



Patient Advice and Liaison Service (PALS) and Complaints Policy

NEE/CCG/

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| Target Audience | All staff |
| Brief Description | <p>This policy aims to ensure that North East Essex Clinical Commissioning Group:</p> <ul style="list-style-type: none"> - Has a system in place to handle comments and complaints, including providing people who use services with information about that system. - Supports people who use services or others acting on their behalf to make comments and complaints. - Considers fully, responds appropriately and resolves, where possible, any comments and complaints. |
| Action Required | All CCG staff are required to implement the principles and practices as described in this policy document. |

Document Information

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| Title. Version Number (Date) | PALS and Complaints Policy/ Version3.0/ July 2016 |
| Document Status (for information/action etc) and timescale | For circulation to all staff and immediate implementation. |
| Accountable Executive | Director of Nursing and Clinical Quality |
| Responsible Post holder/Policy Owner | Complaints Manager |
| Date Approved | July 2016 |
| Approved By | CCG Board |
| Review Date | July 2018 |
| Stakeholders engaged in development/review | Complaints Manager, PALS Officers, Quality Committee |
| Equality Impact Assessment | <p>EQUALITY IMPACT ASSESSMENT</p> <p>This document has been assessed for equality impact on the protected groups, as set out in the Equality Act 2010. This Policy is applicable to the Board, every member of staff within the CCG irrespective of their age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality and ethnic or national origins), sexual orientation, religion or belief, marriage or civil partnership, and those who work on behalf of the CCG</p> |
| Contact details for further information | Please contact the Complaints Manager for any queries. |

Table of Contents

| | |
|--|----|
| 1. Introduction | 3 |
| 2. Purpose | 3 |
| 3. Definitions..... | 4 |
| Who can make a complaint?..... | 4 |
| Complaints that cannot be dealt with under this policy:- | 5 |
| 4. Roles & Responsibilities | 5 |
| 5. Confidentiality..... | 6 |
| 6. Patient Advice and Liaison Service (PALS) | 7 |
| 7. Investigating and Replying to Complaints..... | 7 |
| 8. Local Resolution Meeting (LRM) | 8 |
| 9. Supporting Staff Involved in Complaints..... | 9 |
| 10. Learning from Complaints..... | 9 |
| 11. Reporting..... | 9 |
| 12. Complaints against Commissioned Services..... | 10 |
| 13. Multi-organisational Complaints | 10 |
| 14. Parliamentary and Health Service Ombudsman (PHSO)..... | 10 |
| 15. Remedy and Redress..... | 11 |
| 16. Unreasonable, Abusive or Persistent Complainants..... | 11 |
| 17. Consultation and Approval of Complaints Policy..... | 11 |
| 18. Review Date | 12 |
| 19. Implementation | 12 |
| 20. References | 12 |
| 21. Useful contacts..... | 13 |

1. Introduction

North East Essex Clinical Commissioning Group (“the CCG”) is committed to providing any user of our services, their family or members of the public with the opportunity to obtain advice, raise concerns or make a complaint about any of the services delivered or commissioned.

The CCG will always listen to the concern raised, apologise where appropriate, put right any errors and learn from every complaint made. The approach to complaints handling follows the Parliamentary and Health Service Ombudsman’s (PHSO) Principles of Good Complaints Handling, 2009:-

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

This policy aims to incorporate the recommendations made following the Francis inquiry into the failings at Mid Staffordshire NHS Foundation Trust, to ensure greater openness and transparency.

2. Purpose

The overall aim of this policy is to ensure the CCG has an effective complaints system centred around the needs of the people accessing it. The CCG is always grateful that people take the time to share their concerns, and allow the opportunity to act upon those concerns.

The CCG tries to make the complaints process:-

- Easy to access and available to everyone.
- Led by the complainant, to ensure that areas of investigation and timescales are agreed.
- A “one-stop shop” for complainants to simplify the process of investigating and replying to complaints.
- A system that supports staff and complainants throughout the complaints process.
- An opportunity to learn from complaints, and to share this learning to avoid recurrences.
- A process that never adversely impacts on the care provided to patients.

The policy will enable the CCG to ensure it meets its obligations under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

3. Definitions

The CCG definition of a complaint is “Any expression of dissatisfaction that needs a response”. Concerns may be expressed about any area of treatment, attitude or any other influence which directly or indirectly affects the service user.

