



Department of Health and Social Care



Health and Social Care Complaints Regulations Implementation Plan 2022

INTRODUCTORY STATEMENT BY THE MINISTER

As the newly appointed Minister of Health and Social Care, I have the privilege of being responsible for the Island's health and social care services. This includes the way in which complaints are made about health and social care services that have been delivered by Manx Care or those commissioned by Manx Care to provide services on their behalf. I am therefore pleased to announce and publish the updated Implementation Plan in relation to the new Complaints Regulations ("the Regulations").

The previous complaints regulations were made under the *National Health Service Act 2001*, and *Social Services Act 2011*. They set out a process to be followed for complaints about health and social care services. In April 2021, the Department was asked by Tynwald to review the regulations and return to the November 2021 sitting of Tynwald with a system setting out a clear procedure for handling complaints.

Since April 2021, policy was developed and publically consulted upon through two consultations managed by the Health and Social Care Transformation Team at the Cabinet Office. Feedback from these consultations resulted in the drafting of a set of new regulations to set up a single review body called the Health and Social Care Ombudsman Body (HSCOB). The new draft regulations deal with the procedure for handling those complaints that are unable to be resolved at a local level concerning Manx Care, or a service provider commissioned by Manx Care. The regulations were approved by Tynwald.

Both the previous Minister the Hon. Lawrie Hooper MHK and I fundamentally agree that the Island's health and social care services continue to be delivered in a trusted and dependable way, based on the principles of high-quality and person-centred care. Welcoming complaints, however, is an opportunity to provide service-users a voice and equally to improve services through learning and reflection. Therefore, the changes brought by the new legislation are important to providing answers to those who may have a cause to complain and additionally to improve health and social care provisions to all those on the Isle of Man.

Hon. Rob Callister MHK

Minister for Health and Social Care

17 October 2022

1. Overview and Background

Background to the Complaints Regulations

In its new redesigned form, the Department is responsible for oversight of the Island's health and social care system, including matters of strategy, planning, finance, regulation and assurance.

This includes ensuring that complaints about health and care services are handled according to recognised best practices and standards. The current complaints regulations, made under the *National Health Service Act 2001 and Social Services Act 2011*, set out a process to be followed for complaints about health services. These regulations set up an NHS Independent Review Body (IRB), to provide an independent review of unresolved complaints about health services, and a Social Services IRB to do the same for unresolved complaints about social services.

In April 2021, the Department was required by Tynwald to review the regulations and return to November 2021 with updated regulations, to include a clear procedure for handling complaints at the local resolution stage (where the service was provided) as well as at the independent review stage. The regulations must also clarify the IRB's role and function.

However, as acknowledged in the Minister's Forward, it was impossible to progress the revised regulations by November 2021 – the General Election and complexities of the revised complaint regulations resulted in additional work to establish clear policy principles and outcomes.

1.1 Consultation on the modernisation of complaints handling

In September 2021, the Health and Social Care Transformation Team published two consultations concerning modernising legislation for health and social care complaints. The consultation formed two parts:

1.2 Part 1 – Short term – by regulations

The purpose of part 1 was to seek views on the proposed content of the draft regulations.

A key proposal was to offer enhanced support for public members with concerns about services, alongside clear guidance and information about how to make a complaint.

Feedback was invited on whether support services such as the new Manx Care Advice and Liaison Service (MCALS) should be provided on a statutory basis. This service aims to resolve patients' and service users' concerns at an early stage, preventing them from escalating into complaints.

Other proposals included creating a simpler complaints process, increasing the timescale for lodging a complaint, improving the training of those handling complaints, keeping complainants better informed about the progress of investigations, and a requirement for prompt remedial action to be taken to improve services when lessons are learned from a complaint.

1.3 Part 2 – Longer term – reform

The second consultation posed some questions to help shape the approach to handling complaints in the longer term, as part of a comprehensive review under the Department's *National Health and Social Care Services Bill (the Reform Bill)*.

