

Corporate	CCG CO02: Complaints Policy
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Document History

Version	Date	Significant Changes
V1	28/02/2013	First Issue
V2	22/07/2015	<ul style="list-style-type: none"> Addition of recommendations from Clwyd Hart report and update amendments to policy. Updated appendices included. Replacement of the terms 'Senior Clinical Quality Officer' and 'Clinical Quality Team' with 'NECS Complaints Team'
V2.1	22/06/2016	<ul style="list-style-type: none"> Addition of information leaflet for patients and the public about the NHS Complaints Procedure, Appendix A Addition of actions required in relation to complaints containing Safeguarding concerns. Addition of update with regard to unplanned, face to face meetings with complainants
V2.2	June 2018	<ul style="list-style-type: none"> Updated in line with natural expiration date

Equality Impact Assessment

Date	Issues
06/2018	See section 12 of this document

POLICY VALIDITY STATEMENT

This policy is due for review on the latest date shown above. After this date, policy and process documents may become invalid. Policy users should ensure that they are consulting the currently valid version of the documentation.

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1. Introduction

For the purposes of this policy NHS Newcastle Gateshead Clinical Commissioning Group will be referred to as “the CCG”.

The CCG aspires to the highest standards of corporate behaviour and clinical competence, to ensure that safe, fair and equitable procedures are applied to all organisational transactions, including relationships with patients their carers, public, staff, stakeholders and the use of public resources. In order to provide clear and consistent guidance, the CCG will develop documents to fulfil all statutory, organisational and best practice requirements and support the principles of equal opportunity for all.

This policy is designed to outline the process for handling complaints generated by patients or their representatives and aims to set out clear guidelines for staff, managers and complainants around how complaints will be managed.

It is our aim that all patients, relatives and their carers will not be treated differently as a result of making a complaint. This will be achieved by ensuring that complaints are handled fairly and openly. It is clearly not always possible for the complainant to receive the outcome they hoped for, but if they feel that their complaint has been handled appropriately and that they have had a fair hearing, this is a positive outcome.

The CCG is very keen to ensure that complaints are used as learning opportunities and that trends are analysed and reported on. It is essential that information we gain from complaints is used to improve the quality and safety of the services we commission.

This policy has been written in accordance with the ‘Local Authority Social Services and National Health Service Complaints (England) Regulations 2009’. Reference is also made to the Department of Health guidance in complaints handling ‘Listening, Responding, Improving’, Parliamentary and Health Service Ombudsman’s ‘Principles of Good Complaints Handling’, the NHS Constitution (2008) and ‘A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture’ (Right Honourable Ann Clwyd MP and Prof Tricia Hart, 2013).

2. Status

This policy is a corporate policy.

3. Purpose and scope

This policy describes the systems in place to effectively manage all complaints received by the organisation in accordance with NHS complaints regulations. It outlines the responsibilities and processes for receiving, handling, investigating and resolving complaints relating to the actions of the organisation, its staff and services.

The policy also includes the process used for complaints received relating to commissioned services such as NHS Acute and Foundation Trusts, Mental Health Trusts, Community NHS Services, independent contractors (general practices, dental practices, pharmacies and opticians) and independent sector providers.

The purpose of this policy is to ensure that the CCG promotes best practice within its complaints management function, and also that it is compliant with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. The CCG also adheres to the NHS Constitution including the five rights covering complaints and redress.

This policy and procedure sets out how the NHS complaints procedure will be implemented locally and must be followed by all staff employed or hosted by the CCG.

4. Definitions

The following terms are used in this document:

- 4.1 **Complaint:** a written or oral expression of dissatisfaction which requires a response.
- 4.2 **Issues/concerns:** a written or oral expression of dissatisfaction that can be resolved without the need for formal investigation or correspondence.
- 4.3 **Independent Complaints Advocacy (ICA):** is the organisation that provides independent help and support for people pursuing an NHS complaint.
- 4.4 **Investigating officer:** the person identified as responsible for handling and investigating an individual complaint.
- 4.5 **The Parliamentary and Health Service Ombudsman (PHSO):** is the organisation that manages the second stage of the NHS complaints procedure
- 4.6 **Serious Incident (SI):** is an incident or near miss occurring on health service premises or in relation to health services provided, resulting in death, serious injury or harm to patients, staff or the public, significant loss or damage to property or the environment, or otherwise likely to be significant public concern.
- 4.7 **Clinical Commissioning Group (CCG):** CCGs are NHS organisations set up by the Health and Social Care Act 2012 to organise the delivery of NHS services in England.
- 4.8 **Commissioning Support Services (CSS):** CSS are designed to offer an efficient, locally-sensitive and customer-focused support service to CCGs.

Any other special terms or abbreviations used in this document are defined as they occur.

5. Informal Local Resolution

- 5.1 Patients/representatives and those making comments or raising concerns should be encouraged in the first instance to make representation with the CCG informally. Many expressions of dissatisfaction can be satisfactorily dealt with in this way. However, a record should still be kept by the CCG of these concerns and the outcomes.
- 5.2 Every effort will be made by CCG staff to provide an informative and constructive response to informal concerns received by individuals or teams. It may be possible to reconcile any conflicting views within discussion. A simple explanation of the systems and processes may suffice in resolving the matter informally and successfully.
- 5.3 If the patient/representative prefers to speak to someone who is not directly involved in their care/process or wishes to make the complaint formal, they should be directed to the NECS Complaints Team who will provide information on options for taking forward their concern/complaint.
- 5.5 Where informal resolution informally with the CCG is not achieved and the issue is raised with the NECS Complaints Team, with the patient/representative's agreement, the Complaints Team may further seek resolution of an issue on an informal basis, rather than processing this as a formal complaint. Such cases are graded as 'advice' or 'concern' by the Complaints Team.
- 5.6 A case categorised as 'advice' would apply where an enquirer requires initial advice or information from the Complaints Team on options for taking forward a formal complaint or advice on another process (eg an appeal process).
- 5.7 An example of case which may be handled as a 'concern' is where a patient/representative would like their issue to be raised informally by the Complaints Team with services in order to obtain quick resolution and/or correct a mistake. This type of case would be facilitated by the Complaints Team without the need for it to enter formal local resolution process.

