



**Dorset
Clinical Commissioning Group**

NHS Dorset Clinical Commissioning Group

Customer Care and Complaints Policy



Supporting people in Dorset to lead healthier lives

PREFACE

This document sets the policy for NHS Dorset Clinical Commissioning Group with regard to its legal obligation to comply with the provisions of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI 2009/309)1. It also reflects the reforms to the health and social care system brought about by the Health and Social Care Act 2012.

All managers and staff (at all levels) are responsible for ensuring that they are viewing and working to the current version of this procedural document. If this document is printed in hard copy or saved to another location, it must be checked that the version number in use matches with that of the live version on the CCG intranet.

All CCG procedural documents are published on the staff intranet and communication is circulated to all staff when new procedural documents or changes to existing procedural documents are released. Managers are encouraged to use team briefings to aid staff awareness of new and updated procedural documents.

All staff are responsible for implementing procedural documents as part of their normal responsibilities, and are responsible for ensuring they maintain an up to date awareness of procedural documents.

A	SUMMARY POINTS
<p>Policy for NHS Dorset Clinical Commissioning Group with regard to its legal obligation to comply with the provisions of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI 20009/309)1. It also reflects the reforms to the health and social care system brought about by the Health and Social Care Act 2012.</p>	

B	ASSOCIATED DOCUMENTS
<ul style="list-style-type: none"> • Procedure for the Management of Adverse Incidents • Procedure for the Management of Serious Incidents • Freedom of Information Policy • Information Governance Policy • Data Protection Policy • Duty of Candour & Being Open Policy • PREVENT Policy • Risk Management Framework • Conduct and Capability Policy • Equality, Diversity and Inclusion Strategy 	

C	DOCUMENT DETAILS
Procedural Document Number	21
Author	Abigail James
Job Title	Business Support Manager
Directorate	Quality
Recommending committee or group	Directors Performance Group
Approving committee or group	Directors Performance Group
Date of recommendation (version 1.4)	June 2020
Date of approval (version 1)	2012
Version	1.4

Sponsor	Director of Nursing and Quality
Recommendation date	June 2020
Approval date	June 2020
Review frequency	Bi-annually
Review date	April 2022

D	CONSULTATION PROCESS		
Version No	Review Date	Author and Job Title	Level of Consultation
1.4	April 2020	Abigail James, Business Support Manager	

E	VERSION CONTROL				
Date of issue	Version No	Date of next review	Nature of change	Approval date	Approval committee/group
April 2016	1.2	April 2018	This policy replaces the 2012 Customer Care and Complaints Policy	19 April 2016	Directors Performance Group
June 2018	1.3	April 2020	As above	19 June 2018	Directors Performance Group
June 2020	1.4	April 2022	A complete review of the Policy was undertaken	15 June 2020	Directors Performance Group

F	SUPPORTING DOCUMENTS/EVIDENCE BASED REFERENCES		
Evidence	Hyperlink	Date	
The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009	http://www.legislation.gov.uk/uksi/2009/309/contents/made	2009	
The NHS Constitution	https://www.gov.uk/government/publications/the-nhs-constitution-for-england	2015	
Ombudsman's Principles of Good Complaint Handling	https://www.ombudsman.org.uk/sites/default/files/page/0188-Principles-of-Good-Complaint-Handling-bookletweb.pdf	2009	

Guide to the good handling of complaints for CCGs, NHS England	https://chcfunding.files.wordpress.com/2014/05/good-complaints-handling-for-ccgs-nhs-may-2013.pdf	2013
Francis Enquiry Report	https://www.gov.uk/government/publications/report-of-the-mid-staffordshire-nhs-foundation-trust-public-inquiry	2013
The Government response to Francis paper	https://www.gov.uk/government/news/francis-report-on-mid-staffs-government-accepts-recommendations	2013
Berwick Report	https://www.gov.uk/government/publications/berwick-review-into-patient-safety	2013
Keogh Review Report	https://www.nhs.uk/NHSEngland/bruce-keogh-review/Documents/outcomes/keogh-review-final-report.pdf	2013
Clwyd - Hart Report	https://www.gov.uk/government/publications/nhs-hospitals-complaints-system-review	2013
Mental Capacity Act	https://www.gov.uk/government/collections/dh-mental-capacity-act-2005-deprivation-of-liberty-safeguards	2008
Data Protection Act	http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted	2018
Access to Health Records Act	https://www.legislation.gov.uk/ukpga/1990/23/contents	1990
Human Rights Act	https://www.legislation.gov.uk/ukpga/1998/42/contents	1998
Freedom of Information Act	https://www.legislation.gov.uk/ukpga/2000/36/contents	2000
Records Management Code of Practice for Health and Social Care	https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/information-governance-alliance-iga	2016
NHS Code of Practice: Confidentiality	https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice	2003
Equality Act 2010	https://www.legislation.gov.uk/ukpga/2010/15/contents	2010
Prevent Strategy	https://www.dorset.police.uk/help-advice/crime-prevention/personal-safety/major-terrorist-incidents/reporting-and-preventing-radicalisation-terrorist-and-extremist-behaviour/	
Safeguarding Adult and Children Policy	https://www.dorsetccg.nhs.uk/wp-content/uploads/2019/03/Safeguarding-adult-and-children-policy.pdf	
Children's right to complain	https://www.dorsetcouncil.gov.uk/your-council/complaints-compliments-and-comments/how-to-complain-about-social-care-services.aspx	

