

# Towards therapeutic complaint resolution (TCR)

Dr Chris Gill (University of Glasgow), SPSO Complaints Improvement Conference,  
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Queen Margaret University  
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# Introduction

The effects of complaints on staff: why should we care?

Our research findings

The bigger picture: towards TCR

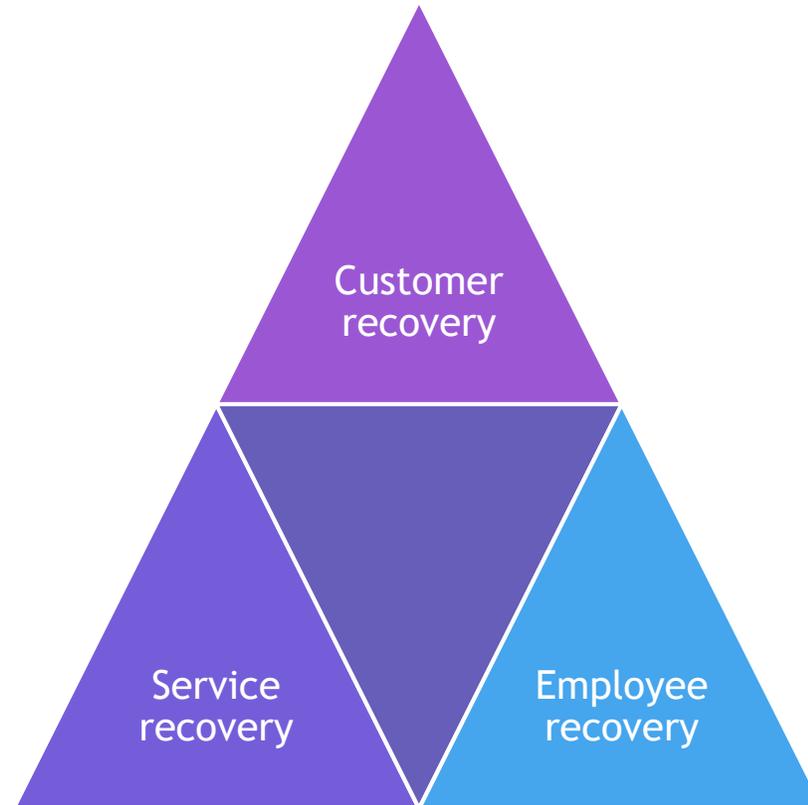
# Background

Research conducted by team including: Carolyn Hirst (Hirstworks), Maria Sapouna (University of West of Scotland), Jane Williams (Queen Margaret University)

Aim is to improve complaint processes and practices by drawing attention to neglected issue

Guidance developed in consultation with practitioners and currently being implemented in a range of organisations in the UK and abroad

# The hidden dimension: employee recovery



Michel and Johnstone  
(2009)

# Effects of complaints in healthcare (I)

- Previous research conducted exclusively with health professionals (doctors, dentists)
- High rates of complaints
  - 90% of US surgeons aged 55 and over had been sued during their career (Balch et al., 2011)
  - Dutch dentists are confronted with a complaint once in their career on average (Bruers et al., 2016)
  - 56% of hospital consultants registered in a local health authority in England had received at least one complaint in their career (Mulcahy & Selwood, 1995)
  - One in every 17 New Zealand doctors can expect to receive a complaint each year (Cunningham, 2004)
- Impact varies but in some cases can be severe especially in the short-term
  - 16.9% of doctors with recent or ongoing complaints reported clinically significant symptoms of moderate to severe depression (Bourne et al., 2015)
  - 29% of Dutch dentists surveyed reported they had been affected strongly (Bruers et al., 2016)