6. NHS complaints procedure and process

A reformed complaints procedure covering both health and adult social care was introduced from April 2009. This enables organisations and the person complaining to agree on the best way to handle the complaint to achieve a satisfactory outcome. Within this process both concerns and complaints can be made either verbally, in writing or electronically via email.

There are two stages to the NHS complaints procedure:

- Local resolution of complaint through investigation and response by NHS Trust or provider
- Independent Review of complaint by Parliamentary and Health Service Ombudsman

Information for patients and the public on the NHS Complaints Procedure is shown in Appendix A.

6.1 Who can complain?

- 6.1.1 Anyone who is receiving, or has received, NHS treatment or services or who is affected or is likely to be affected by an action, omission or decision can complain. This includes services provided by independent providers as part of an NHS contract.
- 6.1.2 If a patient (including a child over the age of 13) does not wish to complain themselves then someone else, usually a relative, friend or other representative, can complain on their behalf providing written authorisation is given.
- 6.1.3 If a complainant is the parent or guardian of a child under the age of 13 (to whom the complaint relates) the organisation must be satisfied that there are reasonable grounds for the complaint being made by the representative instead of the child. Where the child is aged 13 to 18, their written consent should be provided for a parent/guardian or other representation to act on their behalf with regard to the complaint.
- 6.1.4 If a patient is unable to act, for instance due to physical incapacity or lack of capacity within the meaning of the Mental Capacity Act (2005) consent is not required. In such situations, a suitable representative may pursue the complaint on their behalf, however, evidence of their authority to act will be required. Guidance from the Information Governance Team will be obtained as required in relation to consent/authority to act.
- 6.1.5 If a complaint is raised concerning a patient who is deceased, this must be made by a suitable representative, for example next of kin. If the Complaints Team does not consider that the complainant is a suitable representative, they may decline to deal with the complainant and recommend that another person acts on the deceased patient's behalf.

6.2 Support for persons making a complaint

The Independent Complaints Advocacy Service (ICA) provides a free, impartial and independent service for people wishing to make a complaint about the NHS. All complainants will be provided with information about ICA. Information regarding other specialist advocacy services will be provided, as required.

6.3 Process for verbal complaints

- 6.3.1 Clear information about the complaints process is made available to patients, the public and staff via the CCG's website.
- 6.3.2 Complaints can be made verbally to a member of CCG staff or Commissioning Support Service staff will be forwarded to the clinical quality team and in this instance a written statement will be taken from the complainant ensuring all salient points requiring a response are documented.

- 6.3.3 The written statement will be sent to the complainant asking them to make any changes to ensure it is an accurate reflection of their complaint. The complainant will then be asked to sign and return the statement to the Complaints team. The complainant will be advised that their complaint will not be processed until the signed statement is returned.
- 6.3.4 There may be instances when it is not appropriate to take a formal complaint over the telephone, for example, if the concerns raised are complex. In cases such as this a face to face meeting will be offered to clarify the complaint or with the complainant's permission a referral can be made to ICA. Face to face appointments with the Complaints Team are by appointment only.

6.4 Time-limit for making a complaint

- 6.4.1 The timescale within which an NHS or social care complaint must be made is 12 months from the date on which a matter occurred, or the matter came to the notice of the complainant.
- 6.4.2 The regulations set out that the organisation has the discretion to investigate beyond this time, especially if there is good reason for a complaint not being received within the 12 months. The time limit can, and should, be waived if it is still practical and possible to investigate the complaint, for example, the records still exist and the individuals concerned are still available to be questioned.
- 6.4.3 When a complaint is made outside these limits and the time limits are not waived, the manager responsible for complaints will advise the complainant of their rights to request that the Parliamentary and Health Service Ombudsman consider their case.

6.5 Issues that cannot be addressed within the complaints procedure

This policy and procedure does not address:

- 6.5.1 A complaint made by a responsible body to another responsible body. For example disputes on contractual matters between independent contractors should not be handled through this procedure.
- 6.5.2 Complaints regarding privately funded treatment.
- 6.5.3 Complaints which are made verbally and resolved to the satisfaction of the complainant no later than the next working day after the complaint was made.
- 6.5.4 Complaints regarding an alleged failure to comply with a request for information under the Freedom of Information Act (2000), Access to Health Records Act 1990 or Subject Access Requests. These will be dealt with via information governance processes.
- 6.5.5 A complaint made by an employee about any matter relating to his/her employment. These matters will be handled via human resources procedures.

- 6.5.6 Complaints that have already been locally investigated under the complaints regulations or which are being or have been investigated by a Local Commissioner under the Local Government Act 1974 or the Health Service Commissioner under the 1993 Act.
- 6.5.7 If the organisation decides that a complaint meets any of the criteria detailed in sections 6.5.1 – 6.5.6 the complainant will be notified in writing of this decision and the reasons why.
- 6.5.8 Complaints disputing a funding decision or eligibility criteria/policy; these will be managed via the appropriate appeals process (where applicable) or other agreed process.

