
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 401

The Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Amendment Regulations 2016

Amendment of the 2012 Regulations

2.—(1) The 2012 Regulations are amended as follows.

- (2) In regulation 1(2) (interpretation) after the definition of “arrangements” insert—
““feedback and complaints officer” means the officer appointed by a responsible body under regulation 3(1);”.
- (3) In regulation 5(1) (period for raising a complaint) for “and” substitute “to”.
- (4) In regulation 5(2) delete “(appointed under regulation 3(1))”.
- (5) For regulation 6 (requirement to deal with complaints) substitute—

“Complaints capable of being resolved without investigation

6A.—(1) In dealing with a complaint other than one specified in regulation 6B(2) or 7(2), the responsible body must—

- (a) make a written record of the complaint; and
- (b) seek to resolve the complaint to the satisfaction of the complainant within 5 working days of the date on which the complaint is received.

(2) The period of 5 working days referred to in paragraph (1)(b) may be extended to 10 working days if the feedback and complaints officer considers—

- (a) that the complaint cannot be resolved to the satisfaction of the complainant within 5 working days; and
- (b) that extending the period is likely to result in the complaint being so resolved.

(3) Paragraph (4) applies where—

- (a) the responsible body determines that it will not be possible to resolve the complaint as provided for in paragraph (1)(b) or (2); or
- (b) the responsible body has provided a response to the complainant and the complainant has notified the responsible body, within the period specified in regulation 5(1), or as the case may be, the period extended by virtue of regulation 5(2), that the complainant is not satisfied with the response.

(4) The responsible body must—

- (a) investigate the complaint;
- (b) send the complainant a written acknowledgement of the complaint within 3 working days of the determination or, as the case may be, the notification;
- (c) subject to regulation 6C, send the complainant a report of the investigation within 20 working days of the determination or, as the case may be, the notification.

(5) In this regulation a complaint is taken to be resolved “to the satisfaction of the complainant” if the responsible body has provided a response to the complaint, and the complainant has either—

- (a) indicated that they are satisfied with the response; or
- (b) not responded to the responsible body.

Complaints requiring investigation

6B.—(1) In dealing with a complaint specified in regulation 6B(2), the responsible body must—

- (a) make a written record of the complaint;
 - (b) investigate the complaint;
 - (c) send the complainant a written acknowledgement of the complaint within 3 working days of the day on which the complaint is received;
 - (d) subject to regulation 6C, send the complainant a written report of the investigation within 20 working days of the day on which the complaint is received.
- (2) A complaint is specified if—
- (a) it is a complaint which is not specified in regulation 7(2); and
 - (b) the responsible authority considers that it is a serious or complex complaint which is not capable of being resolved without an investigation.

Extension of time for investigation

6C. The period of 20 working days referred to in regulations 6A(4)(c) and 6B(1)(d) may be extended if the feedback and complaints officer considers that a longer period is necessary to complete the investigation into the complaint.

Modification of procedure for anonymous complaints

6D.—(1) A complaint is an “anonymous complaint” if the complainant does not disclose sufficient information about the complainant’s identity to enable the responsible authority to correspond about, or investigate, the complaint.

(2) If a complaint which is required to be dealt with under regulation 6A or 6B is an anonymous complaint, those regulations apply subject to the following modifications.

(3) A requirement to communicate with or send any information to the complainant only applies to the extent that it is reasonably practicable for the responsible authority to do so.

(4) A requirement to investigate the complaint only applies to the extent that the responsible authority is able to determine the facts and circumstances giving rise to the complaint.”.

(6) Before regulation 7, as a heading, insert “Complaints not to be dealt with under the arrangements”.

(7) In regulation 7(2)—

(a) in sub-paragraph (f), for the words after “complainant”, where it first occurs, to the end substitute “has commenced legal proceedings (whether or not those proceedings have concluded)”;

(b) after sub-paragraph (f) insert—

“(fa) a complaint which in the opinion of the feedback and complaints officer should not be investigated under the arrangements because legal proceedings are likely to be commenced in respect of the complaint;”.

(8) In regulation 7(3) for “regulation 6(1)” substitute “regulation 6A or 6B, as the case may be”.