Managing complaints: part of daily clinical practice

Almost every clinician will, at some time, be involved in responding to a complaint made about the care provided to a patient. What can doctors do to help make sure complaints are less likely to arise and, when they do, that they are handled well?

Dealing with a complaint may be a simple matter, resolved face to face, and on the spot. More complex complaints, which involve careful investigation and discussion, may also be dealt with to everyone's satisfaction. 125 000 people made a written complaint about some aspect of care provided by the NHS in England in 1998–99 (Department of Health, 2000) (equivalent data for Scotland and Wales are not yet available). Many of those were resolved through local complaints procedures, but some were not.

Nearly 3000 complainants looked to the Health Service Ombudsman for help (The Health Service Ombudsman, 2000a). While that is a very small proportion of all those who wrote to the NHS to complain, and tiny by comparison with the volume of care provided by clinicians, some themes do emerge from the investigations carried out by the Ombudsman's staff. They are about both good and poor clinical practice, and they also highlight more and less satisfactory ways of dealing with complaints.

THE OMBUDSMAN'S WORK

The Health Service Ombudsman's office was established in 1973 and sits at the apex of the NHS complaints procedure. A complainant who is dissatisfied with the response he or she has had locally, either from the NHS body concerned (trust, health authority or family health service practitioner) or through the independent review procedure, may ask the Ombudsman to investigate (*Figure 1*). The Ombudsman is completely independent of the NHS and government, and looks at complaints impartially.

Last year the Ombudsman published 147 reports of investigations (The Health Service Ombudsman, 2000a); more than 200 will be completed this year and perhaps as many as 300 next. The subject matter ranges widely and includes problems with continuity of care, discharge arrangements, and avoidable death. Almost all complaints about clinical care involve some aspect of communication between the parties. Another issue coming to the fore is to do with supervision and support of doctors in training. A third is to do with the way complaints are handled.

THEMES FROM CASES

Communication

Inevitably, communication problems between staff, and between staff, patients and carers, are part of many complaints investigated. The experience of the Ombudsman's investigators is that good communications often have three main features:

Clinical notes are written for the purpose of communication between professionals and with patients and carers: This means that consistent information can be given and built upon. Notes sometimes seem to be written with medicolegal rather than communication purposes in mind, or as a personal aide-memoire.

Patients and carers are listened to: 'He's not usually like that' and 'it feels different than it did before' are important signals, sometimes missed.

The Ombudsman's jurisdiction covers administrative and clinical care provided in hospital and community health services, family health services and NHS-funded care in the independent sector. Not every complaint referred to the office is investigated. The Ombudsman cannot intervene in personnel, contractual or matters where court action is involved. Nor will he/she investigate where properly taken decisions are the subject of complaint. Beyond that, the office's staff must determine whether a hardship or injustice has been suffered by a failure to provide a service, a failure in service or maladministration. They have to judge whether local procedures have been 'invoked and exhausted' in the words of the Act, and if no action remains to be taken locally. They must also be sure that an Ombudsman's investigation can reasonably be expected to add anything to previous investigations.

Eighty members of staff screen 3000 new complaints a year, investigating about 25% of those within jurisdiction. Of those, more than 80% are about clinical matters. Investigations staff determine whether or not a complaint is to be investigated and are supported in this work by a group of internal professional advisers. If a complaint is to be investigated, external professional advisers from relevant disciplines and specialties, and with experience that allows effective peer review of the care complained about, are appointed to provide advice to the investigator. After careful consideration, a report is published to the parties to the complaint and the Secretary of State, which says whether or not the complaint has been upheld and if so, the redress and recommendations agreed upon. A version of the report that omits the names of the patient and complainant is sent to the Commission for Health Improvement for England and Wales at the same time as that sent to the Secretary of State. A version that omits all but the names of the NHS bodies (and not individuals) involved is reported to Parliament and published widely.

Figure 1. The work of the Ombudsman's office.