6.6 Written complaints received

- 6.6.1 Most written complaints will come directly to the Chief Officer (as accountable officer) or to the CCG's generic communication inbox. However, if a member of staff receives a written complaint, they have a duty to send it immediately to the Governance and Risk Officer who will decide on how best to resolve the issue in conjunction with the Chief Officer where appropriate. This may be on an informal basis or through a formal complaints investigation, depending upon the nature of the complaint.

The complainant's verbal or written consent must be obtained by the CCG prior to forwarding the complaint to the Complaints Team and this should be sought within one working day of receipt. Formal complaints received by the CCG staff must be forwarded to the Complaints Team's generic email account, necsu.complaints@nhs.net, within one working day of receiving consent.

- 6.6.2 The complainant has a choice of complaining directly to the CCG as commissioner rather than to the NHS body, primary care provider or independent provider who provided the care. The final decision on who will investigate the complaint rests with the CCG once all mitigating circumstances are taken into account.
- 6.6.3 This will include the complainant's wishes and the seriousness of the complaint, for example where there has been a poor record of complaints handling or the complaint suggests a significant risk to patient safety or there appears to be a trend. Please refer to section 6.9 for guidance on how provider complaints are handled.

6.7 Process for complaints handled by the CCG

6.7.1 Acknowledging the complaint

- 6.7.1.1 Upon receipt of a complaint the manager responsible for complaints will assess the issues raised for wider governance issues, such as patient safety issues or potential poor performance concerns.
- 6.7.1.2 The complaint will be risk rated to determine the level of risk to the CCG and the level of investigation required.
- 6.7.1.3 All complaints received will be acknowledged verbally or in writing within three days of receipt or from when the signed verbal statement is received.
- 6.7.1.4 At the time of acknowledging the complaint the Complaints Team must offer to discuss and agree the following with the complainant:
- An action plan for handling the complaint.
 - When the investigation is likely to be completed.
 - What reasonable outcome is desired.
 - When the response is likely to be sent.
 - Offer a local resolution meeting if appropriate.
 - Advise the complainant of advocacy services, such as ICA.
- 6.7.1.5 The agreed action plan and timescales for response will be confirmed in writing to the complainant.
- 6.7.1.6 If the complainant does not take up the offer of a discussion the Complaints Team should determine the response period and the complainant will be notified of this in writing.
- 6.7.1.7 Where it is agreed that the CCG will handle the complaint rather than the provider or where it has been agreed that the CCG will co-ordinate the response, consent will be required from the complainant to obtain access to relevant medical records and/or to seek a response from the provider organisation(s).
- 6.7.1.8 If the complainant fails to provide written consent they will be notified in writing of the elements of the complaint that are unable to be investigated and responded to.

6.7.2 Investigation

6.7.2.1 The investigation will be conducted in a timely manner, proportionate to the complaint.

6.7.2.2 The Complaints Team will:

- Forward the complaint to the appropriate lead for investigation, with details of the issues to be investigated and agreed in the action plan.
- Send a copy of the complaint to the investigating officer.
- Identify at an early stage whether it would be helpful to offer a local resolution meeting.
- Keep the complainant up to date with the progress of the investigation.

6.7.2.3 The investigating officer will:

- Establish what happened, what should have happened and who was involved and make written records of the investigation/staff statements.
- Make sure a sincere and appropriate apology is made as appropriate.
- Identify what actions can be implemented to ensure that there is no recurrence and address any training issues and learning points.
- Draft a report addressing the issues raised by the complainant and comment on what action is being taken to prevent a recurrence in the future.

6.7.2.4 Staff involved in a complaint:

- Will be made aware of the complaint and asked to prepare written statements as part of the investigation.
- Are required to co-operate with the complaints procedure as part of their terms of employment. Where an employee refuses to give an interview or a written account without reasonable grounds, this should be considered a disciplinary offence.

6.7.2.5 Where the complaint relates to a clinical matter, written reports from any appropriate clinician should be obtained. These reports can be potentially disclosed to the complainant and therefore must be written in plain English and without jargon or abbreviations.

6.7.3 The Response

6.7.3.1 The written response will include the investigation report (where appropriate) and will:

- Address all the issues raised by the complainant
- Provide explanations and apologies, where appropriate.
- Indicate lessons learned from the complaint.
- Include what steps have been taken to prevent a recurrence.
- Outline what options are available if the complainant is not satisfied with the response, including details of the Parliamentary and Health Service Ombudsman (PHSO).

6.7.3.2 The Complaints Team responsible for complaints will forward the formatted written response, including the investigation report, for the approval to the investigating officer and any other relevant staff involved in the complaint.

6.7.3.3 The response will then be forwarded for final approval to the Chief Officer.

6.7.3.4 If for any reason a response cannot be made within the agreed timescale (for example a person involved in the complaint is absent from work) the complainant will be contacted by the Complaints Team and an extension to the specified revised timescale will be agreed.

6.7.3.5 If the complainant is satisfied with the response the case will then be closed. The issues giving rise to the complaint and any changes made to practice or procedures as a result of the investigation will be subject to on-going review through the quality governance working group.

6.7.3.6 If a complainant is dissatisfied with the response, every effort will be made to achieve a satisfactory outcome at local level by:

- identifying outstanding issues
- arranging further meetings
- providing a further written response
- involving a conciliator, where appropriate

6.7.3.7 If following all attempts to resolve the complaint locally the complainant remains dissatisfied they will be notified that local resolution is at an end and that they can ask the PHSO to consider their case. Information on the PHSO will be routinely given to complainants at the completion of local resolution.

6.8 Conciliation Process

- 6.8.1 A conciliation service with access to trained lay conciliators is available to assist in the resolution of complaints. Arrangements for conciliation will be made via the Complaints Team throughout the complaints process, as required.
- 6.8.2 The lay conciliator will report back to the Complaints Team on outcomes and agreed action points but will not disclose the substance of any discussions.
- 6.8.3 The conciliation process is confidential. However, where information is raised within that process regarding a child protection or patient safety issue, the conciliator may have to breach confidentiality and seek further advice from the manager responsible for complaints.

