

Privacy Impact Assessment (PIA) Report

NHS Model Complaints Handling Procedure

November 2016

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Context

The Scottish Health Council's report '*Listening and Learning: how feedback, comments, concerns and complaints can improve NHS services in Scotland*' made a number of recommendations relating to complaints handling, including a direct recommendation that the SPSO's Complaints Standards Authority (CSA) lead on the development of a revised standardised complaints handling procedure (CHP) for NHS Scotland. The report recommended that the national dataset that is collected about complaints and feedback locally and reported nationally to Information Services Division should be reviewed and refreshed in line with a newly modelled process to ensure that the focus is on demonstrating learning and improvement, alongside effective complaints processes.

In January 2015 the Scottish Government set out its plans for the CSA to work with NHS Boards to develop this revised model CHP and associated information materials. Following this, the planned changes were explored at an executive master class on 'Listening and Learning', and through a series of workshops for senior charge nurses, team leaders and managers, in Edinburgh, Glasgow, Aberdeen and Inverness.

Based on these discussions, proposals for taking forward the recommendations included:

- Developing a model complaints handling procedure (CHP) for all NHS Boards and health service providers to adapt and adopt. This would build on the Patient Rights (Scotland) Act 2011 and the Scottish Government's existing 'Can I Help You' (CIHY) guidance, but would essentially take CIHY a stage further with a detailed practical template for use across the NHS.
- Within this model CHP the existing process should be amended to bring it in line with that operating in other public service sectors through the SPSO's model CHP. This would involve the addition of a five working day frontline resolution stage to the current 20 working day stage for investigations, replacing the current three working day provision for early resolution which is contained within the single stage 20 working days. This will bring a sharper focus to the early resolution of relatively straightforward complaints. Provision would be made for complex complaints to go straight to the investigation stage without the need for attempts at early resolution. There will also be benefits in terms of aligning the process more closely with local authorities and the Scottish Government's proposed arrangements for health and social care and social work complaints, which will start to address the current differences in approach to complaints handling across integrated health and social care services.

Given this reworking of existing processes and procedures, it is appropriate to consider the privacy impact of these changes, alongside a reconsideration of the impact of existing processes, particularly in light of the sensitive nature of information often contained within complaints correspondence.

Privacy Impact Assessment Report

NHS Model Complaints Handling Procedure

Privacy impact assessment (PIA) screening questions

A set of screening questions was used to help decide the scope and focus of the PIA. We adapted these based on an examination of the privacy issues that were considered as part of the work of the steering group and sub-groups convened to progress the revision of the complaints handling procedure.

The screening questions and analysis are included at Annex A.

The information flows

The Patient Rights (Feedback, Comments, Concerns and Complaints (Scotland) Directions 2012 set out, at Direction 6 ('Requirement to Deal with Complaints'), what information must be included in the written record of a complaint. The CIHY guidance makes clear (at 3.8.1.7) that all complains, even those that are resolved early without the need for a detailed investigation, should be recorded as normal to support organisational learning. Under the revised procedure, staff should ensure that all complaints continue to be recorded, even those resolved at stage one, within five working days (although these do not require an acknowledgement or a written report of the investigation to be sent to the person making the complaint). The requirement to record information about the complaint will revised as follows, in line with SPSO minimum requirements:

- the patient's name and address
- the date the complaint was received
- the nature of the complaint
- how the complaint was received
- the service the complaint refers to
- the date the complaint was closed at the frontline resolution stage (where appropriate)
- the date the complaint was escalated to the investigation stage (where appropriate)
- action taken at front resolution stage (where appropriate)
- action taken at the investigation stage (where appropriate)
- the date the complaint was closed at the investigation stage (where appropriate)
- the outcome of the complaint at the frontline resolution stage
- the outcome of the complaint at the investigation stage
- the underlying cause of the complaint and any remedial action taken.

NHS Boards and their health service providers have structured systems in place for recording complaints, their outcomes and any resulting action. As part of the review

Privacy Impact Assessment Report NHS Model Complaints Handling Procedure

process, a set of Key Performance Indicators (KPIs) were developed by the Recording and Reporting Sub-Group of the NHS Scotland Model Complaint Handling Procedure (“MCHP”) Steering Group, These indicators support the stronger focus, in the revised procedure, on organisational learning and improvement as well as providing timely and thorough response to the person making a complaint.

If, subsequently, the complaint is referred to the Ombudsman, this may result in a request for all relevant papers and other information to be provided in good time to the Ombudsman’s office. Complaints records should be kept separate from health records, subject only to the need to record information which is strictly relevant to the patient’s health in their health record. These documents should be managed with regard to the current Scottish Government Records Management Code of Practice.

Consultation requirements

The NHS Scotland Model Complaint Handling Procedure (“MCHP”) Steering Group created the Recording and Reporting Sub-group to:-

- Provide overall project governance for data recording and reporting aspects of the project; and
- Develop an approved approach to data recording and reporting in line with SPSO requirements, and consistent with other sectors in support of MCHP.

The expected output of the sub-group was “*an agreed, assured and responsive data recording and reporting approach, including key performance indicators and appropriate tools to support it*”. Complaints officers from NHS Scotland as well as colleagues from Scottish Government and from the Information Services Division (“ISD”) of NSS were invited to join the sub-group, in order that the output would reflect good practice and concerns.

