

# **The New Model NHS Complaints Handling Procedure - Review of First Year**

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**March 2019**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

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## Executive Summary

This report presents the first year experience of NHS Boards of the new Complaints Handling Procedure (CHP) implemented in April 2017. The findings highlight the progress in complaints handling, the culture around complaints as well as the challenges and barriers faced by Boards. The report was informed by reviewing the 2017/18 feedback and complaints annual reports as well as discussions with key staff from several NHS complaints teams and with stakeholders from the Scottish Public Services Ombudsman's office, NHS Education for Scotland, the Patient Advice and Support Service and the Scottish Mediation Network.

### Key findings

The finding and suggestions detailed in the report focus on:

- How NHS Boards are encouraging and gathering feedback;
- How the CHP is working in the Boards and the differences it has made;
- How learning is captured and is used to drive improvements;
- The complaint process experience for complainants;
- Staff training and development and sharing between Boards;
- How the CHP is working for independent contractors and in prisons;
- Accountability and governance mechanisms;
- Reporting and benchmarking.

The findings show that the NHS Boards have made progress in various aspects of complaints handling. The key findings that emerged were:

1. **Progress in culture:** The CHP implementation has been positive for the Boards with progress in the culture around complaints, embracing learning and steadily moving away from the blame culture. Moreover, the feedback and complaints teams have been empowered by the CHP as it has enabled them to compel staff to follow their complaints process and it increased their visibility in the organisation. They are also more positively received by staff and complaints and learning are regarded more highly by senior management.
2. **Early resolution is encouraged and getting better:** The formalisation of stage one complaints and the focus on early resolution is viewed positively by the Boards. It is seen as opportunity for work done by frontline staff to be recognised and supported. Although challenges still exist, Boards are satisfied with their progress.
3. **Increased involvement of complainants and their families in the process:** Meetings with complainants and their families have increased. Boards see that the benefits of meetings outweigh the cost (timescale) as they often increase clarity of the complaint issues and expectations, lead to a quicker resolution and higher satisfaction for both patients and staff.

4. [The complaint process experience measure is a challenge](#): Boards are dissatisfied with this KPI with challenges around collecting the data and analysing and using the data to inform improvement.

## Key observations

### Encouraging and Gathering Feedback

1. Although understandably challenging for the larger Boards, Boards should consider restructuring to ensure a more integrated approach to feedback and complaints with an effort for a more systematic approach for learning and improvement.
2. Boards should consider reviewing whether they could increase the visibility of the feedback and complaints teams.
3. Healthcare Improvement Scotland and the four participating Boards could share their learning from the [Healthcare improvement Scotland real-time and right-time care experience improvement models evaluation](#) for other Boards to consider adopting these feedback models.
4. Boards should consider identifying a person in each service area as a Care Opinion responder. The central team could monitor initial responses to gain quality assurance but staff should be empowered to respond to feedback about their services.
5. Feedback and complaints webpages should aim to be simple to find and simple to understand. Ideally, there is one form or contact for both concerns and complaints and the team then applies the CHP definitions accordingly.
6. Boards need to upload their most recent annual report on their website.

### Encouraging and Handling Complaints

1. Boards to consider some access to the complaints system for services for slicker communication between the central and local teams e.g. on pending actions or upcoming deadlines.
2. Continue to raise awareness among staff on CHP and empower them for early local resolution.
3. More effort for increasing contact with complainants at the beginning to clarify issues, manage expectations and explain the process.
4. Develop structured guidance for meetings.
5. Offer a debrief for staff and patients/family after a meeting for complex/sensitive cases.
6. Boards to consider reviewing whether the central complaints team have the capacity to send complaints out to relevant services soon after they are received, preferably the same day to allow enough time for care teams to investigate.
7. Boards to ensure sign off responsibilities are not delaying closure of complaints.

8. Continue to build the complaints teams and staff's confidence around closing complaints and directing to SPSO if a complainant is still unhappy once they have completed the investigation and issued their response.
9. Boards could highlight their consent issues through NCPAS whilst considering the general guidance provided in the CHP appendix 8.
10. Scottish Government to consider the impact of their requests on the NHS. They could ensure consent from the patient has been given and that the patient fully understands what information will be shared and with whom.
11. When dealing with joint complaints, Boards need to have clear communication and agreement between the organisations involved and refer to the CHP guidance.
12. It would be helpful if the NHS National Services Scotland assists with the provision of a common system and version for the territorial boards. This would ensure Datix is fit for purpose and that all Boards benefit from any changes and improvements to the system as well as ensure consistency in recording and reporting.
13. It could be useful for complaints team that have not yet done so to arrange a visit to SPSO to get a clearer understanding of their procedures.
14. SPSO could clarify their own timescales.
15. SPSO could ensure there is consistency between their investigation handlers e.g. in what type of evidence is acceptable.
16. SPSO could offer more guidance on how frequently to keep complainant updated and how long is it acceptable to extend the timescale.
17. The mediation network could continue to clarify how mediation fits in the CHP. They could share this information along with testimonials from public services, particularly within health.
18. Boards should continue to increase the knowledge of staff in relation to the benefits of mediation and identification of where it may be appropriate within the complaints handling process. Taking up the Scottish Mediation offer of delivering workshops for staff may be beneficial in supporting this.
19. The demands on the PASS service should be monitored closely to ensure resources are sufficient to meet demands.

### **Key Performance Indicator One: Learning from Complaints**

1. Consider including an actions tracker on Datix.
2. Service reviews could incorporate an analysis of feedback and complaints to ensure themes and matters that require more significant/wider service improvement and/or resource from the Boards are identified.
3. Boards could share resources they have for capturing learning such as reflective learning forms and response templates.
4. Continue to remind staff to include actions and learning in response letters.

5. Consider having a learning summary/form for stage two complaints including what went well and improvements identified. The management team need to commit to at least one improvement action.
6. Boards to encourage monitoring of actions/quality improvement plans.
7. Consider the healthcare analysis tool used by NHS Dumfries and Galloway to help analyse complaints and identify themes and trends.
8. Complaints teams could ask for evidence of actions to be provided immediately. This provides assurance to the Boards and they are prepared ahead for any cases that go to SPSO.
9. Complaints teams could seek opportunities for sharing learning and improvements carried out by services or the organisation via internal communications.
10. To encourage services to share learning summaries that might be beneficial for other services as well as patients.
11. Staff named in complaints could be kept informed of investigation and actions and receive a copy of the final response letter.
12. Arrangements could be put in place to support staff who are the subject of complaints.

#### **Key Performance Indicator Two: Complaints Process Experience**

1. A national approach could be developed with discussion in NCPAS to discuss Boards' concerns, challenges and ideas for solutions.
2. Consider involvement of the Scottish Health Council (SHC) to identify a national approach – e.g. NHS Forth Valley have been working with SHC on this KPI and have a revised survey form and are considering other feedback formats. It would be good if their experience were shared with other Boards. Also, it might provide better response if data is collected by an organisation independent of the Board to reduce bias and because people that were not satisfied might not see value of providing feedback.
3. SPSO could advise on the processes that are successful for this KPI in other public sectors to discuss if they could be adapted for the NHS.
4. NHS Boards to ask for guidance from the Information Commissioner about consent required for KPI 2 to ensure GDPR compliance.
5. Consider learning from the HIS real-time and right-time model, namely that qualitative feedback might be more valuable than survey data.

#### **Key Performance Indicator Three: Staff Training and Development**

1. Scottish Government could clarify the level of detail required in reporting this KPI.
2. Boards to consider whether some of the complaints related training could be made mandatory to certain staff groups or at least highly encouraged.
3. Complaints teams could seek opportunities to attend staff meetings/huddles to raise awareness of complaints issues, resources available and training.

4. Promote training and SPSO resources to contractors.
5. More training considered for frontline staff related to building confidence and managing difficult conversations.
6. Boards could review whether complaints and learning from complaints is included in senior managers' performance objectives and to consider adding these objectives if absent.
7. Frequent internal communication such as sharing Care Opinion stories, learning from complaints, patient experiences or promotion of training to maintain awareness of CHP among staff.
8. Could increase opportunities for face-to-face training for complaints teams and for contractors.
9. Could commission a training impact evaluation.
10. To discuss with NES the possibility of developing a learning network for complaints and adverse events teams.
11. To have discussions at NCPAS about the development and use of the complaints website within the knowledge network to coincide with NES' move to the new system. This could be used as a discussion forum and for sharing resources.

