



**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 20009/309)<sup>1</sup>. 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 is 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.

<b>A</b>	<b>SUMMARY POINTS</b>
<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>B</b>	<b>ASSOCIATED DOCUMENTS</b>
<ul style="list-style-type: none"> <li>• Procedure for the Management of Adverse Incidents</li> <li>• Procedure for the Management of Serious Incidents</li> <li>• Freedom of Information Policy</li> <li>• Information Governance Policy</li> <li>• Data Protection Policy</li> <li>• Being Open Policy (Duty of Candour)</li> <li>• PREVENT Policy</li> <li>• Risk Management Framework</li> <li>• Conduct and Capability Policy</li> </ul>	

<b>C</b>	<b>DOCUMENT DETAILS</b>	
<b>Procedural Document Number</b>	21	
<b>Author</b>	Joyce Green	
<b>Job Title</b>	Head of Information Governance	
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1.2	April 2016	Joyce Green, Head of Information Governance	Concerns, Resolution and Learning Group

<b>E</b>	<b>VERSION CONTROL</b>				
<b>Date of issue</b>	<b>Version No</b>	<b>Date of next review</b>	<b>Nature of change</b>	<b>Approval date</b>	<b>Approval committee/group</b>
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

<b>F</b>	<b>SUPPORTING DOCUMENTS/EVIDENCE BASED REFERENCES</b>		
<b>Evidence</b>	<b>Hyperlink (if available)</b>	<b>Date</b>	
The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009	<a href="http://www.legislation.gov.uk/ukxi/2009/309/contents/made">http://www.legislation.gov.uk/ukxi/2009/309/contents/made</a>	2009	
The NHS Constitution	<a href="http://www.gov.uk">www.gov.uk</a>	2015	
Ombudsman's Principles of Good Complaint Handling	<a href="http://www.ombudsman.org.uk/_data/assets/pdf_file/0005/1040/0188">http://www.ombudsman.org.uk/_data/assets/pdf_file/0005/1040/0188</a>	2009	

F	SUPPORTING DOCUMENTS/EVIDENCE BASED REFERENCES	
Evidence	Hyperlink (if available)	Date
	<a href="#">-Principles-of-Good-Complaint-Handling-bookletweb.pdf</a>	
Guide to the good handling of complaints for CCGs, NHS England	<a href="https://chcfunding.files.wordpress.com/2014/05/good-complaints-handling-for-ccgs-nhs-may-2013.pdf">https://chcfunding.files.wordpress.com/2014/05/good-complaints-handling-for-ccgs-nhs-may-2013.pdf</a>	2013
Francis Enquiry Report	<a href="http://webarchive.nationalarchives.gov.uk/20150407084003/http://www.midstaffspublicinquiry.com/">http://webarchive.nationalarchives.gov.uk/20150407084003/http://www.midstaffspublicinquiry.com/</a>	2013
The Government response to Francis paper	<a href="https://www.gov.uk/government/news/francis-report-on-mid-staffs-government-accepts-recommendations">https://www.gov.uk/government/news/francis-report-on-mid-staffs-government-accepts-recommendations</a>	2013
Berwick Report	<a href="https://www.gov.uk/government/publications/berwick-review-into-patient-safety">https://www.gov.uk/government/publications/berwick-review-into-patient-safety</a>	2013
Keogh Review Report	<a href="http://www.nhs.uk/nhsengland/bruce-keogh-review/documents/outcomes/keogh-review-final-report.pdf">http://www.nhs.uk/nhsengland/bruce-keogh-review/documents/outcomes/keogh-review-final-report.pdf</a>	2013
Clwyd – Hart Report	<a href="http://www.gov.uk">www.gov.uk</a>	2013
9) Mental Capacity Act	<a href="http://www.gov.uk">www.gov.uk</a>	2005
Data Protection Act	<a href="http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted">http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted</a>	2018
Access to Health Records Act	<a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a>	1990
Human Rights Act	<a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a>	1998
Freedom of Information Act	<a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a>	2000
NHS Code of Practice: Records Management for Health and Social Care	<a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a>	2016
NHS Code of Practice: Confidentiality	<a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a>	2003
Equality Act 2010	<a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a>	2010

G	DISTRIBUTION LIST		
Internal CCG Intranet	CCG Internet Website	Communications Bulletin	External stakeholders
√	√	√	Tick as appropriate

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## **1. RELEVANT TO**

1.1 This policy is relevant to all staff:

- within NHS Dorset Clinical Commissioning Group (hereafter known as the 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 Failure to adhere to this policy, and its associated procedures, may result in disciplinary action.

## **2. INTRODUCTION**

2.1 NHS Dorset Clinical Commissioning Group (hereafter known as the CCG) recognises that comments, concerns and complaints are a valuable source of information from service users about the quality of the services it commissions.

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.

2.3 The CCG will always listen to the concern raised, apologise, put right any errors and learn from every complaint made.

2.4 The complaints approach is structured around the Parliamentary and Health Service Ombudsman's Principles of Good Administration, Good Complaints Handling and Remedy 2009:

- getting it right;
- being customer focused;
- being open and accountable;
- acting fairly and proportionately;
- putting things right;
- seeking continuous improvement.

