##

**Complaints Procedure**

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| **Review date:** | **Edited by:** | **Approved by:** | **Comments:** |
| 03.01.2022 | O.C | O.C | Detailed procedure for staff is separate from Patients complaint policy and can be shared upon request from Patients |
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## Complaints procedure

TOWNFIELD DOCTORS SURGERY has prominently displayed notices in waiting area detailing the complaints process. In addition, the process is included on the organisation website and a complaints leaflet is also available from reception.

The information provided is written in conjunction with this policy and refers to the legislation detailed in 3.1. (from detailed procedure guide for staff and employers)

## Responsible person

At TOWNFIELD DOCTORS SURGERY, the responsible person is Otilia Coelho, practice manager. She is responsible for ensuring compliance with the complaints regulations and making sure action is taken as a result of the complaint.

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## Complaints manager

At TOWNFIELD DOCTORS SURGERY, the complaints manager is Otilia Coelho, practice manager, in her absence the Partners, they are responsible for managing all complaints procedures and must be readily identifiable to service users. The responsible person and complaints Manager can be the same person.[[1]](#footnote-1)Parliamentary and Health Service Ombudsman (PHSO)

The Ombudsman’s role is to make final decisions on complaints that have not been resolved locally by the NHS in England. The Ombudsman looks at complaints where someone believes there has been injustice or hardship because an organisation has not acted properly or has given a poor service and not put things right. The Ombudsman can recommend that organisations provide explanations, apologies and financial remedies to service users and that they take action to improve services.

## Complainant options

The complainant, or their representative, can complain about any aspect of care or treatment they received at this organisation to:

1. This organisation via the complaints manager
2. NHS England: Telephone 03003 112233, email england.contactus@nhs.net or in writing: NHS England, PO Box 16738, Redditch, B97 9PT. Patients can talk to NHS England in British Sign Language (BSL) via a video call to a BSL interpreter

## Timescale

The time constraint on bringing a complaint is 12 months from the occurrence giving rise to the complaint or 12 months from the time that the complainant becomes aware of the matter about which they wish to complain.

If, however, there are good reasons for complaints not being made within the timescale detailed above, consideration may be afforded to investigating the complaint if it is still feasible to investigate the complaint *effectively* and *fairly.* Should any doubt arise, further guidance should be sought from NHS England or through Practice Manager Otilia Coelho

## Responding to a concern

Should the complaints manager become aware that a patient, or the patient’s representative, wishes to discuss a concern, there is no ‘hard and fast’ rule as to timescales to discuss the matter with them.

Points that should be considered are that:

* Should the patient be on the premises, then there will need to be a degree of interaction sooner than if it was a telephone call or email
* Many of the concerns raised are not a true complaint, simply a point to note or a ‘grumble’. Although there is no official guidance on this matter, by discussing the concern with the complainant soonest, there is a potential that this could reduce any escalation to a more formalised complaint
* All facts need to be ascertained prior to any conversation
* Should an angry complainant be contacted too soon, this may inflame the situation further if they not receive the outcome that they desire
* Consider any potential precedence that may be established and will any future concern be expected to always be dealt with immediately should any response be given too soon
* Time management always needs to be considered

Whilst each concern will warrant its own response, generally Townfield Doctor Surgery ensure that the best response is always provided.

## Responding to a complaint

The complainant has a right to be regularly updated regarding the progress of their complaint. The complaints manager at Townfield Doctor Surgery will provide an initial response to acknowledge any complaint within three working days after the complaint is received. It should be noted that three working days is the maximum permitted under the NHS E Complaints Policy.

All complaints are to be added to the complaints log in accordance with [section 3.20](#_Logging_and_retaining). (from detailed procedure guide for staff and employers).

The NHS E policy (2017) states that the complainant can expect that:

* They will be kept up to date with the progress of their complaint
* If a case has passed the 40 working day target (or the timescale agreed with the complainant if different), thereafter they (and their advocate if relevant) should receive an update every 10 working days after the target date has been surpassed. This could be by telephone, email or letter but the format should be agreed with the complainant
* They can expect to receive a quality response with assurance that action has been taken to prevent a recurrence
* They will be informed of any learning

The MDU advises that, in addition to regular updates, a response or decision should be made within six months. If it extends beyond this time then the complainant must be advised.[[2]](#footnote-2)

The complaints manager will advise the complaints procedure to the complainant or their representative. In many cases, a prompt response and, if the complaint is upheld, an explanation and an apology will suffice and will prevent the complaint from escalating (an apology does not constitute an admission of organisational weakness).

