

Complaints Management Policy

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DOCUMENT STATUS:

This is a controlled document. Whilst this document may be printed, the electronic version posted on the intranet is the controlled copy. Any printed copies of the document are not controlled.

RELATED DOCUMENTS:

This document will reference additional policies and procedures which will provide additional information.

All ELRCCG policies can be provided in large print or Braille formats upon request. An interpreting service, including sign language, is also available.

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Aims and objectives

1. This policy applies to East Leicestershire and Rutland Clinical Commissioning Group (ELR CCG or the CCG). The CCG commissions health services for its local resident population and aims to commission the highest quality care, treatment, level of services and facilities to the local community. It also encourages feedback about the services and welcomes both positive and negative feedback from the local community.
2. This policy covers all complaints received by NHS East Leicestershire and Rutland CCG about the NHS services that it commissions for patients and the general public. This includes complaints relating to the performance of GP Practices, however all complaints relating to the performance of individual practitioners will be redirected to NHS England.
3. Everyone has the right to expect a good service from public bodies and to have things put right if they go wrong. Compliments, comments, concerns and complaints help to confirm what we are doing right and to identify how we can improve services. They give us an insight about the standards of care that we commission. Above all, they help us to take action to prevent similar problems occurring in the future and to continually improve services.
4. The CCG aims to ensure that patients, relatives, carers and all other users of local health services have their complaints dealt with sympathetically, promptly, confidentially, impartially and with courtesy and empathy.
5. The key objectives of the policy are:
 - to ensure ease of access for patients and complainants;
 - having a fair, open and transparent process in the handling of complaints;
 - to ensure complaints are dealt with in a timely manner in line with the timescales agreed with complainants
 - to ensure fairness for staff and complainants alike and ensure non-discrimination against staff or complainants, either those subject to a complaint or those that are making a complaint;
 - to ensure lessons are identified and there is evidence of learning to improve services for patients and staff;
 - to maintain confidentiality in accordance with the Data Protection Act 1998 and the NHS Code of Conduct;
 - to ensure that complaints involving more than one NHS organisation and joint complaints relating to health and social care are handled in a coordinated manner.
 - To ensure appropriate guidance/referral to resolve e.g. The Parliamentary and Health Service Ombudsman where unresolved issues arise (see section “**Independent Review**”)
6. The current statutory framework for managing complaints in the NHS is set out in The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 No. 309. This framework applies to all NHS organisations including Clinical Commissioning Groups.

7. The policy takes into account the Equality Act 2010, the SCCI1605 Accessible Information Implementation Guidance (NHS England, July 2015) and the NHS Constitution (Department of Health, July 2015).
8. The CCG aims to design and implement policy documents that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the Public Sector Equality Duty and the provisions of the Equality Act 2010 and advances equal opportunities for all. This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) or sexual orientation.

Legal Framework and Guiding Principles

9. The CCG is committed to achieving and maintaining high standards with regard to service to the public, behaviour at work, and in all its working practices and all staff are expected to conduct themselves in accordance with our values which are shown below:



One Team



Integrity



Patient -
centred



Ownership



Excellence

10. This policy is written to conform with current regulations and guidance and in particular *The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI/2009/309 and SI/2009/1768)*; NHS England's guidance on complaints and takes into account the NHS Constitution.
11. In addition, the Policy also reflects best practice as reflected in *Complaints Handling for Primary Care: a toolkit for commissioners* (NHS England, November 2015).
12. The key lines of enquiry which refer to complaints management are set out below:

Do people who use the service know how to make a complaint or raise concerns, are they encouraged to do so, and are they confident to speak up?
How easy is the system to use? Are people treated compassionately and given the help and support they need to make a complaint?
Are complaints handled effectively and confidentially, with regular updates and a formal record kept?
Is the outcome explained appropriately to the individual? Is there openness and transparency about how complaints and concerns are dealt with?
How are lessons learned from concerns and complaints, and is action taken as a

result to improve the quality of care? Are lessons shared with others?

13. This policy is also guided by the *Principles of Good Complaints Handling* published by the Parliamentary and Health Service Ombudsman for public bodies:

- Getting it right
- Being customer focussed
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement

14. This is how we interpret the principles and how we will handle complaints:

- complaints are dealt with efficiently and confidentially;
- complaints are properly investigated, monitored and recorded;
- complainants receive, so far as reasonably practicable, assistance to enable them to understand the procedure or advice on where assistance should be available;
- complainants receive a timely and appropriate response;
- complainants are told of the outcome of the investigation of their complaint and action is taken, if necessary, in the light of the outcome of a complaint;
- the process for dealing with complaints should be, and be seen to be, impartial and fair to both staff and complainant alike;
- complainants will be treated with respect and courtesy;
- complainants will not be discriminated against for making a complaint and making a complaint will not adversely affect current or future treatment;
- Information will be provided to senior management to help services to be reviewed and improved;
- All complainants will receive a sympathetic and caring response and, where appropriate, an apology given or an expression of regret; and
- Staff will receive appropriate training in handling complaints.

15. In February 2013 the Department of Health Published the Robert Francis Inquiry Report into Mid-Staffordshire NHS Foundation Trust (2013a Department of Health, Crown) This report provided recommendations on the lessons to be learnt following poor standards of NHS care which was delivered to patients at the Mid Staffordshire NHS Foundation Trust. Francis (DoH 2013) noted in his report that a health service which listens to complaints made by patients will be better at detecting the initial warning signs which indicate that there are matters needing to be rectified and explored to ensure that other patients are not adversely affected.

