPENDENT EXPERTS

1. The use of an Independent Expert in the resolution of a complaint may be requested by the complainant, the practice/pharmacy or the HSC organisation. In FPS complaints it can also be suggested by the HSC Board. In deciding whether independent advice should be offered, consideration must be given, in collaboration with the complainant, to the nature and complexity of the complaint and any attempts at resolution. Input will not be required in every complaint but it may be considered beneficial where the complaint:

- cannot be resolved locally;
- indicates a risk to public or patient safety;
- could give rise to a serious breakdown in relationships, threaten public confidence in services or damage reputation;
- to give an independent perspective on clinical issues.

FPS arrangements

2. The Practitioner/ Practice/ Pharmacy Manager should approach the HSC Board Complaints Manager for advice.

3. Where a request for an independent expert is received the HSC Board Complaints Manager will liaise with the relevant FPS lead to consider the best way forward. Where it is considered that independent expert advice would aid resolution then the HSC Board Complaints Manager will advise the FPS practice. In some cases the HSC Board may consider an alternative to an Independent Expert.

Agreement and consent

4. The FPS Practice / Pharmacy Manager/ HSC organisation must contact the complainant and discuss the rationale for involving an Independent Expert and provide an opportunity to allow the complainant to agree to such an approach and consent to share information. Once received, the HSC

organisation or the HSC Board Complaints Manager (on behalf of FPS) will make the necessary arrangements.

5. The HSC organisation may decide to involve an Independent Expert in a complaint without the complainant's consent, outside the complaints procedure, for the purposes of obtaining assurances regarding health and social care practice.

6. Where it has been agreed that an Independent Expert will be involved the practice/ pharmacy/ HSC organisation should clearly define the remit of the appointment for the purposes of:

- explaining and agreeing the issue(s) to be reviewed;
- ensuring all parties understand the focus of the issue(s);
- agreeing the timescales;
- agreeing to the provision of a final report; and
- explaining what happens when this process is complete.

7. The Independent Expert's findings/ report will be forwarded to the practice/pharmacy/ HSC organisation. A summary of the findings should be made available by the practice/ pharmacy/ HSC organisation to:

- the complainant; and
- the HSC Board (for FPS only).

8. The letter of response to the complainant is the responsibility of the practice/ pharmacy/ HSC organisation.

Appointment of Independent Experts

9. The HSC organisation or HSC Board (on behalf of FPS) is responsible for communicating with, ascertaining the availability of and formally appointing an appropriate Independent Expert. In addition, it is responsible for all other arrangements, including remuneration and indemnity.