### **Independent Contractors**

1. Discuss the conflicting feelings of collecting and reporting performance data for independent contractors with the Scottish Government.
2. Consider a national effort for engaging contractors including opening and promoting training to them.
3. Could review the possibility of providing access to systems (e.g. Datix) to contractors with shared experiences from Boards.
4. Could offer a point of contact in the complaints team who can offer advice and support to contractors.
5. Independent contractors could complete the CHP compliance self-assessment.

### **Accountability and Governance**

1. Boards should consider completion of the Complaints Improvement Framework self-assessment for all areas/services, including contractors.

### **Reporting and Benchmarking**

1. It would be helpful to have clear annual figures and percentages in the annual complaints and feedback reports. Although graphs by month are helpful to observe trends and patterns within the Board, the annual figures are important for benchmarking.
2. To discuss KPIs 1-3, especially the patient experience measure during the NCPAS meeting to clarify the requirements, discuss the challenges and to reach an agreement on what is and what is not feasible in terms of measuring, collecting and analysing this information and ultimately guidance on using this information.

# 1. Introduction and policy background

## 1.1 Introduction

This report is a review of the NHS Scotland's first year experience of the model Complaints Handling Procedure. Scotland has 14 territorial health boards, 7 special health boards and 1 public health body.

The findings and observations have been informed by:

- 22 feedback and complaints 2017/18 annual reports;
- visits to 12 NHS boards (10 territorial and 2 special Boards);
- visits to 4 stakeholders.

See Appendix 4.1 for a list of the NHS Boards and stakeholders visited.

## 1.2 Background and policy context

[The Patient Rights Act \(Scotland\) 2011](#) was established to improve patient's experiences and involvement in their health and NHS services. The Act required NHS Boards to seek feedback, comments, concerns and complaints from all patients and to use the information to improve the services and the patient experience. Every patient has the right to give feedback or to raise concerns or complaints. Healthcare needs to be patient focused, with focus on the patient's needs and health and wellbeing.

The Scottish Health Council's '[Listening and Learning](#)' report published in April 2014 found that while all Boards could demonstrate clear progress in terms of responding to the requirements of the Patient Rights (Scotland) Act 2011, there were significant learning points for NHS Scotland in terms of welcoming feedback, removing the 'fear factor' and demonstrating improvement. It also recommended a more standardised approach for complaints management to address the inconsistencies between health Boards in process, procedures and implementation.

The Scottish Government agreed with the report's observation that the Complaints Standards Authority (CSA) should work with NHS Boards to develop a revised NHS model complaints handling procedure and associated information materials for all NHS boards and providers.

### 1.2.1 New model Complaints Handling Procedure

[The model CHP](#) has been developed through a partnership approach, led by a steering group involving the Scottish Public Services Ombudsman (SPSO) and representatives from across NHS Scotland including territorial boards, the Scottish Health Council, NHS Education for Scotland, NHS National Services Scotland, the National Prisoner Healthcare Network, primary care and the NHS Complaints Personnel Association Scotland (NCPAS). The independent Patient Advice and Support Service (PASS) and Healthcare Improvement Scotland public partners were also actively involved.

Feedback and complaints are extremely important for NHS Scotland, and for patients and carers who access healthcare services. Not only do they provide a route for people's views to be heard, they also provide a rich source of information for Boards and healthcare staff to understand what needs to be considered to make improvements in healthcare delivery.

The revised procedure is intended to support a more consistently person-centred approach to complaints handling across NHS Scotland, and bring the NHS into line with other public service sectors by introducing a distinct, five working day stage one process for early, local resolution, ahead of the twenty working day stage two process for complaint investigations. It reflects the broader ambition for the NHS in Scotland to be an open, learning organisation that listens and acts when unintended harm is caused. The procedure complements the Duty of Candour provisions in the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act, and the development of a national approach to reviewing and learning from adverse events. It is also complemented by the Apologies (Scotland) Act 2016, which is intended to encourage apologies being made, by making it clear that apologising is not the same as admitting liability. The CHP has a strong emphasis on frontline resolution and on monitoring, reporting and learning from complaints.

The CHP was introduced across Scotland from 1 April 2017. The key aims are:

- to take a consistently person-centred approach to complaints handling across NHS Scotland;
- to implement a standard process;
- to ensure that NHS staff and people using NHS services have confidence in complaints handling;
- encourage NHS organisations to learn from complaints in order to continuously improve services.

The new CHP introduced nine key performance indicators (see Appendix 4.2 for full list of indicators) by which NHS Boards and their service providers should measure and report performance. These indicators, together with reports on actions taken to improve services as a result of feedback, comments and concerns provide valuable performance information about the effectiveness of the process, the quality of decision-making, learning opportunities and continuous improvement. NHS Boards are required to review and report internally on complaints handling information quarterly, including SPSO observations with a view to identifying areas of concern, agreeing remedial action and improving performance. Boards must then publish their complaints handling performance annually. Directions require that the annual complaints statistics must be submitted by Boards to the ISD at National Services Scotland, within three months of the year-end.

### **1.3 Project aim and objectives**

The aim of this research project was to examine the experience of NHS Boards with regard to the first year of the new model CHP. The project was undertaken by an SGSSS intern over three months (October 2018 – January 2019). The internship project briefing is in Appendix 4.3.

## Objectives:

- To review the NHS Boards' annual reports (particularly the qualitative indicators 1 to 3, Appendix 4.2);
- To meet with NHS Boards' key staff and stakeholders;
- To identify what difference the CHP has made and whether it has been embedded into the NHS culture;
- To explore how it has influenced learning and service improvements;
- To explore effectiveness of internal communication of complaints information;
- To identify how the CHP is working in prisons;
- To highlight examples of good practice;
- To identify challenges and areas of concern;
- To produce a report that sets out the findings of this research project and observations.

## 1.4 Method

Between November and December 2018, NHS Boards' complaints and feedback annual reports were reviewed. The intern arranged visits to ten NHS territorial Boards and two special Boards to gather more qualitative information about the experience of the new model CHP, identify the challenges and examples of good practice. The intern also spoke with stakeholders to get more information on their involvement in the CHP development, their work with NHS Boards, patients and the public, and their views on the first year of CHP within the NHS and areas for improvement.

All NHS Boards responded positively to the request for their involvement in the review process and indicated that they looked forward to receiving the findings and observations that will support their improvement as well as help address common challenges. Visits lasted 1.5 to 3 hours and involved the complaints manager or team lead and sometimes additional team members or other staff involved in quality improvement.

During the visits, their annual report was considered in more detail, with particular focus on KPIs 1, 2 and 3. We discussed their experience and challenges for stage 1 and stage 2 processes, the Boards' culture around complaints and their work with independent contractors and prisons. Appendix 4.4 provides the briefing email sent to NHS Boards regarding the visits and review and Appendix 4.5 provides the topic guide sent to NHS Boards ahead of the visit. There were several examples of good practice happening in all Boards and some are highlighted in this report.

## 2. Findings and observations

This section describes the review findings, which are informed by the annual reports and visits to NHS Boards and stakeholders. The sections reflect the Listening and Learning report headings as well as the structure of most Boards' annual reports and the topic guide (Appendix 4.5). The findings and associated observations are aimed at NHSScotland rather than any particular Board.

### 2.1 Encouraging and Gathering Feedback

#### 2.1.1 Team structure and function

The NHS Boards complaints' teams vary in their structure and function. For example, some teams sit within quality improvement while others sit in communications. Some teams are responsible for all feedback, comments, concerns and complaints while others deal with complaints only with other feedback being the function of another team. The Listening and Learning report recommended an integrated approach to feedback and complaints with systems that support the recording of all types of feedback. This was the case for several Boards but others remain quite fragmented in their approach towards feedback and towards complaints. From the visits, it was also noted that it seemed beneficial when the complaints team was located closer to the services and staff such as in a hospital rather than a separate central building. Some said that this gave them the advantage of being more visible to staff and of being able to talk to the public and complainants more quickly.

#### Observations:

1. Although understandably challenging for the larger Boards, Boards should consider restructuring to ensure a more integrated approach to feedback and complaints with an effort for a more systematic approach for learning and improvement.
2. Boards should consider reviewing whether they could increase the visibility of the feedback and complaints teams.