## Route of a complaint

Patients can opt to complain either verbally or in writing. No matter what the cause of the complaint, all staff are to offer empathy when entering into discussions with the complainant. In accordance with Regulation 16[[3]](#footnote-3), all staff at Townfield Doctors Surgery

must fully understand the complaints process.

The complainant should be provided with a copy of the organisation leaflet detailing the complaints process at [Annex D](#_Annex_E_–)(from detailed procedure guide for staff and employers).

 and they should be advised that the process is a two-stage process as detailed below.

**Stage 1**

The complainant may make a complaint to either the organisation or to NHS England.

**Stage 2**

**If** not content with either response following a full investigation, the complainant may then escalate this to the Parliamentary Health Service Ombudsman (PHSO).

**Important:**  Complaints are not escalated to NHS E following the organisation’s response. A complaint made to either the organisation or NHS E will escalate to the PHSO.

## Verbal complaints

If a patient wish to complain verbally and if the patient is content for the person dealing with the complaint to deal with this matter and if appropriate to do so, then complaints should be managed at this level. After this conversation, the patient may suggest that no further action is needed. If this should be the case, then the matter can be deemed to be closed, although the complaints manager should still be informed as this needs to be added to the complaints log in accordance with [section 3.20](#_Logging_and_retaining) (from detailed procedure guide for staff and employers).

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This local resolution is the quickest method of resolving a complaint and will negate the requirement for the complaint to proceed through the formal complaint process.

An acknowledgement of the verbal complaint will suffice and therefore the complaints manager does not need to subsequently respond in writing, although the verbal complaint must be recorded in the complaints log. This will enable any trends to be identified and improvements to services made if applicable. The complaints manager should record notes of the discussion (for reference only) which may be used when discussing complaints at meetings.

If the matter demands immediate attention, the complaints manager should be contacted who may then offer the patient an appointment or may offer to see the complainant at this stage.

Staff are reminded that when internally escalating any complaint to the complaint’s manager then a full explanation of the events leading to the complaint is to be given to allow any appropriate response.

## Written complaints

Whilst this is not the preferred option due to the timescales involved in compiling a letter of complaint and any subsequent response for both the patient and the complaints manager, an alternative option can be offered for any complaint to be forwarded by letter or email to the complaints manager.

When a complaint is received then the response is to be as per [section 3.8](#_Response_times).(from detailed procedure guide for staff and employers).

## Who can make a complaint?

A complaint may be made by the person who is affected by the action or it may be made by a person acting on behalf of a patient in any case where that person:

* Is a child (an individual who has not attained the age of 18)

In the case of a child, this organisation must be satisfied that there are reasonable grounds for the complaint being made by a representative of the child and furthermore that the representative is making the complaint in the best interests of the child.

* Has died

In the case of a person who has died, the complainant must be the personal representative of the deceased. This organisation will require to be satisfied that the complainant is the personal representative.

Where appropriate we may request evidence to substantiate the complainant’s claim to have a right to the information.

* Has physical or mental incapacity

In the case of a person who is unable by reason of physical capacity, or lacks capacity within the meaning of the Mental Capacity Act 2005, to make the complaint themselves, this organisation needs to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is made.

* Has given consent to a third party acting on their behalf

In the case of a third party pursuing a complaint on behalf of the person affected we will request the following information:

* + Name and address of the person making the complaint
	+ Name and either date of birth or address of the affected person
	+ Contact details of the affected person so that we can contact them for confirmation that they consent to the third party acting on their behalf

The above information will be documented in the file pertaining to this complaint and confirmation will be issued to both the person making the complaint and the person affected.

* Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs
* Is an MP, acting on behalf of and by instruction from a constituent

Should the complaints manager be of the opinion that a representative does or did not have sufficient interest in the person’s welfare, or is not acting in their best interests, they will discuss the matter with either the defence union or NHS England area complaints team to confirm prior to notifying the complainant in writing of any decision.

## Complaints advocates

Details of how patients can complain and also how to find independent NHS complaints advocates are to be detailed within the organisation leaflet at [Annex D](#_Annex_D_–). (from detailed procedure guide for staff and employers).