G	DISTRIBUTION LIST		
Internal CCG Intranet	CCG Internet Website	Communications Bulletin	External Stakeholders

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RELEVANT TO

- 1.1 This policy applies to all staff within NHS Dorset CCG whether operating directly or providing services under a service level agreement or joint agreement; including contracted employees, non-executive directors and contracted third parties such as bank, agency, volunteers, locums, student placements, staff on secondment, researchers, visiting professionals and suppliers.
- 1.2 A separate booklet is available to support complainants, which explains how to make a complaint, and provides signposting and other information.

2. INTRODUCTION

- 2.1 NHS Dorset Clinical Commissioning Group (CCG) recognises that comments, concerns, complaints and compliments are a valuable source of information from service users about the quality of the services it commissions, and encourages both positive and negative feedback about services.
- 2.2 The CCG is committed to providing any user of the organisation, their family or members of the public, with the opportunity to seek advice, raise concerns and make a complaint about any of the services it provides or commissions.

3. SCOPE

- 3.1 This policy sets out the CCG's approach to receiving, handling and responding to complaints made under the provisions of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI 20009/309)1.
- 3.2 This policy does not cover concerns or complaints raised by CCG staff in relation to employment matters which are handled separately through line management arrangements and Workforce policies.

Time Limit for Making Complaints

- 3.3 The statutory time limit for making a complaint is 12 months from the date on which the matter being complained about occurred, or 12 months from the date on which the complainant became aware that they have grounds for complaint, whichever is the later.
- 3.4 A complaint made outside of the time limit can be considered if the CCG decides there are good reasons for the complaint not being made within the time-limit and the case can still be properly investigated.

4. PURPOSE

- 4.1 The purpose of this policy is to:
 - ensure our procedure is easy to understand and simple to use;

- make sure any investigations are thorough, fair, responsive, open and honest in line with the [Duty of Candour and Being Open Policy](#).
- ensure we will learn from compliments, concerns and complaints and answer complaints in a timely manner;
- a flexible, person-centred approach to achieve local resolution as soon as possible;
- comply with statutory requirements and national standards;
- a means of providing information to management in order that, where appropriate, services can be improved or experience enhanced

4.2 The CCG does recognise however in some instances it will not be possible to provide satisfaction to a complainant and where this is the case the CCG will work closely and cooperatively with the Parliamentary & Health Service Ombudsman on any case the Ombudsman chooses to investigate.

5 DEFINITION OF A COMPLAINT

- 5.1 A complaint is defined as “an expression of dissatisfaction” received from a patient, carer, service user or third party representative about any aspect of the local health services which requires a response.
- 5.2 It is not intended that every minor concern will warrant a full scale complaints investigation. Rather, the spirit of the complaints procedure is that staff are empowered to resolve minor problems immediately and informally. The organisation will therefore seek to distinguish between requests for assistance in resolving a perceived problem and an actual complaint. The former will be dealt with in a flexible manner which is appropriate to their nature and the latter will be dealt with in accordance with the complaints regulations and this policy.
- 5.3 A complaint investigation is a ‘learning from experience’ process and not a disciplinary process.

6 ROLES AND RESPONSIBILITIES

CCG Governing Body

- 6.1 The Governing Body will oversee the complaints management process to satisfy itself that the required quality of service by the CCG and all providers is achieved and maintained.

Chief Officer

- 6.2 The Chief Officer has overall accountability for ensuring effective management of complaints across the CCG and is the responsible signatory for written responses to formal complaints.

Director of Nursing and Quality

- 6.3 The Chief Officer has delegated responsibility to the Director of Nursing and Quality for ensuring the CCG has arrangements in place that comply with the regulations, and that appropriate action is taken arising from complaints.

Directors

- 6.4 The CCG's Directors are accountable on a day to day basis for complaints arising within their areas of responsibility. They will nominate investigating officers and provide support and assistance throughout the complaint investigation.

Business Support Manager

- 6.5 The Business Support Manager is responsible for effective implementation of this policy, preparing reports for the Governing Body and the Quality Surveillance Group.

Investigating Officer

- 6.6 Investigating Officers will investigate complaints received in line with this policy. See Appendix B.

Contract Quality Leads

- 6.7 The Nursing and Quality directorate leads identified for individual contracts are responsible for monitoring complaints handled by providers, identifying trends and themes and ensuring learning from complaints is disseminated within the relevant organisation.

Customer Care Officer

- 6.8 The Customer Care Officer is responsible for the day to day management of the Complaints process.

7 WHO CAN COMPLAIN?

- 7.1 A complaint can be made by any person:

- who is receiving, or has received, NHS treatment or services;
- if they are, or may have been, affected by an action or decision of Dorset CCG.

