



Stafford & Surrounds Clinical Commissioning Group

Policy for Handling Complaints

Agreed at Governing Body

Signature: 

Designation: Chair of the Governing Body

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1. Introduction

This policy sets out and explains the framework for investigating complaints made against Stafford and Surrounds Clinical Commissioning Group (CCG) and all its Providers/Commissioned Services, in accordance with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, the Health and Social Care Act 2012 and CCG Constitution.

These Regulations require every healthcare organisation to have a clear and published complaints process for considering complaints made about:

- i) the services provided by a provider under arrangements with the CCG
- (ii) the exercise of any function discharged or to be discharged by it under arrangements made between it and a local authority under section 75 of the 2006 Act* in relation to the exercise of the health-related functions of a local authority;

2. Scope

The Policy is CCG-wide and applies to all staff and services. The key objectives are that:

- (a) complaints are dealt with efficiently;
- (b) complaints are properly investigated;
- (c) complainants are treated with respect and courtesy;
- (d) complainants receive, so far as is reasonably practical—
 - (i) assistance to enable them to understand the procedure in relation to complaints; or
 - (ii) advice on where they may obtain such assistance;
- (e) complainants receive a timely and appropriate response;
- (f) complainants are told the outcome of the investigation of their complaint; and
- (g) action is taken if necessary in the light of the outcome of a complaint.
 - (i) to use lessons on quality and outcomes from investigations to improve services (and feed into service development) for patients
 - (ii) to ensure that the process meets full compliance with assessment requirements i.e. Care Quality Commission, NHS Litigation Authority Risk, CCG constitution and governance arrangements.
- (h) where mistakes have happened, the CCG will acknowledge them, apologise, explain what went wrong and put things right – quickly and effectively.

3. Definition of a Complaint

3.1 A complaint is an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation or its staff affecting an individual.

3.2 A complaint may be made orally or in writing or electronically

3.3 The following complaints are however excluded:

- A complaint by a responsible body*; (* see Glossary)
- A complaint by an employee of a local authority or NHS body about any matter relating to that employment;
- A complaint which is made orally; and is resolved to the complainant's satisfaction not later than the next working day after the day on which the complaint was made;
- A complaint previously investigated by the CCG or provider under current or previous NHS Complaints Procedures;
- A complaint the subject matter of which is being or has been investigated by the Parliamentary & Health Service Ombudsman
- A complaint arising out of the alleged failure by a responsible body to comply with a request for information under the Freedom of Information Act 2000

3.4 Where a complaint received falls into 3.3 above the complainant will be advised that no further action can be taken under these Regulations and the reason why.

3.5 Where a complaint (or any subsequent investigation) alleges fraud or potential fraud, the respective Patient Services Manager will inform the Head of Strategic Compliance & Governance and will seek guidance from the Local Counter Fraud Specialist (LCFS) and Chief Finance Officer. Should an investigation be pursued by the LCFS, the complaints procedure may be suspended until the outcome of the LCFS process is complete.

3.6 Correspondence from Members of Parliament, where a general enquiry is received, may not be a complaint but the CCG will endeavor to adhere to the same principles of timely investigation and response (see [Appendix1](#)). Please refer to 8.2 for timescales.

4. Policy Statement

- 4.1 The CCG welcomes comments, suggestions, complaints and constructive criticism relating to the services that it commissions, on behalf of the residents of Stafford and its surrounding villages. These are important elements in learning from patient's experiences and enhancing the quality of work carried out by the CCG and the quality and safety of the services provided within the local health economy.
- 4.2 The CCG supports the right of patients, as outlined in the NHS Constitution, to have any complaint about NHS services dealt with efficiently and properly investigated, resulting in a full and prompt reply.
- 4.3 It is important that no one (staff or service user) should be inhibited or disadvantaged when making complaints and that there is confidence that a complaint will be given proper and speedy consideration. All issues will be treated in the strictest confidence and will not affect the current or future care of complainants and all points of view will be listened to and investigated without prejudice.
- 4.4 Many matters that concern service users can be dealt with as they arise. Staff and managers are encouraged to be aware of and deal with these in a way that will satisfy the complainant. A guide to assist staff in dealing with compliments, concerns, queries and complaints is available. Any verbal complaint resolved within 24 hours following receipt will not be deemed a formal complaint under the Regulations.

- 4.5 All Staff of the CCG and Commissioning Support Unit (CSU) who have potential for dealing with complaints will receive appropriate training in customer care.
- 4.6 In considering complaints the following key principles will be adopted:
- a) The procedure is easily accessible and well publicized
 - b) The procedure is simple to understand and use
 - c) All complaints will be treated in the strictest confidence
 - d) Complainants are treated courteously and sympathetically by any person to whom they make their complaint
 - e) Complaints are dealt with in a timely manner within agreed timescales for both response and action and complainants kept informed of progress
 - f) Investigations carried out will be proportionate to the nature, complexity and severity of the issues raised, and a full response will be provided in order to satisfy concerns expressed wherever possible on the basis of “Do it Once, Do it Right”
 - g) Clear information is provided on how to pursue the matter further with the Parliamentary & Health Service Ombudsman if the complaint is unresolved
 - h) Complainants and staff involved in a complaint are supported and treated fairly with confidentiality preserved; different points of view will be listened to and investigated without prejudice
 - i) Complaints are monitored and actions/outcomes identified to ensure service improvements
 - j) Where a full investigation has been carried out the CCG will consider all forms of remedy, including financial reimbursement. This will only be paid where the CCG has been found at fault for any financial expense or loss as a result of maladministration or service failure. This will be in line with the CCG Standing Financial Instructions, Schemes of Delegation and relevant financial policies. It does not cover any legal claims arising out of the issues.
- 4.7 The Regulations do not cover the Patient Advice and Liaison Service (PALS). Across the CCG, PALS are available to assist when advice or “on the spot” help is required. Contact details are provided in [Appendix2](#). The Complaints Team and the PALS Team will ensure regular communication in order to:
- Ensure open lines of communication between PALS and Complaints Team
 - Enable the easy flow of information between the departments whilst giving full consideration to the principles of patient confidentiality and the Caldicott rules
 - Help prevent duplication of work by highlighting when particular departments are dealing with particular clients
 - Ensure good working relationships and cooperation between the two departments
 - Discuss the dissemination of information to other interested parties
- 4.8 All providers of NHS Services in contract with the CCG (including Independent Providers) will be required, by contract conditions, to have in place a complaints procedure which is easy to access for patients and complainants; which is responsive and fair to patients and staff; and which is utilised in a positive way to

secure improvement in the quality of services provided.

5. Roles & Responsibilities

5.1 Chief Officer

The Chief Officer is the Accountable Officer.

5.2 Chief Nurse (Director of Quality & Safety)

The Chief Nurse is the designated “Responsible Person” and has overall responsibility for complaints about the CCG and will be fully satisfied with the scope of the investigation before responding to the complainant. The Chief Nurse will normally sign off all complaints. A nominated deputy will also be identified.

The Chief Nurse has Board level responsibility for reporting on complaints and overseeing the process, to ensure quality and patient safety issues are maintained at the highest level.

5.3 Head of Strategic Compliance & Governance

The Head of Strategic Compliance & Governance will oversee the complaints handling procedure to ensure the process is consistently applied. The Head of Strategic Compliance & Governance will also highlight any areas of risk identified as a result to the Executive Team/Provider Services Board.

5.4 Patient Services Manager (via CSU)

The operational responsibility for the handling of complaints about the CCG’s policies and decisions, as well as the services provided by other providers who have a contract with the CCG lies with the Patient Services Manager.

The Patient Services Manager will manage the CCG’s complaints procedure and ensure complaints files are complete and maintained in line with good record keeping. The Patient Services Manager will liaise with Investigating Officers/Heads of Departments/Directors and co-ordinate all information in order to provide a draft response to the complainant. The Patient Services Manager will be readily accessible to the public, to ensure early and personal contact and be able to give advice on the complaints procedure and to enable early establishment on agreement of issues identified and clarify aims.

Information will also be relayed to the complainant regarding advocacy services that are available to assist. Where appropriate, the Patient Services Manager can also arrange for a non-formal conciliation service to assist in the resolution of complaints, if required.

The Head of Communications, Engagement and Governance (CSU), who line manages the Patient Services Manager, will oversee the complaints handling procedure to ensure the process is consistently applied across the CCG. They will also highlight any areas of risk identified as a result to the Executive Team/CCG Board.

