

## Consumer Complaints Management

**Policy Number** 2.015

**Policy Function** Leadership and Management

**Issue Date** 2 May 2022

**Summary** Appropriate management of consumer complaints is an important part of a comprehensive clinical governance system. Consumer complaints provide a valuable insight into the effectiveness and quality of our service. Complaint handling is necessary for ensuring consumer satisfaction and addressing challenges on both a personal and systemic level.

**Responsible Officer** Executive Director Performance and Planning

**Applicable Sites**

- Administration Centres
- Community Sites (e.g. Court Liaison Service, Community Integration Team, etc.)
- Health Centres (Adult Correctional Centres or Police Cells)
- Health Centres (Youth Justice Centres)
- Long Bay Hospital
- The Forensic Hospital

**Previous Issue(s)** Policy 2.015 (10 January 2019; 23 July 2015)

**Change Summary**

- Wording changes to reflect NSW Health PD2020\_013
- Refinement of processes
- Addition of Consumer Complaints Management infographic

**TRIM Reference** POLJH/2015

**Authorised by** Chief Executive, Justice Health and Forensic Mental Health Network

## 1. Preface

Justice Health and Forensic Mental Health Network (the Network) is committed to providing health care that is responsive to the needs of our consumers. Consumer complaints provide an important opportunity to identify problems and improve service provision across our Network.

This policy has been developed in accordance with the following NSW Ministry of Health (the Ministry) policy directives (PD) and guidelines (GL):

1. [PD2020\\_013](#) *Complaint Management*
2. [GL2020\\_008](#) *Complaint Management Guidelines*

## 2. Policy Content

This policy provides staff with guidance on how to effectively manage a complaint from a consumer in regards to the health care and/or services provided by the Network.

For complaints regarding staff grievances refer to:

- [PD2016\\_046](#) *Resolving Workplace Grievances*; and
- Policy [3.090](#) *Grievance Management*.

For complaints regarding a clinician refer to:

- [PD2018\\_032](#) *Managing Complaints and Concerns about Clinicians*
- [PD2018\\_031](#) *Managing Misconduct*; and
- Policy [2.016](#) *Management of a Complaint or Concern about a Clinician*

### 2.1 Mandatory Requirements

All health services must have a complaint management process to ensure complaints are managed in an effective and timely manner. All complaints are required to be acknowledged within five days of receipt and finalised within 35 calendar days.

### 2.2 Roles and Responsibilities

**Chief Executive is responsible for:**

- Ensuring an effective complaint management system is developed and implemented.
- Encouraging a culture where complaints are handled fairly, efficiently and effectively.
- Ensuring appropriate resources are available and utilised for effective complaint management.
- Ensuring compliance with any reporting obligations in accordance with relevant legislation and policy requirements.

**Executive Directors are responsible for:**

- The strategic oversight of complaints within their area of responsibility.
- Ensuring risks are identified through the complaints management process.
- Appointing an action officer to manage a complaint and ensuring the complaint is handled in a timely and effective manner. Whether the response should be a formal letter or phone call is at the discretion of the Executive Director Clinical Operations (EDCO)
- Ensuring appropriate actions are implemented to eliminate or minimise similar problems from occurring.

**Director Clinical and Corporate Governance is responsible for:**

- Acting as the Designated Senior Complaints Officer.
- Providing a recognisable point of contact for the receipt and management of complaints.
- Reporting trended complaint data at least every quarter to the Clinical Governance Committee, the Health Care Quality Committee and the Network Executive Team.
- Ensuring policies and procedures are in place to effectively manage complaints.