#### 2.1.2 Equalities

All NHS Boards have a wide range of methods in place for gathering feedback and this was evidenced in the annual reports and during Board visits. The public has increasingly more opportunities to provide solicited and unsolicited feedback. There has been progress in the availability of mechanisms to capture feedback including different approaches to ensure equality and accessibility to all. Boards gave examples of mechanisms for gathering feedback across a spread of services, e.g. an inpatient survey, and of several initiatives taken by staff in their local services/areas. Annual reports evidence work around increasing awareness of PASS and advocacy services. Boards reported targeted approaches to capture feedback from minority groups and from 'seldom heard' groups.

Furthermore, many Boards reported on work with minority and hard to reach groups, establishing links and partnerships to involve patient representatives, public engagement networks and community groups. They seek their input and feedback

on services and developments to help improvements and ensure accessibility and responsiveness to people's needs.

### **Examples of good practice:**

- NHS Greater Glasgow and Clyde have a system to pull together the feedback from their three main feedback systems each month. Each directorate gets a monthly report and directorates update reports every three months with information on actions taken to address the issues. NHS Fife created drop ins for some of the community groups and take complaints there and then. NHS Dumfries and Galloway have introduced one hour feedback open sessions for staff to raise awareness on public feedback options and advocacy and support services.
- Four Boards were involved in the [Healthcare improvement Scotland real-time and right-time care experience improvement models evaluation](#). In brief, this involved gathering feedback through a brief themed conversation in real-time i.e. close to point of care and at the right time i.e. about 2-3 weeks after discharge. Boards use volunteers to gather this feedback and shared with the care teams for reflection and learning. Improvements are then identified, tested and implemented. These Boards' experience has been positive and they continued to use the model although with more limited resources. The models have now been evaluated and published with positive outcomes.

### **Observation:**

1. Healthcare Improvement Scotland and the four participating Boards could share their learning from the real-time and right-time project for other Boards to consider adopting these feedback models.

### **2.1.3 Use of Care Opinion**

The use of [Care Opinion](#) as an independent online feedback platform has grown immensely both in terms of the public sharing stories and in the number of staff reading and responding to stories about their care services. Many expressed that there was a slight apprehension around Care Opinion in the beginning especially by staff. However, all the Boards are positive about Care Opinion.

There is variation in how Boards manage the responsibility for responding to stories and comments posted on Care Opinion. Some only provide responses through the feedback/complaints team and others allow any staff to respond. Those that have responders across different levels of staff and services expressed that this has been positive and empowering for staff. Stories were shared on social media and some added that they were shared at Clinical Governance Committee. There is also variation on whether responders went back to Care Opinion to inform that an investigation was underway or to describe the actions that were taken.

### **Example of good practice:**

- NHS Lanarkshire and NHS Fife have a process for staff to become Care Opinion responders with the former providing a protocol for staff responders and induction training and in the latter staff go through a process of drafting responses and checked by the feedback/complaints team until they can

respond immediately. Both Boards also encourage staff to go back to the platform with updates, such as actions taken and improvements planned.

**Observation:**

1. Boards should consider identifying a person in each service area as a Care Opinion responder. The central team could monitor initial responses to gain quality assurance but staff should be empowered to respond to feedback about their services.

### **2.1.4 Feedback and Complaints website**

All NHS Boards' feedback and complaints webpage was found in 4 clicks or fewer from the NHS Boards' home page. They all included an explanation of the CHP with SPSO and PASS contacts. Some Boards had different forms or contacts for compliments, comments, concerns and complaints. This could be confusing for the public particularly to differentiate between concerns and complaints. At this time, Annual Feedback and Complaints reports for 2017/18 were published by 14 of the 22 Boards on their website.

**Observations:**

1. Feedback and complaints webpages should aim to be simple to find and simple to understand. Ideally there is one form or contact for both concerns and complaints and the team then applies the CHP definitions accordingly.
2. Boards, who have not already done so, need to upload their most recent Annual Feedback and Complaints report on their website.

## **2.2 Encouraging and Handling Complaints**

### **2.2.1 First year overview**

Generally, the first year was described as a slow start with some teething issues getting better as the year went along mostly due to the early work and preparation taken by the complaints' teams and the Board ahead of April 2017. Most Boards experienced an increase in complaints in 2017/18 after the CHP implementation compared to the year before implementation. This was explained by Boards as due to the change in categorisation – concerns are now more likely to be categorised as stage one complaints. SPSO also said that a first year spike was expected and a good sign, as previously there probably was an underreporting of complaints in the NHS. Overall, the CHP has been helpful in providing clarity between the stages - provided local ownership for stage one and gave more coordination and authority to the complaints teams. It was also an opportunity for certain Boards to restructure.

The CHP was an opportunity to standardise recording and reporting of complaints within Boards' services especially for the larger Boards where variation existed. However, some variations still exist across all Boards in terms of the management of complaints, the level to which service users, carers and families are involved and the compliance with timescales and reporting. While progress towards standardisation is clear, this is not fully accomplished.

### 2.2.2 Early resolution

An emphasis in the Listening and Learning report and in the developed CHP is early resolution and frontline ownership. The formalisation of stage one and focus on early resolution is viewed positively by Boards. For most Boards the addition of stage one has not resulted in more work but was an opportunity for work that was already being done by frontline staff to be recognised and to be more supported.

Some Boards gave full access to Datix to staff for recording complaints, others gave limited access while at other Boards staff do not have access to the system. Stage one complaints recorded are often the ones that are received centrally, categorised as stage one and sent to the relevant service. During visits, Boards said that it is unrealistic to expect staff to record all the complaints that come in locally especially the ones that are resolved quickly. They do not expect them to do this and the emphasis should be on empowering staff to resolve things at point of contact rather than capturing everything. They said that staff are getting more confident at handling issues locally although it is more difficult for junior staff.

#### **Observations:**

1. Boards to consider some access to the complaints system for services for slicker communication between the central and local teams e.g. on pending actions or upcoming deadlines.
2. Continue to raise awareness among staff on CHP and empower them for early local resolution.

### 2.2.3 Investigations

The investigation of complaints is handled differently by different Boards. The CHP has helped streamline the process and given the complaints team more authority to pursue compliance with the procedure. Teams that have regular meetings with senior management find it helpful as management take complaints seriously and get the staff to deal with things more quickly, something which is sometimes hard for the complaints team to do e.g. to get consultants to respond to them.

#### **Examples of good practice:**

- NHS Dumfries and Galloway have built a network of feedback coordinators. They are used for triage, allocating complaints to the right person and use Datix to login details and do the administrative work e.g. keeping an eye on timescales and sending letters.
- NHS Fife have single points of contacts for stage one and stage two complaints and they hold weekly meetings with their contacts keeping them updated on open complaints.

### 2.2.4 Meeting with complainants

The Listening and Learning report had found inconsistencies in the level of involvement of service users, carers and families in the management of complaints. The CHP encourages meetings with complainants. Most Boards reported an

increase in contact with complainants and their carers/families some on a consistent basis. Meetings are more likely to happen towards or at the end of the complaint process. The staff named in the complaints are not usually in the meeting but their manager/senior is. Many of the complaints teams said that someone from their team tries to attend meetings too to facilitate and take notes.

Contact with complainants at the beginning of a complaint varied but is still quite limited. Some Boards did not think such clarification was needed for most cases so only contacted the complainant if they were not clear, others saw the importance of clarifying issues but lack the resource to call complainants, while others invested in contacting all complainants. Some agreed that they need to get better at clarifying the complaint issues and the complainant's expectations but many also stated that they lack the resource to do this.

A challenge for meetings is the time needed to arrange them especially when they involve senior staff/consultants that need to take time out of their surgical/medical duties and so it is a challenge to meet the 20 working day timescale when such meetings are arranged. Some Boards recognise that they need more structure in meetings, such as making sure the expected outcomes and next steps are clear. However, all Boards agree that the benefits of meetings outweigh the cost as they very often increase clarity of the complaint issues and expectations, lead to better discussion and a quicker resolution. Both staff and complainants tend to be more satisfied with face-to-face meetings.