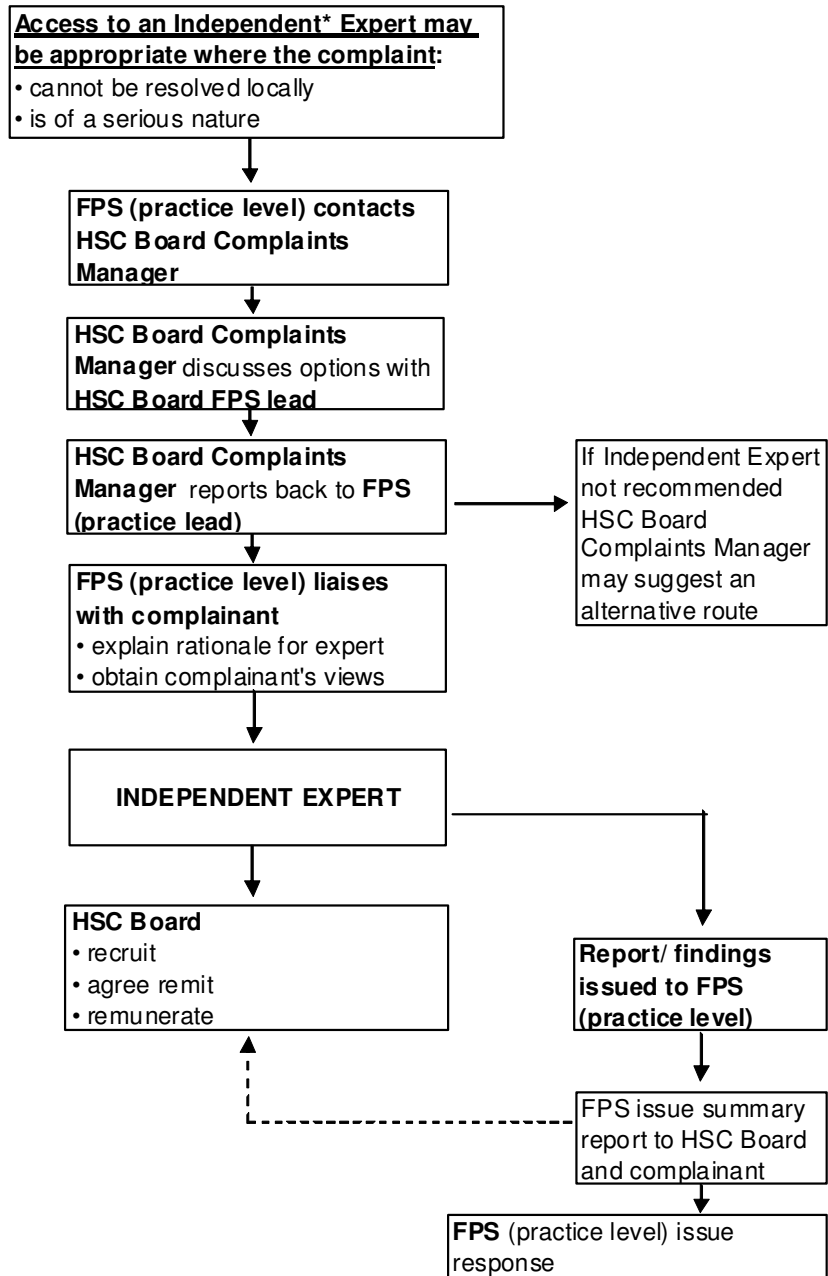
10. Independent Experts must be impartial, objective and independent of any parties to the complaint. Independent Experts should be recruited from another Local Commissioning group (LCG) area to ensure this impartiality (and in certain circumstance may be recruited from outside Northern Ireland).

Monitoring

12. The HSC Board will monitor the effectiveness and usage of Independent Expert arrangements within HSC Trusts and FPS including the implementation of any recommendations in FPS.

13. A flowchart outlining the process for FPS is shown overleaf.

Independent Experts - FPS Access



* definition of "Independent" = an Independent Expert must be recruited from another LCG area (and in certain circumstances outside Northern Ireland) and must have no connection with any of the parties to the complaint to avoid calling into question their objectivity and independence.

ANNEXE 10: LAY PERSONS

1. Lay persons may be beneficial in providing an independent perspective of non-clinical/ technical issues within the local resolution process. Lay persons are NOT intended to act as advocates, conciliators or investigators. Neither do they act on behalf of the provider or the complainant. The lay person's involvement is to help bring about a resolution to the complaint and to provide assurances that the action taken was reasonable and proportionate to the issues raised. For example, the lay person could accompany the investigator during the investigation process where the complainant is considered unreasonable (Annexe 14 refers).

2. Input from a lay person may be valuable to test key issues that are part of the complaint, such as:

- communication issues;
- quality of written documents;
- attitudes and relationships;
- access arrangements (appointment systems).

3. It is essential that both the provider and the complainant have agreed to the involvement of a lay person.

4. Lay persons should have appropriate training in relation to the HSC complaints procedure and have the necessary independence and communication skills.

FPS arrangements

5. The Practitioner/ Practice Manager should approach the HSC Board Complaints Manager for advice.

6. Where a request for a lay person is received the HSC Board Complaints Manager will liaise with the relevant FPS lead to consider the best way

forward. Where it is considered that a lay person's involvement would aid resolution then the HSC Board Complaints Manager will advise the FPS practice. In some cases the HSC Board may consider an alternative to a lay person.

