

Complaints Wales Group

Proposals for

- 1. Model Concerns and Complaints Policy for adoption by Public Services Providers in Wales**
- 2. Guidance for Public Service Providers on Implementing the Model Concerns and Complaints Policy**

Preface

This document consists of two separate elements:

- The first is the element to be issued to members of the public. The only variation to the model concerns and complaints policy (and model form) should be at those areas indicated so that the document is tailored to reflect the nature of the service provided by the organisation in question. For the health service, the Welsh Assembly Government will be working with the NHS in Wales to produce specific, but similar, information leaflets for patients as part of the implementation of the proposed *NHS (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2010*.¹
- The second element is guidance to which public service providers should have regard when developing arrangements for the delivery of the concerns and complaints handling service within their organisations. This guidance will be suitable for most organisations and reflects the statutory guidance for health bodies. Variations can be introduced to take account of the size or operational requirements of organisations, but must not impact on people's experience of a common approach in complaint handling by public service providers. Thus, how complaints are managed internally is a matter for each organisation to determine, subject to statutory guidance e.g. on health and social care complaints. However, the requirements of the policy, e.g. regarding timescales, number of stages, information gathered on complaint forms should not be altered, unless the organisation chooses to work to shorter timescales.

¹ The situation in relation to social services complaints is addressed at 1.2.4 of the Guidance document.

Model Concerns and Complaints Policy

..... **(Organisation name)** is committed to dealing effectively with any concerns or complaints you may have about our service. We aim to clarify any issues about which you are not sure. If possible, we'll put right any mistakes we may have made. We will provide any service you're entitled to which we have failed to deliver. If we got something wrong, we'll apologise and where possible we'll try to put things right. We also aim to learn from our mistakes and use the information we gain to improve our services.

When to use this policy

When you express your concerns or complain to us, we will usually respond in the way we explain below. However, sometimes you may have a statutory right of appeal (local authorities may want to add e.g. against a refusal to grant you planning permission or the decision not to give your child a place in a particular school) so, rather than investigate your concern, we will explain to you how you can appeal. Sometimes, you might be concerned about matters that are not decided by us (***examples should be given here e.g. NICE guidance in the NHS, legal framework etc.***) and we will then advise you about how to make your concerns known.

Also, this policy does not apply if the matter relates to a Freedom of Information or Data Protection issue. In this circumstance, you should contact **(insert relevant contact details)**

Have you asked us yet?

If you are approaching us for a service for the first time, (e.g. reporting a faulty street light, requesting an appointment etc) then this policy doesn't apply. You should first give us a chance to respond to your request. If you make a request for a service and then are not happy with our response, you will be able to make your concern known as we describe below.

Informal resolution

If possible, we believe it's best to deal with things straight away rather than try to sort them out later. If you have a concern, raise it with the person you're dealing with. He or she will try to resolve it for you there and then. If there are any lessons to learn from addressing your concern then the member of staff will draw them to our attention. If the member of staff can't help, they will explain why and you can then ask for a formal investigation.

How to express concern or complain formally

You can express your concern in any of the ways below.

- You can ask for a copy of our form from the person with whom you are already in contact. Tell them that you want us to deal with your concern formally.
- You can get in touch with our central complaint contact point on tel..... if you want to make your complaint over the phone.
- You can use the form on our website at www.....
- You can e-mail us at@.....
- You can write a letter to us at the following address

We aim to have concern and complaint forms available at all of our service outlets and public areas and also at appropriate locations in the community (***include examples as appropriate here e.g. libraries, GP surgeries etc.***).

Copies of this policy and the complaint form are available in (***list of appropriate community languages***) and as audio, large print etc.

Dealing with your concern

- We will formally acknowledge your concern within (***the maximum time to be inserted here is 5 working days. NHS bodies are required to acknowledge concerns within 2 working days***) and let you know how we intend to deal with it.
- We will ask you to tell us how you would like us to communicate with you and establish whether you have any particular requirements – for example, if you have a disability.
- We will deal with your concern in an open and honest way.
- We will make sure that your dealings with us in the future do not suffer just because you have expressed a concern or made a complaint.

Normally, we will only be able to look at your concerns if you tell us about them within ** months. (***The minimum time to be inserted here is six months (12 months for the NHS in Wales) but you may extend this should you need to consider complaints beyond this.***) This is because it's better to look into your concerns while the issues are still fresh in everyone's mind.

We may exceptionally be able to look at concerns which are brought to our attention later than this. However, you will have to give us strong reasons why you have not been able to bring it to our attention earlier and we will need to have sufficient information about the issue to allow us to consider it properly. (In any event, regardless of the circumstances, we will not consider any concerns about matters that took place more than three years ago.).

If you're expressing a concern on behalf of somebody else, we'll need their agreement to you acting on their behalf.

What if there is more than one body involved?

If your complaint covers more than one body (*appropriate examples here e.g. Housing Association and Council re noise nuisance, Health Board and GP*) we will usually work with them to decide who should take a lead in dealing with your concerns. If your complaint is about a GP, you can ask the Health Board to look into it for you. You will then be given the name of the person responsible for communicating with you while we consider your complaint.

If the complaint is about a body working on our behalf (*appropriate examples here e.g. repair contractors, specialist health providers, private residential homes etc.*) you may wish to raise the matter informally with them first. However, if you want to express your concern or complaint formally, we will look into this ourselves and respond to you.

Investigation

We will tell you who we have asked to look into your concern or complaint. If your concern is straightforward, we'll usually ask somebody from the service to look into it and get back to you. If it is more serious, we may use someone from elsewhere in the (*type of body here e.g. Council, Health Board*) or in certain cases (*local authorities should add "including those concerning social services where a statutory procedure applies*) we may appoint an independent investigator.

We will set out to you our understanding of your concerns and ask you to confirm that we've got it right. We'll also ask you to tell us what outcome you're hoping for. The person looking at your complaint will usually need to see the files we hold relevant to your complaint. If you don't want this to happen, it's important that you tell us.

If there is a simple solution to your problem, we may ask you if you're happy to accept this. For example, where you asked for a service and we see straight away that you should have had it, we will offer to provide the service rather than investigate and produce a report.

