

# Being Complained About

**GOOD PRACTICE PRINCIPLES  
AND GUIDELINES**

## **ABOUT THESE GUIDELINES**

*Being Complained About – Good Practice Guidelines* is a document which aims to improve the way in which organisations handle complaints by focusing on supporting staff members who have been complained about. It provides some principles and guidelines which an organisation may wish to adopt as part of their existing complaint handling arrangements. The document is based on research evidence and has been developed in consultation with practitioners.

Although many complaints are not as serious as the adverse events described in the healthcare research literature, it is demonstrable that being complained about can and does have a negative impact. And that this impact can be mitigated through the application of clear processes which both involve and support the person complained about. It is also important for staff to be listened to, be heard, and be able to give their ‘side of the story’.

The original research which informs these Guidelines was led by Chris Gill (University of Glasgow) and Carolyn Hirst (Hirstworks) in partnership with Jane Williams (Queen Margaret University) and Maria Sapouna (University of West of Scotland). The findings from this research<sup>1</sup> have contributed to the production of the *Being Complained About Good Practice Guidelines* and to the Accompanying Notes.

The Guidelines were developed in consultation with practitioners by Carolyn Hirst and Chris Gill, with funding from the University of Glasgow’s ESRC Impact Acceleration Account. We are particularly grateful to the office of the Scottish Public Services Ombudsman for their input into the project.

The Guidelines are offered as a resource for organisations to choose to adopt and use. They are not prescriptive and can be adapted by an organisation to suit their existing complaint handling policy, processes, terminology and approaches.

## **USING AND ACKNOWLEDGING THE GUIDELINES**

The guidelines are available as a free resource, although we would be grateful if you could acknowledge having drawn on them if you choose to adopt or adapt the guidelines within your organisation. We are tracking the impact of the guidelines and we would also be grateful if you could email [chris.gill@glasgow.ac.uk](mailto:chris.gill@glasgow.ac.uk) to tell us if you have found them useful and if you decide to use them in your organisation.

**Thank you.**

*Date published: February 2019*

<sup>1</sup> GILL, C., SAPOUNA, M., HIRST, C., WILLIAMS, J. 2019 (forthcoming). Dysfunctional accountability in complaint systems: the effects of complaints on public service employees. *Public Law*, (October 2019).

## BEING COMPLAINED ABOUT **GOOD PRACTICE GUIDELINES**

This document has been produced as a resource for organisations – it is their choice whether to adopt and use all or parts of it. It sets out suggested Good Practice Guidelines relating to when staff are complained about. It is not a prescriptive document and can be adapted by an organisation to suit their existing complaint handling policy, processes, terminology and approaches. The Accompanying Notes are for use when adopting the Guidelines.

### 1 INTRODUCTION

- 1.1** This document sets out how we will manage a complaint about a member of our staff. We use the term ‘person complained about’ to refer to the staff member who is the subject of a complaint.
- 1.2** We believe that complainants have a right to be heard, understood and respected. Our [Name of policy or process document(s) ] sets out how we deal with a complaint received about our organisation.
- 1.3** We also believe that the right to be heard, understood and respected applies to the person complained about.

### 2 GUIDELINE PRINCIPLES

- 2.1** The principles which underpin these Guidelines relate to Fairness, Transparency, Confidentiality and Efficiency.
- 2.2** By **Fairness** we mean that both the complainant and person complained about should have the opportunity to say what happened in relation to a complaint, to provide evidence to support what they say and to say whether they agree or not with a complaint decision. Fairness also means that the person making the decision about the complaint should not prejudge the complaint or favour either the complainant or the person complained about.

**2.3** By **Transparency** we mean that the complainant and the person complained about are similarly kept advised about how the complaint will be dealt with, the progress of the complaint through the process and the reasons for the decision relating to the complaint outcome.

**2.4** **Confidentiality** is essential in complaints handling. This includes maintaining the complainant's confidentiality and explaining to them the importance of confidentiality generally. However, confidentiality does not mean secrecy and our approach is to always tell a staff member when a complaint which relates to them has been received unless there is an over-riding reason not to do so. In doing this, we will bear in mind our legal requirements, *[you may want to name these here – such as data protection, duty of candour etc]*, as well as our own policies on confidentiality and the use of information.

**2.5** **Efficiency** is also important and we aim for our complaints process to be as efficient as possible, by which we mean that a complaint should be progressed without delay. We know that the longer it takes to deal with a complaint the more stressful it can be for all concerned.

### 3 EXPECTED BEHAVIOURS

- 3.1** We know that people may act out of character in times of trouble or distress. We expect staff who are complained about to behave in a professional manner towards those who have complained about them.
- 3.2** We also recognise that the actions of complainants who are angry, demanding or persistent may result in behaviour towards our staff which is, or is experienced as being, unacceptable. We will, therefore, apply the relevant organisational policies and procedures [*you may want to name these here*] to protect staff who are complained about from unacceptable behaviour such as unreasonable persistence, threats or offensive behaviour including discrimination.
- 3.3** Where necessary, and (where possible) after discussion with the person complained about, we may decide to reallocate their contact with the complainant to another staff member on either a temporary or permanent basis.