16. Following this report, the Prime Minister and Secretary of State for Health appointed a review into the way that complaints are handled by NHS hospitals. (A review of the NHS Hospitals Complaints System Putting Patients Back in the Picture, Right Honourable Ann Clwyd MP and Professor Tricia Hart, October 2013). This was undertaken by the Rt. Hon Ann Clwyd and Professor Tricia Hart. The report was published in October 2013 and recommended that patient care needs to be made a top priority, with a need for clearer standards for patient

care. It also made recommendations for better ways of acting on complaints which are made, including providing more information on the process of making a complaint and making it easier to make a complaint.

Equality, Inclusion and Human Rights

17. A key principle of this policy is to ensure that all complainants will be treated equally and will not be discriminated against on the grounds of religion or belief, gender, race, disability including learning disability, age, sexual orientation, gender reassignment, marriage or civil partnership, pregnancy or maternity, or because they have complained.
18. The CCG aims to commission services that are open, culturally aware and equally accessible to all sections of the community and will endeavour to achieve this by:
 - Ensuring that individual's views are considered, recognising that everyone is different and valuing the contribution that individuals experience, knowledge and skills can make to provide a better service for the community;
 - Being committed to providing and commissioning healthcare which is equally accessible and appropriate to everyone in the community we serve;
 - Not tolerating any actions which obstruct access to, or delivery of, the services we commission and which lead to unfair treatment on the grounds of religion or belief, gender, race, disability including learning disability, age, sexual orientation, gender reassignment, marriage or civil partnership, pregnancy or maternity, nationality, ethnic or national origin, domestic circumstances, social and employment status, HIV status, political affiliation or trade union membership, or because they have complained;
 - Ensuring provision of services adhere to the principles of treating people the way they expect to be treated and are in line with equality legislation and the Human Rights Act;
 - Ensuring people are treated with fairness, dignity, respect and equality;
 - Taking appropriate action to remove any discrimination and promote equal opportunities;
 - Monitoring a wide range of our activities in order to make sure our commitment is being effectively delivered throughout the organisation;
 - Ensuring fairness for all by developing a robust system for collecting equality monitoring data when complaints are received about commissioned services. The information gathered will be analysed and will assist in addressing any gaps or lack of service provision identified.
19. The equality monitoring form will be used to monitor this to ensure all 9 protected characteristics are considered. The equality monitoring form is designed to capture date of birth (age), sex / sexual orientation / gender reassignment, relationship status, long term conditions, ethnic group / background, religious identity and preferred language. This form will be sent to every complainant along with the initial letter of acknowledgement and consent form.
20. Complainants will be requested to complete the equalities monitoring form to assist the CCG with improving how we handle complaints and to ensure that we handle their complaint fairly and do not discriminate in any way. If the

complainant does not wish to complete the form this will not impact on their complaint in any way.

21. The completed equalities forms will be logged anonymously and protected characteristics reported on for further analysis and consideration. The equality monitoring form will help to gain a better understanding of issues raised across protected characteristics; will also assist with monitoring access to making a complaint – that everyone has a fair opportunity to make a complaint.

Definition

22. The CCG welcomes all feedback, compliments and complaints. The views of our patients are important to us and can help the CCG develop its services and inform improvements or share best practice in the services that we commission. All feedback received via the CCG complaints team will be logged as an enquiry, concern, compliment or complaint. Those patients that wish to make a complaint will be supported to do so by the complaints team.
23. The Patients Association defines a complaint as: “An expression of dissatisfaction made to an organisation, either written or spoken, and whether justified or not, which requires a response. There is no difference between a “formal” and an “informal” complaint, both are expressions of dissatisfaction.” (Good practice standards for NHS complaints handling, Patients Association, September 2013)
24. A complaint may be clinical or non-clinical, and could relate to one or more aspects of the services provided. It is essential that the investigation and subsequent response addresses all aspects of the complaint.

Duties and responsibilities

25. In order to fulfil the requirements for handling of complaints, the following personnel have responsibility for delivering the policy:

Managing Director

26. The Managing Director has overall responsibility for complaints management within the CCG. The responsibility for local resolution sign off of complaints is delegated to Directors where appropriate as detailed below.

Chief Nurse and Quality Officer

27. The Chief Nurse and Quality Officer has responsibility for complaints handling and local resolution sign off of complaints handled by the CCG, in particular complaints relating to clinical treatment. The Chief Nurse and Quality Officer also has responsibility for ensuring compliance with the Complaints Management Policy and that action is taken in the light of the outcome of any investigation within these services. As appropriate this responsibility may be devolved to the wider complaints team.

CCG Chief Officers

28. Chief Officers (or nominated deputies) across the CCG are responsible for overseeing the investigation report and approving it once the investigator has completed the investigation, in particular relating to their area of expertise e.g. procurement, primary care etc. The appropriate Chief Officer will also be responsible for approving complaint response letters before final review by the Chief Nurse and Quality Officer.

Complaints Team

29. The CCG will ensure that there are appropriately trained personnel to manage the process for handling all complaints. This team are available to complainants to provide help and guidance on accessing the complaint procedure, and throughout the complaint process. The Complaints Team has operational responsibility for the case management of each complaint in line with the complaints management policy and procedures.