6.9 Process for complaints received about NHS providers

- 6.9.1 In the majority of cases when a complaint is received the provider will normally be given the opportunity to respond to the complaint. The complaint will be acknowledged verbally or in writing within three working days and consent will be sought to forward the complaint to the provider.
- 6.9.2 When consent is received the complaint will be passed to the provider who will handle it in accordance with the NHS complaints procedure. A letter confirming that the complaint has been passed to the provider will then be sent to the complainant.
- 6.9.3 There may be occasions when the CCG considers it appropriate to handle the complaint rather than the provider. This decision will be taken once all mitigating circumstances have been taken into account, including the complainant's wishes, seriousness of complaint or significant patient safety issues or where there appears to be a pattern.
- 6.9.4 In such cases both the complainant and provider will be notified and the complaint will be processed in accordance with section 6.7.
- 6.9.5 The CCG will ensure via contractual agreement that all NHS providers and any private provider with whom it has a contract or service level agreement have arrangements in place for handling complaints made about services they provide that is comparable with the NHS complaints procedure.
- 6.9.6 All providers will, via contractual agreement, be asked to report on the number and nature of complaints, concerns, comments and compliments received on an annual basis. This will include evidence of all lessons learned and improvements to services to prevent a reoccurrence of similar complaints.

6.10 Process for handling joint NHS and local authority complaints

6.10.1 When complaints are received about both health and local authority services, with the complainant's consent, the organisations involved will co-operate with each other to deal with the aspects of the complaint that relates to them. Both agencies will agree who will lead on the complaint and will aim to provide a single co-ordinated response.

6.10.2 The Chief Officer (or nominated deputy) will sign the response. Irrespective of lead responsibility each organisation retains its duty of care to the complainant and must handle its part of the complaint in accordance with its own procedures.

6.11 Process for complex complaints that span several NHS organisations

6.11.1 Where a complaint is received that spans a number of NHS provider organisations the CCG will seek assurance that there will be a co-ordinated approach to the handling of the complaint across the various parties involved, prior to passing the complaint to the lead organisation.

6.11.2 The organisation who will lead in the handling of the complaint will be agreed following discussion with the parties involved. This decision will be made taking into account the organisation that has the greater part in the complaint as well as the complainant's wishes.

6.11.3 Where the complaint is particularly complex or where serious patient safety issues have been identified the CCG may choose to co-ordinate the response or lead in the investigation of the complaint with the complainant's consent, rather than the providers.

6.12 Process for handling complaints about non NHS services

Occasionally complaints are received about services not provided by the NHS, e.g. private treatment. In such cases, wherever possible, the Complaints Team will advise the complainant of the correct agency to contact and will offer to forward the complaint for investigation. Beyond this the organisation will have no further input.

6.13 Staff support during the complaints process

It can be very stressful for those involved in the complaint process and advice and support is available to staff. Information is available on request from the Complaints Team.

6.14 Equality and diversity

6.14.1 Making a complaint does not mean that a patient/complainant will receive less help, or that things will be made difficult for them or that the quality of their care will be compromised.

6.14.2 Every complainant will be treated fairly and equally regardless of age, disability, race, culture, nationality, gender, sexual orientation and faith.

6.14.3 For people who require language or signed interpreting this will be made available throughout the complaints process.

6.15 Disciplinary procedures

6.15.1 The complaints procedure is concerned with resolving complaints to the satisfaction of complainants and learning lessons for improvement and not for investigating disciplinary matters.

6.15.2 The two procedures are entirely separate. However, complaints can occasionally reveal the need for an investigation under the disciplinary procedure. In such an event the Complaints Team will not be involved in any disciplinary investigation.

6.16 Serious incidents and complaints

6.16.1 The procedure for investigating serious incidents (SI) is separate from the complaints procedure and is managed in accordance with the Serious Incidents Policy. If during the course of investigating a SI, a complaint is also received, the incident procedure will normally take precedence in terms of the investigation.

6.16.2 If a complaint investigation reveals the need to take action under the SI procedure the incident procedure will normally take precedence in terms of investigation.

6.16.3 In these circumstances the complainant will be notified of the SI investigation and will be kept updated on the progress by the Complaints Team. It should be remembered that the issues raised in a complaint will not always be exactly the same as those investigated under the SI procedure and a separate and full response to the complaint will be required.

6.17 Process for dealing with anonymous complaints

All anonymous complaints received will be investigated if there is enough information to carry out an investigation. Investigating officers will be requested to report to the appropriate director and make appropriate recommendations based on the allegations raised.

6.18 Withdrawal of a complaint

If a complainant withdraws a complaint at any stage in the procedure, which involves issues raised against an individual, those complained against will be informed.

6.19 Learning from and monitoring of complaints

6.19.1 The CCG's philosophy for the management of complaints is to recognise their positive value through the effective monitoring of complaints. In applying these principles and sharing the learning we can all effect change.

6.19.2 The CCG will use the intelligence gained from complaints information (individual complaints received and provider annual complaints

reports) to develop a greater awareness of services commissioned and where these may not meet quality standards.

6.19.3 The relevant quality committee will receive quarterly complaints reports as part of governance and performance reporting. The reports will identify any trends and patterns arising from complaints, and any subsequent action taken as a result of lessons learned.

6.19.4 An annual report will be prepared for the governing body on the handling and consideration of complaints, outlining actions, monitoring compliance and outcomes.

6.20 Recording of complaints

6.20.1 Record keeping will be in accordance with the Records Management Policy and Strategy, and will be of the highest standard and the electronic risk management system will be used to record and collate all complaints information.

