**ADS Operational Policies and Procedures**

**Ref 2: Complaints and Duty of Candour Procedure**

**POLICY STATEMENT**

**This document updates and supersedes all previous policy statements.**

ADS is committed to providing a high standard of service in a safe, caring, ethical and confidential environment. As such, ADS welcomes feedback, comments and suggestions from people who use our services, to help us constantly improve the way in which we work. ADS also welcomes feedback from carers, other family members, referring agents and other third parties.

**General Principles**

This policy is available to the public in each ADS office, and is also available to download from our website [www.adssws.co.uk](http://www.adssws.co.uk) It can be made available in other languages and formats if required, by contacting ADS Head Office at 225 King St, Castle Douglas DG7 1DT.

Tel: 01556 503550 or through the contacts section of our website.

A summary ***“What to do if I have a complaint about ADS Services*”** leaflet will be included with each first appointment letter. Details are also included in the ADS Housing Support Service User Calendar. This is also available to download from the Resources Section of our website.

A summary ***“What to do if I have a complaint about ADS Talking Therapies Service”***is given to users of that particular service. This is also available to download from the Resources Section of our website.

This policy covers complaints and concerns made about any member of ADS staff, unpaid volunteers and Charity Trustees.

If a complaint is made against a member of the ADS Talking Therapy Team who has subsequently left our employment, any investigation is conducted for the learning of the organisation e.g. to identify any systematic failures.

Wherever possible the complained against is offered the opportunity to represent their own interest. The outcome report to COSCA is still sent but the normal sanction report will not be published.

Complaints and feedback can be made by whatever means is the most convenient, e.g. telephone, letter, face to face or via the contacts section of our website at [www.adssws.co.uk](http://www.adssws.co.uk) Assistance will be made available by ADS staff, if desired, to people wishing to complain but unable to do so in writing. Further, help will be offered to enable complainants to fully understand how the complaints system works. Additional and impartial advice and help is available from Dumfries and Galloway Advocacy Service at www.dgadvocacy.co.uk 01387 247237.

ADS reserves the right to seek independent legal or other specialist advice to assist the process, e.g. from COSCA or the Care Inspectorate.

**Complaints Procedure for Service Users, their Carers and Other Third Parties**

ADS aims to resolve issues and complaints as quickly and informally as possible. Complaints are best made as soon as there is awareness of an issue or problem, to help reach a quick resolution. However, this is not always possible, so we will consider complaints up to six months after the cause of the complaint has happened.

Complaints about our Talking Therapies Service can be made a maximum of three years following the date of when the alleged breach of COSCA’s Statement of Ethics and Code of Practice took place.

**Duty of Candour**

ADS also has responsibilities in relation to Duty of Candour provisions contained within the Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill (2016). The overall purpose of the duty is to ensure that organisations are open, honest and supportive when there is an unexpected or unintended incident resulting in death or harm, as defined in the Act.

ADS staff should consult the following website for information on to the Duty of Candour Procedure:

**http://www.knowledge.scot.nhs.uk/making-a-difference/resources.aspx**

Responsibility for activating the Duty of Candour procedure lies with the Operations Manager, or in their absence, the Chief Executive.

**Informal Resolution of Complaint**

Users of our services, or others, who have concerns or grievances about the quality of any of the services offered by ADS or about the conduct of an employee/ volunteer/ charity trustee may bring them to the attention of their worker and / or to any member of the ADS Leadership Team. Irrespective of how the concern is raised, the Chief Executive should be informed of the matter at the earliest opportunity.

If the issue is resolved and no further action is required, the matter is closed. If the complaint is not resolved, the Formal Complaints Procedure may be invoked.

**Anonymous Complaints**

If an anonymous complaint is received, we may not be able to investigate the complaint fully, or to reply to the complainant with our findings. Nevertheless, in certain circumstances even if no formal complaint has been made, at the Chief Executive’s discretion a particular issue may be investigated either prior to or as part of ADS’s Disciplinary Policy [Staff Policy Ref: 13] or Whistleblowing Procedures [Operational Policy Ref: 6].

