

## How we consider complaints about COVID-19 acquired in hospital

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This note is relevant to you if:

- you complained to a Health Board or Trust that you, or a patient on whose behalf you complained, caught a COVID-19 infection in a hospital, or
- a Health Board or Trust has written to you because it has investigated how you or a family member caught Covid-19 in hospital. This review happened under a NHS process called the 'National Framework' which ensures that all cases are considered in a similar way.

You can complain to us if you are unhappy with the outcome of your complaint or the review under the National Framework. This note explains our approach when we consider such concerns.

### **If you complained to the Health Board or Trust**

Before we can look into your complaint, we need to be sure that:

- you complained to the Health Board or Trust within one year from when you first became aware of the issue you are complaining about.

If we can look into your complaint, we may recommend that the Health Board or Trust looks at your case under the National Framework so that it is considered fairly under the NHS process. You can still complain to us later if you are unhappy when that review has been done.

### **If the Health Board or Trust reviewed your case under the National Framework**

Before we can look into your complaint, we need to be sure about two things:

- you are not looking for financial compensation. If you are, it is likely that a Court will be better placed to consider your case. However, we might be able to look into your case if it would not be reasonable for you to go to Court – for example, because you do not have enough money or legal support.

- you are complaining to us within **one year from the date when the Health Board or Trust notified you of its decision under the National Framework.**

To use our resources wisely and deliver a fair service to everyone who comes to us, sometimes we may decide not to investigate your complaint for other reasons (for example, because the Health Board or Trust has completed a full and fair review of your case). We will always explain to you our reasons.

If we can look into your complaint, we are only likely to investigate if we consider that it is more likely than not that the patient caught COVID-19 in hospital (we may never be able to say that for certain).

When we look into your complaint, we will consider if:

- the infection happened because the care and treatment did not comply with the specific COVID-19 guidelines and policies in place at the time.
- it is more likely than not that any harm suffered by the patient after contracting COVID-19 was caused by COVID-19 or that COVID-19 made things worse.

When coming to our decision, we will look at your evidence and the evidence from the Health Board or Trust; the guidance and circumstances in place at the time; and information from our clinical advisors if we need that.

### **Our approach in relation to Care Homes**

You can make a complaint to a Care Home that you, or someone else, caught COVID-19 there. The Care Home will investigate your complaint. If you are unhappy with what the Care Home tells you, then you can complain to us.

We will consider your evidence, the evidence from the Care Home and the guidance and circumstances in place at the time; and information from our social care or clinical advisors if we need that.

There is currently no system such as the NHS National Framework to investigate cases of COVID-19 infections in Care Homes in most circumstances.

However, the National Framework applies if a patient who was in hospital caught COVID-19 and was then discharged to a Care Home.

20/03/2023