

Managing Resident Engagement for Comments, Complaints, Concerns Policy

Introduction

Quality statements are the commitments that providers, commissioners and system leaders should live up to. Expressed as 'we statements', they show what is needed to deliver high-quality, person-centred care.

When they refer to 'people' we mean people who use services, their families, friends and unpaid carers. This includes:

- people with protected equality characteristics
- those most likely to have a poorer experience of care or experience inequalities.

Elizabeth Finn Homes (EFH) will commit to the following quality statements for:

Learning culture

We have a proactive and positive culture of safety based on openness and honesty, in which concerns about safety are listened to, safety events are investigated and reported thoroughly, and lessons are learned to continually identify and embed good practices.

Safeguarding

We work with people to understand what being safe means to them as well as with our partners on the best way to achieve this. We concentrate on improving people's lives while protecting their right to live in safety, free from bullying, harassment, abuse, discrimination, avoidable harm and neglect. We make sure we share concerns quickly and appropriately.

Safe and effective staffing

We make sure there are enough qualified, skilled and experienced people, who receive effective support, supervision and development. They work together effectively to provide safe care that meets people's individual needs.

How staff, teams and services work together

We work effectively across teams and services to support people. We make sure they only need to tell their story once by sharing their assessment of needs when they move between different services.

Independence, choice and control

We promote people's independence, so they know their rights and have choice and control over their own care, treatment and well-being.

Responding to people's immediate needs

We listen to and understand people's needs, views and wishes. We respond to these in that moment and will act to minimise any discomfort, concern or distress.

Providing information

We provide appropriate, accurate and up-to-date information in formats that we tailor to individual needs.

Listening to and involving people

We make it easy for people to share feedback and ideas or raise complaints about their care, treatment and support. We involve them in decisions about their care and tell them what's changed as a result.

Freedom to speak up

We foster a positive culture where people feel that they can speak up and that their voice will be heard.

Governance, management and sustainability

We have clear responsibilities, roles, systems of accountability and good governance. We use these to manage and deliver good quality, sustainable care, treatment and support. We act on the best information about risk, performance and outcomes, and we share this securely with others when appropriate.

Partnerships and communities

We understand our duty to collaborate and work in partnership, so our services work seamlessly for people. We share information and learning with partners and collaborate for improvement.

Learning, improvement and innovation

We focus on continuous learning, innovation and improvement across our organisation and the local system. We encourage creative ways of delivering equality of experience, outcome and quality of life for people. We actively contribute to safe, effective practice and research.

Scope

EFH takes seriously any comments, concerns or complaints regarding its service. We aim to deal with all complaints in ways which are demonstrably consistent, fair and reasonable. Dealing with a complaint is usually a straightforward process but, in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the service. This can happen either while their complaint is being investigated or once the service has finished dealing with the complaint.

In times of trouble or distress, some people may act out of character. There may have been upsetting or distressing circumstances leading up to a concern or a complaint. We do not view behaviour as unacceptable just because someone is assertive or determined.

We believe that all complainants have the right to be heard, understood and respected. However, we also consider that our staff have the same rights. We therefore expect complainants to be polite and courteous in their dealings with us. We will not tolerate aggressive or abusive behaviour, unreasonable demands or unreasonable persistence.

It is important that staff have robust guidance and support when they are managing engagement with a resident, family member or another representative about a complaint to ensure that they are supported and have clear guidance to support their actions.

This policy must be read in conjunction with the 'Complaints Policy.'

This policy and procedure are provided for the regulated activity of accommodation for people with personal care and nursing.

Equality Statement

EFH is committed to equal rights and the promotion of choice, person-centred care and the promotion of independence. This policy demonstrates our commitment to creating a positive culture of respect for all individuals. The intention is, as

required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is also intended to reflect the Human Rights Act 1998 to promote positive practice and value the diversity of all individuals.

Policy Statement

We are committed to dealing with all complaints equitably, comprehensively and in a timely manner. We will not normally limit the contact which complainants have with our staff or the residential home. This policy sets out our aim of dealing with all complaints in ways which are demonstrably consistent, fair and reasonable.

The policy sets out how we will decide if the engagement during a complaint becomes difficult to manage, and what we will do in those circumstances.

The policy is for staff information and for people who use the service.

We have a zero-tolerance policy. This means we cannot tolerate different types of abusive language and actions in the workplace. Examples of situations we should never tolerate may include:

- Physical violence.
- Using abusive or degrading language on the telephone.
- Using abusive or degrading language face-to-face.
- Any form of intimidating or threatening behaviour.
- Hate crime.
- Sending multiple emails, which harass staff and/or demand action outside of agreed and/or published timescales.
- Leaving multiple voicemails, which harass staff and/or demand action outside of agreed and/or published timescales.

The list is not exhaustive, nor does one single feature on its own necessarily imply that the complaint and the person making it will be considered as being in this category. However, we will take action to protect staff from these situations by following this policy.

Raising legitimate queries or criticisms of a complaints procedure as it progresses, e.g. if agreed timescales are not met, should not in itself lead to the complaint being regarded as persistent.

Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause them to be labelled as unreasonably persistent.