**Directors, Service Directors, Co-Directors, Health Service Managers, Nurse Managers and Nursing Unit Managers (NUMs) are responsible for:**

- Managing complaints through local resolution where possible.
- Notifying complaints in the Incident Management System (ims+) if a complaint is made directly to them and cannot be locally resolved. The Client Liaison Officer (CLO) must be advised through email that a complaint has been logged in ims+.
- Assessing, investigating and resolving complaints.
- Obtaining the [consumer's consent](#) if required and return the signed form to the CLO
- Providing a written response to complaints, when required, within 35 calendar days of the CLO receiving the complaint.
- Advising consumers of options for escalation or recourse in the event a complaint cannot be managed locally e.g. Justice Health Patient Health Enquiry line (via CADL System), Clinical and Corporate Governance Unit, Health Care Complaints Commission (HCCC), Official Visitors, Mental Health Official Visitors, the Anti-Discrimination Board of NSW (ADB), the Australian Human Rights Commission, and the Corrective Services Complaints Line (CSSL).
- Reviewing complaint data for trends within their area of responsibility.

**Integrated Care Service staff are responsible for:**

- Escalating unresolvable health issues and formal healthcare complaints to the CLO.
- Redirecting patients to contact the HCCC as required.

**Client Liaison Officer (CLO) is responsible for:**

- Notifying complaints in ims+ that have been received by the Network via telephone, written letter, or email.
- Acknowledging receipt of a complaint with the complainant within five calendar days of receiving.
- Forwarding complaints, needing a formal written response, along with a response template, to the EDCO and their Personal Assistant. See [section 3.1.2](#).
- Closing complaints in ims+ and filing in Content Manager. Outcomes of complaints resolved with a phone call or formal letters of response should be forwarded to CLO for closure.
- Monitoring the complaint management process to assist in meeting timeframes.
- Being the point of contact for complaint management and providing education to staff.

**All staff are responsible for:**

- Treating people who make a complaint with courtesy and respect and in accordance with this Policy.
- Empathising, understanding and acknowledging the complainants viewpoint.
- Accepting and entering complaints in ims+.
- Managing complaints and documenting resolution in ims+.

- Escalating a complaint to their line manager if unable to resolve.
- Advising the complainant of how to make a complaint and provide assistance with the complaint process where required.

### 3. Procedure Content

#### 3.1 Complaint Management Process

There are three major stages in the complaint management process:



##### 3.1.1 Receive the complaint

- Complaints may be received in person, via the telephone, or in writing (letter, Network website and/or email).
- If a consumer makes a verbal complaint to a clinical staff member, the staff member should attempt to resolve the complaint in the first instance. Many complaints can be resolved with an acknowledgement of the complainant's concerns, clear communication, and an apology, an explanation of events and/or processes; and seeking feedback on the complainant's satisfaction with the response. Complaints resolved in this manner are documented in the progress notes of the patient's Health Record.
- If the verbal complaint cannot be resolved, staff must assist the complainant to speak to an appropriate senior manager. Staff should assist people to make their complaint, particularly in circumstances where a person requires additional support with communication. The manager may escalate to their manager and/or the CLO, Clinical and Corporate Governance Unit if unable to resolve. The complaint must be notified in ims+ by the manager or CLO. If the manager has recorded the complaint in ims+, the manager must contact the CLO to advise that a complaint has been made and recorded in ims+. The CLO will commence the complaint process as per [section 3.1.3](#).
- If a complaint is made in writing, including email, it must be notified in ims+ by the person who received the complaint or forwarded to the CLO to be notified in ims+. The complaint letter is to be sent to the CLO who will commence the complaint process as per [section 3.1.3](#).
- All complaints notified in ims+ must be acknowledged in writing or verbally, within five calendar days of receipt, and the date and method of acknowledgement entered into the consumer feedback details tab.

- Privately operated correctional facilities must use ims+ to record, track and manage complaints regarding its service. Complaints received by the Network regarding health care in privately operated correctional facilities will be placed on ims+ and assigned to the relevant centre.
- Complaints received via the NSW Minister for Health (a Ministerial) will be received, assessed, investigated and resolved by the Office of the Chief Executive, and forwarded to the CLO for processing in ims+ and obtaining consent where necessary.