30. The Complaints Team will:

- Assist and support patients and members of the public who wish to make a complaint;
- Receive all complaints and log the details on Datix Complaint Management System.
- Agree the complaint details with the complainant;
- Seek consent to investigate the complaint where required;
- Seek consent to forward a complaint to a provider organisation where relevant for investigation;
- Liaise with complainants, advocates, staff and providers of contracted and commissioned services to achieve resolution of complaints;
- Arrange meetings, mediation or other complaints handling methods agreed with the complainant;
- Ensure that each complaint is considered fully;
- Ensure agreed timescales are met;
- Provide reports and complaints data if required of them by the Chief Nurse and Quality Officer;
- Support the Directorate Complaints Lead by providing advice, guidance or support on complaints;
- Keep contemporaneous records.

31. ELR CCG recognises its duty to cooperate with other agencies where a complaint is received that relates to a number of agencies. The complaints team will ensure that there is a coordinated approach to multiagency complaints; the CCG may take the 'lead role' in terms of the coordinated response, although any decisions made will depend on the wishes of the complainant and the result of discussions with the various parties involved. A mutually agreeable timescale will be agreed between all parties for a coordinated response.

Directorate complaints leads

32. Directorate complaints leads are individuals from each directorate nominated to investigate the complaint where complaint relates to internal CCG functions. Appropriate support will be given to the directorate complaints leads from the Complaints Team in handling complaints.
33. Where a complaint relates to a provider of services, with the consent of the complainant, the complaints team will liaise with the appropriate provider complaint leads. Where complaints relate to commissioned services, complainants will be provided with the option of having their complaint sent directly to the provider, or for the CCG Complaints Team to facilitate the complaint on their behalf.
34. Whichever route a complaint takes, the lead will be expected to identify any learning and to draft the response letter following completion of the complaints investigation.
35. The Complaints Team will provide a named point of contact for the complainant and will regularly update the complainant as to the progress of the complaint.
36. In some cases, a complaint may require knowledge of a specialist topic, in this case, it may be appropriate for the directorate complaints lead to undertake an initial conversation with the complainant in order to try and resolve the complaint at that point. The complaints team will remain the main point of contact with the complainant, and all information will be shared with the team to ensure that records can be accurately maintained.
37. The directorate complaint lead will:
 - Investigate the complaint thoroughly and robustly.
 - Review any appropriate clinical records, with support/input from clinicians.
 - Discuss with relevant staff members details of the complaint in order to investigate and provide a thorough response, and make a record of the discussion.
 - Review relevant policies and guidance.
 - Reflect and embed any learning from complaints related to their CCG function.
 - Where complaints relate to providers, the directorate lead will be expected to share any learning with the service where appropriate.
 - Provide a proposed letter of response to the Complaints Team within the timescale indicated. This response should be open, honest and reflect any learning and agreed actions.

All staff

38. All members of staff, including temporary and agency staff, are required to comply with the requirements of this policy in a positive manner and co-operate fully with any complaint investigation.

39. Staff must send **all complaints** they receive to the Complaints Team on the same day as they are received. This should be done by secure e-mail or fax to facilitate same-day receipt. These will be logged by the Complaints Team on the same working day. The email address to send all complaints to is enquiries@EastLeicestershireandRutlandccg.nhs.uk.

What is covered by the Complaints Management Policy?

40. The Complaints Management Policy covers complaints received from external parties, connected with the CCG's function of commissioning health care; or services commissioned by the CCG under an NHS contract; or making arrangements for the provision of such care or services with an independent provider.
41. Sometimes it can be difficult to determine whether feedback is a complaint. This needs to be established by the team and if it is established that the person raising the issue would like to make a complaint then it will be treated as such.

Exclusions to this policy

42. This policy does not cover:
43. Complaints about CCG staff as they are managed through the appropriate HR process.
- Complaints about private treatment;
 - A complaint made by another NHS organisation about the CCG's services, which is not made on the behalf of a patient;
 - A complaint which has already been investigated by the Parliamentary and Health Service Ombudsman;
 - A complaint made by another NHS body or independent contractor which is not made on behalf of a patient or is concerned with the CCG's conduct;
 - Complaints raised by healthcare professionals will be handled through the incidents process and investigated by the incidents team. It should be noted that the primary aim of this policy is for patients to raise their complaints;
 - Complaints relating to the CCG's alleged failure to comply with a request for information under the Freedom of Information Act 2000.
 - Complaints about the provision of primary medical services (i.e. GPs) or other primary care providers (i.e. dentists, optometrist and opticians), which fall within the remit of NHS England at present
 - Complaints and grievances from members of staff relating to their contract of employment or any other employment matter. These will be handled through normal management arrangements or through the appropriate employment policy, e.g. Grievance Procedure.

Possible claims for clinical negligence

44. If a complainant reveals that they wish to seek compensation or pursue legal action due to negligence, the complainant will be advised that the complaint will be investigated but will not be able to address the issues related to

compensation. If a claim relate to CCG functions, advice would be sort from the Head of Corporate Governance.

Who can complain?

45. A complaint can be made by:

- A service user or by any member of the public who is dissatisfied with the services the CCG commissions, in relation to an action, omission or decision.
- Someone acting on behalf of another person may make a complaint where that person is unable to make the complaint herself/himself or has asked the person to make the complaint on her/his behalf.

46. Where people are unable to make a complaint themselves or where a complaint is made following the death of a patient, the representative will need to have, or have had sufficient interest in the patient's welfare and be an appropriate person to act on their representative. In such cases evidence of appropriate authority will be requested e.g. Health and Welfare Lasting Powers of Attorney.

