

The impact of coronavirus on the management of complaints and serious incident investigations in the NHS

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30 March 2020

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Complaints

NHS Trusts are likely to experience difficulties in responding substantively to complainants within the usual timeframes, as clinical staff are unable to provide the information needed by complaints teams to enable a detailed response to be provided to a complainant.

As a result, NHS Trusts should review local policies to consider any necessary changes needed to the timeframe for responding to complaints and ensure that any changes are communicated to complainants, providing updates as and when appropriate.

In this respect, the Parliamentary Health and Social Care Ombudsman (PHSO) has confirmed that it will not penalise NHS Trusts for any delays in responding to complaints caused by the pandemic. In addition, from 26 March 2020, in recognition of the additional burden on the NHS at this time, the PHSO will not be progressing its own existing health complaints or accepting any new complaints. All complaints in time as at 26 March 2020 will be treated as in time when the PHSO resumes its consideration of health complaints.

Trusts who have completed the local complaints process and are issuing a final decision are asked not to refer the complainant to the PHSO. Instead, Trusts should use the following wording in the final decision letter:

"If you're not happy with how we've dealt with your complaint, you are entitled to raise your complaint with the Parliamentary and Health Service Ombudsman. However, please note that the Ombudsman is currently not accepting any new complaints about the National Health Service because of the coronavirus pandemic. This is to help ensure the NHS can focus its resources on providing urgent healthcare. You can find out more information on the Ombudsman's website www.ombudsman.org.uk".

Serious Incident (SI) Investigations

Under the Serious Incident Framework (SIF), SI reports and action plans must be submitted within 60 working days of an incident being reported to the relevant Commissioner. However, this timeframe is also likely to be affected by the impact of coronavirus given the need for clinical staff to be delivering front line care. The SIF acknowledges that there may be 'compelling reasons' where a Trust finds it difficult to complete a final report within 60 days and there is therefore provision for an investigation team to agree an alternative timeframe with the Commissioner. Any extension should be clearly recorded in the serious incident management system and included in the final SI report and of, course, patients/families and/or carers should be kept informed and updated about any changes to timeframes.

Patient safety remains important at this time and whilst it may not be possible to complete a SI report and detailed action plan, any evident learning or relevant information arising from a SI should be highlighted and shared with relevant teams to prevent recurrence of harm.

It is not yet clear what impact the coronavirus pandemic will have on the implementation of the Patient Safety Incident Response Framework (PSIRF) which was published on 10 March 2020 and is due to replace the SIF by the end of 2021.

Summary

It is universally recognised that the provision of front-line health care must take priority at this extraordinary time and that consequently, there are likely to be unavoidable delays in responding substantively to complaints and/or progressing SI investigations.

It is important that Trusts are reasonable in the approach taken to any extensions needed. However, the key with all of this is clear communication, both with the relevant Commissioner, where appropriate, but also, crucially, with patients/families/carers so that they are aware of and appreciate the difficulties faced. It is likely that in some cases, given the developing situation, it is not possible to agree a definitive timescale, but this should be kept under review and action to investigate a complaint and/or SI should be taken as soon as it is possible to do so.

We can provide support to NHS Trusts understandably concerned about the potential backlog to complaint responses and SI investigations caused by the coronavirus emergency. If you would like to discuss how we might be able to assist your organisation, please contact [Amelia Newbold](mailto:Amelia.Newbold@brownejacobson.com).

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