Agreement and consent

7. The FPS Practice/ Pharmacy Manager/ HSC organisation must contact the complainant and discuss the rationale for involving a lay person and provide an opportunity to allow the complainant to agree to such an approach and consent to share information. Once received, the HSC organisation/ HSC Board Complaints Manager (on behalf of FPS) will make the necessary arrangements.

8. Where it has been agreed that a lay person will be involved the practice/ pharmacy, HSC organisation should clearly define the remit of the appointment for the purposes of:

- explaining the issue(s) to be resolved;
- ensuring all parties understand the focus of the issue(s);
- ensuring all parties understand what lay person involvement means;
- agreeing the timescales;
- agreeing to the provision of a final report, and
- explaining what happens when this process is complete.

9. The lay person's findings/ report will be forwarded to the practice/ pharmacy/ HSC organisation. A summary should be made available by the practice/ pharmacy/ HSC organisation to:

- the complainant; and
- the HSC Board (for FPS only).

10. The letter of response to the complainant is the responsibility of the practice/ pharmacy/ HSC organisation.

Appointment of lay persons

11. The HSC organisation or HSC Board (on behalf of FPS) is responsible for communicating with, ascertaining the availability of and formally appointing an appropriate lay person. In addition it is responsible for all other arrangements, including training, performance management and remuneration.

Monitoring

12. The HSC Board will monitor the effectiveness and usage of lay person arrangements within HSC Trusts and FPS.

ANNEXE 12: HONEST BROKER ROLE

1. “Honest broker” is the term used to describe the role of the HSC Board Complaints Manager in supporting and advising FPS on the handling of complaints. The complainant or the practice/ pharmacy can ask the HSC Board to act in this role at any point in the complaints process.

2. It is not an alternative to local resolution. Neither is it an opportunity for the HSC Board to take over an investigation. Rather it is about facilitating communications and building relationships between the practice/ pharmacy and the complainant. The honest broker will act as an intermediary and is available to both the complainant or practice/ pharmacy staff throughout the complaints process. For example, the honest broker may:

- provide advice to both the complainant and the practice/pharmacy;
- act as a link between both parties and/ or negotiate with them; and
- facilitate and attend meetings between both parties.

3. Paragraphs 2.16 to 2.20 outline the options available to complainants when pursuing FPS complaints. This includes an option to lodge their complaint directly with the HSC Board. Where the complainant contacts the HSC Board the Complaints Manager will explain the options available to resolve the complaint:

- that the complaint can be copied to the relevant practice/ pharmacy for investigation, resolution and response; or
- that the HSC Board can act as honest broker between the complainant and the practice/ pharmacy.

4. FPS co-operation in complaints of this type is essential for the role of honest broker to effectively assist in the successful local resolution of complaints. FPS will be asked for their agreement should the complainant prefer the HSC Board's involvement.

5. Where the HSC Board Complaints Manager has been asked to act as honest broker he/she will:

- act as intermediary between the complainant and the practice/ pharmacy;
- make arrangements for independent expert advice, conciliation, lay person assistance, where appropriate; and
- ensure the complainant is informed about the progress of the practice/ pharmacy complaint.

6. Whichever process is used it is important to note that the practice/ pharmacy are responsible for the investigation and the response. The HSC Board Complaints Manager, however, must ensure that:

- a written response is provided by the practice/ pharmacy to the complainant and any other person subject to the complaint;
- the written response is provided within 10 working days of receipt of complaint and where this is not possible that the complainant is informed; and
- the response notifies the complainant of their right to refer their complaint to the Ombudsman should they remain dissatisfied with the outcome of the complaints procedure.

