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## Complaints

*Even the most careful and competent dental professional is likely to receive a complaint about the quality of the service, care or treatment they have provided, at some point in their career.*

*The GDC expects dental professionals to have a clear and effective complaints procedure so that patients who complain receive a prompt and constructive response.*

*It is also important to learn from complaints in order to prevent or minimise the risk of similar problems happening again.*

## Complaints - general observations

*Most dental professionals will receive a complaint from a patient at some time in their career.*

### Key points

1. Our experience suggests there are two main underlying causes for most complaints:
  - a. the patient is **dissatisfied** with some aspect of treatment or service
  - b. there has been a **failure** to meet the patient's needs or expectations.
2. Factors that can trigger a complaint may include:
  - a. the **attitude** of the treating dental professional or another member of the dental team
  - b. **time-keeping** for surgery appointments
  - c. the **standard** of treatment provided
  - d. the **basis** on which treatment was provided (NHS or private) was unclear
  - e. **fees** and charges.
3. Patients who complain often want one or more of the following:
  - a. an **explanation** of what has happened and why
  - b. an **assurance** that it won't happen again, to them or anybody else
  - c. an **apology** - a sincere expression of regret and empathy
  - d. **remedial treatment**, either by the dental professional or by referral to an appropriate colleague inside or outside the practice
  - e. an ex-gratia payment or goodwill gesture e.g. waiving or refunding the fees paid.
4. Clear **communication** between dental professionals and patients, and between members of the dental team, can often help to avoid complaints or resolve them at an early stage.
5. If the complaint relates to NHS treatment in England, it should be addressed through the **NHS and social care complaints procedure**. (See section 6.3 [The NHS and social care complaints procedure – an introduction](#)).
6. If the complaint relates to private treatment, or a mixture of NHS and private treatment, the practice should seek to resolve it through its in-house complaints procedure. If the patient is not satisfied, they can then complain to the **parliamentary and health service ombudsman** about the NHS part of the treatment and to the **Dental Complaints Service** about the private element. (See section 6.7 [Private complaints](#)).
7. Every member of the dental team can **learn** something from a complaint. (See overleaf: [Learning from complaints](#)).

### Our advice

Keep patients informed at all times about mishaps or complications that arise during treatment, about appointments running late and any other aspects of treatment or service that may lead to dissatisfaction. A prompt and frank explanation is also advisable.

Offer a genuine apology to any patient who has had the misfortune to suffer through an error of whatever nature. Saying sorry is not an admission of liability and may be all the patient wants.

### Checklist

- Do you have a written in-house complaints procedure?
- Are all members of the dental team familiar with the practice complaints procedure and their role in helping to address complaints?
- Is the complaints procedure displayed within the practice?
- Does your practice have in place processes to ensure that all complaints are analysed?
- Is there a process to ensure that the practice takes all practicable steps to reduce the risk of complaints recurring?

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## Learning from complaints

Dental practices should consider analysing all complaints as part of their adverse incident reporting procedure and take steps to prevent or reduce the risk of a similar incident happening again.

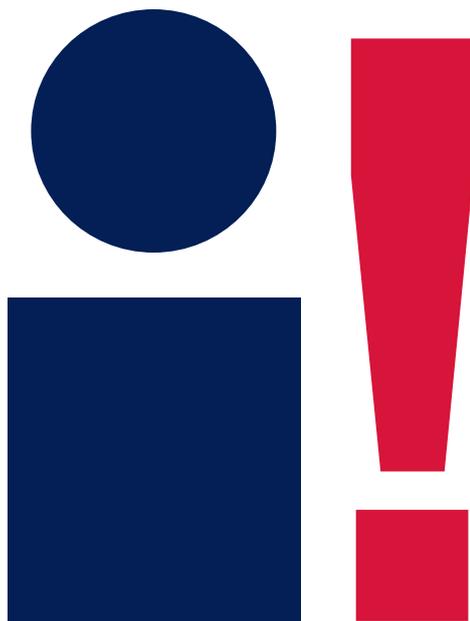
Sensitive, prompt and careful handling of a complaint can increase the prospects of early resolution.

For complaints that are more complex, perhaps involving more than one member of the dental team, the practice could hold a significant event meeting to:

- discuss the complaint in detail
- analyse what went wrong, if anything, and make any changes necessary
- share details of action taken with the dental team to ensure the problem is not repeated.

This process is also helpful in encouraging the practice as a whole to adopt a positive and open approach to complaints.