2.5 These are supported through the process of listening, responding and improving.

- 2.6 The CCG will take an active approach to asking for people's views, deal with complaints effectively and use the information received to learn and improve.
- 2.7 This policy reflects the reforms to the health and social care system brought about by the Health and Social Care Act 2012. It also embeds the recommendations contained in the Francis Enquiry report (and other reports such as Berwick, Keogh and Clywd-Hart) as well as the Government's response paper to the Francis Enquiry report. It also takes into consideration the recommendations made within these reports including:
- openness, transparency and candour throughout the system;
  - importance of narrative as well as numbers within data;
  - complaints amounting to Serious Untoward Incidents should trigger an investigation;
  - active encouragement of both positive and negative feedback about services.
- 2.8 The above recommendations and principles are supported by the Duty of Candour which ensures that providers of NHS Health services are open and honest with service users when things go wrong with care and treatment, and that they provide them with reasonable support, truthful information and a written apology.
- 2.9 It is essential that all complaints and suggestions are received positively, investigated thoroughly and promptly and responded to in an open and empathic manner, with action taken, where appropriate, to prevent a recurrence of the circumstances leading to the complaint.
- 2.10 The CCG aims to use information gathered from complaints as a means of improving its services. We will seek to identify learning points that can be translated into positive action and, where necessary, provide redress to set right any injustice which may have occurred.
- 2.11 Learning from complaints is monitored via the Audit and Quality Committee, the Quality Group and the Concerns, Resolution and Learning Group.

### **3. SCOPE**

- 3.1 This policy applies to all staff employed by the CCG including bank and agency staff, students and volunteers.
- 3.2 Where the CCG commission services we expect those providers to have robust policies that mirror and reflect this policy.
- 3.3 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.

## 4. PURPOSE

4.1 The purpose of this policy is to:

- set 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;
- ensure our procedure is easy to understand and simple to use;
- make sure any investigations are thorough, fair, responsive, open and honest;
- demonstrate we will learn from compliments, concerns and complaints and answer complaints in a timely manner;
- endeavour to resolve issues as soon as possible;
- outline the statutory regulations all staff must adhere to regarding any comment, concern, compliment or complaint received;

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. DEFINITIONS

### 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.

### Complainant

5.2 Refers to the individual who raises or makes a complaint.

### Parliamentary & Health Service Ombudsman (PHSO)

5.3 Referral body for complainants when a complaint cannot be resolved at local level.

## 6. ROLES AND RESPONSIBILITIES

### CCG Governing Body

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

## **Chief Officer**

- 6.2 The Chief Officer is accountable for ensuring effective management of complaints across the CCG and is the responsible signatory for written responses to formal complaints. For the purposes of the Local Authority Social and National Health Service Complaints (England) Regulations 2009, the Chief Officer acts as the 'Responsible Person'.

## **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.

## **Head of Customer Care**

- 6.5 The Head of Customer Care is the person responsible for day to day management of complaints and takes responsibility for:
- effective implementation of this policy ensuring that the CCG complies with national standards and guidance;
  - satisfactory management of complaints handling and coordinating the complaints process;
  - review of all complaints received and preparing reports for the Governing Body, the Audit and Quality Committee and the Quality Group;
  - assessing the severity of the complaint, whether escalation is required;
  - ensuring publicity, explaining how to raise concerns/complaints, is accessible to the public and complainant;
  - summarising complaints information and conclusions to inform commissioning quality monitoring and reporting across providers.
  - support and provision of advice to managers and staff from Directorates who are undertaking the management of complaints.

## **Audit and Quality Committee**

- 6.6 The Audit and Quality Committee is accountable to the Governing Body for assurance on complaints management within the CCG. The Committee will receive and review quarterly complaints reports including details on trends and themes, review issues and ensure that appropriate actions are taken, lessons are learned and make recommendations to the Governing Body as necessary.

## **Investigating Officer**

- 6.7 Investigating Officers will investigate complaints received in line with this policy. Their role in investigating complaints is to:
- investigate the circumstances of the complaint within the set time scale;
  - attend meetings with the complainant and/or their representatives, where direct involvement will help resolution of the complaint;
  - ensure that should there be a delay in completing the investigation that they contact the complainant to discuss and agree an extension of the investigation period;
  - prepare a draft letter of response, integrating responses from other services where appropriate, and forward to the Customer Care Team;
  - ensure that copies of any relevant documentation is forwarded to the Customer Care Team for placing in the complaints file.
- 6.8 Throughout the complaints process the investigating officer will ensure that there is effective communication and liaison with the Customer Care staff at all stages.

## **Managers**

- 6.9 The day to day responsibility for enforcing this policy will be delegated to Line Managers. Managers will:
- ensure that all staff are made aware of the policy;
  - ensure that all staff attend any appropriate training;
  - be responsible for ensuring investigations are comprehensive, open and honest;
  - ensure action plans are robust and that immediate action is taken to improve services where this is identified.