47. Patient complaints may be made by:

- an existing or former patient
- a patient's next of kin e.g. husband, wife, son, daughter
- a patient's relative, friend, carer or advocates
- parent for a minor.

48. A complaint may be made by a person acting on behalf of a person as described above where that person:

- has died
- is a child
- is unable by reason of physical or mental incapacity to make the complaint himself/herself
- has requested that a representative act on his/her behalf.

49. When a complaint is received from MPs or non-NHS organisations they will be reviewed to assess whether they contain items / queries which should be handled as a patient complaint and through the patient complaints procedure.

Complaint options

50. Complaints can be sent either directly to the service provider (e.g. the hospital where treatment was received) or to the CCG, where the CCG is responsible for commissioning the service used by the patient.

51. When a complaint received by the CCG also involves services provided by another body (e.g. local authority) we will work with other provider/s and or commissioners as appropriate establishing timescales for response.

52. Where a complaint relates to a commissioned service, complainants will be given the option of sending the complaint directly to the provider, or having the CCG facilitate a response.
53. The Complaints team will liaise with the service provider to investigate the complaint and provide a response.

What complainants can expect from the complaints process

54. The Complaints Management Policy has been developed to ensure that a consistent and equitable approach is undertaken with all complaints, irrespective of the issues raised. When a complaint is made, the complainant can expect:
- An acknowledgement provided verbally or in writing, within 2 working days of the complaint being received;
 - An offer to discuss the complaint, agree the complaints resolution plan and to clarify what the complainant hopes to achieve through the process;
 - To be asked for a written consent form to be completed where appropriate before investigating a complaint.
 - Where the patient is unable to give consent or unwilling to make the complaint themselves, the Chief Nursing Officer would have to be satisfied that it was reasonable for the complainant to act on behalf of the patient.
 - If the Chief Nursing Officer is not satisfied, the CCG may refuse to continue with the complaints investigation;
 - To receive information on where support can be accessed, such as an independent complaints advocacy service or other suitable service;
 - The member of staff dealing with the complaint will understand the complaints procedure and comply with this policy and will be fully trained in implementing it;
 - An explanation of options relevant to the issues raised in the complaint in order to ensure proper investigation and resolution which takes into account the views and wishes of the complainant;
 - A mutually agreed, reasonable timescale for dealing with the complaint, in line with the timescales outlined in this policy, confirmed in writing.
 - To receive a clinical review of the complaint, if required.
 - To receive a response explaining the outcome of the investigation into the complaint and what appropriate action has been taken where learning will be used in the future together with an apology. This will also include information

on their right to take the matter to the Parliamentary and Health Service Ombudsman;

- The offer of a conciliation meeting;
- Where the content of the complaint covers both health and social care provision, or provision over a number of services we will co-operate with social care colleagues and other providers, to investigate and provide a single letter of response;

Consent and confidentiality

55. During a complaints investigation, patient confidentiality and adherence to the Data Protection Act 1998 and the CCG's Information Governance Policy must be maintained at all times ensuring personal information is sent and received safely.
56. Written consent will always be sought from the patient before a complaint investigation is undertaken. Likewise, if a complaint needs to be re-directed to another service to respond directly to the complainant, written consent will be obtained before this can occur.
57. If a complaint is made regarding the CCG, and it is not necessary to contact any external organisations in order to provide a full response, written consent is not required. The complaint letter or verbal complaint form will be treated as express consent for us to start an investigation.
58. If the Chief Nurse and Quality Officer is of the opinion that a representative does not or did not have a sufficient interest in the person's welfare, or is unsuitable to act as a representative, the Complaints Team will notify that person in writing stating the reasons.
59. In the case of a child, the representative must be a parent, guardian or other adult person who has care of the child, in cases where the child is in the care of a local authority or a voluntary organisation, the representative must be a person authorised by the local authority or voluntary organisation.
60. The Complaints Team will be responsible for safely storing all complaints documentation whether electronically or manually within the CCG.
61. All complaints records will be clear and legible and meet the required Records Management Code of Practice for Health and Social Care 2016 (Information Governance Alliance, July 2016)
62. The complete complaints file must be retained for a period of ten years, in cases longer, as the documentation may be required in a court of law if subsequent legal proceedings take place. The Corporate Affairs Team will refer to the CCG Records Management Policy and retention schedules as detailed in national guidance

Time limits for making a complaint

63. It is important that complaints are made as soon as possible after the event has occurred. Usually, complaints can only be investigated if they are:

- made within 12 months of the event or
- Made within 12 months of the complainant realising that he/she has something to complain about.

64. There is discretion to waive this timescale if, in the opinion of the Chief Nurse and Quality Officer that:

- the complainant has good reasons for not making the complaint within the given period; or
- it is still considered possible to investigate the complaint effectively and fairly.

How a complaint can be made

65. If a person wishes to make a complaint this can be done either verbally or in writing by any of the methods below:

- telephoning 0116 295 7572;
- in writing to:
East Leicestershire and Rutland CCG
Leicestershire County Council
Room G30 Pen Lloyd Building
County Hall
Glenfield
Leicester LE3 8TB
- or electronically via our website
<http://www.eastleicestershireandrutlandccg.nhs.uk/contact-us>

66. All complaints regardless of how they are made are treated as complaints, and will be investigated as such.

67. Where the complaint is made verbally to either the Complaints Team directly, or any member of staff a written record must accompany the acknowledgement together with an invitation to the complainant to agree or amend the information, date and sign it and return it.

