

## **Complaints Policy**

*(Listening, Responding and Learning from Views and Concerns)*

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## **1. INTRODUCTION**

- 1.1 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 allow the flexibility to adopt a unified two stage complaints procedure across Health and Social Care.
- 1.2 NHS Warrington Clinical Commissioning Group is committed to proactively building continuous and meaningful engagement with the public and patients to shape services and improve health. We view complaints as a positive opportunity to learn from and improve the way in which we carry out our functions and improve patient experience.

## **2. WHAT OUR COMMITMENT MEANS**

- 2.1 We are committed to proactively building continuous and meaningful engagement with the public and patients to shape services and improve health.
- 2.2 We will manage complaints in accordance with our statutory obligations; our stated vision, goals, promises and objectives.
- 2.3 We will ensure that complaints are managed promptly and efficiently, are properly investigated and that complainants are treated with respect.
- 2.4 We will comply with the Health Act 2009 and the NHS Constitution and ensure that patients have the right to:
  - Independent Complaints Advocacy Service
  - have any complaint about NHS services dealt with efficiently and to have it properly investigated;
  - know the outcome of any investigation into their complaint;
  - take their complaint to the independent Parliamentary and Health Service Ombudsman, if they are not satisfied with the way their complaint has been dealt with by us.
- 2.5 We will ensure that there are systems in place so that that patients, relatives and carers who complain:
  - have suitable, accessible information about how to feedback on the quality of services and raise complaints;
  - are treated equally and will not discriminated against because of race, ethnic origin, nationality, gender, culture, religion or belief, sexual orientation, age, disability or marital status;
  - are assured that we act on any concerns, and where appropriate, make changes and improvements to service delivery and care

2.6 The above requirements form our obligations on which to ensure good complaint handling, promoted by the Parliamentary and Health Service Ombudsman's Principles for Remedy in investigating and handling complaints.

### **3 SCOPE AND PURPOSE OF THE POLICY**

3.1 The purpose of this policy is to outline the way in which complaints will be handled, it does not duplicate issues, which are clearly set out in the guidance and legislation, but adapts and supplements these to meet local needs.

3.2 This policy sets out the scope of the complaints procedure within NHS Warrington Clinical Commissioning Group and the steps that will be followed.

3.3 This policy has twin aims:

- ***to resolve complaints more effectively by responding more personally and positively to individuals who are unhappy;***
- ***to ensure that opportunities to learn and improve quality of services and care are not lost***

3.4 The scope of this policy does not apply to, amongst others, any complaint:

- by third party organisations about contracts arranged by NHS Warrington Clinical Commissioning Group under its commissioning arrangements;
- made by an employee relating to their employment;
- which is being, or has been investigated, by the Parliamentary and Health Service Ombudsman or a complaint the subject matter of which has previously been investigated under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, or a relevant complaints procedure in relation to a complaint made under such a procedure before 1<sup>st</sup> April 2009

### **4 WHAT IS A COMPLAINT?**

4.1 A complaint is an expression of dissatisfaction. NHS Warrington Clinical Commissioning Group utilises the Patient Advice and Liaison Service to resolve verbal concerns by the next working day and to provide advice on how to complain.

### **5 WHO CAN COMPLAIN?**

5.1 A concern or a complaint may be raised under this policy by anyone:

- (a) who is receiving, or has received, NHS treatment / services which are commissioned by the CCG, including hospital services and community services within Warrington.

(b) or a relative or friend on behalf of the patient, if they have been given permission to act; and who is affected by or likely to be affected by the action, omission or decision of the responsible body which is the subject of the complaint.

5.2 The main services commissioned by Warrington CCG include:

- Warrington & Halton Hospitals NHS Foundation Trust
- Bridgewater Community Healthcare NHS Foundation Trust
- 5 Boroughs Partnership NHS Foundation Trust
- St Rocco's Hospice
- Spire Cheshire Hospital

5.3 From April 2013, NHS England (the NHS Commissioning Board) are responsible for managing complaints services for complaints regarding independent contractors (GPs, pharmacists, dentists and opticians) as NHS England is the statutory body responsible for contracting these services and complaints about these services fall outside of this policy. A copy of NHS England's complaint policy can be found using the link below:

<https://www.england.nhs.uk/wp-content/uploads/2016/07/nhse-complaints-policy-jul16.pdf><sup>1</sup>

## **6 TIME LIMIT FOR MAKING A COMPLAINT**

6.1 The time limit for making a complaint is normally within 12 months of the incident. However discretion can be applied to vary this time limit where it is considered appropriate.

