

**Supporting Staff, Improving Services -  
Guidance to support implementation of the:  
  
National Health Service (Complaints)  
Amendment Regulations 2006  
(SI 2006 No. 2084)**

August 2006

Gateway Reference: 6921

## DH INFORMATION READER BOX

<b>Policy</b>	Estates
HR / Workforce Management	Performance
Planning	IM & T
Clinical	Finance
	Partnership Working

  

<b>Document Purpose</b>	Procedure - change
<b>ROCR Ref:</b>	<b>Gateway Ref:</b> 6921
<b>Title</b>	Revised NHS Complaints Regulations: A better response to patients
<b>Author</b>	DH
<b>Publication Date</b>	01 Sep 2006
<b>Target Audience</b>	NHS Trust CEs, SHA CEs, Care Trust CEs, Foundation Trust CEs , Directors of Nursing, NHS Trust Board Chairs, Special HA CEs, Communications Leads
<b>Circulation List</b>	
<b>Description</b>	From 1 September 2006, changes to the NHS complaints regulation will come into force. The changes are designed to make the complaints procedure clearer and easier to access for those who need it. The amendments to the NHS complaints procedure take them into closer alignment with the changes to the Social Care complaints procedures
<b>Cross Ref</b>	National Health Service Act 1977, Health and Social Care (Community Health and Standards) Act 2003, Social Care regulations, Social Care guidance, NHS Injury, Pensions and Bursary Scheme.
<b>Superseded Docs</b>	To note: these are amendments and will not supersede the National Health Service (Complaints) Regulations 2004 No.1768
<b>Action Required</b>	To be aware of new procedures
<b>Timing</b>	<b>Updated Regulations due to come into effect 1 September 2006</b>
<b>Contact Details</b>	Ms Shain Marr UE&IG Room 5E55, Quarry House Leeds LS2 7UE 0113 254 6306 <a href="http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicyComplaint">www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicyComplaint</a>
<b>For Recipient's Use</b>	

## 1. INTRODUCTION

- 1.1 The [NHS \(Complaints\) Amendment Regulations 2006](#), which apply in England only, come into force on 1 September 2006. The Regulations are published as SI 2006/2084. These Regulations are an amendment to the NHS (Complaints) Regulations 2004 (SI 2004/1768) (“the Principal Regulations”). The Principal Regulations, as amended, are the statutory framework for managing complaints against NHS Bodies.
- 1.2 The Amendment Regulations apply to Primary Care Trusts, Strategic Health Authorities, NHS Trusts and Special Health Authorities. They also apply to Foundation Trusts with regard to the Healthcare Commission’s role in dealing with complaints about them in certain situations (Regulation 9).
- 1.3 Guidance to support implementation of the Principal Regulations was published in 2004. This guidance supplements the 2004 guidance.
- 1.4 The separate Directions and Regulations relating to complaints made about primary care services continue to apply. These are laid out in detail in the 2004 guidance.
- 1.5 Extracts from the Regulations are in **bold** and *italics* and *Times New Roman*.

**2. REGULATION 3 – AMENDMENT OF REGULATION 2 OF THE PRINCIPAL REGULATIONS**

3. *In regulation 2 (interpretation) of the Principal Regulations, in paragraph (1), in the appropriate alphabetical position, insert –*

*““NHS Bursary Scheme” means the NHS Bursary Scheme established pursuant to section 63 of the Health Services and Public Health Act 1968; and*

*“Social Services Complaints Regulations” means the Local Authority Social Services Complaints (England) Regulations 2006.”*

- 2.1 This regulation adds the terms “NHS Bursary Scheme” and “Social Services Complaints Regulations” to the “Interpretation” section of the regulations.