68. Complainants will be given the option of receiving a final response in writing, signed by the appropriate Chief Officer on behalf of the Managing Director, or the Managing Director; or via a local resolution meeting (with formal meeting notes produced as a written record).

Assessing Complaints

69. All complaints will be assessed by the Complaints Team in order to determine the complexity of the complaint. This will be completed within two days of receiving the complaint.

70. The assessment will determine the anticipated length of time needed to complete the investigation and, where appropriate, other organisations that are required to input to a complaints investigation.

71. The Complaints Team may take expert advice to determine if there could be associated clinical risks which will require an immediate response outside the complaints process.

72. The Complaints Team will also agree how the response will be managed and coordinate a single response where possible. The complainant will be kept informed throughout and assurance will be sought that the complainant agrees with the timescales and process.

73. Any potential/actual risks to patient safety or safeguarding issues identified as a result of complaints investigations will be escalated to the Chief Nurse and Quality Officer.

Response Times

74. All complaints will be assessed by either the Chief Nurse and Quality Officer or nominated deputy on receipt. Complaint response timescales will be agreed with the complainant, as such the below timescales represent a guide.

0-25 working days	Will include no or limited clinical aspects and will be a single provider complaint or complaint about the CCG's systems / processes / decisions. Often best resolved by intervention at local level by the organisation. Examples of complaints commonly included in this category will include access to services/appointment systems and attitude of staff.
0-40 working days	Will include one or more service provider but will require more in depth investigations, and often includes some clinical / specialist aspects requiring advice from specialists. Examples of complaints commonly treated in this category include lack of appropriate

	clinical care/treatment or delayed diagnosis.
0-60 working days	Will be highly complex complaints and, as such, require the highest level of investigation and case management. These could either be multi agency or single organisation. Cases in this category will often include incidents resulting in fatalities, misdiagnosis, permanent harm or serious incidents.

75. Every effort will be made to meet the timescales identified in the categories above, however where due to complexities of the case there are likely to be delays due to unforeseen circumstances this will be communicated to complainants as soon as possible and revised timescales agreed.

Investigations

76. The Chief Officer in the CCG (responsible for the service area) will appoint a Directorate Complaints Lead. The Directorate Complaints Lead will investigate the complaint with support and guidance available from the Complaints team and in line with the guidance given for each category of complaint.

77. It may be appropriate to employ an external clinician to review a complaint should it contain a specialist clinical element that the organisation is unable to comment on.

78. The CCG Chief leading on the complaint will review and approve the investigation undertaken by the investigator. The CCG Chief Officer may request additional information and / or further information or clarity from the investigator. The final response letter to the complainant will also be reviewed and approved by the CCG Chief Officer.

79. For further information on the procedure refer to the Complaints Standard Operating Procedure, attached as Appendix 1 and the template for investigations Appendix 2.

80. Provider organisations will follow their internal processes for investigation of complaints and liaise with the CCG accordingly.

Record Keeping

81. The CCG will maintain accurate and up-to-date complaints files for each case processed. These files will include:

- Case notes and extracts from clinical records (if applicable)
- Statements relating to the investigation
- All communication related to the investigation or management of the complaint

- References to policy or procedural guidelines
- A clear summary of investigation findings
- Identification of any actions required in the form of a SMART action plan, and details of any lessons learnt.

Final Response

82. Each complainant will receive a response to their complaint, in the format agreed at the start of the complaints process. Each response will be written in the ELR CCG corporate style, in a sensitive and understanding style and will include (as a minimum)

- Summary of the original complaint
- An explanation of the issues investigated and findings
- The conclusions reached as a result of the investigation, and a clear outcome
- A clear, meaningful (not conditional) apology where necessary
- An explanation of any clinical or specialist terminology
- Details of changes made, actions taken and lessons learnt as a result of the complaint and subsequent investigation.

Conciliation and Mediation

83. Independent mediation and conciliation arrangements can be made available on a case-by-case basis. Requests for intervention of this type will be reviewed and considered by the Chief Nurse and Quality Officer.

Help available to make a complaint

84. The CCG will always offer assistance with connecting advocacy services with complainants. This will be done in conjunction with the complainant and will take account of any individual patient needs.

85. The Complaints Team also offers complainants support in making complaints. We will offer services including but not limited to: translation services; referring complainants to other specialised agencies and groups; and other general support. These can be accessed by making contact with the Complaints Team

Independent Review

86. The Parliamentary and Health Service Ombudsman (PHSO) is responsible for making final decisions on complaints that have not been resolved by the NHS in England, UK government departments and some other UK public organisations.

87. The PHSO offer a free service for complainants who believe there has been injustice or hardship because an organisation has not acted properly or fairly or has given them a poor service and not put things right.

88. The PHSO can only review a complaint if it has already been raised with the organisation concerned and the complainant remains dissatisfied with the way that complaint was investigated.
89. There is a time limit on when the PHSO can investigate complaints. Normally complainants need to send their complaint to the PHSO within 1 year of when they become aware of the problem. However, the PHSO can extend their time limit if there is good reason to do so.
90. The PHSO's customer helpline number is 0345 015 4033 and contact details as follows:

The Parliamentary and Health Service Ombudsman
Millbank Tower
Millbank
London
SW1P 4QP

Tel: 0345 015 4033
Textphone (Mincom) on 0300 061 4298
Fax: 0300 061 4000

Email: phso.enquiries@ombudsman.org.uk
Website: www.ombudsman.org.uk .