## **Staff**

6.10 All staff members:

- should try to resolve concerns or complaints as quickly as possible and offer an apology where appropriate;
- are responsible for providing good customer service when dealing with members of the public and/or their advocates;
- are responsible for managing, and wherever possible resolving complaints in line with this policy;
- are responsible for distinguishing the seriousness of concerns raised and bringing these to the attention of Senior Managers within the CCG;
- are responsible for co-operating within the investigation of a complaint, including meeting with complainants, if requested;
- have a responsibility to abide by this Policy and any decisions arising from its implementation;
- must follow Information Governance protocols when sharing information across organisational boundaries.

## **Professional Practice Lead**

6.11 Is responsible for:

- ensuring that providers maintain and improve the handling of complaints;
- monitoring and identifying trends and themes that may appear in relation to complaints, concerns and/or patient feedback received by providers;
- ensuring learning from complaints is disseminated within the relevant organisation;
- ensuring a culture of continuous improvement both with the CCG and providers.

## **Concerns, Resolution and Learning Group (CCG)**

6.12 The Concerns, Resolution and Learning Group:

- is responsible for monitoring and identifying trends and themes that may appear in relation to complaints, concerns and/or patient feedback;
- will receive assurance of the completion of directorate action plans and provide recommendations on preventing the recurrence of complaints where necessary;

- is responsible for ensuring that there is a culture of continuous improvement in the handling of complaints made by patients, families or representatives;
- will ensure that there are improvement initiatives in place to remedy identified shortcomings;
- will ensure that improvements made to the handling of complaints across the Clinical Commissioning Group continue to be maintained and enhanced.

### **Providers that the CCG Commissions**

- 6.13 Providers that the CCG commissions with are required to have their own arrangements for complaints handling in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- 6.14 The terms of the NHS Standard Contract requires each provider to:
- have clear information to Service Users, their Carers and representatives, and to the public, displayed prominently in the Services Environment as appropriate, on how to make a complaint or to provide other feedback;
  - ensure that this information informs Service Users, their Carers and representatives; of their legal rights under the NHS Constitution, how they can access independent support to help make a complaint, and how they can take their complaint to the Health Service Ombudsman should they remain unsatisfied with the handling of their complaint by the Provider.

## **7. SUPPORTING POLICIES AND PROCEDURES**

- 7.1 This is a live document and as new legislation, guidance and policies are approved, amendments will be added to this document.

## **8. LEGISLATION**

### **The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.**

- 8.1 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 ensure that the CCG, as a commissioner of health services, manages complaints in accordance with the NHS Complaints Procedure 2009: <http://www.legislation.gov.uk/uksi/2009/309/contents/made>

## **NHS Constitution**

8.2 The NHS Constitution explains the rights of a patient or service user in relation to making a complaint and states that patients/service users have the right to:

- have their complaint acknowledged and properly investigated;
- discuss the manner in which the complaint is to be handled and know the period in which the complaint response will be sent;
- to be kept informed of the progress and to know the outcome including an explanation of the conclusions and confirmation that any necessary action has been taken;
- take their complaint to the independent Parliamentary and Health Service Ombudsman (PHSO) if they are not satisfied with the way the NHS has dealt with the complaint;
- make a claim for judicial review if they think they have been directly affected by an unlawful act or decision of an NHS body;
- receive compensation if harmed by negligent treatment.

The Complaints section of the NHS Constitution can be accessed via <http://www.nhs.uk/choiceintheNHS/Rightsandpledges/NHSConstitution/Documents/2013/the-nhs-constitution-for-england-2013.pdf>

## **Data Protection Act 2018**

8.3 In order for the CCG to comply with the Data Protection Act 2018 care needs to be taken when using, and accessing, personal data relating to the complainant or the person who is being represented.

8.4 Generally, it will be the person who has received the service that makes the complaint. However, the CCG appreciates that there are circumstances in which another person can make a complaint on behalf of another, which are:

- a child who is not able to make the complaint on their own behalf;
- a person who has been assessed under the provisions of the Mental Capacity Act 2005 as not having capacity in this matter;
- a person with capacity has given consent for another person to act on their behalf;
- a person is deceased (the CCG will seek consent from the person who has the authority, i.e. next of kin, executor of the will in order to progress the complaint).



- 8.5 With regards to children and people without capacity, the Regulations permit the responsible body for the complaint to take a view on whether the person is acting in the patient's best interests and, if it is felt that this is not the case, then the responsible body can refuse to handle the complaint. This means that the CCG will not assume that a parent or guardian can make a complaint on behalf of a child if it is felt that the child has sufficient maturity and capacity to make, or withhold, consent. The CCG will only exercise this power after full and proper consultation with relevant other parties.
- 8.6 If an adult with capacity consents to a third person acting on their behalf, and the appointed person can provide a valid and acceptable form of consent, the CCG will regard the appointed person as a proxy for the patient in the complaint process.
- 8.7 However, where a third person claims to be making a complaint on behalf of someone with capacity and does not have that person's valid consent in place, the CCG will contact the patient and request their consent for the complaint to proceed. This will assure the CCG that the patient provides consent to the complaint being made. Where this consent is not provided the CCG will not act.
- 8.8 The CCG will also seek written consent for complaints submitted by representatives or other third parties on behalf of an individual or family member in order to demonstrate that the representative is acting in accordance with the individual instructions.
- 8.9 This policy does not duplicate issues which are clearly set out in legislation, but adapts and supplements these to meet local needs and recent developments in the NHS.