We will aim to resolve concerns as quickly as possible and expect to deal with the vast majority within 20 working days (*30 working days for NHS bodies*). (If appropriate, bodies may wish to insert a **shorter** timescale here.) If your complaint is more complex, we will:

- let you know within this time why we think it may take longer to investigate
- tell you how long we expect it to take.
- let you know where we have reached with the investigation, and
- give you regular updates, including telling you whether any developments might change our original estimate.

The person who is investigating your concerns will aim first to establish the facts. The extent of this investigation will depend on how complex and how serious the issues you have raised are. ***(If appropriate add "We use a grading system to help us to decide how best to deal with each case")*** In complex cases, we will draw up an investigation plan.

In some instances, we may ask to meet you to discuss your concerns. Occasionally, we might suggest mediation or another method to try to resolve disputes.

We'll look at relevant evidence. This could include files, notes of conversations, letters, e-mails or whatever may be relevant to your particular concern. If necessary, we'll talk to the staff or others involved and look at our policies and any legal entitlement and guidance.

Outcome

If we formally investigate your complaint, we will let you know what we have found in keeping with your preferred form of communication. This could be by letter or e-mail, for example. If necessary, we will produce a longer report. We'll explain how and why we came to our conclusions.

If we find that we got it wrong, we'll tell you what and why it happened. We'll show how the mistake affected you.

If we find there is a fault in our systems or the way we do things, we'll tell you what it is and how we plan to change things to stop it happening again.

If we got it wrong, we will always apologise.

Putting Things Right

If we didn't provide a service you should have had, we'll aim to provide it now if that's possible. If we didn't do something well, we'll aim to put it right. If you have lost out as a result of a mistake on our part we'll try to put you back in the position you would have been in if we'd got it right.

If you had to pay for a service yourself, when you should have had one from us, ***(bodies providing funding e.g. local authorities, health boards, grant making agencies should add "or if you were entitled to funding you did not receive")*** we will usually aim to make good what you have lost.

Ombudsman

If we do not succeed in resolving your complaint, you may complain to the Public Services Ombudsman for Wales. The Ombudsman is independent of all government bodies and can look into your complaint if you believe that you personally, or the person on whose behalf you are complaining:

- have been treated unfairly or received a bad service through some failure on the part of the body providing it
- have been disadvantaged personally by a service failure or have been treated unfairly.

The Ombudsman expects you to bring your concerns to our attention first and to give us a chance to put things right. You can contact the Ombudsman by:

- phone: 0845 601 0987
- e-mail: ask@ombudsman-wales.org.uk
- the website: www.ombudsman-wales.org.uk
- writing to: Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae, Pencoed CF35 5LJ

There are also other organisations that consider complaints. For example, the Welsh Language Board about services in Welsh. We can advise you about such organisations.

Learning lessons

We take your concerns and complaints seriously and try to learn from any mistakes we've made. Our senior management team (***substitute if necessary***) considers a summary of all complaints quarterly as well as details of any serious complaints. Our Council/Cabinet/Committee/Board also considers our response to complaints at least twice a year.

Where there is a need for change, we will develop an action plan setting out what we will do, who will do it and when we plan to do it by. We will let you know when changes we've promised have been made.

What if I need help

Our staff will aim to help you make your concerns known to us. If you need extra assistance, we will try to put you in touch with someone who can help. You may wish to contact (***examples appropriate to the service provider here e.g. CHC advocacy services, Age Concern, Shelter etc.***) who may be able to assist you.

You can also use this concerns and complaints policy if you are someone under the age of 18. If you need help, you can speak to someone on the Meic Helpline (phone 080880 23456, www.meiccymru.org) or contact the Children’s Commissioner for Wales. Contact details are:

01792 765600 (South Wales)
post@childcomwales.org.uk
www.childcom.org.uk

01492 523333 (North Wales)

South Wales Office:

Oystermouth House
Phoenix Way
Llansamlet
Swansea
SA7 9FS

North Wales Office:

Penrhos Manor
Oak Drive
Colwyn Bay
Conwy
LL29 7YW

What we expect from you

In times of trouble or distress, some people may act out of character. There may have been upsetting or distressing circumstances leading up to a concern or a complaint. We do not view behaviour as unacceptable just because someone is forceful or determined.

We believe that all complainants have the right to be heard, understood and respected. However, we also consider that our staff have the same rights. We, therefore, expect you to be polite and courteous in your dealings with us. We will not tolerate aggressive or abusive behaviour, unreasonable demands or unreasonable persistence. We have a separate policy to manage situations where we find that someone’s actions are unacceptable.

Model Concern/Complaint form

A: Your details

Surname	Forename(s):	Title: Mr/Mrs/Miss/Ms/if other please state:
Address and postcode:		
Your e-mail address:		
Daytime contact phone number		
Mobile number:		
Hospital number (if appropriate)		

Please state by which of the above methods you would prefer us to contact you

Your requirements: if our usual way of dealing with complaints makes it difficult for you to use our service, for example if English or Welsh is not your first language or you need to engage with us in a particular way, please tell us so that we can discuss how we might help you.

The person who experienced the problem should normally fill in this form. If you are filling this in on behalf of someone else, please fill in section B. Please note that before taking forward the complaint we will need to satisfy ourselves that you have the authority to act on behalf of the person concerned.

B: Making a complaint on behalf of someone else: Their details

Their name in full:	
Address and postcode:	
Hospital number (if appropriate)	
What is your relationship to them?	
Why are you making a complaint on their behalf?	

C: About your concern/complaint (Please continue your answers to the following questions on a separate sheet(s) if necessary)

- C.1 Name of the department/section/service you are complaining about:
- C.2 What do you think they did wrong, or failed to do?
- C.3 Describe how you personally have suffered or have been affected.
- C.4 What do you think should be done to put things right?
- C.5 When did you first become aware of the problem?
- C.6 Have you already put your concern to the frontline staff responsible for delivering the service? If so, please give brief details of how and when you did so.
- C.7 If it is more than 6 months (12 months for health concerns) since you became first aware of the problem, please give the reason why you have not complained before now.

If you have any documents to support your concern/complaint, please attach them with this form.

