

Complaints handling policy and procedure

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Author:	Tom Grove Head of Communications, Organisational Development & Community Engagement
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Foreword

The three Clinical Commissioning Groups (CCG) in Worcestershire namely NHS Redditch and Bromsgrove, NHS South Worcestershire and NHS Wyre Forest seek to promote a culture of patient and public involvement throughout their organisations and are committed to ensuring that the best possible services are delivered at all times to their residents.

The CCGs recognise that complaints and comments provide a valuable insight into the services they provide and commission and they will use this intelligence to ensure patient safety, patient experience and clinical effectiveness remain integral to the work of each organisation.

Feedback from service users, their carers and relatives is welcomed and the CCGs will approach any complaint in an honest and open way, with the principal aims of resolving the problem, satisfying the complainants concerns and learning from the experience.

These aims are achieved by:

- Ensuring ease of access to the complaints process for all complainants
- Recording, analysing and identifying trends relating to all compliments, enquiries and complaints, and producing regular reports
- Acknowledging and responding to every contact, enquiry and complaint – whether written or verbal
- Ensuring sensitive and flexible handling of all contacts and complaints
- Ensuring staff and managers involved in responding to complaints are engaged throughout the process
- Involving the complainant in the complaints process
- Ensuring complainants are not discriminated against

The Worcestershire CCGs have committed through this policy to ensuring that no one is treated in a less favourable manner and to create a positive culture of respect for all individuals, including staff, patients, their families, carers as well as community partners. The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief and marriage and civil partnership. It is also intended to use the Human Rights Act 1998 and to promote positive practice and value the diversity of all individuals and communities.

1. Purpose and aims

- 1.1 The purpose of this policy is to outline the complaints process and procedures for handling complaints about staff or services provided by the Worcestershire CCGs, or commissioned by the CCGs.
- 1.2 The aim is to ensure that all complaints are resolved quickly and simply and that information gained from them is used to improve the quality and experience of services the CCGs commission. The policy will focus on satisfying complainants' concerns while being fair to practitioners and staff.
- 1.3 This policy also aims to provide:
 - An outcome-focused (rather than process-driven) complaints process
 - Accessible, flexible and responsive patient-centred complaints handling, integrally linked to continuous service improvements and patientsafety.

2. National requirements

- 2.1 This policy accords with national requirements set out in the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (hereinafter referred to as 'the Regulations') which came into force on 1 April 2009. It also reflects the reforms to the health and social care system brought about by the Health and Social Care Act 2012 and embeds the recommendations contained in the Francis Enquiry report, other reports such "My Expectations" (Parliamentary and Health Service Ombudsman - PHSO) as well as the Governments response paper the Francis Enquiry report.
- 2.2 The Health Act 2009 also draws attention to the NHS Constitution, which sets out the following rights for patients.
 - A right to have a complaint about services dealt with efficiently and to have it properly investigated
 - A right to know the outcome of any investigation into the complaint
 - A right to take a complaint to the independent PHSO if not satisfied with the way the complaint has been dealt with by the NHS

Further details can be obtained from www.dh.gov.uk/nhsconstitution

- 2.3 This policy also aims to ensure that patients, relatives, carers and all other users of local health services have their complaints and concerns dealt with in confidence and impartiality, with courtesy in a timely and appropriate manner.

3. Statutory Framework

- 3.1 The NHS complaints procedure has two stages. The first is sometimes known as local resolution and is the period during which the majority of complaints are resolved. This provides an opportunity for the CCG to investigate and respond to the complaint.

If any complainant remains dissatisfied following the conclusion of local resolution they may ask the Parliamentary and Health Service Ombudsman (PHSO) to review their complaint; this is the second stage of the procedure.

3.2 Underpinning and related documents

- 1) The local Authority Social Services and National Health Service Complaints (England) Regulations 2009
- 2) The NHS Constitution
- 3) Principles of Good Administration, Principles of Good Complaint Handling and Principles for Remedy – published by the PHSO to support good complaint handling
- 4) Guide to the good handling of complaints for CCGs (May 13 – NHS England)
- 5) Access to Health Records Act 1990
- 6) Data Protection Act 1998
- 7) Human Rights Act 1998
- 8) Freedom of Information Act 2000
- 9) Mental Capacity Act 2005
- 10) Equality Act 2010
- 11) Francis Enquiry report 2013
- 12) Berwick report 2013
- 13) Keogh review report 2013
- 14) Clywd-Hart report 2013
- 15) The Government response to Francis paper 2013
- 16) The Department of Health response to Clywd-Hart and Mid-Staffordshire
- 17) Contractual regulations for independent contractors and providers
- 18) Related NHS Redditch and Bromsgrove, NHS South Worcestershire and NHS Wyre Forest policies
- 19) My Expectations – PHSO
- 20) NHS code of practice - Confidentiality