In any case involving alleged fraud; the Patient Services Manager will inform the Head of Strategic Compliance & Governance and will liaise with the LCFS and Chief Finance Officer. The Chief Officer and Patient Services Manager will be alerted to any

complaint that is likely to attract media attention.

In any complaint involving controlled drugs, the Patient Services Manager will notify the CCG Accountable Officer for Controlled Drugs (Strategic Medicines Management Lead at the Cluster of Staffordshire PCTs) in accordance with the Controlled Drugs (Supervision of Management and Use) Regulations 2006.

In cases where a request for an independent review has been made, the Patient Services Manager will be the point of contact within the CCG for the Parliamentary & Health Service Ombudsman and will liaise with them in any investigation.

In all cases contemporaneous notes should be made of all patient contacts (if not carried out by letter or e-mail) and logged on the Datix database.

5.5 Investigating Officer

For CCG commissioning complaints the Lead Officer will usually be the manager of the respective department, with a copy of the letter of complaint also being sent to the respective Executive Team member. The Lead Officer will be the contact for any purchasing, waiting list or continuing care.

If there is likely to be any delay in the investigation, the Patient Services Manager should be informed at the earliest opportunity to allow discussions to take place with the complainant to update them accordingly and agree a revised timescale

6. Who may complain

- 6.1 A complaint may be made by a person who receives or has received services from a provider (responsible body) or any person affected by or likely to be affected by the action, omission or decision of the NHS body, independent provider or local authority that is the subject of the complaint.
- 6.2 Someone acting on behalf of another person may make a complaint on behalf of that person, where that person is unable to make the complaint themselves or has asked the person to make the complaint on their behalf *.
- 6.3 Where the person is unable to make a complaint themselves, the representative will need to have or have had sufficient interest in their welfare, and be an appropriate person to act on their behalf.
- 6.4 Where a representative makes a complaint on behalf of a child or a person who lacks capacity within the meaning of the Mental Capacity Act 2005, the CCG to which the complaint is made:
 - (a) must not consider the complaint unless it is satisfied that there are reasonable grounds for the complaint being made by a representative instead of the child and acting in the best interest of the person on whose behalf the complaint is made
 - (b) if it is not so satisfied, must notify the representative in writing and state the reason for its decision.

* (See [Appendix3](#) Guidelines for obtaining consent for complaints made by a third

person)

7. CCG Commissioning complaints

- 7.1 The appropriate CCG to conduct an investigation will be dictated by the area in which the patient's main GP practice is situated (where a patient is not registered with a GP, it will be their place of residency). This will also apply to any complaint regarding continuing care/free nursing care funding decisions.
- 7.2 The Patient Services Manager will contact the complainant to discuss issues, timescales and desired outcomes in order to manage expectations. Liaison will then follow with the appropriate Senior Management Team member/ Manager to establish the necessary information to allow an investigation to take place and a response to be drafted and sent out within the agreed timescale. See Flow Chart at [Appendix4](#)
- 7.3 The Chief Nurse, or their nominated deputy, will receive the file to amend/approve and sign the final response to the complainant.

8. Independent Contractor complaints

- 8.1 Independent contractors, including GPs, Optometrists, Pharmacists and Dentists are required by their contract or terms of service to operate an in-house complaints procedure that complies with national criteria. There may be instances where the patient makes a complaint to the CCG about their GPs, Optometrists, Pharmacists and Dentists, and this will be dealt with in line with this policy for complaints handling.
- 8.2 The CCG will on receipt of a complaint regarding an independent contractor will log this onto the Datix as an 'unapproved' complaint within one working day of receipt and will send hard copy of the complaint to the Patient Services Manager, preferably via e-mail within one working day. The CSU staff will then contact the complaint to discuss issues, timescales and desired outcomes in order to manage expectations. The complaint will be acknowledged by CSU staff within three working days from receipt by the CCG. With the complainant's agreement the Complaints team will liaise with the practice to facilitate local resolution and a timely response.
- 8.3 Independent Sector provider complaints will be managed in the same way as identified above.
- 8.4 In some cases the CCG may propose that an investigation into the complaint be carried out directly by the CCG with the practice. This may be triggered by an identified trend, multi-agency involvement or severity of the nature of the complaint. The trigger list at [Appendix5](#) may be used to assist in this decision.
- 8.5 The Patient Services Manager will provide advice on the NHS Complaints procedure to both complainants and practitioners when required.
- 8.6 Where an individual complaint investigation identifies that action is required under the Performance Management of Independent Contractors Policy, the complainant must be advised of the action being considered and any outcome. This

information should not reveal any details that are not associated with the complaint.

9. Freedom of Information complaints

9.1 Where a formal complaint relates to non-compliance with either a request for information, or the disclosure of information, under the Freedom of Information (FOI) Act 2000 or the Data Protection Act (DPA) 1998, the complaint process will mirror the local resolution stage of the NHS Complaints Procedure as follows:

- a) The complaint will be acknowledged in writing by the Patient Services Manager within 3 working days and an investigation carried out in conjunction with the Lead Director and Lead Officers.
- b) The CSU Head of IM&T (Information Management & Technology) is the Lead Officer for FOI and for Data Protection.
- c) A full response will be sent out from the Chief Officer and the CCG will aim to respond within 25 working days

9.2 The letter of response will give details of the right to approach the Information Commissioner, should the matter remain unresolved.

10. Complaints about Commissioned Services

10.1 There are three options open to the CSU when deciding the appropriate method of investigation required for complaints received at the CCG relating to commissioned services.

In all cases, the Complaints team will:

- Discuss details of complaint personally with complainant. Ascertain nature of complaint and outcome that is required to resolve the issues. The CCG must be open and honest when managing the expectations of the complainant.
- Complete details on initial contact form with complainant. Ensure form giving consent is completed where appropriate. Agreed way forward to be documented in all cases.
- A suggested list of triggers is shown at [Appendix 5](#) along with the indicator for level of investigation i.e by the provider themselves, via CCG supervision or by direct investigation.
- **Option 1 – Usually identified as LOW in the trigger list.** The CSU on behalf of the CCG, with the complainant's consent, will forward the letter of complaint to the responsible body concerned, requesting that an investigation be undertaken and that a copy of the final response is sent to the CSU who will draft the final response for the CCG. No direct intervention by the CCG. A concise investigation. Timescales are referred to as in 8.2 above.
- **Option 2 – Usually identified as MODERATE in the trigger list.** The CSU, on behalf of the CCG, will be responsible for the supervision of the complaint. A named member of staff within the CSU Patient Liaison Team will be the first point of contact for the complainant and any queries relating to the complaint

- The CSU, on behalf of the CCG, will with the complainant's consent, forward details of the complaint to the relevant organisation to investigate the issues.
- The CSU, on behalf of the CCG, will liaise regularly with the relevant organisation for an update on progress of investigations and reasonable timescales for a response. They will subsequently pass this information on to the complainant
- The response will be forwarded to the Complaints team who will ensure that all the concerns have been fully addressed. Datix will be used to plot issues and responses to ensure no gaps or outstanding issues remain. Any issues that have not been addressed will be referred back to the organisation requesting an urgent review. A concise investigation may be sufficient, but where the issues are frequently occurring or where national guidance has been issued on the subject of the complaint, a comprehensive investigation with root cause analysis should be considered, dependant on potential for future harm.
- Once complete, the draft response will be forwarded on to the CCG Chief Officer for review and signing. The signed response will then be sent to the complainant by the CCG
- The CSU/CCG will monitor these actions to ensure they are completed and within appropriate timescales. This information will be fed back to the complainant.

10.2 Option 3 – Usually identified as HIGH in the trigger list. In some cases the CCG may decide, with the agreement of the complainant, to investigate a complaint directly with a provider. This may be based on previous trends identified that have not been resolved; the complexity of the complaint perhaps where there is multi-agency involvement and therefore a need for co-ordination, or where the nature of the complaint is on the face of it, a serious concern and risk to patient safety. The complainant themselves may indicate that previous contacts/issues raised directly with the provider have not been satisfactorily resolved and they no longer have faith in a robust or fair investigation. It is expected that these will be comprehensive investigations involving root cause analysis.

10.3 In Option 3 the Patient Services Manager will liaise with the relevant Complaints Manager in the responsible body to arrange meetings with key staff and access to health records etc.

