



THE SCOTTISH OFFICE

National Health Service in Scotland Management Executive

**NHS Circular:
MEL(1993)36**

St. Andrew's House
Edinburgh EH1 3DG

Dear Colleague

HOSPITAL COMPLAINTS PROCEDURE ACT 1985

Summary

1. This Circular applies the terms of the Hospital Complaints Procedure Act 1985 Direction 1991 to those NHS Trusts which come into operation on 1 April 1993. It also requires Trusts to provide statistical information on the handling of complaints from that date.

Action

2. The Direction attached at Annex A requires the NHS Trusts listed in the Schedule to comply with the terms of the 1991 Direction issued to health boards in 19 September 1991. For convenience the 1991 Direction is attached as Annex B.

3. Most NHS Trusts will already be complying with some of the requirements of the 1991 Direction in their present role as Directly Managed Units. However, some additional requirements of the Direction will now have to be met, for example in the monitoring of complaints (paragraph 4 of the Direction).

4. Under the terms of the Act the Direction applies only to the complaints of hospital patients but the Secretary of State would like Trusts to adopt similar procedures in respect of any community health services.

5. The Direction includes no universal maximum timescale for dealing with complaints. Trusts should set their own standards against which performance should be assessed but should aim to deal with at least 50% of complaints within 4 weeks of their receipt.

6. NHS Circular GEN(1992)27 introduced a system to collect statistical data on complaints from health boards and Trusts. The Trusts referred to in the 1993 Direction attached are required to submit returns direct to Information and Statistics Division beginning with the April-June 1993 quarter. Chief Executives are asked to nominate an officer who will

26 March 1993

Addressees

For action:
Chief Executives,
NHS Trusts

For information:
General Managers,
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Secretaries/Chief
Officers of Local
Health Councils

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be responsible for liaising with ISD on the submission of the returns.
The name of the officer should be notified to Mr Peter Knight in ISD as
soon as possible.

Yours sincerely



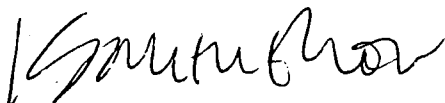
ISABELLE LOW
Director of Health Care

NATIONAL HEALTH SERVICE

HOSPITAL COMPLAINTS PROCEDURE ACT 1985 DIRECTION 1993

The Secretary of State for Scotland, in exercise of the powers conferred on him by section 2(5) of the National Health Service (Scotland) Act 1978 as read with sections 1(1) and 1A of the Hospital Complaints Procedure Act 1985 hereby directs the National Health Service Trusts ("the Trusts") in the undernoted Schedule as follows:-

1. The Trusts shall, mutatis mutandis comply with the Hospital Complaints Procedure Act 1985 Direction dated 19 September 1991.
2. This Direction comes into force on 1 April 1993.



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26 March 1993

SCHEDULE

- The Ayrshire and Arran Community Health Care National Health Service Trust.
- The Caithness and Sutherland National Health Service Trust.
- The Dundee Teaching Hospitals National Health Service Trust.
- The Grampian Healthcare National Health Service Trust.
- The Monklands and Bellshill Hospitals National Health Service Trust.
- The Moray Health Services National Health Service Trust.
- The North Ayrshire and Arran National Health Service Trust.
- The Raigmore Hospital National Health Service Trust.
- The Royal Alexandra Hospital National Health Service Trust.
- The Royal Scottish National Hospital and Community National Health Service Trust.
- The Southern General Hospital National Health Service Trust.
- The Stirling Royal Infirmary National Health Service Trust.
- The Victoria Infirmary National Health Service Trust.
- The West Lothian National Health Service Trust.
- The Yorkhill National Health Service Trust.

NATIONAL HEALTH SERVICE
HOSPITAL COMPLAINTS PROCEDURE ACT 1985 DIRECTION 1991

The Secretary of State for Scotland in exercise of the powers conferred on him by section 2(5) of the National Health Service (Scotland) Act 1978 as read with section 1(1) of the Hospital Complaints Procedure Act 1985 hereby directs each health board in Scotland (hereinafter referred to as the "board") as follows:-

- (1) to make arrangements, in accordance with the following paragraphs of this Direction, for dealing with all complaints made by or on behalf of persons who are or have been patients at any hospital for the management of which the board is responsible,
- (2) to bring such arrangements for dealing with complaints into operation not later than 24 September 1991,
- (3) to take steps to publicise the arrangements made for dealing with such complaints.

