

BMH MEDICAL COMPLAINTS PROCEDURE – ENGLAND

Introduction

The purpose of the policy is to ensure that all clients (or their representatives) who have the cause to complain about their care or treatment can have freely available access to the process and can expect a truthful, full and complete response and an apology where appropriate. Complainants have the right not to be discriminated against as the result of making a complaint and to have the outcome fully explained to them. The process adopted in the organisation is fully compliant with the relevant Parliamentary Health Ombudsman and guidance available from defence organisations, doctors' representative bodies and the Care Quality Commission. Everyone in the organisation is expected to be aware of the process and to remember that everything they do and say may present a poor impression of the organisation and may prompt a complaint or even legal action.

The general principle of the organisation in respect of all complaints will be to regard it first and foremost as a learning process, however in appropriate cases and after full and proper investigation the issue may form the basis of a separate disciplinary action. In the case of any complaint with implications for professional negligence or legal action, the appropriate defence organisation must be informed immediately.

Procedure

Availability of information

The organisation will ensure that there are notices advising on the complaints process conspicuously displayed in all reception/waiting areas and that leaflets containing sufficient details for anyone to make a complaint are available without the need to ask. The organisation website and any other public material (Organisation Leaflet etc.) will similarly provide this information and also signpost the complainant to the help available.

Who can a formal complaint be made to?

ONLY TO - either the organisation -OR- escalation to Independent Healthcare Sector Complaints Adjudication Service (ISCAS) only if unresolved at the organisation

In the event of anyone wishing to complain to the organisation they should be directed to make their complaint to the organisation at:

By telephone: Complaints Manager 02039003209 ext 104

By email: complaints@bhmmedical.co.uk

By post: Complaints @ BMH Medical a division of Balance My Hormones, International House,
24 Holborn Viaduct,
EC1A 2BN

In those cases where the complaint is escalated to ISCAS, the organisation will comply with all appropriate requests for information and co-operate fully in assisting them to investigate and respond to the complaint.

Who can make a complaint?

A complaint can be made by or, with consent, on behalf of a client (i.e. as a representative); a former client, who is receiving or has received treatment at the Organisation; or someone who may be affected by any decision, act or omission of the organisation.

A Representative may also be

- someone acting on behalf of a client/ former client who lacks capacity under the Mental Capacity Act 2005 (i.e. who has Power of Attorney etc.) or physical capacity to make a complaint and they are acting in the interests of their welfare
- someone acting for the relatives of a deceased client/former client

In all cases where a representative makes a complaint in the absence of client consent, the organisation will consider whether they are acting in the best interests of the client and, in the case of a child, whether there are reasonable grounds for the child not making the complaint on their own behalf. In the event a complaint from a representative is not accepted, the grounds upon which this decision was based must be advised to them in writing.

Who is responsible at the organisation for dealing with complaints?

The organisation "Responsible Person" is **Mr Michael Kocsis**. They are charged with ensuring complaints are handled in accordance with the regulations, that lessons learned are fully implemented, and that no Complainant is discriminated against for making a complaint. This person should be an organisation Partner (BMA Guidance)

The organisation "Complaints Manager" is **Mr Michael Kocsis** and they have been delegated responsibility for managing complaints and ensuring adequate investigations are carried out. *(N.B. they can be the same person but the Responsible Person must be a Partner, who may then delegate the complaints management role to someone else - omit or amend as per organisation choice)*

Time limits for making complaints

The period for making a complaint is normally:

- (a) 12 months from the date on which the event which is the subject of the complaint occurred; or
- (b) 12 months from the date on which the event which is the subject of the complaint comes to the complainant's notice.

The organisation has discretion to extend these limits if there is good reason to do so and it is still possible to carry out a proper investigation. The collection or recollection of evidence, clinical guidelines or other resources relating to the time when the complaint event arose may also be difficult to establish or obtain. These factors may be considered as suitable reasons for declining a time limit extension, however that decision should be able to stand up to scrutiny.

Action upon receipt of a complaint

A) Verbal Complaints: It is always better to try and deal with the complaint at the earliest opportunity and often it can be concluded at that point. A simple explanation and apology by staff at the time may be all that is required *(NB Organisations should decide whether this can only be done by senior staff rather than all staff and delete or amend here as appropriate).*

A verbal complaint need not be responded to in writing for the purposes of the Regulations if it is dealt with to the satisfaction of the complainant by the end of the next working day, neither does it need to be included in the annual Complaints Return. The organisation will however record them for the purposes of monitoring trends or for Clinical Governance and that record will be kept and monitored by **Mr Michael Kocsis**. Verbal complaints not formally recorded will be discussed when trends or issues need to be addressed and at least annually, with minutes of those discussions kept.

If resolution is not possible, the Complaints Manager will set down the details of the verbal complaint in writing and provide a copy to the complainant within three working days. This ensures that each side is well aware of the issues for resolution. The process followed will be the same as for written complaints.