### **Transparency and Candour**

- 8.10 Dorset CCG recognises its duties of transparency and candour in dealing with complaints, as proposed by the *Francis Enquiry Report*, and recognises the requirement to promote greater openness throughout the organisation.

### **Freedom of Information Act 2000**

- 8.11 The Freedom of Information ('FOI') Act 2000 came into force on 1 January 2005 and granted everyone a statutory right to request access to information held by public authorities, including NHS organisations. While a wide range of information is accessible under the FOI Act, an important exception is personal information for example, a patient cannot access their own, or a relative's, medical notes via this route, nor would detailed information concerning a complaint be accessible under the FOI Act.
- 8.12 While some administrative statistics on the complaints that the CCG receives are available under FOI, this process is completely separate from the Complaints Procedure. Details of this process, including relevant contact details are available on the CCG's website.

## 9. VALUES

9.1 This section outlines the values that the CCG promotes when handling complaints:

- a commitment to ensure that all complaints and concerns are accepted and treated in a non-judgemental way, thereby ensuring that service users/complainants feel complaints are taken seriously and that this will not compromise future relationships between the user and the CCG;
- a commitment to ensure that all complaints are handled as quickly as possible, with sensitivity, maintaining confidentiality and ensuring fairness to both the complainant and member(s) of staff;
- a commitment to ensure that staff and the complainant are kept informed of progress and developments throughout any complaint investigation and to ensure the organisation learns from the experience;
- a recognition that service users/ complainants need to be involved at all stages of the complaints procedure and the importance of their role in the planning and development of services;
- the acknowledgement and recognition of the role of the patients, relatives and carers in informing the CCG about services, that enables lessons to be learned, and actions to be taken to minimise the risk of similar occurrences in the future;
- commitment to ensure that complainants feel able to inform the CCG should they feel like they have been treated differently as a result of raising a concern or complaint.

9.2 The CCG will work with its commissioned service providers to ensure that a similar customer focused approach is taken to complaint handling.

## 10. PARAMETERS

### **What complaints are the CCG responsible for?**

10.1 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 commissioned by the CCG**

- 10.2 The complainant will be contacted to advise them 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.
- 10.3 This will enable the organisation that is being complained about to manage the complaints process under local resolution, in accordance with the complaints regulations.
- 10.4 Should there be a need, the CCG will facilitate the complaints process between a provider that it commissions and the complainant should they wish not to communicate directly with the provider, or if they are dissatisfied with a previous response.

## **Monitoring of Complaints handled by Provider organisations**

- 10.5 The CCG commissions healthcare services for Dorset patients. It is the CCG's intention, in so far as it is able, to commission healthcare services that are entirely satisfactory to its patients. Where a patient has cause for complaint and asks a service provider organisation to investigate those concerns the CCG would not ordinarily receive details of the complaint or its outcome.
- 10.6 The CCG recognises the value of complaints and of the learning from them. Therefore, in order to have a more comprehensive overview of the numbers and types of complaints made to provider organisations about the services that the CCG commissions, the CCG will work with those organisations through the Professional Practice Lead to monitor this data.

## **Primary Care Complaints**

- 10.7 Services directly commissioned by NHS England include:
- Dentists, Pharmacy and Optometry;
  - Some GP services;
  - Specialised services;
  - Offender health;
  - Military services.

- 10.8 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.
- 10.9 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?**

- 10.10 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' and is not acting on behalf of such an individual;
  - a complaint 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.
- 10.11 Each complaint is considered on an individual basis. The Customer Care Team will take advice from necessary sources including Workforce and Service Managers as to whether a complaint may be considered under this procedure. In some cases, elements may need to be considered under different procedures. If this is the case the Customer Care Team will inform the complainant of this and the reasons why.
- 10.12 Additionally, the CCG will consider declining to handle a complaint:
- made beyond the time limit for making complaints and for which a reasonable explanation of the delay has not been given or accepted;
  - in which the CCG is not satisfied that a third party is a suitable person for making a complaint on behalf of the patient;

- made by an adult on behalf of a child who is capable of making the complaint themselves and has chosen not to do so, or has not provided consent for the complaint to be made on their behalf;
- from an individual whom the CCG has determined to be persistent and vexatious as outlined in Appendix B of this policy and no satisfactory change in behaviour has been identified.

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

### **Mediation**

10.14 The CCG is not in a position to provide a formal mediation service for providers and complainants who are having difficulty resolving a complaint. However, it may be able to provide advice on how to resolve a complaint to either party but this will not involve a representative from the CCG attending meetings between complainant and provider.

10.15 Where it is appropriate, the CCG will advise the complainant of the services of Dorset Advocacy Service that is established to assist complainants with the management of their complaint.

### **Time Limit for Making Complaints**

10.16 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.

10.17 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.