4. Scope

- 4.1 This policy identifies who is responsible for dealing with complaints and what happens if the complainant is not satisfied with the response. Worcestershire CCGs values complaints as a useful source of information, feedback and learning as well as a means of monitoring and thereby improving performance.
- 4.2 Clear procedures facilitate and encourage this feedback, in addition to trends highlighted through patient experience reports, which may identify where changes in policy or service delivery are appropriate.
- 4.3 This policy applies to complaints about NHS health services only and has no application to complaints about privately funded healthcare, for which Worcestershire CCGs have no responsibility.
- 4.4 All patient experience contacts, compliments and complaints managed by Worcestershire CCGs relate either to commissioned or contracted services or commissioning decisions. Those relating to provider organisation services will usually be managed by the health agency/organisation responsible for the provision of that service, unless the complainant specifically requests Worcestershire CCGs to investigate or where the CCG has agreed to lead on a joint or multi-agency complaint.
- 4.5 Where there is a crossover between commissioned and contracted services the complaint lead of the respective organisations involved will liaise to agree who will take the lead.
- 4.6 Worcestershire CCGs recognise their duty of transparency and candour in dealing with complaints, as proposed by the Francis Enquiry Report, and recognises the requirements to promote greater openness throughout the organisations.

5. Responsibilities and accountability

5.1 **Accountable Officer**

The **Accountable Officer** is accountable for all complaints received, and managed by the CCGs and ensures the necessary resources are in place to enable the effective management of complaints. The Accountable Officer has overall responsibility for ensuring compliance with the arrangements made under the complaint regulations.

The CCG's Accountable Officer will also sign (or delegate appropriately) formal responses to complaints.

5.2 Executive lead for complaints

The **Chief Operating Officer / Lead Executive Quality and Performance** is the appointed executive with responsibility to ensure appropriate and effective systems are in place to manage complaints. They are also accountable to the Governing Body for oversight of complaints intelligence and effectiveness of this policy.

5.3 Complaints manager

The **Head of Communications, Organisational Development & Community Engagement** has delegated responsibility for the strategic development of complaints and this policy and has delegated responsibility for the operational management of this policy. Regular reports will be provided to the Quality Sub Group in relation to complaints intelligence and compliance with regulations.

5.4 CCG staff

Directors and managers are responsible for ensuring complaints are fully and fairly investigated and that draft responses are forwarded to the Complaints Team within the specified time. They are also responsible for ensuring that all committed actions are fulfilled and that their teams are aware of the CCG policy for management of complaints.

Concerns or complaints from patients to any member of staff should be taken seriously and reported to the Complaints Team, even if an immediate response or resolution can be given.

Where a patient has cause for complaint and asks a service provider organisation to investigate these concerns the CCG would not ordinarily receive details of the complaint or its outcome. The Worcestershire CCGs recognise the value of complaints and of the learning that flows from them. Therefore, in order to have a more comprehensive overview of the numbers and types of complaints made to providers about the services the CCG commissions we will work with those organisations to monitor this data through the Contract Management Boards. This will involve collection of data from providers covering numbers, types and narrative details as well as response times and outcomes.

6. Claims, legal action and accessibility

- 6.1. The Complaints Team will refer all complaints that explicitly indicate the intention to take legal action to the Chief Operating Officer / Lead Executive Quality and Performance though this intention will not affect the progress of a complaints investigation.
- 6.2. The Complaints Regulations 2009 no longer states that a complaint should be halted where legal action has started (or is implied). In addition, it should not necessarily be assumed that a complaint made via a Solicitor means that the complainant has decided to take legal action. A complainant has the right to be represented by whomever

they chose throughout the complaints process. If consent has been received a response should be made in the normal manner. Worcestershire CCGs have a legal and moral responsibility under the Equality Act 2010 to provide any of its documents, leaflets, electronic resources in an alternative format if requested.

- 6.3. Compliance with the Accessible Information Standard is a legal duty under Section 250 of the Health and Social Care Act 2012.

7. Policy review, compliance and archiving

- 7.1. This policy will be reviewed every two years, or following publication of revised national guidance, or when required, whichever is the sooner. Compliance will be informed by the complaints process and will be monitored through the complaints reporting system.
- 7.2. The CCG will ensure that archived copies of superseded policy documents are retained in accordance with Records Management code of practice.

8. Procedure and process

- 8.1 As commissioners Worcestershire CCGs receive two different types of complaints:
- 1) Complaints about one of the three CCGs, its commissioning decisions and policies
 - 2) Complaints about the services that the CCGs commission – provider complaints
- 8.2 If a complainant has concerns around providers it is their choice to either consent to their complaint to be forwarded to, and managed by, the provider or for the CCG to manage the process or approach the provider directly.
- 8.3 The CCG would normally advise that the provider is best placed to manage the process directly as this can mean a more expeditious response and more “ownership” of the complaint (and any learning/actions resulting from it).
- 8.4 Complainants will be advised of their options at the first point of contact with the CCG.
- 8.5 All provider complaints investigated via the CCG are reported (detailing themes and learning) as part of quality reporting. Any dissatisfaction or on-going concerns can also be discussed at clinical quality review meetings and may result in further investigations (e.g. deep dives).
- 8.6 A provider complaint, investigated by the CCG, will be allocated a file and reference number and recorded on the confidential complaints database.
- 8.7 All commissioning and provider complaints will be treated seriously and

managed promptly, sensitively and in a confidential manner with a comprehensive and robust response.