7. The complainant may contact the HSC Board Complaints Manager for further advice and support.

ANNEXE 13: VULNERABLE ADULTS

Definition of vulnerable adult

1. For the purposes of “Safeguarding Vulnerable Adults – Regional Adult Protection Policy and Procedural Guidance” the term “vulnerable adult” is defined as: *a person aged 18 years or over who is, or may be, in need of community care services or is resident in a continuing care facility by reason of mental or other disability, age or illness or who is, or may be, unable to take care of him or herself or unable to protect him or herself against significant harm or exploitation.*¹⁹

2. Adults who “may be eligible for community care services” are those whose independence and well being would be at risk if they did not receive appropriate health and social care support. They include adults with physical, sensory and mental impairments and learning disabilities, howsoever those impairments have arisen; e.g. whether present from birth or due to advancing age, chronic illness or injury. They also include informal carers, family and friends who provide personal assistance and care to adults on an unpaid basis.

3. Making a complaint about health and social care can be intimidating, especially for people with mental health problems, learning disabilities or for those who are old or frail. HSC organisations should have consistent, explicit arrangements in place for advising and supporting vulnerable adults including signposting to independent advice and specialist advocacy services.

Reportable offences and allegations of abuse

4. Very careful consideration must be given to complaints alleging offences that could be reportable to the police, and there should be explicit policies

¹⁹ Law Commission for England and Wales (1995) Mental Incapacity, Report No.231 London: HMSO – definition of “vulnerable adult” adopted by the HSC Regional Adult Protection Forum

about the arrangements for such reporting. Where it is apparent that a complaint relates to abuse, exploitation or neglect then the regional *Safeguarding Vulnerable Adults Policy and Procedural Guidance (Sept 2006)* and the associated *Protocol for Joint Investigation of Alleged or Suspected Cases of Abuse of Vulnerable Adults* should be activated (see paragraph 1.26).

ANNEXE 14: UNREASONABLE, VEXATIOUS OR ABUSIVE COMPLAINANTS

1. HSC staff must be trained to respond with patience and empathy to the needs of people who make a complaint, but there will be times when there is nothing further that can reasonably be done to assist them. Where this is the case and further communications would place inappropriate demands on HSC staff and resources, consideration may need to be given to classifying the person making a complaint as an unreasonable, demanding or persistent complainant.

2. In determining arrangements for handling such complainants, staff need to:

- ensure that the complaints procedure has been correctly implemented as far as possible and that no material element of a complaint is overlooked or inadequately addressed;
- appreciate that even habitual complainants may have grievances which contain some substance;
- ensure a fair approach; and
- be able to identify the stage at which a complainant has become habitual.

3. The following *Unacceptable Actions Policy*²⁰ should only be used as a last resort after all reasonable measures have been taken to resolve the complaint.

Unacceptable Actions Policy

4. People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint. HSC organisations do not view behaviour as unacceptable just because a

²⁰ Unacceptable Actions Policy based on best practice guidelines issued by the Scottish Public Services Ombudsman-Revised January 2011. Inserted 20 June 2011

complainant is forceful or determined. In fact, it is accepted that being persistent can be a positive advantage when pursuing a complaint. However, we do consider actions that result in unreasonable demands on the HSC organisation or unreasonable behaviour towards HSC staff to be unacceptable. It is these actions that HSC organisations aim to manage under this policy.

Aggressive or abusive behaviour

5. HSC organisations understand that many complainants are angry about the issues they have raised in their complaint. If that anger escalates into aggression towards HSC staff, it will consider that unacceptable. Any violence or abuse towards staff will not be accepted.

6. Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether verbal or written) that may cause staff to feel afraid, threatened or abused. Examples of behaviours grouped under this heading include threats, physical violence, personal verbal abuse, derogatory remarks and rudeness. HSC organisations also consider that inflammatory statements and unsubstantiated allegations can be abusive behaviour.

7. HSC organisations expect its staff to be treated courteously and with respect. Violence or abuse towards staff is unacceptable and a Zero Tolerance²¹ approach must be adopted. HSC staff understand the difference between aggression and anger. The anger felt by many complainants involves the subject matter of their complaint. However, it is not acceptable when anger escalates into aggression directed towards HSC staff.