Complaints will be accepted verbally via the telephone or during face to face meetings, or in writing by letter, fax or email.

Who can make a complaint?

A complaint can be made by:-

- Any person who is receiving or has received NHS treatment or services
- Any person who may have been affected by an action or decision of the CCG.
- Anyone that wishes to remain anonymous and the CCG will investigate to their best of their abilities and based on the information available.
- A representative acting on behalf of a person who receives or has received services from or commissioned by the CCG who:
 - Is a child (under the age of 16)
 - Is unable to make the complaint themselves because of physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005
 - Has died
 - Has requested a representative to act on their behalf

If a complaint is made on behalf of an individual then the CCG will need to seek consent from the patient so that a full investigation can be carried out. If the individual is not able to provide consent for a person to make the complaint on their behalf then their legal guardian or parent or other verified representative will be accepted to act on their behalf.

If a patient is deceased, the relationship of the complainant to the deceased patient must be clarified and confirmed as the next of kin or Executor of Estate.

If an elected MP makes a complaint on behalf of a constituent, it will be accepted that the MP has obtained consent from the patient prior to contacting the CCG (in line with requirements of the Data Protection Act 1998 processing of Sensitive Personal Data – Elective representatives Order 2002). If the constituent is not the patient, or there are concerns that the patient might be unaware of the concerns being raised about them, then it may still be necessary to seek consent.

In a situation where a person discloses physical/sexual abuse or financial misconduct it must be reported even if the person does not want to make a complaint. Confidentiality will be maintained in such a way that only managers and staff who are leading the investigation know the contents of the case. The CCG’s disciplinary procedures may be invoked for a member of staff disclosing information to others who are not directly involved in the case. In the case of financial misconduct the CCG’s financial policies must be followed.

Complaints that cannot be dealt with under this policy:-

In accordance with the NHS Complaints regulations 2009 the following complaints will not be dealt with under this policy:-

- A complaint made by an employee of a local authority or NHS body about any matter relating to employment.
- A complaint made by a local authority, NHS Body, Primary care provider or independent provider.
- A complaint which is the same as a complaint that has previously been made and resolved, or previously investigated under earlier complaint regulations.
- A complaint which has been investigated by a Health Service Commissioner under the Health Service Commissioners Act 1993, or by a local commissioner under the Local Government Act 1974.
- A complaint arising out of the alleged failure to comply with a request for information under the Freedom of Information Act 2000, or a data subject request under the Data Protection Act 1998.
- Complaints made to the CCG later than 12 months from the date on which a matter occurred, or the date when the matter came to the notice of the complainant. There is discretion to extend the time limit where it would be unreasonable in the circumstances of a particular case for the complaint to have been made earlier, and it is still possible to undertake a thorough investigation. The Complaints Manager will have the final decision about accepting complaints over 12 months and will provide written confirmation to the complainant when the CCG is unable to accept a complaint.

If the CCG is not able to investigate under the NHS Complaints Regulations 2009, then wherever possible the complainant will be signposted appropriately to progress their concern.

4. Roles & Responsibilities

Chief Officer

The Chief Officer has ultimate responsibility for complaints management and:

- Will approve and sign all response letters to complaints and in their absence, has delegated this duty and responsibility to the Director of Nursing and Clinical Quality.
- Has authorised the Complaints Manager to act operationally on their behalf in all matters relating to complaints.

Director of Nursing and Clinical Quality

The Director of Nursing and Clinical Quality is accountable to the Chief Officer for complaints management and monitoring.

Complaints Manager

The Complaints Manager operates a centrally managed complaints system in accordance with the NHS Complaints Regulations 2009, and:

- Has devolved responsibility for day-to-day operational management of complaints processes.
- Ensures the CCG has robust systems for registering, acknowledging and tracking complaints.
- Is responsible for complaints strategy, system and process development including complaints training.
- Undertakes investigations into complaints.
- Provides statistical information to meet bi-monthly and annual requirements.
- Communicates with the Director of Nursing and Clinical Quality when issues arise relating to patient safety, complaints, Care Quality Commission and PHSO.
- Will ensure that a copy of a final response letter to the person who made the complaint is sent to the CCG in all cases where it has been determined that the provider organisation will manage the investigation of the complaint.
- Ensures that learning from complaints is identified and changes are implemented.
- Provides satisfaction surveys to complainants and analyses results to improve complaints handling.