10.4 An agreed number of the complaint investigations (from those rated HIGH and MODERATE) will have a Board / Executive Team member assisting in the investigation process in order to gain first hand patient experience. This must be agreed with the complainant in light of any confidential health issues that may be raised as part of the investigation.

10.5 In the initial discussion with the complainant, the status of the complaint should be clarified i.e. whether it is a new complaint not previously investigated, or has it been investigated by the provider or is now with the Healthcare Commission or Ombudsman. If it is a complaint that has already been investigated by the provider (responsible body), the CCG may not re-investigate, however, a copy of

the report and response will in some cases be requested by the CCG from the relevant organisation for quality assurance reviews.

11 Verbal Complaints

- 11.1 Staff of the CCG will be encouraged, in conjunction with their line manager, to deal with verbal complaints to which they can provide an immediate response.
- 11.2 The first responsibility on receipt of such a complaint is to ensure – before doing anything else – that the patient’s immediate health needs are being met. This may require urgent attention before any other matters are addressed. Where the issues raised are resolved immediately (ideally within the following 24 hours) it will not be treated as a formal complaint, however, the issues should be recorded on a PALS form and submitted to the relevant office.
- 11.3 Where a complaint is made verbally (See [Appendix 6](#) for recording form) but is dealt with as a formal complaint made under these Regulations, a summary of the complaint will be drawn up by the Patient Services Manager and sent to the complainant for signature and return. The process for written complaints will then be followed.

12. Written Complaints

- 12.1 All written complaints should be forwarded, immediately upon receipt, to the Patient Services Manager or entered onto the Datix system as unapproved complaints. This is in order to comply with the 3 day acknowledgement timeline.
- 12.2 The Patient Services Manager will ensure that the complaint is formally acknowledged (verbally, electronically or in writing, within 3 working days) and an Investigating Officer appointed, where appropriate. The acknowledgement will inform the complainant of the help available from the Independent Complaints Advocacy Service (ICAS) in pursuing the complaint. This is a free, independent and confidential service that offers assistance with guiding complainants through the NHS Complaints process, and is not part of the National Health Service. Further contact details for the local ICAS service are given in [Appendix 2](#).
- 12.3 The investigating officer may be from within or outside the individual service depending upon the nature of the complaint. Where a complaint is of a clinical nature, a clinician will be involved in the complaint process.
- 12.4 Wherever possible, and if appropriate, the investigating officer should arrange to meet, as soon as feasible, the complainant and the staff members involved to discuss the complaint in more detail and seek to resolve the issues. These proceedings should be recorded in writing. A proforma for recording these proceedings is attached at [Appendix 7](#).
- 12.5 The results of the investigation/draft reply will be received by the appropriate Patient Liaison Officer and forwarded to the Patient Services Manager, in order to facilitate a response under the signature of the CCG Chief Nurse. In the event of the Chief Nurse not being available the CCG is required to nominate a suitable deputy for this role.
- 12.6 The response will inform the complainant that should he/she still remain

dissatisfied with any aspect of the complaint, they have the right to refer the complaint to the Parliamentary & Health Service Ombudsman.

- 12.7 If it is not possible to respond to a particular complaint within the agreed timescale the Patient Services Manager will ensure that the complainant is advised of the position and agree a revised timescale. This should be confirmed in writing to the complainant.
- 12.8 A copy of the final response will be sent to the Lead Manager for information.
- 12.9 Where improvements have been indicated in the Complaint and Investigation Review Report, a copy of the report and final response should be forwarded to the lead Commissioning Manager for ensuring implementation. It should also be recorded by the Patient Services Manager on a specific spreadsheet to enable monitoring and progress of all action plans
- 12.10 In all cases, First Class post will be used in correspondence to parties and marked "Private & Confidential"

13. Conciliation

- 13.1 Conciliation is a method of involving an impartial third party to facilitate dialogue to resolve an issue, and is a method of intervention designed to assist resolution. The CCG is able to provide a conciliation service and has access to trained Lay Conciliators. Arrangements will be made via the CSU Patient Services Manager as and when required.
- 13.2 Copies of the correspondence held on file will be shared with the Conciliator, and contact details given for both parties. The conciliator will only report back to the Patient Services Manager on outcomes and agreed action points and not disclose the substance of any discussions.
- 13.3 When making arrangements for meetings or particularly home visits, consideration should be given to health and safety/lone worker issues when meeting the parties separately or at any joint meeting.
- 13.4 The conciliation process is confidential, however, where information is raised within that process regarding a child protection or patient safety issue, the Conciliator may have to breach confidentiality and seek further advice via the Patient Services Manager.
- 13.5 Conciliation fees are paid on a sessional basis and reviewed annually in line with Pay Circular (M&D) – Fees & Allowances payable to doctors for sessional work in the community health services.

14. The Parliamentary and Health Service Ombudsman

The revised NHS complaints procedure is a two-stage process. Complainants who are unhappy with the response to their complaint can ask the Parliamentary and Health Service Ombudsman to consider the matter and should do so as soon as possible after the response has been sent to them.

15. Time Limits for Complaints

- 15.1 A complaint must be made not 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 that is the subject of the complaint came to the notice of the complainant. A summary of time limits for the submission and investigation of complaints is shown at [Appendix1](#).
- 15.2 Where a complaint is made outside the time limit specified it will be at the discretion of the CCG Chief Nurse and CSU Relationship Manager to decide whether an investigation should take place, based on whether it is possible to carry out the investigation effectively and fairly. For complaints against the CCG this will be the Patient Services Manager. For other organisations and independent contractor complaints it will be the person responsible for dealing with complaints within the organisation/practice. Before refusing an investigation, if it is not clear, the complainant should be asked for their reasons for the delay in making their complaint
16. Confidentiality
- 16.1 All information relating to specific complaints will be treated as confidential and only divulged to authorised staff involved in the investigation of the matter on behalf of the Chief Nurse.
- 16.2 Where a request to investigate a complaint is received from a third party e.g. Member of Parliament or the Independent Complaints Advocacy Service, written authorisation from the named individual will be requested before the release of any confidential information.
- 16.3 Data held on computers will conform to the principles and practices of the Data Protection Act 1994 and 1998. Computers will be password protected and access to computers holding data will be limited to authorised staff.
17. Monitoring/Performance Management
- 17.1 The Patient Services Manager will monitor the progress of all complaint investigations and ensure responses are not overlooked or outside agreed timescales. Information regarding progress will be available to CCGs through Datix.
- 17.2 All clinical complaints and outcomes will be reported on a regular basis to the Quality Committee on a monthly basis.
- 17.3 The Quality Committee will receive quarterly reports on complaints against the CCG, its provider services in order to:
- a) Monitor arrangements for complaints handling
 - b) Consider significant trends in complaints that may require a particular corrective action
 - c) Consider any lessons which can be learned from complaints, particularly for service improvement
- 17.4 A report will be published annually by the CCG, with support from the CSU on the handling of complaints under these arrangements and will send copies to:
- a) NHS West Midlands

- b) Local Authority Health Scrutiny Committee
- c) ICAS locality office

- 17.5 All commissioned services/independent contractors will be required to submit an annual report relating to complaints received in the previous financial year i.e. up to 31 March, in accordance with these Regulations to the CCG
- 17.6 The Quality Committee will also receive health economy quarterly reports to identify trends in complaints, PALS and incidents.

The above reports will avoid any possible breaches of patient confidentiality.

18. Training

18.1 The CSU will provide an annual workshop upon request regarding mandatory complaints requirements.

This is likely to include, as a minimum:

- * Awareness raising/induction training; general training for all staff to enable them to respond appropriately to comments, questions and complaints.
- * Detailed training in complaints handling for Patient Services Manager and supporting staff, plus other staff identified as regularly involved in dealing with complainants and/or their representatives.

19. Habitual and Vexatious Complaints

19.1 Complaints/complainants, and this is attached as [Appendix8](#).

20. Multi Agency/Complex Cases

20.1 Where a formal complaint spans across different organizations then the Complaints Manager who has initially received the letter and whose organization has the most input into the complaint should take the lead role in co-coordinating the handling of the complaint ensuring that all agencies and organizations are involved in the investigation process. [Appendix10](#) Protocol for the Handling of Multi-agency Formal Organisational Complaints refers.

21. Coroner's Cases

21.1 The fact that a death has been referred to the Coroner's office does not mean that all investigations into a complaint need to be suspended. It is important to initiate proper investigations regardless of the Coroner's enquiries, and, where necessary, to extend these investigations if the Coroner so requests. A copy of the final report following completion of the complaints investigation will be forwarded to the Coroner for information.