Communications between professionals are mutually respectful and cooperative: This means that one member of staff who has misgivings about the care planned by a colleague (peer or senior) can raise the matter with confidence. It also means that information can be shared, appropriately, between practitioners and organizations, in the interest of patients.

There are many examples where communications go wrong but there is one issue that links the substance of complaints to the way they are handled locally, and that is the quality of explanation. There are many cases where the care was quite reasonable (the test applied by the Ombudsman in all cases), but a reasonable person could not have been expected to understand the explanation given about that care.

Clinicians do not, on the whole, expect patients and their relatives to understand basic anatomy or disease processes and they tailor their explanations accordingly. There are cases, however, where clinicians have not taken the time to make sure they are making themselves understood, or checked that they have understood the questions being put to them at the outset, sometimes with serious consequences. Explaining a decision, or a sequence of events in full, either at the time or in response to a complaint, is often all that is needed.

Support and supervision for more junior staff

The last volume of completed case reports published by the Ombudsman (The Health Service Ombudsman, 2000b) highlighted cases where inadequate support and supervision for more junior staff contributed to serious outcomes for patients. The foreword to the publication said:

'I report the outcome of three investigations (cases E924/99-00, E1476/99-00 and E1004/98-99). They all involve occasions when junior medical staff should have called on a more senior member of staff for advice. This was not the single determining factor in the shortcomings identified in any of these cases, but it was a feature of all of them. There are many reasons why someone might not seek the support of a senior colleague: pressure of work on both, an error of judgment as to apparent urgency, or simple availability. But it is clear from these reports that there were communication barriers between senior and junior medical staff, that adversely affected the care of patients.'

The next volume of reports will contain other examples of the same problem.

Handling complaints well

There are a number of factors that contribute to handling complaints well. Acknowledging that there is a problem, investigating in a serious way, apologising if necessary and taking action to reduce the likelihood of a reoccurrence is often all that a complainant wants.

Again, the experience of the Ombudsman's investigators is that complaints are more often resolved to the general satisfaction of all parties when clinicians:

- Are sensitive to events and issues that commonly trigger complaints, including those mentioned above
- Understand local complaints procedures and so take the most appropriate action if a complaint, or potential complaint, arises
- Respond to a complaint openly, trying not to take criticism, implied or otherwise, very personally (recognizing that can be very difficult)
- Apologise if that is needed
- Act on the outcome of any investigation, where appropriate
- Offer constructive support to colleagues complained about through a sometimes difficult process.

These are basic and justifiable expectations of all medical staff — senior and junior, those on fixed term, temporary and agency appointments. Indeed, patients and their families should expect no less.

THE FUTURE

It is very likely that the government will consult on changes to the NHS complaints procedure over the next few months. Whatever shape those changes take, the need for the close involvement of medical staff in dealing with complaints, at all levels, will certainly not diminish. HM

Hilary Scott
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Department of Health (2000) *Handling complaints: monitoring the NHS Complaints procedures 1998–99.* Department of Health, London

The Health Service Ombudsman (2000a) *Annual Report 1999–2000.* The Stationery Office, London: 28

The Health Service Ombudsman (2000b) *Investigations Completed April–July 2000.* The Stationery Office, London

KEY POINTS

- Doctors' active involvement in dealing with complaints is more likely to lead to a satisfactory resolution for all concerned.
- Poor communication between professionals and with patients and relatives is a common trigger for complaints.
- The consequence of inadequate support for more junior members of the medical staff features in a number of recent investigations by the Ombudsman.
- Doctors who take complaints seriously (and not personally), respond openly and apologise where necessary will fulfil the great majority of patients' expectations of the complaints procedure.
- Doctors who draw learning from complaints into their daily practice will match the expectations of the rest.
- The Ombudsman's reports include details of other issues that frequently arise in the course of his/her investigations: they can be found on the office's website: www.ombudsman.org.uk