7.2 Complainants can include:

- carers and other representatives of NHS patients as long as they can demonstrate that they have the consent of the patient concerned to act on their behalf;
- children and young people, in accordance with sections 26(3) and 24D of the Children Act 1989, and section 3(1) of the Adoption and Children Act 2002;
- a person raising a complaint on behalf of a child as long as they can demonstrate that they have the legal responsibility to do so;
- a person raising a complaint on behalf of NHS patients who are suffering from mental health problems, learning difficulties or physical disabilities and lack capacity to make a complaint themselves or require support. Appropriate consent will be required;
- a person raising a complaint on behalf of a deceased person, as long as they can demonstrate that they have written confirmation of being appointed as a representative or equivalent e.g., executor.

8 CONSENT

8.1 In most cases a signed form of consent will be required authorising CCG staff to access any required complainant's records in order to investigate their complaint. When the complainant acts on behalf of someone else, usually the person will be required to provide written consent confirming the complainant's authority to do so.

8.2 Delay in the provision of consent, when requested, may delay the progress of the investigation of the complaint. If consent is not received, then the complaint process will cease.

9 TYPES OF COMPLAINT

What complaints are the CCG responsible for?

9.1 The CCG is responsible for:

- complaints about the commissioning decisions that the CCG has made;
- complaints about continuing health care funding and process;
- complaints about individual cases funding if dissatisfied following an appeals process.

Complaints about service providers and other NHS organisations commissioned by the CCG

- 9.2 Providers of NHS services are responsible for investigating complaints regarding their services under local resolution, in accordance with the complaints regulations.
- 9.3 The CCG will not undertake an investigation into a complaint regarding a provider organisation. However, the CCG, if requested, will facilitate the complaints process between a provider that it commissions and the complainant should they wish not to communicate directly with the provider.
- 9.4 The Customer Care Team will liaise with any complainant who contacts the CCG directly regarding their complaint and provide guidance to the complainant regarding contacting the appropriate organisation. The complainant will be advised to either:
- complain directly to the organisation or,
 - the CCG will forward the complaint to the relevant organisation, once written consent to do this has been received.
- 9.5 The provider will be asked to forward a copy of their final response/outcome to the Customer Care team for monitoring purposes.
- 9.6 In the case of multi-agency complaints within Dorset, the CCG will forward the complaint to all relevant providers, once patient consent is received. If the complainant requests only one response, Dorset CCG will coordinate responses: otherwise the providers will be asked to respond directly to the complainant and forward their response to the Customer Care team for monitoring purposes.
- 9.7 For complex cases, including cross-border complaints, a lead organisation will be determined, taking the following into account:
- which organisation is care managing the individual patient / client
 - which organisation is responsible for the most significant element of the enquiry/complaint
 - which organisation does the larger number of issues in the enquiry/complaint relate to
 - which organisation originally received the complaint (if the seriousness and number of complaints are about the same for each one)
 - whether the complainant has a clear preference for which organisation takes the lead

- 9.8 The lead organisation will be responsible for contacting all parties to agree timescales and processes, co-ordinating responses, and forwarding the final response to the complainant.
- 9.9 Where a complaint is received which involves provider services from another CCG area, the lead organisation will share details of the complaint with the commissioning CCG for quality/assurance purposes.

Complaints to the CCG Relating to a Local Authority

- 9.10 There are occasions where the CCG will receive a complaint about the actions of a local authority. This can happen where the complainant does not understand which organisation is responsible for the service.
- 9.11 The CCG will refer such complaints to the appropriate local authority if the complainant consents to this. Where the complainant does not want the complaint forwarded they should be advised that the CCG is unable to deal with the complaint and that if they wish to pursue it further, they must contact the local authority. The action taken by the CCG must be recorded in writing.

Primary Care Complaints

- 9.12 Services directly commissioned by NHS England include:
- Dentists, Pharmacy and Optometry;
 - GP services;
 - Specialised services;
 - Offender health;
 - Military services.
- 9.13 The CCG has no role to play in responding to complaints about these services. Should the CCG receive a complaint which is determined falls under the jurisdiction of NHS England, the complainant will be advised accordingly. The Customer Care Team will, with consent, re-direct any correspondence to NHS England as appropriate.
- 9.14 Where a complaint includes services commissioned jointly by the CCG and NHS England, the Customer Care Team will advise the complainant and liaise as appropriate with NHS England.

What Complaints are the CCG not Responsible for?

- 9.15 The complaints policy does not apply, and the complaint will not be dealt with, when:

- a complaint is about private treatment;
- the person wishing to complain does not meet the requirements of 'who may complain', see section 7, and is not acting on behalf of such an individual;
- the complaint is made by an employee relating to their employment;
- the complaint is made by a responsible body;
- the complaint is in regard to actions and decisions which fall outside of the CCG's responsibilities and remit for example relating to services the CCG does not commission;
- the same complaint has already been fully considered in the view of the Complaints Service, in consultation with the relevant senior managers and appropriate advice sought;
- where matters are either under investigation or have been investigated by the Parliamentary and Health Service Ombudsman;
- the complaint is unclear or it is vexatious.

9.16 Where the CCG declines to handle a complaint, it will notify the complainant of the decision and the reasons, providing signposting information of other organisations who may be able to support the complainant.