Signature:

Date:

When you have completed this form, please send it to:

[Name (central complaints handler)

Address & Other Contact Details]

A Model Concerns and Complaints Policy: Guidance to public service providers

Section 1 - Introduction

1.1 Purpose of the Model Concerns and Complaints Policy

1.1.1 The Welsh Assembly Government's vision for improving public services in Wales is well documented and it recognises that complaints systems and redress² can make an important contribution to the improvement of those services.

1.1.2 The purpose of the model policy for handling concerns and complaints (hereafter referred to as 'the policy') is to establish across the spectrum of public service providers:

- common principles for the effective handling of concerns and complaints
- a common model for dealing with concerns and complaints.

1.1.3 In addition, it is intended that this guidance will also enable:

- common data collection procedures
- common methods for learning from concerns and complaints.
- a common means to identify and disseminate good practice.

Note: Hereafter whenever reference is made to a 'concern' or 'complaint' it refers to both 'concern and complaint'.

This guidance sets out a model for dealing with complaints based on the common complaints policy. It is recognised that organisations will need to interpret the guidance in a way which is appropriate to their own circumstances. However, the arrangements for managing complaints behind the scenes must not detract from the service user's perception of a common approach, so elements such as the form, the timescales and the number of stages should be consistent for all.

1.2 Statutory Basis and Scope of the Model Policy and Guidance

1.2.1 The policy and guidance comes into effect on **[?? Date to be established ??]**

1.2.2 They are issued under existing powers of the Welsh Assembly Government in respect of the various sectors of the public service devolved to Wales, and Section 31 of the Public Services Ombudsman (Wales) Act 2005.

² Redress: appropriate redress can take many forms, this includes an explanation and an apology, remedial action, on occasion financial compensation, or a combination of these. Redress should seek to put the complainant back in the position they would have been in if nothing had gone wrong. Where this is not possible – as will often be the case – the remedy should fairly reflect the harm the complainant has suffered.

1.2.3 They are compatible with the health service statutory procedure set out in the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2010 which will be laid before the Assembly shortly. These Regulations will apply to complaints about NHS services, subject to their successful passage through the National Assembly for Wales and similar guidance to this document will be developed for the NHS in Wales to follow.

1.2.4 The statutory social services complaints procedure, "Listening and Learning", was introduced in April 2006. It is a three stage process, including independent panel consideration at Stage 3. Any potential changes to this process will need to be the subject of Ministerial consideration and public consultation. Any specific references to social services in this guidance document will only apply when and if the social services statutory complaints procedure is amended to align itself with the complaints procedure for the rest of the public sector in Wales.

Public service providers will need to ensure that their complaints policies are fully compatible with their Welsh Language Schemes and the requirements of the Welsh Language Act 1993. Complainants should not be disadvantaged where they complain through the medium of Welsh.

1.2.5 The model policy and guidance applies to the list of public service providers set out at Appendix A.

Section 2 - Definition and Principles

2.1 What is a Complaint?

2.1.1 A complaint is:

- an expression of dissatisfaction or concern
- either written or spoken or made by any other communication method
- made by one or more members of the public³
- about a public service provider's action or lack of action
- or about the standard of service provided
- which requires a response

whether about the public service provider itself, a person acting on its behalf, or a public service provider partnership.

2.1.2 A complaint is not:

- an initial request for a service, such as reporting a faulty street light
- an appeal against a 'properly made' decision⁴ by a public body
- a means to seek change to legislation or a 'properly made' policy decision
- a means for lobbying groups/organisations to seek to promote a cause.

2.2 Principles for dealing with complaints

2.2.1 When someone complains they inevitably have an issue about a service which has been received or not received. Complaints need to be handled in such a way that the complainant is the focus and not the process itself. It is within this context that the following principles should be applied.

(i) **Accessible and Simple**

- Well publicised.
- Easy to find, understand and use – both for public and staff.
- Simple and clear instructions for the public about how to make a complaint.
- Has flexibility to meet the different needs of different people, ensuring that those who face challenges in access are not excluded.
- Provides information on advocacy and support services.
- The stages in the complaint handling process are kept to a minimum.

³ 'member of the public' is defined as anyone in receipt of a service by the public service provider in question or, indeed, denied a service to which they are entitled – this can be an individual or a group of people.

⁴ A 'properly made' decision is one where the relevant laws, policies and procedures have been correctly followed in arriving at a decision e.g. setting the council rent.

(ii) **Fair and Impartial**

- Concerns are dealt with in an open-minded and impartial way.
- Complainants are assured that making a complaint will not adversely affect their future dealings and contacts with the body concerned.
- Ensures that complainants get a full response and that decisions are proportionate, appropriate and are fair.
- The staff complained about are treated as fairly as complainants

(iii) **Timely, Effective and Consistent**

- Within the parameters of what is appropriate and possible, frontline staff themselves should seek to resolve complaints
- 'Investigate Once, Investigate Well' – when a complaint requires formal investigation, this should be done thoroughly to establish the facts of the case.
- Dealt with as quickly as possible. It should normally take no longer than 20 working days (30 days for the NHS in Wales) from receipt at the Formal Stage⁵ to resolution. Bodies may wish to establish **shorter** timescales than this. If a complaint is more complex, complainants should be told why it may take longer to investigate and how long it is expected to take. Complainants and staff involved should be kept informed of progress throughout.
- Consistent so that people in similar circumstances are treated in similar ways.
- Concerns involving more than one public service provider are dealt with in such a way that the complainant's experience is of one system.

(iv) **Accountable**

- Provides honest, evidence-based explanations and gives reasons for decisions.
- Information is provided in a clear and open way.
- When concerns are found to be justified, as appropriate, public bodies:
 - acknowledge mistakes
 - apologise in a meaningful way
 - put matters right
 - provide prompt, appropriate and proportionate redress.
- Follow up to ensure any decisions are properly and promptly implemented.
- Where appropriate, the complainant is told about the lessons learnt and changes made to the service, guidance or policy.
- Ensures that complainants are informed of their right to complain to the Public Services Ombudsman for Wales (or of other appropriate routes open to them, for example, Welsh Language Board in respect of complaints about compliance with Welsh Language Schemes, Equality and Human Rights Commission.).

⁵ The Model proposes three stages: an informal stage (where complaints are initially raised with frontline staff or department), a formal stage when a complaint is formally made in writing, and a third stage where the complaint is subject to independent external consideration.