²¹ www.dhsspsni.gov.uk/zerotolerance.pdf

Unreasonable demands

8. HSC organisations consider these demands become unacceptable when they start to (or when complying with the demand would) impact substantially on the work of the organisation.

9. Examples of actions grouped under this heading include:

- repeatedly demanding responses within an unreasonable timescale,
- insisting on seeing or speaking to a particular member of staff when that is not possible,
- repeatedly changing the substance of a complaint or raising unrelated concerns.

10. An example of such impact would be that the demand takes up an excessive amount of staff time and in so doing disadvantages other complainants.

Unreasonable levels of contact

11. Sometimes the volume and duration of contact made to the HSC organisation by an individual causes problems. This can occur over a short period, for example a number of calls in one day or one hour. It may occur over the life-span of the complaint when a complainant repeatedly makes long telephone calls to the organisation or inundates the organisation with copies of information that has been sent already or that is irrelevant to the complaint.

12. The HSC organisation considers that the level of contact has become unacceptable when the amount of time spent talking to a complainant on the telephone, or dealing with emails or written correspondence impacts on its ability to deal with that complaint, or with other people's complaints.

Unreasonable use of the complaints process

13. Individuals with complaints have the right to pursue their concerns through a range of means. They also have a right to complain more than once about an organisation with which they have a continuing relationship, if subsequent incidents occur.

14. However, this contact becomes unreasonable when the effect of the repeated complaints is to harass, or to prevent the organisation from pursuing a legitimate aim or implementing a legitimate decision. The HSC organisation considers access to a complaints system to be important and it will only be in exceptional circumstances that it would consider such repeated use is unacceptable - but it reserves the right to do so in those exceptional circumstances.

Examples of how the HSC manage aggressive or abusive behaviour

15. The threat or use of physical violence, verbal abuse or harassment towards HSC staff is likely to result in a termination of all direct contact with the complainant. All incidents of verbal and physical abuse will be reported to the police.

16. HSC organisations will not accept any correspondence (letter, fax or electronic) that is abusive to staff or contains allegations that lack substantive evidence. The HSC organisation will tell the complainant that it considers their language offensive, unnecessary and unhelpful and ask them to stop using such language. It will state that it will not respond to their correspondence if the action or behaviour continues.

17. HSC staff will end telephone calls if they consider the caller aggressive, abusive or offensive. The staff member taking the call has the right to make this decision, tell the caller that their behaviour is unacceptable and end the call if the behaviour persists. In extreme situations, the HSC organisation will

tell the complainant in writing that their name is on a “no personal contact” list. This means that it will limit contact with them to either written communication or through a third party.

Examples of how the HSC deal with other categories of unreasonable behaviour

18. The HSC organisation has to take action when unreasonable behaviour impairs the functioning of its office. It aims to do this in a way that allows a complainant to progress through its process. It will try to ensure that any action it takes is the minimum required to solve the problem, taking into account relevant personal circumstances including the seriousness of the complaint and the needs of the individual.

19. Where a complainant repeatedly phones, visits the organisation, raises issues repeatedly, or sends large numbers of documents where their relevance is not clear, the HSC organisation may decide to:

- limit contact to telephone calls from the complainant at set times on set days.
- restrict contact to a nominated member of staff who will deal with the future calls or correspondence from the complainant.
- see the complainant by appointment only.
- restrict contact from the complainant to writing only.
- return any documents to the complainant or, in extreme cases, advise the complainant that further irrelevant documents will be destroyed;
- take any other action that the HSC organisation considers appropriate.

20. Where the HSC organisation considers correspondence on a wide range of issues to be excessive, it may tell the complainant that only a certain number of issues will be considered in a given period and ask them to limit or focus their requests accordingly.

21. In exceptional cases, the HSC organisation will reserve the right to refuse to consider a complaint or future complaints from an individual. It will take into account the impact on the individual and also whether there would be a broader public interest in considering the complaint further.