1. In this Direction:-

"complainant" means

- (i) a person who is or has been a patient at a hospital for the management of which a board is responsible and who makes to that board a complaint which arises out of the person being or having been a patient in that hospital;
- (ii) a person acting on behalf of and with the consent of any such person referred to in (i) above; or
- (iii) a person who is a relative or representative of any such person referred to in (i) above where such person has died or is otherwise unable to act for him or herself.

"nominated recipient" means a person who has been nominated by a board in terms of paragraph 2(1) of this Direction to deal with complaints made by complainants in relation to a hospital for which that board has management responsibility.

DEALING WITH COMPLAINTS

2. (1) For each hospital or group of hospitals the board shall nominate an officer to deal on its behalf with complaints from complainants made in relation to that hospital or one within that group.
- (2) Except to the extent that the nature of the matter which is the subject of a complaint falls within any one of the categories described in sub-paragraph (4) below, the nominated recipient shall be responsible for investigating every complaint with respect to a hospital for which he or she is so nominated, and for reporting the results of the investigation to the board, to the complainant, to any person involved in the subject matter of the complaint, and to such other persons as the board considers appropriate.
- (3) The board shall ensure that any appropriate action is taken on the findings of the investigation.

(4) Where at any stage of the procedure the nominated recipient considers that a complaint concerns a matter which may be the subject of separate investigative, judicial, or disciplinary procedure, such as:-

(i) the exercise of clinical judgement by a hospital doctor or dentist; or

(ii) the conduct of a member of the hospital staff which may be the subject of disciplinary proceedings; or

(iii) the possibility of a criminal offence having been committed; or

(iv) a serious incident involving harm to any patient;

the nominated recipient shall refer the complaint to the general manager of the board who will ensure that it is promptly dealt with in accordance with the appropriate procedures laid down in guidance issued to boards by the Scottish Office Home and Health Department; and in the case of a matter specified in (iii) above, ensure that the matter is reported to the Procurator Fiscal.

(5) Where the nominated recipient considers that a complaint carries a threat of litigation he should seek legal advice on whether and in what form an investigation might proceed to minimise the risk of prejudicing any civil proceedings. The possibility of legal proceedings should not prevent the nominated recipient undertaking the investigations necessary to uncover faults in procedures and to prevent a recurrence;

(6) Where a complaint adjudged by the nominated recipient to be serious arises in relation to an event which occurred in a hospital for the mentally ill or mentally handicapped this should be reported by the board to the Mental Welfare Commission.

(7) Provision shall be made by each board where necessary for the nominated recipients to have the assistance of other officers of the board in carrying out their duties in accordance with this Direction.

3. A complaint must be made to or recorded by the board in writing. Complaints shall be investigated if made within 3 months of the date of the event giving rise to the complaint, but the nominated recipient has discretion to investigate complaints received outwith this period if satisfied that the complainant had good cause for not having made the complaint earlier. Arrangements shall be made to ensure that each complaint is investigated promptly and that the complainant and any hospital staff involved are given an opportunity to bring to the attention of the nominated recipient any information or comments they wish to give that are relevant to the investigation of the complaint. The nominated recipient shall take steps to ensure that a complainant is kept informed about the receipt, the likely timescale within which complaints will be resolved, progress with the investigation and the results of the investigation of the complaint made. Where the complaint relates to a matter referred to in paragraph 2(4) above the nominated recipient shall inform the complainant of the action taken by the board following receipt of the complaint.

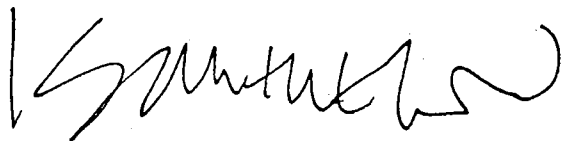
4. The board shall monitor the operation of the arrangements for dealing with complaints at hospitals for which it is responsible. Reports shall be prepared at regular intervals for use by the board to monitor progress in dealing with complaints, to consider trends in complaints and to take any remedial action that may be appropriate.

PUBLICITY FOR COMPLAINTS PROCEDURE

5. The board shall take such steps as are necessary including such steps for training of staff to ensure that all patients at, and visitors to, any hospital for which the board is responsible, as well as the staff working in that hospital, and any consumer organisation (including Local Health Councils) covering an area served by that hospital, are fully informed of the arrangements made by the board in accordance with this Direction for dealing with complaints with respect to that hospital, and that the name, address and telephone number of the nominated recipient for that hospital are adequately publicised.

COMMENCEMENT

6. This Direction comes into effect on 19 September 1991.



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Room 114
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19 September 1991