#### **Examples of good practice:**

- NHS 24 call complainants before sending the response out to talk them through it and offer a meeting with the response letter.
- NHS Forth Valley use a pro-forma for meetings to enable staff to have a consistent approach in planning meetings, providing guidance for meeting, informing appropriate staff, actions following meeting and re-assurance actions are followed and monitored.
- NHS Grampian call all stage 2 complainants to clarify issues, explain the process and offer a meeting.
- NHS Borders aim to contact complainants within 24 hours of complaint receipt to clarify issue to be addressed, to establish what outcome they want to achieve and explain the complaints process.

#### **Observations:**

1. More effort for contacting complainants at the beginning to clarify issues, manage expectations and explain the process.
2. Develop structured guidance for meetings.
3. Offer a debrief for staff and patients/family after a meeting for complex/sensitive cases.

## 2.2.5 Timescale

Most Boards are happy with the 5 days' timescale and achieve it for most stage one complaints. The timescale for stage one complaints is particularly challenging for special Boards that do not have the same amount of direct access to patients as other Boards and/or that have frontline staff that are mobile, e.g. NHS 24 and the Scottish Ambulance Service.

Some Boards said that they experience problems with cases not always being escalated to stage two after the maximum of 10 days allowed as set out in the CHP. This is because either the frontline staff struggled to notify when they needed more time or because the complaints team are hesitant in escalating them. It is likely that this is because staff feel they will be penalised for asking for extensions and complaints team feel like they are penalising them if they immediately escalate. Others reported problems recording the number of complaints that escalated from stage one to stage two but have resolved the issue in the second year. Therefore, this KPI may not be accurate in the first year.

Compliance with closing stage two complaints within 20 working days varied widely. Some Boards find it particularly challenging with less than half of cases closed within the target timescale. Variation in team personnel and resources available to support investigations e.g. not having the resources to make phone contact with all stage two complainants or to pass on complaints from the central team to local teams quickly. Another challenge mentioned by a few Boards was that their responses were looked at by several senior people and/or they were all signed off by one person making it a challenge to meet timescales.

Boards felt that success and failure are attached to the timescale and quantitative measures which means it is a challenge to draw a line between meeting targets and ensuring thorough investigations and quality responses. Most expressed that quality preceded importance to timeliness although they thought it would be hard to measure quality.

A common finding was that the CHP was helpful for giving them the confidence and authority to close complaints once they have issued their final response. Previously some cases would have been left open or re-opened when a complainant was unhappy, for example continuing to respond to the complainant's contact and continuing to meet them. With the new CHP, they are better at informing the complainant that once their final response is issued they need to go to SPSO if they are not satisfied with the decision.

### **Observations:**

1. Boards to consider reviewing whether the central complaints team have the capacity to send complaints out to relevant services soon after they are received, preferably on the day to warrant enough time for care teams to investigate.
2. Boards to ensure sign off responsibilities are not delaying closure of complaints.
3. Continue to build the complaints teams and staff's confidence around closing complaints and directing to SPSO if a complainant is still unhappy once they have completed the investigation and issued their response.

## 2.2.6 Consent

When someone who is not a patient makes a complaint, the Board requests the patient's consent at the start and sends reminders at different time points. Investigations are still conducted but if no consent is received by day 20, they close and withdraw the complaint while informing the complainant. Several challenges around consent from the patient to pursue the complaint and share medical records were raised by NHS Boards visited. First, as the time is not stopped while waiting for consent this sometimes resulted in going over the 20 days. It was taxing when time and resources were used to investigate a complaint which was later withdrawn as consent was not received by 20 days. Although some said the investigation is still useful when there is learning, but for certain complaints that are specific to the individual with limited related service improvement it feels like a waste of resources.

Some Boards also spoke about the challenge of responding to Scottish Government requests such as a when a complainant contacts an MSP and the MSP requests information about the case. Boards said that timescales were often unrealistically short and it was especially contentious when there was no consent from the patient for sharing that information. They also said that they fear that patients may not understand how much of their personal information will be exposed when they go to a MSP. If an investigation is already happening, MSP requests cause more work and make the process slower.

### **Observations:**

1. Boards could highlight their consent issues through NCPAS whilst considering the general guidance provided in the CHP appendix 8.
2. Scottish Government to consider the impact of their requests on the NHS. They could ensure consent from the patient has been given and that the patient fully understands what information will be shared and with whom.

## 2.2.7 Joint complaints

A couple of Boards indicated issues with joint complaints, namely that at times responses are provided separately and other times jointly. For joint responses, it seems like the lead Board provides the response letter with a statement included from any other Boards involved.

### **Observation:**

1. When dealing with joint complaints, Boards need to have clear communication and agreement between the organisations involved and refer to the CHP guidance.

## 2.2.8 Recording complaints

Most Boards use Datix as a system for recording information on complaints and their management. During the first year, there were some challenges around fitting Datix with the CHP reporting requirements. Furthermore, the ones that use Datix are using different versions. This provides a challenge for ensuring consistency in data recording and reporting. Boards using older versions said this is a Board's funding

issue and it is challenging for them as the old system cannot be updated anymore. The Datix team need more resources to update each one individually.

#### **Observation:**

1. It would be helpful if the NHS National Services Scotland assists with the provision of a common system and version for the territorial boards. This would ensure Datix is fit for purpose and that all Boards benefit from any changes and improvements to the system as well as ensure consistency in recording and reporting.

#### **2.2.9 The role of the SPSO**

When asked about their relationship with SPSO, all Boards described this as positive. A number mentioned that since the change in Ombudsman things have been more positive with SPSO – for example more supportive language used. Several Boards also mentioned that they have visited to get a better understanding of their process that was helpful and other planned to visit them.

Everyone spoken to said that there were occasions when they did not agree with SPSO's decision to uphold some things and/or the observations given. Most said that they were happy to challenge these observations. Another common finding is that Boards feel that while SPSO expect evidence and responses very quickly from the Boards, the SPSO's timescales are not clear and too long. Boards visited said that one of the most common things picked up by SPSO is that they did not always keep complainants informed when a case went over 20 days and how long it would be extended for.

During the SPSO visit, they said that the CHP has brought about a shift from SPSO as an external expert to partner with NHS Boards. SPSO said that Boards are getting better at giving them information on their complaints handling, the Boards' responses are more detailed and they are providing reasons to complainants for upholding complaints. Each SPSO investigation has a reflective learning form for Boards to complete. SPSO holds statistics against CHP markers. These are tracked more closely now as they need to know how learning is happening. SPSO also had some internal changes to their teams' structure which increased the focus on learning and improvement. They have also changed the way they word the recommendations given to Boards. They are now more outcomes focused rather than pathway. The change was due to their internal research and new Ombudsman. The outcome-focused recommendations have helped Boards improve their execution of recommendations. It also helps SPSO check if something similar has been investigated before. Furthermore, SPSO is developing a support and intervention policy to address the support available for organisations including triggers for different levels of support and intervention for organisations based on patterns.

SPSO thinks that the CHP experience has been positive and think that Boards have no significant concerns except that the timescales might be too tight. SPSO said that the purpose of the KPIs should be an assurance for managers and provide a local understanding of performance against indicators and benchmarking. However, they added that in the first year there is not much capacity for benchmarking.

## **Observations:**

1. It could be useful for complaints team that have not yet done so to arrange a visit to SPSO to get a clearer understanding of their procedures.
2. SPSO could clarify their own timescales.
3. SPSO could ensure there is consistency between their investigation handlers e.g. in what type of evidence is acceptable.
4. SPSO could offer more guidance on how frequently to keep complainant updated and how long is it acceptable to extend the timescale.

### **2.2.10 Adverse events**

The Listening and Learning report recommended that the processes for complex complaints and management of serious and adverse events (SAE) be integrated. There is now better integration of complaints and serious and adverse events. All Boards said that there is some integration between the complaints and adverse events system, with cross checking taking place. Some Boards spoke of a restructuring for their team moving to Quality Improvement/Assurance department. This is seen as a positive move, showing commitment by the Board which will provide better integration with adverse events and better align the learning and quality improvement.

However, there is variation in how they deal with a complaint that is also a SAE. For complaints that come in that are also being reviewed as a SAE, with the complaint is closed and the case is reviewed by the adverse events team; with complainant being informed of this. If there are other issues associated with the complaint that are not being looked at by the adverse events team, most complaints teams would deal with those using the CHP and give a response as soon as available while others give one response at the end of SAE. Some complaints team would still be involved in meeting the family while others said it is only the service that meet the family.