The Policy

We have adopted the Local Government Ombudsman's (LGO) definition of 'unreasonable complainant behaviour' and 'unreasonable persistent complaints.'

We define unreasonably persistent and vexatious complaints as 'those which, because of the frequency or nature of the complainant's contacts with the service, hinder our consideration of their or other people's complaints.' The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a complaint.

Examples include:

The way or frequency that complainants raise their complaint with staff.
How complainants respond when informed of the decision about the complaint.

Features of an unreasonably persistent and/or vexatious complaint are listed in this policy. The list is not exhaustive, nor does one single feature on its own necessarily imply that the complaint and the person making it will be considered as being in this category.

We support a resident's and/or representative's civil right to make a complaint to more than one organisation, for example the service but, at the same time, also to a member of parliament, commissioners, Care Quality Commission, the Police, solicitors and/or the ombudsman etc. In these circumstances EFH will provide evidence of our investigation where requested as part of another agency's investigation of the complaint.

An unreasonably persistent and/or vexatious complaint may be one where:

- There are no grounds for the complaint.
- The complainant chooses not to engage with the complaints investigation process while still wishing their complaint to be resolved.
- The complaint is about issues not within the power of the service to investigate, change or influence (e.g. a complaint about something that is the responsibility of another organisation) and where the complainant is not able to accept this and is unwilling to redirect their complaint to the relevant organisation.
- The complainant insists on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint or insisting the complaint is only dealt with by the chief executive).
- There appears to be groundless complaints about the staff dealing with the complaints, and/or an attempt to have the staff member dismissed or replaced.
- There is a disproportionate number of contacts with us, by any means, in relation to a specific complaint or complaints.
- There are unachievable demands or expectations of staff and/or the complaints process after an explanation to the complainant (an example of this could be a complainant who insists on immediate responses to frequent and/or complex letters, faxes, telephone calls or emails).
- Attempts to harass, verbally abuse, or otherwise seek to intimidate staff dealing with the complaint by use of foul, offensive, discriminatory, or inappropriate language.
- There is a change to the substance or basis of the complaint without justification whilst the complaint is being addressed.
- The complainant refutes statements they made at an earlier stage in the complaint process.
- The complainant electronically records meetings and conversations without the prior knowledge and consent of the other person/people involved.
- The complainant chooses not to accept the outcome of the complaint process after its conclusion, repeatedly disagreeing, complaining about the outcome and/or disagreeing that an adequate response has been given.
- The same complaint is made repeatedly, perhaps with minor differences, after the complaints procedure has been concluded and where the complainant insists that the minor differences make these 'new' complaints which should be put through the full complaints procedure.
- The complaint is submitted and persistently pursued through different staff or routes at the same time.
- The complaint remains 'active' through the complainant persisting in seeking an outcome which we have explained is unachievable for legal, policy or other valid reasons.
- Documented evidence is not accepted as factual by the complainant.
- The complaint relates to an issue based on a historic and irreversible decision or incident.
- The complaint combines some or all of these features.

Imposing Restrictions

EFH will ensure that the complaint is being, or has been, investigated properly according to the complaints procedure.

In the first instance the investigating manager managing the complaint will consult with the Director prior to issuing a warning to the complainant. The manager will contact the complainant either by phone, in writing or by email to explain why this engagement is causing concern and ask them to change how they engage with the service. The manager will explain the actions that the service may take if the engagement approach does not change.

If the engagement approach continues, the Director will issue a letter or email to the complainant advising them that the way in which they will be able to contact the service in future will be restricted. The Director will inform the complainant in writing of what procedures have been put in place and for what period, either in this letter or a subsequent letter.

Any restriction that is imposed on the complainant's contact with the service will be appropriate and proportionate and the complainant will be advised of the applied conditions and/or period of time the restriction will be in place for. Visiting arrangements to the residential home premises will also be explained where these are included within the actions to be taken. In most cases restrictions will apply for between three and six months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Stopping the complainant from making contact by telephone except through a third party, e.g. solicitor/councillor/friend acting on their behalf.
- Stopping the complainant from sending emails to individual and/or all service staff and insisting they only correspond by letter.
- Stopping the complainant from accessing any building except by appointment.
- Requiring contact to take place with one named member of staff only.
- Restricting telephone calls to specified days/times/duration.
- Requiring any personal contact to take place in the presence of an appropriate witness.
- Letting the complainant know that the service will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence).
- Informing the complainant that any further complaints from him or her will be considered by a director to ascertain that the complaint needs to be investigated in accordance with the complaints policy.

When the decision has been taken to apply this policy to a complainant, the nominated director will contact the complainant in writing to explain:

Why the decision has been taken, what action the service is taking, the duration of that action, the review process of this policy, and

The right of the complainant to contact the ombudsman about the fact that their complaint has been treated as a persistent complaint.

The Director will enclose a copy of this policy in the letter to the complainant.

Where a complainant continues to engage in a way which is unacceptable, the directors may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the residents, or the business, the Director will consider other options, for example reporting the matter to the police or taking legal action. In such cases, the service may not give the complainant prior warning of that action.