### 4 IMMEDIATE ACTION FOLLOWING NOTIFICATION OF A COMPLAINT

- 4.1** The action to be taken will depend on whether a person has been named in a complaint or is a person complained about.
- 4.2** Where a person has been named in a complaint, but the complaint is not about their actions or inactions, then the person(s) administrating the complaint will tell them (as soon as practically possible) that a complaint which mentions their name has been received. This is for information only as it is unlikely that they will need to be involved in the complaint process.
- 4.3** In the case of a person complained about (which includes a person who has not been named but who can be identified as being the person complained about),

as soon as is practically possible after the receipt of a complaint, this person will be told that a complaint about them has been received.

- 4.4** The person complained about will be provided with as much information as possible about the complaint and any supporting information. They will be told how and when they will be given the opportunity to respond to the issues raised.
- 4.5** The person complained about will have access to a named contact person who can help them (if needed) with support relating to the complaints process. This may be their line manager, but should not be the person who is responsible for investigating or making decisions about the complaint outcome. It is not the role of this contact person to form a view about the merits of the complaint.
- 4.6** It is for the person complained about to decide whether to access the contact person and what to tell them about the complaint. The contact person will respond to any concerns that the person complained about may have throughout their involvement in the complaints process. The contact person is expected to provide, or advise about others who can provide:
- information about the complaints process
  - information relating to other organisational processes or policies which may relate to the complaint
  - information about support or support services which are available to the person complained about [*you may choose to provide details of the services which are available to staff both internally and externally*]
- 4.7** Depending on the nature of the complaint, it may be that others – such as Human Resources – need to know about it at an early stage. The person complained about will be told if others have been or need to be notified.

## 5 COMPLAINT RESOLUTION DISCUSSIONS

**5.1** Wherever possible, appropriate and where our complaints process permits, we will involve the person complained about in the discussions relating to the resolution of a complaint in issues:

- which are at an early stage in the process, are straightforward, can be resolved easily and require little or no investigation
- where the complainant and the person complained about both have a willingness to assist the resolution of the complaint through discussion

**5.2** If complaint resolution is used, then it may take the form of:

- a direct discussion between the complainant and the person complained about (if both are willing for this to happen)
- an impartial third person who is acceptable to all parties conveying information between those involved
- an impartial third person who is acceptable to all parties helping those involved to talk to each other and find a solution

## 6 COMPLAINT INVESTIGATION AND DECISION

**6.1** As part of a complaint investigation, we will always arrange for the person complained about to provide their response to the issues raised in the complaint. Our process for doing this is *[description of process including any requirement to provide a response in writing]*.

**6.2** Wherever possible, the person complained about will be given the opportunity to comment on the information provided by the complainant, and to offer any additional information to support their response.

**6.3** The person complained about will receive a copy of any decision outcome sent to the complainant, and this will be provided (wherever possible) at the same time as it is sent to the complainant.

**6.4** Irrespective of whether a complaint is upheld or not, the person complained about will be told straight away about any implications relating to the decision, including any potential 'next steps' and what this might mean for them (see Section 9 below).

**6.5** The person complained about will be involved in any learning or actions which result from the complaint outcome decision. We will also give the person complained about the opportunity to discuss their experience with an appropriate person as to how we have dealt with the complaint and how this has impacted on them.

## 7 REVIEW OF A COMPLAINT DECISION

**7.1** If a complainant does not accept the decision reached in relation to their complaint, then the complaint may be subject to an internal or external review process (for example, external review by an Ombudsman or a Tribunal).

**7.2** In these situations the person complained about will (wherever possible):

- be told as soon as it becomes known that the decision will be reviewed
- be informed about the relevant review process and what the possible outcomes might be
- have access to a named contact person for advice and support
- have the right to see and comment on any review documents
- be told straight away about any review outcome
- be given an opportunity to discuss their experience relating to the review process with an appropriate person

**7.3** Irrespective of whether a complaint is upheld or not at this review stage, the person complained about will be told straight away about any implications relating to this and will be involved in any learning or actions which result from the complaint review decision.

## **8 COMPLAINTS AND PROFESSIONAL CONDUCT**

**8.1** A person who is complained about may be a member of a profession, in which case it might be the case that a complaint about them needs to be referred to the relevant professional body for consideration.

**8.2** In this situation, we will:

- advise the person complained about that the complaint will be referred to their professional body
- tell the person about any communication we have with the professional body about the complaint
- enable the person complained about to have access to a named contact person for advice and support

**8.3** It may be that a complaint is made directly to a professional body, in which case we will tell the person complained about immediately that we become aware that this has taken place. We will also tell them about any potential resulting action that we need or intend to take.

## **9 ACTION RELATING TO A COMPLAINT**

**9.1** The closure of a complaint is not the end of the process. We have a non-punitive and positive approach to managing complaints. This includes taking any necessary action in relation to a person complained about. When considering what – if any – action needs to take place in relation to a person complained about, our approach is to follow the guidance set out in Appendix One.

**9.2** At the earliest opportunity after the closure of the complaint, we will make sure that the person complained about is given feedback in order to better understand the decision of the organisation and any recommendations made.

**9.3** We will also inform the person complained about who, in addition to the complainant, we intend or need to tell about the complaint outcome (both within and outwith our organisation) and how and when we intend to do so.

**9.4** All complaints contain the potential for learning. Even if a complaint is not upheld, it can be helpful to understand why it was made in the first place. Through complaints handling we aim to identify opportunities to improve how we work across the organisation. In particular, we will involve the person complained about in the identification of any shortfalls and contributory factors, and in the development of solutions to effectively address problems and reduce the likelihood of recurrence.