

Mr Tim Davison  
Chief Executive  
Lothian NHS Board  
Waverley Gate  
2-4 Waterloo Place  
EDINBURGH  
EH1 3EG

11 September 2013

Dear Mr Davison

**Annual letter 2012/13**

This year, for the first time, we are publishing sectoral complaints reports. A copy of the health report is enclosed with this letter, and I have also provided statistics about complaints to SPSO about your board in 2012/13.

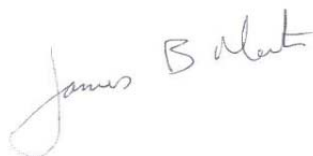
As I highlight in my introduction, in the post-Francis era complaints are an essential scrutiny mechanism for ensuring accountability. I welcome the strong commitment I see from many boards to improving how staff handle complaints and using the learning from them to inform improvements. I am also encouraged by the ethos of the Patient Rights Act which supports a culture of person-centredness, transparency and candour.

However, when I look at the health complaints we have investigated over the year, it is notable that we continue to find evidence that, in a generally good service, some people are experiencing significant problems. I upheld 52% of health cases investigated in 2012/13, a small decrease compared with the previous year but still high relative to other sectors. Clearly, there are areas where things can be done better – not least in complaints handling. The complaints report sets out the work we have been doing to help support training in this area in the NHS.

The complaints statistics that we enclose should form part of a much more detailed and responsive picture of complaints that your board analyses. I anticipate that the statistics we make available here will be useful in helping you demonstrate how you value complaints and use them to drive improvement.

I look forward to continuing to work with you to improve the quality of complaints handling in Scotland.

Yours sincerely



Jim Martin  
Ombudsman

In light of feedback received last year, we have expanded our explanations and answered some frequently asked questions. If you have any further queries, please contact our Casework Knowledge Manager, Annie Shanahan, at [ashanahan@spsso.org.uk](mailto:ashanahan@spsso.org.uk), or by calling 0131 240 8843.

### Statistics

The following tables show the complaints we handled about your organisation in 2012/13. **Table 1** shows complaints **received** by main subject area, both about your organisation and overall in your sector, for the past two years. **Table 2** shows the **outcomes** of the complaints we handled about your organisation for the same period. It also highlights the rate of premature and fully/partly upheld complaints and overall rates for your sector over the past two years.

As a result of last year's feedback, we have amended the table showing complaints received. For 2012/13, these are shown ranked from the most received to the least. For comparison, we have added each subject's ranking in 2011/12 to that year's table.

### **Subjects of complaint and outcomes**

The feedback included a number of questions about comparing tables 1 and 2, and we want to make it clear that they provide statistics for two quite different stages of our work. **Table 1** describes the subjects about which we **received** complaints between 1 April 2012 and 30 March 2013, while **Table 2** shows information about the **outcomes** of the complaints that we handled over the same period. The two figures are unlikely to tally, especially where complaints numbers are relatively large. This is because at the end of each business year we are still working on some of the complaints received during that year.

### Frequently asked questions

#### **What are complaints that are 'fit for SPSO'?**

These are complaints that were valid for us to investigate. This normally means that they have gone through the complaints process of your organisation, and are about something that the law allows us to look at.

#### **What does 'determined' mean?**

Determined complaints are those that we have looked at and for which we have closed our file. We will either have given the person a decision by letter or public report, or told them that we can't investigate their complaint.

#### **What are 'upheld' complaints?**

Upheld and partly upheld complaints are ones where we investigated, and found that something had gone wrong. In all cases, the complaint was fit for SPSO, and we gave a decision at the Early Resolution (ER2) or Investigation (INV1 or 2) stages of our process. (ER2 and INV1 cases are investigations that end with us sending a decision letter to you and to the complainant). In the majority of these cases we also publish a short summary of the complaint and its outcome on our website. INV 2 are cases that meet our public interest criteria and are published in full.)

#### **How do you define a premature complaint?**

It's a complaint that's been sent to us too early - i.e. before it has completed your complaints process.

**Would you ever take a complaint before it completes our process?**

Yes, but only where we think the circumstances are appropriate. The most likely examples would be where we conclude that you have delayed unreasonably in responding, or where the person who's complained appears to be particularly vulnerable. But this only happens in a very small number of cases. We normally expect people to complete your complaints process to allow you to respond to the matters raised, and we will normally tell them to contact you if they haven't.

