

Mr Tim Davison
Chief Executive
Lothian NHS Board
Waverley Gate
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30 October 2014

Dear Mr Davison

I am pleased to send you our annual health complaints report, along with statistics about complaints to SPSO about your board in 2013-14.

Key points from 2013-14 annual report

- 11.5% rise in health complaints
- 55% of complaints upheld
- A welcome continuing decrease in complaints coming to us too early.

Supporting improvement

There still remains much to be done to improve complaints handling, and I am pleased that the Scottish Health Council has recommended that we work with them to develop a more succinctly modelled, standardised and person-centred complaints process for NHS Scotland in addition to a number of other recommendations made in relation to wider aspects of complaints handling. We look forward to continuing discussions with NHS stakeholders on progressing this work.

Over the last year, we have further strengthened our engagement with health boards, regulators, improvement and other scrutiny bodies. We have also derived great value from our customer and NHS sounding boards.

Looking forward

My report also draws attention to issues where I hope to see movement in the coming year. I would highlight the following:

- My continuing concern about the time it is taking for coherent complaints procedures to be put in place for services delivered under the integrated health and social care models, with conflicting statutory processes remaining in place for these services.
- The barriers that some prisoners are still facing in accessing the NHS complaints procedure.

In summary, I hope this report will support you in providing a context in which to analyse your own board's complaints handling performance and in helping us all contribute to an NHS in Scotland of which we can be proud.

Yours sincerely

Jim Martin
Ombudsman

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Explanatory note to SPSO statistics

2014

The explanations below are designed to answer the main questions around these statistics. If you have any further queries, please contact our Casework Knowledge Manager, Annie Shanahan, at ashanahan@spsso.org.uk, or by calling 0131 240 8843.

Statistics

The tables show the complaints we handled about your organisation in 2013/14. **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. Complaints received are shown ranked from the most received to the least.

Subjects of complaint and outcomes

Tables 1 and 2 provide statistics for two quite different stages of our work. **Table 1** describes the subjects about which we **received** complaints between 1 April 2013 and 30 March 2014, and shows your organisation's figures beside the figures for the sector as a whole. **Table 2** shows information about the **outcomes** of the complaints that we determined over the same period. The figures of complaints received and determined 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 have given the person a decision by letter or public report, or will have explained why we didn't investigate their complaint.

What are 'upheld' complaints?

Complaints where the outcome was 'upheld' or 'some upheld' are those where we investigated, and found that something went wrong. To recognise the validity of the complainant's experience, we uphold complaints wherever we find fault, even if this has already been recognised by the organisation. People come to us for an external, independent judgement and if we find something went wrong it is important for the complainant that we acknowledge this. We also include how the organisation responded to the complaint and any action that they took to put things right. Where an organisation responded well, we may also commend them for acknowledging the mistakes and the action they took to resolve this for the complainant.

All these complaints were 'fit for SPSO', and we gave a decision on them at the early resolution (ER2) or investigation (INV1 or 2) stages of our process. ER2 and INV1 cases are investigations that ended with us sending you and the complainant a decision letter. We also published a short summary of most of these complaints and their outcomes 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. This only happens in a very small number of cases. The most likely examples would be where we think that you have delayed unreasonably in responding, or where the person who's complained appears to be particularly vulnerable. 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 then resolve the problem to the person's satisfaction without knowing that it came to us first.

Or 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 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 for another reason. 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 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, as 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 2013-14

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	110	8	19	137	1	67.8%	913	1	66.2%
Communication, staff attitude, dignity, confidentiality	18	1	4	23	2	11.4%	128	2	9.3%
Complaints handling	7	0	1	8	3	4.0%	43	5	3.1%
Appointments/Admissions (delay, cancellation, waiting lists)	7	0	0	7	4	3.5%	75	3	5.4%
Policy/administration	5	0	0	5	5	2.5%	57	4	4.1%
Continuing care	4	0	0	4	6	2.0%	15	7=	1.1%
Lists	0	0	3	3	7	1.5%	12	10	0.9%
Admission, discharge & transfer procedures	2	0	0	2	8=	1.0%	26	6	1.9%
Nurses / Nursing Care	2	0	0	2	8=	1.0%	15	7=	1.1%
Other	1	0	0	1	10=	0.5%	13	9	0.9%
Record Keeping	1	0	0	1	10=	0.5%	10	11	0.7%
Failure to send ambulance/delay in sending ambulance	0	0	0	0	-	0.0%	9	12	0.7%
Appliances, equipment & premises	0	0	0	0	-	0.0%	6	13	0.4%
Complaints by NHS staff	0	0	0	0	-	0.0%	3	14	0.2%
Hygiene, cleanliness & infection control	0	0	0	0	-	0.0%	2	15	0.1%
Hotel services - food, laundry etc	0	0	0	0	-	0.0%	1	16=	0.1%
Pre- Contractual or Commercial Matters	0	0	0	0	-	0.0%	1	16=	0.1%
Out Of Jurisdiction	0	0	0	0	-	0.0%	2	-	0.1%
Subject Unknown	9	0	0	9	-	4.5%	48	-	3.5%
Total	166	9	27	202	-	100.0%	1379	-	100.0%