22. NHS Litigation Authority (NHSLA)

22.1 If the Complaints/Risk Manager identifies that a complaint may be potential for a claim then this will be raised with the Claims Manager who will then report the complaint to the NHSLA.

23. Storage and retention of files

23.1 All complaint files will be retained for a minimum of 10 years.

23.2 Archived files will be stored in a secure manner in order to preserve confidentiality.

23.3 Current complaint files will be held in a locked cabinet within the relevant department, not in a central filing system.

23.4 Data held electronically on the Datix database will be password protected and access restricted.

23.5 Complaint correspondence must not be filed in a patient's health record

24. References

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

Parliamentary & Health Service Ombudsman – Principles

NHS Constitution

The Health and Social Care Act 2012

CCG Constitution

25. Links to other policies

Quality Strategy

Integrated Risk Management & Governance Framework

Equality and Diversity Strategy

Safeguarding Adults & Children's Policy and Procedures

Summary of time limits/Performance targets

EVENT	TIME ALLOWED
Original complaint	A complaint must be made not 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
LOCAL RESOLUTION	
Verbal complaint	Referred to Patient Services Manager and summary of issues drawn up and sent to complainant.
Acknowledgement	3 working days of receipt
Full response by CCG or commissioned service	Reasonable timescale to be agreed with complainant For monitoring and reporting purposes the time periods will be as follows: 1-10 days 11-25 days 26 + days Not to exceed 6 months
If complaint relates to Freedom of Information Act	25 days
If investigated under NHS Complaints Procedure - complainant to apply to the Parliamentary & Health Service Ombudsman for Review.	As soon as possible after the response has been sent out – within 12 months.
If complaint relates to Freedom of Information—complainant to contact Information Commissioner for assessment.	2 months from sending a response regarding refusal of access or any other non-compliance/failure.

Contact details

PALS (Patient Advice & Liaison Service)
Springfields Health and Wellbeing Centre
Lovett Court
Rugeley
Staffordshire
WS15 2QD
Tel: 0800 030 456

ICAS

Shropshire and Staffordshire ICAS

Unit 25 & 32

Stafford Business Village

Dyson Way

Staffordshire Technology Park

Stafford

Staffordshire

ST18 0TW

Tel: 0845 337 3054

(Calls to ICAS telephone numbers are charged at local rate)

Minicom: 0845 337 3067

Fax: 0845 337 3055

E-mail: pohwer@pohwericas.net

Web site: http://www.pohwer.net/how_we_can_help/independent.html

The Parliamentary and Health Service Ombudsman

Millbank Tower

Millbank

London

SW 1P 4QP

Tel: 0845 015 4033

Fax: 020 7217 4000

E-mail: phso.enquiries@ombudsman.org.uk

Web site: http://www.ombudsman.org.uk/make_a_complaint/health/index.html

Guidelines for obtaining consent for complaints made by a third person

'The NHS is committed to the delivery of a first class confidential service. This means ensuring that all patient information is processed fairly, lawfully and as transparently as possible so that the public:

- Understand the reasons for processing personal information;
- Give their consent for the disclosure and use of their personal information;
- Gain trust in the way that the NHS handles information and;
- Understand their rights to access information held about them.'

(Confidentiality: NHS Code of Practice)

Complaint received from a third person on behalf of a patient

These guidelines should be read in conjunction with the Complaints Policy.

Permission must be sought and received from the patient on whose behalf a complaint has been received before any information can be disclosed to a third party. This includes next of kin, relative, friend, carer, ICAS or solicitor. Please see the sections below in respect of a complaint received with regards to a deceased patient, from an MP or if the patient is unable or incapable of giving consent.

No information is to be given out either verbally face-to-face, over the telephone, by e-mail or in writing without the explicit (written) consent of the patient concerned.

- * If a complainant has given a contact telephone number in their communication, they should be telephoned and the need for permission and the procedure that follows explained. If no contact number has been given then the complaint should be acknowledged as below.
- * The complaint should be acknowledged using the acknowledgement/consent template saved under the Complaints shared folder. A consent form and stamped addressed envelope should be sent to the complainant with the acknowledgement letter.
- * The date that the acknowledgement was sent should be recorded on the database with a review date for 10 days hence.
- * Once the consent form has been received by the Complaints Department a standard acknowledgement letter should be amended to reflect receipt of consent and sent as per normal.

NB A final response letter should never be sent for a file awaiting consent.

Complaints on behalf of someone who lacks capacity to give consent or who lacks the physical ability to give written consent.

If the person who has made a complaint on behalf of a patient states that the patient lacks capacity, the Patient Services Manager should decide whether further confirmation of this is required.

In some cases it may be necessary to seek advice from the Claims Manager.

Complaints made on behalf of a deceased patient

In the case of a patient or person affected who has died, the representative must be a relative or other person who, in the opinion of the Patient Services Manager, had or has a sufficient

interest in his welfare and is a suitable person to act and permission must be sought in the usual manner.

If a complainant has given a contact telephone number in their communication, they should be telephoned and the need for permission and the procedure that follows explained. If no contact number has been given then the complaint should be acknowledged in writing and the procedure as stated earlier should be followed.

Complaints made by a step-parent/carer or foster-carer on behalf of a child in their care

Confirmation as to the person who has parental responsibility for the child should be sought from the complainant. Information must never be given to a person who does not have parental responsibility.

If a complainant has given a contact telephone number in their communication, they should be telephoned and the need for permission and the procedure that follows explained. If no contact number has been given then the complaint should be acknowledged in writing and the procedure as stated earlier should be followed. If the complainant states that they are acting on behalf of the parent or carer due to a language or learning difficulty then the Patient Services Manager will decide whether further confirmation should be sought.

When dealing with cases involving Child Protection Orders the complaint must be discussed with the Patient Services Manager or Claims Manager before proceeding. If necessary the Complaints or Claims Manager will discuss child protection cases with the Child Protection Team on a need to know basis only.

Complaints made by MPs on behalf of their constituents

If a patient has visited an MP in their surgery or written to them requesting their representation in making a complaint, consent is not required (Statutory Instrument 2002 No 2905. The Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002)

If the MP states that they have received their constituent's permission then it should be assumed to be the case and the complaint investigated as per normal. However, where sensitive or confidential health information needs to be divulged as part of the response, the PCT will seek explicit written consent from the patient.

Information should only be disclosed on a need to know basis and nothing more than the relevant information pertaining to a complaint should be given in the final response.

Third party complaints made by MPs on behalf of their constituents

If an MP is representing a constituent who is acting on behalf of a patient, then consent must be obtained from the patient. Information must not be disclosed without the permission of the patient. If the MP has obtained this consent, then the MP must provide evidence of this.

