



Northamptonshire
Clinical Commissioning Group

NHS Northamptonshire Clinical Commissioning Group

COMPLAINTS HANDLING POLICY

(Including the management of
Member of Parliament concerns)

**Approved and ratified by the Quality Committee on
behalf of the Governing Body of
NHS Northamptonshire Clinical
Commissioning Group**

For Review: December 2020

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The Seven Principles of Public Life

The Governing Body of NHS Northamptonshire Clinical Commissioning Group (the CCG) has signed up to The Seven Principles of Public Life (Nolan Principles) as set out in the first report of the Committee on Standards in Public Life (1995). These principles are reproduced below to provide support and guidance to staff when conducting business on behalf of the CCG.

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Introduction

NHS Northamptonshire Clinical Commissioning Group (the CCG) is committed to achieving excellence in all services they commission. We understand the importance of complaints, comments, concerns, and compliments as a means of reviewing quality and as an avenue by which patient experience can be improved.

The CCG is responsible for the local NHS budget and commissioning healthcare for the residents of Northamptonshire. Our objective is to listen, respond, and improve services for the local population. We are committed to providing all service users, their relatives and carers with the opportunity to seek advice, raise concerns, make a formal complaint or provide a compliment about any of the services we commission on their behalf.

1. Aim and Objectives

The aim of this policy is to set out NHS Northamptonshire CCG's approach to receiving, handling and responding to complaints made under the provisions of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI 2009/309) and includes the vexatious complaints handling processes.

This policy's objectives are to provide:

- Ease of access for complainants, by empowering all staff to receive and, where appropriate, respond to complaints.
- An open, fair and transparent approach to complaints which meets the needs of the complainant whilst being fair to staff.
- A 'one-stop' approach to complaints that relate to more than one organisation, with unified handling of complaints across health and social care boundaries where possible
- A means of identifying and managing complainants who are persistent, habitual, and / or vexatious.
- An accessible tool for effective, high-quality complaints handling and responses.
- A means of providing information to senior managers and the CCG's Quality Committee so that learning can take place, policies can be changed, services can be improved and complainants can be reassured that their complaint has made a difference.
- A mechanism by which improvements to patients' experience of care (NHS Outcomes Framework Domain 4) can be made.

The CCG welcomes complaints as a valuable means of receiving feedback on the services we commission for the people of Northamptonshire, and how the CCG goes about its business. The CCG aims to use information gathered from complaints as a means of improving services and the effectiveness of the organisations we commission. The CCG will seek to identify learning points that can be translated into positive action, and where necessary provide redress to set right any injustice that may have occurred.

Through this procedure, we aim to ensure that the complainant is at the centre of the process and to provide the complainant with a high quality service that will respond openly to the issues and concerns they have raised.

The CCG recognises that in some instances it may not be possible to provide satisfaction to a complainant. Where this is the case, the CCG works closely and co-operatively with the Parliamentary and Health Service Ombudsman on any case the Ombudsman chooses to investigate.

2. The Human Rights Act

The CCG has considered The Human Rights Act 1998 and the equality benefits of a Human Rights based approach when handling complaints.

The CCG aims to design and implement policy documents that meet the diverse needs of our services, population and workforce, ensuring that none is placed at a disadvantage over others. We take into account current UK legislative requirements, including the Equality Act 2010 and the Human Rights Act 1998, and promote equal opportunities for all. This document has been designed to ensure that no-one receives less favourable treatment due to their personal circumstances i.e. the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity. Appropriate consideration was given to gender identity, socio-economic status, immigration status and the principles of the Human Rights Act.

In carrying out its functions the CCG is committed to having due regard to the Public Sector Equality Duty. This applies to all the activities for which the CCG is responsible, whether internal or on behalf of customers, including policy development, review and implementation.

3. Background

The NHS Complaints Procedure was first introduced in 1996 and replaced the Hospital Complaints Procedure and the Primary Care Complaints Procedure operated by Family Health Services Authorities. The 1996 procedure sought to introduce a single standardised approach to handling complaints, although it included some variations to meet the specific needs of primary care contractors. The procedure was backed up by statutory regulations that imposed legal duties and standards for the processing of complaints by NHS bodies.

There have been three subsequent revisions to the complaints procedure regulations in 2004, 2006, and most recently, the 2009 regulations referred to above. The latest regulations implemented proposals set out in *"Listening, Responding, Improving"*, a key aim of which was to move NHS and Social Services bodies away from a system that saw emphasis being placed on meeting process targets to one where outcomes became the primary focus.