Independent advocacy services include:

1. [POhWER](https://www.pohwer.net/) – a charity that helps people to be involved in decisions being made about their care. POhWER’s support centre can be contacted via 0300 456 2370
2. [Advocacy People](https://www.theadvocacypeople.org.uk/) – gives advocacy support. Call 0330 440 9000 for advice or text 80800 starting message with PEOPLE
3. [Age UK](https://www.ageuk.org.uk/) – may have advocates in the area. Visit their website or call 0800 055 6112
4. Local councils can offer support in helping the complainant to find an advocacy service. Visit <https://www.gov.uk/find-your-local-council>

##  Investigating complaints

Townfield Doctor Surgery will ensure that complaints are investigated effectively and in accordance with extant legislation and guidance.

This organisation will adhere to the following standards when addressing complaints:

1. The complainant has a single point of contact in the organisation and is placed at the centre of the process. The nature of their complaint and the outcome they are seeking are established at the outset.
2. The complaint undergoes initial assessment and any necessary immediate action is taken. A lead investigator is identified.
3. Investigations are thorough, where appropriate obtain independent evidence and opinion, and are carried out in accordance with local procedures, national guidance and within legal frameworks.
4. The investigator reviews, organises and evaluates the investigative findings.
5. The judgement reached by the decision maker is transparent, reasonable and based on the evidence available.
6. The complaint documentation is accurate and complete. The investigation is formally recorded with the level of detail appropriate to the nature and seriousness of the complaint.
7. Both the complainant and those complained about are responded to adequately.
8. The investigation of the complaint is complete, impartial and fair.
9. The complainant should receive a full response or decision within six months following the initial complaint being made. If the complaint is still being investigated, then this would be deemed to be a reasonable explanation for a delay.

##  Final formal response to a complaint

A final response should only be issued to the complainant once the letter has been agreed by GMC AND LMC\*. Following this and upon completion of the investigation, a formal written response will be sent to the complainant and will include the following as per NHS Resolution (see extract)[[4]](#footnote-4):

* Be professional, well thought out and sympathetic
* Deal fully with all the complainant’s complaints
* Include a factual chronology of events which sets out and describes every relevant consultation or telephone contact, referring to the clinical notes as required
* Set out what details are based on memory, contemporaneous notes or normal practice
* Explain any medical terminology in a way in which the complainant will understand
* Contain an apology, offer of treatment or other redress if something has gone wrong
* The response should also highlight what the organisation has done, or intends to do, to remedy the concerns identified to ensure that the problem does not happen again
* The response should inform the complainant that they may complain to the

Parliamentary and Health Service Ombudsman (PHSO) if they remain dissatisfied

Consideration must be given to the fact that the response is likely to be read by the complainant’s family and possibly legal advisers.

A full explanation and apology may assist in avoiding a claim. However, if a

patient subsequently brings a claim for compensation, the complaint file is likely to

be used in those proceedings so it is important that any response to a complaint is

clear and well explained and can be supported by evidence.

The full and final response should ordinarily be completed within six months, although should it be likely that this will go beyond this timescale, the complaints manager will contact the complainant to update and give a projected completion timescale.

\* Note, it is not a mandatory requirement to forward all complaint response letters to the defence union prior to sending to the complainant. This has simply been added to reduce any potential risk of litigation.

Organisations may therefore wish to continue to forward only the most significant complaints to the defence union.

##  Confidentiality in relation to complaints

Any complaint is investigated with the utmost confidence and all associated documentation will be held separately from the complainant’s medical records.

Complaint confidentiality will be maintained, ensuring only managers and staff who are involved in the investigation know the particulars of the complaint.

##  Persistent and unreasonable complaints

The management of persistent and unreasonable complaints at Townfield Doctor Surgery is achieved by following the guidance detailed at [Appendix 2](https://www.england.nhs.uk/wp-content/uploads/2016/07/nhse-complaints-policy-june-2017.pdf) of the NHS England Complaints Policy.

##  Complaints citing legal action

Should any complaint be received and the content states that legal action has been sought then, prior to any response, consideration should be given to contacting the defence union for guidance.

It should be noted that NHS guidance is confusing surrounding whether or not a response needs to be given to any complainant who has confirmed that legal action is being sought against the organisation or any of its members.