B) Written Complaints: On receipt, an acknowledgement will be sent within three working days which offers the opportunity for a discussion (face-to-face or by telephone) on the matter. This is the opportunity to gain an indication of the outcome the complainant expects and also for the details of the complaint to be clarified. In the event that this is not practical or appropriate, the initial response should give some indication of the anticipated timescale for investigations to be concluded and an indication of when the outcome can be expected.

It may be that other bodies (e.g. secondary care/ Community Services) will need to be contacted to provide evidence. If that is the case, then a client consent form will need to be obtained at the start of the process and a pro-forma consent form included with the initial acknowledgement for return.

If it is not possible to conclude any investigations within the advised timescale, then the complainant must be updated with progress and revised time scales on a regular basis. In most cases these should be completed within six months unless all parties agree to an extension.

The Investigation

The organisation will ensure that the complaint is investigated in a manner that is appropriate to resolve it speedily and effectively and proportionate to the degree of seriousness that is involved.

The investigations will be recorded in a complaints file created specifically for each incident and where appropriate should include evidence collected as individual explanations or accounts taken in writing.

Final Response

This will be provided to the complainant in writing (or email by mutual consent) and the letter will be signed by the Responsible Person or Complaints manager under delegated authority. The letter will be on headed notepaper and include:

- An apology if appropriate (The Compensation Act 2006, Section 2 expressly allows an apology to be made without any admission of negligence or breach of a statutory duty)
- A clear statement of the issues, details of the investigations and the findings, and clear evidence-based reasons for decisions if appropriate
- Where errors have occurred, explain these fully and state what has been or will be done to put these right or prevent repetition. Clinical matters must be explained in accessible language
- A clear statement that the response is the final one and the organisation is satisfied it has done all it can to resolve the matter at local level

- A statement of the right, if they are not satisfied with the response, to onward referral to the ISCAS, 70 Fleet St, London, EC4Y 1EU or visit the 'page "for complainants' at <http://www.iscas.org.uk/contact-us>

The final letter should not include:

- Any discussion or offer of compensation without the express involvement and agreement of the relevant defence organisation(s)
- Detailed or complex discussions of medical issues with the client's representative unless the client has given informed consent for this to be done where appropriate.

Annual Review of Complaints

The organisation will produce an annual complaints report to be sent to the local Care Quality Commissioning Body (CQC) and will form part of the Freedom of Information Act Publication Scheme.

The report will include:

- Statistics on the number of complaints received
- The number considered to have been upheld
- Known referrals to ISCAS
- A summary of the issues giving rise to the complaints
- Learning points that came out of the complaints and the changes to procedure, policies or care which have resulted

Care must be taken to ensure that the report does not inadvertently disclose any confidential data or lead to the identity of any person becoming known.

Confidentiality

All complaints must be treated in the strictest confidence and the organisation must ensure that the client etc. is made aware of any confidential information to be disclosed to a third party (e.g. CQC).

The organisation must keep a record of all complaints and copies of all correspondence relating to complaints, but such records must be kept separate from clients' medical records and no reference which might disclose the fact a complaint has been made should be included on the computerised clinical record system.

Unreasonable or Vexatious Complaints

Where a complainant becomes unreasonable or excessively rude or aggressive in their promotion of the complaint, some or all of the following formal provisions will apply and must be communicated to the client by the Responsible Person in writing:

- The complaint will be managed by one named individual at senior level who will be the only contact for the client
- Contact will be limited to one method only (e.g. in writing)
- Place a time limit on each contact
- The number of contacts in a time period will be restricted

- A witness will be present for all contacts
- Repeated complaints about the same issue will be refused unless additional material is being brought forward
- Only acknowledge correspondence regarding a closed matter, not respond to it
- Set behaviour standards
- Return irrelevant documentation
- Detailed records will be kept of each encounter

Complaints involving temporary staff

It is important that all complaints made to the organisation regarding or involving temporary staff are dealt with by the organisation and not passed off to an Agency to investigate and respond. The responsibility for handling and investigating all complaints rests with the Organisation.

Temporary staff should however be involved at an early stage and be advised of the complaint in order that they can provide any explanations, preferably in writing. It would not be usually appropriate for any opinions to be expressed by the Organisation on temporary staff. Providing their factual account along with any factual account from the organisation is the best way to proceed.

The organisation will ensure that on engaging any temporary staff, the Locum Agreement will include an assurance that they will participate in any complaint investigation where they are involved or can provide any material evidence. The organisation will ensure that there is no discrepancy in the way it investigates or handles complaints between any temporary staff and either organisation Partners, salaried staff, students or trainees or any other employees.

"Informal complaints" *(NB organisations may wish to decide if this section is one they wish to adopt)*

The collection of data about informal complaints - often referred to as "grumbles" - is a good tool for identifying trends for low-level dissatisfaction with services or the way they are offered to clients. Staff are encouraged to raise these issues at organisation meetings and in addition a book will be kept in Reception for everyone to note when a negative comment or feedback is made to them by a client. The book will be checked periodically (at least monthly) by the Complaints Manager to identify trends for discussion and possible amendment of procedures or targeted training needs.