

BOARD MEETING

19 March 2009
Item No 09/03/10

Making Experience Count	
1. Introduction/ Summary of Scheme/Report	
<p>To provide the Board with an up date on the expected changes to the complaints process within NHS Darlington in order to prepare services to comply with the new legislation. It will identify the key components and implications from Making Experience Count.</p>	
2. Implications and Risks	
<i>Will there be a significant impact on patients or patient care?</i>	<i>Yes, making complaints process more patient centered.</i>
<i>Are there any financial or legal implications to implementing this item?</i>	<i>Maybe resource implications in relation to capacity of Complaints Managers to implement new requirements.</i>
<i>Will there be an impact on Equality, Diversity or Human Rights?</i>	<i>No, applies to all.</i>
<i>Does this item form an essential part of quality or performance standards e.g. Healthcare Commission, NHS Litigation Authority? If yes, detail which standard.</i>	<i>Standards for Better Health C14</i>
3. Recommendation	
<p>The board is requested to note the changes to the complaints process and encourage services to develop an appropriate response to the proposed legislative changes.</p>	
4. Submitted by	
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Title:	Complaints Managers
Sponsoring Director:	Linda Templey Director of Nursing, AHPs & Patient Safety
Date:	March 2009
5. Purpose of the Paper	
<p>Information sharing <input checked="" type="checkbox"/> Development/discussion <input type="checkbox"/> Decision/action <input type="checkbox"/></p>	

Making Experiences Count

Key components and implications for NHS Darlington

Introduction

In June 2007, the Department of Health launched a public consultation (Making Experiences Count) on its proposals to unify the health and social care complaints procedures to enable complainants to receive a proper response and to enable the health and/or social care organisation(s) involved to learn and improve. The consultation ended in October 2007, and the Department of Health published its formal response to the consultation in February 2008.

The new complaints process will be implemented from 1 April 2009. There is not currently a publication date for the regulations, however it is hoped that these will be available before 1 April 2009.

Current procedure

The current stages of the NHS complaints procedure are:

- Local resolution
- Independent review by the Healthcare Commission
- If a complainant is dissatisfied with the response to their complaint after these two stages, they can take their complaint to the Health Service Ombudsman for independent consideration.

Complaints should be acknowledged within 2 working days and the Complainant should receive a full response within 25 working days.

Implications

Ethos of the new arrangements

Making Experiences Count set out a new way of handling complaints that aims to put the patient at the centre of the process, resolving complaints more efficiently, responding more personally and positively, whilst ensuring that the opportunity for services to learn and improve are not lost

The aim of the new process is to provide increased flexibility and the legislation will be as "light touch" as practicable, removing the rigid process-based arrangements that currently apply to NHS and social care complaints handling. This will unify and simplify the process and make the arrangements more flexible. Each complaint will be treated according to its individual nature, and focus on complainant's outcomes with swift local resolution.

The revised complaints framework will apply to:

- all NHS bodies (including Primary Care Trusts and Strategic Health Authorities)
- voluntary and independent sector organisations who provide services under contract to the NHS, and to
- local authorities who provide adult and social services

Each of these organisations will have to have in place arrangements for handling complaints in line with the legal framework.

Complaints culture

NHS and social care organisations will be required to deal efficiently with all complaints and to investigate them properly and appropriately.

Complainants will be told of the outcome of any investigation into the complaint and the organisation will be expected to use the information from complaints to improve the services it delivers. Making a complaint should not affect the care patients receive when in contact with the service in the future.

Changes to the NHS Complaints Process:

The proposed changes to the legislative framework state that:

The revised arrangements should be sufficiently flexible to allow front line staff to resolve verbal complaints quickly without the need to go through the formal process. Front line staff are to determine any patient safety issues which should be raised with senior managers or patient safety and governance managers. These issues should be recorded on NHS Darlington's incident reporting system to ensure that any learning is not lost.

The regulations will be as "light touch" as possible allowing increased flexibility and local organisations to determine the handling of complaints on an individual basis, in discussion with the complainant. The legislation will not lay out a detailed prescriptive process to be followed.

Time limit for making a complaint

Previously a complaint should be made within 6 months of the incident or within 6 months of the complainant being aware that they have something to complain about.

The proposed timescales are to be extended to 12 months from the date on which the matter occurred, or the matter came to the notice of the complainant.

Acknowledgement

On receipt of a complaint, an acknowledgement will be sent to the complainant within 3 working days (currently this is within 2 working days), and offer the complainant the opportunity to discuss, either by telephone or face to face, how the complaint is to be handled/investigated, including timescales.

The Complaints Manager will agree with the Complainant the points raised in the complaint and identify any additional issues. In addition, the Complainants expectations and perceived outcomes will be identified.

Previously the organisation was required to respond to the Complainant within 25 working days. The Complaints Manager will now agree a timescale with the Complainant to investigate and respond to the complaint.