### 3.1.2 Assess and investigate the complaint

- All complaints entered into ims+ will have an automated system generated harm score (which replaces the Severity Assessment Code (SAC) rating from the previous incident management system IIMS). The notifying staff member should refer to [PD2020\\_020 Incident Management Policy](#) for more information.
- The CLO will forward the complaint, letter of response template, due date and Content Manager container details to the EDCO and their PA via the [Clinical Operations complaint email](#), who will nominate an action officer to respond to the complaint. The action officer will consider risks and escalate/delegate as required, investigate the complaint, identify the issues for resolution and relevant person/s involved in the complaint.
- If consent is required the CLO will include a [JUS 020.035 Consent to Liaise Form](#) in the Content Manager container. The CLO will advise the health centre, to arrange for the patient to sign the consent form, filing the original hard copy into the patient's Health Record and sending a copy of the signed consent form to the CLO for filing in the complaint CONTENT MANAGER container.
- Consent to share health information is required from a patient whenever the complainant is not the patient. According to the [NSW Health Privacy Manual for Health Information](#) (Version 3, Sections 5.4 and 11.2.2), consent is either 'express' or 'implied'. Express consent, for example, is a signed Consent to Liaise Form. Implied consent, for example, would be a direct call by the patient to the Health Care Complaints Commission (HCCC) requesting their assistance in resolving the complaint. Implied consent will only apply for the HCCC, the Anti-Discrimination Board, the NSW Ombudsman and the Australian Human Rights Commission. If any of these agencies is obtaining information on behalf of a consumer who is not the patient, it is their responsibility to obtain patient consent to release that information to that consumer.
- There may be occasions when a patient is only able to give a verbal consent. In these circumstances the consent to liaise form may be signed and witnessed by a Network staff member, preferably in the presence of the patient.
- If health records for a person in custody are requested by the HCCC, Anti-Discrimination Board, NSW Ombudsman or the Australian Human Rights Commission as part of a complaint, the CLO will send a request to the Health Information Record Services (HIRS). All other requests for health records are to be requested by the complainant via HIRS. Please refer to policy [4.030 Requesting and Disclosing Health Information](#).

### 3.1.3 Resolve the Complaint

The action officer must prepare a draft written response to the complaint within 10 calendar days, unless the deadline requires a more urgent response. This draft will be reviewed by clinical stream responsible before review by the EDCO for approval. If the complaint is from a lawyer or legal service the draft response requires review by Legal Services in the Clinical and Corporate Governance Unit before EDCO review. Once approved, the signed response will be sent to the CLO who will record the response in ims+ and Content Manager. The CLO will send the response letter to the complainant.

The response letter must be accurate, respectful, and conform to the Network's style and brand guidelines. It must also:

- Address each of the points the complainant has raised with a full explanation or give a reason why it is not possible to comment on a specific matter.
- Include an apology. This is not about accepting blame or fault; it is acknowledging the complainant's experience and feelings or can be an expression of regret e.g. "*we are sorry that you experienced a delay in treatment*". Refer to section 4 of this policy for a definition of an apology.
- Give details of actions taken as a result of the complaint.
- Provide contact details of a manager or action officer for further queries.
- Include details of further action available to the complainant if they are not satisfied with the outcome.

Complaints must be responded to and finalised within 35 calendar days. If the complaint has not been finalised at 35 calendar days, a progress letter, drafted and signed by the CLO, must be sent to the complainant with:

- An apology for the delay.
- A full explanation of the cause for delay.
- If possible, details of the results of the enquiry to date.
- An expected timeframe for when the complaint will be finalised.

A notation should be made in ims+ to indicate a progress letter has been issued. If a complaint response is delayed further, a holding letter will be drafted and signed by the CLO and sent every 20 calendar days until the final response is sent.

Consumers have the option at any time to escalate their complaint to external agencies such as the HCCC as per [PD2020\\_013 Complaint Management Policy](#)

### 3.2 Point of Service Complaints

#### 3.2.1 Matters Raised by Official Visitors or Mental Health Official Visitors

Custodial patients may raise complaints regarding their health care with Official Visitors in adult correctional centres and Youth Justice centres. These complaints will be managed directly by the NUM and the Official Visitor, as a local resolution.