9.17 Contact details of providers the CCG is not responsible for can be found on the website <https://www.dorsetccg.nhs.uk/contact/comments/>

10 HOW TO COMPLAIN

10.1 For Complaints and Enquiries relating to Dorset CCG, write, telephone or email the Customer Care Officer:

NHS Dorset Clinical Commissioning Group
 Vespasian House
 Barrack Road
 Dorchester
 DT1 1TG

Telephone: 01305 368926

Email: customer.careteam@dorsetccg.nhs.uk

10.2 Feedback relating to the any of the services we commission is welcome, please write or telephone the Customer Care Officer as above or email feedback@dorsetccg.nhs.uk

10.3 Should patients decide to contact the Chief Officer with concerns regarding the organisation, this will be passed to the Customer Care Team who will acknowledge the concerns and determine the best way forward.

11 HELP IN MAKING A COMPLAINT

11.1 It is not the role of the CCG's Customer Care Team to provide advice on the merits of a complaint, or on how the complaint should be framed, but it can advise on the process that will be followed for handling and responding to complaints.

11.2 A separate patient leaflet providing advice on how to raise a complaint is available.

11.3 Complainants should be signposted to agencies offering specialist advice as early as possible, to help decide on the best course of action.

11.4 All complainants must be informed how to make contact with advocacy services. They may, however, choose to be supported by someone else, such as a family member or friend, or an advocate from another organisation. The complainant must be reminded that it is likely personal information will be shared with the person supporting them and consent for this must be recorded.

11.5 The providers of advocacy services in Dorset are:

The Advocacy People
PO Box 375
Hastings
TN34 9HU

Email: info@theadvocacypeople.org.uk

Tel: 0300 440 9000

Text: 80800 using keyword PEOPLE, followed by message

11.6 Patients who require help regarding continuing healthcare funding referrals or appeals can contact:

Dorset Advocacy
13 – 15 Jubilee Court
Paceycombe Way
Poundbury
Dorchester
Dorset
DT1 3AE

Email: referrals@dorsetadvocacy.co.uk

Tel: 0300 343 7000

11.7 Help and advice can also be provided by Healthwatch Dorset:

Healthwatch Dorset
The Bridge
Chaseside
Bournemouth
BH7 7BX

Email: enquiries@healthwatchdorset.co.uk

Tel: 0300 111 0102

12 PROCESS FOR HANDLING COMPLAINTS AND CONCERNS

12.1 Stage 1 - **Local Resolution** involves the CCG undertaking actions to resolve the concerns that have been raised and ensuring that appropriate actions are taken to learn from the complaint. Please refer to Appendix A which details the appropriate flow chart process for formal complaints.

12.2 Any member of staff approached by a complainant or enquirer should try to resolve the issue, or concern, on the spot if possible, or refer to their Line Manager.

12.3 Staff should take into account the seriousness of a complaint and the possible need for more independent investigation and assessment. Any complaint that includes serious or potentially serious allegations, including possible litigation, must be reported to the Customer Care Lead and/or the Director of Nursing and Quality within one working day.

12.4 The person receiving the complaint should respond to the main concerns by:

- acknowledging the concerns raised;
- responding appropriately;
- offering an apology, and either giving an explanation, or refer to the Customer Care Team and Line Manager;
- taking action to learn and prevent recurrence in the future.
- If the complainant is satisfied at this stage no further action need be taken. The complaint should be recorded and a copy sent to the Customer Care Team.

Timescales and outcomes

12.5 All complaints will be acknowledged within three working days of receipt and consent requested if applicable.

- 12.6 Complainants will be advised of the free external advocacy support available via The Advocacy People (see section 11.5/11.6).
- 12.7 Verbal complaints will be acknowledged and a written copy of the complaint sent to the complainant with an invitation to amend if necessary and return.
- 12.8 Under legislation, there are no fixed and specified response time criteria for formal complaints. Response and resolution timescales are agreed with the complainant by the Investigation Officer (IO) where possible and the complaint progressed and resolved in line with this agreement.
- 12.9 The CCG anticipates all but the most complex complaints will receive a response within 25 working days of receipt of correspondence (or receipt of consent if required). If it is not possible to respond to the complainant within the agreed time scale, the complainant will be contacted by the IO where appropriate and advised of the delay and agree a new response time, which normally should not exceed twenty working days from the date of that conversation/confirmation letter. **Please note:** Providers that the CCG commissions with have their own timescales for investigations, which may not be in line with the CCG's policy.
- 12.10 If the complaint is about a member of staff, they should not be involved in investigating the complaint made. The complaint should be assigned to a member of staff who has had no prior involvement with the concerns raised.
- 12.11 In certain circumstances, it may be appropriate for an independent review to be undertaken. In most cases this will be conducted by a separate department, or it may be appropriate (with the necessary consent) to be reviewed by an external body, such as a CCG from another area.
- 12.12 Complainants with communication difficulties e.g. those whose first spoken language is not English; those who communicate via British Sign Language or those who have a learning disability, will be supported in making complaints.

Meeting the complainant

- 12.13 All complainants should be contacted and offered an opportunity to meet and discuss their concern with the IO, where appropriate. The complainant may be accompanied by a relative or friend or an independent advocate, at a time and place of mutual agreement. The purpose of such a meeting should be clearly stated, with notes being taken of the discussions held.
- 12.14 Following completion of any meeting, the notes taken and any agreed action should be sent to the complainant. It is the responsibility of the IO to ensure all complaint investigation documentation reflects a true and accurate account of events.