**Vexatious or Malicious Complaints**

In considering the context of a complaint and whether there is a justified cause for it we will take into account the history of our interactions with the complainant, any service failures or errors we have made, whether these have been addressed and whether we have apologised. Moreover, whether we have correctly followed our complaints or other related procedures.

If a complaint is deemed to be vexatious or malicious, the Chief Executive will respond directly to the complainant explaining why it is thought to be so, and explaining that the complaint will be closed with no further action. Any declaration refers to the specific complaint being vexatious and any further complaints from the same individual will still be considered.

**How long has a complainant to complain?**

Complaints will be accepted for investigation up to three years following the date of the alleged breach of COSCA’s Statement of Ethics and Code of Practice.

Complaints will be accepted outside of this limit if they are deemed to be in the public interest.

**Formal Complaints Procedure**

The formal complaints procedure is intended to protect users of our services, staff, volunteers and Charity Trustees. If you want to make a formal complaint about ADS services, please contact the ADS Chief Executive by whatever means is most convenient, e.g. telephone, letter, email, face to face or contacts section of our website.

ADS Head Office at 225 King St, Castle Douglas DG7 1DT, Tel: 01556 503550

[www.adssws.co.uk](http://www.adssws.co.uk)

enquiries@adssws.co.uk

The Chief Executive has overall responsibility to manage the Complaints Procedure. At least two ADS Managers / Senior Staff will be appointed to fully investigate the complaint, in a confidential manner. Occasionally, if a complaint is very serious, such as if it involved harm to the complainant or to others, other people might have to become involved. This would always be discussed in the first instance with the complainant.

The Chief Executive or other ADS Managers / Senior staff will establish that there is sufficient corroborating evidence to support the complaint for it to be processed for investigation.

**Timescales & Principles**

* The complaint will be acknowledged in writing [irrespective of how it was received], within 3 working days
* The person being complained about will be informed by the Chief Executive or nominated ADS Managers / Senior Staff within 3 working days of receipt of the complaint.
* The complaint will be fully investigated by at least two ADS Managers / Senior Staff within 14 working days. To insure impartiality and independence, and to avoid the risk of conflict of interest, those ADS Managers / Senior Staff appointed to investigate the complaint **will not** be the manager of the service implicated in the complaint.
* Where possible, an independent lay person may be appointed to assist with the investigation.
* The complainant and the complained against, and/ or their representative, will not come into contact at any time as a result of the investigation.
* The complained against can seek legal or other specialist advice
* The complainant is required to give permission for confidential information, pertinent to the complaint, to be disclosed by all parties cited in the complaint to those involved in handling the complaint.
* All parties involved in the complaint can, where relevant, declare a conflict of interest to that dedicated manager. In that case, and where appropriate, a new ADS Manager / Senior Staff, or alternatively, an ADS Charity Trustee, would be appointed to investigate the complaint.
* The ADS Manager / Senior Staff will at all times act in an impartial and independent manner, and investigate the complaint in a confidential manner.
* If the investigation is going to take longer than 14 working days, and is delayed for good reason, the complainant will be told why, and provided with a new completion date. The absolute maximum time for a formal complaint to be investigated will be 6 months.
* The complainant will receive a written response from the Chief Executive within 5 working days of the investigation being completed.
* Both complainant and the ADS staff member, volunteer, Charity Trustee being complained about have the right to meet with the investigating ADS Manager / Senior Staff as part of the investigation, although not at the same time.
* Both complainant and the ADS staff member, volunteer, Charity trustee being complained about have the right to be accompanied and / or represented by a supportive person at the meeting with the investigating ADS Manager.
* The investigating ADS Manager / Senior Staff can halt the complaints procedure at any stage should it emerge that legal action is intended, pending or under way, and that the process will remain halted until said legal action is complete.
* The complainant will also be offered the opportunity to meet in person with the Chief Executive to discuss the outcome of the investigation.
* At the discretion of the Chief Executive, with due regard to time restraints and confidentiality, the process may be adjourned or put in recess. The process will be re-started at the point at which it was stopped, within a reasonable time.
* A complaint can be discontinued if the complainant fails or refuses to participate at any stage of the complaint procedure without good reason

or the complainant formally withdraws the complaint. Both parties will be informed.

