

**To:** The Board

**For meeting on:** 30 April 2014

**Agenda item:** 7

**Report by:** Tom Grimes, Enquiries and Complaints Manager

**Report for:** Decision

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**TITLE:** How Monitor handles complaints

### Summary

1. This paper aims to provide the Board with assurance that the way in which Monitor handles complaints about foundation trusts (relating to quality of care or governance) and Monitor is sufficiently robust. It also provides an overview of how Monitor uses the valuable information these complaints provide.
2. The Enquiries and Complaints team in Strategic Communications receives, logs and responds to most complaints which Monitor receives. The exceptions are:
  - complaints from the health sector about pricing or the national tariff, which are directed to the Pricing team to be dealt with as part of its business as usual
  - complaints about choice and competition in the health sector, which are directed to the Co-operation and Competition Directorate (CCD) to respond to as part of its business as usual.

### **A: Complaints about NHS foundation trusts (which do not relate to choice and competition or pricing)**

3. Monitor receives between 20 and 50 complaints each month about foundation trusts from patients and other members of the public, the Department of Health (which sends anonymised complaints it receives to Monitor), NHS England and the Health Service Ombudsman. Details of complaints received in quarter 4 2013-14 are in Annex C.
4. All complaints about foundation trusts are logged in Monitor's Customer Relationship Management system (CRM) by the Enquiries & Complaints team. If complaints are initially received by other directorates, they are passed directly to the Enquiries & Complaints team to handle.

5. CRM contains details of all complaints received (since we started using the system in 2011-12). It also contains all relevant documents and correspondence as well as details of any internal referrals (for example the name of the regional manager in Provider Regulation with whom a complaint has been shared).
6. Annex A explains the process for categorising complaints and the actions taken for each category.

### ***What does Monitor do with the complaints information?***

7. CRM is used to produce a monthly summary report of complaints received for regional managers in Provider Regulation. The regional managers can also directly access CRM at any time to look at the details themselves. A monthly report on enquiries and complaints received by Monitor is also submitted to the Executive Committee. This includes details of complaints (and whistleblowers) received that month and a 12 month rolling figure for those foundation trusts.
8. For category 2 complaints (serious concerns about quality of care - see Annex A), the Enquiries & Complaints team follows these up with the CQC. For example, after receiving a complaint about the quality of care at a trust we followed up with the lead inspector at the CQC who then contacted the complainant to say that his concerns will be used in their ongoing monitoring and assessment of this service. The inspector also said they will take his feedback on board when they plan and conduct their next visit to the trust.
9. For category 3 complaints (governance/quality governance concerns - see Annex A), where there is evidence of a possible licence breach, relationship managers can decide to contact the trust to gather more information. For example, on receiving a complaint about a trust wrongly valuing an asset and, therefore, potentially misleading its auditors, the Enquiries and Complaints team passed the information to the relationship management team. The team decided to look into it further with the trust and identified that the method of valuation had been incorrect, but that it would have made no difference to the overall outcome. The Trust amended its processes and this was fed back to the complainant.

### **B: Complaints about Monitor**

10. A copy of our policy for complaints about Monitor can be found in Annex B.
11. In 2013-14 we received four complaints about Monitor, one of which was partially upheld. All of these have related to Monitor's response to people who have used our whistleblowing policy, or brought concerns to us about a foundation trust as a member of the public and are unhappy with the action (or perceived lack of it) we have taken as a result. The outcome of all complaints about Monitor is fed back to the relevant directorate, together with any learnings. The complainant is offered the opportunity to be updated on any changes made as a result of their complaint.
12. Complaints about Monitor are currently directed to the Enquiries & Complaints Manager who keeps the Private Office (Chief of Staff) informed. However, it is proposed that in certain circumstances (eg for complaints about Monitor's Chairman) we provide complainants with a Board-level point of contact. Therefore, our policy will now specify that complaints about Monitor's Chief Executive should be directed to the Chairman and complaints about the Chairman should be directed to the Senior Independent Director (SID). If a complaint is sent to the Chairman or the SID, they

would have oversight of the complaint investigation, and both provisional and final decisions.

**Recommendations:**

The Board is asked to agree the proposed change to the policy for complaints about Monitor, in section B of this paper.

**Public Sector Equality Duty:**

*Monitor has a duty under the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people from different groups. In relation to the issues set out in this paper, consideration has been given to the impact that the recommendations might have on these requirements and on the nine protected groups identified by the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, gender and sexual orientation). It is anticipated that the recommendations of this paper are not likely to have any particular impact upon the requirements of or the protected groups identified by the Equality Act.*

**Exempt information:**

*Annex C is exempt from publication as it falls under section 22 of the Freedom of Information Act 2000.*

## **Annex A - Process for handling complaints/concerns about NHS foundation trusts**

This paper describes how healthcare complaints/concerns are handled at Monitor, and how they are used by the Provider Regulation directorate in its day-to-day work, from the monitoring and risk assessment of individual NHS foundation trusts, to further consideration and action.

