COMMUNICATION AND HOW TO HANDLE COMPLAINTS

Every patient, whether NHS or private, will have the right to complain about their treatment. Complaints, whatever their nature, should always be fully investigated.

In most disciplines, complaints are usually made by made by the patient but in orthodontics, frequently the complaint is made by the parent or guardian of the individual who is often a child under the age of 18. Complaints could be made in writing or verbally. If verbal, a discussion should take place with the patient and a careful note should be taken of the concern. Patients should not be told that they must put the complaint in writing. All complaints are valid whether verbal or in writing.

Whilst no professional likes to receive a complaint, investigating complaints can be an opportunity to learn from mistakes and improve patient care. Let us now look at the types of complaint.

Types of complaint

Complaints about treatment in NHS hospital settings

Patients may complain about orthodontic treatment in the hospital. The NHS Constitution is the document in which the NHS sets out its commitments to patients and staff, and the responsibilities to the public. The NHS Constitution states that every patient has the right to complain about NHS care, treatment or service.

The NHS has produced a handbook, the “Handbook to the NHS Constitution for England” which is available online (www.gov.uk/government/publications/supplements-to-the-nhs-constitution-for-england) (“the Handbook”), which is intended to give patients, carers, families and NHS staff all the information they need about the NHS Constitution for England. In so far as complaints are concerned, the Handbook states that the patient, the patient’s family or someone on the patient’s behalf can provide feedback directly at the point of care, either to the clinician or organisation providing care or through the local Patient Advice and Liaison Services (“PALS”).

PALS is available in most hospitals and PALS will liaise with staff, managers and – where appropriate, other relevant organisations, to seek swift solutions for complaints raised, and to help improve the way services are delivered. PALS may also be able to provide details of other locally or nationally-based support agencies. Liaising with PALS is a prudent way of dealing with an urgent complaint whilst you are in hospital.

Patients can also complain to local authorities which are responsible for the provision of public health services.

If a patient reaches the end of the complaints process and is not happy with the organisation's final decision, the patient can bring the complaint to the Parliamentary and Health Service Ombudsman, which is a body that makes final decisions on unresolved complaints about the NHS in England. The Ombudsman office can be contacted on 0345 015 4033.

In addition to complaining to the local authorities or to the Parliamentary and Health Service Ombudsman, patients can also inform the Local Healthwatch about the nature of the complaint. Pursuant to Section 22 of the Local Government and Public Involvement in Health Act 2007, Local Healthwatch services have been appointed to fulfil a statutory role which involves obtaining the views of local people about their experiences of local care services, and also to make those views known to service providers, and commissioners, as well as to the Healthwatch England committee of the CQC.

Patients also have the option of contacting NHS England directly to make a complaint by emailing england.contactus@nhs.net or telephoning the Customer Service Centre on 0300 311 2233.

Complaints about NHS treatment in orthodontic or dental practices

Where a patient is seeking to raise a concern about services received from a primary care dental or orthodontic practice, the patient should initially contact the practice directly. Where the complaint cannot be resolved by the practice, there are formal routes.

If a complaint cannot be resolved locally then further processes are available for NHS patients which vary slightly in each of the nations.

- England - NHS England.
- Wales - The Local NHS Health Board (through NHS Wales)
- Scotland - The Local NHS Health Board (through NHS Scotland)].
- Northern Ireland - The Health and Social Care Board

If a patient remains dissatisfied after the NHS complaint procedure, they have the right to take the case to the Parliamentary and Health Service Ombudsman (the Ombudsman) for each of the nations (Public Services Ombudsman for Wales, Northern Ireland and Scotland, and the Parliamentary and Health Service Ombudsman for England (PHSO)) within 12 months. Each of these provide independent complaints handling services for complaints not resolved by the NHS or UK government departments. The Ombudsman has the same powers as a court of law and expects their recommendations to be given appropriate consideration. These will also be forwarded to the NHS England Regional team/local NHS Health Boards and reported to the Parliamentary select committee.

After the complainant takes the case to the Ombudsman, if the investigation proceeds, the Ombudsman will review documents, interview the concerned parties (the complainant and the practice) and gather expert opinion before drafting a report for both parties to approve, following by a final report being sent.

If the practice/an individual at the practice is ruled to be at fault, it may be found by the Ombudsman that changes are required to be made to the practice and, in some cases, financial compensation is provided to the complainant.

Complaints About Orthodontic Treatment in Private Practice

If a patient has complained about private dental treatment, this complaint should be sent direct to the practice. Where the complaint has not been resolved locally with the practice, then the patient can contact the Dental Complaints Service ("DCS") which consists of a team of trained advisors who aim to settle complaints about private dental care. The service was established because private patients do not have the protection given to NHS patients.

The service is free, funded through the General Dental Council ("GDC") but acts impartially and independently of it, and looks into private complaints raised within 12 months of treatment / 12 months of the becoming aware of the problem.

The DCS aims to liaise with both parties to find an informal resolution. If a resolution is still unworkable, complaints can then be referred to a panel of volunteers. If this still proves unsuccessful, the panel may make recommendations to include: a refund (whether partial or full), that the practice / individual at the practice reviews their actions, an apology from the practice / individual at the practice, or that no further action is required.