In terms of Duty of Candour, it appears that this is very similar to their usual process but it is now backed up by legislation.

## **Examples of good practice:**

- NHS 24 use a single data capture system for processing feedback from all sources including adverse event for effective cross-referencing.
- The Scottish Ambulance Service patient experience manager sits on the Significant Adverse Event Review group to ensure complaints' themes are cross-referenced against SAEs.

NHS Borders' feedback and complaints team is co-located within the adverse events team that enables frequent exchange of information and collaborative working achieving a timely, person centred response and joined up approach for combined complaints and adverse events. This has increased the organizational learning.

### 2.2.11 PASS and Mediation

As part of the visits, NHS Boards were asked about mediation use. All the Boards were aware of the service, albeit some only in the past year. This was due to the Scottish Mediation Network delivering several seminars/presentations at health Boards and the Scottish Government has raised awareness of the availability of the mediation services for free to Boards. The Scottish Mediation Network also participate in NCPAS meetings. None of the Boards visited have used the mediation service since CHP implementation with a few that have used it years ago. Several Boards had mediation training or have arranged for representative/s of the Scottish Mediation Network to provide training to their team. Reasons for not using this service were generally that they did not recognise that they needed it, not understanding where it fits in the CHP process or forgetting it is available. As several Boards have recently undertaken mediation training or will be getting it in the upcoming year, it is expected that mediation will be offered more.

PASS services are frequently demanded by patients. As explained during the visit to PASS and presented in their annual report, since the introduction of the PASS helpline demand has continued to soar even though they are not actively advertising the helpline. All Boards recognise the importance of PASS and promote it in their hospitals, website and information material.

#### Observations:

1. The mediation network could continue to clarify how mediation fits in the CHP. They could share this information along with testimonials from public services, particularly within health.
2. Boards should continue to increase the knowledge of staff in relation to the benefits of mediation and identification of where it may be appropriate within the complaints handling process. Taking up the Scottish Mediation offer of delivering workshops for staff may be beneficial in supporting this.
3. The demands on the PASS service should be monitored closely to ensure resources are sufficient to meet demands.

## 2.3 Key Performance Indicator One: Learning from Complaints

### 2.3.1 Key themes for complaints

Most common complaints themes were:

- Clinical treatments, staff attitudes, behaviour and communications. Waiting times was also a top theme for stage one complaints.
- The increase in waiting times is a challenge for all Boards especially when obliged to send out treatment time guarantee letters that they know they cannot meet.

### 2.3.2 Improvement

The CHP has a focus on learning from feedback and complaints and on improvements. Several Boards record actions and learning on Datix or the system

that they use. Some also assign a name and give a deadline for actions and staff need to report to the complaints team that they completed it. Some do not close a complaint before these are completed. Most recognise that there is room for improvement for including actions and learning in response letters. Several Boards have or are working on response letter templates.

Challenges still exist on adopting whole systematic approaches for learning and improvement. The larger Boards feel that they are good at learning from individual complaints but not as good at getting the bigger picture for wider improvement.

### **Examples of good practices:**

- NHS 24 created a team led by NHS 24 Excellence in Care lead nurse to improve interpersonal skills and reduce interpersonal reasons for complaints.
- NHS Great Glasgow & Clyde are developing a dashboard so services are more aware of their complaints' trends including regular reports.
- NHS Dumfries and Galloway are using a healthcare analysis tool to analyse complaints and identify themes, trends and hotspots.
- NHS Ayrshire and Arran and NHS Fife use Quality care indicators that consider feedback and complaints to assess the patient experience and the services/wards need to identify and show improvements.
- NHS Forth Valley feed data from the complaints system and a patient experience survey to the nurse assurance better care dashboard so teams can easily access information about their patients' experience and complaints and use themes and learning to drive improvement.
- NHS Grampian service managers must demonstrate what the feedback tells them about their services, identify learning for service improvement and record actions taken. These are documented on Datix and shared with Clinical Governance.
- NHS Ayrshire and Arran do not fully close a complaint before the service provides a quality improvement plan. The team chases services for these plans and they have been getting more since CHP.
- NHS Forth Valley's Patient Relations team oversees closure of stage one complaints so staff need to add actions and learning including email with evidence before the complaint is closed.
- NHS Fife and NHS Grampian have actions and learning on Datix and ask services to upload evidence of actions taken immediately rather than waiting for a case to go to SPSO.
- NHS Tayside's clinical care groups have performance reviews every 8-9 weeks, which asks about complaints and learning. The clinical governance lead and performance review seek assurance that they are undertaking actions planned and flag when there are bigger organisational issues to be addressed.
- NHS Orkney use a complaints reporting template for staff to clearly identify actions, improvements and recommendations.

- NHS Shetland handle repeated staff attitude complaints via discussions with staff member and their professional lead to allow staff to reflect on the feedback and determine what further supportive measures are required for better practice.

**Observations:**

1. Consider including an actions tracker on Datix.
2. Service reviews could incorporate an analysis of feedback and complaints to ensure themes and matters that require more significant/wider service improvement and/or resource from the Boards are identified.
3. Boards could share resources they have for capturing learning such as reflective learning forms and response templates.
4. Continue to remind staff to include actions and learning in response letters.
5. Consider having a learning summary/form for stage two complaints including what went well and improvements identified. The management team need to commit to at least one improvement action.
6. Boards to encourage monitoring of actions/quality improvement plans.
7. Consider the healthcare analysis tool used by NHS Dumfries and Galloway to help analyse complaints and identify themes and trends.
8. Complaints could ask for evidence of actions to be provided immediately. This provides assurance to the Boards and they are prepared ahead for any cases that go to SPSO.

**2.3.3. Sharing of learning**

The types of sharing of learning described were sharing in staff newsletters, patient forums and staff meetings. Sharing of learning is limited especially in the larger Boards. Learning is more widely shared with the Boards' senior management and committees and this is covered in section 2.8 (Accountability and Governance).

**Example of good practice:**

- NHS Shetland developed a flow chart describing the process for staff to follow when learning is identified. This includes completion and sharing of a lessons learnt summary. Their Datix includes a section for adding whom the learnings have been shared with.

**Observations:**

1. Complaints teams could seek opportunities for sharing learning and improvements carried out by services or the organisation via internal communications.
2. To encourage services to share learning summaries that might be beneficial for other services as well as patients.

### 2.3.4 Culture

Culture around complaints was discussed at all visits. All Boards believe there has been progress in their Board's culture. They spoke of buy in and support from the Boards' executives and other senior management. Feedback and complaints reports including SPSO decisions are sent to them regularly. All Boards pass on positive feedback to the respective staff and positive stories are often shared in internal communications, social media and at staff and committee meetings.

Staff that have been working in complaints for a number of years expressed the view that the sentiment towards the complaints department has changed over the years. In the past staff more negatively received them while in recent times they are well received with more staff proactively asking for their advice or support. They also feel they were more visible within the organisation. Examples of positive change witnessed are consultants being more likely to be open and have a conversation with the complaints team. Newer members of staff including medical staff are more on board with being open and transparent and bringing about a positive culture change and therefore the people interviewed were optimistic that the attitude to complaints is moving towards the right direction.

Furthermore, they did not think there is a fear of repercussions among staff – although there are occasions when a staff member gets defensive, they believe line managers are not using complaints as a disciplinary action but are supportive and encourage personal reflection and learning. They feel that staff are getting better at offering apologies and understanding that an apology is not a liability and they are moving away from the blame culture. However, a challenge frequently mentioned is that some staff that are harder to work with, mostly those that have been working there a long time and may be set in their ways.

#### **Examples of good practices:**

- NHS Forth Valley have an Excel programme where staff can thank other staff members for good practice. The staff member receives a letter of appreciation, which is copied to their line manager.
- NHS Highland introduced a process whereby the complaints and responses must be shared with staff involved and everybody named in a letter gets a copy of the response.
- NHS Tayside are participating in a culture programme to understand the Board's leadership capabilities and culture. They carried out a survey and interviews on the culture of the organisation and then worked on engagement and co-production via workshops and generated a set of strategic priorities for the Board. They are now refining these to support an environment that encourages feedback and is open to concerns e.g. looking how to improve coaching and mentoring for staff.