(v) **Delivers Continuous Improvement**

- Lessons learnt from complaints are gathered and feedback is used to improve service design and delivery.
- Systems in place to record, analyse and report on the learning from concerns.
- The leadership of the public body:
 - takes ownership of the complaints process
 - regularly reviews and scrutinises its effectiveness
 - receives regular complaints monitoring reports, and
 - demonstrates what the organisation has done to improve service delivery as a result of complaints.
- Regulators have an important role in ensuring that lessons learnt from concerns are implemented satisfactorily and sustained.

Section 3 - Complaint Handling Arrangements

- 3.1 The aim is to provide a common approach for handling complaints by replacing 'process heavy' systems with one that is simple, flexible and places emphasis on getting the most appropriate outcome for individuals and services. It requires public service providers to take a much more proactive approach to dealing with concerns by focusing on people's needs and not the complaints process itself.
- 3.2 By being widely adopted by key services it will help to streamline complaints arrangements across the public sector and make it easier to deal with concerns that relate to more than one service provider.

3.3 A Commitment Statement

- 3.3.1 The Welsh Assembly Government has published a principle on redress for public services (*Making the Connections – Building Customer services*, March 2007). This is the touchstone for the model complaints policy and every public service provider in Wales in adopting the model should in turn publish a commitment statement as follows:

"People will find it easy to complain and get things put right when the service they receive is not good enough."

[Note: The above statement also applies to circumstances where there has been a failure to deliver a service someone is entitled to receive. However, it does not apply in circumstances where people are making a request for an initial service.]

3.4 The people who may put forward a concern

- 3.4.1 Any member of the public, including a child, who has received, or was entitled to receive, a service from the public service provider may make a complaint. The same applies if they have suffered due to the inappropriate action or lack of action by the public service provider.
- 3.4.2 Where a concern is notified by a young person or child, the responsible body must provide them with such assistance that they may reasonably require in order to pursue the concern. This should include making the young person or child aware of the help that could be provided by the Children's Commissioner for Wales.
- 3.4.3 A concern can also be put forward by someone on behalf of another person, as follows:
- (a) someone who has died
 - (b) a child

- (c) those who lack the capacity (as defined by the Mental Capacity Act 2005(1))
- (d) they have been asked to do so by the person affected.

In the case of (b), (c) and (d), public service providers must satisfy themselves, as far as the circumstances of the person affected allow for it, that the representative is acting with the authority of that person and if possible obtain their signature to confirm this.

3.4.4 This procedure is not however a means for a member of staff to raise employment issues. There are other internal mechanisms for these type of concerns, for example, whistleblowing, bullying, or grievance procedures.

3.5 Roles

3.5.1 **The Board/Cabinet** of the public service provider should ensure that the policy is adopted and in place. It is not appropriate for the Board/Cabinet to be involved in the investigation of individual complaints. However, it should receive reports on the number and type of complaints received, their outcomes and any remedial action taken as a consequence. It is for the Board/Cabinet to determine how frequently it should receive such reports, however, this should be at least twice a year. Organisations with such arrangements in place may, in addition, want to include the consideration of complaints reports to be included within the remit of a scrutiny or similar type committee.

3.5.2 **Responsible Officer** – Each organisation should appoint an officer (e.g. chief executive, director, clerk) with responsibility for ensuring the policy is adopted and the guidance is followed.

3.5.3 **The Person/Team co-ordinating complaint** – The public service provider should have an individual or team responsible for co-ordinating responses to all complaints which are not resolved at the informal stage. For example, in a small organisation such as a community council this is likely to be the clerk, whereas some large organisations may have a central complaints team for this purpose. For ease of reference throughout this document, this role is described as the 'central complaints handler'. Organisations may also use this individual or team to help to secure a consistent high quality response to complainants.

3.6 Resources

3.6.1 The public service provider should ensure that the necessary resources are made available to enable delivery of the policy, this includes:

- staffing (including administrative support, if necessary)
- training
- complaint handling administration systems.

3.7 Accessibility and publicising the complaints procedure

3.7.1 Requirements in relation to methods of communication will vary depending on the nature of the service(s) provided by the organisation and its size. When considering this, the goal must be to ensure that the complaints system is accessible to everyone.

3.7.2 Nevertheless, the minimum requirements are:

- That the 'Complaints Commitment Statement' and complaints process are widely publicised. This should be done by:
 - promoting the existence of the procedure, together with appropriate contact details, on a regular basis in any newsletters that the organisation publishes for its service users
 - producing a bilingual complaints information leaflet (see 3.6 below)
 - the leaflet should be available at all public reception areas and 'common' areas where service users may frequent, and made widely available to the organisation's staff.
 - the leaflets should also be circulated to the local offices of relevant advice and advocacy organisations operating in the service provider's area
 - the complaints procedure should be published at a prominent and easily accessed area of the organisation's website (ideally via a link on the home page)

That in addressing issues of accessibility:

- the complaints procedure information is available in alternative formats such as on CD, in large print, Braille, etc
- those organisations operating in areas recognised as having the highest populations of minority ethnic communities in Wales have at the very least some basic literature available in the most common ethnic languages in their areas publicising the existence of the complaints procedure
- that all organisations have in place arrangements so that they can call upon translation/interpretation services (including British Sign Language).

Public service providers may wish to contact the Wales office of the Equality and Human Rights Commission for advice on accessibility matters.

For people who may need advice/support in making their complaint, public service providers should keep a comprehensive list of relevant advice and advocacy organisations in their locality. Advice should be provided to complainants who require/request such support as to which organisation(s) is likely to be the most suitable to help them. (A decision on which organisation would be best placed to assist could be based on the nature of the complaint, or on the nature of any disadvantage faced by the complainant – e.g. language, disability, etc). Community Councils and other very small service providers should use this section as a guide but will not normally implement it in full. They should however ensure that there is equality of access for all service users.

3.8 The complaints information leaflet/complaint form

- 3.8.1 The wording of the English and Welsh complaints information leaflet should be as per the model policy.
- 3.8.4 In raising a concern, ideally people should complete a complaint form either printed version or webform (see Appendix A of model complaints policy for model form)
- 3.8.5 However, people may prefer to present their complaint by telephone, e-mail, or in person (or other method). In doing so staff dealing with the complaint should ensure that they have gathered the same information as that being sought on the complaint form and ensure it is recorded appropriately.