- 12.15 Where an allegation relates to safeguarding concerns this must be reported to the Safeguarding Lead who will follow their processes. [The Safeguarding Policy](#) takes precedence over this policy for both adults and children.
- 12.16 Any complaint which includes concerns over potential harm to a patient in receipt of NHS care should be reviewed in line with the [Serious Incident Policy](#). The Patient Safety Team will trigger a patient safety investigation where this is required.
- 12.17 **Stage 2 - Independent Review** by the Parliamentary and Health Services Ombudsman. If a complainant remains dissatisfied with the response that they receive at the end of the local resolution process, they may ask the PHSO to review their complaint. The PHSO is in a position to take an independent view of how the CCG has handled and responded to a complaint, and whether it has provided sufficient redress where an injustice has taken place as a result of the matters being complained about.
- 12.18 Any such request must be made to the Ombudsman not later than one year from the date of the completion of the local resolution process (date of the final written response from the healthcare provider or the CCG's Chief Officer). However, the Ombudsman has the discretion to extend this time limit in special circumstances.
- 12.19 A complainant may request that the Ombudsman investigates their complaint if:
- they feel the initial investigation by the CCG or the healthcare provider was inadequate, incomplete or unsatisfactory;
 - they have reason to believe that the underlying issues which led to the complaint, have not been fully investigated or understood;
 - an investigation has not been completed within the agreed time;
 - the CCG has decided not to investigate a complaint on the grounds that it was not made within the time limits governed by the Regulations;
 - the complainant is dissatisfied with the process adopted by an independent review.
- 12.20 Requests to the Ombudsman should, if possible, be made either on a form supplied for the purpose by the Ombudsman, available from <https://www.ombudsman.org.uk/making-complaint/complain-us-getting-started/complaint-forms> or in writing (including electronically).
- 12.21 There is no requirement for the complainant to copy their request to the CCG or to any other agency.

12.22 The Ombudsman will not automatically investigate all complaints received but will consider each case individually before reaching a decision.

12.23 If the Ombudsman decides to investigate a complaint, the CCG will, on request, forward to the Ombudsman copies of all relevant documents relating to its handling of the complaint as soon as possible and co-operate fully with any investigation.

12.24 The CCG will not regard a referral to the PHSO as an indicator of failure to properly investigate and respond to a complaint. It is acknowledged that a full response may not always provide the complainant with answers that will satisfy them. This is particularly relevant to cases where the redress sought by the complainant is beyond the power or lawful authority of the CCG to deliver.

13 CONFIDENTIALITY

13.1 Complaints will be handled in the strictest confidence at all times. Care will be taken that information is only disclosed to those who have a demonstrable need to have access to it.

13.2 Where the complaint is received directly from the patient it is essential to obtain explicit consent to access relevant personal information from their health records and share information with relevant organisations.

13.3 When a complaint is made on behalf of a patient, for example a relative or outside agency, care needs to be taken not to disclose personal information without the express consent of the individual concerned. A signed consent form for disclosure of information should be obtained from the patient concerned or authorised representative.

13.4 The suitability of a complainant to represent a patient/client who is unable to give consent depends on the need to respect confidentiality and on any known wishes expressed by that individual that information should not be disclosed.

14 ZERO TOLERANCE

14.1 The CCG operates a zero tolerance policy for complainants who choose to be rude or abusive in the manner by which they communicate their complaint. In this instance the CCG may protect its staff by limiting the communication channels open to the individual making the complaint. This may include individuals who are persistent or vexatious complainers.

15 TRAINING

15.1 A training programme has been undertaken which will enable all trained staff to have an awareness of their role and responsibilities relating to how

complaints and comments about the services provided should be handled, including the need to ensure that patients, relatives and carers are not treated differently as a result of raising a concern or complaint.

16 CONSULTATION

16.1 This policy is a legislative requirement and no formal consultation is required. However, it has been passed to the CCG's Patient Experience Group for comment.

17 RECOMMENDATION AND APPROVAL PROCESS

17.1 Refer to Section C - Document Details at the front of this policy.

18 COMMUNICATION/DISSEMINATION

18.1 Refer to Section C - Document Details at the front of this policy.

19 IMPLEMENTATION

19.1 This policy does not require any new aspects to be implemented.

19.2 This policy will be made available to staff through the intranet as detailed in the CCG's policy for the management of procedural documents.

20 MONITORING COMPLIANCE AND EFFECTIVENESS OF THE DOCUMENT

20.1 The Quality Surveillance Group takes overall responsibility for ensuring compliance with this policy and any procedures relating to the policy.

