

# businesscompanion

## trading standards law explained

### Part 3: What, where & why

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Whether you operate a care home in **England, Wales, Scotland** or **Northern Ireland**, you need to have a complaints handling procedure (CHP) in place by law to enable a person to make a complaint about your care home, should a problem arise. In **England**, *regulations* state that this procedure should be an effective and accessible system for identifying, receiving, recording, handling and responding to complaints. It should be a written document that must set out how a resident, family member or other representative can make a complaint about your care home, and how that complaint may progress, both internally and beyond your organisation, if a person is dissatisfied with the outcome you reach. Continuing the example, *guidance* in **England** suggests that your CHP should empower people to make a complaint about your home, both verbally and in writing.

It is your responsibility as a care home owner or registered manager to know and understand the regulations and associated guidance affecting the sector in your country. However, to help care homes understand their responsibilities under UK consumer law more generally, the Competition and Markets Authority (**CMA**) published its own compliance advice in November 2018. Within that it set out some key principles for care home owners and registered managers to consider when creating a CHP. Specifically, the **CMA's guidance** says:

'To help you to comply with your consumer law obligations, you should ensure that you have a written complaints handling procedure which is:

- a. Easy to find
- b. Easy to understand and use
- c. Written and followed in such a way that complaints are dealt with fairly and effectively, with due regard to the upset and worry that they can cause to residents (as well as care staff)
- d. Applied consistently across your care homes.'

To find out exactly what the **CMA** means by these key principles, you are advised to read their guidance on complaints, which begins on page 111 of their latest guide. Visit [gov.uk/government/publications/care-homes-consumer-law-advice-for-providers](http://gov.uk/government/publications/care-homes-consumer-law-advice-for-providers) for more information.

## What your complaints procedure should contain

While you should read the full chapter on complaints in the **CMA's guidance and follow your own sector-specific requirements that have been set in each UK nation**, the list below, which is based on advice and guidance written by regulators, ombudsmen and legal guidance<sup>4</sup>, should help give you a general idea of what your written CHP could contain:

- The types of complaint and concerns that your procedure deals with
- The types of issues that your procedure does not cover
- For added clarity, you should include some examples of the nature of complaints that your procedure covers
- How the 'route of complaint' for a resident will differ depending on the nature of their complaint
- How anonymous complaints will be handled
- How residents will be supported – for example, by supplying information in another format if required and any independent advocacy support available
- Who is in charge of handling complaints at your home
- A step-by-step guide to how your internal complaints procedure works – for example, an explanation of the frontline and investigation steps involved
- How long it should take for each part of the process to be completed, and when extensions to timescales may be required and how these will be handled
- How a resident can take their complaint further if they, or their representative, isn't satisfied with the outcome achieved using your internal CHP – for example, how to contact the ombudsman or an ADR service to ask them to review the issue

To help you incorporate these principles into your complaints procedures and processes and to view a checklist to review your progress, read the general, supportive guide to this Business Companion booklet, *Writing your CHP checklist*, which can be found at [/sites/default/files/BEIS\\_Care\\_Homes\\_Complaints\\_CHP\\_Checklist.pdf](/sites/default/files/BEIS_Care_Homes_Complaints_CHP_Checklist.pdf)

## Where your complaints handling procedure should be available from

Generally speaking, the UK nations have issued advice about where your CHP should be available from, and in what formats. For example, guidance in **Scotland** for state-funded social services suggests your CHP will be considered 'accessible' if it is clearly communicated in the appropriate places, easily understood and available to all residents and their representatives.

No matter where your care home is based, all residents should be made aware of their right to complain. Your CHP should be given to all residents, including potential residents and their representatives, and they should be able to complain in person, by phone, by letter or by email. It should be available in alternative formats – such as braille or large print – and other languages if requested. It should also be publicised in your home and available on your website.

To help all care home owners and registered managers understand their responsibilities under consumer law more generally, the **CMA** has issued the following compliance advice about publicising your CHP:

'Your complaints handling procedure must be easily located and visible. For example, it should be:

- Clearly signposted (that is, easy to find and access) on your website
- Highlighted in your written/service user guide, welcome or information packs for residents
- Set out in your contracts with residents
- Prominently on display at your main reception or lobby area and in common sitting areas, such as through notice boards, posters, leaflets and brochures
- In residents' bedrooms (for example, highlighted in a resident's booklet kept in all bedrooms).'

## Scotland

### Model CHP for social services

The **Scottish** Public Services Ombudsman's Complaints Standards Authority has created a model complaints handling procedure (CHP) for social work, which is freely available for anyone to view on its Valuing Complaints website. While it aims to promote best practice in the public sector, its model CHP also applies to any services that have been commissioned by a public body – which includes care home services. In the Ombudsman's related implementation guide, it says: 'It is for each organisation to ensure that commissioned services meet the requirements of the SW Model CHP. They must have mechanisms in place to identify and act on any complaints handling performance issues with their providers.'

To achieve best practice, care homes in Scotland that are not owned by a public body but which may be commissioned by them should follow the Ombudsman's model CHP, which aims to 'create a consistent process for organisations to follow, which makes it simpler to complain, ensures staff and customer confidence in complaints handling, and encourages organisations to identify and make best use of lessons from complaints'.

Coupled with the CMA's compliance advice, parts of this guidance – where it complements existing legal requirements and relevant consumer law – could also act as an excellent best practice guide for care homes that are not commissioned by public services to follow.

Sources: [valuingcomplaints.org.uk](http://valuingcomplaints.org.uk); *The Social Work Model Complaints Handling Procedure December 2016*; *The Social Work Model Complaints Handling Procedure (Model CHP) Guide to Implementation*

## Northern Ireland

### CHP expectations in NI

In **Northern Ireland**, best practice guidance exists for public services explaining how they should handle complaints. Within this guidance it makes clear that independent service providers, such as care homes, that are contracted by Health and Social Care (HSC) Trusts to carry out services on their behalf should also follow 'the requirements of applicable Regulations, relevant Minimum Standards and the HSC Complaints Procedure'. In particular this includes:

Effectively publicising the arrangements for dealing with complaints and ensuring service users, clients and families are aware of such arrangements

Ensuring that any complaint made under the complaints procedure is investigated

Ensuring that time limits for investigations are adhered to

Advising complainants regarding the outcomes of the investigation

Maintaining a record of learning from complaints that is available for inspection

Coupled with the CMA's compliance advice, parts of this guidance – where it complements existing legal

requirements and relevant consumer law – could also act as an excellent best practice guide for care homes that are not commissioned by public services to follow.

Source: *Guidance in relation to the health and social care complaints procedure* (Revised April 2019)

## **Wales**

### **Expectations for complaint handling**

Regulations developed under the Regulation and Inspection of Social Care (Wales) Act 2016 set out expectations for the complaints process in Wales. This includes having an accessible complaints policy that is available 'in an easy to read format', which is 'well publicised, readily available and accessible to individuals using the service, their families, significant others, visitors, staff and others working at the service'. It also states that: 'Information about other avenues for complaint is included to support complainants if they are not satisfied with the service provider's action. For example, information about the complaints procedure of the commissioning authority, the Public Services Ombudsman for Wales.'

At the time of writing, a Complaints Standards Authority for **Wales** was being introduced by the Ombudsman, which is expected to develop standards for complaints handling across the bodies within the Ombudsman's jurisdiction.

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