- 8.8 Complainants have a right to copies of any documents relating to them, whether manual or computerised. If a case proceeds to a request for investigation by the Ombudsman (PHSO) any written comments, together with any relevant clinical records will need to be made available to the complainant, the Ombudsman and to an Independent Review Panel (should one be established).

9. What is a Complaint?

- 9.1 A complaint is an expression of dissatisfaction regarding any aspect of service relating to patient care, clinical or non-clinical, relating to attitudes of behaviour, the environment, facilities or systems that requires an organisation response.
- 9.2 Complaints can be made verbally, in writing and electronically and are included under this term along with complaints raised by Members of Parliament (MPs), and elected members, on behalf of their constituents.
- 9.3 It is not intended that every minor concern should warrant a full-scale complaints investigation. Rather, the spirit of the complaints procedure is that staff are empowered to resolve minor concerns and problems immediately and informally. The CCG will, therefore, seek to distinguish between requests for assistance in resolving a problem and an actual complaint. All issues will be dealt with in a flexible manner, which is appropriate to their nature and the latter will be dealt with strictly in accordance with the complaints procedure.
- 9.4 Whenever there is a specific statement of intent on the part of the caller/correspondent that they wish their concerns to be dealt with as a complaint, they will be treated as such. Any caller/correspondent who is dissatisfied with the preliminary response to a matter which has been dealt with as a problem solving (informal complaint) issue will be advised of their right to pursue the matter further through the complaints procedure.

10. Who can make a complaint?

- 10.1 A complaint may be raised by anyone who is receiving or has received a service from the CCG or a service commissioned by the CCG.
- 10.2 Complaints can be made by:
- A patient or service user
 - Any person who is affected by or likely to be affected by the action, omission or decision of the CCG
- 10.3 A complaint may be made by a person acting on behalf of someone who:

- Has died
- Is a child
- Has physical incapacity or
- Lack of capacity within the meaning of the Mental Capacity Act 2005 or
- Has requested the representative to act on their behalf; e.g. formal complaints raised by MPs on behalf of their constituents

10.4 The complaint can be raised by a relative or friend on behalf of the patient, if they have been given permission to act, and or anyone who is affected by or is likely to be affected by the action, omission or decision of the responsible body which is the subject of the complaint.

10.5 In some circumstances, at the discretion of the Head of Communications, Organisational Development & Community Engagement, complaints may be accepted by a relative or friend without the patients consent if the complaint is thought to be in the interest of public health or standards of care, e.g. if the complaint is regarding general hospital policies such as nutrition or uniform. In these cases the CCG would provide a general response omitting any patient specific information.

10.6 If the CCG is of the opinion that a representative does not have sufficient interest in the person's welfare or is unsuitable to act as a representative, the Complaints Team must notify that person in writing, stating the reasons.

11. Representing a child

11.1 If a complaint is being made by a person stating they are representing a child under the age of 18, it must be verified that this person is the legal guardian or formally nominated by the legal guardian to represent the complainant. The same applies where a representative makes a complaint on behalf of a person who lacks capacity under the Mental Capacity Act 2005.

11.2 A child or young person under 18 is entitled to make a complaint in their own right. For all complaints regarding children or young people under 18, whether made by the parents, other family or friends or the children themselves, the circumstances of the complaint will need to be handled sensitively and advice sought from the CCG safeguarding children lead as to any concerns for the child's immediate or future safety.

12. Representing an adult at risk who does not have capacity to consent to an investigation

12.1 Where a representative makes a complaint on behalf of an adult who it is thought, under the Mental Capacity Act 2005, to be unable to represent themselves the CCG must be satisfied that appropriate procedures have been followed to verify this is the case. In circumstances where the individual does lack the capacity to consent to the investigation it should be confirmed whether the person raising the concern, or any other party, has the legal powers to act for the person. Where there is no one with the legal powers to represent the

individual then a decision can be made in the person's best interest as to who should advocate for them. This decision will be made by the Accountable Officer or their delegated representative.

13. Confidentiality

It is essential when dealing with complaints that the CCG observes the legal obligations not to release information relating to the patient to a third party without consent. Should a complainant choose to make their complaint by email they must be made aware that this system of communication (as set out in the Complaints Team's email signature) is not considered secure whilst in transit and therefore, no guarantee of privacy can be given.

Care must be taken at all times to ensure any information disclosed about the patient is confined to that which is relevant to the investigation of the complaint and only disclosed to those people who have a demonstrable need to know it for the purpose of investigating the complaint.

14. How to make a complaint

Complaints may be made in writing (including electronically) or orally. An oral complaint must be recorded in writing and details should be confirmed with the complainant. Complainants may also submit a complaint through the dedicated link on the CCG website.

The Complaints Team will facilitate the process for complainants and provide support if required, they will also offer information about local complaint advocacy services.