### **3. REGULATION 4 – INSERTION OF NEW REGULATIONS 3A AND 3B INTO THE PRINCIPAL REGULATIONS**

#### **Complaints made to an NHS body relating in part to a local authority**

- 4. After regulation 3 (arrangements for the handling and consideration of complaints) of the Principal Regulations, insert -**

***“Complaints made to an NHS Body relating in part to a local authority***

***3A. (1) Paragraph (2) applies where it appears to a NHS Body considering a complaint which falls within regulation 9 that the complaint contains material which, fall to be handled by that authority under the Social Care Complaints Regulations.***

***(2) The NHS body must, as regards that part of the complaint which would appear to be a complaint for the purposes of the Social Care Complaints Regulations (“the local authority complaint”) –***

***(a) within 10 working days of receipt of the complaint, ask the complainant whether he wishes details of the local authority complaint to be sent to the local authority to which it relates; and***

***(b) if the complainant does so wish, send details of the local authority complaint to that local authority as soon as reasonably practicable.***

***(3) In the case of a complainant to which paragraph (2) applies, the NHS body must notify the complainant –***

***(i) which part of the complaint will be handled in accordance with the procedure described in these Regulations; and***

***(ii) in a case where it has sent details of the local authority complaint to the local authority, that it has sent such details.***

***(4) Where a local authority handles a complaint under the Social Care Complaints Regulations in consequence of having been sent details under paragraph (2) (b), the local authority and the NHS body must cooperate with a view to the complainant receiving a coordinated response to his complaint.***

***(5) The duty to cooperate in paragraph (4) include, in particular, a duty to –***

***(a) provide information relevant to the consideration of a complaint which is reasonably requested;***

***(b) attend any meeting reasonably required in connection with the consideration of a complaint; and***

***(c) seek to agree which of the two bodies should take a lead in –***

*(I) coordinating the handling of the complaints against them, and  
(ii) dealing with the complainant.*

*(6) Where a complainant is referred to a local authority in accordance with paragraph (3) the complainant shall be deemed to have made a complaint under Regulation 3 (making a complaint) of the Social Care Complaints Regulations for the purposes of those Regulations.*

## COMPLAINTS INVOLVING MORE THAN ONE BODY

### Joint NHS and Local Authority (Social Care) Complaints

- 3.1 Complaints relating to NHS bodies are to be dealt with in accordance with the Principal Regulations, as amended by the 2006 Regulations. Complaints relating to local authorities are to be dealt with by them, under the Social Services Complaints Regulations. NHS bodies have no ability to deal with complaints under the Social Services Regulations, likewise, local authorities are unable to deal with complaints under the Principal Regulations. Where complaints are about both NHS and Local Authority Services, the new regulation 3A provides that, where the complainant so wishes, the organisations involved must co-operate to deal with the part of the complaint that relates to them and provide a co-ordinated response to the complaint.
- 3.2 On receipt of a complaint, the NHS body should check whether it appears also to raise issues around local authority handling of the case. If so, within 10 working days of receiving the complaint, it must seek to obtain the consent of the complainant to sending details of the complaint to the local authority. Where the complainant does not want the details to be shared, the NHS body should advise them on the parts of the complaint it is able to deal with, adding that if the complainant wants to pursue the social services part of the complaint, they should approach the relevant local authority.
- 3.3 Where the complainant wants the details to be shared, the local authority must deal with its part of the complaint under the Social Services Regulations and cooperate with the NHS body that received the complaint to resolve the entire complaint and provide a co-ordinated response.

The NHS body that received the complaint is also bound by a duty to co-operate with the local authority in resolving the complaint.

The duty to cooperate for all parties includes the duty to:

- share relevant information, and
- attend joint meetings reasonably arranged to consider the complaint.