The DCS has no formal power to enforce recommendations but there is an expectation that they will be followed. Non-cooperation with the DCS is likely to result in a referral of the clinician to the GDC fitness to practice procedures.

The role of the regulators in complaint handling

The role of the CQC

The CQC is a government agency which regulates dental and orthodontic practices in the United Kingdom, performing inspections to monitor compliance. Where evidence of poor care is shown, the CQC can use regulatory powers to take action and protect patients from harm. The CQC will work to ensure that the practice has set out a clear complaints policy, dealt with the complaint promptly and ensured available channels for patients to make complaints are not limited.

According to the CQC, complaints can be 'used to drive continuous improvement' and monitoring trends from complaints can be 'used to highlight where changes or improvements may be needed'. Although there is no statutory timescale in

responding to complaints, the CQC insists ‘complaints are dealt with efficiently’ and ‘complainants receive a timely and appropriate response’.

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 has two key regulations relevant to complaints:

Regulation 16 (Receiving and acting on complaints) ensures patients can complain about their care and appropriate action is taken by the dental professional.

Regulation 20 (Duty of Candour) states it is imperative that, as providers, we are open and transparent with people who use our service. This regulation encourages a culture of candour, openness and honesty.

The role of the General Dental Council

Where the patient’s complaint amounts to a professional discipline matter, concerns can be raised about a dentist or any registered dental care professional with the GDC. The GDC is not a complaints resolution service but is required to investigate if there is a concern around fitness to practice of the individual dental professional.

Concerns may include treatment, behaviour or the service of a dental professional. As part of the GDC’s duty to protect the public, if a dentist or dental care professional is found to fall short of the standards expected, they have the powers to remove or restrict the dental professional’s registration. The GDC powers cover all dental professionals (dentists, dental nurses and therapists) whether working within the NHS or privately.

Requirements of NHS England in the PDS and GDS contract

The contract between the practice and NHS England will contain provisions regarding complaint handling. The standard wording for the General Dental Services (GDS) contract and Personal Dental Services (PDS) contract places a contractual duty on the practice to deal with patient complaints.

The standard contract wording reads – “*the Contractor must have in place a complaints procedure which meets the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*”. The practice will also be required to inform NHS England via its local area team about the number of complaints that the practice has received.

How are practices required to deal with complaints?

The GDC oversees and provides regulations which individual dental professionals must maintain, including rules regarding complaint procedures. More specifically, the GDC Standard for the Dental Team 5 explains how dental practitioners are expected to deal with complaints and reads:

'You must make sure that there is an effective complaints procedure readily available for patients to use and follow that procedure at all times.'

Standard 5 states dental professionals must:

"5.1 Make sure that there is an effective complaints procedure readily available for patients to use, and follow that procedure at all times.

5.2 Respect a patient's right to complain.

5.3 Give patients who complain a prompt and constructive response".

The GDC requires the practice to respond to complaints within the timeframe of your practice complaints procedure.

<u>What practical steps should practices do to deal with complaints?</u>

1. Always have a professional complaints policy setting out what your patients can expect and approximate, realistic timescales. The complaints policy should be clear and uncomplicated. the CQC's guidance *"Dental myth buster: Complaints Management"* states that the complaints policy must be *"easy to use"* and requires *"People are given help and support where necessary."*
2. Never ignore a complaint with the hope it will go away. Complaints should be acknowledged in writing and patients given assurances that the complainant will be treated with respect and, if they are still a patient, that their ongoing care will not be compromised.
3. All members of staff from the reception team to the clinicians should know the existence of and be fully trained on how to use the practice's complaints policy.
4. Practices should seek advice from dental defence unions in responding to patient complaints.
6. All complaints should be fully investigated by those not named in the complaint and the facts established. Guessing what may have happened or making incorrect assumptions could lead to patient dissatisfaction or even a GDC referral.
7. When investigating, make sure to check the clinical notes thoroughly to include: referral letters and treatment plans.
8. Suggested complaint outcomes may be:
    - An explanation - if appropriate, in plain language.
    - An apology - this should be offered as early as possible, although this is not the same as an admission of fault.

- Appropriate remedial action - some patients require reassurance that the same problem cannot occur again or for other patients. Referral to a colleague may be appropriate.
- Compensation e.g., refund of treatment fee - if valid and reasonable. If made as a gesture of goodwill, this will not prejudice your position in future as long as you have taken legal advice to draft the gesture of goodwill in a way that does not make it look like an admission of liability.

Tips for Avoiding Complaints

1. Create a friendly and welcoming clinical atmosphere.

2. Ensure staff are polite and not over-familiar and trained in communication skills, equality and diversity matters.

3. Always gain a full understanding of patient expectations from the outset and undertake a thorough discussion of treatment aims and any limitations through the informed consent process.

4. Avoid accepting a patient for treatment with unrealistic expectations.

5. Patients should be given clear information about fees and when payments are due as well as what happens if they should move home or leave the practice.

6. Allow adequate time within appointments to discuss treatment options and treatment progress.

Further Information

Parliamentary and Health Service Ombudsman – www.ombudsman.org.uk

NHS England – www.england.nhs.uk/contactus/complaint

How to find your local council – www.gov.uk/find-local-council

Telephone Numbers

Parliamentary and Health Service Ombudsman – 0345 015 40 33

NHS England – 0300 311 22 33

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