## **11. WHO CAN COMPLAIN?**

11.1 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.

11.2 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;
- 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. Written consent with supporting documentation 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.

11.3 If the Customer Care Team does not feel that the person claiming they are representing the complainant/ child/ deceased is appropriate, then this must be placed in writing to that person.

## **12. TYPES OF COMPLAINT**

### **Continuing Health Care (CHC) and Funded Nursing Care (FNC)**

12.1 When patients, relatives or carers involved in either of these processes have a complaint about the way in which that process has been administered it will be investigated through the local resolution stage of this complaints procedure.

12.2 A separate system is in place to handle appeals against decisions on funding of CHC or FNC. This is referred to as 'independent review' and is not managed through the processes set out here. Appeals should be directed to the CCG's Head of CHC.

### **Complaints about other NHS Organisations that the CCG Commission**

12.3 Providers of NHS services are responsible for investigating complaints regarding their services. 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.

12.4 The CCG will not undertake an investigation into a complaint regarding a provider organisation, it is the responsibility of the organisation providing the services to investigate a complaint regarding their service under local resolution.

12.5 The CCG, if requested, will act as the contact point for the complainant and/or liaise with any complainant and provider organisation who fail to resolve the concerns at local resolution stage, in an attempt to facilitate an outcome.

12.6 When complaints are not resolved at the local resolution stage the complainant has the right to request an Independent Review by the Parliamentary Health Service Ombudsman.

### **Complaints to the CCG Relating to a Local Authority**

- 12.7 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.
- 12.8 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.

### **Complaints from Members of Parliament**

- 12.9 From time to time the CCG receives complaints from Members of Parliament (MPs) on behalf of their constituents. These follow exactly the same process as complaints received directly from individuals.
- 12.10 Where a complaint comes via the complainant's MP, consent does not have to be sought unless the complaint is made by a constituent on behalf of a third party. Responses to such complaints are habitually sent to MPs with copies being sent to the patient or constituent whenever appropriate. Sometimes MPs may also submit more general enquiries, which are handled by the Customer Care Team outside of the provisions of this policy.

### **Complaints by Members of Staff**

- 12.11 Members of CCG staff who wish to complain about health services they have received should do so using the facilities and processes referred to in this policy.
- 12.12 Any staff complaints regarding issues at work should be addressed by reference to the relevant Workforce policy.

### **Anonymous complaints**

- 12.13 It is preferable to the efficacy of the investigative process that complainants consent to disclosure of their identity. However, in circumstances where a complainant prefers to maintain anonymity this should not be seen as bar to the complaints process. It must be noted that maintenance of the complainant's anonymity may restrict full disclosure of the details of the complaint and may result in a generic, or non-specific, final response.

### **PREVENT Protocol**

- 12.14 If a staff member becomes concerned that an adult with risk behaviour appears to be indicating that they may be being drawn into extremist activity they must contact the PREVENT Lead as soon as possible.

## **Safeguarding**

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.

### **13. CONSENT**

13.1 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.

13.2 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.

### **14. PROCESS FOR HANDLING COMPLAINTS AND CONCERNS**

14.1 The local procedure for handling complaints has two elements:

- **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;
- complainants or people raising concerns are made aware that, should they feel that they have been treated differently as a result of raising a concern or complaint, they can contact the Customer Care department to raise their concerns;
- **Independent Review** by the Parliamentary and Health Services Ombudsman. From the start of the complaints process, complainants must be made aware of their right to refer to the Parliamentary and Health Services Ombudsman if they are unhappy with the outcome of their complaint or the way in which it was handled during the local resolution stage.

14.2 Complainants should be made aware, in the first instance, of the free external advocacy support available through either Health Watch or Dorset Advocacy.

14.3 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.



## **Role of the Customer Care Team**

14.4 The CCG's Customer Care Team will provide all necessary activities to enable the CCG to meet its statutory duties and obligations as set out in the 2009 Complaints Regulations.

14.5 The key elements are:

- a central access point (Mon to Fri 8.00 am to 5.00 pm) exc. bank holidays;
- a dedicated telephone number and e-mail address;
- provide details of the CCG's procedure and related NHS procedures to customers and complainants;
- acknowledgement of concerns or complaints;
- record all contact details on the Ulysses database;
- identification of the main issues and the outcomes required to resolve the case for the complainant or customer;
- analysis of data and production of quarterly and annual reports;
- point of contact and liaison with the PHSO office;
- signpost patients to appropriate agencies and support groups outside of the NHS;
- identify the appropriate Lead within the directorate to secure the information and facts which enable a full response to be made;
- co-ordination of and support to the investigation including obtaining consent where appropriate, chase progress on the complaint investigation, send reminders of response deadlines and negotiate extensions with complainant when more time is required;
- preparation of CCG response letters following clarification and investigation ensuring that all issues identified in the complaint have been addressed;
- where findings do not fully address all of the issues raised, identify the issue, feedback to the Directorate Lead or Head of Information Governance/Customer Care for further information and negotiate revised timescales for a response;
- provide Directorate Lead/Manager/Investigating Officer with details of the case and timescales for completion;
- ensure that draft response letters are quality checked prior to sending for authorisation and signature;

- arrange for signature of response letter and sending to complainant.