Questions included whether the Department should set complaints handling quality standards for providers, and whether all health and care providers, including private operators, should have a statutory complaints process.

This consultation also considered creating an independent adjudicator - or ombudsman - to review health and social care complaints if they could not be dealt with by the service provider at an earlier stage.

1.4 Public Consultation - What did we achieve?

Fifty-four responses were received to Part 1 of the consultation via the online consultation hub, and eight substantial separate written responses were also received. Concerning Part 2 of the consultation, 12 responses were received via the hub, and two separate written responses were also received.

In November 2021, the Department reviewed the approach to determine whether the proposed regulations were the best way to make the changes or whether a small Bill (primary legislation) could be developed to address issues in a more accessible way.

The Department determined that it remained committed to the Tynwald resolution to complete the modernisation of the existing regulations, as far as these regulations permit, noting that there would be plans for further reform within the *Reform Bill*.

The Department also considered the practicality of setting up a new IRB for an interim period, and decided that it would be of greater benefit to the public to move towards setting up an ombudsman at the earliest opportunity.

Following a review of the consultation responses, the Department's preference would be for an independent ombudsman to be set up as a statutory board, operationally independent from the Department and Manx Care. However, it is not possible to set up such a body under the

regulations; therefore, as an interim solution, an ombudsman would be set up as a statutory body under the *Social Services Act 2011*.

1.5 Legislative Progress

It was subsequently noted, upon advice from the Attorney General's Chambers, that the following legislative changes could be achieved through a suggested amendment to *the Manx Care Act 2021*.

Following finalisation and leave to introduce it to the legislative branches, the Bill was introduced into the House of Keys on 03 May 2022, where all readings were approved and in the Legislative Council on 10 May 2022, where all readings were successful and agreed upon.

The full Hansard relating to each stage of the Bill's progress can be found [here](#).

1.6 Royal Assent

Royal Assent was given for the *Manx Care (Amendment) Act* on the 21 June 2022.

2. The Act

The *Manx Care (Amendment) Act 2022* was very short; it enabled the Department to make updated provisions regarding complaints.

In this respect, concerning the services provided and functions performed, the Act updated the relevant sections of the *National Health Service Act 2001*, *the Social Services Act 2011* and *the Children and Young Persons Act 2001*. Changes to these Acts permitted the Complaints Regulations to be made subject to Tynwald Approval.

The basis of the primary *Manx Care (Amendment) Act 2022*:

Clause 1 provides for the short title to the Bill.

Clause 2 amends section 39 of the Manx Care Act 2021. Section 39 enables the Department of Health to make such regulations necessary or expedient for, in consequence of or giving full effect to any provision of, the Manx Care Act.

Sub-clause (2) inserts new subsections (3) to (6) into section 39 of the Manx Care Act 2021.

New **subsections (3) and (4)** enable the Department of Health and Social Care to make regulations amending the National Health Service Act 2001, the Children and Young Persons Act 2001 and the Social Services Act 2011 to enable the Department to make regulations under those Acts (as amended) in respect of complaints in respect of services provided and functions performed under them by the persons and bodies referred to in new subsection (5).

New **subsection (5)** lists the persons and bodies referred to in new subsection (4).

New **subsection (6)** provides that existing subsection (1) of section 39 (which deals with the ability to make transitional, transitory, consequential, incidental matters and to make savings provisions) also applies in respect of new subsection (3).

2.1 Further legislative changes

In this respect, concerning the services provided and functions performed, the Act updated the relevant sections of the National Health Service Act 2001, the Social Services Act 2011 and the Children and Young Persons Act 2001. These amendments were approved in Tynwald on 19 July 2022 and can be found by accessing the Tynwald Order Paper [here](#).

Subsequently, Tynwald approved the Complaints Regulations in a sitting on 21 July 2022, the National Health Service (Complaints) Regulations, the Social Services (Complaints) Regulations, the Social Services (Complaints) Regulations and the Health and Social Care Ombudsman (Constitution, etc.) Regulations 2022.