- 3.4 Additionally, the two bodies should seek to agree which organisation should take the lead in co-ordinating the handling of the complaint and dealing with the complainant. The lead body's Complaints Manager must:
- coordinate the handling of the complaint by working closely with all those involved,
  - ensure a comprehensive and appropriate response is sent, and
  - ensure that they keep the complainant informed and, where possible, coordinate a single reply.
- 3.5 The protocols for determining the lead agency are best worked out locally (see paragraph 3.15). However, regulation 13(2) of the Principal Regulations provides that the Chief Executive of the NHS body should sign the response, except where there are good reasons for them not being able to do so. Irrespective of 'lead' responsibility, each body retains its duty of care to the complainant and must handle its part of the complaint in accordance with its own regulated procedures. The Social Services Regulations have a provision that mirrors the new regulation 3A to ensure that this can occur.
- 3.6 Joint handling of a case should not affect the need to meet statutory deadlines for providing a response to the complainant and both agencies should seek to avoid any unnecessary delay. Fostering a culture of effective joint working will greatly aid this requirement. The NHS body and the Local Authority should consider a joint meeting with the complainant if this will facilitate a more effective outcome.
- 3.7 Close cooperation between Complaints Managers should help identify which issues should be referred to the appropriate Body, should the complainant wish to go forward to independent review. The coordinated response must identify which parts relate to the relevant aspects of the complaint letter. This will be of great assistance to an independent body that might subsequently have to review the complaint. The response should advise the complainant of their right to pursue the complaint further and provide details of which regulatory organisation would deal with each aspect of the complaint.
- 3.8 Where services are provided in a 'package', but delivered by separate bodies (e.g. some by NHS and some by a Local Authority), the lead Complaints Manager should still ensure that all aspects of the complaint are investigated by the appropriate body, and that the complainant is kept informed of the progress of the complaint and who is involved.
- 3.9 NHS Complaints Managers receiving complaints relating partly to Local Authority services may wish to see Section 7.5 of ['Learning from Complaints' \(Guidance for Social Services Adult Services complaints\)](#).

- 3.10 Complaints Managers should also be aware of the need to work with other procedures that have a significant bearing on the complaints procedures, such as child protection and protection of vulnerable adults. Again, NHS Complaints Managers may wish to see Sections 7.2 – 7.4 of [‘Learning from Complaints’](#).

**Complaints made to an NHS body relating only to a local authority**

***3B. – (1) Where a NHS body receives a complaint on or after 1 September 2006 which does not fall within regulation 6 and it appears to the NHS body that the complaint contains material which, had the complainant sent it to a Local Authority, would be a complaint which would fall to be handled by that body under the Social Care Complaints Regulations, it must –***

***(a) within 5 working days of the receipt of the complaint, ask the complainant whether he wishes that material to be sent to the local authority to which it relates; and***

***(b) if the complainant does so wish, send that material to that local authority as soon as reasonably practical.***

***(2) Where a complainant is referred to a local authority in accordance with paragraph (1) the complainant shall be deemed to have made a complaint under regulation 3 of the Social Care Complaints regulations ( making a complaint) for the purposes of those Regulations.***

3.11 There are occasions where an NHS body will receive a complaint about the actions of a local authority. This can happen where the complainant does not understand which organisation is responsible for which service. However, in some cases it might be an important issue of trust – someone might, for example, speak to a social worker they trust about his concerns over NHS treatment, or approach a District Nurse about a carer employed by the Local Authority. Regulation 3B applies where an NHS body receives a complaint that is **solely** concerned with local authority services, or NHS services provided under arrangement, by a Local Authority. However, a complaint under regulation 6 of the Principal Regulations may still be made to an NHS body about the actual making of the arrangements for the provision of health care or other services with an independent provider. A complaint about the making of these arrangements would fall to be dealt with by the NHS body.

3.12 Regulation 3B enables NHS bodies to refer the complaint to the appropriate local authority if the complainant so wishes. When such complaints are received, they should be referred to the Complaints Manager of the organisation who first receives the complaint. The Complaints Manager must then within 5 working days ask the complainant whether he or she wants the complaints referred to the relevant local authority. If the complainant so wishes, the Complaints Manager must forward the complaint to the correct Local Authority.

- 3.13 Where the complainant does not want the complaint forwarded to the relevant local authority the complaint should be advised that the NHS body is unable to deal with the complaint and that if they wish to pursue it further that they must contact the relevant local authority.
- 3.14 The action taken by the NHS body should be recorded in writing.