Complaints/concerns about NHS foundation trusts are categorised into three main areas:

1. **those which are unlikely to lead to us having concerns about a provider's governance (see section one of the table):** these are *not* sent on receipt to the Provider Regulation directorate and are handled entirely by the Enquiries and Complaints team. These complaints/concerns are still sent to CQC (and can be followed up with CQC should Provider Regulation require it), recorded on CRM for reference and monthly reports with summary details sent to regional teams in Provider Regulation (as per the process followed over the last three years).
2. **those that raise serious concerns about quality of care (see section two of the table):** these are logged on CRM and passed to CQC and the Provider Regulation directorate for information, with the response handled entirely by the Enquiries and Complaints team. They are also proactively followed up by the Enquiries and Complaints team with the CQC two weeks after receipt. These complaints are still included in monthly reports sent to regional teams in the Provider Regulation directorate with summary details.
3. **those which are likely to lead to us having concerns about a provider's governance/quality governance (see section three of the table):** these are sent on receipt to the Provider Regulation directorate to inform its monitoring, risk assessment, etc, of individual NHS foundation trusts. They are also sent to the CQC (and can be followed up with CQC should the Provider Regulation directorate require it). They are handled entirely by the Enquiries and Complaints team from a customer service perspective (eg speaking to complainants, drafting and sending substantive responses and providing updates where appropriate).

**1. Complaints/concerns which are unlikely to lead to us having concerns about a provider's governance**

**Routine handling by Enquiries & Complaints team – the details of these complaints/concerns are not sent to Provider Regulation on receipt and are recorded in CRM and included in monthly reports to (S)RMs.**

**a) Concerns about quality of care. Examples include:**

- Cancelled or rescheduled appointments and operations.
- Vague concerns about general care at a trust (eg "care at XX hospital is rubbish").\*
- Rude staff.
- Failure to arrange suitable care following hospital discharge.

**b) Concerns about governance. Examples include:**

- Non-specific allegations about how an FT is run.\*
- Poor record keeping and poor administration.
- Absent or poor quality policies\*\*
- Employment matters (eg, recruitment, conduct/outcome of disciplinary investigation).
- Expenditure concerns (eg, use of expensive hotels by management).

\* Enquiries & Complaints team will ask for further details before deciding whether to forward to Provider Regulation, but will make no judgement about the reliability/veracity of the information.

\*\* Element of discretion for Enquiries & Complaints Manager - concerns about quality governance related policies may be of interest to Provider Regulation.

**Actions for Enquiries & Complaints team~~#~~:**

- Notify CQC on receipt by email to enquiries@cqc.org.uk (their customer service centre then logs complaint on CQC's CRM system) and to their National Complaints Manager. ~~##~~
- Write to complainant explaining:
  - our role (highlighting that we aren't able to resolve complaints)
  - action we've taken (sending it to CQC and keeping a record of it)
  - any relevant signposting to other organisations.

~~#~~If in any doubt, the Enquiries & Complaints Manager has discretion to send this type of complaint to Provider Regulation in real time (as per sections 2 and 3 of this table).

~~##~~ If considered necessary by Provider Regulation, these complaints can be followed up with CQC by Monitor's Enquiries & Complaints team

## 2. Complaints which raise serious concerns about quality of care

These complaints/concerns are logged on CRM by the Enquiries & Complaints team and passed to CQC and (S)RM on receipt for information (and included in monthly reports to (S)RMs)

### Serious and specific concerns about quality of care. Examples include:

- Death.
- Misdiagnosis (eg, 7 year misdiagnosis of mental health problems).
- Patients left without water, food etc.
- Other dignity and respect issues.
- Serious untoward incidents (as originally defined by the [National Patient Safety Agency](#)).
- Infection outbreaks.

- Notify (S)RM on receipt for information
- Notify CQC on receipt by email\* to [enquiries@cqc.org.uk](mailto:enquiries@cqc.org.uk) (their customer service centre then logs complaint on CQC's CRM system) and to their National Complaints Manager
- Write to complainant explaining:
  - our role (highlighting that we aren't able to resolve complaints)
  - action we've taken (sending it to CQC and notifying relationship team) \*\*
  - any relevant signposting to other organisations.

\* These are proactively followed up with CQC within two weeks by Monitor's Enquiries & Complaints team and the information logged on CRM and passed to Provider Regulation.

\*\* Provider Regulation is considering whether it is appropriate to raise these complaints for discussion at meetings of the relevant Quality Surveillance Group.