6.20.2 The 'Principles of Good Administration' established by the PHSO have been adopted. However the principles are not a checklist but provide a framework which is used when dealing with complaints.

6.20.3 Staff dealing with complaints must maintain accurate and up to date complaints files at all times in accordance with the principles of good record keeping. The complaints record will not be filed within a clinical record but held within a separate complaints file.

6.21 Confidentiality/consent and safeguarding concerns

6.21.1 Care will be taken at all times throughout the complaints procedure to ensure that any information disclosed about the patient/service user is confined to that which is relevant to the investigation of the complaint. Information will only be disclosed to people who have a demonstrable need to know it for the purpose of investigating the complaint or ensuring that the complaints process is followed.

6.21.2 It is recognised that there may be circumstances in which the nature of, or aspects of, a complaint indicate protection, safety or wellbeing concerns about a child or vulnerable adult. In these circumstances a complaint will be escalated as necessary and in line with the CCG and Local Safeguarding Children and Adults Boards safeguarding procedures and such information contained in the complaint disclosed in the best interests of the complainant/patient.

- 6.21.3 Where a complaint refers to allegations against a member of staff of a safeguarding nature the CCG Managing Allegations Against Staff Policy must be followed and either supersede the complaints policy where such concerns form the whole of the process, or where only part of the complaint, the two processes occur simultaneously with decisions about response times and involvement of the member of staff being taken jointly. Where the Managing Allegations Against Staff Policy is invoked, the complainant must be notified immediately.
- 6.21.4 Where the receiving manager or member or the NECS Complaints Team is unsure about whether the nature of the complaint meets the criteria for escalation under safeguarding procedures, or should be dealt with under the Managing Allegations Against Staff Process, they must consult with the Designated Nurse Safeguarding and Looked After Children or the Designated Nurse Safeguarding Adults as appropriate and within one working day.
- 6.21.5 Where safeguarding concerns are identified the complainant will be notified of the escalation and rationale for disclosure of information within one working day. Where safeguarding concerns form only part of a complaint the complainant will be informed of how the differing aspects of the complaint will be handled.

6.22 Access to personal information/medical records

- 6.22.1 Under the General Data Protection Regulation (GDPR), individuals (both service users and employees) have certain rights regarding the way information about them is used. These include having the rights to see information that is recorded about them (subject access request) and to have any part of it that they do not understand explained.
- 6.22.2 Where clinical records are used in a complaint investigation, investigating officers must comply with regulations within the procedure for sharing of information across services or external agencies (incorporating the code of practice on openness in the NHS). Where copies or access to records is provided as part of the resolution of a complaint there is discretion to waive the usual access fee and associated charges.
- 6.22.3 Any requests received for access to complaint documentation will be sent to the information governance department for appropriate action.

6.23 Complaints and Litigation

- 6.23.1 On receipt of a complaint in which legal action is being taken or the police are involved the CCG should continue to resolve the complaint unless there are clear legal reasons not to do so.
- 6.23.2 Advice will be sought from relevant authorities (such as legal advisors or NHS Resolution) to determine whether progressing the complaint might prejudice subsequent legal action.

6.23.3 If there is likely to be any prejudice to the legal case the complaint will be put on hold and the complainant will be advised of this in writing and provided with an explanation.

6.23.4 Paperwork relating to the complaints investigation can be used in a court of law.

6.24 Complaints about Freedom of Information

Complaints about Freedom of Information request, Access to Health Records Act 1990 requests and Subject Access Requests are not dealt with through the NHS complaints procedure. Any complaint of this nature received will be forwarded to the appropriate information governance officer for investigation through relevant channels.

6.25 Dealing with media interest

All enquiries relating to complaints from the media must be immediately referred to the communications department ensuring that confidentiality is maintained at all times.

6.26 Retention of complaint records

Complaint files will be retained securely for a minimum of 10 years.

6.27 Habitual and/or persistent complaints

6.27.1 Some complainants find it difficult to accept the findings following an investigation even when it has been to the second stage of the complaints procedure. The difficulty in managing such complaints places a strain on resources and causes undue stress for staff.

6.27.2 In such cases, it is important to ensure that the complaints procedure has been correctly implemented as far as possible and that no material element of the complaint has been overlooked or inadequately addressed.

6.27.3 The procedure on how to handle habitual and/or persistent complaints is attached in Appendix 2.

7. Duties and Responsibilities

<p>Chief Officer</p>	<p>The Chief Officer has overall responsibility for the strategic direction and operational management, including ensuring that CCG process documents comply with all legal, statutory and good practice guidance requirements.</p> <p>The Chief Officer (or nominated deputy) is also responsible for signing off all complaint responses on behalf of the CCG.</p>
<p>Executive Director of Nursing, Patient Safety and Quality</p>	<p>The Executive Director of Nursing, Patient Safety and Quality is responsible for the day-to-day handling of complaints received directly by the CCG. The Executive Director of Nursing, Patient Safety and Quality will arrange for appropriate consent to be received from the complainant for those received directly by the CCG.</p> <p>In conjunction with the Complaints Team they will agree on how to handle individual complaints where necessary.</p>
<p>Commissioning Support Services (CSS)</p>	<p>The Complaints Team is responsible for the day-to-day handling of complaints and will be readily available to receive complaints, support staff with the local resolution process and to give information and advice where required.</p> <p>Where appropriate, the Complaints Team will also arrange a conciliation service to assist in the resolution of complaints. Information will also be relayed to the complainant regarding advocacy services that are available.</p> <p>The Complaints Team will co-ordinate and collate all the information required in order to produce a draft response to the complainant. All actions arising as a result of a complaint investigation will be monitored by the Complaints Team to ensure implementation, in conjunction with line managers and heads of service.</p> <p>The Complaints Team is responsible for entering information onto the risk management database and producing appropriate reports as required, including the collection of data to enable the annual complaints return to the Department of Health.</p> <p>The Complaints Team will keep up to date with current legislation and advise others as appropriate.</p> <p>In cases that involve the Parliamentary and Health Services Ombudsman, the Complaints Team will be the point of contact for the Ombudsman and will liaise with them in any investigation.</p>