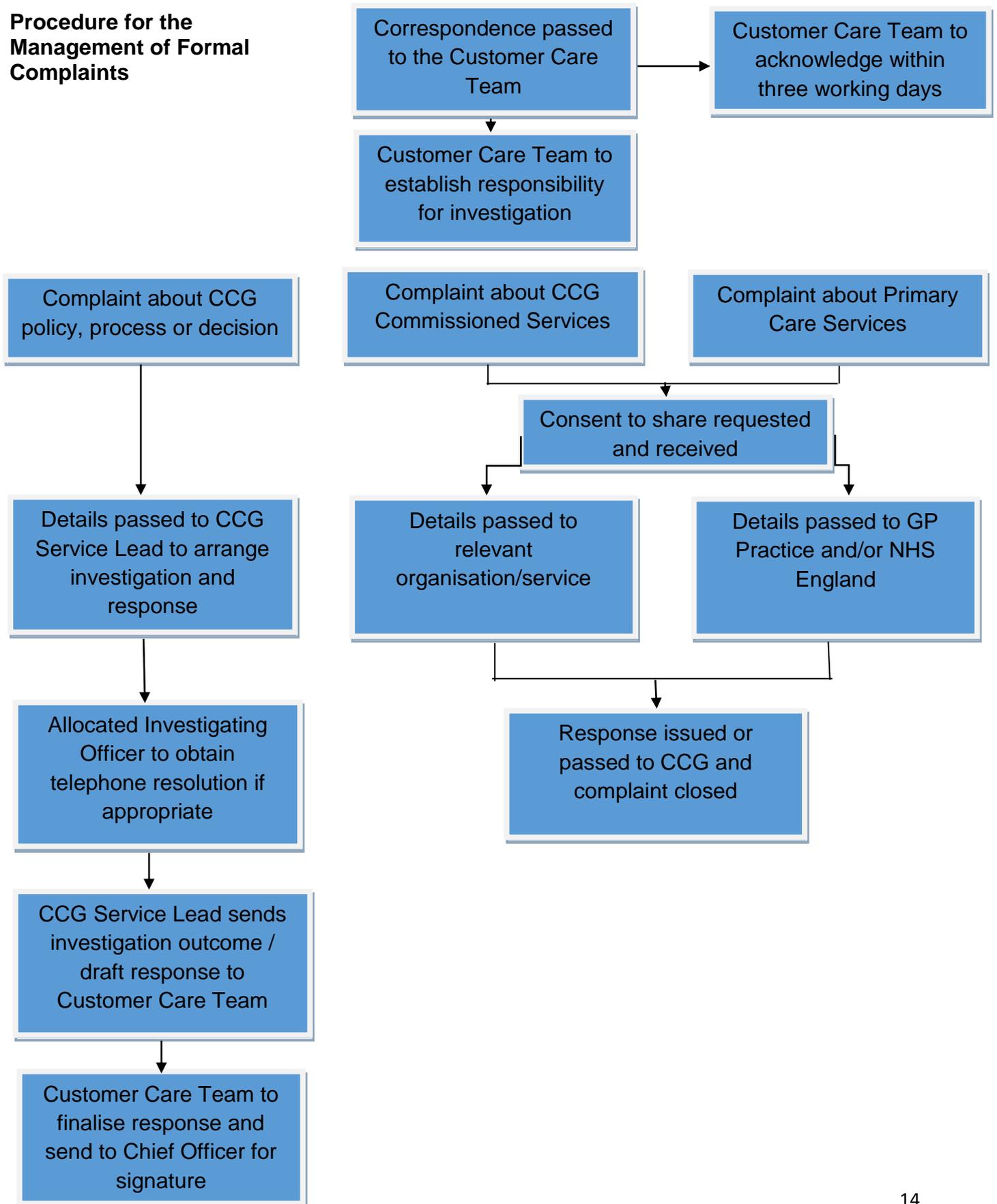
20.2 Following periodic internal audit, a report summarising the issues raised is prepared and issued to the Audit Committee and the Quality Surveillance Group.