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## Effective complaint handling

*There are many steps you can take to resolve a complaint as quickly and efficiently as possible. Often speed, sympathy and a willingness to listen are all that are necessary to resolve concerns.*

### Key points

1. Do not react defensively to complaints. They should be dealt with calmly and constructively, in line with the local complaints procedure.
2. If a patient makes a **verbal complaint**, spend a few minutes discussing it there and then. If other patients are waiting, arrange a further appointment.
3. Patients are entitled to make their complaint orally, when a written record of it should be made by the member of staff receiving the complaint. They should not be asked to put their complaint in writing, which only risks escalating the complaint.
4. If a patient phones the surgery to complain, try to arrange a **face-to-face meeting** to discuss the matter. Answering a complaint over the phone may prove difficult.
5. If a patient makes a complaint in person, it's important to:
  - a. encourage them to speak **openly** about their concerns
  - b. reassure them that whatever they say will be treated sensitively and in **confidence**, and will not prejudice their future care.
6. All oral complaints not resolved within 24 hours and all written complaints should be acknowledged straight away and investigated **promptly**.
7. As far as is reasonably practicable, **help** complainants to understand the complaints procedure or advise them where they may obtain assistance e.g. from the Patient Advice and Liaison Service (PALS). The GDC expects the practice complaints procedure to be clearly written and be easy for patients to understand and follow (paragraph 5.1.5, *Standards for the Dental Team*, 2013).
8. Practices must keep a written record of a complaint. File complaint correspondence and documentation separately from clinical records.
9. A **carefully-worded response** can often help prevent the complaint progressing further. (See section 6.5 *How to set out a written response*). We can help draft or check responses.
10. When responding to a complaint, consider what **outcome** the patient wants. If in any doubt, ask them to specify the outcome they are seeking.
 

Where the complaint concerns dissatisfaction with some aspect of treatment, dental professionals may choose, as a gesture of goodwill, to:

  - a. waive or refund the fee, particularly if the treatment outcome has been less than satisfactory
  - b. offer remedial treatment free of charge. Such an offer should not prejudice the dental professional's position in the event of a claim for clinical negligence, and may well help to resolve the complaint.
11. The parliamentary and health service ombudsman, in the booklet *Principles of Good Complaint Handling* (2009), sets out **six key principles** central to good complaints handling. They are:
  - a. getting it right
  - b. being customer focused
  - c. being open and accountable
  - d. acting fairly and proportionately
  - e. putting things right
  - f. seeking continuous improvement.

### Our advice

Ensure your response addresses all the significant points raised in a complaint and also offers a suitable solution for each one.

If a complainant is seeking financial compensation, contact us for advice.

### Checklist

- Have you offered the patient an initial discussion to plan the investigation?
- Have you confirmed the agreed arrangement?
- Have you provided a full detailed response to the patient?
- Has the complaint been signed by the responsible person, or someone with delegated authority?
- Have you recorded the action taken in responding to a complaint?
- Are your responses to complaints timely, professional, measured and sympathetic in tone?

## The NHS and social care complaints procedure – an introduction

*The NHS and social care complaints procedure was introduced in April 2009 and applies to all NHS bodies<sup>1</sup> in England. In the regulations, all providers of NHS healthcare (including commissioning bodies and primary care providers) and independent providers, including dental bodies, are identified as ‘responsible bodies’.*

The purpose of the complaints procedure is to address complainants' concerns in order to resolve complaints and to identify changes that may be needed to improve the care provided.

### Key points

1. The complaints procedure has **two stages**.
  - a. Local resolution (see section 6.4 The NHS and social care complaints procedure – local resolution).
  - b. The parliamentary and health service ombudsman (see section 6.6 The NHS and social care complaints procedure – the parliamentary and health service ombudsman).
2. Both the NHS regulations and the GDC's *Standards for the Dental Team* (2013) require all dental practices providing NHS services to **publicise** their complaints procedures and to make sure that patients know how they can complain.
3. All staff working in the practice must have a good **understanding** of the complaints procedure and know how to handle and respond to complaints and concerns.
4. The practice must have clear arrangements in place to provide **leadership** and a clear line of accountability for responding to complaints. The practice must have a **responsible person**, often a senior partner, who is required to ensure the practice complies with the procedure. There must also be a **complaints manager** who is accessible to the public.
5. The complaints procedure places a great deal of emphasis on resolving complaints as quickly as possible. Oral complaints that can be resolved satisfactorily within one working day do not fall within the regulations that govern the procedure and, although they need to be recorded, are not included in the practice's annual report on complaints.
6. The complaints procedure does not have a **disciplinary function**, but a complaint can result in disciplinary action. Where disciplinary action is contemplated against a dental professional who is also the subject of a complaint, the two processes should be treated entirely separately.