Investigating Manager	<p>The investigating manager is responsible for undertaking the detailed investigation of complaints, to provide information in order that the Complaints Team can draft the written response for signature by the Chief Officer or nominated deputy (usually the chief finance officer).</p> <p>The investigating manager will establish the underlying causes of complaints and ensure that these are properly understood, lessons are learned and where appropriate, improvements to patient care and services are implemented. The investigating manager is also responsible for ensuring that any actions arising from complaints are implemented and the outcome is fed back to the Complaints Team.</p>
Senior Management Team	<p>The senior management team is responsible for ensuring that complaints are investigated in accordance with this policy; working with the Complaints Team to ensure satisfactory resolution of complaints, including the implementation of any lessons learned.</p>
All staff	<p>All staff, including temporary and agency staff, are responsible for:</p> <ul style="list-style-type: none"> • Compliance with relevant process documents. Failure to comply may result in disciplinary action being taken. • Co-operating with the development and implementation of policies and procedures and as part of their normal duties and responsibilities. • Identifying the need for a change in policy or procedure as a result of becoming aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local/national directives, and advising their line manager accordingly. • Identifying training needs in respect of policies and procedures and bringing them to the attention of their line manager. • Attending training / awareness sessions when provided.

8. Implementation

- 8.1 This policy will be available to all staff for the effective management of all complaints received by the organisation in accordance with NHS complaints regulations.
- 8.2 All managers are responsible for ensuring that relevant staff within the CCG have read and understood this document and are competent to carry out their duties in accordance with the procedures described.

9. Training Implications

The Complaints Team will provide or arrange coaching or training in complaints handling and good customer care. Managers should ensure that appropriate staff in their areas who require such support contact the Complaints Team to arrange training.

Complaints awareness is included in the corporate induction programme for all new members of staff.

10. Related Documents

10.1 Other related policy documents

- Safeguarding and Looked After Children Policy
- Safeguarding Adults Policy
- Freedom of Information Policy and Procedure
- Records Management Policy and Strategy
- Serious Incidents Policy
- NHS England Complaints Policy, 2016

10.2 Legislation and statutory requirements

- General Data Protection Regulation (GDPR)
- Cabinet Office. (2006) *Equality Act 2006*. London. HMSO.
- Cabinet Office. (2005) *Mental Capacity Act 2005*. London. HMSO.
- Cabinet Office. (2000) *Freedom of Information Act 2000*. London. HMSO
- Cabinet Office. (1998) *Access to Health Records Act*. London. HMSO.
- Cabinet Office. (1998) *Data Protection Act 1998*. London. HMSO.
- Cabinet Office. (1998) *Human Rights Act 1998*. London. HMSO.
- Department of Health. (2009) *Local Authority Social Services and National Health Service Complaints (England) Regulations*. London. HMSO.
- Department of Health. (2009) *The NHS Constitution for England*. London. HMSO.

10.3 Best practice recommendations

- NHS England. (2015) *Assurance of Good Complaints Handling for Primary Care – A toolkit for commissioners*
- NHS England. (2015) *Accessible Information Standard*
- NHS England. (2013) *Guide to good handling of complaints for CCGs*
- Right Honourable Ann Clwyd MP and Prof Tricia Hart. (2013) *A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture*
- HMSO. (2009) *A guide to better customer care, 2009*
- PHSO. (2009) *Principles of Good Administration*
- PHSO. (2009) *Principles of Remedy*
- PHSO. (2008) *Principles of Good Complaint Handling*
- Department of Health. (2008) *Records Management: NHS Code of Practice*. London: DH.
- NHS Litigation Authority. (2008) *Risk Management Standard for Primary Care Trusts*. London: NHSLA.

- Healthcare Commission. (2007) *Spotlight on Complaints*

11. Monitoring, Review and Archiving

11.1 Monitoring

The Governing Body will agree a method for monitoring the dissemination and implementation of this policy. Monitoring information will be recorded in the policy database.

11.2 Review

11.2.1 The governing body will ensure that this policy document is reviewed in accordance with the timescale specified at the time of approval. No policy or procedure will remain operational for a period exceeding three years without a review taking place.

11.2.2 Staff who become aware of any change which may affect a policy should advise their line manager as soon as possible. The council of members will then consider the need to review the policy or procedure outside of the agreed timescale for revision.

11.2.3 For ease of reference for reviewers or approval bodies, changes should be noted in the 'version control' table on the second page of this document.

NB: If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

11.3 Archiving

The Governing Body will ensure that archived copies of superseded policy documents are retained in accordance with Records Management: Code of Practice for Health and Social Care 2016..

12. Equality analysis

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Appendix 1

NHS Complaints Information

North of England Commissioning Support Unit (NECS) supports Clinical Commissioning Groups (CCGs) and other NHS organisations to improve health services for everyone.

We welcome feedback, both positive and negative, about NHS services commissioned or provided by those organisations as well as about NECS itself.

If you are unhappy with the treatment or service you, a relative or someone you care for has received from your local NHS, you have the right to make a complaint, have it looked into and get a response.

Within the NHS we aim to make sure all complaints are handled well and that appropriate action is taken in order to try and resolve the matter to the complainant's satisfaction.