14.1 Time limits

A complaint should be made no later than 12 months after;

- a) The date on which the matter which is the subject of the complaint occurred; or
- b) If later, the date on which the matter which is the subject of the complaint came to the notice of the complainant

The time limit shall not apply if the organisation is satisfied that;

- a) The complainant had good reasons for not making the complaint within that period; and
- b) Notwithstanding the delay it is still possible to investigate the complaint effectively and fairly

Flexibility and sensitivity should be used when considering late complaints e.g. where a complainant has suffered such distress or trauma that prevented him/her from complaining earlier.

Discretion may be used to extend the time limit in agreement by the Head of Communications, Organisational Development & Community Engagement. If a decision to process a complaint is turned down on the 'out of time' basis then a complainant can use this policy to complain about that decision.

It is a statutory requirement that complaints must be acknowledged within three working days of receipt. The Complaints Team will adhere to this requirement on behalf of the CCGs.

14.2 Time limits and for acknowledging and responding to complaints

All investigations, meetings, correspondence and the final response letter should be completed expeditiously and within agreed timescales (agreed with the complainant in the first contact and after receipt of consent when appropriate).

As a guideline, Worcestershire CCGs aim to respond to most complaints about the respective CCG within 25 working days of receipt, or receipt of appropriate consent. However, in some cases where the complaint is complex or if additional service providers are involved a longer period (usually 40 working days) may be proposed.

If it seems likely that these timescales cannot be adhered to then a holding letter must be sent to the complaint, apologising and explaining the reason for the delay.

At any stage of the investigation the complainant may be invited to meet the head of patient experience, or speak with them over the telephone, to discuss their complaint in detail.

14.3 Exclusions

The following complaints are **not** required to be dealt with in line with the regulations and scope of this policy:

- a) A complaint about non-NHS funded care and treatment
- b) A complaint made by another responsible body, including complaints by third party organisations about contracts arranged by the CCG under its commissioning arrangements
- c) A complaint made by an employee of a local authority or NHS body about their employment
- d) A complaint which is made orally and resolved to the complainants satisfaction no later than the next working day
- e) A complaint that has already been investigated under these or previous regulations

- f) Investigations and enquiries arising out of a CCG's alleged failure to comply with a data subject requests under the Data Protection Act 1998 or a request for information under the Freedom of Information Act 2000. The respective CCG's FOI Policy will take precedence in the case of Freedom of Information (FOI)
- g) Services provided by independent contractors, including GPs, pharmacists, dentists and opticians. NHS England is responsible for managing complaints from these services under a separate complaints policy and process
- h) A complaint which is being or has been investigated by the Health Service Ombudsman
- i) Management of claims

Where the CCG considers a complaint falls within the above exclusions it must as soon as reasonably practicable notify the complainant in writing of its decision and the reason for the decision.

14.4 Informal resolution of a complaint (concern) – within 24 hours

A complaint or concern need not be managed under the NHS complaints procedure if it is resolved to the complainant's satisfaction no later than the next working day after the complaint was made. If it is not possible to achieve resolution within 24 hours the complainant should be offered the opportunity for a longer period to be allowed or to progress with a formal complaint.

However, it is important that we learn from all feedback and the person who resolves the complaint informally must provide the Complaints Team in writing, or by email brief details of the actions they have taken to resolve an informal complaint. The Complaints Team will record the information on the complaints database, and intelligence used for quality reports and monitoring. In the event that the complainant remains dissatisfied they have the right for the complaint to be handled through the formal route.

14.5 Formal complaint process – local resolution

When a complaint is received within the CCG it must be forwarded immediately to the Complaints Team.

All complaints must be acknowledged no later than three working days after the complaint is received. At this time the Complaints Team will contact the complainant to clarify their concerns and to find out how they would like their complaint resolved.

Options may include:

- Written response/report
- Face to face meetings with the complainant and parties involved
- Verbal resolution of the complaint by telephone

N.B. This list is not exhaustive and a combination of several methods can be used when handling a complaint, until it is resolved to the complainant's satisfaction.

Timescales for investigation of complaints are not intended to be rigid; it is the aim of the CCG to respond to complaints in a timely manner and as soon as possible depending on the complexity of the complaint

If the complaint cannot be responded to within the agreed days as published in the complaints policy (25 working days), the complainant will be informed of this (preferably by phone and then followed up with a letter) at the earliest opportunity by the lead investigation officer and provided with an explanation and apology as well as advised of the timeframe which is being worked to.

Acknowledgements should be by letter or by email. Usually the method of acknowledging a complaint would match the method in which it was originally made.

15. Serious incidents and safeguarding issues

Where a complaint identifies a serious incident (SI), this will be shared with the CCG Quality Team and advice sought on whether the serious incident policy should be followed.

If a complaint is received which raises child protection issues or concerns about an adult at risk (adult at risk – over 18 and in need of care and support and because of those needs is unable to protect themselves against abuse or neglect) the responsibility for highlighting through safeguarding processes lies with the person who has received the concern. The safety of the child and adult at risk must always be paramount and if there is any safeguarding concerns identified these should be notified to the Local Authority and CCG safeguarding leads immediately.