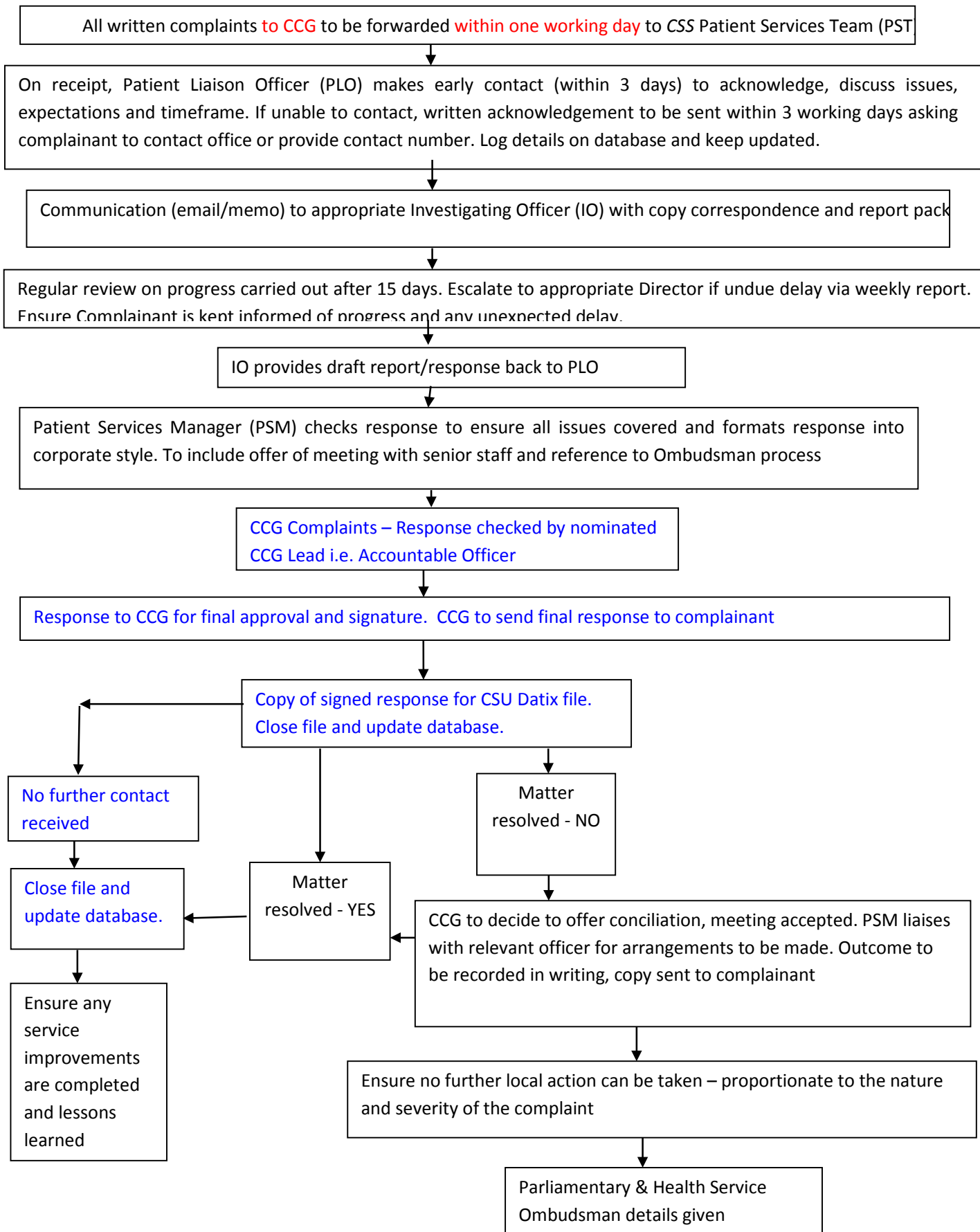
When the consent form is received, then careful note must be made as to where they would like the response to be sent to.

Consent not received

If consent has not been received within 10 working days then a standard reminder letter should be sent giving them a further 10 working days to send the form back (the date should be specified). The complainant will be told that that if the consent has not been returned by this date

that the complaint will be closed.

Flow Chart for CCG/CSS Complaints



TRIGGER LIST FOR IDENTIFYING LEVEL OF INVESTIGATION Appendix 5

Severity/Seriousness	Description – what was the impact of the issue raised in the complaint
1. Insignificant/No harm	Unsatisfactory service or experience not directly related to care. Attitude of staff not directly affecting level of care. No impact or risk to provision of care.
2. Minor/Low Harm	Unsatisfactory service or experience related to care, usually a single resolvable issue. Attitude of staff impacting on care. Minimal impact and relative minimal risk to the provision of care or the service. No real risk of litigation. Limited multi agency involvement
3. Moderate	Service or experience below reasonable expectations in several ways, but not causing lasting problems. Has potential to impact on service provision. Some potential for litigation. Systemic service failure. High multi agency involvement.
4. Major/Severe	Significant issues regarding standards, quality of care and safeguarding of or denial of rights. Complaints with clear quality assurance or risk management issues that may cause lasting problems for the organisation, and so require investigation. Possibility of litigation and adverse local publicity.
5. Catastrophic/Death	Serious issues that may cause long-term damage, such as grossly substandard care, professional misconduct or death. Will require immediate and in-depth investigation. May involve serious safety issues. A high probability of litigation and strong possibility of adverse national publicity.

<u>Likelihood/Probability</u>	Description – how likely the issue is to recur
1. Rare	Isolated or 'one off' – slight or vague connection to service provision.
2. Unlikely	Rare – unusual but may have happened before.
3. Possible	Happens from time to time – not frequently or regularly.
4. Likely	Will probably occur several times a year. Trend has been identified and actions put in place but not yet embedded across organisation
5. Almost certain	Recurring and frequent, predictable. Trend identified previously but despite action plans drawn up and completed a repeat has occurred. Need to establish root cause and ensure actions are appropriate and robust to prevent recurrence

Categorise the risk/consequences and indicator for level of investigation required

Likelihood of recurrence -+

Seriousness ♦	Rare	Unlikely	Possible	Likely	Almost certain
1	Low	Low	Low	Moderate	Moderate
2	Low	Low	Low	Moderate	Moderate
3	Low	Moderate	Moderate	Moderate	High
4	Moderate	Moderate	Moderate	High	High
5	Moderate	Moderate	High	High	High

IMPORTANT: The above is only a guide and each case should be considered on its own merits as other factors may need to be considered before a decision is made

Additional details if required:

Complaint Investigation Record & Review Report

For completion by Complaints Department

Complaint No:

Date Complaint Received: Date Acknowledged:

Third Party Consent Required: Yes No

Date Consent Requested: Date Consent

Received: Investigating Officer:

Date for Receipt of Findings:

Complainant Details:

Name: Address:

Telephone Number: Relationship to Client:

Client Details:

Name: Address:

Date of Birth: Telephone Number:

Details of Complaint Attached: Yes No

Must be completed for all complaints

FOR USE BY INVESTIGATING OFFICER

On receipt of the initial documentation, how would you now rate the overall risk associated with this complaint? Please use the rating model below:

IMPACT			LIKELIHOOD	
Insignificant	1	Please circle as appropriate	Zero or Rare	1
Minor	2		Unlikely	2
Moderate	3		Possible	3
Major	4		Likely	4
Catastrophic	5		Almost certain	5

Investigation Preparation

Medical Records Required: Yes No

Date Medical Records Requested:

Does the client lack capacity? Yes No

(Please reference Mental Capacity Act)

Ethnic origin of client:

White	Mixed	Asian or Asian British	Black or Black British	Other Ethnic
0 British	0 White & Black Caribbean	0 Pakistani	0 Caribbean	0 Chinese
0 Irish	0 White & Black African	0 Bangladeshi	0 African	0 Any other
0 Traveller	0 White & Asian	0 Indian	0 Other black	0 Not stated
0 Gypsy/Romany	0 Other mixed	0 Other Asian		
0 Any other white				

Interview Complainant

Identify what action complainant is seeking. What are the specific issues, i.e. dates, times, who, where, what? This would identify the evidence required, the information/records to review and people to interview. Please use the Guidelines on Statement Writing.

List of People Involved

Name	Staff		Ethnic Origin	Interview Date/Time	Statement Requested		Statement Received		Statement Appended	
	Yes	No			Yes	No	Yes	No	Yes	No

Must be completed for all complaints

Other Relevant Evidence Required

Description	Date Requested	Date Obtained	Appended	
			Yes	No

What are the underlying issues?

Investigation Response Checklist

- Have you identified all the issues?

- Have you separated facts from disputed events and obtained evidence to support the facts?

- Have you identified any outstanding issues/documents?

- Do any clinical issues need clarifying?

Must be completed for all complaints

Having conducted the investigation, how would you now rate the overall risk associated with this complaint? Please use the rating model below:

IMPACT			LIKELIHOOD	
Insignificant	1	Please circle as appropriate	Zero or Rare	1
Minor	2		Unlikely	2
Moderate	3		Possible	3
Major	4		Likely	4
Catastrophic	5		Almost certain	5

PLEASE ENSURE THAT ALL DOCUMENTATION RELATING TO THIS INVESTIGATION, INCLUDING THE INVESTIGATION REPORT, YOUR NOTES, STATEMENTS AND EVIDENCE ARE APPENDED TO THIS TEMPLATE. IN ADDITION, THE COMPLAINT MANAGEMENT ACTION PLAN SHOULD BE COMPLETED, EVEN IF NO ACTION IS IDENTIFIED.

Must be completed for all complaints

GUIDELINES FOR WRITING STATEMENTS/REPORTS AS PART OF INTERNAL INVESTIGATIONS

The increasing number of complaints and litigation claims involves staff having to write statements more and more often, so that events or untoward incidents can be clarified and the facts established. Details are important and it is necessary to provide information to establish exactly who did what, when, how and why.