### **Local Resolution**

- 14.6 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. Such expressions of dissatisfaction may be made in a variety of ways:
- verbally;
  - in person;
  - by telephone;
  - in writing, including electronically by email or fax.
- 14.7 This wide definition empowers staff to resolve minor comments, grumbles and problems immediately and informally.
- 14.8 Resolution at this stage will often prevent a minor grievance escalating to a formal complaint. The decision as to whether a matter is dealt with informally as a concern, or as a formal complaint, will depend on whether an immediate response can be given or whether further investigation is required. If it is not possible to resolve the issue quickly, the enquirer/ complainant should be referred to the Customer Care Team.
- 14.9 Staff should take into account the seriousness of an oral 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 Head of Information Governance/Customer Care Lead and/or the Director of Nursing and Quality within one working day.
- 14.10 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.
- 14.11 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.
- 14.12 In the event of the complainant remaining dissatisfied, the member of staff should review the situation with their line manager and the Customer Care Team to determine the best way forward.

## Written Complaints

- 14.13 When a letter of complaint is received by the Chief Officer, Director or by a member of staff, action must be taken immediately in line with this policy. The letter should be date stamped on arrival and forwarded to the Customer Care Team within one working day. This is to allow for the acknowledgment of the complaint within the three statutory working days of receipt.
- 14.14 Complaints can be received via post, email or verbal. A written copy of any verbal complaint must be sent to the complainant with the acknowledgement and an invitation to sign and return it. The complainant will be informed that if it is not signed within 2 weeks it will be assumed that the statement is an accurate representation of their complaint and has been accepted as agreed and the complaints investigation will start.
- 14.15 The Customer Care Team will ensure that:
- the complaint is valid and acceptable within the parameters set out in this policy;
  - the complaint is acknowledged within three working days. Within the acknowledgement the complainant is:
    - \* asked to provide consent, and a contact number, for the IO to contact them.

**Please Note:** this will not apply when the complaint is being handled by a Solicitor or Claims Management Company.

- 14.16 If every effort made to contact the complainant fails, the Customer Care Team must determine an appropriate action plan based on the complaint originally raised.

## Timescales and Outcomes

- 14.17 All written complaints will be acknowledged within 3 working days and processed under this complaints procedure. No individual member of staff should acknowledge a formal complaint letter personally.
- 14.18 Under the legislation, there are no fixed and specified response time criteria for formal complaints. Response and resolution timescales are agreed with the complainant by the IO where possible and the complaint progressed and resolved in line with this agreement.
- 14.19 The CCG anticipates all but the most complex complaints will receive a response within 25 working days. If it is not possible to respond to the complainant within the agreed time scale, the complainant will be contacted by the IO 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.

## Investigation and Response

- 14.20 The CCG will investigate a complaint in a manner appropriate to resolve it as speedily and efficiently as possible. An IO will be determined, who will be someone not directly involved in the events leading to the complaint.
- 14.21 Once the IO has been assigned they should contact the complainant to discuss the exact nature of the complaint and the desired outcomes. If possible, the complaint may be resolved at this point. A follow up letter should be sent outlining the points of the discussion and any agreement.
- 14.22 If the IO cannot resolve the complaint an investigation should be undertaken.
- 14.23 As soon as is reasonably practicable after completing the investigation, and within the timescale agreed with the complainant, a formal response in writing is to be drafted and sent to the Customer Care Team;
- 14.24 The draft response must be provided to the Customer Care Team in MS Word via email/ or in electronic format (with appropriate safeguards for patient confidentiality). It should:
- give an appropriately worded apology;
  - be sympathetic in tone, use plain English and avoid the use of technical terms, and jargon, which the recipient may not readily understand;
  - give a full explanation of the investigation findings and a judgement about the quality of service received;
  - give an honest explanation based on facts;
  - where things have gone wrong an indication of the action taken as a result of the complaint, to improve services and prevent recurrence;
  - offer the opportunity for the complainant to request further clarification or discussion on any points arising from the complaint investigation;
  - indicate that the letter marks the end of the local resolution stage unless the complainant wishes to seek further clarification from the CCG on any of the issues addressed within the response, or there are any outstanding issues not resolved;
  - Where a meeting has been held with the complainant the formal written response can be in the form of a summary of agreed points and actions;
  - advise the complainant of the independent review process via the PHSO and provide full contact details

- 14.25 The draft letter of response will then be submitted to the Chief Officer for signature. The Chief Officer will ensure that the letter addresses the points made by the complainant and complies with the guidance in this policy. S/he may amend the letter accordingly or request a revised draft via the Customer Care Team. The Customer Care Team may also ask for the draft to be amended or request further information from the Director or Investigating Officer or request that the complaint is responded to more fully.
- 14.26 Throughout the complaints process, the Customer Care Team may at any time seek clarity and/or advice from staff within the organisation who possess relevant knowledge and expertise.
- 14.27 Supporting documentation relating to the complaint may be made available to the complainant under Freedom of Information guidance.
- 14.28 The Customer Care Team will refer any relevant issues to the Head of Information Governance/Customer Care.