16. Complaint investigation

Once a complaint is made and consent (if appropriate) received the complaints team will liaise with the team or teams concerned to identify an investigation lead. In cases where complaints relate to commissioned services the Complaints Team in the organisation where the incident occurred, will do the same. The investigation lead or leads will then make arrangements to collate facts and information relevant to the complaint, this will require:

- Gathering of information
- Reviewing patient records
- Reviewing organisational records and
- Interviewing staff, managers and others involved in the complaint

The investigation lead will then construct and send a suitable response covering

all the aspects of the complaint to the Complaints Team for review and further processing.

A clear record should be maintained of the investigation detailing any meetings or discussions with staff and complainant, covering what was asked and the responses given. Copies of all correspondence and associated file notes will be kept securely and separately from medical records/case files by the lead investigation Officer.

It is expected that most complaints will be resolved at local resolution (first stage).

17. Response

Upon completion of the investigation, the investigation lead or relevant head of service will prepare a response letter addressing all aspects of the complaint.

A response should:

- Explain how the complaint has been considered
- Address the concerns expressed by the complainant and show that each element has been fully and fairly investigated
- Report the conclusion reached including any matters for which it is concerned remedial action is needed
- Include an apology where things have gone wrong
- Report the action taken or proposed to prevent recurrence
- Indicate that a named member of staff is available to clarify any aspect of the letter
- Advise the complainant who to contact in the first instance if they are not happy with the response

The above points will be provided as a checklist by the Complaints Team to the lead investigating officer to help ensure the letter drafted meets the required quality.

The letter or response should be written in plain English and clinical and other technical information should be explained. They should be drafted in a format which meets the complainant's needs.

The Complaints Team will review the draft letter for quality assurance before final approval and signature by the Accountable Officer (providing the Accountable Officer is assured that a full examination of the issues has been carried out with a view to resolving the complaint and that, where appropriate, lessons have been learnt).

If a complainant contacts the CCG after receiving the response to their complaint requesting further information or explanation, every effort should be made to answer these enquiries at local resolution. For example, further information or explanation can be provided. Alternatively, a meeting to discuss the issues raised in the complaint could be offered. It is important to note that this should not be considered a review or appeal of the complaint. If the complainant remains unhappy with the response following local resolution and any further efforts to explain they should be advised of their right to take their complaint to the Ombudsman.

Should a complainant raise new issues at this stage that were not included with the original complaint these must be investigated as a new complaint

The Complaints Team will close the complaints file two weeks after the final response has been sent if there is no further communication from the complainant. However, this can be re-opened (subject to statutory deadlines) if there is further communication from the complainant.

18. Action plans

An action plan should be put into place for any improvements that are identified as a result of a complaint. The service/team manager should monitor the action plan and provide the Complaints Team with a progress report after three months, which will be entered on the complaints database. If the Complaints Team has any concerns about the monitoring of action plans they will inform the relevant commissioning manager and quality lead.

19. Conciliation and mediation

Sometimes successful local resolution requires all parties to meet and discuss the issues complained about.

The Chief Operating Officer / Lead Executive Quality and Performance may fulfil the role of conciliator and provide a confidential service with experience in managing meetings, handling conflict and dealing with emotional situations where this is agreeable to all parties.

20. Second stage – the Ombudsman

Referral to the Parliamentary and Health Service Ombudsman (PHSO) is the second and final stage of the complaints procedure. However, all efforts should be made locally to resolve a complaint before the complainant is directed to the Ombudsmen.

The PHSO provides a service to the public by undertaking independent investigations into complaints that the NHS in England has not acted properly, fairly or has provided a poor service.

The PHSO will normally only accept a complaint after the NHS organisation complained about has first tried to resolve the issues and has responded to the complainant.

All staff should be aware that where a complaint is referred to the Ombudsman any information received as part of their investigation may be used to assess the organisation's performance.

The CCG will provide positive and active support to the Ombudsman via the Head of Communications, Organisational Development & Community Engagement who is the nominated senior manager responsible for co-ordinating an investigation.

The Ombudsmen can be contacted at the following address:

NHS Complaints
The Parliamentary & Health Service Ombudsman
Millbank Tower
Millbank
London SW1 4QP

Helpline: 0345 015 4033
Email: phso.enquiries@ombudsman.org.uk
Website: www.ombudsman.org.uk

21. Monitoring, Data collection, Reviewing and Reporting

The Complaints Team will maintain a centrally held database to record and monitor complaints, concerns and compliments.

The Head of Communications, Engagement and Organisational Development will produce an annual report of complaints handling sufficient to satisfy the criteria set out in the Regulations, which will demonstrate:

- Number of complaints received
- Number of complaints resolved and upheld
- NHS England referrals
- MP complaints on behalf of constituents
- Themes and trends
- Summary of action taken as a result of complaints
- Performance against the agreed timescales for acknowledgement and response
- Details of complaints referred to the PHSO
- Whether the PHSO upheld the complaint
- Consolidated themes, trends and learning from other anonymised data

The Head of Communications, Engagement and Organisational Development will also prepare quarterly reports that will demonstrate:

- Number and type of complaints received and upheld
- Number of complaints referred to Ombudsman. The Ombudsman will advise the respective CCG when they are in receipt of a complaint which they are investigating
- Summary of actions to improve services as a result of complaint, which will be provided by the lead investigation officer through the Complaint Action and Learning Record.