Supporting staff involved in complaints investigations

91. The Complaints Management Policy has been developed to ensure that a consistent and equitable approach is taken to both complainants and staff. The CCG appreciates that staff involved in investigating complaints or where they are the subject of a complaint will require support through the process. This can at times be stressful and/or traumatic. Staff can expect:
- That the organisation acts fairly towards staff as well as complainants;
 - To be informed if they have been complained about and where appropriate have an opportunity to respond;
 - To be provided with line management support and access to the Corporate Affairs Team when conducting investigations;
 - To be advised that external support is available, for example referral to independent staff counselling or Occupational Health.
 - Guidance on the procedure for complaints investigations for staff can be found in the Complaints Operational Procedure.

Learning from complaints

92. The CCG is fully committed to facilitating organisational learning and development through complaints resolution. Resolving the individual complaint is only part of the process.
93. Taking positive steps regarding identification, communication, procedural and operational or strategic issues, within and across each agency, is vital in ensuring a relevant and positive complaints service.
94. The process of reporting will be capture lessons learnt through the year relating to the CCG and where appropriate across providers and changes made to commissioning decisions, systems and processes as a result. This will be reported quarterly, with an annual summary.
95. Learning from complaints will be shared with the patient experience and engagement teams to share learning and themes and trends. Links will also be maintained with the hosted contracting teams.
96. Recommendations, learning and changes in practice as a result of complaints will be held centrally by the Complaints Team, and reported on periodically.