## **7 MANAGEMENT OF COMPLAINTS**

7.1 Complaints will be managed by NHS Warrington Clinical Commissioning Group (CCG) in accordance with the agreed process in Appendix 1.

7.2 The principles of Being Open, which encourage truthfulness, timelines and clarity of communications will be observed when investigating, analysing and changing practice as a result of complaints.

## **8 RESPONSIBILITIES FOR COMPLAINTS ARRANGEMENTS**

8.1 It is the responsibility of all staff to be receptive to all forms of feedback, including complaints and appreciate that such information is an essential element of good governance.

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<sup>1</sup> NHS England Complaints Policy, July 2016

8.2 As Accountable Officer, the **Clinical Chief Officer** of NHS Warrington Clinical Commissioning Group is responsible and accountable for ensuring:

- overall implementation, monitoring and effectiveness of the policy;
- allocation of resources to provide compliance with the policy;
- Managers are aware of their responsibilities and comply with the policy.

8.3 NHS Warrington Clinical Commissioning Group provides an in-house Patient Advice and Liaison Service (PALS) and Complaints Service.

## **9 STAGES IN THE COMPLAINTS PROCEDURE**

### **Local Resolution**

9.1 To achieve our first aim which is to resolve complaints more effectively by responding more personally and positively to individuals who are unhappy; we will make every effort to ensure that:

- we try to solve that problem personally and immediately;
- all verbal concerns that cannot be resolved by the next working day are recorded as complaints;
- if the complaint cannot be resolved by the next working day an Individual Complaints Action Plan is drawn up in conjunction with the person making the complaint;
- complaints are graded using the risk assessment matrix Appendix 2 to ensure the appropriate level of investigation is undertaken;
- all complainants are offered an opportunity to discuss their complaint and asked what they think needs to happen to resolve it;
- complaints are dealt with flexibly, with the aim of achieving the desired outcome if that is possible, as early as possible;
- timescales for dealing with complaints are as short as realistically possible and complainants are kept informed if they cannot be met.

9.2 To achieve the second aim which is to ensure that opportunities to learn and improve are not lost, we will ensure that:

- all complaints that are resolved immediately are recorded and resolutions shared;
- every complaint is scrutinised so that we understand what went wrong and how we can do better next time;
- the lessons from complaints are discussed at senior management level;

- records are analysed and any common themes are also discussed at senior management level;
- senior managers make decisions about how improvements can be made;
- those decisions are followed through and monitored to make sure they are implemented.

### **Health Service Ombudsman**

9.3 If the complainant remains dissatisfied with the actions undertaken following the investigation and the response received; they have the right to ask the Health Service Ombudsman to review their complaint. Where a complaint is referred to the Ombudsman any information received as part of their investigation may be used to assess the organisation's performance. The Health Service Ombudsman is independent of the NHS.

## **10 UNREASONABLY PERSISTENT AND UNREASONABLE COMPLAINANT BEHAVIOUR**

10.1 Unreasonable and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts, hinder the consideration of their own, or others, complaints.

NHS Warrington Clinical Commissioning Group has guidance for dealing with persistent, serial or unreasonable complainants. The guidance is contained in Appendix 3 and should only be implemented following advice from the Clinical Chief Officer.

## **11 KEY PERFORMANCE INDICATORS**

- Number of complaints acknowledged in 3 working days – Performance Target to achieve 100%.
- Number of complaints responded to within timescale agreed with complainant – Performance Target to achieve 100%.
- Number of complaints notified by the Ombudsman (second stage) where further recommendations have been required, in relation to the Complaints Procedure – Performance Target Nil.
- Number of agreed outcomes which results in effective change of patient experience – Performance Target to achieve 100%.

## **12 IMPLEMENTATION AND MONITORING**

12.1 A PALS and Complaints report will be produced on a quarterly and annual basis. The reports will triangulate PALS and complaints data with quality and safety data.