#### Local Protocols

- 3.15 The key elements of any local complaints protocol may include:
- responding promptly, or as soon as is reasonably practicable;
  - keeping the complainant updated on action being taken and the lead contact is for any query;
  - mechanisms best to ensure a comprehensive, coordinated;
  - details of how the respective complaints managers are to maintain close liaison and effective communication;
  - consideration of whether a single response can be carried out on behalf of both bodies;
  - identification of the responsible body for each aspect of the complaint;
  - Identification of any learning points that arise from the complaint and how these might best be shared between the complainant and the two bodies, having regard to the Data Protection Act.
- 3.16 The role of each body will depend upon which organisation acts as the 'lead body', where this has been determined. The Complaints Managers should initially discuss the decision on who will lead. Where agreement is not possible, the relevant Directors should then seek to reach agreement.

#### Other Mixed Sector Complaints

- 3.17 There are occasions where complaints received by a NHS body may also involve services provided by another body, for example, a matter relating to detention under the Mental Health Act. Where this happens, people who use such services should not have to worry about whom to approach with complaints about different aspects of their care and the service that they receive. NHS bodies should advise complainants which matters fall under which procedure.
- 3.18 For example, where complaints are made that might relate in part to a matter for the Mental Health Act Commission procedures, NHS bodies should advise the complainant of the ability to complain to the MHAC.
- 3.19 Where a complaint involves more than one NHS provider, NHS bodies should seek to resolve the complaint through each body's local complaints procedure in a cooperative manner.

- 3.20 It is important to note that the procedures in the new regulation 3A apply only to complaints involving NHS bodies and local authorities. However, it is good practice that all bodies involved in delivering health and social care should work together to respond to complaints and comments about their services.
- 3.21 NHS bodies may receive written complaints that are solely concerned with areas properly dealt with by another health body or by a body outside the NHS – although those involving a local authority should be dealt with as set out above. In these cases, the complaints manager should resolve any doubts or disagreements over which body is responsible for handling the complaint. The Complaints Manager should then ask the complainant whether they wish the complaint to be forwarded directly to the relevant body. The name of this body should be included in the letter. If the claimant agrees, the complaint should be forwarded as soon as possible. This decision, and the action taken, should be recorded in writing.

### Consent and Patient Confidentiality

- 3.22 In transferring complaints between agencies (including the Healthcare Commission), it is particularly important to have ensure that patient confidentiality is maintained at all times. Every effort should be made to obtain the patient's (or their representative's) consent before sharing confidential information with another body or organisation. This should, wherever possible, be done at the time the complaint is received, whatever it's format. This will best ensure that the complaints process is not held up whilst waiting for consent. Consent should be obtained in writing wherever possible. If this is not possible, verbal consent should be logged and a copy sent to the complainant.
- 3.23 Further information on confidentiality and consent is contained in the [Good Practice Toolkit](#) and in the sections of this guidance relating to referring complaints to another organisation.

#### **4. REGULATION 5 – AMENDMENT REGULATION 5 OF THE PRINCIPAL REGULATIONS**

5. *In regulation 5 (complaints manager) of the Principal Regulations, at the end add -*

(3) *A complaints manager may be –*

*(a) A person who is not an employee of the NHS body; or*

*(b) appointed as complaints manager for more than one body*

4.1 The 2006 Regulations clarify the Principal Regulations to provide that the Complaints Manager does not have to be an employee of the NHS body and may act as Complaints Manager for more than one NHS body. Some NHS bodies may (for example) decide that they wish to pool resources and expertise with neighbouring NHS bodies, or with other appropriate organisations. This could include a Local Authority, if that will give an improved service to complainants. NHS organisations can also make use of appropriate external expertise if they wish.

## 5. REGULATION 6 – AMENDMENT OF REGULATION 7 OF THE PRINCIPAL REGULATIONS

### 6. *In regulation 7 (matters excluded from consideration under the arrangements) of the Principal Regulations –*

(a) *omit the “and” at the end of paragraph (h); and*

(b) *at the end, add -*

(j) *A complaint the subject matter of which has already been investigated under these Regulations; and*

(k) *A complaint which relates to any scheme established under section 10 (superannuation of persons engaged in health services, etc) or section 24 (compensation for loss of office, etc) of the Superannuation Act 1972(a), or the administration of those schemes.*

5.1 Regulation 7 of the Principal Regulations provides for types of complaints that are excluded from the regulated complaints process. This means that these types of complaints cannot be investigated by the NHS body under this process. The 2006 Regulations introduce 2 new types of complaints that cannot be considered under the regulated complaints process:

A complaint the subject matter of which has already been investigated under these Regulations;

5.2 Regulation 7(j) provides that a complaint can only be investigated once, under the Principal Regulations. There is, of course, nothing to prevent a complainant bringing a further complaint about a different incident and complaints staff should be careful not to imply a further complaint will not be treated appropriately.