21 DOCUMENT REVIEW FREQUENCY AND VERSION CONTROL

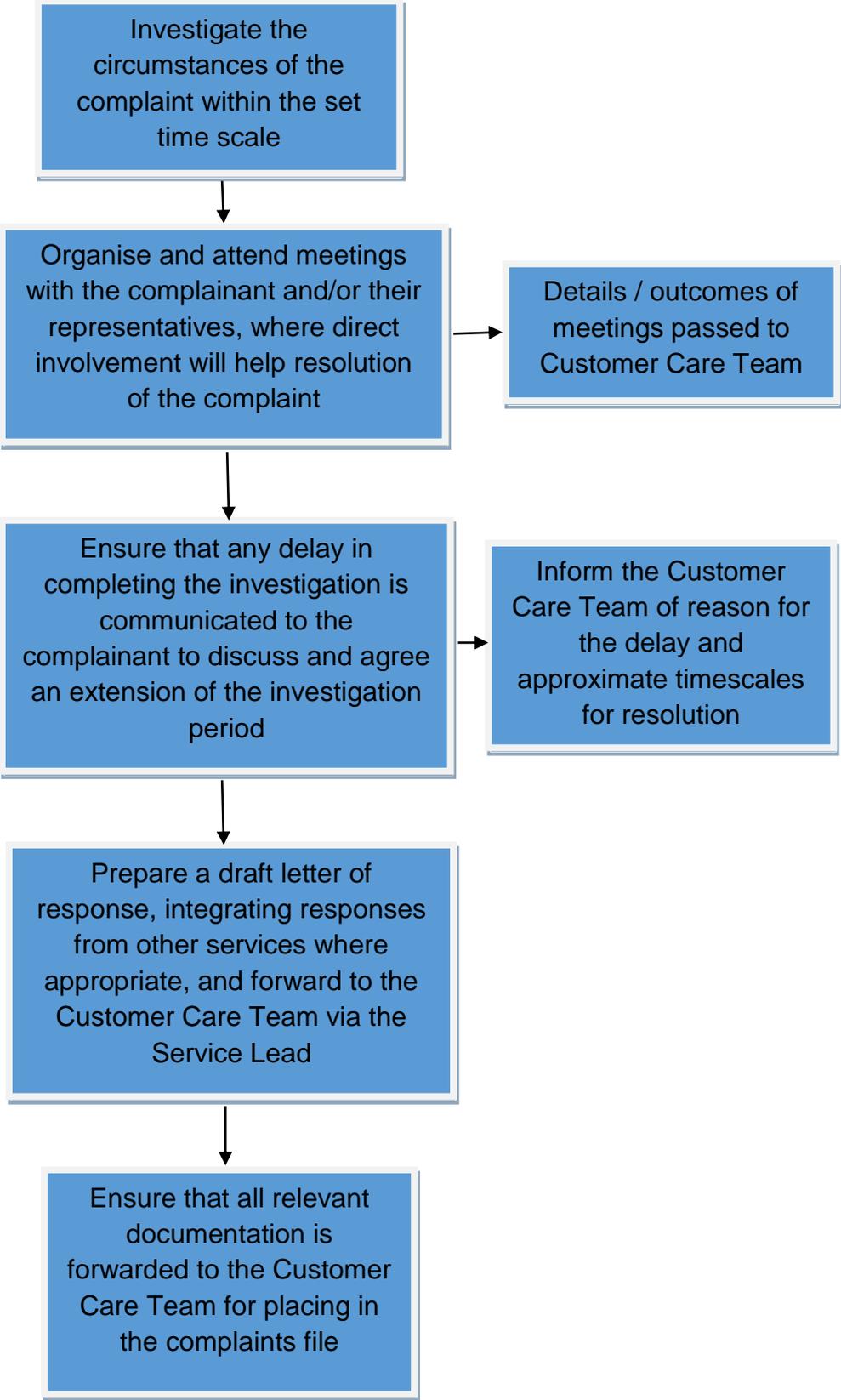
21.1 This policy will be reviewed bi-annually or earlier if appropriate, to take into account any changes to legislation that may occur, and/or guidance issued.

APPENDIX A

Procedure for the Management of Formal Complaints



Role of the Investigating Officer



HABITUAL OR VEXATIOUS COMPLAINT POLICY

1. INTRODUCTION

- 1.1 Habitual and/or vexatious complainants are an increasing problem for NHS staff. The difficulty in handling such complainants is placing a strain on time and resources and is causing unacceptable stress for staff who may need support in difficult situations. NHS staff are trained to respond with patience and understanding to the needs of all complainants, but there are times when there is nothing further that can reasonably be done to assist them or to rectify a real or perceived problem.
- 1.2 In determining arrangements for handling such complainants and / or requests for information staff are presented with two key considerations:
- to ensure that the Complaints Policy has been correctly implemented and that no material element has been overlooked or inadequately addressed. In doing so it should be appreciated that even habitual or vexatious complainants may have issues, which contain some substance. The need to ensure an equitable approach is, therefore, crucial;
 - to be able to identify the stage at which a complainant / person requesting information has become habitual or vexatious.
- 1.3. One approach is implementation of this approved policy on how to deal with vexatious/habitual complaints or requests for information. Implementation of this policy would happen only in exceptional circumstances. Information on the handling of habitual or vexatious complainants would be available to the public as part of the material made available on the complaints process.

2. PURPOSE OF THIS PROCEDURE

- 2.1. The purpose of this procedure is to give the CCG a framework to implement and take appropriate action against those complaints and requests for information that are deemed to be vexatious or habitual.
- 2.2. Any complaints received by the CCG must be processed in accordance with this Complaints Policy. During this process, staff will inevitably have contact with a small number of individuals who may take up an unwarranted amount of NHS resources. The aim of this procedure is to identify situations where this could be considered habitual or vexatious and to suggest ways of responding to such situations.
- 2.3. This procedure should only be used as a last resort and after all reasonable measures have been taken (i.e. an effort to resolve complaints following the NHS complaints procedures).

2.4. Careful judgement and discretion must be used in applying the criteria to identify potential habitual or vexatious complaints and requests for information and in deciding what action to take in specific cases. This procedure should only be implemented following careful consideration by, and with authorisation of, the Chief Officer or nominated deputy.