3. Key Stakeholders

- Attorney General's Chambers (for the drafting of both the Primary and Secondary legislation)
- Cabinet Office – Health and Social Care Transformation Team
- Manx Care
- Health and Social Care providers commissioned by Manx Care
- Health and social care service-users and the wider Manx public

4. Key Commitments

A suitable health and social care complaints process, and establishing an ombudsman body to facilitate a governed complaints handling procedure under legislation, to review and resolve complaints following best practice.

The Health and Social Care Complaints policy decisions and improvements have provided the opportunity to make much needed and progressive changes to the current complaints processes.

Placing the complaints legislation, and the creation of an ombudsman, on a statutory footing, with the approval of Tynwald, has enabled the team to develop the Complaints Regulations. They are committed to successfully implementing these regulations to provide a complaint handling process and ombudsman body that has the function of conducting independent investigations into health and social care complaints.

An open dialogue with stakeholders

As with all legislation, the Department are committed to working with all stakeholders to ensure that complainants are aware of how to raise a complaint, that all service providers are aware of their functions, and that the ombudsman can conduct its role without the interference of any other party. Discussions with stakeholders throughout will address any concerns raised during the initial stages of implementation, and help ensure that the process is successful for all parties from the outset.

A clear and concise implementation plan to ensure the smooth transition from the old to the new complaints regulations

We will also maintain excellent working relationships with all stakeholders to ensure that everyone understands the transition to the new regulations. This will ensure that all stakeholders know their roles, functions and statutory rights. This approach will permit an effective and joined-up implementation, and, more importantly, will make sure complainants can start using the modernised complaints processes. This implementation plan details what needs to be done and what has been achieved to date.

5. High-level overview for implementation

Guidance:

- Guidance for public stakeholders will be necessary to ensure that those considering making a complaint know how to do this. Similarly, guidance for all organisational stakeholders will be needed to ensure that there is a clear understanding of what they are expected to do, including the timeframes, from the outset.
- There is a transition arrangement to continue some complaints currently being handled by the existing Independent Review Bodies. This approach will ensure no delay during the implementation stage of the new complaints process that may otherwise hinder any ongoing or new complaints. On request, these can be transferred to the Ombudsman.
- Concerning implementation, the Department is committed to working alongside all stakeholders to support and provide advice on the regulations, which will also include fact-checking any material stakeholders wish to produce.

Recruitment and guidance for the Health and Social Care Ombudsman

The Department is in discussion with the Appointments Commission about providing it with answers to any questions they may have subject to the Commission interviewing and appointing suitably placed people to act as Health and Social Care Ombudsman Members.

Detailed planning of what has to be addressed as part of the overall implementation is provided in Appendices 1 & 2.

Wider Topics

Implementing the regulations is the focus of this plan, and the key deliverables needed during this stage are also available in Appendix 1. The more in-depth implementation that the Department is progressing is also provided in Appendix 2.

6. Risks and Challenges

Some key risks associated with implementation are also set out in the implementation plan, which is available in Appendix 1.

All relevant guidance and an understanding of what stakeholders require are necessary to facilitate a smooth and joined-up approach to successfully implementing any legislation or object. It is understood that stakeholders may have to train their staff on how complaints are handled and what is required, including knowledge of the timescales to respond to a complaint.

The following pages, in Appendix 1, outline what has been achieved to date, from the consultation stages to the approval of the necessary legislation by Tynwald. Furthermore, Appendix 2 also sets out some finer details required by the Department to ensure the smooth implementation and transition from the old complaints processes to the new ones. Appendix 2, is the implementation steps that have been started by Manx Care. Appendix 2 & 3 uses a Red, Amber, and Green (RAG) traffic light system to indicate what has been achieved (green), what has been started (amber) and what is still to be started (red).

As we implement the regulations, updated tables will be provided by the Department, from Manx Care, and will be published on our web pages.