<p><b>3. <u>Complaints/concerns which are likely to lead to us having concerns about a provider's governance/quality governance</u></b></p> <p><b>These complaints/concerns are sent to Provider Regulation on receipt for them to consider as part of their monitoring, risk assessment, etc (and also recorded in CRM and included in monthly reports to (S)RMs).</b></p>	
<p><b>a) Governance and quality governance. Examples include:</b></p> <ul style="list-style-type: none"> <li>- Ad hoc reports from GMC, Ombudsman, commissioners, Healthwatch, patient groups, Royal Colleges, ICO, coroners (under Rule 43) or other regulators that are critical of an FT and/or decisions by courts/tribunals.</li> <li>- Patterns of complaints from a third party (any of above and patients and the public).</li> <li>- An allegation of abuse (of staff or patients).</li> <li>- Evidence of continued problems (eg complaint about regular breaches of confidentiality by executive team).</li> <li>- Target gaming (eg waiting time backlog).</li> <li>- Governor election irregularities.</li> <li>- Conduct of individual Board members, governors or Board as a whole, or process used for selection of Board members.</li> <li>- Denial of care (eg a complaint about repeated failure to deliver care set out in mental healthcare plan).</li> <li>- Failure to follow processes and procedures for reporting of national metrics (eg retrospective signing of VTE forms).</li> </ul> <p><b>b) Financial governance. Examples include:</b></p> <ul style="list-style-type: none"> <li>- Failure to follow processes/guidance on financial reporting</li> <li>- Financial irregularities (eg fraud or poor financial controls)</li> </ul> <p><b>c) Other</b></p> <ul style="list-style-type: none"> <li>- Concerns raised by patient groups (eg Charter for Change published by Patient Action Group at Tameside FT)</li> </ul>	<p>Actions for Enquiries &amp; Complaints team:</p> <ul style="list-style-type: none"> <li>• sends complaint/concern to SRM on day of receipt and asks them what, if any, action they plan to take (5 working days turnaround to respond to Enquiries &amp; Complaints team)</li> <li>• notifies CQC on receipt by email to <a href="mailto:enquiries@cqc.org.uk">enquiries@cqc.org.uk</a> (their customer service centre then logs complaint on CQC's CRM system) and to their National Complaints Manager*</li> <li>• drafts and sends out response based on planned action and with (S)RM approval</li> <li>• updates complainant on any regulatory action taken (albeit details of such action may be kept to a minimum).</li> </ul> <p>* If considered necessary by Provider Regulation, these complaints can be followed up with CQC by Monitor's Enquiries &amp; Complaints team.</p>

## **Annex B: current policy for complaints about Monitor**

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### **How to complain about Monitor**

At Monitor we set ourselves very high standards in everything we do. We continuously try to do better and to learn from our mistakes. If you see us falling short of those high standards, we want you to tell us so we can put things right.

### **What is a complaint?**

Under Monitor's complaints procedure, a complaint is:

*"any expression of dissatisfaction with our actions or our failure to act"*

For example, you may wish to complain if you feel we have:

- treated you unfairly
- provided poor service
- acted incorrectly
- delayed unreasonably in doing something
- failed to take action
- failed to provide information.

It does **not** include:

- matters that are the subject of legal proceedings
- requests for information under either the Freedom of Information Act or Data Protection Act
- whistleblowing (as defined by our whistleblowing policy)
- employment matters.

### **Time limits for making a complaint**

Please make your complaint as soon as possible. We are unlikely to investigate a complaint made to us more than 12 months after the event that has caused you to complain.

### **How to complain about Monitor**

Please make your complaint to our Enquiries & Complaints Manager:

**Address:** Monitor, Wellington House, 133-155 Waterloo Road, London, SE1 8UG

**Email:** [enquiries@monitor.gov.uk](mailto:enquiries@monitor.gov.uk)

**Telephone:** 020 3747 0000

## How Monitor will deal with your complaint

We will:

- acknowledge receipt within 2 working days
- telephone you where possible to confirm our understanding of your complaint and explain what will happen next
- investigate your complaint, which may include gathering documents and interviewing members of staff
- write to you with a provisional decision within 10 working days of receipt\*. You will then have 5 working days to comment and/or provide extra information
- consider your response to our provisional decision and decide within a further 5 working days whether to investigate further or reach a final decision
- apologise if we have got things wrong and make changes to our processes to avoid making the same mistake again.

The Chief Executive will be made aware of all complaints about Monitor.

\*If we think it will take longer than 10 working days to provide a provisional decision, we will write to let you know.

### Next steps

If you are not satisfied with our response to your complaint, you can complain to the Parliamentary and Health Service Ombudsman (PHSO). To do this, you will need to contact your MP, who will need to refer the complaint to the Ombudsman on your behalf.

**PHSO Helpline:** 0345 015 4033

**Email:** [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)