Reports and verbal intelligence will be presented and discussed at Quality Sub Group, in order to:

- Monitor arrangements for local complaints handling
- Consider trends in complaints
- Consider complaints data in relation to patient experience data, quality and safety data and identify any trends to inform the commissioning and improvement of services

In addition to the above, the Head of Communications, Organisational Development & Community Engagement will ensure that complaints data is provided to the Health and Social Care Information Centre (KO41a) in the format and timeframes (currently quarterly) requested.

22. Improving quality and service improvements

A service improvement monitoring form (action plan) is sent to the Investigation lead with the initial complaint. This should be completed in conjunction with the investigation in order to identify areas of improvement and should be returned to the Complaints Team within 10 working days of the completion of the investigation.

Complaints will be monitored to identify if there are any wider issues that need to be addressed. This information will then be presented within quarterly reports to the Quality Sub Group.

23. Prevent protocol

If a member of staff becomes concerned that an adult appears to be indicating that they may be being drawn into extremist activity they must follow the CCG Prevent protocol and should contact the Prevent lead as soon as possible.

24. Whistle blowing

The 'whistleblowing policy' should be accessed instead of the complaints policy when an employee or worker provides certain types of information, usually about illegal or dishonest practises to the employer or a regulator, which has come to their attention through work.

25. Storage and retention of records

All complaints communications are entered onto a confidential database maintained by the Complaints Team. It is important that all issues relating to complaints are fully and accurately documented, dated and retained. Complaints records will be stored in accordance with the NHS records management code of practice – and must be kept separate from a patient's medical records. Hard copy (paper) records will be kept securely locked and accessible only to the Complaints Team.

Complaint records are discloseable documents under legal processes and will be accessible to the Parliamentary Health Service Ombudsman (PHSO) in the event of further investigation. All files (hard copy and electronic) should be appropriately maintained, updated and will be held by the CCG for a minimum of ten years.

In accordance with the Department of Health guidelines, files must be destroyed under confidential conditions in accordance with the CCG's Information Governance Policy.

ADDITIONAL GUIDANCE & INFORMATION

Individual funding request (IFR) decisions

If a complaint is received about an IFR decision the complainant will be advised that they are entitled to appeal this decision and a copy of the appeal process will be provided if requested. If the complainant still wishes to make a formal complaint the Contracting Team will only investigate the process under the NHS complaints procedure.

Joint complaints handling

The new Complaints Regulations (2009) require a duty to co-operate where a complaint involves another NHS trust or other bodies, such as the local authority or a service provider. When the Complaints Team receives a complaint involving other organisations there will be an agreement between the organisations as to who will take the lead in co-ordinating the handling of the complaint and communicating with the complainant. It may be that the complainant wishes to deal with each organisation individually and this will be respected. Where there is an agreed lead that organisation will be responsible for monitoring progress, keeping the complainant informed, co-ordinating information from the other organisations involved and sending the final joint response. The complaints professionals will communicate regularly and ensure that any lessons needing to be learnt are identified by the relevant organisations.

Consent must be obtained from the complainant in order to share the relevant information. Discussions will take place between the Complaints Team and complainant as to whether the issues should be handled separately or as part of a joint response. When the issues raised in complaints are interconnected, it is usually better to arrange a joint response. The Complaints Team will ensure that the response letter clearly informs the complainant which organisation is responsible for each part of the complaint.

Where a joint response is acceptable to the complainant the other organisations involved should provide the relevant information within an agreed timescale, relevant to the consideration of the complaint to ensure that a single full response is provided.

Joint responses should generally be signed off by the relevant Accountable Officer or Chief Operating Officer of the lead organisation.

Complaints about social care

The Complaints Team will seek consent from the complainant to pass the complaint on to the respective council's complaints team for investigation of concerns regarding adult social care or children's services. It should be noted that complaints about adult social care are dealt with under the same 2009 Regulations as NHS complaints but complaints about Children's services are dealt with through the procedures set out in the Children Act 1989.

Complaints about provider organisations

Complainants may direct their complaints to a CCG rather than the NHS provider organisation that delivered the relevant service. The CCG may decide to undertake the handling of the complaint itself, act as a contact point or, if it deems it appropriate, and has the complainants consent, and refer the complaint to the provider organisation concerned. The final decision on who will investigate the complaint rests with the CCG once all mitigating circumstances are taken into account.

The CCG is not obliged to accept a complaint under these circumstances and normally will wish to direct the complaint to the responsible organisation. In cases where there is a compelling reason, the CCG may oversee the complaint throughout. Although the CCG can be part of local resolution it should not be used as a 'second stage'. The final decision on who should investigate a complaint should always be discussed with the Head of Communications, Organisational Development & Community Engagement before any agreement is made to accept and investigate the concerns raised.