#### **Observations:**

1. Staff named in complaints could be kept informed of investigation and actions and receive a copy of the final response letter.

2. Arrangements could be put in place to support staff who are the subject of complaints.

## 2.4 Key Performance Indicator Two: Complaint Process Experience

The Listening and Learning report's observations state the Scottish Health Council, the Patient Advice and Support Service and NHS Boards could work together to agree on a national approach for measuring complainant satisfaction with the complaints process. The aim of this is to help demonstrate the quality of the process, measuring impact and identifying areas for improvement. From the analyses of the annual reports and the experience shared by visited health Boards, a national approach has not happened. Instead, the effort was disjointed and NHS boards have developed their own methods for addressing this KPI.

Most Boards have rolled out a survey to collect data related to this KPI, such as the ease of making a complaint, how the complainant was treated by staff, and clarity on decision and reasoning. Although some Boards said they have consulted with others and used the examples in the CHP for questions to ask, the feeling of dissatisfaction with this KPI was apparent. A mixture of postal and online questionnaires is often used (NHS 24, NHS Glasgow and NHS Lanarkshire have developed a survey but it has not yet been rolled out; SAS collected data for a while and stopped due to no responses). Response rates ranged from 1.6% to 35%.

### 2.4.1 Challenges around collecting the data

A challenge across Boards is that they have concerns about contacting complainants to collect this information. The most common reason expressed was the sensitivity around contacting persons that might be going through bereavement or other significant events as well as mental health and repeat complainants. Another reason raised was around data protection especially since the implementation of GDPR – for example some Boards were advised by their Information Governance that contacting complainants after closing their case was not GDPR compliant while other Boards were not given such restrictions.

### 2.4.2 Challenges around analysing the data

All Boards believe that although there is room for improvement, their process is good. They expressed dissatisfaction with the low response rates and that the survey responses are from persons that are unhappy with the outcome. They do not think the survey could be used as a quality measure for their complaints' process. There was a consensus that this should not be a tick box exercise.

The current KPI and the way it is being measured in most of the Boards indicates that this is not an effective measure, that it is not a good use of resources and that Boards are unsure of how to use the data that is collected.

#### Examples of good practice:

- NHS Dumfries and Galloway had an increase in responses when they shared the survey on social media.

- NHS Ayrshire and Arran have recently taken a new approach. Each month complainants' details are sent to the patient feedback team removing anyone that would not be appropriate to contact e.g. bereavement. The Feedback manager phones people for the customer satisfaction phone survey with a set of yes/no questions and ask a bit more detail about what they did or did not like. As the feedback manager is not part of the complaints team, she sends responses to the complaints team anonymously. This is working better than previous email and post surveys.
- Golden Jubilee Foundation observed a trend from their complainant process experience survey that stage one complainants were not satisfied with the outcome. They implemented a follow up call prior to closure to confirm issues have been addressed and consequently seen an improvement in the survey responses.

### **Observations:**

1. A national approach could be developed with discussion in NCPAS to discuss Boards' concerns and challenges and ideas for solutions.
2. Consider involvement of the Scottish Health Council (SHC) to identify a national approach – e.g. NHS Forth Valley have been working with SHC on this KPI and have a revised survey form and are considering other feedback formats. It would be good if their experience were shared with other Boards. In addition, it might provide better response if data is collected by an organisation independent of the Board to reduce bias and because people that were not satisfied might not see value of providing feedback.
3. SPSO could advise on the processes that are successful for this KPI in other public sectors to discuss if they could be adapted for the NHS.
4. NHS Boards to ask for guidance from the Information Commissioner about consent required for KPI 2 to ensure GDPR compliance.
5. Consider learning from the HIS right-time model, namely that qualitative feedback might be more valuable than survey data.

## **2.5 Key Performance Indicator Three: Staff Awareness and Training**

Information about the CHP was well circulated by the Boards amongst staff in the year preceding and during the first year of CHP via internal communications, staff awareness training and complaints teams attending staff briefs and meetings. Feedback-related training tended to be included in staff induction and additional training was optional rather than mandatory. Including complaints awareness in induction training is important to help bring about the culture change especially when this is focused on person centeredness and being open. Some Boards are also involved in nursing and medical staff education. The SPSO resources are useful but could be shared more among staff.

There was not a consistency in reporting for this KPI with some Boards providing precise number of staff members that completed different training related to feedback and complaints while others simply provided a general overview. Therefore, the numbers could not be compiled. A couple of complaints teams said

they did not deliver complaints-related staff training in the past but have recently begun or are planning to introduce this in the coming year.

The Listening and Learning report set out that the e-learning modules should be recognised as an essential basic training requirement for all staff providing direct services for patients as a priority. NES stated that about 20,000 staff have completed the e-modules. While increasing number of staff are accessing this training, further work is needed to prioritise it for certain groups of staff.

As part of the CHP, NES has delivered national events with SPSO as well as delivered bespoke face-to-face training, webinars and conference workshops for Boards and independent contractors. However, NES is experiencing funding challenges and therefore is limited in the amount of training they can provide. Training events are heavily oversubscribed by contractors.

NES is developing training for supporting staff covering complaints, adverse events and Duty of Candour. It also includes training for complaints team on how to deal with SPSO upheld complaints about their complaints handling. It aims to address the power imbalance between complaints teams and senior staff and works on changing the blame culture.

There is limited evaluation of training within NHS Boards. During visits, complaints teams said the training that they offered was well received. NES carry out post-event evaluation of their training through evaluation forms. They would like to carry out an impact evaluation i.e. how the training was put into practice and how it improved staff's confidence and skills however, they do not currently have the resource to do this.

#### **Good practice:**

- NHS Tayside are doing an exercise of identifying which staff groups should be encouraged to do certain training and monitor this e.g. by including it in the staff's competency framework and appraisal.
- NHS Shetland provide staff with a feedback and complaints factsheet as part of their mandatory refresher training every 18 months.

It was not clear from reports and visit whether complaints are included in senior management's performance objectives due to lack of reporting on this or being unsure when asked about this. However, NHS Boards said that complaints are in the interest of senior managers.

#### **Observations:**

1. Scottish Government could clarify the level of detail required in reporting this KPI.
2. Boards could consider whether some of the complaints related training could be made mandatory to certain staff groups or at least highly encouraged.
3. Complaints teams could seek opportunities to attend staff meetings/huddles to raise awareness of complaints issues, resources available and training.

4. Promote training and SPSO resources to contractors.
5. More training considered for frontline staff related to building confidence and managing difficult conversations.
6. Boards could review whether complaints and learning from complaints is included in senior managers' performance objectives and to consider adding these objectives if absent.
7. Frequent internal communication such as sharing Care Opinion stories, learning from complaints, patient experiences or promotion of training to maintain awareness of CHP among staff.
8. Could increase opportunities for face-to-face training for complaints teams and for contractors.
9. Could commission a training impact evaluation.

### 2.5.1 NCPAS and sharing between Boards

NCPAS is seen as very beneficial for sharing between NHS Boards. During the visits, Boards mentioned that although NCPAS only met twice a year, they regularly communicated via email. The presence of stakeholders at NCPAS was seen as valuable and stakeholders were happy to be part of the discussions at NCPAS.

NES suggested developing a learning network where complaints teams can learn and showcase good practice e.g. through a conference for complaints/adverse events personnel. NHS Boards were asked about this and it was positively received especially for getting complaints handlers networking and not just the team's manager/lead. NES would like to promote the use of the complaints website within the knowledge network to facilitate sharing of resources between Boards and as a discussion forum. NHS Boards also think this could be useful.

#### Observations:

1. To discuss with NES the possibility of developing a learning network for complaints and adverse events teams.
2. To have discussions at NCPAS about the development and use of the complaints website within the knowledge network to coincide with NES' move to the new system. This could be used as a discussion forum and for sharing resources.

### 2.6 Independent contractors

Contractors remain a challenge for Boards in relation to complaints handling reporting. The Listening and Learning report recommended that Boards should work with all independent contractors locally to monitor how feedback is used to drive improvements and to actively manage any challenges that arise. This still seems far from reality. Boards have done work on raising awareness of CHP among contractors before implementation. However, most have not dealt with them much since then.