**I don't seem to know about all of the complaints that you've counted as premature. Why?**

There are several possible reasons. We don't write to you about all the premature cases we receive (see the next question for more information about this). When we refer someone back to the complaints process, you may resolve the matter to the person's satisfaction without necessarily knowing that it came to us first.

Alternatively, the person may, after we've told them they need to go through your process, decide not to take it further. People often bring us issues that are premature, but that are also outwith our jurisdiction, or where they're asking for an outcome that we can't achieve. When we reply, we'll tell them that we're not looking at it because it's premature, but we also explain that even if they go back through your process, it's unlikely we'd take the complaint up because of the other issue. For example, if they're asking us to change a planning decision or if it's a personnel-related matter we'd explain that we couldn't do that at all, whether or not they went through your process. It's then for the complainant to decide what to do next.

**When do you tell us about premature complaints?**

We determine many of these very quickly (within one or two days of receiving them). This normally happens where the complaint has clearly come to us too early and there's little or no information with it. We record these on our computer system, but don't open a file. In most cases we simply return the letter explaining that they've sent us the complaint too soon and that they need to complain to you. We don't normally tell you about these, and we usually have only minimal information about the complaint ourselves.

In cases where the person has sent us information, but the complainant doesn't appear to have completed your complaints process, we'll open a paper file. We'd normally then write to you explaining that the matter has come to us too soon, and we've told the person to take the complaint back to you. We then close our file, which we can reopen if the person completes your process and brings the complaint back to us.

**Can you provide a more detailed breakdown of the premature complaints received for my organisation?**

We can provide numbers and general categories of complaints received prematurely. These are broken down into two areas – complaints that do not appear to have been made to you at all, and those that have started but not completed your process. (We don't record which point in your process they've reached – usually we don't know this.) We can usually identify the department and the subject matter involved, but at this early stage categorisation may not be accurate because of the lack of detailed information.

**The categories of complaints on your letter don't match those in our records - does this mean that our statistics are wrong?**

We have our own method of categorising the complaints we receive, which is not based on those of any particular organisation. If you would like an explanation of a particular category, please contact us.

### Health Complaints Received by Subject 2012-13

Subject	Lothian NHS Board Area						Sector Total	Rank	Complaints as % of total
	Lothian NHS Board	Dentists & Dental Practices	GP & GP Practices	Total	Rank	Complaints as % of total			
Clinical treatment / Diagnosis	64	4	21	89	1	51%	588	1	48%
Communication, staff attitude, dignity, confidentiality	7	0	10	17	2	10%	105	2	8%
Appointments/Admissions (delay, cancellation, waiting lists)	5	1	1	7	3	4%	42	5	3%
Policy/administration	5	1	0	6	4=	3%	76	3	6%
Complaints handling	6	0	0	6	4=	3%	52	4	4%
Admission, discharge & transfer procedures	4	0	0	4	6	2%	21	6	2%
Nurses / Nursing Care	3	0	0	3	7	2%	8	10=	1%
Record Keeping	0	0	1	1	8=	1%	11	7	1%
Appliances, equipment & premises	1	0	0	1	8=	1%	10	8	1%
Other	1	0	0	1	8=	1%	7	12	1%
Complaints by NHS staff	1	0	0	1	8=	1%	2	14=	0%
Continuing care	0	0	0	0	-	0%	9	9	1%
Failure to send ambulance/delay in sending ambulance	0	0	0	0	-	0%	8	10=	1%
Lists	0	0	0	0	-	0%	6	13	0%
Hygiene, cleanliness & infection control	0	0	0	0	-	0%	2	14=	0%
Hotel services - food, laundry etc	0	0	0	0	-	0%	1	16	0%
Out Of Jurisdiction	1	0	0	1	-	1%	20	-	2%
Subject Unknown	37	0	1	38	-	22%	269	-	22%
<b>Total</b>	<b>135</b>	<b>6</b>	<b>34</b>	<b>175</b>		<b>100%</b>	<b>1,237</b>		<b>100%</b>