3.9 The complaints procedure

Stage 1 - Informal Resolution⁶

This stage offers the opportunity for informal engagement at the point of service delivery to seek to resolve complaints either at the time the concern arises or very shortly thereafter. This stage should be part and parcel of front line service delivery and not viewed as separate from it. This first step will normally be an explanation or other appropriate remedial action by frontline staff.

- Staff should be empowered and trained to deal with complaints as they arise with the aim of resolving issues on the spot. This training can be provided during their induction period.
- Staff should be trained to recognise the seriousness of a complaint and understand when it should be referred to more senior member of staff.
- Staff may receive complaints that do not involve their own service, but that of another department. It may be difficult for those in large organisations to know to whom the complainant should be referred, but at the very least all staff should be able to direct the complainant to the organisation's central complaints handler, who will then be able to advise the complainant appropriately.
- In a similar vein, staff may receive a complaint that not only involves their own service but that of another section/department. It is recommended that in these instances – since it is unlikely that the staff member will have the necessary authority to resolve a complaint on behalf of another area of the organisation's service – the complainant should be referred directly to the central complaints handler.

⁶ Whilst not a separate stage within the NHS Complaints procedure the 'Putting Things Right: a better way of dealing with concerns about health services' document (Welsh Assembly Government: 11 January 2010) states: "if concerns are raised by patient or family member and resolved on the spot, frontline staff will report the issue to the central team ... so that lessons can be shared.". This process will be developed in further details as part of the implementation of the Regulations.

- Staff must advise complainants how to progress their complaint to the formal investigation stage, if they are not satisfied with the outcome of their complaint at the end of the informal stage.
- Complainants may wish their complaint to be 'fast tracked' straight through to internal investigation (Stage 2). This may particularly be so if there have been disagreements with staff directly responsible delivering the service. It is the complainant's prerogative to seek to take their complaint directly to Stage 2 of the procedure and frontline staff should advise how they may do so.
- Frontline staff should be trained and encouraged to provide appropriate information on advice and advocacy support at Stage 1 of the complaints process. However, it is recognised that they may not have (nor could they be expected to) have the breadth of knowledge of all organisations for all types of help available, particularly when operating in a specialist field themselves. Nevertheless, a housing officer, for example, should be sufficiently knowledgeable to advise a complainant with a housing complaint about the services of organisations such as Shelter Cymru.
- The central complaints handler should be a source of support for frontline staff in respect of local resolution.

The informal resolution stage should be done as quickly as possible and certainly take no longer than 10 working days. However, in the case of the NHS, informal resolution needs to be done immediately or within one working day. If it is not possible to resolve the concern within the relevant timescale, then the matter should be escalated to the formal investigation stage.

Examples of the type of concern that can be resolved at the local resolution stage are:

- an appointment was made for a boiler to be fixed and the tenant complains that no-one turned up on the appointed day
- someone complains that their bin hasn't been emptied by the refuse collection service when it should have been.

However, examples of the type of complaint that should not be resolved at the informal stage are:

- that the complaint relates to a failure to safeguard a child/children by social services
- the complainant believes that there has been a failure in health treatment which has led to serious consequences
- the concern involves issues where it appears a service failure has occurred due to an obvious systemic problem.

Stage 2 Formal Internal Investigation

'Investigate once, investigate well' is the principle for this stage of the process. Emphasis is placed on one investigation to deal thoroughly with the concerns raised, rather than multiple investigations at different levels in the organisation which can result in protracted and sometimes open ended investigations. However, the Stage 2 element of the complaints process is intended to be flexible to respond appropriately to the complaint. 'Investigating well' also means conducting an investigation in a manner that is proportionate to the nature and degree of seriousness of the complaint. Proportionate means that for those complaints not so serious in their nature, the investigation may not need to be so detailed.

The following sets out how a complaint should be dealt with at Stage 2.

- Stage 2 complaints should be sent by the complainant to the central complaints handler of the organisation. Any staff member who is not a central complaints handler receiving a complaint form should forward it promptly.
- Having formally received a complaint at Stage 2, an acknowledgement should be sent by the central complaints handler as soon as is possible but within a maximum of five working days (this has to be within two days after the day the complaint has been received for NHS bodies).
- If the complaint is 'out of time' – i.e. the issue being complained about is older than six months – 12 months for health complaints - (from the time that the complainant first became aware of the problem), consideration should be given as to whether there are good reasons as to why it should nevertheless be accepted. For health complaints there is an absolute cut off time of three years and other bodies may wish to adopt this.
- The central complaints handler should offer to discuss the matter with the complainant, including:
 - helping the person who is complaining understand the process
 - confirming with them their preferred method of communication and what they want as an outcome to making the complaint
 - providing advice of relevant advocacy and support services if they need help in making their complaint.(The above is a duty for NHS bodies.)
- Depending on the nature of the complaint it may be necessary to obtain the complainant's permission to access their personal file. If the complainant refuses to give permission, then it should be explained to them that this will have an effect on the ability to conduct a thorough investigation.
- If the complainant is complaining on behalf of someone else, consideration will need to be given as to whether consent is needed to investigate the complaint.
- Having satisfied themselves that they sufficiently understand the details of the complaint, the central complaints handler should:

- grade the seriousness of the complaint to decide on the appropriate level of investigation (where the organisation has such an arrangement in place)
 - identify an officer within the organisation with sufficient seniority, credibility and independence from the source of the complaint to undertake the investigation:
 - depending on the nature of the complaint, this may still be someone within the service section/department, but it may require someone independent from the section/department, including possibly the complaint handler themselves.
 - in the case of community/town councils, who may only have one member of staff (the Clerk), it is accepted that the Clerk will often take the role of 'frontline, informal resolution' and that the Chair/Mayor or sub-committee of the Council could where necessary take the role of 'investigator'.
 - when deciding on an 'investigator', take account of whether the investigation will need to span across more than one service and the level of seniority required to investigate across all those areas
 - for social services complaints, consideration should be given as to whether an independent investigator outside the organisation should be engaged and also whether the investigation could benefit from the involvement of an independent lay person from the pool of people identified by the Welsh Assembly Government. However, this should all be contained within the Formal Stage 2 procedure, with an agreed 'single response' on the outcome of the investigation.
- Having recorded the complaint on the complaints handling system on receipt, the central complaints handler should keep track of (and record) progress and take responsibility for monitoring the smooth running of the investigation, ensuring that timescales are met. The stage 2 complaints process should normally be concluded within 20 working days – 30 days in the case of NHS complaints - (or such shorter timescale as determined by the public service provider). Where this is not possible complainants must be informed of the reasons and be agreeable to any extension. In any event, there should be regular contact with the complainant, updating them on progress on the case.
 - A complainant may withdraw their concern at any time, however, the public service provider may continue to investigate if it feels that it is necessary to do so.
 - It is recommended that the central complaints handler produces a portfolio of specimen documents/templates to assist those involved in the complaints process, these could include:
 - a form for frontline staff for logging relevant complaints at the informal stage (these will be germane for any complaints progressed to Stage 2)
 - an acknowledgement letter
 - a framework for 'update' letters to the complainant
 - interview request letters (e.g. for the investigator when requiring meetings with staff involved)
 - a template for investigation reports

Complaints Investigations

- A complaint investigation should be a fact finding exercise which is impartial, open and transparent and proportionate to the seriousness of the complaint. For serious complaints, a plan needs to be drawn up enabling the complaint to be investigated systematically.
- However, even though the complaint has reached the Formal Internal Stage, there may still be potential for resolving the concern to the complainant's satisfaction through a '**quick fix**' and without having to undertake a full and lengthy investigation. Consideration should be given to the possibility of this.
- Consideration should also be given as to whether face to face meetings and/or mediation could be a means to resolving the complaint
- Evidence gathering can include:
 - correspondence (letters and e-mails)
 - notes of telephone conversations
 - organisational policies and procedures
 - good practice guidance
 - records (including those specifically in relating to complaint under consideration and training records of staff involved in the complaint)
 - legislation
 - interviews (including detailed notetaking)
 - site plans and visits
 - photographic evidence
 - recordings in various formats (e.g. phone, video, CCTV)
 - obtaining professional/expert advice
 - training records of relevant staff.
- Recommendations arising from investigations should be Specific, Measurable, Achievable, Realistic and Timed (SMART)
- At the end of an investigation a written outcome such as letter or e-mail should be produced, and in more serious cases a report. Where a report is produced this should include where appropriate:
 - the scope of the investigation
 - a summary of the investigation:
 - details of key issues, setting out a brief chronology of events leading to the complaint)
 - those who were interviewed (including setting out to what degree the complainant, and if appropriate, any affected relatives, advocates, etc were involved in the investigation)
 - conclusion
 - if the complaint is found to be justified/upheld
 - how it happened - i.e. what went wrong

- why it happened – i.e. the root cause of the problem (e.g. human error, a systemic failure)
 - what impact did it have on the complainant
 - if a systemic failing has been identified, an explanation of actions taken to put things right, with a view to ensuring the same problem does not occur again
 - if appropriate, an apology
 - if appropriate, an offer of redress
 - if the complaint has not been upheld, there should be an explanation of why this conclusion has been reached, demonstrating that it has been arrived at based on the evidence gathered.
- overall the report should demonstrate throughout that the complaint has been taken seriously, that the investigation undertaken has been fair and, in accord with the seriousness of the complaint, proportionately thorough.
 - Even in cases where an investigation upholds the complaint and offers remedy/redress, it may be that the complainant remains dissatisfied for some reason. Therefore, in all cases, the report should inform the complainant that if they remain dissatisfied then they have the right to seek an independent external consideration of their complaint. Information about making a complaint to the Public Services Ombudsman for Wales and other appropriate complaint handlers including the Welsh Language Board should be provided.

The final steps

The fact that complaints will vary in the degree of seriousness has already been referred to. The organisation should decide at what level decisions on recommendations in the report can be taken and who should sign off on the complaint (i.e. who should sign any report or letter).

There will be times when it would be appropriate for the central complaints handler to do so, other times the Executive Director responsible (larger organisations), and then other times the head of the organisation. The public service provider should establish the level of delegation in this regard. Further, the head of the organisation should ideally see a copy of all final correspondence sent out in respect of Stage 2 complaints. However, this will be impractical for the largest organisations and in these circumstances it is recommended that the central complaints handler provides the head of the organisation with frequent reports.

In cases where a complaint has been upheld and there is a clear systemic issue, the appropriate Director or Manager should ensure that an action plan is devised setting out how the recommendations will be implemented and identify who will be responsible for ensuring their implementation. When it affects them, frontline staff should be involved in this process. The plan should also include arrangements for confirming to the complainant that changes have been implemented and make provision for the monitoring and evaluation of new arrangements introduced to assess their impact.

On closing a complaint case, the central complaints handler should ensure that working documents used during the course of the investigation are retained in an orderly fashion and stored securely. If the complaint becomes the subject of further external investigation such as by the Public Services Ombudsman for Wales, these working documents may be needed as the public service provider's evidence. Complaint case records should be retained for at least one year following closure at the end of Stage 2.

An Independent Person

It may be that for some investigations, it is considered appropriate to include the involvement of an independent person in the Stage 2 investigation. This is particularly the case in respect of social services complaints that concern children and adults in vulnerable circumstances. It will be the responsibility of the central complaints handler to ensure that the organisation has a pool of suitable people to call upon where necessary.

Complaints Involving Other Legal or Disciplinary Proceedings

Occasionally, complaints received will involve legal or disciplinary proceedings. It may from time to time be necessary to put the investigation of a complaint 'on hold' until the conclusion of those other proceedings. However, it should not automatically be assumed that this is necessary in every case. An assessment should be made (with legal advice sought, if appropriate) to identify whether it is possible to address the subject of the complaint, without impacting unfairly on the other proceedings underway. It is important that if a complainant is in a continued state of disadvantage as a result of likely poor service delivery that every step is taken to conclude this part of their complaint. This will mean that, if the complaint is upheld, it has been demonstrated that the organisation is doing everything it can to return them as soon as possible to the position they would have been in if that failure had not occurred in the first place

Complaints involving more than one service provider

There are occasions when a complaint received will involve more than one organisation. In this case the role of the central complaints handler will be slightly different. Having established the elements of the complaint and which organisations are involved, they should contact their counterpart(s) in the other organisation(s) involved. The complaints officers should then decide which of them should lead on co-ordinating the response to the complainant. It would seem sensible that this should be the organisation with the greatest involvement in the complaint. However, it may be appropriate for the organisation with the largest complaints handling resource to undertake this role.