### Our advice

If it is possible to resolve simple oral complaints within one working day, then they do not fall within the complaints procedure. If an oral complaint is resolved in this way, you should make a note of the complaint and your response to it, and keep this in a complaints file, separate from the clinical records.

You are required to inform patients about your complaints procedure.

### Checklist

- Does your practice publicise the complaints procedure by displaying it in the practice where patients can see it, on the practice website, and including it in the practice information leaflet? Do patients know how to get more information?
- Is the whole team familiar with the complaints procedure?
- Does your practice have a responsible person and a complaints manager (who may be the same person)?
- Does your practice have formal arrangements to review all complaints and analyse them to identify any learning points?

### Reference

<sup>1</sup> The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

7. The regulations do not require a complaint to be stopped if there is a **claim for negligence**. In many cases, it could be appropriate to continue with the complaint investigation. Members in this situation are advised to contact us.
8. All practices are required to have formal mechanisms in place to allow complaints to drive **learning** and **improvement**.
9. Practices must send a copy of their **annual report** on complaints to their local commissioning group. It must contain the numbers of complaints:
  - a. received
  - b. that were considered well-founded
  - c. referred to the Ombudsman.

It should also contain:

- a. a summary of the subject matter of complaints. This should exclude confidential information and be confined to details of the nature of the complaint
- b. any matters of general importance arising from the complaints (such as lessons learnt) or from the way in which they were handled
- c. improvements to services made as a result of the complaint.



## The NHS and social care complaints procedure – local resolution

*The NHS and social care complaints procedure applies to all NHS health providers in England, including dental practices<sup>1</sup>.*

It provides a two stage complaints procedure. The first stage is local resolution - the quickest and most efficient way to resolve a complaint. The second stage is the parliamentary and health service ombudsman.

### Key points

1. Complaints can be made to either the organisation providing care, for example, a dental practice, or direct to a primary care provider or the commissioning group. Once a complainant has chosen who to complain to, they cannot later choose an alternative route.
2. A complaint should be made **within 12 months** from the date on which the matter occurred, or from when the complainant first knew about it, unless the complainant has a good reason for not making a complaint within that limit. We advise members to consider complaints made outside the time limit if it is possible to investigate them.
3. Current or former patients aged 16 and over should normally complain themselves. However, they may nominate a **representative**, for example, a relative or solicitor. Children under 16 who are competent to do so may also make their own complaint. If the complaint is on behalf of an adult or child who lacks capacity, the practice must be satisfied that the complainant is acting in the patient's best interests.
4. All complaints, other than oral complaints resolved within 24 hours (see section 6.3 *The NHS and social care complaints procedure – an introduction*), must be **acknowledged** within **three working days** of receipt.
5. The complaints manager must make a **written record** of the date it was received and provide the complainant with a written record of the complaint, even if it was made verbally or electronically.
6. The practice should invite the complainant to discuss the complaint and to **agree an approach**. The practice needs to write to confirm the details of how the complaint will be handled, for example, by explaining how it will be investigated and suggesting timescales for the response.
7. Practices are required to complete a thorough **investigation** and keep the complainant informed about progress.

### Our advice

Never assume that someone complaining on behalf of a patient has the authority to do so.

It can be helpful to offer the complainant a meeting to discuss the concerns raised. Some meetings can occasionally benefit from the presence of a conciliator, if the patient agrees.

Apologise where appropriate. A genuine and sincere apology is not an admission of liability and can often defuse a complaint.

### Checklist

- If a complaint is from the patient's representative, have you ensured the patient has consented to disclose clinical and other confidential information?
- Have you recorded, in writing, all actions taken in responding to a complaint and listed the name of the complainant, the subject matter and the relevant dates?
- Are your complaints records kept separately from the patient's clinical records?
- Are you keeping a record of all the information you need about complaints and learning points, in order to provide NHS England or your local commissioning body with an annual complaints report?

### Reference

<sup>1</sup> The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

8. If a complaint is received, it's important to acknowledge the complaint as soon as possible. Most complaints can be resolved quite quickly and the GDC's *Standards for the Dental Team* (2013) advises dental professionals 'to respond to complaints within the time limits set out in your complaints procedure' (paragraph 5.3.4). In paragraphs 5.3.5 and 5.3.6, the GDC continues: 'If you need more time to investigate a complaint, you should tell the patient when you will respond' and 'If there are exceptional circumstances which mean that the complaint cannot be resolved within the usual timescale, you should give the patient regular updates (at least every 10 days) on progress'.
9. We can help draft and check responses. The response should:
  - a. contain **an explanation** of how the complaint was investigated
  - b. detail any **conclusions** reached
  - c. identify any matters that need **remedial action**
  - d. explain whether any action is planned or has already taken place
  - e. explain the complainant's right to take the matter to the Ombudsman within 12 months if still dissatisfied. (See section 6.6 [The NHS and social care complaints procedure – the parliamentary and health service ombudsman](#)).
10. The responsible person, or someone with delegated authority to do so, must sign all complaint responses.