12.2 Reports will be presented and discussed at the Patient Experience and Quality Group and Quality Committee of the CCG, in order to:

- Monitor arrangements for local complaints handling;
- Consider trends in complaints
- Consider complaints data in relation to patient experience data, quality and safety data and identify any trends to inform the commissioning and improvement of services; and
- Consider within the data above, the numbers of complaints which the CCG considers are upheld to identify what lessons can be learned and the improvements that can be made as a result.

### **13 TRAINING**

13.1 Complaints Training is identified as mandatory and forms part of the Corporate Induction Programme. More in-depth training is provided for managers who investigate and prepare draft responses to complaints.

### **14. REVIEW AND REVISION ARRANGEMENTS**

14.1 This policy will be reviewed every 5 years or less as a result of a change in legislation, guidance or operating processes.

### **15. FURTHER GUIDANCE AND READING**

15.1 This document has been produced with reference to the following documents:

The Local Authority Social Service Complaints (England) Regulations 2009

[http://www.opsi.gov.uk/si/si2009/uksi\\_20090309\\_en\\_1](http://www.opsi.gov.uk/si/si2009/uksi_20090309_en_1)

Guidance to the Regulations: Listening, responding, and improving: a guide to better customer care.

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_095408](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_095408)

Ombudsman's Principles for:

Good complaint handling -

<https://www.ombudsman.org.uk/sites/default/files/page/0188-Principles-of-Good-Complaint-Handling-bookletweb.pdf>

Good Administration -

<https://www.ombudsman.org.uk/sites/default/files/page/0188-Principles-of-Good-Administration-bookletweb.pdf>

Remedy -

<https://www.ombudsman.org.uk/about-us/our-principles/principles-remedy>

NHS Constitution

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/480482/NHS\\_Constitution\\_WEB.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/480482/NHS_Constitution_WEB.pdf)

Health and Social Care Act 2012

<http://www.legislation.gov.uk/ukpga/2012/7/contents/enacted>

Safety Agency – Being Open Guidance

<http://www.npsa.nhs.uk/nrls/improvingpatientsafety/patient-safety-tools-and-guidance/beingopen/>

Standards for Better Health

<http://www.cqc.org.uk/>

## APPENDIX 1

### Management of complaints

**PURPOSE:** To provide a complaints administration and specialist knowledge service to complainants and their advocates.

**SCOPE:** This procedure applies to Compliance Support and Compliance Officers in NHS Warrington Clinical Commissioning Group who provide a complaints administration service.



#### INSTRUCTIONS

#### STEP 1: Complaint received

A complaint is received in to NHS Warrington Clinical Commissioning Group (CCG), this could also be escalated from the PALS process.

#### STEP 2: Via telephone?

If yes, proceed to step 3

If no, proceed to step 4

#### STEP 3: Document details in writing and send to patient as record of conversation

You can ask the complainant to forward their complaint to the CCG in writing, however, if they are unable/unwilling to, take details of the complaint over the telephone and put into writing for them. Send a copy of the written complaint to the complainant as a record of the conversation.

Proceed to step 10

#### STEP 4: Via email?

If yes proceed to step 5

If no proceed to step 6

### **STEP 5: Attach email to Datix**

Attach the email to Datix. Please refer to the Datix user guide Complaints (Feedback) Module for instructions how to do this.

### **STEP 6: Via letter?**

If yes proceed to step 7

If no, proceed to step 8

### **STEP 7: Date stamp letter and scan letter to in Datix**

If a complaint is received via letter, the letter is date stamped and scanned and saved to the Shared Drive file path K:\WCCG\Complaints,MPs,PALS&FOIs\Complaints-Warrington then added to Datix.

To add the letter Datix, please refer to the Datix User guide for instructions how to do this.

### **STEP 8: Via young person or child?**

Proceed to step 9

### **STEP 9: Share complaint with Safeguarding Lead**

Any complaint received from a child or vulnerable person **MUST** be shared with safeguarding leads. See link under Local Knowledge Bank heading for contact details.

### **STEP 10: All complaint details logged in Datix**

Log details of the complaint into Datix, (Please refer to Datix User Manual – Complaints Module for instructions). A Unique Reference Number will be generated by the system for each new complaint; this reference will be used in all correspondence.