Complaints as % of total 14.6% 100.0%

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%
Total	135	6	34	175	-	100%	1,237	-	100%

Complaints as % of Sector Total 14.1%

Health Complaints Determined by Outcome 2013-14

Stage	Outcome Group	Lothian NHS Board Area				Sector Total
		Lothian NHS Board	Dentists & Dental Practices	GP & GP Practices	Total	
Advice	Out of jurisdiction (discretionary)	3	0	2	5	25
	Out of jurisdiction (non-discretionary)	4	0	0	4	19
	Not duly made or withdrawn	38	2	0	40	331
	Outcome not achievable	10	0	2	12	66
	Premature	34	1	1	36	297
	Resolved	0	0	0	0	2
	Total	89	3	5	97	740
Early Resolution 1	Out of jurisdiction (discretionary)	3	1	0	4	26
	Out of jurisdiction (non-discretionary)	1	0	1	2	15
	Not duly made or withdrawn	3	1	4	8	49
	Outcome not achievable	5	1	0	6	37
	Premature	7	2	1	10	53
	Resolved	4	0	1	5	18
	Total	23	5	7	35	198
Early Resolution 2	Fully upheld	2	0	1	3	17
	Some upheld	0	0	0	0	4
	Not upheld	5	0	1	6	42
	Not duly made or withdrawn	0	0	0	0	7
	Total	7	0	2	9	70
Investigation 1	Fully upheld	9	1	3	13	73
	Some upheld	20	0	1	21	82
	Not upheld	10	0	6	16	115
	Not duly made or withdrawn	0	0	0	0	7
	Resolved	0	0	0	0	1
	Total	39	1	10	50	278
Investigation 2	Fully upheld	6	0	0	6	27
	Some upheld	2	0	0	2	11
	Not upheld	0	0	0	0	0
	Total	8	0	0	8	38
Total Complaints	166	9	24	199	1324	

Total Premature Complaints	41	3	2	46	350
Premature Rate	24.7%	33.3%	8.3%	23.1%	26.4%
Fit for SPSO Total (ER2, Inv1 & Inv2)	54	1	12	67	386
Total Cases Upheld / Partly Upheld	39	1	5	45	214
Uphold Rate (total upheld / total fit for SPSO)	72.2%	100.0%	41.7%	67.2%	55.4%

Health Complaints Determined by Outcome

2012-13

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
	Total	69	2	7	78	625
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
	Total	21	1	8	30	187
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
	Total	3	0	6	9	84
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
	Total	24	3	8	35	267
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
	Total	1	0	0	1	34
Total Complaints	118	6	29	153	1,197	

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%
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%

Prison Health Care Received by Authority 2013-14

Subject	Lothian NHS Board	Sector Total
Appointments/Admissions (delay, cancellation, waiting lists)	0	8
Clinical treatment / Diagnosis	16	104
Communication, staff attitude, dignity, confidentiality	1	6
Complaints handling	1	8
Nurses / Nursing Care	0	1
Policy/administration	0	2
Total Complaints	18	129

Prison Health Complaints Closed by Outcome and Authority 2013-14

Stage	Outcome Group	Lothian NHS Board	Sector Total
Advice	Out of jurisdiction (discretionary)	0	1
	Out of jurisdiction (non-discretionary)	1	1
	Not duly made or withdrawn	6	34
	Outcome not achievable	0	4
	Premature	5	36
	Total	12	76
Early Resolution 1	Out of jurisdiction (discretionary)	0	1
	Not duly made or withdrawn	0	5
	Outcome not achievable	0	1
	Premature	1	6
	Resolved	1	1
	Total	2	14
Early Resolution 2	Fully upheld	0	2
	Not upheld	0	8
	Not duly made or withdrawn	0	1
	Total	0	11
Investigation 1	Fully upheld	2	9
	Some upheld	3	3
	Not upheld	1	4
	Not duly made or withdrawn	0	2
	Total	6	18
Investigation 2	Fully upheld	1	3
	Total	1	3
Total Complaints	21	122	

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
Total Complaints	16	62

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
	Total	8	36
Early Resolution 1	Matter out of jurisdiction (non-discretionary)	0	1
	Premature	2	6
	Total	2	7
Early Resolution 2	Complaint not upheld	1	3
	No decision reached	0	1
	Total	1	4
Investigation 1	Complaint not upheld	1	2
	No decision reached	0	1
	Total	1	3
Total Complaints		12	50