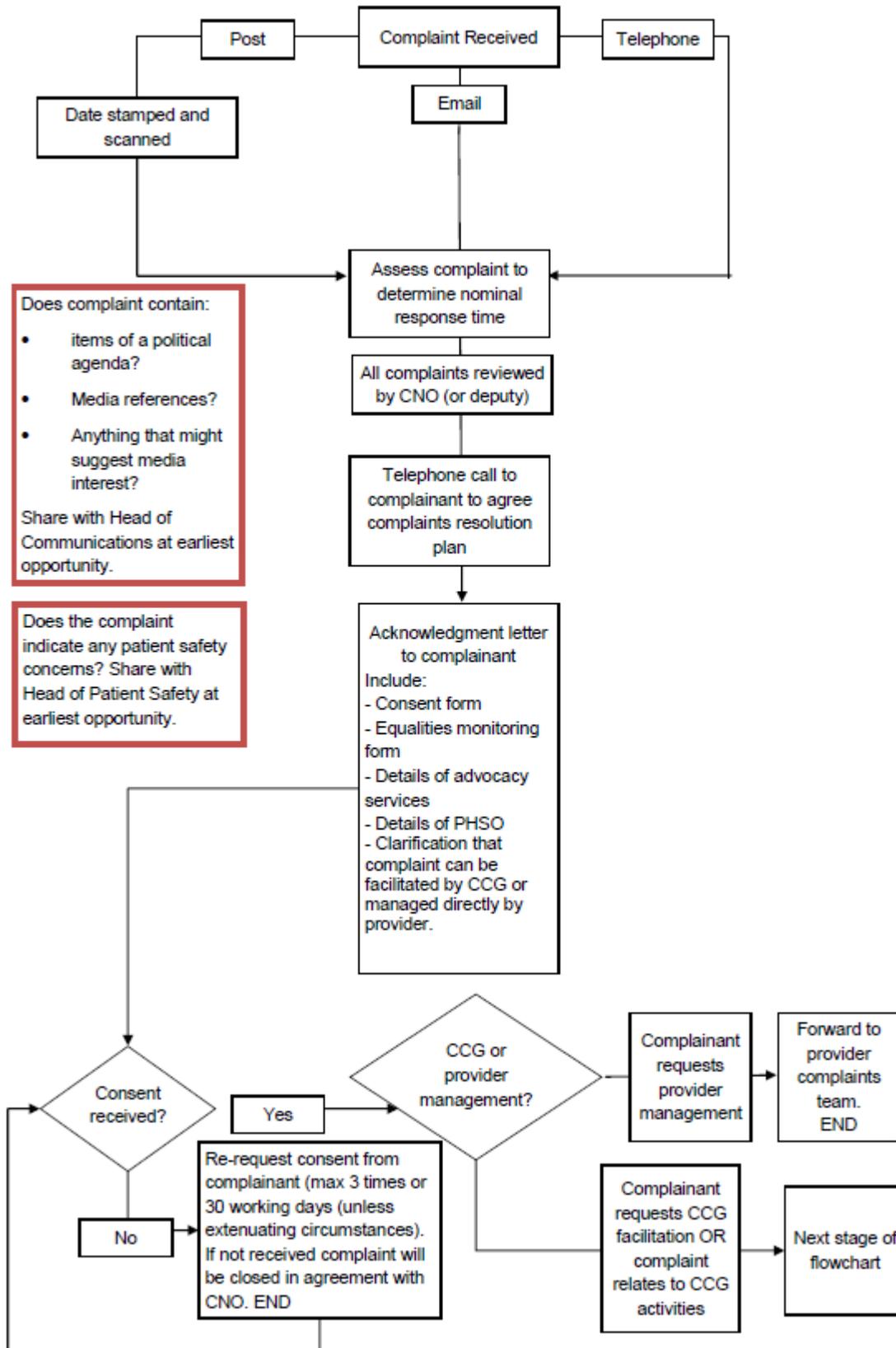
Monitoring and review

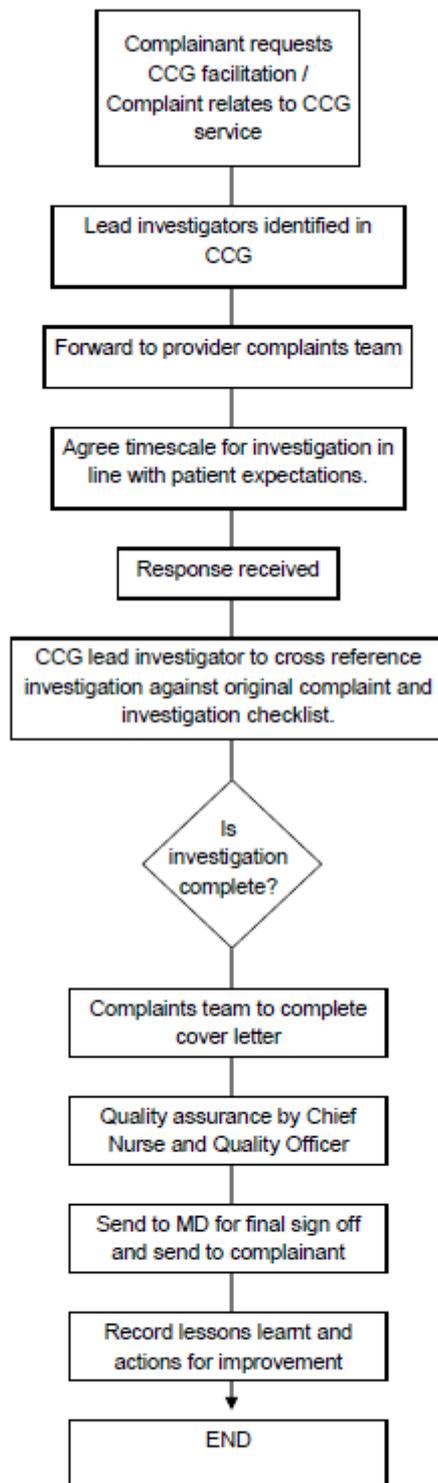
97. The Governing Body, will receive a quarterly complaints report which will:
 - outline the number of complaints received;
 - identify the subject matters;
 - detail achievement against indicators of performance e.g. compliance with timescales outlined in this Policy, review of equality monitoring information collated etc.;
 - identify number of extensions to original timescales
 - identify trends and areas of concern; improvement and lessons learnt.
 - highlight any improvements put into place resulting from lessons learnt from complaints;
 - contain details of any complaints referred to the Parliamentary and Health Services Ombudsman, if these were upheld and any recommendations made to the trusts.
98. Any actions identified during the investigation will be shared with the responsible directorate lead for action and monitoring, with progress updates requested. For actions resulting from complaints relating to providers, these will be shared with and monitored by the CCG hosted contracting teams.
99. An Annual Complaints Report will be produced on the handling and considering of complaints. This report will also identify any trends and actions taken to improve services as a result of any complaints.

Related Policies and Procedures

100. Associated Policies include (this is not an exhaustive list):
- Incidents Reporting Policy
 - Records Management Policy
 - Whistleblowing Policy
 - Equality, Inclusion and Human Rights Strategy/Policy
 - Data Protection Act Policy
 - Information Governance Policy
 - Risk Management Policy and Strategy

Complaints Standard Operating Procedure (SOP)





INVESTIGATION PLAN AND OUTCOME TEMPLATE

Patient Name		Complaint Ref		DATIX number	
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Investigating Officer		Complaints Officer	
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Date commenced		Investigation expected completion date		Date completed	
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No.	Issues, questions and concerns	Investigation findings	Learning/actions/change in service	Action plan due date/ completed

Unreasonable or Unreasonably Persistent Complaints

1. An unreasonable or unreasonably persistent complainant is someone who remains dissatisfied despite their complaints having been thoroughly investigated and fully responded to. The Ombudsman's Office describes this as complainants who, because of the frequency or nature of their contacts with an agency, hinder the consideration of their, or other people's, complaints.
2. Complaints should only be termed unreasonable or unreasonably persistent as a last resort and after all reasonable measures have been taken to try to resolve the complaint by local resolution. Judgement and discretion must be used in applying the criteria to identify potential unreasonable complainants and action taken should be on a case by case basis.
3. In determining arrangements for managing these types of complaints staff must 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 persistent complainants may have issues which contain genuine substance.
4. Complaints may be deemed to be vexatious where previous or current contact with them shows that they meet one or more of the following criteria (this is not an exhaustive list, and other factors may be considered by the Chief Nursing Officer):
5. Where complaints:-
 - Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted or where implementation of the NHS complaints procedure is inappropriate for the issue raised (e.g. where investigation is "out of time" and cannot be investigated fairly and effectively, or where the issue of concern arises from care as a private patient).
 - 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 new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints).
 - Are unwilling to accept documented evidence of treatment as being factual, (e.g. drug records, medical or 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.
 - Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of staff and, where appropriate, advocacy services to help them specify their concerns, and/or where the concerns identified are not within the remit of the CCG or provider trust to investigate.
 - Repeatedly focus on specific issues which have been appropriately and fully considered and responded to.