4. Area for implementation

This policy applies to all parts of the CCG and covers those complaints where the CCG agrees with another organisation to take the lead in handling a complex, multi-agency complaint. This policy applies to all members of staff working for the CCG, and to all staff working for NEL on behalf of the CCG.

The CCG's statutory duties in relation to complaints are defined by The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. This policy sets out the CCG's processes for handling and considering complaints where the CCG is the 'responsible bodies'. Where the CCG is not the 'responsible body' the CCG will usually pass the complaint to the responsible body for investigation, provided that the complainant consents. If the complainant does not consent to details of the complaint being passed to the responsible body, they should be advised to make direct contact with the responsible body.

NHS providers (acute and mental health services), will have their own local complaints management and investigation process. The CCG will monitor themes and trends from complaints about its commissioned services through the provider clinical quality review meetings.

As Primary Care Practitioners (General Practitioner, Dentist, Pharmacist and Optometrist) and providers of NHS funded care, member practices will also have a local complaints management and investigation process.

5. Organisational accountability and responsibilities

The Medical Director has the corporate responsibility for ensuring the CCG has arrangements in place that comply with the Local Authority Social Services and National Health Service Complaints (England) regulations.

The Accountable Officer has the responsibility to ensure that appropriate action is taken arising from complaints and for managing the CCG's complaints procedures in accordance with the arrangements made under the regulations is the Accountable Officer [Regulation 4].

The CCG commissions NEL, to handle the complaints process on our behalf. NEL is therefore responsible for the day-to-day management and coordination of the complaint, from receipt to providing the Accountable Officer (AO) with a final response letter for sign off.

Appendix 1 provides contact details for the team handling complaints.

6. Intended users

This policy is intended for use by the CCG's staff and people wishing to make a complaint under the regulations, including parliamentary and other representatives who provide support to persons wishing to make a complaint.

This policy is also available for scrutiny by external agencies who have an audit and inspection role regarding the CCG's complaints functions.

Because of the diverse audience for which this policy is intended, it is written as a practical guide to using the CCG's complaints handling service, and the types of complaints the CCG handles.

7. Definitions and explanation of terms used

"Client" refers to an individual who is seeking to use the CCG's complaints procedure and this can include the patient who received services that are the subject of the complaint, or a

recognised representative of the patient.

For the purposes of this policy, a **“complaint”** refers to a matter that can be investigated under the provisions of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI 20009/309). Where the subject matter falls outside the scope of these regulations, the complaints team will advise the client on the process that they will need to follow in order to address the matter.

“Local resolution” refers to the first stage of the complaints procedure where the responsible body investigates and provides a full response to the matters raised in the complaint.

“Provider” refers to any organisation or individual that has been specifically commissioned by the CCG to provide NHS services to the population of Northamptonshire.

8. Equality impact statement

We welcome feedback on this policy and the way it operates. We are interested to know of any possible or actual adverse impact that this policy may have on any groups in respect of gender or marital status, race, disability, sexual orientation, religion or belief, age, deprivation or other characteristics.

All complainants are sent an equality and diversity form to be completed and returned when making a complaint. In this way, we can monitor the equality and diversity of our contacts and include this information in the annual report.

This policy has been screened to determine equality relevance. The policy is considered to be high in equality relevance particularly in relation to: age, disability, race, gender, religion/belief, sexual orientation, transgender and deprivation.

It is important for staff to remember that complainants may not be able to read or write, may not have English as their first language or may have disabilities that make it difficult for them to express their complaint. There are many groups in our communities that find it hard to access the services that they need. Therefore, it is important that the CCG has in place mechanisms to ensure that all groups are given the opportunity to access proper health care services. Staff have access to an interpretation and translation service via the CCG who can also provide advice on the translation of literature into languages relevant to Northamptonshire’s communities. We also adopt Plain English principles when drafting written responses, to ensure that letters are easy to read and understand.

This policy embraces diversity, dignity and inclusion in line with statutory requirements and human rights guidance. The CCG recognises, acknowledge and value differences across all people. Every person will be treated with respect, courtesy and with consideration for his or her individual backgrounds. The CCG will ensure that everyone is treated fairly, and convey equality of opportunity in service delivery and employment practice. Practically, this means that the CCG will anticipate, and take steps, to meet individual needs. This will include making reasonable adjustments to processes and communications to help ensure their accessibility to all. Further information on how this will be achieved is set out in section 19.