The role of the complaints officer allocated to the complaint in question is to co-ordinate the investigations in each of the service areas involved. The ultimate aim, therefore, is to provide the complainant with a single comprehensive 'joint' response on behalf of all of the organisations involved.

There will be complaints where each element is sufficiently distinct and separate so that all that will be required is to set out the details and outcome of each investigation strand and then add an overall conclusion to the response.

However, it is recognised that there will be some cases where the resolution and remedy of a complaint will involve agreement by all involved and that this could lead to tensions and disagreement. Where such disagreements lead to an impasse, it may mean having to refer the problem to senior management within each of these organisations (depending on the seriousness possibly Chief Executives) in order to try to resolve the situation.

Where the impasse still cannot be resolved, it may be prudent to refer the matter at this point to the relevant external independent complaint handler at Stage 3 (e.g. the Public Services Ombudsman for Wales). However, the complainant should be told of this intention, together with the reason for it, and their agreement should be sought before such a referral takes place.

Partnership Services

[Note: Whilst not forming part of an individual organisation's complaints handling procedure, public service providers will need to have regard to the following when forming partnerships with similar and other types of organisations.]

The situation in relation to complaints about partnership services is again different, particularly given that not all partners may be subject to this model procedure. Nevertheless, it is good governance practice for every partnership established to have in place at the outset a protocol for dealing with complaints. That protocol should make clear where accountability lies within the partnership for any services delivered – i.e. does responsibility rest with the partnership as an entity, is each partner accountable for specific aspects of the service delivery?

Given that in most public service provider partnerships many members will be subject to this model procedure, it is recommended that those providers endeavour to agree a protocol with their partners for dealing with complaints in a way that corresponds with this model.

In particular, it is recommended that:

- partnerships establish a complaints handling process for services that they as a partnership deliver
- they identify and publicise a single point of contact for complaints in respect of their activities/services

- the person/team identified, co-ordinates the investigation of the complaint on behalf of the partnership. Depending on the nature of the complaint, if the complaint concerns dissatisfaction with the service delivered by one particular partner, it may be more appropriate to refer the investigation on to that particular partner to deal with
- the partnership ensures that lessons are learnt from complaints received and considers whether there are any that should be shared more widely.

Complaints concerning services that have been contracted out

Even though public service providers may contract out the provision of services to private/voluntary organisations, this does not absolve the public service provider of their responsibility for those functions. Central complaints handlers should, therefore, ensure that those responsible for drafting contracts are aware of the need to include as a matter of course a provision for complaints handling. This should include the requirement for organisations contracted to provide services to comply with similar complaint handling arrangements (i.e. the two stages), with the outcome report/letter being copied to the public service provider. Such organisations should also inform complainants of the third external stage and their right to complain to the Public Services Ombudsman for Wales.

Section 4 - Learning Lessons

4.1 Learning from complaints/continual improvement

4.1.1 Complaints information should be used to improve an organisation's service delivery and increase its effectiveness.

4.1.2 To support this, organisations should:

- Ensure that the central complaints handler, periodically reviews all complaint outcomes and their recommendations to identify whether there are any patterns to complaints/wider lessons to be learnt that may not be apparent from individual complaints alone. When considering the lessons that can be learnt from a complaint, an assessment should be made as to whether:
 - These are limited to the section/department in question
 - Whether they have an organisation wide implication
 - Or indeed whether they are ones that should be shared across the sector of the public service or indeed across the whole of the public service in Wales.
- Ensure that complaints reports are considered on a regular basis by senior management, including an analysis of the data gathered and information on recommendations that have been made for improving service delivery.
- Ensure that the information received by senior management is used to target any problem areas and consider if there is potential to improve policies, procedures and accordingly services.
- Ensure that the cabinet/executive board receives reports giving an overview of complaints received, setting out what changes have been made as a result of complaints information, and following monitoring of their implementation what results have been received.
- Ensure that an annual report on complaints is produced, drawing out lessons learnt over this period and demonstrating how they have contributed to improved service delivery.

4.2 Recording & monitoring complaints

4.2.1 Effective approaches to complaints management collect specific data and identify recurring or system wide problems. All feedback and complaints received should be recorded to ensure that a comprehensive evaluation of data can be made.

4.2.2 To support this, organisations should:

- Have a system to collect organisation-wide complaints data
- Use the system to help track complaints and compliance with timescales

- Data recorded should enable the numbers, types, outcomes and trends of complaints to be captured, to facilitate comparisons with previous periods and identify system wide or recurring complaints
- The system should also enable points from lessons learned to be captured
- Write to the complainant detailing the findings of the investigation, providing an apology for any shortfalls and describing what action will be taken to prevent recurrence

[Note: Frontline staff should be encouraged to report all serious complaints or those with wider learning points that they have dealt with informally to the central complaints service so that these can be recorded on the central complaints handling database. This should be regardless of whether or not the complaint has been resolved on the spot. For those serious complaints not resolved, such action will mean that there will be a record of the incident should the complaint progress to Stage 2 of the complaints process.]

4.2.3 However, it is not intended that public service providers should have to implement a new IT system for these recording purposes. Furthermore, for small community councils, for example, manual recording may suffice.

4.2.4 To enable the identification of trends both within and across organisations in Wales, when categorising complaints, the following top level complaint subjects should be adopted by the types of public service providers listed below:

County/County Borough Councils

- Adult Social Services
- Benefits administration (Council Tax/Housing/Other)
- Children's Social Services
- Community facilities, recreation and leisure
- Education
- Environment and Environmental Health
- Finance and Council Tax
- Housing
- Planning and building control
- Roads and transport
- Various other

Housing Associations

- Applications, allocations, transfer and exchanges
- Estate management and environment/common areas/hedges and fences etc
- Repairs and maintenance (inc dampness/improvements and alterations eg central heating, double glazing)
- Neighbour disputes and anti-social behaviour
- Tenancy rights and conditions/abandonment and evictions
- Right to Buy
- Financial matters – rent arrears, former tenant arrears, service charges
- Other

Local Health Boards/NHS Trusts

The appropriate health categories for these bodies will be in line with those developed and issued as part of the implementation of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2010

4.2.4 In order to also identify outcome trends of complaints, the following high level complaints outcome definitions should be used

- Complaint about service not provided by this body
- Referred to front line staff and resolved
- Investigation not merited
- Quick Fix/Voluntary Settlement
- Investigation Discontinued
- Upheld – Non systemic issue
- Upheld – Systemic - Action plan required
- Not Upheld
- Withdrawn

(In respect of the LHBs/NHS Trusts NHS, the comments at 4.2.3 apply.)