Appendix 1 – Key Deliverables			
Key Deliverables	Risks/Challenges	Time Frames	Progress
<p>Consultation and Legislation progression</p> <p>Steps needed to permit the Consultation on Complaints Modernisation. This step helped steer the policy decisions and planning of the required legislation.</p> <p>A Tynwald Motion has been one of the catalysts behind the commitment of the Department to review, consider and plan an improved complaints process for health and social care complaints in the Island. Therefore, all stakeholders must be fully engaged and committed to delivering the legislation on time.</p> <p>Given that a need for improved complaints Regulations, it is a key commitment by the Department and Transformation Team to provide these Regulations and an</p>	<p>There was a response to those who took part in the consultation. From these, the Department will consider all responses and factor them into the planning stages for the Regulations.</p> <p>There has to be an agreed approach to the development of the Regulations. This approach, including commitments from the other stakeholders, is needed to ensure that delivery of every aspect of that required can be achieved.</p> <p>The Department, the Transformation Team and the AGC will have to work closely together to ensure the smooth delivery of the project within the agreed time frames.</p>	<p>Q2 – 2021 – Completed</p>	<p>Consultations were completed and published in September 2021.</p> <p>The <i>Manx Care (Amendment) Act 2022</i> gained Royal Assent.</p> <p>Tynwald also approved amendments to the other primary Act.</p> <p>The Complaints Regulations received Tynwald approval in July 2022.</p>

<p>implementation plan which outlines the aim and objectives. This approach is needed to plan and deliver this successfully.</p> <p>This step will include a plan of the required primary and secondary legislation to be produced and agreed upon, but also an implementation plan that provides measures to that which has been achieved during this process.</p>	<p>A key challenge is limited resources within the Department. Implementing the more intricate steps needed will start at the back end of July 2022, subject to the Tynwald approval of the Complaints Regulations.</p>		<p>Implementation plan provisionally drafted which is to be used to ensure that the new legislation and its requirements are rolled out in a timely and effective way.</p>
<p>Improved joint working</p> <p>This approach is another example of improved joined-up working between government Departments and Boards. The successful implementation of the Regulations can only be achieved if this continues.</p>	<p>The stakeholders have agreed on a successful way of working to achieve the aim and objectives needed for implementing the regulations.</p> <p>The main stakeholders of the Department and Manx Care have agreed to work together collaboratively to achieve what is needed.</p>	<p>Q2 – 2022 – Ongoing</p>	<p>Both stakeholders have agreed on a way forward and will meet regularly to provide both updates and identify any risks that may need addressing to ensure that the project is delivered on time.</p>

<p>Implementation of the Complaints Regulations</p> <p>Effective joined-up working between the stakeholders to ensure the project delivery of the legislation that permits and sets out that is required in the Regulations will add to the workload.</p> <p>This agreed approach to implementation is key - the Department and Manx Care are committed to this project to ensure that the project aim and objectives are delivered to improve the handling of health and social care complaints through a strategic approach and planning.</p>	<p>Resources needed for implementation by all stakeholders to support their roles and functions will represent a challenge.</p> <p>Similarly, service providers, the third sector and the Appointments Commission are all aware of their key roles in establishing the complaints and the independent recruitment of suitable members to the HSCOB.</p>	<p>Q2 – 2022 - Ongoing</p>	<p>Implementation Plan updated – to include the steps needed to implement the statutory requirements in the regulations.</p> <p>The Implementation Plan will also be updated to include the finer detail that the Department is required to deliver. Manx Care will also provide the same, which will be appended to this document, and updated online.</p>
<p>Data Sharing</p> <p>The stakeholders are in the process of agreeing on a way forward for the smooth</p>	<p>Presently the data for complaints sits with the IRB. It is anticipated that they will be able to complete any long-standing complaints.</p>	<p>Q2 – 2022 – Completed draft</p>	