## How to set out a written response

*A complaint response takes time and careful thought. A thorough and detailed first response should help to minimise further correspondence from the complainant. It should also help to avoid dento-legal complications, such as a complaint or a claim to the GDC.*

If a written or oral complaint suggests the patient may also claim for clinical negligence, refer the matter to us immediately. Once we have gathered all necessary background information, we will notify the patient, or patient's representative, that we are acting on your behalf and will handle all future correspondence in relation to the claim. Most complaints are resolved satisfactorily in-house and do not become a claim.

### Key points

1. Type the response to a complaint on **headed paper**.
2. If a complainant's oral complaint cannot be resolved within one working day, we suggest that you consider writing to the patient to clarify or confirm the concerns that need to be addressed, enclosing a copy of the written record made at the time the complaint was registered.
3. **Identify** yourself with your full name and make clear your relationship with the patient (e.g. registered dentist, assistant, locum, dental hygienist, etc).
4. When drafting the response make sure it does not use jargon and is **clear** and understandable to a lay person. Do not assume the reader has any background knowledge of the case, or dentistry.
5. Give a **factual description** of events in the order they happened. Describe every relevant consultation, telephone or other contact and refer to clinical notes as appropriate. Include:
  - a. the patient's complaints on each occasion they attended the practice
  - b. relevant medical and dental histories
  - c. findings on examination, diagnosis and treatment plan
  - d. all explanations, advice and treatment provided, together with details of any mishaps or complications encountered
  - e. whether the patient was seen alone or accompanied by another person. (Give the name and status of the other person e.g. spouse, mother, etc.)
6. Respond to each significant concern raised by the complainant, as far as possible, including any opinion on what happened. You could do this by setting out the chronology of events, but it is often better to deal with the chronology and specific concerns separately. Many complaints arise from a misunderstanding and if you provide a detailed description of the dentistry involved that may clear up any misunderstanding. In some cases it may be helpful to refer to accepted teaching and practice.

### Our advice

Write responses to complaints (or report on the facts for anyone else who is drafting a response to a complaint) with care. In the unlikely event that the complaint becomes a claim, any report may be disclosed to the patient's representative.

It is rarely appropriate to express an opinion on the acts and omissions of a colleague, unless under direct supervision, even with their consent. For complaints that involve care provided by more than one clinician, the complaints manager may decide to provide a joint response that covers all concerns raised in respect of each person involved.

Only correspond with a patient's representative if the patient has given consent, preferably in writing.

We can provide you with advice on a draft letter of response to a complaint.

### Checklist

- Have you fully identified yourself in your response to a complaint?
- Have you given a full chronology of events?
- Have you responded to every issue raised by the complainant?

7. Avoid dental **abbreviations** or technical terms. Use language that the complainant will understand, but include all details that would enable a dentally qualified third person to understand the clinical sequence. It is important to say not only what was found, but also what was looked for but not found.
8. **Specify** which details are based on memory, which on contemporaneous notes and which on your 'usual' or 'normal' practice. No one expects dental professionals to remember every detail of a consultation which, at the time, appeared to be routine. It is acceptable to quote from memory, but if you cannot recall the details, then state what your 'usual' or 'normal' practice would have been in similar circumstances.
9. Write in the **first person**. The reader must have a clear picture of who did what, why, when and to whom. Use the active voice and be specific. For example, "*I re-examined you the next day and this is confirmed in my clinical notes,*" rather than "*You were examined again the next day.*"
10. Include details of any **offer** made to the patient to resolve the complaint. This may be an offer to refund or waive the fee as a gesture of goodwill, or an offer of remedial treatment, either personally, or by referral to a colleague, within or outside the practice.
11. Many complaints arise because of a breakdown in communication and perceived rudeness. If appropriate, apologise.
12. Never alter original records. It can lead to more serious trouble than the original complaint.