Complaints as % of Sector Total

14.1%

### Health Complaints Received by Subject 2011-12

Subject	Lothian NHS Board Area						Sector Total	Rank	Complaints as % of total
	Lothian NHS Board	Dentists & Dental Practices	GP & GP Practices	Total	Rank	Complaints as % of total			
Clinical treatment / Diagnosis	43	2	11	56	1	41%	436	1	44%
Policy/administration	16	3	1	20	2	15%	104	2	10%
Communication, staff attitude, dignity, confidentiality	12	1	6	19	3	14%	93	3	9%
Appointments/Admissions (delay, cancellation, waiting lists)	4	0	0	4	4	3%	32	5	3%
Complaints handling	1	2	0	3	5	2%	34	4	3%
Lists	0	0	1	1	6=	1%	19	6	2%
Admission, discharge & transfer procedures	1	0	0	1	6=	1%	13	7	1%
Other	1	0	0	1	6=	1%	10	8=	1%
Continuing care	1	0	0	1	6=	1%	6	11	1%
Nurses / Nursing Care	0	0	0	0	-	0%	10	8=	1%
Record Keeping	0	0	0	0	-	0%	7	10	1%
Appliances, equipment & premises	0	0	0	0	-	0%	4	12=	0%
Failure to send ambulance/delay in sending ambulance	0	0	0	0	-	0%	4	12=	0%
Hygiene, cleanliness & infection control	0	0	0	0	-	0%	3	14	0%
Hotel services - food, laundry etc	0	0	0	0	-	0%	1	15	0%
Out Of Jurisdiction	1	0	0	1	-	1%	9	-	1%
Subject Unknown	27	0	2	29	-	21%	217	-	22%
<b>Total</b>	<b>107</b>	<b>8</b>	<b>21</b>	<b>136</b>		<b>100%</b>	<b>1,002</b>		<b>100%</b>

Complaints as % of Sector Total

13.6%

Health Complaints Determined by Outcome

2012-13

2011-12

Stage	Outcome Group	Lothian NHS Board Area				Sector Total
		Lothian NHS Board	Dentists & Dental Practices	GP & GP Practices	Total	
Advice	Body out of jurisdiction	0	0	0	0	0
	Matter out of jurisdiction (discretionary)	0	0	0	0	18
	Matter out of jurisdiction (non-discretionary)	0	0	0	0	12
	No decision reached	36	1	3	40	298
	Outcome not achievable	0	0	0	0	4
	Premature	33	1	4	38	293
	<b>Total</b>	<b>69</b>	<b>2</b>	<b>7</b>	<b>78</b>	<b>625</b>
Early Resolution 1	Matter out of jurisdiction (discretionary)	5	0	0	5	34
	Matter out of jurisdiction (non-discretionary)	2	1	0	3	20
	No decision reached	3	0	6	9	36
	Outcome not achievable	3	0	0	3	34
	Premature	8	0	2	10	63
	<b>Total</b>	<b>21</b>	<b>1</b>	<b>8</b>	<b>30</b>	<b>187</b>
Early Resolution 2	Fully upheld	0	0	2	2	15
	Partly upheld	1	0	0	1	10
	Not upheld	2	0	4	6	57
	No decision reached	0	0	0	0	1
	Outcome not achievable	0	0	0	0	1
	<b>Total</b>	<b>3</b>	<b>0</b>	<b>6</b>	<b>9</b>	<b>84</b>
Investigation 1	Fully upheld	6	1	3	10	60
	Partly upheld	12	0	0	12	81
	Not upheld	6	2	5	13	118
	No decision reached	0	0	0	0	8
		<b>Total</b>	<b>24</b>	<b>3</b>	<b>8</b>	<b>35</b>
Investigation 2	Fully upheld	1	0	0	1	25
	Partly upheld	0	0	0	0	9
	Not upheld	0	0	0	0	0
	No decision reached	0	0	0	0	0
		<b>Total</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>Total Complaints</b>		<b>118</b>	<b>6</b>	<b>29</b>	<b>153</b>	<b>1,197</b>

