## Westrop Medical Practice

**Handling Complaints Policy**

## Document Control

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1. **Introduction:**

The Practice operates a Complaints Procedure that adheres to National NHS criteria. A Complainant has the choice to complain directly to the Practice or to NHS England either directly or via Healthwatch Swindon, Swindon Advice and Support Centre.

Patients who make a complaint will not be discriminated against or be subject to any negative effect on their care, treatment or support. The information from a Complainant will be used to improve the Services provided by the Practice.

A complaint is defined as “an expression of dissatisfaction with the Services provided by the Practice, including staff performance.

1. **Complaint made Directly to the Practice:**

At the Practice we aim to provide a high level of Service to all our patients. Unfortunately, there are occasions when we fall short of these intentions. The following methods are available to make a complaint:

* Orally to the Practice Manager or their Designated Deputy, when available.
* In writing to the Practice Manager or their Designated Deputy.
1. **Complaint made to NHS England (including Healthwatch):**

Healthwatch Swindon have been commissioned to provide an independent complaints advocacy service (ICAS) for NHS complaints. Contact details are as follows:

Healthwatch Swindon, Swindon Advice and Support Centre, Sanford House, Sanford Street, Swindon, SN1 1QH

Tel: 01793 497777 Email: info@healthwatchswindon.org.uk

A Healthwatch Swindon NHS Complaints Self Help Pack is available from: <https://www.healthwatchswindon.org.uk/nhscomplaints>

NHS England, PO Box 16738, Redditch, B87 9PT

Tel: 0300 311 2233 Email: England.contactus@nhs.net

More information is available from:

<https://www.complaintsdepartment.co.uk/nhs-england/>

# **Who Can Make a Complaint?**

A complaint can be made by or, with consent, on behalf of a patient (i.e. as a representative); a former patient, who is receiving or has received treatment at the Practice; or someone who may be affected by any decision, act or omission of the Practice. When a complaint is made on behalf of the patient a Third-party Consent Form (Appendix 1) must be completed

A Representative may also be:

* Either a parent or, in the absence of both parents, the guardian or other adult who has care of the child; by a person duly authorised by a local authority to whose care the child has been committed under the provisions of the Children Act 1989; or by a person duly authorised by a voluntary organisation by which the child is being accommodated.
* Someone acting on behalf of a patient/former patient 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 patient/former patient.

In all cases where a representative makes a complaint in the absence of patient consent, the Practice will consider whether they are acting in the best interests of the patient 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.

# **Action When a Complaint is Made:**

Most problems can be sorted out easily and quickly, often at the time they arise and with the person concerned. If the problem cannot be sorted out in this way and the patient wishes to make a formal complaint the patient or patient’s representative can request a Complaints/Feedback Form (Appendix 2) to complete or put the complaint in writing. If the person complaining is doing it on behalf of someone else and they are 16 years of age or over we will require their written consent (Appendix 1).

Complaints should be addressed to the Practice Manager or their Designated Deputy.

**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.

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 Practice will however record them for the purposes of monitoring trends or for Clinical Governance and that record will be kept and monitored by the Practice Manager or Designated Deputy*.* 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 Practice Manager or Designated Deputy 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.

**Written Complaints** – All written complaints will immediately be passed to the Practice Manager or Designated Deputy for action.

# **Action to be Taken by the Practice upon Receipt of a Written Complaint:**

The Practice will:

* Acknowledge the complaint within seven working days.
* Carry out an investigation to find out what happened and what, if anything, went wrong – see section 7 below.
* Offer the Complainant an opportunity to discuss the matter with those concerned, if desired.
* Where appropriate, offer an apology.
* Identify what action can be taken to make sure the problem does not happen again.
* Inform the Complainant of the outcome of the investigation, including “learning” and how it will be used to improve the Services provided.
* Aim to complete the investigation and respond to the Complainant within 30 working days – see section 8 below. If this is not possible the Complainant will be advised of the expected response time.
1. **The Investigation:**

The Practice 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.