9. Complaints sent to NHS Northamptonshire Clinical Commissioning Group that have already been responded to by the provider

The 2009 complaints regulations provide for a two-stage complaints process; stage 1 being local resolution by the provider concerned, stage 2 being a review by the Parliamentary and Health Service Commissioner (Ombudsman). There is no provision in law for the CCG to be an intermediary between stages 1 and 2 where the complaint has already been made to, and responded to by the provider that is the subject of the complaint.

At the end of stage 1, local resolution, the response to the complainant should always include details of how to raise the matter with the Ombudsman if the complainant is not satisfied with the final response. The CCG is aware that providers do not always do this, and in some instances, complainants are misinformed that the CCG is the next stage in the complaints process. In these circumstances the CCG will inform the complainant of the correct procedure to follow and will not investigate the complaint.

10. Time limit for making complaints

There is a statutory time limit for making a complaint. This is 12 months from the date on which the matter being complained about occurred, or 12 months from the date on which the complainant became aware that they have grounds for complaint, whichever is the later.

A complaint made outside of the time limit may be considered if the CCG decides there are good reasons for the complaint not being made within the time limit and the case can still be properly investigated.

11. People who can make a complaint

Generally it will be the person who has received, or been affected by the service or commissioning decision who makes the complaint. However, there are circumstances in which another person can make a complaint on behalf of the patient, which are:

- If the patient is a child who is not able to make the complaint on their own behalf.
- A person who has been assessed under the provisions of the Mental Capacity Act 2005 as not having capacity in this matter,
- Where the patient with capacity has given consent for another person to act on their behalf, and
- If a person has died, in which case we need consent from the next of kin or power of attorney to progress the complaint.

Regarding children and people without capacity, the complaints regulations permit the responsible body for the complaint to take a view on whether the person is acting in the patient's best interests. If it is felt that this is not the case then the responsible body can refuse to handle a complaint made by that person. In practice, this means that the CCG should not automatically assume that a parent or guardian can make a complaint on behalf of a child if it is felt that the child has sufficient maturity and capacity to make, or withhold, the complaint on their own behalf. In any case where the CCG is considering exercising this power, it will only do so after full and proper consultation with relevant other parties. "Relevant other parties" will be determined based on the circumstances of the particular case under consideration and could include the Courts; a social worker; health care professional; or legal advocate.

12. Complaints that will not be handled by the CCG

If an adult with mental capacity consents to a third party acting on their behalf, and the appointed person can provide a valid and acceptable form of consent, the CCG will regard the appointed person as a proxy for the patient in the complaint process. However, where a third person claims to be making a complaint on behalf of someone with capacity and is not able to confirm that person's valid consent is in place, then the complaints team will contact the patient and request their consent to proceed. Where this consent is not provided the complaints regulations may prevent the complaint from being processed further.

The CCG will not handle any complaints that are covered by one of the exclusions set out in Regulation 8 of the 2009 Complaints Regulations. These include:

- A complaint from another responsible body, e.g. a hospital trust, GP practice, or independent provider,
- Matters relating to the employment arrangements of an employee of an NHS body,
- A complaint where the subject matter has been previously dealt with under complaint regulations,
- Matters that are either under investigation or have been investigated by the Health Service Ombudsman, and
- An oral complaint that has been dealt with and resolved to the complainant's satisfaction within a working day of the complaint being voiced.

Additionally, the CCG will consider declining to handle a complaint:

- Made beyond the time limit for making complaints and for which a reasonable explanation of the delay has not been given, or accepted by the CCG,
- In which the CCG is not satisfied that a third party is a suitable person for making a complaint on behalf of the patient,
- Where it is made by an adult on behalf of a child who is capable of making the complaint themselves and has chosen not to do so, or has not given consent for the complaint to be made on their behalf, and
- From an individual to whom the CCG's persistent and vexatious complaints process has been applied and no satisfactory change in behaviour has been identified (see section 17 below).

In all cases where the CCG declines to handle a complaint, the complaints team will notify the complainant in writing of the decision and the reasons for it.

13. Assistance when there are difficulties in resolving complaints

The complaints team are able to provide advice on how to resolve a complaint to either party involved in a complaint. Where it is appropriate, the complaints team will advise the complainant of the advocacy service that was established to assist complainants with the management of their complaint (see also section 14 below).