22. The HSC organisation will always tell the complainant what action it is taking and why.

The process the HSC follows to make decisions about unreasonable behaviour

23. HSC staff who directly experience aggressive or abusive behaviour from a complainant have the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation in line with this policy. With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact with the organisation are only taken after careful consideration of the situation by a more senior member of staff. Wherever possible, the HSC organisation will give the complainant the opportunity to change their behaviour or action before a decision is taken.

How the HSC lets people know it has made this decision

24. When a HSC member of staff makes an immediate decision in response to aggressive or abusive behaviour, the complainant is advised at the time of the incident. When a decision has been made by senior management, a complainant will always be told in writing²² why a decision has been made to restrict future contact, the restricted contact arrangements and, if relevant, the length of time that these restrictions will be in place. This ensures that the complainant has a record of the decision.

The process for appealing a decision to restrict contact

²² This can be supplemented if written communication is not the most appropriate form for the individual

25. It is important that a decision can be reconsidered. A complainant can appeal a decision to restrict contact. If they do this, the HSC organisation will only consider arguments that relate to the restriction and not to either the complaint made to the organisation or its decision to close a complaint. An appeal could include, for example, a complainant saying that: their actions were wrongly identified as unacceptable, the restrictions were disproportionate; or that they will adversely impact on the individual because of personal circumstances.

26. A senior member of staff who was not involved in the original decision will consider the appeal. They have discretion to quash or vary the restriction as they think best. They will make their decision based on the evidence available to them. They must advise the complainant in writing²³ that either the restricted contact arrangements still apply or a different course of action has been agreed.

How the HSC record and review a decision to restrict contact

27. The HSC organisation records all incidents of unacceptable actions by complainants. Where it is decided to restrict complainant contact, an entry noting this is made in the relevant file and on appropriate computer records. A decision to restrict complainant contact as described above, may be reconsidered if the complainant demonstrates a more acceptable approach. A member of the Senior Management Team reviews the status of all complainants with restricted contact arrangements on a regular basis.

²³This can be supplemented if written communication is not the most appropriate form for the individual

ANNEXE 15: CHILDREN ORDER REPRESENTATIONS AND COMPLAINTS PROCEDURE

1. Under the Children (NI) Order 1995 (the Order) HSC Trusts are statutorily required to establish a procedure for considering:
 - any representations (including any complaint) made to it about the discharge of its functions under Part IV of, and paragraph 4 of Schedule 5 to, the Order, and
 - matters in relation to children accommodated by voluntary organisations and privately run children's homes, and
 - those personal social services to children provided under the Adoption Order (NI) 1987.

2. HSC Trusts functions are outlined in Article 45 of, and paragraph 6 of Schedule 5 to, the Order and in the Representations Procedure (Children) Regulations (NI) 1996.

3. Departmental guidance on the establishment and implementation of such a procedure is included at Chapter 12 of the Children Order Guidance and Regulations, Volume 4 (a flowchart to aid decision making is attached).

4. The HSC Board and HSC Trusts should familiarise themselves with these requirements.

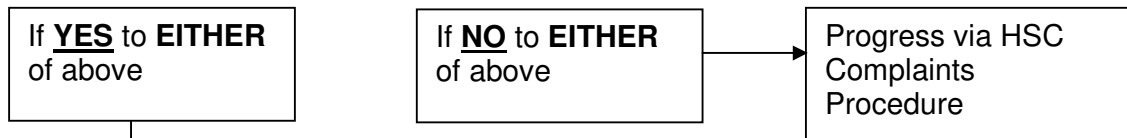
CHILDREN ORDER REPRESENTATIONS AND COMPLAINTS PROCEDURE



1. Complaint: Does it fit the definition of a Children Order complaint as below?

“...Any representation (including any complaint) made to the Trust ... about the discharge of any of its functions under Part IV of the Order in relation to the child.”
(Children (NI) Order 1995, Article 45(3))