<p>handing over of complaints from the IRB to the HSCOB.</p> <p>This 'transition' document will also ensure the handling of new complaints that the IRB receives before the handover is finalised for October 2022.</p> <p>The process will also include the arrangements for the data protection officer to provide a Register of Processing Activities, a privacy statement and other areas relating to the Data Protection Legislation.</p> <p>Furthermore, the HSCOB will also need to be registered as a data controller with the Isle of Man Information Commissioner.</p> <p>The above can be established upon the recruitment of the chairperson for the ombudsman.</p>	<p>Any new complaints will have to be transferred to the HSCOB. If a complaint has recently come to the attention of the IRB in October, the IRB will be expected to inform the complainant that the new HSCOB will take their complaint from 31 October 2022.</p> <p>The Department, once the chairperson for the HSCOB has been appointed, will arrange with them to register with the Information Commissioner's Office as a data controller.</p>		
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Appendix 2 – Steps taken by the Department.

NB: This will be updated with new tasks are identified and completed

Action Plan	Priority	Status	Format	Target Complete Date	Date Started	Completed	Comments/Notes
Update draft Implementation Plan	High		Report	04/08	21/07	04/08	
Publish implementation plan	High		Report	23/09	04/08	12/10	V.1 approved and published V.2 published on w/c 10/10/2022
Communicate complete Regs to Manx Care upon approval in Tynwald	High		Email	21/07	21/07	21/07	Sent to both Manx Care Health and Social Care.
Notify other organisations of the approval of the complaints regulations	High		Email	21/07	21/07	21/07	Includes some third-sector organisations
Meeting with Manx Care Complaints to discuss regs and next steps	High		Meeting	05/08	26/07	05/08	Meeting to be held on the 05/08
Prepare guidance for Service providers (SP)	High		Documents	04/08	16/07	28/07	Completed and checked with Transformation
Scope training providers for initial training - HSCOB	High		Emails/ Paperwork	Ongoing	16/07 01/08		Initial training providers identified Chased providers for costings.
Prepare guidance for MC	High		Documents	04/08	16/07	28/07	Completed to be sent to Manx Care following the meeting on 05/08

GTS re HSCOB website etc.	High		Emails/Meeting	18/07	18/07	18/07	Process for development agreed...
Research material for the HSCOB website	Med		Research	Ongoing	19/07	17/08	Completed research and draft contents created. All material is subject to change once handed over to the HSCOB Chair when appointed by the Appointments Commission.
Appointment of HSCOB Members by the Appointment Commission (AC)	High		Meeting	26/07	23/07	26/07	Asked to complete the job description for the post (see below).
Description of role and responsibilities for the HSCOB for the AC	High		Information Pack		31/07 30/08	30/08	01/08 First draft completed for Dept. approval. 30/08 – Meeting with the Appointments Commission to discuss draft. Few changes have been made as directed for the appointment of the HSCOB Chair.
HSCOB other members' job description (JD)	High		Paperwork/ Information Pack		14/09	14/09	JD Completed – approved by the Department. 30/08 – Meeting with the Appointments Commission and amends made. Finalised and approved by the Appointments Commission by the 14/09
Enquiry about PO Box for HSCOB	High		Emails/ Discussion/ Application Form.	02/08	26/07	02/08	Completed – information obtained

Obtain PO Box for HSCOB	High		Emails/Discussion and Telephone Calls. Forms Completed	05/08	05/08	05/08	Awaiting confirmation of address from the Post Office. Confirmation and address provided by the Post Office.
Meeting to discuss the recruitment of Secretary for the HSCOB	High		Meeting	29/07	29/07	29/07	Agreed job description, role and function etc.
Draft job description for the HSCOB Secretary	High		Document		01/09	01/09	Completed draft – being checked by Human Resources.
Recruitment of Secretary for the HSCOB	High		Interviews	Ongoing	29/07	21/10	Appointed
Check with existing IRB Data Protection Officer to see if they are willing to transfer to the HSCOB	High		Emails/ Meeting	05/09	18/08	05/09	Existing DPO agreed in principal to transfer to the HSCOB
Register the HSCOB with the ICO	High		Email/ Meeting	19/09	23/09		With DHSC, Information Governance – currently ongoing. This will need to be completed by the Chair and Secretary once recruited.
DHSC advice information and sign-posting to complaints	Med		Document	07/09	07/09	01/09	The Department must provide, both face-to-face and in writing, advice, sign-posting to relevant support services and guidance to people wishing to make a complaint.