Section 5 - Staff and Training

5.1 Staff

- 5.1.1 Whilst it is not uncommon for people to look for someone to blame when things go wrong, staff should be assured that this is not the aim of an investigation. It should be made clear that any interview that may take place is to establish facts as part of the investigation of a complaint, and that it does not form part of a disciplinary procedure. (However, a separate disciplinary process could take place if this appropriate.)
- 5.1.2 When requiring staff to attend for interview, they should be told the purpose of the interview, what to expect and what preparation they need to do. They should be advised that they can bring someone (such as a colleague) for support – although the position of confidentiality and their role should be made clear). They should also be advised as to what will happen after the interview.
- 5.1.3 Being the subject of a complaint is in any event a stressful situation and depending on the circumstances of the complaint and the issues involved, it may be prudent to inform the interviewee of staff support/counselling available.
- 5.1.4 In the same way that it is important to keep complainants informed on progress in the investigation and its outcome, the same is true in respect of staff.
- 5.1.5 As well as informing staff involved of the outcomes of complaints and any recommendations that arise, there should also be a means (staff newsletters, making the annual report available on the intranet) of disseminating to staff how the way they deal with complaints can contribute to better public services. The organisational culture should be that reporting a complaint and action taken is seen as a positive act in that it assists organisational learning. If many individuals (perhaps based in many different locations) deal with a similar type of problem without this information being shared with others, then what may be a deep-rooted systemic problem within the organisation may not emerge to the surface. If frontline staff inform the complainant of this (intended) action, it is likely to have a positive effect in terms of good customer relations.

5.2 Training

- 5.2.1 The complaints function needs to be adequately resourced by appropriately trained staff.
- 5.2.2 The central complaints handler should undertake an assessment of the skills and competencies required by all those involved in the complaints process and ensure that there is an appropriate training strategy in place. (For the NHS in Wales, a skills and training needs assessment will be carried out as part of the implementation of the Regulations),

- 5.2.3 The central complaints handler should continually keep under review the number of skilled and trained officers within the organisation to conduct and prepare reports on investigations.
- 5.2.4 Those likely to be involved in conducting 'sensitive' investigations will in all probability need additional 'specialist' training.
- 5.2.5 Ultimately staff training is a matter for individual public service providers to determine. Public Services Management Wales (PSMW) is likely to provide training specifically targeted at public service provider complaint handlers. It is envisaged that the training will also include advice to central complaints handlers on how to train frontline staff on dealing with complaints/local resolution. However, public service providers may wish to arrange alternative suitable training.] [The Welsh Assembly Government will be making appropriate arrangements for training in the NHS in Wales as part of the implementation of the Regulations.].
- 5.2.6 However, general training should also be included in the induction programme of all in the organisation (this includes staff and Board/Cabinet members).

5.3 Unacceptable Actions by complainants

- 5.3.1 The model policy recognises that some people may act out of character in times of trouble or distress. It should be borne in mind that there may have been upsetting or distressing circumstances leading up to a complaint. A complainant's behaviour should not be regarded as unacceptable just because they are forceful or determined. However, the actions of complainants who are angry, demanding or persistent may result in unreasonable demands on an organisation or unacceptable behaviour towards staff. It is these actions that are considered unacceptable. Organisations should therefore have in place an 'unacceptable actions by complainants' policy and ensure that staff receive appropriate associated training. Organisations currently without such a policy, are welcome to use the Public Services Ombudsman for Wales's policy (available at www.ombudsman-wales.org.uk) as a basis for their own procedure.

List of organisations to whom the Model Concerns and Complaints Policy and Guidance Apply

Government of Wales

The Welsh Assembly Government
The National Assembly for Wales Commission

Local government, fire and police

A local authority in Wales (this includes county/county borough councils* and community councils)

A joint board the constituent authorities of which are all local authorities in Wales

A fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies

A police authority for a police area in Wales

Environment

A National Park Authority for a National Park in Wales

The Countryside Council for Wales

The Environment Agency

The Forestry Commissioners

A regional flood defence committee for an area wholly or partly in Wales

An internal drainage board for an internal drainage district wholly or partly in Wales

Health and social care

The Care Council for Wales

The Board of Community Health Councils in Wales

A Local Health Board*

An NHS trust managing a hospital or other establishment or facility in Wales*

A Special Health Authority not discharging functions only or mainly in England

A Community Health Council

An independent provider in Wales*

A family health service provider in Wales*

A person with functions conferred by regulations made under section 113(2) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43)*

Housing

A social landlord in Wales (this includes housing associations)

Education and training

The Office of Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru (ELWA)

The Higher Education Funding Council for Wales

An admission appeal panel constituted in accordance with regulations under section 94(5) or 95(3) of the School Standards and Framework Act 1998 (c. 31).

The governing body of any community, foundation or voluntary school so far as acting in connection with the admission of pupils to the school or otherwise discharging any of their functions under Chapter 1 of Part 3 of the School Standards and Framework Act 1998.

An exclusion appeal panel constituted in accordance with regulations under section 52 of the Education Act 2002 (c. 32).

Arts and leisure

The Arts Council of Wales

The Sports Council for Wales

Miscellaneous

The Welsh Language Board

[Notes:

1. Health and Social Care Providers: Those bodies above marked with an asterisk must also comply with the relevant statutory arrangements for health and social services complaints handling.
2. School Governing Bodies: Whilst these bodies do not come within the ambit of this model policy and guidance, it is recommended that when developing/reviewing their own complaints procedures they have regard to these two documents as 'good practice'.]