Can my issue be resolved without formally complaining?

You can raise your concerns immediately by speaking with the staff involved. This might give you the response you require without having to take the matter further.

You can also contact the Patient Advice and Liaison Service (PALS) who can provide confidential advice and support to help you resolve queries and concerns about your NHS care within a hospital trust informally without having to make a formal complaint.

- PALS does not investigate complaints but will provide informal support in resolving a query or concern
- PALS cannot help with issues which have already been raised via the NHS complaints procedure or with social care complaints
- PALS does not provide medical advice

Find out more about PALS on the NHS Choices website via the link below:

<http://www.nhs.uk/chq/Pages/1082.aspx?CategoryID=68&SubCategoryID=153>

What is NECS role in the local complaints process?

Local CCGs have asked the NECS to manage complaints on their behalf. Therefore if your complaint is about a CCG commissioning or funding decision you should contact the CCG in question. The CCG will need to pass the information on to NECS to deal with. If you are not happy for these details to be shared with NECS you must make it clear at the time of raising your complaint that you do not give consent for the details to be shared.

If we receive complaints about the services NECS provides, we deal with those ourselves, internally.

Who can help me make a complaint?

The Independent Complaints Advocacy (ICA) team can guide and support you through the complaints process. They can help put your complaint in writing and attend meetings with you; however, the ICA team does not investigate complaints.

For Northumberland complaints, Healthwatch Northumberland provide advocacy support either via telephone on 03332 408468 or via e-mail at info@healthwatchnorthumberland.co.uk

For Cumbria complaints, Best Life Advocacy provide advocacy support via either via telephone on 0300 303 8037 or via email at admin@peoplefirstcumbria.co.uk

For Stockton complaints, Stockton ICA provide advocacy support either via telephone on 0808 1729553 or via email sica@pcp.uk.net.

In all other areas of the North East, the Carers Federation provide advocacy support either via telephone on 0808 802 3000 or via email at ica@carersfederation.co.uk.

Who can complain?

Anyone can complain about NHS services or treatment they have received or if they have been affected by the actions or decisions of an NHS organisation or primary care practitioner. If you are unable to complain yourself, someone can act on your behalf with your consent.

When should I make a complaint?

A complaint should be made within 12 months from the date the issue occurred or when it came to your attention. In some cases, if there is good reason why you could not complain sooner and if it is still possible to investigate your complaint, it may be possible to waive the time limit.

What happens if my complaint involves a number of different organisations?

If your complaint involves more than one NHS organisation or the NHS and social care (provided by the local authority) you need to complain to just one of the organisations. You will also receive a single, coordinated response.

How do I make a complaint?

The NHS complaints procedure aims to resolve complaints quickly, at source. This is called 'local resolution' and means you should complain to the organisation that provided the service you're unhappy with first.

You can make your complaint in writing, by email, or verbally. If you make your complaint verbally, you will be asked to sign and return a written record to ensure that you agree with the contents.

To find out more about the NHS complaints procedure please visit the NHS choices website via the link below

<http://www.nhs.uk/choiceintheNHS/Rightsandpledges/complaints/Pages/NHScomplaints.aspx>

Where do I send my complaint?

If your complaint is about a hospital, community or mental health service or independent provider you should send this to the NHS organisation involved.

If your complaint is about a GP practice, dental practice, community pharmacy or optician you should send it direct to that organisation.

If your complaint is about a CCG commissioning or funding decision you should send this to your local CCG.

You can find your local CCG on the NHS Choices website via the link below

<http://www.nhs.uk/service-search/clinical-commissioning-group/locationsearch/1>

If your complaint is about a function or service provided by the North of England Commissioning Support Unit you should send your complaint to:

In writing: Complaints Team, North of England Commissioning Support Unit, John
Snow House, University Science Park, Durham, DH1 3YG
Tel: 0191 374 4218
Email: necsu.complaints@nhs.net

Face to face meetings can be arranged with the Complaints Team, however, these are by appointment only. This service is not offered on a drop in basis.

Information about complaints is available in other languages and formats upon request.

What happens if I complain to the commissioner (the people who choose and buy services)?

Some people prefer to send their complaint to the commissioner of NHS services. This is fine; however, the health-care provider (for example the GP surgery or hospital) will normally be given the opportunity to respond to your complaint.

CCGs commission local hospital, community and mental health services so you can send a complaint about these services to your CCG. This will then be sent to the relevant provider organisation who, with your consent, will investigate and respond to your complaint.

NHS England commissions primary care services (such as GPs and dental practices) and, if you prefer, you can send your complaint about these services to NHS England at the address below:

In writing: NHS England, PO Box 16738, Redditch, B97 9PT
Tel: 0300 311 22 33
Email: england.contactus@nhs.net

What can I expect in response?

When you submit your complaint it would be helpful if you could be clear what you would like to achieve as a result of making your complaint so that the NHS can try to resolve the matter to your satisfaction.

Your complaint will be fully investigated in a manner that is fair to both you and staff involved.

If failings are identified during the investigation, any necessary improvements will be made to the quality of services.

You will receive a written response to your complaint, which will include information on any service improvements.

What happens if I am unhappy with the response?

If you remain unhappy with how your complaint has been handled you can ask the Parliamentary and Health Service Ombudsman (PHSO) to review your complaint. You should take your complaint to the PHSO within a year of when you first became aware of the problem. If it was more than a year ago, the PHSO may still be able to help you if there were good reasons for the delay. You can contact the PHSO at the address below:

In writing: PHSO, Millbank Tower, Millbank, London, SW1P 4QP
Helpline: 0345 015 4033
Email: phso.enquiries@ombudsman.org.uk
Website: www.ombudsman.org.uk

Procedure for Handling Habitual and/or Persistent Complaints

1 Introduction

The organisation is committed to dealing effectively and empathetically with people who complain about NHS services and also to learning from the findings of complaints investigations. However, sometimes organisations need to deal with persistent complaints. Handling such complaints can place a strain on time and resources and cause undue stress for staff - some may need support in difficult situations. NHS staff are trained to respond with patience and sympathy 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.