Staff Support

All staff have the authority to end any engagement or interaction which they find personally distressing or difficult at the point of occurrence. Staff should not feel they need to continue to engage in contact if it is having a negative impact on them or which is making them feel uncomfortable. This is the case whether or not they consider it meets the zero-tolerance criteria.

In these circumstances, staff should seek to end the engagement professionally and politely. This can include:

- Explaining they find the situation uncomfortable or distressing and explaining what they need to happen to be able to continue.
- Ending a call.

- Ending an interview/meeting.

When a zero-tolerance incident has occurred or active management approach has had to be used, all staff involved are encouraged to have a de-brief meeting with their Line Manager and agreed actions from that discussion noted. This ensures that the organisation provides support to all staff. Staff will be able to take a short time away from all contact if requested and may request to no longer have contact with a specific individual.

Restorative Approaches

In times of trouble or distress, some people may act out of character. There may have been upsetting or distressing circumstances leading up to a concern or a complaint. We do not view behaviour as unacceptable just because someone is assertive or determined.

It is also very important to understand a complainant's preferred language or communication need. This ensures the person feels respected, valued and able to communicate with us, and to prevent any issues that may arise from communication or language barriers.

Actively managing expectations can help to prevent issues from arising in the first place and, where possible, staff should seek to act in ways that recovers the relationship. For example, staff may seek to defuse and de-escalate by suggesting breaks if:

- Conversations are becoming heated.
- They need to intervene early before behaviour escalates.
- They need to make proactive adjustments to our service to help individuals manage the anxiety and stress of engaging with us.

When restorative approaches are not possible, appropriate or have been tried and failed, an active management approach will be taken. Active management seeks to maintain our ability to deliver our services while minimising the impact of the situation that is causing the disruption. It is important to note that this may not be the fault of an individual but because of circumstances outside of their control.

Imposing Restrictions

We will ensure that the complaint is being, or has been, investigated properly according to the complaints procedure.

In the first instance the investigating manager managing the complaint will consult with a Director/senior member of the management team to agree the best way of managing the engagement about the complaint.

The Manager will contact the complainant either by phone, in writing or by email to explain why this engagement is causing concern and ask them to change how they engage with the service. The Manager will explain the actions that the service may take if the engagement approach does not change.

If the engagement approach continues, the service will issue a letter or email to the complainant advising them that the way in which they will be able to contact the service in future will be restricted. The nominated lead for this engagement will inform the complainant in writing of what procedures have been put in place and for what period, either in this letter or a subsequent letter.

Any restriction that is imposed on the complainant's contact with the service will be appropriate and proportionate and the complainant will be advised of the applied conditions and/or period of time the restriction will be in place for. Visiting arrangements to the residential home premises will also be explained where these are included within the actions to be taken. In most cases restrictions will apply for between three and six months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Stopping the complainant from making contact by telephone except through a third party, e.g. commissioner/solicitor/councillor/friend acting on their behalf.
- Stopping the complainant from sending emails to individual and/or all service staff and agreeing they only correspond by letter.
- Stopping the complainant from accessing any building except by appointment.
- Requiring contact to take place with one named member of staff only.
- Restricting telephone calls to specified days/times/duration.
- Requiring any personal contact to take place in the presence of an appropriate witness.
- Letting the complainant know that the service will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence).

When the decision has been taken to apply this policy to a complainant, the nominated senior lead for this engagement will contact the complainant in writing to explain:

- Why the decision has been taken, what action the service is taking, the duration of that action, the review process,
- The right of the complainant to contact the ombudsman about the fact that their complaint has been treated as a persistent complaint, and
- A copy of this policy will be included in the letter to the complainant.

Where a complainant continues to engage in a way which is unacceptable, the members of the senior management team may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the residents, or the business, members of the senior management team will consider other options, for example reporting the matter to the Police or taking legal action. In such cases, the service may not give the complainant prior warning of that action.

New Complaints from Complainants whose Previous Complaints have been Treated as Abusive or Persistent

New complaints from people who have come under this policy will be managed in accordance with the wider complaints policy to ensure that any comments or complaints regarding the service are dealt with consistently, fairly and reasonably. The senior staff team will decide whether any restrictions which have been applied and are still in force remain appropriate and necessary and assess and manage any risks posed to staff in relation to managing the new complaint.

Learning

As a learning organisation we will, as part of the complaints audit process, review and audit any complaints where we have needed to manage engagement and the actions taken to resolve the issues and concerns identified.

We will use these learnings to identify continuous improvement in our complaints procedures, and to share these with the management team and staff through improvements to policies and procedures, as well as discussions at staff meetings/training.

Record Keeping

Adequate records will be retained by the Registered Manager of the details of the case and the action that has been taken. In addition, a central record will be maintained setting out:

- The name and address of each person where we have had to actively manage their engagement,
- When the restriction comes into force and ends,
- What the restrictions are, and

- When the person(s) involved and staff were advised.

References

Complaints Policy

Mental Capacity & DOLs Policy

Safeguarding Adults & Children Policy

Quality Assurance Policy

<https://www.lgo.org.uk/make-a-complaint>

Review date	Next Review Date
May 2024	May 2027