Stage	Outcome Group	Lothian NHS Board Area				Sector Total	
		Lothian NHS Board	Dentists & Dental Practices	GP & GP Practices	Total		
Advice	Body out of jurisdiction	0	0	0	0	1	
	Matter out of jurisdiction (discretionary)	1	0	0	1	4	
	Matter out of jurisdiction (non-discretionary)	3	0	1	4	14	
	No decision reached	24	0	3	27	225	
	Outcome not achievable	2	0	0	2	9	
	Premature	31	0	2	33	259	
		<b>Total</b>	<b>61</b>	<b>0</b>	<b>6</b>	<b>67</b>	<b>512</b>
	Early Resolution 1	Matter out of jurisdiction (discretionary)	4	1	0	5	29
		Matter out of jurisdiction (non-discretionary)	1	0	0	1	15
		No decision reached	2	1	1	4	38
		Outcome not achievable	2	0	0	2	16
Premature		5	0	1	6	29	
	<b>Total</b>	<b>14</b>	<b>2</b>	<b>2</b>	<b>18</b>	<b>127</b>	
Early Resolution 2	Fully upheld	2	0	0	2	11	
	Partly upheld	2	0	3	5	14	
	Not upheld	2	2	3	7	34	
	No decision reached	1	0	1	2	8	
	Outcome not achievable	0	0	0	0	0	
	<b>Total</b>	<b>7</b>	<b>2</b>	<b>7</b>	<b>16</b>	<b>67</b>	
Investigation 1	Fully upheld	2	1	0	3	34	
	Partly upheld	8	0	0	8	67	
	Not upheld	5	2	4	11	83	
	No decision reached	0	0	0	0	2	
		<b>Total</b>	<b>15</b>	<b>3</b>	<b>4</b>	<b>22</b>	<b>186</b>
Investigation 2	Fully upheld	3	0	0	3	22	
	Partly upheld	1	0	2	3	18	
	Not upheld	0	0	0	0	2	
	No decision reached	0	0	0	0	1	
		<b>Total</b>	<b>4</b>	<b>0</b>	<b>2</b>	<b>6</b>	<b>43</b>
<b>Total Complaints</b>		<b>101</b>	<b>7</b>	<b>21</b>	<b>129</b>	<b>936</b>	

NOTE : 'No decision reached' includes complaints not duly made, withdrawn and resolved

Total Premature Complaints	41	1	6	48	356
Premature Rate	34.7%	16.7%	20.7%	31.4%	29.7%

Total Premature Complaints	36	0	3	39	288
Premature Rate	35.6%	0.0%	14.3%	30.2%	30.8%

Fit for SPSO Total (ER2, Inv1 & Inv2)	28	3	14	45	385
Total Cases Upheld / Partly Upheld	20	1	5	26	200
Uphold Rate (total upheld / total fit for SPSO)	71.4%	33.3%	35.7%	57.8%	51.9%

Fit for SPSO Total (ER2, Inv1 & Inv2)	26	5	13	44	296
Total Cases Upheld / Partly Upheld	18	1	5	24	166
Uphold Rate (total upheld / total fit for SPSO)	69.2%	20.0%	38.5%	54.5%	56.1%

### Prison Health Complaints Received by Subject and Authority 2012-13

Subject	Lothian NHS Board	Sector Total
Appointments/admissions (delay, cancellation, waiting lists)	0	2
Clinical treatment / Diagnosis	12	36
Communication, staff attitude, dignity, confidentiality	0	2
Complaints handling	3	15
Policy/administration	1	7
<b>Total Complaints</b>	<b>16</b>	<b>62</b>

### Prison Health Complaints Determined by Outcome and Authority 2012-13

Stage	Outcome	Lothian NHS Board	Sector Total
Advice	No decision reached	3	15
	Premature	5	21
	<b>Total</b>	<b>8</b>	<b>36</b>
Early Resolution 1	Matter out of jurisdiction (non-discretionary)	0	1
	Premature	2	6
	<b>Total</b>	<b>2</b>	<b>7</b>
Early Resolution 2	Complaint not upheld	1	3
	No decision reached	0	1
	<b>Total</b>	<b>1</b>	<b>4</b>
Investigation 1	Complaint not upheld	1	2
	No decision reached	0	1
	<b>Total</b>	<b>1</b>	<b>3</b>
<b>Total Complaints</b>		<b>12</b>	<b>50</b>