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 Patient Consent Form (Appendix 3) will need to be obtained at the start of the process and a Consent Form included with the initial acknowledgement for return to Practice. The Complainant should be advised that delay in returning the Consent Form will affect the timescale for responding to their complaint.

1. **Final Response to the Complaint:**

The final response will be provided to the Complainant in writing (or email by mutual consent) and the letter will be signed by the Practice Manager or Designate Deputy 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 Practice 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 refer the complaint to:

The Parliamentary and Health Service Ombudsman (PHSO), Millbank Tower, Millbank, London, SW1P 4QP or visit the '[Making a complaint page](http://www.ombudsman.org.uk/make-a-complaint)' at <http://www.ombudsman.org.uk/make-a-complaint> (to complain online or download a paper form).

Alternatively, the Complainant may call the Parliamentary and Health Service Ombudsman (PHSO) Customer Helpline on 0345 015 4033 from 8:30am to 5:30pm, Monday to Friday or send a text to their 'call back' service: 07624 813 005.

Alternatively, the Complainant may send an email to the Parliamentary and Health Service Ombudsman (PHSO): Phso.enquiries@ombudsman.org.uk

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 patient’s representative unless the patient has given informed consent for this to be done where appropriate.
1. **Complaints Involving Locums:**

It is important that all complaints made to the Practice regarding or involving a Locum (Doctor, Nurse or any other temporary staff) are dealt with by the Practice and not passed off to a Locum Agency or the individual Locum to investigate and respond. The responsibility for handling and investigating all complaints rests with the Practice.

Locum 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 Practice on Locum staff. Providing their factual account along with any factual account from the Practice is the best way to proceed.

The Practice will ensure that on engaging any Locum, 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 Practice will ensure that there is no discrepancy in the way it investigates or handles complaints between any Locum staff and either Practice Partners/Directors, Salaried staff, Students or Trainees or any other employees.

1. **Annual Review of Complaints:**

The Practice will produce an Annual Complaints Report to be sent to the local Commissioning Body (NHSE) 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 the Ombudsman.
* 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.

The Practice will also adhere to the Care Quality Commission’s (CQC) requirement of producing a summary of complaints at a time and in a format set out by the CQC and then send the summary within the timeframe specified.

1. **Handling 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 patient by the Practice Manager or Designated Deputy in writing:

* The complaint will be managed by one named individual at senior level who will be the only contact for the patient.
* 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.
1. **Confidentiality:**

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

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

1. **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 Practice 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.

**Appendix 1 – Patient Complaint – Third-Party Consent Form**

**PATIENT COMPLAINT - THIRD-PARTY CONSENT FORM**

Patient’s Name:

Telephone Number:

Address:

Enquirer/Complainant Name:

Telephone Number:

Address:

**IF YOU ARE COMPLAINING ON BEHALF OF A PATIENT OR YOUR COMPLAINT OR ENQUIRY INVOLVES THE MEDICAL CARE OF A PATIENT THEN THE CONSENT OF THAT PATIENT WILL BE REQUIRED. PLEASE OBTAIN THE PATIENT’S SIGNED CONSENT BELOW.**

I fully consent to my Doctor releasing information to, and discussing my care and medical records with the person named above.

This authority is for an indefinite period/for a limited period only (delete as appropriate)

Where a limited period applies, this authority is valid until (insert date)

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Patient)

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Appendix 2 – Complaints/Feedback Form**

COMPLAINT/FEEDBACK FORM

Patient’s Full Name: Date of Birth:

Address:

Complaint details: (Include dates, times, and names of Practice personnel, if known)

(Continue overleaf if necessary)

SIGNED…………………. Print name………………………… Date: ………………………

**Appendix 3 – Patient Consent Form**

**Patient Consent Form**

Patient’s Name:

Telephone Number:

Address:

I fully consent to the Practice contacting other Services involved in my complaint to allow for a full investigation of the situation to take place.

This authority is for an indefinite period/for a limited period only (delete as appropriate)

Where a limited period applies, this authority is valid until (insert date)

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Patient)

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_