- 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).
 - Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Complaints Team, placing unreasonable demands on staff. (A contact may be in person, by telephone, letter 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).
 - Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
 - Display unreasonable demands or expectations, and fail to accept that these may be unreasonable (e.g. insist on responses to enquires being provided more urgently than is set out in the national guidance on complaints handling).
6. The CCG will take account of the context and history of the complaint when considering the questions above. An individual complaint may not be unreasonable or persistent in isolation, but in context it may form part of a wider pattern of unreasonable behaviour.
 7. However, the CCG will not automatically refuse a request simply because it is made in the context of a dispute or forms part of a series of requests. The complaints team will still ask whether the request is vexatious in that context by considering the questions listed above.
 8. An important point is that it is the complaint, not the complainant, which must be vexatious. The CCG will not automatically refuse to deal with a complaint just because the individual has caused problems in the past.

Considerations prior to taking action

9. The complaints team will make sure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of things to bear in mind when considering the imposition of restrictions on a complainant.

10. These may include:

- Ensuring that the complainant’s case is being, or has been, dealt with appropriately, and that reasonable actions will follow, or have followed the final response.
- Confidence that the complainant has been kept up to date and that communication has been adequate with the complainant prior to their behaviour becoming unreasonable or persistent.
- Checking that the complainant is not raising any new or significant concerns that need to be considered that will affect the organisation’s view on the existing case.
- Applying criteria with care, fairness and due consideration for the complainant’s circumstances – bearing in mind any known physical or mental health conditions that may explain the reason for their difficult behaviour. This should also include consideration of the

impact of any bereavement, loss or significant/sudden changes to the complainant's lifestyle, quality of life or life expectancy.

- Considering the proportionality and appropriateness of the proposed restriction in comparison with the level of unreasonableness of the behaviour and impact on staff.
- Ensuring that the complainant has been advised of the existence and purpose of the policy and has been warned about, and given a chance to amend their behaviour or actions.
- Considering whether there are further actions to take before designating the client as persistent or unreasonable.

Actions prior to designating client as 'unreasonable or persistent'

11. Consideration should be given as to whether any further action can be taken prior to designating the complainant as 'unreasonable' or 'unreasonably persistent'. This might include:

- Where no meeting with staff has been held, consider offering this as a means to dispel misunderstandings and move matters forward – this option will only be appropriate where risks have been assessed, and a suitably senior member of staff can be present.
- Where multiple departments are being contacted by the complainant, consider setting up a strategy to agree a cross-departmental approach.
- Issue a warning letter explaining that if the complainant's actions continue, the organisation may decide to treat him or her as an unreasonably persistent complainant and explain why.
- Consider if providing a copy of records, or setting a meeting to talk through records, may help to dispel misunderstandings or misconceptions – this option will only be appropriate where staff are unaware of any circumstances where this would not be advisable and consent is appropriately obtained.

Options for dealing with Persistent Complainants

12. Where complainants have been identified as persistent in accordance with the above criteria, the Chief Nurse and Quality Officer (or appropriate deputy in their absence) will determine what action to take.

13. The Chief Nurse and Quality Officer (or deputy) will implement such action and will notify complainants in writing of the reason why they have been classified as persistent complainants and the action to be taken, and how long the restrictions will remain in place. The complainant should be provided with a copy of this Policy.

14. This notification may be copied for the information of others already involved in the complaint, e.g. practitioners, ICAS, Member of Parliament. A record must be kept for future reference of the reasons why a complainant has been classified as persistent.

15. The Chief Nurse and Quality Officer may decide to deal with complainants in one or more of the following ways:

- Place time limits on telephone conversations and personal contacts.

- Decline contact with the complainants either in person, by telephone, by fax, by letter, by email or any combinations of these, provided that one form of contact is maintained, (if staff members are to withdraw from telephone conversations with a complainant it may be helpful for them to have an agreed statement available to be used should the complainant persist in ringing).
- Restrict contact liaison through a third party (such as an advocate) .
- Refuse to register and process further concerns or complaints about the same matter - notify the complainant in writing that the CCG has responded fully to the points raised and has tried to resolve the complaint but has nothing more to add and continuing contact on the matter will serve no benefit. The complainant should also be notified that the correspondence is at an end and that further letters received will be acknowledged but not answered. Complainants should be reminded of their right to pursue their complaint via the Health Service Ombudsman.
- Inform the complainant that future correspondence will be read and placed on file, but not acknowledged.
- State that the organisation does not deal with correspondence that is abusive or contains allegations that lack substantive evidence, request that a revised version of the correspondence be provided.
- Inform the complainant that any personal contact will take place in the presence of a witness.
- Drawing up a signed “agreement” with the complainant which sets out a code of behaviour for the parties involved if the CCG is to continue processing the complaint. If these terms are contravened consideration would then be given to implementing other actions as indicated in this section.
- Inform the complainants that in extreme circumstances the CCG reserves the right to pass unreasonable or persistent complaints to its solicitors.
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the Health Service Ombudsman.

Reviewing and Withdrawing ‘Persistent Complainant’ Status

16. 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.

17. Staff should have used discretion in recommending the initial ‘persistent’ status and discretion should similarly be used in recommending that the status be withdrawn when appropriate. Where this appears to be the case, discussion will be held with the Chief Nurse and Quality Officer. Subject to their approval, normal contact with the complainants and application of NHS complaints procedures will then be resumed.

Record Keeping

18. Ensure that adequate records are kept of all contact with persistent complainants. This should include circumstances when:-

- The decision to use this policy is invoked.
- A decision is taken not to apply the policy when a member of staff asks for this to be done, or make exception to the policy once it has been applied