Background:

1. The NHS complaints policy dated March 2015 highlighted in Chapter 6 that the following complaints cannot be dealt with under the NHS Complaints Regulations 2009:

*“A complainant has stated in writing intent to take legal proceedings in relation to the substance of the complaint where it will prejudice the proceedings”*

1. In the latest NHS Complaints Policy dated July 2017, this clause has been removed although the overarching [legislation](https://www.legislation.gov.uk/uksi/2009/309/contents/made) has not been amended since 2009. Therefore, with the legislation pre-dating both policies, how could the latest policy have changed without any direction?

There is confusion surrounding this subject as the two latest NHS E guidance documents contradict one another although the lawful regulation has not changed.

This was put to NHS England Head of Complaints and the following was received:

*“As you flag, the Regulations have been in place since 2009 and have not been changed in that time. I came into post in June 2020 and am looking at our current Complaint Policy which in itself is overdue for a refresh – at the moment we are holding fire on doing that as we know that the PHSO will be publishing some form of model policy as part of the Complaint Standards work they launched last year.*

*With regard to the statements in our 2015 and 2017 policy documents, I have to concede that there appears to have been an error in the drafting of 2015 policy which referenced that complaints should not be progressed where complainants had stated in writing intent to take legal proceedings in relation to the substance of the complaint where it will prejudice the proceedings. There is no reference to this in the 2009 regulations and it should not have been included in our 2015 policy.*

*It seems that this error was addressed in the review in 2017 when this statement was removed from the policy.*

*I would like to offer my sincere apologies for this error and assure you that any further iterations of our policy will not include reference to this (unless required to by any future changes in legislation)".*

Actions:

1. It is strongly suggested that should any organisation receive a complaint that highlights that legal action has been taken then they should be cautious.
2. By doing nothing with any complaint of this type, this could affect the outcome of a CQC assessment and/or the relationship with your CCG/NHS E area teams. As the response from NHS E states, you must deal with a complaint that cites legal action against you as you would for any other complaint.
3. If in doubt, seek clarification from your NHS Improvement area team, even if only to advise that the organisation feels it should not respond as this could jeopardise the proceedings.
4. It is strongly suggested that organisations make a record of everything involving the complaint.

##  Complaints involving external staff

Should a complaint be received about a member of another organisation’s staff, then this is to be brought to the attention of the complaints manager at the earliest opportunity. The complaints manager will then liaise with the other organisation’s manager.

##  Multi-agency complaints

Should a complaint be received that references other organisations, the complaint is to be investigated in collaboration with all the organisations that are involved. Complaints managers from each organisation will need to determine which the lead organisation will be and the lead organisation will then be responsible for coordinating the complaint.

##  Complaints involving locum staff

Mrs Otilia Coelho will ensure that all locum staff, be it GPs, nurses or administrative staff, are aware of both the complaints process and that they will be expected to partake in any subsequent investigation, even if they have left the organisation (keeping in mind the 12-month time frame to complain).

Locum staff must receive assurance that they will be treated equally and that there is no difference between locum staff, salaried staff or partners.

## Significant events

When a complaint is raised, it may prompt other considerations, such as a significant event (SE).  SEs are an excellent way to determine the root cause of an event and] Townfield Doctor Surgery can benefit from the learning outcomes as a result of the SE.

It is advised that the complainant, their carers and/or family are involved in the SE process.  This helps to demonstrate to the complainant that the issue is being taken seriously and investigated by Townfield Doctor Surgery. NHS(E) see too many instances where complainants are not involved in the SE process.

## Fitness to practice

When a complaint is raised, consideration may need to be given to whether the complaint merits a fitness to practise referral. Advice may need to be sought from the relevant governing body such as the GMC, NMC, HCPC etc.

At Townfield Doctor Surgery, the Otilia Coelho will be responsible for firstly discussing the complaint with the clinician involved and then seeking guidance from the relevant governing body where applicable.

##  Logging and retaining complaints

All organisations will need to log their complaints and retain as per the [Records Retention Schedule](https://practiceindex.co.uk/gp/forum/resources/record-retention-schedule.767/).

All evidence of complaints is compiled within the [KO14b Complaints Log Toolkit](https://practiceindex.co.uk/gp/forum/resources/ko14b-complaints-log-toolkit.1364/).