## The NHS and social care complaints procedure – the parliamentary and health service ombudsman

*The NHS and social care complaints procedure applies to all NHS health providers, including dental practices in England<sup>1</sup>. It provides a two-stage complaints process: local resolution and the parliamentary and health service ombudsman.*

### Key points

1. Complainants who are not satisfied with the initial response to their complaint can refer it for investigation by the parliamentary and health service ombudsman.
2. The Ombudsman can also consider complaints brought by the **subject** of the complaint e.g. a dentist who is not satisfied with NHS England or a commissioning body's response.
3. Grievances about the **administration** of the complaints procedure itself can also be considered.
4. A complaint must be referred to the Ombudsman within **12 months** of the final correspondence at completion of local resolution. This will usually be 12 months from receipt of the final response letter relating to the original complaint.  
  
The Ombudsman has discretion as to whether or not to investigate a complaint and considers each case on its merits. The Ombudsman has said that where the complaint meets some basic tests, her office will begin an investigation immediately and inform those involved<sup>2</sup>.
5. The Ombudsman has access to all the paperwork generated by local resolution and has powers to compel disclosure of documents and the attendance of witnesses, if necessary. The Ombudsman's office may also obtain independent professional advice and is assisted by specialist assessors for all matters involving clinical judgment. If an **investigation** goes ahead, the practical aspects are usually undertaken by the Ombudsman's representative, who will interview all those involved.
6. A confidential draft report is prepared for the complainant and dental professional to check for accuracy. The **final report** is sent to all interested parties including the Secretary of State, and is published, in anonymised form, on the Ombudsman's website.
7. If the Ombudsman's office finds the dental professional to be at fault, it may recommend changes to their work, or that the dental professional apologises or offers the patient financial redress.
8. Although **compliance** with recommendations cannot be enforced, in practice, dental professionals usually adopt recommendations.

### Our advice

The Ombudsman has published a booklet, *Principles of good complaint handling* (2009). The principles outlined in the booklet offer a framework for good complaint handling.

If the Ombudsman decides not to investigate a complaint, the Ombudsman's office will write to the complainant setting out the reasons for the decision.

If an investigation goes ahead, a professional 'friend' may accompany a dental professional to the interview. We advise that you seek our advice in advance of the meeting. In some situations, it may be beneficial for one of our dento-legal advisers to attend the meeting with you, while in other cases it may be more appropriate to attend alone or with a colleague.

### Checklist

- Have you checked the accuracy of the Ombudsman's report?
- Have you adopted the recommendations contained in the Ombudsman's final report?

### References

- <sup>1</sup> The Local Authority Social Services and National Health Service Complaints (England) Regulations, 2009
- <sup>2</sup> <http://bit.ly/moreinvestigationsformorepeople>

*For complaints about care, treatment or service in the independent healthcare sector there is more than one channel through which patients can make their complaints.*

### Key points

1. As with NHS patients, it is vital to make every reasonable effort to resolve complaints about private treatment at **practice level** i.e. local resolution. (See section 6.2 Effective complaint handling and 6.5 How to set out a written response).
2. Patients who have not succeeded in resolving a complaint about an aspect of their private dental treatment, care or service with the practice itself can refer their complaint to the **Dental Complaints Service (DCS)**.
3. DCS advisers try to resolve all complaints impartially, fairly, efficiently, transparently and quickly, encouraging dental professionals and patients to restore their relationship.
4. If informal resolution is impossible, the DCS can refer complaints to a meeting facilitated by a panel comprising three trained volunteers – two lay and one dental professional.
5. The DCS was set up and funded by the GDC and is intended to be independent of it. However, the DCS could refer a dental professional who fails to co-operate with it to the GDC's **fitness to practise** procedure.
6. Separate to the complaints procedure, any patient who is dissatisfied with treatment, whether NHS or private, may complain directly to the GDC. They can allege that the matter raises questions about the dental professional's fitness to practise, raise concerns with a regulator (the Care Quality Commission or its equivalents) or pursue the matter through **legal proceedings for clinical negligence**, or all of the above.

### Our advice

Set up and publicise an in-house complaints procedure to address complaints about private treatment. You should address complaints from NHS and private patients in the same way through the practice.

The DCS is strongly in favour of local resolution and refers almost three quarters of complaints back to dental practices. Most of these are resolved satisfactorily by the practice and fewer than one-fifth are returned to the DCS.

At present, dental professionals are not permitted to have a DDU representative at a DCS panel hearing. We do not agree with this rule but, fortunately, very few complaints reach panel hearings.

### Checklist

- Do you have a complaints procedure in place?
- Is information about your complaints procedure readily accessible to patients?
- Have you tried to resolve the complaint using the practice's in-house complaints procedure?