In determining arrangements for handling complainants there are two key considerations. The first is to ensure that the complaints procedure has been correctly implemented so far as possible and that no material element of a complaint is overlooked or inadequately addressed and to appreciate that even habitual or persistent complaints may have issues which contain some genuine substance. The need to ensure an equitable approach is crucial. The second is to be able to identify the stage at which a complainant has become habitual or persistent. A recognised approach to this is to have an approved procedure.

It is important to note that implementation of such a procedure would only occur in exceptional circumstances.

2 Purpose of the Procedure

Complaints are processed in accordance with NHS complaints procedures and the complaints policy and procedures adopted by the organisation. During this process staff inevitably may have contact with a small number of complainants who can absorb a disproportionate amount of NHS resources in dealing with their complaints. The aim of this procedure document is to identify situations where the complainant might be considered too habitual or persistent and to suggest ways of responding to these situations.

It is emphasised that this procedure should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the NHS complaints procedures, for example, through local resolution, conciliation, or involvement of the relevant independent complaints advocacy service as appropriate. Judgment and discretion must be used in applying the criteria to identify potential habitual or persistent complainants and in deciding action to be taken in specific cases.

The procedure should only be implemented following careful consideration by, and with authorisation of, the chair and accountable officer of the organisation or their deputies in their absence. Where deputies are used, the reason for the non-availability of the chair or accountable officer should be recorded on file.

3 Definition of a Habitual or Persistent Complaint

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or persistent complainants where previous or current contact with them shows that they meet **TWO OR MORE** of the following criteria:

Where complainants:

- i Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted (eg where investigation has been denied as “out of time”, where the Ombudsman has declined a request for independent review or has already investigated the matter).
- ii Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. (Care must be taken not to discard any new issues, which are significantly different from the original complaint. These might need to be addressed as separate complaints).
- iii Are unwilling to accept documented evidence of treatment given as being factual, eg drug records, manual or computer records, nursing records or deny receipt of an adequate response in spite of correspondence specifically answering their questions, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- iv Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of NHS staff and, where appropriate, the independent complaints advisory service to help them specify their concerns, and/or where the concerns identified are not within the remit of the organisation to investigate.

- v Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what a “trivial” matter is can be subjective and careful judgement must be used in applying the criteria).
- Vi Have threatened or used actual physical violence towards staff or their families or associates at any time. This will in itself, cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication. (All such incidents should be documented).
- Vii Have in the course of addressing a registered complaint, had an excessive number of contacts with the organisation placing unreasonable demands on staff. (A contact may be in person or by telephone, letter, email or fax. Discretion must be used in determining the precise number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case).
- Viii Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (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. They should document all incidents of harassment).
- ix Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- x Display unreasonable demands or patient/complainant expectations and fail to accept that these may be unreasonable (eg insist on response to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).

4. Options for Dealing with Habitual or Persistent Complaints

Where complainants have been identified as habitual or persistent in accordance with the above criteria, the chief executive and/or chair (or appropriate deputies in their absence) will determine what action to take. The chief executive (or deputy) will implement such action and will notify complainants in writing of the reasons why they have been classified as habitual or persistent complainants and the action to be taken. This notification may be copied for the information of others already involved in the complaint, eg practitioners, mediators, conciliators, ICAS, MP. A record must be kept for future reference of the reasons why a complainant has been classified as habitual or persistent.

The accountable officer and chair (or deputy) may decide to deal with complainants in one or more of the following ways:

- Try to resolve matters, before invoking this procedure, by drawing up a signed “agreement” with the complainant (and if appropriate involving the relevant member of staff in a two-way agreement) which sets out a code of behaviour for the parties involved if the organisation is to continue processing the complaint. If these terms are contravened consideration would then be given to implementing other action as indicated in this section.
- Once it is clear the complainants meet any one of the criteria above, it may be appropriate to inform them in writing that they may be classified as habitual or persistent complainants, copy this procedure to them, and advise them to take account of the criteria in any further dealings with the organisation. In some cases it may be appropriate, at this point, to copy this notification to others involved in the complaint and to suggest that complainants seek advice in processing their complaint, eg through the relevant independent advocacy service for their area.
- Decline contact with the complainants either in person, by telephone, by fax, by letter or any combination of these, provided that one form of contact is maintained or alternatively restrict contact to liaison through a third party. (If staff are to withdraw from a telephone conversation with a complainant it may be helpful for them to have an agreed statement available to be used at such times).
- Notify the complainants in writing that the chief executive has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainants should also be notified that the correspondence is at an end and that further letters received will be acknowledged but not answered.
- Temporarily suspend all contact with complainants or investigation of a complaint whilst seeking legal advice or guidance from relevant agencies.

5 Withdrawing ‘Habitual or Persistent’ Status

Once complainants have been determined as “habitual or persistent” there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate. Staff should previously have used discretion in recommending “habitual or persistent” status at the outset and discretion should similarly be used in recommending that this status be withdrawn when appropriate. Where this appears to be the case, discussion will be held with the chief executive and/or chair (or their deputy). Subject to their approval, normal contact with the complainants and application of NHS complaints procedures will then be resumed.

6 Review of the Procedure

This procedure will be reviewed as appropriate and at any time there is a review of The Local Authority Social Services & NHS Complaints [England] Regulations 2009 or the organisations’ complaints procedure.