If the complaint cannot be resolved as a local resolution, the Official Visitor may document the complaint in a report to CSNSW or YJNSW, who will forward a half yearly report to the Network Chief Executive. If the complaint cannot be resolved locally, the Official Visitor may contact the CLO, who will log the complaint in ims+ and contact the health centre NUM for investigation with the patient and follow up with Official Visitor. Outcomes from this resolution must be forwarded to CLO to close in ims+ and file in Content Manager.

Patients in the Forensic Hospital or Long Bay Hospital Mental Health Unit may raise complaints regarding their health care with Mental Health Official Visitors. If the complaint cannot be resolved as a local resolution, the Official Visitor or Principal Official Visitor may escalate the complaint for formal response. The complaint will be recorded in ims+ by the CLO and referred to the Co-Director Forensic Mental Health and EDCO.

#### 3.2.2 Matters Raised in Inmate Development Committees

Inmate Development Committee representatives may raise health care related complaints on behalf of inmates. If a complaint is raised and is unable to be resolved locally, the NUM must record the complaint in ims+ and escalate it to their manager and the CLO for management as a formal complaint.

### 3.3 Complaint Handling Considerations

#### 3.3.1 Declining to Deal with a Complaint

The Network may decline to deal with a complaint if it is:

- Vexatious, frivolous or not made in good faith. That is, matters that raise no substantive issue, or are so deficient in substance or detail that it is not envisaged to lead to any practical result or outcome or response;

- One or more repeat complaints about the same matter where a response has already been provided or a course of action is being undertaken, and the Network has nothing to add;
- Outside the jurisdiction of the Network (e.g. the matters raised fall within the responsibility of another entity, such as our partner agencies, the Ministry, or other health care provider); and/or;
- The subject matter of the complaint (or part) has been, or is, under investigation by some other competent person or body or has been or is the subject of legal proceedings.

The decision to classify a complaint as vexatious or frivolous must be made by the Director Clinical and Corporate Governance and the relevant Executive Director. If a complaint has been declined, complainants must be advised of the reasons for the decision as well as details of other agencies that may be able to assist them with their concerns. The decision to decline a complaint must be fully documented in the relevant complaint Content Manager container and in the progress notes of the patient's health record.

### 3.3.2 Re-opening a complaint

A complaint may be re-opened, or a related complaint management process commenced, where the person making the complaint has made a second complaint raising additional issues. This is not the same as an unresolved complaint, which relates to substantially the same issues.

It may be necessary to commence an investigation of the new issues. Where a person making a complaint claims to have new issues but is actually reframing the original issues, this will be identified during the assessment process and recorded as an unresolved complaint.

### 3.3.3 Referrals and Mandatory Notifications

In some cases, a complainant may raise issues that require mandatory external notification or referral. All such notifications must be coordinated by the Clinical and Corporate Governance Unit. Complaints may be referred if:

- The complaint should be managed by another government agency. For example, if a consumer has a complaint regarding correctional centre placement, the consumer is to be referred to CSNSW.
- The complaint requires mandatory notification to another agency such as the NSW Police Force, Coroner, professional registration body, the Independent Commission Against Corruption (ICAC) or the Audit Office. For example, if, following a complaint investigation, it is determined a staff member has been negligent in their duty, it may be necessary for the Network to notify the professional registration body.

### 3.3.4 Complaints and Serious Adverse Events Review (SAER) Investigations

Some complaints will also be subject to an SAER investigation (formerly known as RCA) if deemed appropriate by the Chief Executive, following advice from the Director Clinical and Corporate Governance. When a complaint is the subject of an SAER investigation, it may not be possible to fully respond to the complainant until the SAER investigation is complete.

## 4 Ongoing Obligations

### 4.1 Performance Indicators

Measurement and reporting against the following indicators:

- Acknowledge receipt of each complaint within five calendar days (Benchmark – 100%)
- Finalise the outcome of each complaint and advise person making the complaint of outcome within 35 calendar days (benchmark 80%)

### 4.2 File Maintenance and Record Keeping

Organisations must maintain accurate records about complaints in accordance with NSW Health policies and local procedures. Complete complaint records will be filed in Content Manager. Only consent to liaise forms

and simple locally resolved complaints are to be kept with a patient's health care record. Records will be maintained in accordance with the [State Records Act](#).