Boards explained that contractors send them limited data on patient complaints if any e.g. they might send figures but no information on actions and learning. There is

a recognition that GPs were the most engaged group of contractors and have seen improvements in their compliance with CHP and in reporting but compliance is still poor for the other contractor groups.

Inconsistencies exist over definitions of feedback, comments, concerns and complaints between different contractors and between the contractors and the Board. This seems to be happening in few of the boards. A couple of Boards are working on making their recording system available for contractors to ease reporting.

It was also raised that NHS Boards are very often not involved in contractors' investigations and not involved in SPSO investigations related to their contractors. Therefore, it is challenging for the boards to get a real insight into what mechanisms they have for complaints handling, the number of complaints they get and their teams and especially any learning. A couple raised that it would be helpful for SPSO to share information when a contractor has an investigation.

#### **Examples of good practice:**

- NHS Greater Glasgow and Clyde reported an increase in the contractors' compliance with 67% and more than half of these reported on changes and improvements they have done on collecting feedback and a number listed the action taken as a result of complaints. They also have a development team for each contractor group to support them.
- NHS Dumfries and Galloway had 76% response rate from contractors. They ask for information using a simple form to capture KPIs, they send reminders and phone non-responders.
- NHS Orkney's independent contractors are all compliant with the CHP and have completed a self-assessment.

#### **Observations:**

1. Discuss the conflicting feeling of collecting and reporting performance data for independent contractors with the Scottish Government.
2. Consider a national effort for engaging contractors including opening and promoting training to them.
3. Could review the possibility of providing access to systems (e.g. Datix) to contractors with shared experiences from Boards.
4. Could offer a point of contact in the complaints team who can offer advice and support to contractors.
5. Independent contractors could complete the CHP compliance self-assessment.

## **2.7 Prisons**

Previous [reports](#) on complaints handling have found several issues with complaints management in prisons. Therefore, an aim of this project was to ask Board representatives for their experience of the new CHP in the prisons. There was a unanimity that complaints handling in prisons is working well. The CHP has helped

the procedure become more standardised. Prison healthcare staff have been trained to use it and lead both stage one and stage two complaints. Most Boards have provided Datix access to the prison staff that allows to them to input all complaints received and relevant actions. Some complaint teams had the team manager or a team member visit the prisons on a regular basis to get updates and assist the healthcare staff with complaints.

Most Boards but not all saw a sharp increase in prison complaints because the complaints, which are mostly stage one, are now being formally recorded. A challenge mentioned was that recurrent complainants in prisons drive numbers up.

#### **Examples of good practice:**

- NHS Forth Valley identified two nurses and an administrator to be a patient relations team in a prison and deal with complaints locally. These healthcare staff set up forums in each prison hall with floor prisoner representatives. They hold drop in clinics for prisoners to speak to them and raise concerns. This worked well and is now set up in all three prisons.
- NHS Forth Valley introduced a medical query slip e.g. for not receiving repeat prescriptions. Pharmacy staff investigate the query and provide response to prisoner within 24 hours.

## **2.8 Accountability and Governance**

All Boards stated that complaints reports are compiled and shared on a quarterly basis. All mentioned Clinical Governance committees and Board committees. These reports include complaints figures, timescales, actions, learning and improvements done. Feedback and complaints are also on the agenda at other staff meetings such as Senior Charge Nurses meetings. SPSO reports are shared with committees as well as Care Opinion reports.

#### **Examples of good practice:**

- NHS Dumfries and Galloway's directorates are undergoing the SPSO's Complaints Improvement Framework self-assessment together with HSCP and primary care. They have set up an assurance short working life group to look at the self-assessments and then will develop action plans accordingly.
- NHS Fife have developed a quality check document and are doing an exercise of checking five responses a month. Any poor responses are fed back to the service.

#### **Observation:**

1. Boards should consider completion of the Complaints Improvement Framework self-assessment for all areas/services, including HSCP and contractors.

## 2.9 Reporting and benchmarking

The new CHP introduced nine key performance indicators by which NHS Boards should measure and report performance (Appendix 4.2). 2017/18 was the first year that NHS Boards were asked to report against these indicators. Although there is guidance on the KPIs and the type of things suggested for inclusion, reports varied in format and level of content. Boards expressed the view that clearer guidance was required earlier and it was frustrating that it took a long time to come to an agreement on a reporting template for the quantitative measures. The issues around the first year annual report could have been anticipated but they all seem satisfied with the recently agreed template.

During the visits, a couple of Boards said that the benchmarking was focused on the quantitative aspects of CHP, namely timescales, but this does not necessarily measure quality. From annual reports and discussions with Boards and stakeholders, it was indicated the first year of CHP might not be a suitable baseline for the KPIs.

Particularly, as the KPIs 4-9 reporting template was agreed in the mid of the second year of CHP, it is likely that the first year data is not an accurate picture of the Boards' activities and that variation in measurement and recording might not allow benchmarking.

Most Boards said that they find benchmarking useful. However, there needs to be an agreement on what they are measuring, for example, there might still be some variation in how the timescale is measured across Boards, and why they are measuring it.

### **Observations:**

1. It would be helpful to have clear annual figures and percentages in the report. Although graphs by month are helpful to observe trends and patterns within the Board, the annual figures are important for benchmarking.
2. To discuss KPIs 1-3, especially the patient experience measure during the NCPAS meeting to clarify the requirements, discuss the challenges and to reach an agreement on what is and what is not feasible in terms of measuring, collecting and analysing this information and ultimately guidance on using this information.

### 3. Next steps

As the Board visits were carried out in November and December 2018 and therefore in the second half of second year of the CHP some insight was gained into changes planned and further improvements. Many agreed that the first year reporting was not consistent. A template has been agreed in October 2018 and therefore expect the second year reporting to be more standardised.

The Scottish Government appreciates the feedback provided by everyone who took part in this review. We appreciate the willingness to share views and opinions as well as the opportunity for honest discussions. The input received from everyone have helped us to get an understanding of the changes introduced by the model CHP. Through this report, we have identified progress and good practice as well as challenges that will now be shared with all NHS boards and stakeholders across Scotland. The Scottish Government will continue to work with NHS Boards and stakeholders to help drive improvement in NHSScotland in terms of improved handling and use of feedback, comments, concerns and complaints, the Key Performance Indicators and annual reporting.

## **4. Appendices**

### **4.1 List of NHS Boards and stakeholders visited**

NHS 24

Scottish Ambulance Service

NHS Forth Valley

NHS Greater Glasgow & Clyde

NHS Fife

NHS Ayrshire & Arran

NHS Dumfries & Galloway

NHS Highland

NHS Grampian

NHS Tayside

NHS Lanarkshire

NHS Lothian

Scottish Public Services Ombudsman

Patient Advice and Support Service

NHS Education for Scotland

Scottish Mediation Network

## 4.2 CHP Key Performance Indicators

1. Learning from complaints
2. Complaint process experience
3. Staff awareness and training
4. The total number of complaints received
5. Complaints closed at stage one and stage two as a percentage of all complaints closed
6. Complaints upheld, partially upheld and not upheld at each stage as a percentage of complaints closed in full at each stage
7. Average times
8. The number and percentage of complaints at each stage that were closed in full within the set timescales of 5 and 20 working days.
9. Number of cases where an extension is authorised

### 4.3 Internship project briefing

#### Scottish Government / Scottish Graduate School of Social Science Internship Scheme

##### **DIRECTORATE GENERAL:**

**Directorate: Healthcare Quality and Improvement**

**Division/Team: Planning and Quality / Openness and Learning**

**Internship: The new model NHS Complaints Handling procedure (CHP) – analysis of the first year’s annual reports**

##### **Policy Context:**

Scottish Ministers are committed to an integrated programme of measures to facilitate cultural change to achieve openness and transparency without blame in the provision of NHS health and social care services. Central to this is the revised NHS Complaints Handling Procedure, which came into effect on 1 April 2017.

The Openness and Learning Unit was established in September 2017 in the Scottish Government to work with stakeholders in developing an approach that is accessible and meaningful for front-line professionals and national bodies to support improvements in health and social care outcomes. The aim is to create an environment that uses knowledge to inform continuous improvement to services in a culture of openness without censure.