# Effects of complaints in healthcare (II)

- ▶ Most commonly reported effects are anger, depression, shame, guilt, and reduced job satisfaction (Cunningham, 2004)
- ▶ Around 1 in 3 doctors (in receipt of a complaint) indicated reduced trust, and around 1 in 5 indicated reduced sense of goodwill toward patients in the long-term (Cunningham, 2004)
- ▶ Evidence that in some cases complaints can lead to defensive practice and/or becoming overcautious in dealing with patients (Jane & Ogden, 1999; Bourne et al., 2015)
- ▶ In some cases complaint acts as a ‘wake up call’ or is regarded as a learning experience (Bruers et al., 2015; Cunningham, 2004; Jane & Ogden, 1999)
- ▶ Improvement in patient care in response to a complaint including better record keeping and fuller consultations with patients (Mulcahy & Selwood, 1995)

# Our research

- ▶ Housing association and local authority planning staff in Scotland
- ▶ 132 online survey responses
- ▶ 16 follow-up qualitative interviews

# What are the effects of complaints outside healthcare?

71% of people complained about report their work practice being affected by a complaint

67.2% of people complained about report their health and well-being being affected

61.2% of people reported their attitude to service users being affected

# What kind of effects are experienced?

## Work practice:

- Double checking
- Lack of confidence
- Distrust of service users
- Avoiding certain tasks or users
- Sticking to the rules/ core service

## Health and wellbeing:

- Stress
- Anxiety
- Absenteeism
- Lost productivity
- Lack of motivation

# Towards therapeutic complaint resolution (TCR)

## Therapeutic jurisprudence

- Field of enquiry concerned with the wellbeing of actors within legal systems
- We should not only be concerned with the objective fairness of processes and outcomes
- We need to understand the effects (good and bad) of legal processes on the wellbeing and emotions of system actors
- To the extent that it is possible, therapeutic effects should be maximised, while anti-therapeutic effects should be minimised

# What are therapeutic practices?

Therapeutic practices are context sensitive, but they include:

- system actors becoming aware that they act as therapeutic agents and developing an ethic of care;
- dispute resolution processes allowing active participation and a solution-focused approach;
- systems providing parties with a voice in proceedings; and
- decisions being taken in a manner that feels fair to the parties.

Anti-therapeutic practices also context sensitive, but examples are:

- delays, lack of communication, unclear decisions, lack of ability to comment on decisions, and a lack of emotional sensitivity.

# Where do complaints procedures stand?

Actors	Current outcomes
Complainants	Low satisfaction, stress, anxiety, health problems (e.g. NAO reports)
Staff complained about	Effects on wellbeing and capacity (BCA research + health research)
Complaint handlers	Unknown (Qs around status, support, workload, fatigue, second victim)

- ▶ Stakeholders:
  - ▶ Organisations struggle to use complaints to learn and build positive cultures
  - ▶ Limited use of complaint data for accountability and external assurance
  - ▶ High levels of concern about effectiveness of current complaint systems

# What might a more therapeutic complaint system look like?

Incremental change	System change
Allowing parties to feel heard	Non adversarial
Better information	Mediation
Better communication	Partnership and empowerment
Better procedural fairness	Solution focused
Better support for all	Dialogue & deliberation
Stronger learning focus	Participation & co-creation

# Coming by end of March... TCR website

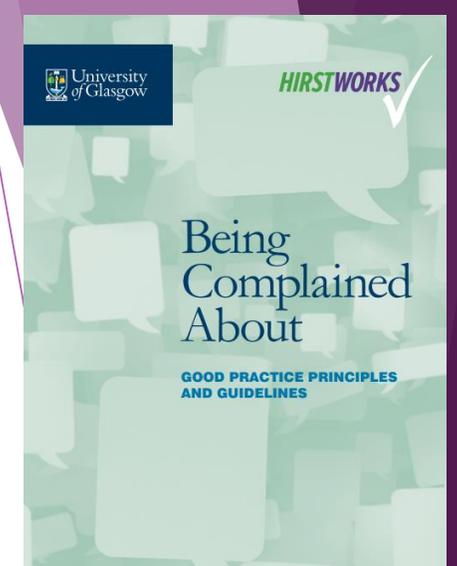
- ▶ Research
- ▶ Guidance
- ▶ Toolkit
- ▶ Case studies
- ▶ Examples of therapeutic practices
- ▶ Blog