#### 4.3 Confidentiality

NSW Health staff have ongoing responsibilities to maintain confidentiality about the complaint process, including after the complaint has been finalised. This requires everyone involved in the complaint to ensure that personal or identifying information about the complaint is restricted to those who genuinely need to know as part of their role.

#### 4.4 Continuous improvement

The Network is committed to improving the effectiveness of our complaint management system. To support this the Network will:

- Facilitate the making of and appropriate resolution of complaints.
- Implement best practice in complaint handling.
- Regularly review complaints data at a local level.
- Seek and provide feedback to people making complaints and staff following a complaint.
- Conduct reviews to evaluate complaint handling across the Network.

Managers must review complaint information regularly to identify key themes, trends, and/or systemic issues that could lead to practice improvement opportunities.

## 5. Definitions

### Apology

An apology is an expression of sympathy or regret, or a general sense of benevolence, or compassion, in connection with any matter, whether or not the apology admits or implies an admission of fault in connection with the matter.

### Carer

Family members, guardians or friends who have an interest in, or are responsible for, the care of a consumer. This does not include paid carers.

### Clinician

A health practitioner or health service provider, regardless of whether the person is registered under the [Health Practitioner Regulation National Law \(NSW\)](#).

### Complainant

Any consumer, member of the public or external organisation making a complaint.

### Complaint

- An expression of dissatisfaction with a service offered or provided; or
- A concern regarding any aspect of service that identifies issues requiring a response.

### Complaint Management

Includes the notification, acknowledgement, assessment, information collection, analysis and review of a complaint, and appropriate action.

### Content Manager

The Network information technology solution for electronic records management

### Consumer

Consumers are members of the public who use, or are potential users, of healthcare services. When referring to consumers, it is referring to patients, families, carers and other support people.

### Incident Management System (ims+)

NSW Health's new electronic incident database developed and implemented for notification and management of all incidents including complaints. This has been live in the Network since June 2020.

**Incident Information Management System (IIMS)**

NSW Health’s previous electronic incident information database developed and implemented for notification and management of all incidents including complaints. This has been replaced by ims+ since June 2020.

**Investigation**

The process of using inquiry and examination to gather facts and information in order to solve a problem or resolve an issue.

**Must**

Indicates a mandatory action to be complied with.

**Serious Adverse Event Review (SAER)**

Formerly known as Root Cause Investigation (RCA), SAER is a method used to investigate and analyse a clinical harm score 1 incident to identify the root causes and factors that contributed to the incident and to recommend actions to prevent a similar occurrence.

**Should**

Indicates a recommended action to be followed unless there are sound reasons for taking a different course of action.

## 6. Legislation and Related Documents

Legislation	<a href="#"><i>Health Practitioner Regulation National Law 2009</i></a> <a href="#"><i>Health Services Act 1997</i></a> <a href="#"><i>Public Sector Employment and Management Act 2002</i></a>
Ministry Guidelines and Policy Directives	<a href="#"><i>PD2018_032 Managing Complaints and Concerns about Clinicians</i></a> <a href="#"><i>PD2018_031 Managing Misconduct</i></a> <a href="#"><i>GL2020_008 Complaint Management Guidelines</i></a> <a href="#"><i>PD2020_013 Complaint Management Policy</i></a> <a href="#"><i>PD2016_046 Resolving Workplace Grievances</i></a> <a href="#"><i>PD2020_047 Incident Management Policy</i></a> <a href="#"><i>NSW Health Privacy Manual for Health Information</i></a>
Network Policy	<a href="#"><i>2.016 Procedure: Managing Complaints and Concerns about Clinicians</i></a> <a href="#"><i>3.045 Employee Assistance Program</i></a> <a href="#"><i>3.090 Grievance Management Procedure</i></a> <a href="#"><i>4.030 Requesting and Disclosing Health Information</i></a>
Health Care Complaints Commission	<a href="#"><i>Responding to a Complaint Directly</i></a>
NSW Ombudsman	<a href="#"><i>The Power of Apology</i></a>