DHSC internal training on Complaints	Med		Training	11/10	11/10	11/10	Awareness training for all colleagues in the Department. Training to be circulated after approval from Executive Team.
Send an update to the HSCC	Med		Email	26/09	26/09	26/09	Sent to Chair – confirmation of update received. Positive feedback rec'd update throughout the rollout. 26/09 – Further update re the Implementation Plan publication.
Material for the HSCOB website and to be provided to Manx Care, service providers.	High		Documents/ Material	09/08 (to have draft arranged)	23/09	25/10	Information produced and waiting for the HSCOB logo from the CO. Material drafted by subject to any amends form the HSCOB when the Chair and Secretary are in post.
Material for the DHSC, including awareness material of complaints process.	Med		Documents/ Material	Drafts confirmed by 30/09		30/09	Completed – this is to be issued to Department staff following training around complaints and handling.
Provide update to IRB	Med		Email				Discuss handover arrangements, etc. This meeting will take place once the Chair of the HSCOB has been appointed.
Have the Transition document signed by stakeholders	High		Document	Ongoing	14/10		Once approved by Dept., and subject to the appointment of the Chair of the HSCOB. Once appointed the document will need approving by all parties.
Final Manx Care guidance issued to	High		Document	Complete	05/09	05/09	

Manx Care by the DHSC							
Final Service Provider Guidance sent to Manx Care.	High		Document	Complete	05/09	05/09	Sent to Quality and Safety Team and Commissioned Services for forward transmission to Manx Care and commissioned service colleagues.
Check with Manx Care re their Implementation Steps.	High		Document	Complete	05/09	05/09	As above.
Contact IOM H&C Association re Implementation Plan update	Med		Emails	Complete	26/09	26/09	To be sent once the Department have approved the Implementation Plan for publication.

Appendix 3 – Steps taken by Manx Care.

NB: This will be updated with new tasks are identified and completed

Action Plan	Priority	Status	Format	Target Complete Date	Date Started	Completed	Comments/Notes
Draft Manx Care Policy and Procedure for Complaints management	High		Document	05/10	05/10	05/10	Will need to go to the relevant Boards and Committees when completed.
Meeting with Primary Care re Complaints	High		Meeting	08/09	08/09	08/09	Re: complaints regulations
Meeting with Manx Care's Head of Compliance	High		Meeting	07/09	07/03	07/03	Meeting to discuss website pages and information leaflets etc.
Manx Care Safety & Learning Bulletin – the September issue will include an update on the new Regs	High		Bulletin	30/09	22/08	22/08	Manx Care Safety & Learning Bulletin – the September issue will include an update on the new Regs
Complaints Guidance – finalised with the DHSC	High		Document	05/09	23/08	05/09	Completed
Issue Complaint Guidance document							Subject to approval by Manx Care - – to be distributed to all Manx Care Staff

to all Manx Care Staff							
Process Mapping of complaint handling	High		Meeting and planning document	16/09	15/09	27/09	
Datix Administration to include Mapping	High		Mapping	27/09	27/09	27/09	Datix Administrator to reflect new Regs once mapping meeting has taken place
Initial Training re Complaints	Med		Presentation/ Information				
Internal training Package for Manx Care staff	Medium		Training Programme	21/10			eLearn Vannin module for all staff to complete regarding the Regulations.
Complaint information leaflet	Medium		Information	14/10			Leaflet and other information for Manx Care webpages etc.



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Reiltys Ellan Vannin