All CCG staff are expected to be aware of this policy, and we actively encourage staff to record all forms of feedback including complaints, compliments, concerns and comments. If staff receive an oral complaint the member of staff receiving the complaint must make a written record of the complaint and provide a copy to the Complaints Team as soon as possible. Where necessary, interpreters should be used to ensure that accurate details of the complaint are recorded, and the Complaints Manager will acknowledge receipt within 3 working days.

5. Confidentiality

The CCG is committed to ensuring that all complaints are handled in the strictest confidence at all times. Great care and attention is taken to make sure that information is only disclosed to those who have a demonstrated need to have access to it.

Information will not be disclosed to patients or complainants unless the person who has provided the information has given written explicit consent to the disclosure of that information, and when consent is required the Complaints Manager will ask for completion of the CCG consent form (appendix 2), which will need to be signed and returned to the CCG.

The CCG does not have access to patients' medical records but will request that providers who are responsible for maintaining patient medical records do not include any complaints correspondence within those records.

6. Patient Advice and Liaison Service (PALS)

Informal complaints or concerns can be handled through the CCG's PALS. They offer confidential advice, support and information on health related matters, and provide a point of contact for patients, their families and carers

PALS work very closely with the Complaints team, and the main functions for PALS are:

- Provide on the spot help and support. PALS have the power to negotiate immediate solutions or speedy resolutions of problems to prevent matters progressing unnecessarily through the complaints process.
- To act as a gateway to appropriate advice and advocacy support from local and national sources.
- To provide accurate information to service users, carers, staff and families about the CCG's services and other health related matters.
- Act as a catalyst for change and improvement by providing the CCG with information and feedback on the problems arising and gaps in services.
- Operate within a local network with other PALS in their area and work across organisational boundaries, and support staff at all levels within the CCG to develop a responsive culture.

7. Investigating and Replying to Complaints

Within 3 working days from receipt of the complaint the Complaints team will have discussed or engaged in written communication with the complainant to cover the following issues:

- The way the complaint will be handled, normally in writing or via a meeting.
- The length of time needed to complete the investigation and response.
- The outcomes the complainant is aiming to achieve from registering the complaint.

The CCG believes that the key for a good complaint investigation is setting expectation from the outset, and this relates to both parties. There is no benefit in a complainant being advised they will receive a reply within 3 weeks when the consultant involved in the complaint is away on annual leave for a month. Likewise it might be inappropriate for the complainant to expect wide ranging changes as a result of the complaint that might have considerable cost implications that could affect front line patient care. In both situations if expectations are discussed during the initial acknowledgement stage then it should ensure an agreeable outcome at the conclusion of the complaints process.

The CCG encourages issues raised by complainants being formulated into clear questions; this helps to focus the investigation on receiving answers and offering a more comprehensive reply, rather than just an alternative version of events. We work closely with complainants to help create questions to go alongside their correspondence.

Complaint investigations will be led and coordinated by the Complaints Manager, and throughout the investigation they will endeavour to keep the complainant updated on progress. The standard process followed is outlined in appendix 3. In accordance with the timescales agreed with the complainant, the CCG will send a formal response which will be signed by the Chief Officer or in their absence the Director of Nursing and Clinical Quality.

If a complaint response cannot be provided within the agreed timescale the Complaints Manager will contact the complainant at the earliest opportunity to explain the delay and seek agreement on a revised response date. If agreement cannot be reached then this should be clearly recorded in the complaint's file.

A complaint response should aim to include the following:-

- An explanation about how the complaint has been investigated, including details of the personnel involved.
- An accurate, detailed and honest explanation.
- The outcomes reached following the investigation and an indication about which parts of the complaint have been upheld or not.
- Any learning or improvement identified from the investigation
- Details of the action taken or the action needed to ensure improvement occurs.
- Reference to the options available for the complainant if they are dissatisfied with the reply or have further questions.

8. Local Resolution Meeting (LRM)

Complainants are offered the opportunity to discuss complaint investigation outcomes before and after a written complaint response is provided. An LRM is a chance for the complainant to meet with representatives of the CCG that have been involved in the complaint investigation to discuss the outcomes. This allows complainants an instant right of reply and the opportunity to discuss in greater detail how conclusions were reached.