## **15. MEETING THE COMPLAINANT**

- 15.1 It may be useful for the IO to offer complainants the opportunity to meet with an appropriate manager and the IO. They may be accompanied by a relative or friend or an independent person, e.g., Dorset Advocacy, 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. It is the responsibility of the Customer Care Team to arrange the meeting venue, attendees and for a minute taker to be present. The Customer Care Officer will liaise with the complainant.
- 15.2 Following completion of any meeting, the notes taken and any agreed action should be sent to the complainant by the Customer Care Officer. It is the responsibility of the IO to ensure all complaint investigation documentation reflects a true and accurate account of events.

## **16. VEXATIOUS AND PERSISTENT COMPLAINANTS**

- 16.1 The CCG is committed to treating all complaints equitably and recognises that it is the right of every individual to pursue a complaint. The CCG therefore endeavours to resolve all complaints to the complainant's satisfaction. However, on occasions, the CCG may consider that a complainant who persists in making complaints raising the same or similar issues repeatedly, despite having received full responses to all the issues they have raised, may be identified as a persistent complainant. Where a complainant is considered persistent in nature, the Customer Care Team will, in agreement with the CCG's senior officers, follow the CCG's 'Procedure for Handling Persistent Complainants' (Appendix B).

## **Zero Tolerance**

- 16.2 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.

## **17. CONFIDENTIALITY**

- 17.1 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.
- 17.2 Where the complaint is received directly from the patient it is essential to obtain a signed consent form to access relevant personal information from their health records and share information with relevant organisations.
- 17.3 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.
- 17.4 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.
- 17.5 When a third party (including other agencies) is involved written permission must be given prior to disclosure of any information.
- 17.6 Particular care must be taken where any record contains information provided in confidence by, or about, a third party.
- 17.7 Complaints will be dealt with in the strictest confidence.

## **18. PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN (PHSO)**

- 18.1 The CCG welcomes the closer involvement of the PHSO with regards to complaints as a result of the 2009 regulations. 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.
- 18.2 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.

- 18.3 Any such request must be made to the Ombudsman, either orally or in writing (including electronically) 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.
- 18.4 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.
- 18.5 Requests to the Ombudsman should, if possible, be made either on a form supplied for the purpose by the Ombudsman, available from the Ombudsman's website: <http://www.ombudsman.org.uk/index.html> or in writing (including electronically).
- 18.6 There is no requirement for the complainant to copy their request to the CCG or to any other agency.
- 18.7 The Ombudsman will not automatically investigate all complaints received but will consider each case individually before reaching a decision.
- 18.8 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.
- 18.9 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.

## **19. DISCIPLINARY PROCEDURE**

- 19.1 The complaints procedure will be kept separate from the staff disciplinary procedure. The purpose of the investigation carried out under the complaints procedure is to resolve complaints and not to apportion blame or to make recommendations regarding disciplinary action against members of staff.

- 19.2 In the event of a complaint being received that involves serious allegations of misconduct about a member, or members of staff warranting a management investigation, the Information Governance/Customer Care Lead will immediately inform the Workforce Lead and the relevant director.
- 19.3 The complaints procedure will not deal with any matter already the subject of a disciplinary procedure and the CCG will inform the complainant of this. If there are other parts of the complaint, which are not related to a disciplinary procedure, these issues will be pursued in line with this policy.

## **20. HELP IN MAKING A COMPLAINT**

- 20.1 The CCG will ensure all complainants are treated with courtesy and receive appropriate support throughout the handling of a complaint. Making a complaint should not be difficult or cause unnecessary worry.
- 20.2 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.
- 20.3 NHS Complaints Advocacy has been established by the Department of Health to provide complainants with an advocacy service that can assist them with writing letters, preparing for and attending meetings, the options available at each stage of the complaint and help with making decisions on the complaint.
- 20.4 Complainants should be signposted to agencies offering specialist advice as early as possible, to help decide on the best course of action.
- 20.5 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.
- 20.6 There providers of advocacy services are:

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

Email: [nhscomplaints@dorsetadvocacy.co.uk](mailto:nhscomplaints@dorsetadvocacy.co.uk)

Tel: Information Service 0300 343 7000



Healthwatch Dorset:  
Freepost RTJR-RHUJ-XBLH  
Healthwatch Dorset  
896 Christchurch Road  
Bournemouth  
BH7 6DL

[www.healthwatchdorset.co.uk](http://www.healthwatchdorset.co.uk) - website  
[enquiries@healthwatchdorset.co.uk](mailto:enquiries@healthwatchdorset.co.uk) email

Tel: 033 111 0102

## **21. STORAGE AND RETENTION OF RECORDS**

- 21.1 Complaints files will be stored in accordance with the NHS Records Management Code of Practice and must be kept separate from any other record relating to the complainant.
- 21.2 Electronic records will be stored within the secure Ulysses database managed by and accessible only to the Customer Care Team.
- 21.3 Current hard copy (paper) records will be kept securely locked and accessible only to the CC Team.
- 21.4 Archived hard copy records will be securely stored in a facility retained by the CCG for all of its corporate records.