This checklist provides some practical guidance on what to include in a factual statement:

- Provide a factual account of your personal involvement, what you did, when, how and why.
- All details should be in chronological order and, if appropriate, also use a diagram.
- Refer to any existing records made at the time of the incident, e.g. medical and nursing notes. Check for inconsistencies.
- Identify any other person involved if appropriate.
- Record events from your own first hand knowledge, on the basis of what you saw and heard.

Keep to the facts and avoid opinions. When replying to specific allegations/ complaints, comment on your own involvement.

Please ensure that you sign, print your name and date the statement on completion.

Must be completed for all complaints

NOTES

Must be completed for all complaints

COMPLAINT MANAGEMENT – ACTION PLAN

Recommended Action	Lead Officer	Completion Date	
		Forecast	Actual
Signature of Investigating Officer:			
Date:			

Must be completed for all complaints

Guidelines for Handling Habitual/Persistent or Vexatious Complainants/Callers

1. Introduction

Habitual or vexatious complainants/callers are an increasing problem for NHS staff. The difficulty in handling such callers can place a strain on time and resources and often causes undue stress for staff, who may need support in difficult situations. CCG and CSU staff respond in a professional and helpful manner to the needs of all complainants / contacts but there are times when there is nothing further that can reasonably be done to assist them or to rectify a real or perceived problem.

In determining arrangements for handling such situations staff are presented with two key considerations. The first is to appreciate that even vexatious callers may have issues that contain some genuine substance, and therefore an equitable approach is crucial. The second is to be able to identify the stage at which a complainant/caller has become vexatious. One approach is to develop an approved policy, which would only be implemented in exceptional circumstances. Information on the handling of vexatious callers should also be made available to the public.

2. Purpose of this Guidance

Whilst primarily targeted to complaints, PALS enquiries and Freedom of Information requests, this guidance also covers any contact with the CCG or its staff that is deemed vexatious. The CCG will, however, require staff involved to have recorded, contemporaneously, any such contacts. Any incidents involving abuse or violence (actual or threatened) should be reported via the CCG Adverse Incident Reporting Policy. Advice may be sought from the Local Security Management Specialist.

It is perfectly reasonable for callers to request information or assistance from the CCG on pursuing issues about services, when raising questions/queries, or complaints through the NHS Complaints Procedure. During these processes it is inevitable that CCG staff will have contact with a small number of callers or complainants who absorb a disproportionate amount of resources in dealing with their issues. There is also a risk that they become inappropriately dependent on individual members of staff. The aim of this policy is to identify situations where callers might be considered to be habitual or repetitive and to suggest ways of responding to these situations.

It is emphasised that this policy should only be used as a last resort and after all reasonable measures have been taken to assist the callers. Judgement and discretion must be used in applying the criteria to identify potential vexatious complainants/callers and in deciding action to be taken in specific cases.

The policy should only be implemented following careful consideration by, and with the authorisation of the CCG's Chief Officer (or nominated deputy in his absence). Where another organisation (Primary Care Trust or NHS Trust) is also involved, directly or by patient residence, that organisation should be informed of any decision made.

3. Definition of a vexatious or habitual complainant / caller

A person may be deemed to be vexatious where previous or current contact with them

shows that they meet one or more of the following criteria:

Where complainants/callers:

- * Persist in pursuing a complaint where the NHS Complaints Procedure has been fully and properly implemented, or has been exhausted.
- * 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 that are significantly different from the original complaint. These might have to be addressed separately).
- * Are unwilling to accept documented evidence of treatment given as being factual, or deny receipt of an adequate response in spite of correspondence specifically answering their questions.
- * Do not clearly identify the precise issues they wish to be investigated, despite reasonable efforts by CCG staff and others to help them specify their questions.
- * Focus on a trivial matter to an extent that is out of proportion to its significance and continue to focus on this point.
- * Have, in the course of pursuing their issue, had an excessive number of contacts with the CCG (by telephone, e-mail, letter or fax) placing unreasonable demands on staff. Have failed to accept responses provided by staff in addressing enquiries or responding to requests for information, despite reasonable efforts by staff to provide adequate responses. In both cases, staff should be instructed to keep a clear record detailing the number, type and nature of contacts from the person.
- * Display unreasonable demands or expectations and fail to accept these may be unreasonable e.g. insist on immediate responses from staff when they are not available and this has been explained.
- * Have threatened or used actual physical violence. All such cases must be documented in case of further action and reported to the relevant Risk Manager on an Incident Form, for onward reporting to the PCT's nominated Security Management Director, Security & Claims Manager and the NHS Security Management Services. The Police may also be involved where necessary.
- * Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with them, All cases must be documented and reported to the relevant Risk Manager on an incident form. Staff must, however, recognise that complainants/ callers may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this.

4. Options for dealing with vexatious complainants/callers

Where a person has been identified as vexatious in accordance with the above criteria, the relevant Risk Manager, in discussion with the Head of Performance and Governance and the relevant Director, will inform the Chief Officer and consideration will be given to an appropriate course of action.

The Chief Officer will implement such action and will notify the person in writing of the reason why they have been classified as vexatious and the action to be taken.

Options:

- a) Try to resolve matters informally before invoking this procedure, by drawing up a signed “agreement” with the person that sets out a code of behaviour for the parties involved. The CCG may consider using a Lay Conciliator to assist in this process.
- b) Once it is clear that a complainant or caller meets any one of the criteria above, it may be appropriate to inform them in writing that they may be classified as vexatious, copy this procedure to them, and advise them to take account of the criteria in any further dealings with the CCG.
- c) Where the matter relates to a complaint, notify the complainant in writing that the Chief Officer has responded fully to the points raised and has tried to resolve the complaint, but that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that the correspondence is at an end and that further letters received will be acknowledged but not answered.
- d) Where the matter relates to PALS enquiries, Freedom of Information requests or any other issue about the PCT, the person should be advised that correspondence is at an end and that further letters will be acknowledged but not answered. This does not preclude the person from pursuing a complaint under the CCG’s complaints procedure, if they so wish, or approaching the Information Commissioner¹.

5. Withdrawal of Vexatious Status

Once complainants / callers have been determined as “vexatious” there needs to be a mechanism for withdrawing this status at a later date if, for example the person subsequently demonstrates a more reasonable approach, or if they submit a further complaint or request for information which would appear appropriate.

Staff should previously have used discretion in recommending “vexatious” status at the outset 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 Officer. Subject to their approval, normal contact with the person will then be resumed.

¹ The Information Commissioner enforces and oversees the Data Protection Act 1998 (DPA) and the Freedom of Information Act 2000 (FOI). The Commissioner is a UK independent supervisory authority reporting directly to the UK Parliament and has both a national and international role. The Commissioner has formal powers under both the DPA and FOI Act and can issue enforcement notices ordering compliance. For further information see www.informationcommissioner.gov.uk

SHROPSHIRE AND STAFFORDSHIRE
AGREEMENT (TO BE REVIEWED IN LINE
WITH NHS ORGANISATIONAL
RESTRUCTURING)

PROTOCOL FOR THE HANDLING OF MULTI-
AGENCY FORMAL ORGANISATIONAL
COMPLAINTS
TO BE UPDATED BY APRIL 2013

between

Shropshire County Council Staffordshire County Council Telford & Wrekin Council
Stoke on Trent City Council
South Staffordshire and Shropshire Healthcare NHS Foundation Trust
Telford and Wrekin Primary Care Trust Shrewsbury and Telford Hospitals NHS Trust
South Staffordshire Primary Care Trust
University Hospital of North Staffordshire NHS Trust North Staffordshire Combined
Healthcare NHS Trust Burton Hospitals NHS Trust
North Staffordshire Primary Care Trust* Stoke-on-Trent Primary Care Trust*
Robert Jones and Agnes Hunt Orthopaedic Hospital NHS Trust Mid Staffordshire
General Hospitals NHS FoundationTrust Shropshire County Primary Care Trust
West Midlands Ambulance NHS Trust

- Health and Social Care Act 2008
- The Local Authority Social Service and National Health Service Complaints (England) Regulations 2009
- Supporting Staff, Improving Services (Department of Health 2006)
- Data Protection Act 1998
- Human Rights Act 1998
- NHS Constitution

1 Introduction

- 1.1 A commitment to high standards in the management of complaints is fundamental to ensuring that service users and patients who complain either to social services or to NHS bodies are provided with prompt, comprehensive and consistent responses.
- 1.2 Given the potential for confusion arising from the range of health and social care agencies with which people might be in contact, a complaints management protocol is seen as an effective means of bringing together the agencies in the interest of providing a responsive and effective service for complainants.
- 1.3 In a complicated service environment, the more general benefits of a protocol will be measured in terms of:
 - reduction of confusion for service users and patients about how complaints will be dealt with, and by whom;
 - clarity about the respective roles and responsibilities of agencies; and
 - enhancement of inter-agency co-operation, in line with the new regulatory framework.