Minutes for the LRM will be produced and once these minutes have been agreed by the staff in attendance a copy will be provided to the complainant. The minutes will not be verbatim, and will aim to capture the majority of the items discussed.

The CCG encourages complainants to be supported by friends or families at the meeting, but asks that complainants let us know before the meeting who is likely to attend so that appropriate room and environment arrangements are in place. These meetings are not designed to follow a legal process so complainants are advised not to invite legal representatives and the CCG reserves the right to have the final decision on the people in attendance at the meeting.

In agreement with the complainant the minutes from an LRM can replace a formal written complaint response, and a clear record of this agreement will need to be evidenced in the complaints file.

9. Supporting Staff Involved in Complaints

The CCG recognises the need to support staff involved in complaints and acknowledges it can be a difficult time for those involved.

To safeguard this process the CCG will:

- Ensure the staff named in the complaint, either personally or by role, will be informed of the complaint, and offered support throughout the investigation. This support will primarily come from their line manager, but the Complaints Manager and Director of Nursing and Clinical Quality will also be available.
- No information about the complaint will be listed in any patient records.
- No details of the complaint will be included in the staff members' personnel records unless the matter has been assessed through the relevant HR policies and procedures.
- Encourage openness and undertake complaint investigations that are not aimed at apportioning blame.

10. Learning from Complaints

When learning has been identified in a complaint response the CCG will take action to ensure the complaint is not finalised until evidence has been seen which supports that change has occurred. The database for complaints recording can flag up complaints where evidence of change is still required.

In addition to organisational learning every quarter the CCG will send satisfaction surveys (appendix 4) to all complainants who received a final complaint response in the previous 3 months. This is aimed at requesting feedback on the complaints process and outcomes.

11. Reporting

Complaints and PALS will produce a 6 month report and annual report. These reports will include details of the number of concerns received, the issues raised, the lessons learnt and the number of cases that were referred to the Parliamentary and Health Service Ombudsman.

Details on the number of concerns and issues requiring immediate action will be provided every 2 months to the CCG's Quality Committee, and these will be shared with the programme leads for individual contracts. The Complaints manager will also supply information for regular contract meetings between the CCG and individual providers.

Daily monitoring of complaints timescales to ensure we are meeting the requirements outlined in this policy are undertaken by the Complaints Manager. All complaints are reviewed at a weekly team meeting involving the CCG's complaints and PALS team. This meeting is minuted and actions agreed.

The datix system used by the Complaints and PALS teams to record complaints and concerns has reminder prompts around all timescales, this ensures we do not breach any of the timescales agreed with the complainant and listed within this policy.

A quarterly analysis of complaints received is provided to the Department of Health via the K041A process. This is aimed at categorising the complaints that relate directly to the CCG. These returns are provided by the Complaints Manager.

12. Complaints against Commissioned Services

The Complaint Regulations say a patient can choose to approach either the provider or the commissioner (the CCG) to make a complaint.

When a complaint is received about a commissioned service the Complaints Manager will discuss with the complainant who the most appropriate body is to handle the complaint. It is expected that commissioned services will handle any complaints which concern their services, unless there has been an irrevocable break down in the relationship between provider and complainant, these complaints will then be handled by the CCG with input from both parties.

13. Multi-organisational Complaints

The CCG is committed to ensuring we make the complaints process as simple as possible for complainants. When a complaint includes issues that relate to the CCG and other NHS service providers the Complaints Manager will liaise with representatives of the other organisations to ensure a full investigation takes place and that a single response answering all concerns is provided to the complainant.

Responsibility for ensuring that all organisations adhere to the agreed timescales will rest with the CCG when they agree to lead on a multi-organisation complaint. The CCG will also be the complainants' main point of contact throughout these complaint investigations.

14. Parliamentary and Health Service Ombudsman (PHSO)

In situations where a complainant remains dissatisfied with the response given at the local resolution stage they can ask the Parliamentary and Health Service Ombudsman (PHSO) to review the case.

Information about the PHSO is provided to complainants when a final reply is provided or at LRMs. When a complaint is referred to the PHSO they carry out checks to ensure we have exhausted local resolution. They will then request information from both parties to decide if they can undertake an investigation.

If the PHSO elects to investigate a complaint they will support the complainant throughout the process. Once the investigation is completed they will provide a draft report which both parties can comment on before a final report is prepared. The Ombudsman will identify if the complaint has been fully, partly or not upheld, and will make recommendations based on their decision.