# The good practice guidelines

## □ Guideline principles

- ▶ Fairness
- ▶ Transparency
- ▶ Confidentiality
- ▶ Efficiency

- Expected behaviours
- Immediate action
- Complaint resolution discussions
- Complaint investigation and decision
- Review of complaint decision
- Complaints and professional conduct
- Action relating to a complaint



# Action relating to a complaint

Start here Q1. deliberate harm test		
<p><b>1a</b> Was there any intention to cause harm?</p> <p>If <b>NO</b> go to next question</p>	<p>If <b>YES</b></p> 	<p><b>Recommendation:</b> Follow organisational guidance for appropriate management action. This could involve: contacting the relevant regulatory bodies, suspension of the staff member, referral to police and disciplinary processes.</p>
Q2. health test		
<p><b>2a</b> Are there indications of substance abuse?</p> <p><b>2b</b> Are there indications of physical or mental ill health?</p> <p>If <b>NO</b> go to next question</p>	<p>If <b>YES</b></p> 	<p><b>Recommendation:</b> Follow organisational guidance on substance abuse/health issues affecting work, which is likely to include occupational health referral. Also consider sick leave and reasonable adjustment to duties.</p>
Q3. foresight test		
<p><b>3a</b> Are there agreed processes and procedures in place that apply to the action/omission in question?</p> <p><b>3b</b> Are the processes and procedures workable and in routine use?</p> <p>If <b>YES</b> go to next question</p>	<p>If <b>NO</b> to either</p> 	<p><b>Recommendation:</b> If processes/procedures were not in place, or were but not workable or in routine use, then action relating to the individual staff member is unlikely to be appropriate. Action needs to take place to put appropriate processes/procedures in place, or to ensure that those present are workable and used.</p>

Q4. substitution test		
<p><b>4a</b> Are there indications that other individuals from the same peer group, with comparable experience and qualifications, would behave in the same way in similar circumstances?</p> <p><b>4b</b> Was the individual missed out when relevant training was provided to their peer group?</p> <p><b>4c</b> Did more senior members of the team fail to provide supervision that normally should be provided?</p> <p>If <b>NO</b> go to next question</p>	<p>If <b>YES</b> to any</p> 	<p><b>Recommendation:</b> More likely to be a system failure. So, action relating to the individual staff member is unlikely to be appropriate. Depending on the nature of the complaint, some additional relevant support/training may be appropriate. However, action needs to take place to understand why others would behave in the same way in similar circumstances – and what needs to be done in relation to this. If relevant training has been missed, then the staff member needs to undertake this training. Where there has been a failure in supervision, there is likely to be a need to investigate why the appropriate level of supervision has not been provided.</p>

Q5. mitigating circumstances		
<p><b>5</b> Were there any mitigating circumstances relating to the actions/omissions of the staff member?</p>	<p>If <b>YES</b></p> 	<p><b>Recommendation:</b> More likely to be a system failure. So, action relating to the individual staff member is unlikely to be appropriate – this may depend on the degree of mitigation applied. Depending on the nature of the complaint, some additional relevant support/training may be appropriate.</p>
	<p>If <b>NO</b></p> 	<p><b>Recommendation:</b> Follow organisational guidance for appropriate management action. This could involve individual training, performance management, competency assessments, changes to role or increased supervision, and may require relevant regulatory bodies to be contacted, staff suspension and disciplinary processes.</p>

The approach set out in this Table has been adapted from the NHS Improvement document **A Just Culture Guide**<sup>2</sup> which was based on the work of Professor James Reason and the National Patient Safety Agency's Incident Decision Tree.

# Case study



Shelley Hutton  
Customer Service and Research Manager

[Shelley.Hutton@castlerockedinvar.co.uk](mailto:Shelley.Hutton@castlerockedinvar.co.uk)

# Further information

- ▶ Please contact [chris.gill@glasgow.ac.uk](mailto:chris.gill@glasgow.ac.uk) for more information
- ▶ The Being Complained About guidance and supporting research are available here:  
<https://www.gla.ac.uk/schools/law/research/groups/lawreform/beingcomplainedabout/#d.en.636617>
- ▶ If you use the guidance in your organisation please let us know - we are tracking its impact 😊