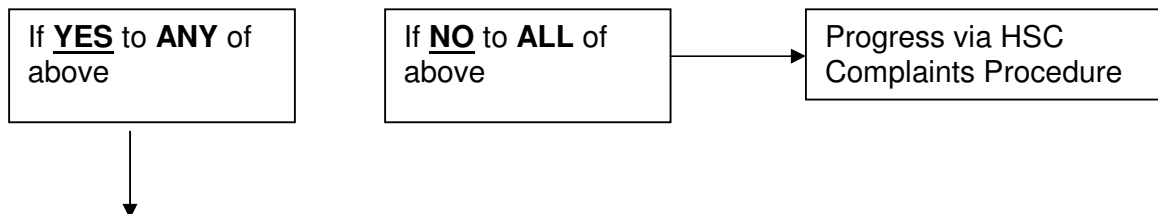
“A written or oral expression of dissatisfaction or disquiet in relation to an individual child about the Trust’s exercise of its functions under Part IV of, and para 6 of Schedule 5 to, the Children Order.”
(Guidance & Regulations – Vol. 4, Para 12.5 – DHSS)



2. Does it meet the criteria of what may be complained about under Children Order?

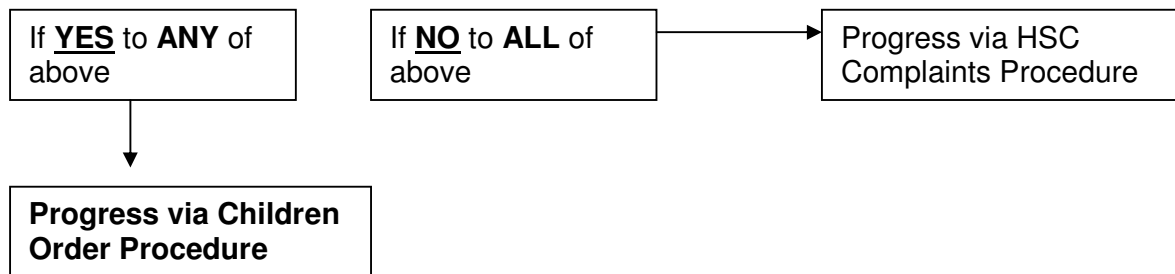
“... about Trust support for families and their children under Part IV of the Order.”
(Vol. 4, Para 12.8)

- a. Day care;
- b. Services to support children within family home;
- c. Accommodation of a child;
- d. After care;
- e. Decisions relating to the placement of a child;
- f. The management or handling of a child’s case (in respect of Part IV services);
- g. Process involved in decision making (in respect of Part IV services);
- h. Denial of a (Part IV) service;
- i. Exemptions to usual fostering limit;
- j. Matters affecting a group of children (receiving a Part IV service);
- k. Issues concerning a child subject to Adoption Services.



3. Complainant: Does he/she fit the definition of a Children Order complainant?

- a. **Any child** who is being looked after by the Trust;
- b. **Any child** who is not being looked after by the Trust, but is in need;
- c. A parent **of his**;
- d. Any person who is not a parent of his but who has **parental responsibility for him**;
- e. Any Trust foster parent;
- f. Such other person as the Trust considers has a sufficient interest in **the child's welfare** to warrant his representations being considered by the Trust, i.e.
 - the person who had the day to day care of the child within the past two years;
 - the child's Guardian ad Litem;
 - the person is a relative of the child (as defined by Children Order, Article 2(2));
 - The person is a significant adult in the child's life, and where possible, this is confirmed by the child;
 - a friend;
 - a teacher;
 - a general practitioner.(Children (NI) Order 1995 Article 45(3))



NB: In order for a complaint to be eligible to be considered under the Children Order Procedure, the answer to 1 and 2 and 3 MUST all be YES.

Consent: *The (Trust) should always check with the child (subject to his understanding) that a complaint submitted reflects his views and that he wishes the person submitting the complaint to act on his behalf. (Where it is decided that the person submitting the complaint is not acting on the child's behalf, that person may still be eligible to have the complaint considered).*