### **STEP 11: Complaint graded using incident risk matrix and recorded on Datix**

Grade the complaint using the incident risk matrix. (See link under Local Knowledge Bank heading for incident risk matrix). Dependent upon severity of the complaint lack of consent should not prohibit immediate investigation; therefore any expressions of concern about patient safety issues should be immediately and carefully reviewed and graded. Advice should be sought from the Quality and Assurance Team as to whether an immediate investigation or other action in the absence of consent may be warranted.

#### STEP 12: Is third party consent or patient capacity consent required?

There are two consent forms in question;

- (1) **Third Party Consent Form** - to obtain consent to share the details of the complaint with an external NHS organisation with whom the complaint is about.
- (2) **Patient Capacity Consent Form** - to obtain consent for an individual to act on someone's behalf who may not have the capacity to act by themselves.

If yes, any one of either consent form is required, proceed to step 15

If neither consent form is required, proceed to step 13

#### STEP 13: Send acknowledgement letter to complainant

Template acknowledgement letters are available and are located in Local Knowledge Bank folders. See link under Local Knowledge Bank heading for template letters.

#### STEP 14: Investigating manager identified & send copy of Department of Health Investigating Complaints Guidance

An investigating manager is identified to deal with complaint. Include a copy of the Department of Health's Guide "Investigating Complaints" available from the General Knowledge Bank. Proceed to step 24

#### STEP 15: Send acknowledgement letter to complainant enclosing relevant consent form(s) and SAE

Acknowledgement template letters are available in the Local Knowledge Banks and are to be produced on NHS Warrington Clinical Commissioning Group (CCG) letterheads. See link under Local Knowledge Bank heading for template letters

#### STEP 16: Consent received from complainant to investigate?

If no, close within 10 working days and proceed to step 17

If yes, proceed to step 18

#### **STEP 17: Reminder Letter sent**

Send a reminder letter to the complainant asking for consent.

#### **STEP 18: Consent received?**

If yes, proceed to step 20

If no, proceed to step 19

#### **STEP 19: Case Closed and Datix updated**

The case is now considered closed and Datix is updated. See Datix User Guide – Complaints Module for further instruction. Send a letter to complainant notifying the complainant that the case has been closed as consent has not been received. Template letter available in the Local Knowledge Bank.

#### **STEP 20: Notify the organisation(s) involved in complaint & send DH Investigating Complaints guidance**

The organisation(s) of which the complaint is about is to be notified about the complaint(s) against them and include a copy of the Department of Health's Guide "Investigating Complaints" available from the General Knowledge Bank, to help investigators now what is expected.

#### **STEP 21: Investigating Manager identified at relevant service. Multi-organisation complaints to be co-ordinated**

An investigating manager at the relevant service, of which the complaint is about is to be identified by them internally and if necessary, depending upon the nature of the complaint a multi-organisation complaint be co-ordinated by them.

If the complaint is a complex case across a number of organisations a lead organisation is to be identified.

**STEP 22: Discussions with relevant managers, breakdown of issues and timescale to receive report to be agreed**

Contact is to be made with the relevant managers to identify the issues of the complaint and agree a timescale to complete their investigations and share with lead organisation.

**STEP 23: Contact complainant regarding anticipated response**

The complainant is to be updated with progress of the complaint and the anticipated response date.

**STEP 24: Investigation report received within timescales from relevant organisation(s)**

The investigation report received is within timescales from relevant organisation(s) or investigating manager if the CCG are leading the investigation.

**STEP 25: Draft letter of response seeing expert advice if required**

A letter is to be drafted to the complainant with the updated response/report details from the relevant organisation. If necessary, seek expert advice.

See link under Local Knowledge Bank heading for template letterheads;

**STEP 26: Response letter signed by authorising officer**

The response letter is to be signed by the authorising officer.

**STEP 27: Letter of response sent to complainant in agreed timescale**

The letter is returned to you signed and you send it to the complainant in the agreed timescale.

### **STEP 28 : Complainant satisfied with outcome?**

If yes proceed to step 32

If no proceed to step 29

### **STEP 29: Offer to resolve any outstanding issues locally**

If the complainant is not happy with the response to the complaint offer to resolve the complaint locally before referring them to the Ombudsman.