## **22. TRAINING**

- 22.1 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.

## **23. CONSULTATION**

- 23.1 This policy is a legislative requirement and no consultation is required.

## **24. RECOMMENDATION AND APPROVAL PROCESS**

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

## **25. COMMUNICATION/DISSEMINATION**

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

## **26. IMPLEMENTATION**

- 26.1 This policy does not require any new aspects to be implemented.
- 26.2 This policy will be made available to staff through the intranet as detailed in the CCG's policy for the management of procedural documents.

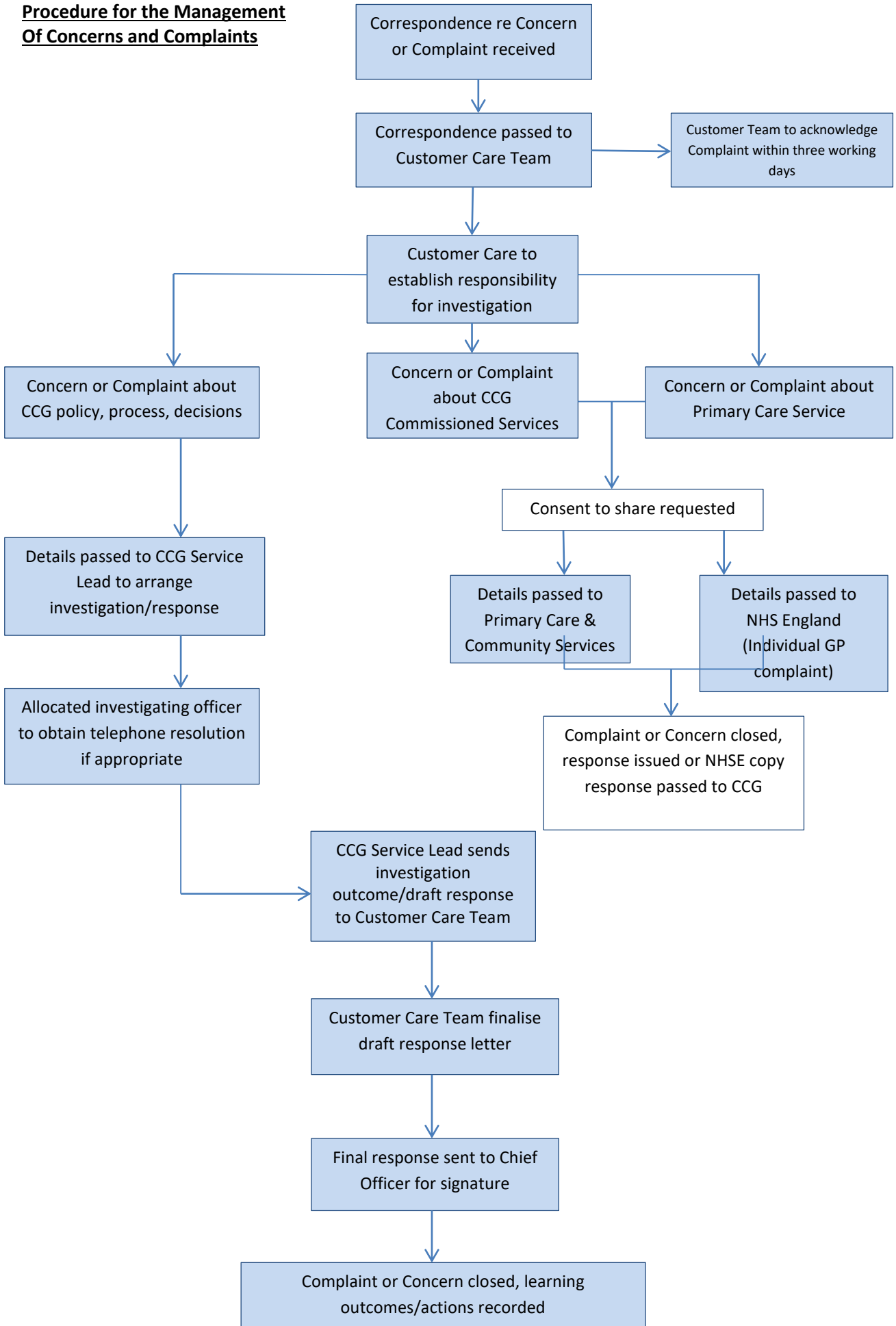
## **27. MONITORING COMPLIANCE AND EFFECTIVENESS OF THE DOCUMENT**

- 27.1 The Audit and Quality Committee takes overall responsibility for ensuring compliance with this policy and any procedures relating to the policy. Support will be provided by the Quality Group and the Concerns, Resolution and Learning Group.
- 27.2 Following each Concerns, Resolution and Learning meeting, a report summarising the issues discussed at the meeting is prepared and issued to the Audit and Quality Committee and the Quality Group.

## **28. DOCUMENT REVIEW FREQUENCY AND VERSION CONTROL**

- 28.1 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.

**Procedure for the Management Of Concerns and Complaints**



## 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 - 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 organisation's 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.