Response

Accountability for the sign-off of all complaints concluded at local level remains with the Chief Executive.

Where an investigation report has been completed, a copy must be sent to the complainant with the sign-off letter. An agreed investigation report template/style will be developed that will be shared with the Complainant. Staff will be made aware of this at complaints handling training sessions.

Senior accountability

Each organisation will have an identified person designated as being responsible for:

- the operation of the complaints arrangements, and
- ensuring that lessons learned are implemented

It will be for individual organisations to decide whether these two roles are performed by the same person. This role may be undertaken by the senior person who signs off the response, and should be someone operating at board level. In NHS Darlington, this responsibility lies with the Director of Nursing, AHPs and Patient Safety.

Disciplinary procedures

Previously, if a complaint was being investigated through the Trust's disciplinary procedures, the complaints investigation ceased until conclusion of the disciplinary process.

The new arrangements will allow a complaint to be investigated, even if disciplinary action is being considered or taken against a member of staff, provided the organisation has regard to good practice around restrictions in providing confidential/personal information to the complainant.

Legal action

The position in cases where legal action is being taken or the police are involved is slightly different. On receipt of a complaint in these circumstances, the Government will expect discussions to take place with the relevant authority (for example, legal advisors, the police, or the Crown Prosecution Service) to determine whether progressing the complaint might prejudice subsequent legal or judicial action. If so, the complaint will be put on hold, and the complainant will be advised of this fact. If not, an investigation into the complaint should take place. Again, the Government believes it is important, wherever possible, to ensure the potential implications for patient safety and/or organisational learning are investigated as quickly as possible to allow urgent action to be taken to prevent similar incidents arising.

Co-ordinating work across boundaries

Previously, although there was no formal policy on cross agency working, there was an informal arrangement whereby health organisations worked together on cross-boundary complaints.

The new arrangements will require complaints relating to Health and Social Care to provide a single point of entry to the complaints process and a single response, with multi-agency input.

At the present time a policy has been developed for early adopters which will be broadened.

Complaints can be made to either the organisation providing the service or to the commissioning PCT, however if the complaint is not resolved, it cannot be then referred back to the PCT, although it can be referred to the Ombudsman. Clarity is needed on whether NHS County Durham can investigate complaints concerning services provided by NHS Darlington.

Support

Organisations have a duty to provide complainants with assistance to follow the procedure, or advice on where they may obtain such assistance. All complainants are currently advised, at the point of making a complaint, of the service provided by the Independent Complaints Advocacy Service (ICAS).

Legislation does not currently allow ICAS to support complainants in social care complaints, and therefore any joint complaints from 1 April 2009 will require individual advocates for health and for social care. This matter is being addressed but will require a change in legislation.

Monitoring and reporting

Organisations are required to monitor their complaints arrangements including keeping a record of each complaint received, the subject and outcome, and whether the organisation responded within the timescale discussed with the complainant at

the outset, or the amended date, if this happened during the handling of the complaint.

Annually, a report should be produced containing details of:

- how many complaints have been received
- a summary of the subject matter
- whether or not they were upheld
- whether there is a record of them being referred to the Ombudsman
- a narrative drawing on significant issues from the organisation's handling of the complaints throughout the year (including lessons learned and actions taken).

These reports should be available to senior management within NHS Darlington. Healthcare providers will be expected to send a copy of the report to the commissioning PCT. An anonymised version of the report must be made available to the local population.

Publicity

Organisations will be expected to ensure that there is effective publicity available to service users about its complaints arrangements and the support available. (NHS Darlington already has a complaints leaflet, produced October 2008. This will need to be amended and in addition, posters should be produced).

The complaints policy will need to be amended to reflect the new regulations. Although it is not necessary for the policy to be amended and approved by the Board by 1 April 2009, this process must be "in hand" by that date.

Transitional arrangements

Any complaint received prior to 1 April 2009, should be handled in accordance with the current arrangements. Any complaints received on or after 1 April 2009 will be dealt with under the new regulations. From 1 April 2009, the Healthcare Commission will cease to exist.

From 1 April 2009, any complainant who remains dissatisfied with the outcome of their complaint at local level, can ask the Health Service Ombudsman to independently review their complaint. Any complaints which have been referred to the Healthcare Commission before that date, which cannot be completed by 31 March 2009, will be forwarded to the Health Service Ombudsman for consideration.

Actions for NHS Darlington

- Complaints Policy to be amended to reflect changes in the regulations. This does not need to be completed and approved by the Board by 1 April 2009, but must be in hand at that date.
- Complaints leaflets to be amended to reflect changes in the regulations and to be available to staff and the public by 1 April 2009. All old leaflets to be

recalled and destroyed by 1 April 2009. Consideration to be given to producing posters to compliment complaints leaflets.

- Template investigation report to be produced for completion by investigating officers to ensure consistency. This will be shared with the Complainant from 1 April 2009.
- Awareness sessions for staff on the new process and requirements from 1 April 2009.

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March 2009