### **STEP 30: Complainant satisfied with outcome?**

If the complainant is still dissatisfied with the response to the complaint, proceed to step 31.

### **STEP 31: Complainant satisfied with outcome? \*\*SHOULD THIS RWAD ID DISSATISFED\*\***

Refer the complainant to the Ombudsman open Monday to Friday 8.30am – 5.30pm;  
Telephone: 0345 015 4033 <http://www.ombudsman.org.uk/>

### **STEP 32: Closing resolution letter to complainant**

A closing resolution letter is to be sent to the complainant enclosing satisfaction check questionnaire as to how the complaint was handled.

See link under Local Knowledge Bank heading for Closing Resolution template letter and questionnaire

### **STEP 33: Datix updated and complaint closed**

## APPENDIX 2

### Risk Assessment Matrix

GRADING TABLE					
Risk Assessment	Circle consequence, likelihood and total score e.g. 2 x 3 = 6	SCORE <input style="width: 50px; height: 20px;" type="text"/>			
INCIDENT  CONSEQUENCES or POTENTIAL CONSEQUENCES  ↓	LIKELIHOOD/PROBABILITY OF REPEAT				
	Rare  1	Unlikely  2	Possible  3	Highly Likely  4	Almost Certain  5
1 Insignificant	1	2	3	4	5
2 Minor	2	4	6	8	10
3 Significant	3	6	9	12	15
4 Serious	4	8	12	16	20
5 Catastrophic	5	10	15	20	25

<b>Green</b> (score 5 or less)  (Local Management)	Low risk	Low priority	Manage situation by routine procedures
<b>Amber</b> (score 6 to 15)  (Commissioning Management lead)	Medium risk	Medium priority	Management responsibility and action must be specified
<b>Red</b> (score 16 to 25)  <b>Or any incident recorded as Catastrophic regardless of the likelihood/probability of repeat</b>  (Senior Management / Governing Body involvement)	High risk	High priority	Immediate action – Senior Management attention required. 16+ Senior Management to consider informing the Board.

### **Guidance for dealing with unreasonably persistent, or unreasonable complainant behaviour**

This guidance should only be implemented by NHS Warrington Clinical Commissioning Group following advice from the Clinical Chief Officer.

Occasionally staff are presented with persistent or unreasonable behaviour from complainants. Complaints staff and investigating managers are trained to respond with patience and sympathy to complainants, but it is recognised that there are times when there is nothing further that can reasonably be done to rectify a real or perceived problem.

### **What process should be followed in dealing with persistent or unreasonable complainant behaviour?**

It is important to appreciate that such complainants may have genuine grievances that should be properly investigated. NHS Warrington CCG Patient Experience Team (complaints team) must first ensure that NHS Warrington Clinical Commissioning Group's Complaints Policy has been fully implemented and that no element of the complaint has been overlooked or not properly addressed.

If the NHS Warrington CCG recognises that the complainant may be persistent or unreasonable, this concern would be discussed initially with the Chief Operating Officer. This should only be a last resort after all reasonable measures have been taken to try and resolve the complaint. It is good practice to make clear to a complainant the ways in which his or her behaviour is unacceptable, and the likely consequences of refusal to amend it, before referring the matter to the Clinical Chief Officer. If all reasonable measures have been taken, the Chief Operating Officer will discuss with the Clinical Chief Officer and request that a decision is undertaken regarding how the complaint should be managed.

If the investigation is underway, the Clinical Chief Officer may write to the complainant setting parameters for a code of behaviour, and inform the complainant that if these parameters are contravened consideration will be made to implement further action.

If the complainant is abusive or threatening, it is reasonable to inform him or her of the requirement to communicate in one way, for example in writing and not by telephone or solely with one designated member of staff.

If the complainant has received a final response and there is no further action to be taken by NHS Warrington Clinical Commissioning Group, the Clinical Chief Officer will write to the complainant informing them that a full response has been made to their complaint, that correspondence is at an end and reiterate the right of the complainant to contact the Ombudsman.

### **Withdrawing persistent or unreasonable status**

Staff should have used discretion in recommending unreasonable status and discretion should similarly be used in recommending this status be withdrawn.