Privacy issues have been considered as part of the work of the NHS Scotland Model Complaint Handling Procedure (“MCHP”) Steering Group and Recording and Reporting Sub-group. In addition, these issues were considered by a workshop convened to develop the EQIA and CRWIA for the project.

Privacy Impact Assessment Report NHS Model Complaints Handling Procedure

Record of the PIA outcomes and integrate the outcomes back into the project plan

The revision of the procedure involves a greater emphasis on early, local resolution, wherever appropriate, so it is important that the requirements of the revised processes are clear, both to practitioners recording and to those making the complaint.

Detailed practitioner training will therefore be developed, to support staff to implement the procedure correctly, as will clear and accessible awareness-raising materials for patients, families and carers.

Specific elements of the NHS model complaints handling procedure, including the revised recording and reporting requirements, will be tested in two Board areas ahead of the proposed implementation date of 1 April. This 'early testing' will help identify any emerging issues in relation to the recording and reporting of complaints data, and any additional training requirements.

The privacy impacts of the proposed changes to the NHS complaints procedure will be monitored during this period of early testing and reviewed again in November 2017.

Contacts and review

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**Privacy Impact Assessment Report
NHS Model Complaints Handling Procedure**

ANNEX A – Privacy and related risk analysis

Initial screening questions

Question	Answer
Will the project involve the collection of new information about individuals?	No
Will the project compel individuals to provide information about themselves? Will information about individuals be disclosed to organisations or people who have not previously had routine access to the information?	No No
Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?	No
Does the project involve you using new technology that might be perceived as being privacy intrusive? For example, the use of biometrics or facial recognition.	No
Will the project result in you making decisions or taking action against individuals in ways that can have a significant impact on them?	Yes
Is the information about individuals of a kind particularly likely to raise privacy concerns or expectations? For example, health records, criminal records or other information that people would consider to be private.	Yes
Will the project require you to contact individuals in ways that they may find intrusive?	No

Privacy Impact Assessment Report NHS Model Complaints Handling Procedure

Analysis

Questions to identify Privacy Issues	Risk	Impact	Likelihood
1. Technology			
(1) Does the proposal include the use of new or additional technologies with the potential for privacy intrusion?	The proposal builds upon existing collection methods and technologies currently in operational use.	Low	Low
2. & 3. Identity			
(2) Identity: Does the proposal include new identifiers, or substantially change or re-use existing, identifiers or any intrusive or onerous identification, authentication or identity management processes?	The proposal builds upon existing identity methods and technologies currently in operational use.	Low	Low
(3) Identity: Does the proposal affect anonymity or pseudonymity; will previously anonymous or pseudonymous transactions be identified?	The proposal builds upon existing operational processes.	Low	Low
4. Justification			
(4) Is the justification for the proposal either unpublished or unclear?	No. A full revised process and procedure will be published, including in accessible formats.	Low	Low
4a) Does the proposal involve new or changed data collection policies or practices that may be unclear or intrusive?	Yes. The revision of the procedure involves a greater emphasis on frontline early resolution, so in initial implementation the revised processes may be unclear, both to practitioners and to those making the complaint. Mitigation – detailed practitioner training will be developed, as will clear and accessible awareness raising materials.	Medium	Medium
4b) Does the proposal involve new or changed quality assurance or security processes or	The proposal builds upon existing operational processes.	Low	Low

Privacy Impact Assessment Report NHS Model Complaints Handling Procedure

standards that may be unclear and/or unsatisfactory?			
4c) Does the proposal involve new or changed data access or disclosure arrangements that may be unclear or permissive?	The proposal builds upon existing operational processes.	Low	Low
4d) Does the proposal involve new or changed data retention processes that may be unclear or extensive?	The proposal builds upon existing operational processes.	Low	Low
4e) Does the proposal involve a new or changed medium or method of disclosure for publicly available information so data is more readily accessible?	The proposal builds upon existing operational processes.	Low	Low
5. Multiple organisations			
(5) Will the proposal involve multiple organisations, either government agencies (e.g. 'joined-up government' initiatives) or the private sector?	The proposal builds upon existing operational processes, which involve the centralised reporting of annual complaints statistics.	Low	Low
6. & 7. Data			
(6) Does the proposal involve personal data of particular concern to individuals?	Yes. Complaints data can be of a highly sensitive nature, but given that the proposal builds upon existing operational processes no new risks are introduced.	High	High
(7) Does the proposal involve the linkage of personal data with data in other collections, or any significant change to existing data links or holdings?	No	Low	Low
8. 9. & 10. Data handling scope			
(8) Will the proposal handle a significant amount of data about each person, or significantly change existing data-holdings?	The proposal builds upon existing operational processes.	Low	Low

Privacy Impact Assessment Report NHS Model Complaints Handling Procedure

(9) Will the proposal handle data about a significant number of people, or change significantly the existing population scope or coverage?	The proposal builds upon existing operational processes.	Low	Low
(10) Does the proposal consolidate, inter-link, cross-reference or match personal data from multiple sources?	No.	Low	Low
11.12. & 13 Exemptions & exceptions			
(11) Is the proposal to process any data that is exempt from legislative privacy protections?	No	Low	Low
(12) Does the proposal's justification include significant contributions to public security measures?	No.	Low	Low
(13) Does the proposal intend to disclose personal data to, or access by, third parties that are not subject to EU or comparable privacy regulation?	No.	Low	Low