* In the event that the complaint is to be made against the Chief Executive, the complainant should contact the Chair by whatever means is most convenient, e.g. telephone, letter, email, face-to-face, contacts section of our website.

**Appeals Procedure**

* All parties have the right to appeal against the contents of the written response or the outcome of the investigation. A request should be made to the Chief Executive within 14 working days from the date that a final resolution was received. Again, this request can be made by whatever means is most convenient, e.g. telephone, letter, email, face-to-face, contacts section of our website.
* That no person has previously been involved in investigation of the complaint i.e. the Chief Executive or ADS Managers / Senior Staff can manage the complaint until completion, but no person can hear an Appeal if they have already been involved.
* An Appeals Panel will be assembled within 14 working days, and will comprise of people who have not previously been involved in managing the original complaint.
* Appeals can be only on the grounds that:
	+ ADS has failed to follow their own procedure
	+ there is new evidence available
	+ the decision was not warranted
	+ sanction was disproportionate
* Both parties have the right to attend the Appeals Panel meeting
* Both parties will be notified of the result of the Appeals Process within 7 working days.
* All materials relating to the complaint, outcome and any appeals will be lodged securely in the ADS Complaints Log.
* If the Appeal is upheld, disciplinary action may be taken against relevant ADS staff / volunteers/ Charity Trustees [see Outcomes and Possible Sanctions Section].
* If the complaint relates to ADS Talking Therapies Services, a “Report to COSCA at Conclusion of Complaints Proceedings” will be prepared and submitted to COSCA.
* The Outcome Report will be submitted immediately or within one month of the conclusion of your/ your organisation’s complaints process.
* COSCA will publish upheld complaints and their sanctions regarding COSCA Individual Members or Member Organisations.

**Outcomes**

If the complaint is found to be justified, we will issue the complainant with a full written apology. We will take action, where appropriate, to put right what went wrong. We will try to prevent any similar problems happening in the future.

In the event that disciplinary action is taken against a staff member, volunteer or Charity Trustee, the ADS Disciplinary Policy [Staff Policy Ref: 13] will be followed.

**Possible Sanctions**

Within the ADS Disciplinary Policy, there are various possible sanctions that can be applied, examples being Advice & Counselling, Performance Note or Written Warning, Final Written Warning, Dismissal or Action Short of Dismissal [such as demotion or loss of seniority].

Any sanctions imposed will be communicated to the complainant and the person being complained about by the Chief Executive of ADS Manager / Senior Staff.

**The Role of COSCA**

ADS holds membership of COSCA, Scotland’s Professional Body for Counselling and Psychotherapy, and abides by the COSCA Statement of Ethics and Codes of Practice.

As such, any users of our Talking Therapies Service who have exhausted the ADS Complaints Procedure and are not satisfied with the outcome, have the right to make a complaint directly to COSCA using their Complaint procedure within one month of the above exhaustion.

Complainants will be informed that COSCA will, upon receipt of the complaint, verify that the ADS Complaints Procedure has been followed and the outcome was lawful, reasonable and properly explained.

COSCA (Counselling & Psychotherapy in Scotland)
16 Melville Terrace
Stirling
FK8 2NE

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| phone: | 01786 475 140 |
| fax: | 01786 446 207 |

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| email: | **info@cosca.org.uk** |
| website: | [**www.cosca.org.uk**](http://www.cosca.org.uk/) |

**The Role of the Care Inspectorate**

ADS Housing Support Service is regulated by the Care Inspectorate. As such, users of the ADS Housing Support also have the right to raise concerns or complain directly to the Care Inspectorate, as follows

* call their national enquiries line on 0845 600 9527
* fill in their complaints form online at [www.careinspectorate.com](http://www.careinspectorate.com)

***Dr Angela Roberts***

***Chief Executive***

**Review Date: February 2027**