Complaints about urgent care and GP out-of-hours services

Worcestershire CCGs commission Urgent Care and GP out of hour's services. The service provider should have their own complaints process mirroring that of the Regulations. Complainants may take their complaints directly to the service provider or to the CCG. Where the CCG does not lead on an investigation then it will monitor the number and the type of complaints made, and outcomes of the complaints

Complaints from MPs or elected representatives

From time to time the CCG receives complaints from MPs on behalf of their constituents. These follow exactly the same process as complaints received directly from individuals.

Where a complaint comes via the complainant's MP consent still needs to be sought.

Responses to such complaints are sent to MPs with copies provided to the patient or constituent whenever possible/appropriate.

Complaints about independent contractors

If the CCG receives a complaint about an independent contractor (GP, GP practice, pharmacy, optician, dentist) the Complaints Team will redirect the complainant to NHS England or, with the complainant's consent, forward a copy of any complaint correspondence for investigation. In all cases a summary of the complaint and contractor concerned will be recorded on the complaint database. A summary of the complaint will be emailed to NHS England contact centre where consent has been provided.

Complaints by members of staff

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. Any staff complaints regarding issues at work, with colleagues etc. are issues for

Human Resources (HR) and should be addressed by reference to the relevant HR policy.

Persistent complainants

Occasionally our services may be faced with persistent, serial or vexatious complainants. Staff are trained to respond with patience and sympathy but it is recognised that there are times when there is nothing further that can reasonably be done to rectify a real or perceived problem. It is important to appreciate that such complainants may have genuine grievances that should be properly investigated. However, under exceptional circumstances action will be taken to limit their contacts.

If a complainant is considered persistent, serial or vexatious staff should contact the Head of Communications, Organisational Development & Community Engagement for advice.

The CCG has guidance for dealing with persistent, serial, or vexatious complainants. This guidance should only be implemented by the Head of Communications, Organisational Development & Community Engagement, following approval by the Accountable Officer (see appendix A).

Anonymous complaints

Anonymous complaints will be accepted which may arise from a telephone call or letter. Where possible the person will be encouraged to provide their name and other relevant details. If the person is unwilling to provide contact details the Complaints Team will follow the agreed complaints procedure but will be unable to provide a formal written response.

Freedom of information (FOI) & Data Protection Act (DPA)

Complaints can contain a request for information under either the Freedom of Information Act 2000 (FOI) or Data Protection Act 1998 (DPA). Requests which may include access to the complaint file need to be in writing in both cases. These must be handled under the policies and procedures relevant to FOI and DPA requests.

Requests relating to DPA will be referred to the Information Governance Lead, most commonly this will relate to patient record access requested by their representative or relative. Requests under FOI should be referred to the CCG FOI Lead.

Complaints which contain only FOI or DPA requests should be passed formally to the correct team within the CCG and the complainant informed of who will be handling their request.

Withdrawal of a complaint

If a complainant withdraws a complaint at any stage the complained about should be informed immediately in writing. The complainant should also be sent a letter confirming that the decision of the complainant has been noted by the CCG. Any identified issues or improvement should be followed up within the service area and any learning cascaded in the normal manner.

Publicity

It is important that patients and their relatives or carers know about the CCG's Complaint Policy and how to make comments, compliments, suggestions or complaints about services which the CCG commissions and provides.

Information on how to make a complaint is available to patients, clients and their relatives and carers.

A copy of the Complaints Policy will also be available on the CCG website for access by members of the public and on the intranet for members of staff.

Media/ press

Complainants shall be dealt with on a strictly confidential basis. However, some cases may come to the attention of the media through the actions of complainants, staff or unconnected third parties.

Any media interest in a complaint should not be handled by any member of staff and should be referred to the Head of Communications, Organisational Development & Community Engagement. Patient confidentiality must remain a top priority in any dealings with the media.

Training and additional support

The CCG requires all staff to be familiar with the Complaints Policy and Procedure and to know who they should contact for advice on handling complaints. To facilitate continual learning and improvement in the handling of complaints training will be available to all CCG staff.

An overview of this policy and its procedures should be incorporated into the CCG handbook for new staff and should be part of their corporate induction.

APPENDICES

GUIDANCE FOR HANDLING PERSISTENT COMPLAINANTS

Dealing with persistent, serial or vexatious complainants

This guidance should only be implemented by the CCG following approval by the Accountable Officer. If a member of staff feels that a complainant is persistent, serial or vexatious then they should contact the Head of Communications, Organisational Development & Community Engagement for advice in the first instance.

Occasionally staff are faced with persistent, serial or vexatious complainants. Staff are trained to respond with patience and sympathy to complainants, but it is recognised that there are times when there is nothing further that can reasonably be done to rectify a real or perceived problem. It is also recognised that a persistent complainant should be protected by ensuring they receive a response to all genuine grievances and are provided with details of independent advocacy.

In determining arrangements for handling such complaints, staff are presented with the following key considerations:

- To ensure that the complaints procedure has been correctly implemented as far as possible and that no material element of a complaint is overlooked or inadequately addressed.
- To appreciate that even a habitual complainants may have grievances which contain some genuine substance.
- To ensure an equitable approach.
- To be able to identify the stage at which a complainant has become habitual.