2 Why is a protocol necessary?

- 2.1 One of the intentions of the complaint reforms which were implemented from April 2009 was to facilitate and to promote collaboration between health and social care organisations. This was to be assisted by the introduction of a common framework for the handling of complaints, and single regulatory base.
- 2.2 In an environment where there is increasing collaboration between Social Services and parts of the NHS, as seen in jointly commissioned services, operational teams in which there are both NHS and local authority employees and the development of pooled budgets, it can sometimes be difficult to identify which agency is the most appropriate to respond to a given complaint.
- 2.3 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 strengthen the existing duty shared by social services and NHS organisations to co-operate with each other in the management of those complaints, which cut across organisational and service boundaries. Organisations on either side are under an obligation to work together to provide complainants with reliable information and clear responses, and to meet agreed deadlines.
- 2.4 This protocol is intended to clarify responsibilities across the agencies and to set out a framework for interagency collaboration in the handling of complaints and to ensure:

- the provision of prompt responses to complainants whose concerns may need to be addressed by more than one organisation
- comprehensive and co-ordinated responses to complaints;
- a single consistent and agreed contact point for complainants;
- regular and effective liaison and communication between Complaints Managers
- that learning points arising from complaints, covering more than one body, are identified and addressed both by each agency and collectively as appropriate (see Section 7).

3 The Role of the Patient Services Manager

- 3.1 For each signatory agency, the designated Patient Services Manager is responsible for co-ordinating whatever actions are required or implied by this protocol.
- 3.2 Foremost among these is to co-operate with other Patient Services Managers, to agree who will take the lead role in cross-boundary complaints and in cases where complaints require a response from another signatory agency, than that which received it.
- 3.3 Patient Services Managers should also liaise closely with their counterparts on action-planning the implementation of learning points arising from cross- boundary complaints. (*see below)
- 3.4 Each Patient Services Manager should clarify to whom in their agency any requests for collaboration under this protocol should be addressed when s/he is absent (through leave, illness etc).
- 3.5 In the unlikely event that Complaints Managers are unable to reach agreement about any matter covered by this protocol, they should each refer the matter promptly to the relevant Directors/ Senior Managers in their respective agencies, for resolution.

4 Complaints which apply to both Social Services and to an NHS body, and to which both need to contribute part of the response

- 4.1 Within the new regulatory framework, there is an emphasis on the co-ordinated handling of complaints. However it will generally remain the case that each individual organisation will manage the complaints which relate to the services it provides. Exceptions may arise in the case of organisations where services are jointly provided, or those with pooled budgets, under S31 Health Act 1999.
- 4.2 As soon as a complaint which appears to relate to both Social Services and the NHS is made, the Patient Services Manager of the agency which received it should write to the complainant, within three working days, to acknowledge the complaint, to notify him/her of the cross-boundary issue and to seek agreement for details of the complaint to be passed on to the other agency.

- 4.3 If the complainant agrees, the Patient Services Manager of the agency which received the complaint should pass the details on to the Patient Services Manager in the other agency and engage in a strategy discussion about how the two agencies will work together to co-ordinate their response, and how this will be provided to the complainant.
- 4.4 It is desirable, wherever possible, for a single composite response to be provided to the complainant, by the organisations involved in the complaint
- 4.5 In each case which arises, the two Patient Services Managers will need to co- operate closely with the complainant as well as with each other to negotiate an agreement with regard to:
- The way in which the complaint will be handled, and which organisation is most appropriate to take the lead
 - The timescale within which a response to the complaint will be delivered
 - The implementation of any alternative means to resolve the matter
 - How the parties will communicate with each other and with the complainant
- 4.6 The lead organisation's Patient Services Manager must ensure that a comprehensive risk assessment is undertaken, they grade the complaint and communicate with colleagues in all affected organisations.
- 4.7 In circumstances where legal action is being taken or where the police are involved with the matters which are also the subject of a complaint involving more than one organisation, it will be vital for the two Patient Services managers to agree what further contacts need to be made and advice sought, especially if the suspension of the complaint is under consideration.
- 4.8 Similarly, the two Patient Services managers need to agree formally, following due consultation at which point the suspension will end.

5 Complaints about one agency which are addressed to another agency

- 5.1 On occasions a complaint which is concerned in its entirety with Social Services is sent to an NHS body, or vice versa. This may be due to lack of understanding about which body is responsible for which service, or because the complainant chooses to entrust the information to a professional person with whom s/he has a good relationship.
- 5.2 The Patient Services Manager of the agency receiving such a complaint should contact the complainant within 3 working days and advise that the complaint has been addressed to the wrong agency and ask if s/he wants it to be sent to the other agency. Providing the complainant consents, the complaint should be sent to the other agency at once, and a written acknowledgement should be sent to the complainant.

6 Complainants' consent to the sharing of information between agencies

- 6.1 Nothing in this protocol removes the obligation to ensure that information

relating to individual service users and patients is protected in line with the requirements of the Data Protection Act, Caldicott principles and the confidentiality policies of each signatory agency. It is for this reason that the complainant's consent must always be sought before information relating to the complaint is passed between agencies. Moreover, the complainant is entitled to a full explanation of why his/her consent is being sought.

- 6.2 Consent to the passing on or sharing of information under this protocol should be obtained, in writing, wherever possible. Where this is not possible, the complainant's verbal consent should be recorded and logged, and written confirmation sent promptly to him/her.
- 6.3 If the complainant withholds consent to the complaint being passed to the other agency, the Patient Services Manager of the agency receiving the complaint will seek to engage with him/her to resolve any issues or concerns about remit and responsibility and offer any liaison which could contribute to the resolution of the matter of concern. The complainant should be reminded of his/her entitlement to contact the other agency direct. It should be stressed that the agency to which s/he sent the complaint has no legal remit to respond to it.
- 6.4 The only circumstances in which a complainant's lack of consent could be overridden would arise if the complaint included information which needed to be passed on in accordance, for example, with safeguarding procedures. In such cases, the complainant would be entitled to a full written explanation as to the agency's Duty of Care and its obligation to pass on the information.
- 6.5 If a complaint is received about services provided by more than one organisation to a patient/service user who lacks capacity, it will be for the Patient Services Managers together to establish that the person making the complaint has sufficient interest in the welfare of the patient/service user, and that s/he is an appropriate person to act on their behalf.
- 6.6 Where one agency undertakes a formal investigation of a complaint arising from a service which is provided jointly or in collaboration with another, the complainant's written consent must be obtained before the investigation is given access to case records held by the other agency. Providing that consent has been obtained, the agency holding the records should make them available to the investigation.
- 6.7 A form is attached to this protocol as Appendix 2, which records the consent of complainants for their case records to be disclosed for the purpose of complaints investigations.
- 6.8 Close co-operation between Patient Services Managers will be crucial in ensuring that confidential case-file information is shared appropriately, and that the necessary safeguards are put in place. Information exchanged under this protocol must be used solely for the purpose for which it was obtained.

7. Learning Outcomes

- 7.1 At the point at which the complaint affecting more than one organisation is concluded to the complainant's satisfaction, or at which all procedural steps have been exhausted, the two Patient Services managers should collaborate in identifying the learning points which arise, both for the respective agencies individually and with regard to their future collaboration.
 - 7.2 Joint action plans, with responsibilities ascribed and timescales set, should be recorded, along with details of how they should be monitored and of how the complainant will be kept informed of developments
 - 7.3 In many cases, the action plan will be based on the recommendations of the person who investigated the complaint, especially where there has been a formal investigative process.
8. The future of the protocol
- 8.1 This protocol will be kept under review and will evolve by means of agreed amendments, in reflection of any future changes in the statutory or regulatory framework
 - 8.2 In the meantime, it is intended that the implementation of the protocol will contribute to amalgamating the present diversity of perspectives, in the interest of providing an effective complaints service for patients and service users.

