



GREY AREAS NEWSLETTER

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

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Report on Barriers and Enablers to Making a Complaint

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While regulators sometimes must deal with frivolous and vexatious complaints, the opposite is also true: meritorious and important complaints sometimes do not get filed. The UK's oversight body, the Professional Standards Authority (PSA), has published a research report that analyzes this issue: [Barriers and enablers to making a complaint to a health or social care professional regulator: a qualitative study](#).

The study involved in-depth interviews with clients/patients and registrants, particularly those having a negative experience with the complaints process, and a "co-creative workshop" with complaints' participants, regulators, and the PSA "which focussed on potential interventions that may help those with serious concerns to come forward and make a complaint."

The study identified the following barriers to clients/patients making a complaint:

- Fear of repercussions for themselves such as having reduced access to services.
- Uncertainty as to whether a complaint was serious enough, including whether the events were the result of misconduct or simply an under-resourced health care system.
- Lack of knowledge of where to make the complaint. Many individuals are confused as to what sorts of complaints should be made directly to the registrant, to the registrant's employer or work setting, or to the regulator. Some individuals are not even aware the regulator existed.
- Lack of support. After exhausting their complaint at the local level, many individuals are unwilling to begin the process again with the regulator.
- The complaints process can seem emotionally draining and overwhelming for many individuals. Some may fear that the process will re-traumatize them. Requests by the regulator for additional information can be burdensome.
- Digital disengagement. Some clients/patients are not comfortable

using digital channels to resolve their concern or make a formal complaint.

The study identified the following barriers for registrants to complain about their colleagues:

- Registrants also are uncertain as to what types of concerns are serious enough to take to the colleague's regulator.
- The complexity of the regulatory system, especially where the concern is about a practitioner registered with a different regulator, can also dissuade registrants.
- Registrants sometimes have incomplete knowledge of the concern and the time and effort of collecting evidence can be burdensome.
- Some registrants worry because of the toll that making a complaint could have on their own wellbeing.

The study identified the following "enablers" that facilitate the making of complaints by clients/patients:

- Not surprisingly, individuals with previous experience with the process were more likely to make a complaint.
- Having the support of a friend, relative, or their community can assist individuals come forward with a complaint and navigate the process once the complaint is made.
- A client/patient who is told by another registrant that they should make a complaint can have their concern affirmed and it can instill confidence.

The study identified the following "enablers" to facilitate the making of complaints by registrants (some of which are beyond the ability of the regulator to influence):

- As with clients/patients, individuals with previous experience with the process were more likely to make a complaint.

- For registrants, support and encouragement from colleagues can validate the legitimacy of the complaint and facilitate its filing.
- If a registrant were able to make a complaint anonymously, some of the barriers listed above might dissipate.
- Registrants are more likely to make a complaint if they are not closely connected to the colleague about whom they are reporting.
- Registrants with access to evidence supporting their concern are more likely to make a complaint.
- It is easier for registrants working in larger organizations with a structured complaint process to raise concerns than it is for registrants working in a small setting that only has informal processes.

Some recommendations for regulators to reduce barriers and enable the making of appropriate complaints include the following:

- Do more to raise awareness of their role. For clients/patients, it is helpful to communicate (e.g., posters/leaflets) in the setting in which the services are provided.
- Provide clear information and guidance to help both clients/patients and registrants to "understand what does and does not constitute a serious complaint and what they would investigate as part of a [complaints and discipline] procedure." "[A] better system for directing complaints to the appropriate channel may not only help complainers but may also reduce the volume of invalid complaints that currently reach regulators."
- Provide alternative methods of making a complaint, such as by telephone.
- "...provide support or advocacy services (either internal or external)

to support people to raise their complaint.”

- Increase the transparency of the complaints and discipline system. “Publication of statistics and facts about complaints may help to demystify and destigmatise the process while also affirming whether concerns are valid.”
- Identify at-risk groups (e.g., vulnerable people or those without support networks) to find alternative ways to hear their complaints. For example, offering a simple process for raising anonymous concerns or an advice phone line. There are, of course, drawbacks to regulators receiving anonymous concerns that may prevent them from directly addressing them.
- Once a complaint is made, communicate clearly and frequently and make a decision on a timely

basis. Employ available empathy and compassionate regulation strategies.

- “Shifting the narrative from ‘blame’ to ‘patient safety’” would particularly help registrants to make a complaint.

While some of these recommendations might be challenging to implement, the benefits could be substantial, including the following:

- “An increase in legitimate complaints
- A decrease in unwarranted complaints to regulators (but potentially a more effective signposting to other organisations)
- An increase in trust in the complaints process and in regulators’ independence
- A more pleasant and satisfying complaints experience”

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