The CCG recognises that the PHSO offers a vital service to complainants that have been unable to reach local resolution, and we are always keen to work with them to try and resolve complaints.

15. Remedy and Redress

In accordance with the PHSO Principles of Good Complaints Handling (mentioned in section 1) it is important to put things right. Wherever possible we hope that the best remedy is a detailed explanation, but in some situation it might be appropriate to offer financial redress. Occasionally the conclusion of a PHSO case can include a recommendation that a payment is provided.

When assessing if financial redress is appropriate we have to consider the wider implications of providing public monies, and the overall impact this is likely to cause.

All payments made by the CCG by way of complaints remedy will be logged and must first have been agreed by the Director of Nursing and Clinical Quality.

16. Unreasonable, Abusive or Persistent Complainants

In a small minority of cases complainants may become unreasonably persistent when pursuing their complaint, which can have a very detrimental effect on staff and services provided. The CCG fully supports the NHS zero tolerance policy and has provided detailed guidance on the management of persistent and unreasonable contact within Appendix 1.

17. Consultation and Approval of Complaints Policy

This policy was compiled by the Complaints Manager, and passed for comments from senior CCG management. The policy received approval from the CCG Quality Committee and then from the CCG's Executive Board.

18. Review Date

This policy must be reviewed at least every two years or when there are significant changes to the policy. The policy will be monitored for effectiveness through the two year period by the Complaints Manager.

19. Implementation

All staff will be advised of the complaints policy and will be aware of how to access it. The policy will be stored centrally and securely, and accessible via the website or paper copies from the Complaints team.

20. References

- The Local Authority Social Service and National Health Service Complaints (England) Regulations 2009
- NHS Constitution for England (Department of Health, 2009)
- Access to Health Records Act 1990
- Data Protection Act 1998
- Local Government Act 1974
- Health Service Commissioner Act 1993
- Equality Act 2010
- Human Rights Act 1998
- Freedom of Information Act 2000
- Health and Social Care Act 2012

- *A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture* (Clwyd-Hart, 2013)
- *Principles for Remedy* (PHSO, 2009)
- *Principles of Good Complaint Handling* (PHSO, 2009)
- *Principles of Good Administration* (PHSO, 2009)
- *A review into the quality of NHS complaints investigations where serious or avoidable harm has been alleged* (Parliamentary and Health Service Ombudsman, 2015)
- *Inquiry into failings at Mid-Staffordshire NHS Foundation Trust* (Robert Francis QC, 2013)
- *Hard Truths, The Journey to Putting Patients First* (Department of Health, 2014)
- *The NHS Choice Framework: what choices are available to me in the NHS?* (Department of Health 2016)
- *Complaints Handling for Acute and Community Care – a toolkit for commissioners* (NHS England, 2015)
- *Being Open Policy – communicating patient safety incidents with patients their and carers* (NPSA, 2009)

21. Useful contacts

North East Essex CCG

Complaints Manager
Aspen House
Stephenson Road
Severalls Business Park
Colchester
CO4 9QR

Monday to Friday 08:30 to 16:30
Telephone: 01206 918731
Email: NEECCG.complaints@nhs.net

Healthwatch Essex

RCCE House
Threshelfords Business Park
Inworth Road
Feering, Essex
CO5 9SE

Information line: 0300 500 1895
Email enquiries@healthwatchessex.org.uk

Department of Health

Public Enquiries Unit
Department of Health
Richmond House
79 Whitehall
London SW1A 2NS

Monday to Friday 08.30 to 17.30
Telephone: 0207 210 4850

Information Commissioner's Office

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113
Fax: 01625 524 510

Parliamentary & Health Service Ombudsman (PHSO)

Millbank Tower
Millbank
London
SW1P 4QP

Monday to Friday 08:30 to 17:30
Customer Helpline: 0345 015 4033
Email phso.enquiries@ombudsman.org.uk

Patients Association

PO Box 935
Harrow
Middlesex
HA1 3YJ

Monday to Friday 09:30 to 17:00
Helpline: 0845 608 4455
Email: helpline@patients-association.com

Action against Medical Accidents (AVMA)

Freedman House
Christopher Wren Yard
117 High Street
Croydon
CR0 1QG

Monday to Friday 10:00 to 17:00
Helpline: 0845 123 23 52