Appendix 9a

Patient Services Manager and other Complaints Manager Contacts in Signatory Agencies*

Agency	Patient Services Manager	Other contact in complaint manager's absence
Telford & Wrekin Council	Dave Robson 01952 381101 dave.robson@telfor	Jo Chambers 01952 381104 jo.chambers@telford.gov.uk
Shropshire County Council	Jo Hill 01743 253991 jo.hill@shropshire.gov.uk	Vacant pending re-organisation
Staffordshire County Council	Kate Bullivant 01785 277407 Kate.bullivant@staffordshire.gov.uk	Polly James 01785 277406 polly.james@staffordshir
Stoke-on-Trent City Council	Jacqui Jones 01782 235921 jacqui.jones@civic1.stoke.gov.uk	Aleta Steele 01782 232013 Aleta.steele@stoke.gov.uk
Telford and Wrekin Primary Care Trust	Mark Crisp 01952 265163 Mark.crisp@telfordpct.nhs.uk	Karen Ball 01952 265188 Karen.ball@telfordpct.nhs.uk
South Staffordshire and Shropshire Healthcare NHS Foundation Trust	Paula Johnson 01785 221432 paula.johnson@sssf	Amelia Murray 01785 221404 amelia.murray@sssf
Shrewsbury and Telford Hospital NHS Trust	Maggie Hulme 01743 261652 Maggie.hulme@rsh.nhs.uk	Beverley Cheadle 01743 261000 x2600 Beverley.cheadle@rsh.nhs.uk
South Staffordshire Primary Care Trust	Gill Cotterill 01889 571826 gill.cotterill@southstaffspc	Gareth Durber 01889 571810 gareth.durber@southstaffspc
University Hospital of North Staffordshire NHS Trust	Ruth Findler 01782 555481 Ruth.findler@uhns.nhs.uk	Ann Brian 01782555481 Ann.brian@uhns.nhs.uk
North Staffordshire Combined Healthcare NHS Trust	Sandra Storey 01782 275031 SandraJ.Storey@northstaffs.nhs.uk	Karen Marsh 01782 275031 karenJ.marsh@northstaff
Burton Hospitals NHS Trust	Janet Cort 01283 511511 Ext 5472 janet.cort@burtonh-tr.wmids.nhs.uk	Di Crump 01283 511511 Ext 3112 di.crump@burtonh-
Robert Jones and Agnes Hunt Orthopaedic Hospital NHS Trust	Vicky Morris 01691 404394 vicky.morris@rja	Julia Palmer 01691 404127 julia.palmer@riah.nhs.uk
North Staffordshire Primary Care Trust	Cathy Haigh 01782 427414 cathy.Haigh@northstaff	Di Chadwick 01782 427416 diane.Chadwick@northstaff
Shropshire County Primary Care Trust	Bharti Patel-Smith 01743 261300 x3125 bharti.patel-smith@shropshirepct.nhs.uk	Nina Dunmore 01743 261300 nina.dunmore@shropshirepct
Stoke-on-Trent Primary Care Trust	Sue Daykin 01782 227807 Sue.daykin@northstaffs.nhs.uk	Barbara Cadman 01782 227732 Barbara.cadman@northstaffs.nhs.uk
Mid Staffordshire General Hospitals NHS Trust	Sharon Llewellyn 0870 1706104 Sharon.llewellyn@msgh-tr.westmids.nhs.uk	PALS office 01785 230811
West Midlands Ambulance Service	Marie Tideswell 01384 246366 marie.tideswell@wma	Karen Longhurst 01785 273321 karen.longhurst@wma

*Agency representatives are asked to notify any changes or additions in this information with the amended contact details, to Dave Robson (Telford & Wrekin Council), who will then issue an updated list. This list is dated 06.1.09.

Appendix 9b

Statement of consent for the disclosure of personal records

Complainant's name:.....

Complainant's address:
.....
.....
.....

Telephone number:.....

I hereby give my consent for the organisations listed below to share any relevant information in order to complete the investigation into my complaint. I understand that this is likely to include disclosure of my personal health and social care records.

- (Lead Organisation)
- (Organisation)
- (Organisation)

This will assist the investigation of my joint organisation complaint, which is being co-ordinated by:

..... (Name of Complaints Manager)

of

..... (Organisation)

The reason for, and the implications of, this have been explained to me by the above-named complaints manager. I understand that information exchanged as agreed by me must be used solely for the purpose it was obtained.

Signed

Date

Once completed, please return this consent form in the envelope provided.

Glossary of Terms

- section 16cc of the 1977 Act This refers to the National Health Service Act 1977. Section 16CC was inserted into the 1977 Act by section 174 of the Health and Social Care (Community Health and Standards) Act 2003 as follows:
- “16CC Primary medical services
- (1) Each Primary Care Trust and Local Health Board must, to the extent that it considers necessary to meet all reasonable requirements, exercise its powers so as to provide primary medical services within its area, or secure their provision within its area.
 - (2) A Primary Care Trust or Local Health Board may (in addition to any other power conferred on it)—
 - (a) provide primary medical services itself (whether within or outside its area);
 - (b) make such arrangements for their provision (whether within or outside its area) as it thinks fit, and may in particular make contractual arrangements with any person.
 - (3) Each Primary Care Trust and Local Health Board must publish information about such matters as may be prescribed in relation to the primary medical services provided under this Part.
 - (4) A body on which functions are conferred under this section must co-operate with any other such body in the discharge of their respective functions relating to the provision of primary medical services under this Part.
 - (5) Regulations may provide that services of a prescribed description are, or are not, to be regarded as primary medical services for the purposes of this Part.
 - (6) Regulations under this section may in particular describe services by reference to the manner or circumstances in which they are provided.”
- “the 2006 Act” means the National Health Service Act 2006
- “the 2012 Act” means the Health and Social Care Act 2012
- “provider” means an NHS body, primary care provider or independent provider.
- “responsible body” means a local authority , NHS body or independent provider
- “responsible person” means the person designated in accordance with regulation 4(1)(a) i.e. the Chief Officer

DPA	The Data Protection Act 1998 regulates the processing of information relating to individuals
FOI	The Freedom of Information Act 2000 gives people a right of access to information held by public bodies.
ICAS	The Independent Complaints Advocacy Service supports patients and their carers wishing to pursue a complaint about their NHS treatment or care. This statutory service was launched on 1 September 2003 and provides a national service delivered to agreed quality standards.
LCFS	The CCG has a designated Local Counter Fraud Specialist, who is responsible for tackling fraud at a local level. All LCFSs have passed a professional accreditation process that provides them with the skills necessary to carry out this specialist function.
NHSLA	The National Health Service Litigation Authority is a Special Health Authority (part of the NHS), responsible for handling negligence claims made against NHS bodies in England.
PALS	The Patient Advice and Liaison Service was introduced to ensure that the NHS listens to patients, their relatives, carers and friends, and answers their questions and resolves their concerns as quickly as possible.

Equality Analysis

Piece of work being assessed: Stafford & Surrounds CCG Complaints Policy

Aims of this piece of work: To allow the complaints policy and procedure to be accessible to the public. To demonstrate complaints are handled sensitively, thoroughly and consistently. To give robust and timely responses. To ensure outcomes are identified and disseminated. To ensure recommendations and actions are implemented by the responsible staff.

Name of lead person: Sally Young Other partners / stakeholders involved: CCG Senior Team Members / CSU

Date of assessment: 18.10.12

Who is intended to benefit from this piece of work? Patients, families, carers and representatives will feel confident to raise issues and be reassured that these issues will be dealt with in an open and transparent manner.

Single Equality Scheme strand	Baseline data and research on the population that this piece of work will affect: what is available; what does it show; are there any gaps? Use both quantitative and qualitative research and user data & include consultation with users if available	Is there likely to be a differential impact? Yes or no
Gender	This is a policy which is openly accessible to all members of the CCGs local population. It will be accessible through the CCGs websites and copies of this can be provided in alternative languages and language formats on request. Accessibility to CCG policies will be discussed with Public and Patient Engagement and Community Group forums to check whether other actions to improve accessibility are needed.	NO
Race		
Disability		
Sexual orientation		
Age		
Religion / belief		
Human Rights	Will this piece of work impact on anyone's human rights?	NO

Equality Analysis Action Plan

Strand	Issue	Action required	How will you measure the impact/outcome?	Timescale	Lead
ALL	Accessibility of CCG policies to members of the public	Discuss whether improvements can be made to the accessibility of CCG policies to be discussed with Public and Patient Engagement and Community Group forums.	Check with members of the public.	March 2013	Head of Strategic Compliance & Governance