Evidence required includes:

1. Logging, updating and tracking for trends and considerations
2. Details of all dates of acknowledgement, holding and final response letters and the timely completion of all correspondence relating to the complaint
3. Compliance with the complaints in the categories that are required to complete the annual KO14b submission[[5]](#footnote-5)

## Patient complaint form

**SECTION 1: PATIENT DETAILS**

|  |  |  |  |
| --- | --- | --- | --- |
| Surname |  | Title |  |
| Forename |  |

|  |
| --- |
| Address |
|   |

 |  |
| Date of birth |  |
| Telephone no. |  | Postcode |  |

**SECTION 2: COMPLAINT DETAILS**

Please give full details of the complaint below including dates, times, locations and names of any organisation staff (if known). Continue on a separate page if required.

|  |
| --- |
|  |

**SECTION 3: OUTCOME**

|  |
| --- |
|  |

**SECTION 4: SIGNATURE**

|  |  |  |  |
| --- | --- | --- | --- |
| Surname & initials |  | Title |  |
| Signature |  | Date |  |

**SECTION 5: ACTIONS**

|  |
| --- |
| Passed to management Yes/No |

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##  Third party patient complaint form

**SECTION 1: PATIENT DETAILS**

|  |  |  |  |
| --- | --- | --- | --- |
| Surname |  | Title |  |
| Forename |  |

|  |
| --- |
| Address |
|   |

 |  |
| Date of birth |  |
| Telephone no. |  | Postcode |  |

**SECTION 2: THIRD PARTY DETAILS**

|  |  |  |  |
| --- | --- | --- | --- |
| Surname |  | Title |  |
| Forename |  |

|  |
| --- |
| Address |
|   |

 |  |
| Date of birth |  |
| Telephone No. |  | Postcode |  |

| Advocacy support* [POhWER](https://www.pohwer.net/) support centre can be contacted via 0300 456 2370
* [Advocacy People](https://www.theadvocacypeople.org.uk/) gives advocacy support on 0330 440 9000
* [Age UK](https://www.ageuk.org.uk/) on 0800 055 6112
* Local Council can give advice on local advocacy services

Further actionIf you are dissatisfied with the outcome of your complaint from either NHS England or this organisation then you can escalate your complaint to:Parliamentary Health Service Ombudsman (PHSO)Milbank TowerMilbankLondonSW1P 4QPTel: 0345 015 4033www.ombudsman.org.uk  |  |  |
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| Talk to usEvery patient has the right to make a complaint about the treatment or care they have received at Townfield Doctor Surgery .We understand that we may not always get everything right and, by telling us about the problem you have encountered, we will be able to improve our services and patient experience. Who to talk toMost complaints can be resolved at a local level. Please speak to a member of staff if you have a complaint; our staff are trained to handle complaints. Alternatively, ask to speak to the complaint’s manager, Otilia coelho | If for any reason you do not want to speak to a member of our staff, then you can request that NHS England investigates your complaint. They will contact us on your behalf:NHS EnglandPO BOX 16738RedditchB97 9PT03003 112233england.contactus@nhs.netA complaint can be made verbally or in writing. A complaints form is available from reception. Additionally, you can complain via email to hillccg.townfieldsurgery@nhs.net Time frames for complaintsThe time constraint on bringing a complaint is 12 months from the occurrence giving rise to the complaint, or 12 months from the time you become aware of the matter about which you wish to complain.The Otilia Coelho] will respond to all complaints within three business days. We will aim to investigate and provide you with the findings as soon as we can and will provide regular updates regarding the investigation of your complaint. | Investigating complaintsTownfield Doctor Surgery will investigate all complaints effectively and in conjunction with extant legislation and guidance. ConfidentialityTownfield Doctor Surgery will ensure that all complaints are investigated with the utmost confidentiality and that any documents are held separately from the patient’s healthcare record. Third party complaintsTownfield Doctor Surgery allows a third party to make a complaint on behalf of a patient. The patient must provide consent for them to do so. A third-party patient complaint form is available from reception.Final responseTownfield Doctor Surgery] will issue a final formal response to all complainants which will provide full details and the outcome of the complaint. Further information is detailed in our organisation policy.Hrdydyd8 |
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1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)
3. [↑](#footnote-ref-3)
4. [↑](#footnote-ref-4)
5. [↑](#footnote-ref-5)