A complaint which relates to any scheme established under section 10 (superannuation of persons engaged in health services, etc) or section 24 (compensation for loss of office, etc) of the Superannuation Act 1972(a), or the administration of those schemes.

5.3 There are already complaints procedures in place for those affected by decisions about the NHS Pension Scheme and NHS Injury scheme. The NHS Complaints Procedure is designed to be used by patients, their relatives and others affected by decisions about the provision of NHS services and therefore excludes complaints about Schemes established under the *Superannuation Act 1972*.

## **6. REGULATION 7 – AMENDMENT OF REGULATION 13 OF THE PRINCIPAL REGULATIONS**

### **7. *In regulation 13 (response) of the Principal Regulations, for paragraph (3) substitute -***

***(3) Subject to paragraph (4), the response must be sent to the complainant within 25 working days beginning on the date on which the complaint was made, unless the complainant agrees to a longer period in which case the response may be sent within that longer period.***

- 6.1 Regulation 13(3) specifies that the formal response of the NHS body to a complaint must be sent to the complainant within 25 working days from the date the complaint is made and received. The extension from 20 working days will provide a better opportunity to resolve a complaint successfully at local level at the first attempt. The Regulations stipulate that the 25 day deadline can be extended, but only by agreement with the complainant.
- 6.2 In cases where the NHS body concerned considers it appropriate to seek an extension of the time limit, for example because of the complexity of the case, they should contact the complainant to invite their agreement, explaining the reasons for the request. No pressure must be placed on the complainant to agree the extension but the complaints manager may, in suitable cases, consider it appropriate to explain that a comprehensive response may not be possible to achieve within 25 days. The key considerations are whether an extension will genuinely enable local resolution of a complaint to be achieved, and that the complainant is involved in the discussion. Complaints Managers should ensure that they record the details of any discussion and agreed/disagreed extensions.
- 6.3 Complainants retain the right to refer their case to the Healthcare Commission if the complaint remains unresolved six months after it was made. The strong emphasis should therefore be on discussion at local level to reach resolution locally and complaints managers will wish to make every effort to ensure that all possible local action is taken before a complainant approaches the Healthcare Commission. One of the main reasons for complaints being referred back from the Healthcare Commission to the NHS body concerned is because there is further local action that can, and should, be taken before the Commission becomes involved. Striking the right balance between a timely response and one that is informed by comprehensive local action will provide the best response to patients and the best opportunities for learning within the NHS organisation.

- 6.4 In some cases, it is possible that an extension of time is sought for good reasons, but the complainant is unwilling to agree to this, even after being made aware that it may not be possible to provide a comprehensive response within a shorter timescale. In these circumstances, the NHS body concerned should do everything possible to meet the 25 day deadline, but continue to make every effort to reach agreement with the complainant about an extension, if this is appropriate. If an extension is not agreed and the deadline is missed, the NHS body will need to be able to give a full explanation to the complainant and, if necessary, the Healthcare Commission. If the NHS body has good grounds for requesting an extension but has been unable to get the complainant's agreement, and have not therefore been able to provide an appropriate response, the Healthcare Commission will take that into consideration. They will also seek to use their experience of brokering with complainants to encourage them to engage in the local process. ICAS will also have an important role to play in reaching local agreement.
- 6.5 If the Healthcare Commission receives a complaint before the NHS body has completed its investigation, it is likely to refer the case back for local completion. The Commission could criticise an NHS body if the complainant has not agreed to an extension and the 25 day deadline is missed without good reason.
- 6.6 NHS bodies are therefore expected to focus on prompt action and constructive discussion with complainants to achieve the primary aim of local resolution.