Guidance for dealing with persistent, serial or vexatious complainants

The aim of this guidance is to identify situations where the complainant might be considered to be persistent and to suggest ways of responding to these situations which are fair to both staff and complainant.

It is emphasised that this guidance 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, and involvement of independent advocacy as appropriate. Judgement and discretion must be used in applying the criteria to identify potential habitual complainants and in deciding the action to be taken in specific cases.

This policy should only be implemented in relation to a specific complainant, following careful consideration by, and with the authorisation of, the Accountable Officer.

DEFINITION OF A PERSISTENT COMPLAINANT

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

Where complainants:

- a) Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
- b) Seek to prolong contact by changing the substance of a complaint or continually raising new issues and questions whilst the complaint is being addressed. (Care must be taken not to discard new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints).
- c) Are unwilling to accept documented evidence of treatment given as being factual e.g. drug records, GP records, nursing notes.
- d) Deny receipt of an adequate response despite evidence of correspondence specifically answering their questions.
- e) Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- f) Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of staff and, where appropriate, independent advocacy, to help them specify their concerns, and/or where the concerns identified are not within the remit of the Trust to investigate.
- g) 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 this criteria).
- h) Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Trust placing unreasonable demands on staff. (A contact may be in person or by telephone, letter, E-mail 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).
- i) Are known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.

- j) Display unreasonable demands or expectations and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).
- k) 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 in line with the Managing Violence and Aggression towards Staff policy.
- l) 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.) Staff should document all incidents of harassment in line with the Zero Tolerance Procedures, completing an incident form.

PROCEDURE FOR DEALING WITH PERSISTENT COMPLAINANTS

- a) Check to see if the complainant meets sufficient criteria to be classified as a habitual complainant.

Where there is an on-going investigation

- b) The Accountable Officer should write to the complainant setting parameters for a code of behaviour and the lines of communication. If these terms are contravened consideration will then be given to implementing other action.

Where the investigation is complete

- c) At an appropriate stage, the Accountable Officer should write a letter informing the complainant that:

- the CCG has responded fully to the points raised, and
- has tried to resolve the complaint, and
- there is nothing more that can be added,

Therefore, the correspondence is now at an end.

The CCG may wish to state that future letters will be acknowledged but not answered.

- c) In extreme cases the CCG should reserve the right to take legal action against the complainant.

WITHDRAWING 'PERSISTENT' STATUS

Once complainants have been determined as '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 'persistent' status and discretion should similarly be used in recommending that this status be withdrawn.

Complaint Action & Learning Record

It is important that you **complete this form** as part of the overall complaints procedure and **return to the Complaints Team** along with your investigation report

Complaint ref no	
Investigating Officer	
Organisation/Department	

Identify all issues raised in complaint:

1.
2.
3.
4.
5.

Identify all planned actions

Planned actions	Person responsible	Date req'd by

Barriers to achieving actions

Lessons learned

Completed by

Designation

Date

Review date

Reviewed by

Comments

Complaint received;-

- risk assess (serious incidents to be notified to Quality Team)
- identify any consent or safeguarding issues (safeguarding issues to be escalated immediately)
- agree with complainant route for process of their complaint (formal or informal)
- if provider complaint agree how investigation will be managed
- complaints regarding children and young people under 18, seek advice from the CCG
Safeguarding children lead as to any concerns for the child's immediate or future safety.

Provider Complaints

Contact complainant within 3 working days to acknowledge concerns and advise how complaint will be managed.

If the CCG is to manage the complaint, refer to CCG Formal Complaint Local Resolution process

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If the Provider is managing the investigation, the CCG must request consent for details of complaint to be forwarded to provider.

Once consent is received the CCG will forward to relevant complaints department and request a copy of final response for CCG records.

**CCG Formal Complaint
First stage – local resolution**

Contact complainant within 3 working days to acknowledge and explain how complaint will be managed.

Refer to CCG team or relevant provider(s) for investigation and report
Usually within 25 working days

In all cases if reports are delayed the complainant / MP must be contacted and an explanation provided with confirmation of new timescale.

Complaints Team to review draft of letter for quality purposes – ensuring the letter fully addresses complaint.

Final copy of the letter to be sent from Accountable Officer for Worcestershire CCGs

Final response to be sent to complainant by first class post
(Unless otherwise specified by complainant)

Close complaint after final response has been sent due to the Datix's method of counting.

MP Enquiry/ concerns

Contact MP within 3 working days to acknowledge concerns and confirm action

Refer to CCG team or relevant provider(s) for investigation and report
Usually within 25 working days

Complaints Team to review draft of letter for quality purposes – ensuring the letter fully addresses complaint.

Approved final response to be signed by Accountable Officer for Worcestershire CCGs

Send to MP by first class post with copy to constituent

Complaints Team to close complaint after final response has been sent due to the Datix's method of counting.

In all cases if the complainant or MP has further concerns or is dissatisfied explore possibility of further investigation or consider a local resolution meeting with staff.

If after completion of local resolution a complainant makes a request for independent review

Refer to second stage
Ombudsman (PHSO)