##### **NHS Model Complaints Handling Procedures (CHP)**

The new, standardised NHS Model Complaints Handling Procedure (CHP)<sup>1</sup> was introduced across Scotland from 1 April 2017. The revised procedure is intended to support NHS Boards and their service providers to take a consistently person-centred approach to complaints handling across NHS Scotland. In particular, the aim is to implement a standard process, which ensures that NHS staff and people using NHS services have confidence in complaints handling, and encourages NHS organisations to learn from complaints in order to continuously improve services.

The new, model CHP introduced nine newly developed key performance indicators, by which NHS Boards and service providers should measure and report performance. These indicators are a mix of quantitative and qualitative measures, which taken together with reports on actions taken to improve services as a result of feedback, comments and concerns will provide valuable performance information about the effectiveness of the process, the quality of decision-making, learning opportunities and continuous improvement.

NHS Boards are required to review and report internally on complaints handling information quarterly, including any recommendations made by the Scottish Public Service Ombudsman (SPSO) in relation to the investigation of NHS Complaints, with a view to identifying areas of concern, agreeing remedial action and improving performance. Boards must then publish their complaints handling performance information annually.

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<sup>1</sup> [http://www.sehd.scot.nhs.uk/dl/DL\(2016\)19.pdf](http://www.sehd.scot.nhs.uk/dl/DL(2016)19.pdf)

**Project details:**

This is an opportunity to work closely with the Scottish Government policy team relevant stakeholders including NHS Boards, government analysts and potentially patients, taking a 360 degree view on the effectiveness of the new Complaints Handling procedure. The project will be focussed on reviewing and analysing the NHS Boards' annual reports (particularly the qualitative indicators) and meeting with relevant stakeholders to gain a deeper insight into the content of the reports.

The project aims to identify what difference the new CHP has made, whether it has been embedded into the NHS culture and to what extent has it influenced learning and service improvements. The project also aims to identify if there is consistency of patient experience of the CHP, to explore how effective internal communications of complaints information is across Boards and to highlight any good practice or particular areas of concern.

The project output will be a report focussed on the learning and patient experience, outlining the experience of the first year of the CHP, highlighting the challenges and developing some conclusions / potential recommendations for going forward.

Some useful reading for those considering applying for this post:

**Listening and Learning report which informed development of the new complaints handling process (CHP) – Scottish Health Council -**

[www.scottishhealthcouncil.org/publications/research/listening\\_and\\_learning.aspx](http://www.scottishhealthcouncil.org/publications/research/listening_and_learning.aspx)

**Scottish Public Service Ombudsman report – making Complaints Work for Everyone**

[https://www.spsso.org.uk/sites/spso/files/communications\\_material/Thematic\\_Reports/MakingComplaintsWorkForEveryoneFinalWeb.pdf](https://www.spsso.org.uk/sites/spso/files/communications_material/Thematic_Reports/MakingComplaintsWorkForEveryoneFinalWeb.pdf)

The intern would be co-located within the Openness and Learning Unit and will work with other teams as needed, including the Person-Centred and Quality Unit.

**Skills required:**

This project would suit someone who is keen to apply their skills to an analytical research project. Knowledge of the health and social care landscape including complaints resolution would be useful but excellent analytical skills are more important than any prior subject knowledge. The following are required:

- Strong written and oral communication skills
- An ability to analyse and synthesise varied data and evidence;
- An ability to work independently and flexibly as part of a team.

Please detail the full range of your research and analytical skills in your application and indicate particular strengths.

**Timing:**

The timing of the internship will be agreed with the successful applicant.

#### 4.4 Briefing email for NHS Boards regarding Scottish Government review on the first year of CHP

Dear Feedback and Complaints managers,

I am a research intern working with Linda Kirk in the Scottish Government. The project I am involved in is an analysis of the first year of the new model NHS Complaints Handling procedure.

The aim of the project is to find out how the implementation of the new CHP has impacted the learning and improvements, the process, and the culture around complaints. We would like to obtain a fuller account of feedback and complaints in your Board services especially on indicators 1-3. This is an opportunity for you to share your good practice and improvements but also to help us identify the challenges and barriers that still exist. For boards with prisons, we would also like to know more about the prisoners' complaints handling.

To gather this information, I would like to visit you and your teams in November. I will be getting in touch with each of you during this week to arrange this. Please allow at least two hours for the meeting.

The findings from reviewing your annual reports and these meetings will be compiled in a report outlining the experience of the first year of the CHP.

Thanks in advance for your cooperation. Looking forward to speaking with you soon.

Kind regards,

Bernardette

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## 4.5 Topic guide for NHS Boards visits

### 1. Collecting feedback

#### Ways of collecting feedback and complaints

- Changes since new CHP

#### Use of Care Opinion

- Staff engagement
- How learning is shared
- Challenges

#### Work with equality groups, advocacy and user and support services.

- Changes in how you work with them and
- Feedback from seldom heard groups

### 2. Complaints handling procedure

#### CHP implementation

- Clarity of concerns and complaints
- Difference in upheld complaints since new CHP
- Difference in complainants contacting SPSO
- Change in systems for capturing data
- Monitoring of CHP compliance
- Areas for improvement and support needed

#### Early resolution

- Experience of shift to early, local resolution
- Methods used to resolve complaints locally
- Staff confidence and compliance with stage 1 procedure
- How you ensure actions are taken and recorded
- Challenges

#### Stage 2 investigations

- Experience of getting information required for your investigations
- Meetings with complainants at onset of investigation (clarification)
- Meeting with complainants at the end of investigation (explanatory)
- Use of mediation
- Challenges

#### SPSO

- Change in relationship with SPSO
- SPSO observations – issues and improvements made
- Difference in premature complaints and complaints upheld by SPSO
- Support from SPSO

#### Adverse events

- Link with adverse events management
- Duty of candour lead
- Procedure for capturing learning from adverse events/duty of candour

#### Reporting and standardisation

- Changes in internal/external reporting
- Thoughts on indicators 1-3
- Consistency and sharing between boards
- Benchmarking
- Areas for improvements and support needed

### **3. Indicator 1 – Learning from complaints**

#### Capturing learning

- How trends identified are used
- Experience of CHP for learning and improvement
- Challenges

#### Service changes

- Most significant service changes/improvements in the first year
- Involvement of patients and the public in identifying/reviewing service improvements
- Procedure for ensuring learning is identified and implemented

#### Sharing of learning

- Change in ways learning is shared with public
- Progress on increasing focus on learning and improvement
- Extent of internal communications on complaints and learning
- Extent of learning used by line managers and staff
- Extent of learning reviewed by senior management
- Challenges

#### Culture

- Progress in culture around complaints
- Changes in apologies
- Examples of culture change in the organisation
- Gap between organisation's learning intent and staff experience
- Difference in fear of repercussions amongst patients and staff
- Challenges

#### Supporting staff

- Support for staff being complained about
- Sharing of positive feedback

### **4. Indicator 2 – Complaint process experience**

#### Patient experience

- Ways of collecting feedback on complaints procedure
- Satisfaction with: Ease of access to the process; How they were treated by staff; With empathy or apology offered, if any. Timescale in terms of updates/responses; Clarity of decision and clarity of reasoning.
- Response rate
- Areas for improvement and support needed
- Feedback from staff involved in complaints

### **5. Indicator 3 – Staff awareness and training**

#### Training offered (if not covered in annual report)

- Staff awareness on dealing with complaints
- Any mandatory training on complaints
- Complaints as part of staff inductions
- Adverse events and duty of candour training
- Root cause analysis and human factors training
- Mediation training
- Internal communications on training

### Evaluation of training

- Uptake
- Satisfaction with training
- Staff confidence in using knowledge

### Performance objects

- Complaints in job descriptions or performance objects for senior managers

## **6. Overview of first year experience**

- Summary of your first year experience
- Advantages and disadvantages of new CHP
- Progress on standardisation of complaints handling
- Listening and learning report observations

## **7. Contractors**

- CHP reception
- Changes in contractors providing data
- Relationship with contractors
- Support needed

## **8. Prisons**

- Difference in prison complaints since CHP
- Relationship with prison healthcare staff
- Complaints handling procedure in prisons
- Awareness and support for prisoners
- Prison staff training
- Learnings from prisons
- Areas for improvement



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Any enquiries regarding this publication should be sent to us at  
The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-78781-615-2 (web only)

Published by The Scottish Government, March 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS538126 (03/19)

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