## 7. REGULATION 8 – AMENDMENT OF REGULATION 14 OF THE PRINCIPAL REGULATIONS

### 8. *In regulation 14 (general complaints remit of the Healthcare Commission) of the Principal Regulations -*

- (a) *in paragraph (1), for “In any case” substitute “Subject to paragraph (1A), in any case”;*
- (b) *after paragraph (1), insert -*  
  
*(1A) “(1A) Paragraph (1) does not apply in the case of a complaint, or part of a complaint, that was made to an NHS body in accordance with regulation 9 on or after 1st September 2006 which relates to the NHS Bursary Scheme, or the administration of that scheme.”; and*
- (c) *in paragraph (3), for “2 months” substitute “6 months”.*

7.1 Regulation 14(1A) removes complaints relating to the NHS Bursary Scheme from the remit of the Healthcare Commission.

#### Time-limits for requesting independent review

- 7.2 The regulation also increases the time within which a complainant may request the consideration of a complaint by the Healthcare Commission. Requests for independent review must be made within 6 months of the end of local resolution. The Healthcare Commission will take this to be the final response (or meeting) given by the healthcare provider to the complainant about their concerns. Upon receiving an independent review request, the Healthcare Commission will ask the local NHS body to confirm that local attempts at resolution are concluded.
- 7.3 The Healthcare Commission will be flexible when determining whether to consider cases after this six month period. There may be good reasons for not requesting independent review within timescales; examples might include bereavement, injury, illness, or not being made aware of second stage. In these circumstances, the Healthcare Commission will seek to ascertain, on a case-by-case basis, whether it is possible to review the case fairly. The Healthcare Commission will take into account the issues raised by the complaint, the availability of witnesses, the time that has elapsed, and the completeness of any records or documentation about local stages of the complaint. Where it is possible to investigate robustly and fairly the Healthcare Commission will do so. Where the Commission decides that it is not possible to review a complaint the complainant will be advised that they can approach the Parliamentary and Health Service Ombudsman to consider the case.

**8. REGULATION 9 – AMENDMENT OF REGULATION 15 OF THE PRINCIPAL REGULATIONS**

**9. *In regulation 15 (remit of the Healthcare Commission in relation to complaints about NHS foundation trusts) of the Principal Regulations -***

*(a) in paragraph 2(a), after “a patient” insert “or any other person who is affected by, or likely to be affected by, the action or omission of the NHS foundation trust which forms the likely subject matter of the complaint”;*

*(b) in paragraph (2)(a), after “a patients” substitute “such persons”;*

*(c) in paragraph (6), for “2 months” substitute “6 months”;*

*(d) for paragraph (7), substitute -*

*(7) The Healthcare Commission shall make a report to the Independent Regulator each month and when the Independent Regulator shall otherwise require, which—*

*(a) specifies the number of complaints received about NHS foundation trusts in that month, or other period specified in the request;*

*(b) identifies the subject matter of those complaints; and*

*(c) summarises how any complaints concluded during that month, or other period specified in the request, were handled, including their outcome.*

*(e) at the end, add -*

*“(8) The Healthcare Commission may, provided that it has the consent, which may be either express or implied, of the complainant send a copy of any complaint that it has received about an NHS foundation trust to the Independent Regulator.*

*(9) The Independent Regulator may request that the Healthcare Commission send him any complaint about an NHS foundation trust that the Healthcare Commission receives.*

*(10) For the purposes of paragraph (9) the Independent Regulator may make a standing request that identifies a type of complaint that he wishes to receive.*

*(11) Where the Healthcare Commission receives a request under paragraph (9) it must, provided that it has the consent, which may be either express or implied, of the complainant, send a copy of the complaint to the Independent Regulator—*

*(a) in the case of an individual request, within two days of receiving the request; or*

*(b) in the case of a standing request, within two days of receipt of a complaint which falls within the terms of that request.*

*(12) On receipt of a copy of a complaint under paragraph (8) or (11) the Independent Regulator may give his views on the complaint or its handling to the Healthcare Commission and, where he wishes to give such views, must do so as soon as reasonably practicable.”*