3. DEFINITION OF HABITUAL AND VEXATIOUS COMPLAINTS / AND OR REQUESTS FOR INFORMATION

3.1. Complainants or person(s) requesting information (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where current or previous contact with them shows that they have met two or more (or are in serious breach of one) of the following criteria:

- persisting in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted. For example, where investigation is deemed to be 'out of time' or where the Health Services Ombudsman has declined a request for independent review;
- changing the substance of a complaint or persistently raising new issues or seeking to prolong contact by unreasonably raising further concerns or questions upon receipt of a response whilst the complaint / request is being dealt with. Care must be taken not to disregard new issues, which differ significantly from the original complaint/request: these may need to be addressed separately;
- unwilling to accept documented evidence of treatment given as being factual (e.g. drug records, GP manual or computer records, nursing records) or deny receipt of an adequate response despite correspondence specifically answering their questions/concerns. This could also extend to include those persons who do not accept that the facts can sometimes be difficult to verify after a long period of time has elapsed;
- focusing on a trivial matter to an extent, which is out of proportion to its significance and continue to focus on this point. It should be recognised that determining what is trivial can be subjective and careful judgement must be used in applying this criterion;
- physical violence has been used or threatened towards staff or their families /associates at any time. This will, in itself, cause personal contact to be discontinued and will thereafter, only be pursued through written communication. All such incidents should be documented and reported using the Adverse Incident Policy, and notified as appropriate, to the police;
- had an excessive number of contacts with the CCG when pursuing their request or complaint, placing unreasonable demands on staff. Such contacts may be in person, by telephone, letter, fax or electronically.

Discretion must be exercised in deciding how many contacts are required to qualify as excessive, using judgement based on the specific circumstances of each individual case;

- have harassed or been abusive or verbally aggressive on more than one occasion towards staff either directly or in directly or their families and / or associates. If the nature of the harassment or aggressive behaviour is sufficiently serious, this could, in itself, be sufficient reason for classifying the complainant as vexatious. Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this. All incidents of harassment or aggression must be documented in accordance with the Adverse Incident Policy;
- are known to have electronically recorded meetings or conversations without the prior knowledge and consent of the other parties involved. It may be necessary to explain to a complainant at the outset of any investigation into their complaint(s) that such behaviour is unacceptable and can, in some circumstances, be illegal;
- display unreasonable demands or expectations and fail to accept that these may be unreasonable once a clear explanation is provided to them as to what constitutes an unreasonable demand (i.e. insisting on responses to complaints or enquiries being provided more urgently than is reasonable or recognised practice, presenting similar or substantially similar requests for information.

4. OPTIONS FOR DEALING WITH HABITUAL OR VEXATIOUS COMPLAINANTS AND/ OR PERSONS REQUESTING INFORMATION

- 4.1. When complainants/persons requesting information have been identified as habitual or vexatious, in accordance with the above criteria, the Chief Officer, or their nominated deputy, will decide what action to take. The Chief Officer, or deputy, will implement such action and notify the individual(s) promptly, and in writing, the reasons why they have been classified as habitual or vexatious and the action to be taken.
- 4.2. This notification must be copied promptly for the information of others already involved such as practitioners, conciliator, Health Watch, Member of Parliament, advocates etc. Records must be kept, for future reference, of the reasons why the decision has been made to classify as habitual or vexatious and the action taken.
- 4.3. The Chief Officer, or deputy, may decide to deal with habitual or vexatious complainants in one or more of the following ways:
 - once it is clear that one of the criteria in section 3 (above) has been seriously breached, it may be appropriate to inform the individuals, in writing, that they are at risk of being classified as habitual or vexatious. A

copy of this procedure should be sent to them and they should be advised to take account of the criteria in any future dealings with the CCG and its staff. In some cases, it may be appropriate, at this point, to copy this notification to others involved and suggest that complainants seek advice in taking their complaint further (e.g. via Health Watch, Health Services Ombudsman, Patient Advice and Liaison Service);

- the CCG should try to resolve matters before invoking this procedure by drawing up a signed agreement with the complainant/persons requesting information. If it is appropriate any relevant practitioner should be involved. A code of behaviour should be set out. If this agreement is breached, consideration would then be given to implementing other actions as outlined below;
- the CCG can decline further contact either in person, by telephone, fax, letter or electronically, or any combination of these, provided that one form of contact is maintained. Alternatively, a further contact could be restricted to liaison through a third party. A suggested statement has been prepared for use if staff need to withdraw from a telephone conversation. This is shown in the attached staff operational guidance;
- notify complainants/persons requesting information in writing that the Chief Officer, or deputy, has responded fully to the points raised and has tried to resolve the issues but there is nothing more to add and continuing contact on the matter will serve no useful purpose. This notification should state that correspondence is at an end and that further communications will be acknowledged but not answered;
- inform complainants/persons requesting information that in extreme circumstances the CCG reserves the right to refer unreasonable or vexatious complaints to the solicitors/ the Information Commissioner and/or, if appropriate, the police;
- temporarily suspend all contact, whilst seeking legal advice or guidance from the CCGs Solicitors, Parliamentary Health Services Ombudsman or other relevant agencies.

5. WITHDRAWING HABITUAL OR VEXATIOUS STATUS

- 5.1. Once classified as habitual or vexatious, there needs to be a mechanism for withdrawing this status if, for example, a more reasonable approach is subsequently demonstrated or if they submit a further complaint for which the normal complaints procedures would be appropriate.
- 5.2. Staff should have already used careful judgement and discretion in recommending or confirming habitual or vexatious status and similar judgement/discretion will be necessary when recommending that such status should be withdrawn. Where this appears to be the case, discussions will be

held with the Chief Officer, or Deputy, and, subject to their approval, normal contact and procedures will be resumed.