- 8.1 This Regulation broadens the remit of the Healthcare Commission in respect of complaints relating to NHS foundation trusts to bring it into line with complaints about NHS bodies.
- 8.2 It also increases the time within which a complainant may request the consideration of such a complaint by the Healthcare Commission. Requests for independent review must now be made within 6 months of the end of local resolution.
- 8.3 As with complaints about NHS bodies, the Healthcare Commission will be flexible when determining whether to consider cases after this six month period. There may be good reasons for not requesting independent review within the timescale; examples might include bereavement, injury, illness, or not having been made aware of second stage. In these circumstances, the Healthcare Commission seek to ascertain, on a case-by-case basis, whether it is possible to review the case fairly. The Healthcare Commission will take into account the issues raised by the complaint, the availability of witnesses, the time that has elapsed, and the completeness of any records or documentation about local stages of the complaint. Where it is possible to robustly and fairly investigate then the Healthcare Commission will do so. Where the Commission decides that it is not possible to review a complaint, the complainant will be advised that they can approach the Parliamentary and Health Service Ombudsman to consider the case.

#### Independent Regulator of NHS Foundation Trusts

- 8.4 The regulation also replaces the Healthcare Commission’s obligation to send copies of all complaints about foundation trusts to the Independent Regulator with a regular reporting requirement. It enables the Healthcare Commission to send copies of complaints to the Independent Regulator, provided it has the consent of the complainant, either of its own volition, or at the request of the Independent Regulator.

- 8.5 The Healthcare Commission will supply the Regulator of NHS Foundation Trusts (Monitor) with monthly data reports about all complaints relating to foundation trusts that have been referred for independent review. From these reports, Monitor may request further information about specific complaints. The Healthcare Commission will request permission from the complainant to release this information to Monitor and, where this is forthcoming, copy the complaint and the final independent review report to Monitor.
- 8.6 The Healthcare Commission may consider that certain other complaints should be copied in detail to Monitor. In this instance, they may copy the complaint and final independent review report to Monitor for their information, upon receiving permission to do so from the complainant.

## **9. REGULATION 10 – AMENDMENT OF REGULATION 16 OF THE PRINCIPAL REGULATIONS**

*10. In regulation 16 (decision on handling a complaint) of the Principal Regulations, for paragraph (1)(c) substitute -*

*“(c) in the case of a complaint about an NHS foundation trust which falls within regulation 15(2), any views given by the Independent Regulator pursuant to regulation 15(12);”*

- 9.1 Regulation 16(1)(c) requires the Healthcare Commission only to consider any views given by the Independent Regulator in determining how to handle a complaint, where it has sent a copy of the complaint to the Independent Regulator.

**10. REGULATION 11 – AMENDMENT OF REGULATION 18 OF THE PRINCIPAL REGULATIONS**

**11. *In regulation 18 (panels) of the Principal Regulations –***

***(a) for paragraph (1), substitute -***

***“(1) The Healthcare Commission may use an independent panel to hear and consider complaints.”;***

***(b) in paragraph (2), omit “lay”;***

***(c) omit paragraph (3);***

***(d) in paragraph (4), for “to (7)” substitute “and (6)”;***

***(e) in paragraph (5), after “informed” insert “in a timely manner”; and***

***(f) omit paragraph (7)***

10.1 Regulation 11 reduces the prescription of the management of independent panels used by the Healthcare Commission to hear and consider complaints.

**11. REGULATION 12 – AMENDMENT OF REGULATION 19 OF THE PRINCIPAL REGULATIONS**

*12. In regulation 19 (report of investigation by the Healthcare Commission) of the Principal Regulations –*

*(a) for paragraph (3)(e), substitute –*

*“(e) in the case of a complaint involving an NHS foundation trust, the Independent Regulator, where he so requests.”; and*

*(b) after paragraph 3, insert –*

*“(3A) For the purposes of paragraph (3)(e) the Independent Regulator may make of which he wishes to receive the report.”.*

11.1 Regulation 12 requires the Healthcare Commission only to send an investigation report of a complaint to the Independent Regulator where the Independent Regulator requests it.