14. Managing persistent and vexatious complainants

Aim

This section provides staff with a clear and fair process for dealing with situations where a complainant might be considered to be a persistent, habitual, prolific or vexatious complainant and to recommend ways of handling those situations. It provides support for all NHS Northamptonshire Clinical Commissioning Group (the CCG) staff where there is a view that a difficult situation should not continue. This approach should be used as a guide for all staff involved with, or investigating a complaint that has become unmanageable due to a complainant's persistent behaviour and will only be considered after all reasonable measures to resolve the complaint have been taken and where the complainant fits the criteria as being deemed persistent, habitual or vexatious.

It should be noted that the CCG will not unreasonably exclude from consideration new issues raised by, or on behalf of the complainant that are relevant to the CCG's role and remit, and which will be considered in line with the CCG's complaints policy.

Background

The CCG is committed to dealing with all complaints fairly and impartially and to providing a high quality service to complainants. However, there are a small number of complainants who may hinder consideration of theirs, or other people's complaints. This is generally because of the frequency and nature of their contact with the complaint service. It is important to remember the principle of resolution however; if a complainant raises the same or similar issues repeatedly, there may be underlying reasons for this persistence which requires consideration.

The Complaints Team process complaints about the CCG's services or commissioned services in accordance with the NHS complaints procedure as set out in statutory regulations. Staff are trained to respond with patience, and to empathise with complainants. However, when contact with a complainant absorbs a disproportionate amount of NHS resources, it is recognised that this situation can cause undue stress for staff. There are times when there is nothing further which can reasonably be done to assist the complainant or to rectify a real or perceived problem, and where there is no sight of resolution. At this point, the CCG may choose to review the situation and at times withdraw from on-going debate.

Support for Staff

In addition, the CCG does not expect staff to tolerate unacceptable behaviour by complainants or members of the public. Unacceptable behaviour includes behaviour and comments that are abusive, offensive or threatening and/or which are a breach of key CCG policies such as those relating to equality and dignity.

The CCG has a duty of care to staff and it is recognised that incidents of this nature may be upsetting and that staff involved may need support.

A vexatious complaint may also be stressful for the team as a whole, requiring openness and sensitivity, and providing the opportunity to discuss the event. Support should be offered to any staff member involved immediately. If possible this should be through the line manager or the most senior person available. It is the duty of the manager of any staff member involved in

an investigation to support those members of staff affected and to ensure that they are aware of all sources of immediate or ongoing support which they may access. These are as follows:

- Occupational Health Services will be able to contact staff who wish to self-refer for health advice or who are referred by their line manager.
- Trade union or professional organisation of which they are a member
- Line Managers will continue to be a source of advice and support throughout the vexatious complaint process and will keep staff informed about the progress.

If Line Managers are concerned that a member of staff is not coping well with the vexatious complaint process, they should discuss this with the member of staff in the first instance and refer to Occupational Health as appropriate. Ongoing support to staff will be monitored through supervision, Appraisal and PDP.

This guidance should be read and acted upon in conjunction with, and reference to, the CCG's policies on dealing with patients, relatives or carers' exhibiting violent or aggressive behaviour.

For some complainants this on-going contact may exacerbate existing medical conditions and contribute to a deterioration of their ability to deal reasonably with the staff handling their complaint. The CCG will make reasonable adjustments, as appropriate, for complainants where disability or disorder may be influencing their approach.

Throughout the remainder of this document, a complainant defined as vexatious and/or habitual and/or persistent will be referred to as a 'persistent complainant' for ease of reference.

This procedure will only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints through the NHS complaints procedure and should only be implemented following careful consideration and with the authorisation of the CCG's Accountable Officer (or nominated deputies in their absence).

Once it is clear that the complainant has met at least two of the criteria in the definitions below, and the procedure has been invoked, the Accountable Officer (or appropriate deputy) will determine the action to be taken. The Accountable Officer (or deputy) will implement such action and will notify the complainant in writing of the reasons why they have been identified as a persistent complainant and the action to be taken. This notification may be copied for the information of others already involved in the complaint, e.g. practitioners, conciliator/mediator, complaints advocacy, Member of Parliament, Patient Advice and Liaison Service (PALS). A record must be kept for future reference of the reasons why a complainant has been deemed a persistent complainant. A copy of this complaints handling policy will be sent to the complainant to advise them to take account of the criteria in any further dealings with the CCG. In some cases, it may be appropriate, at this point, to reiterate and suggest that complainants seek advice and support from a carer, friend, or complaints advocacy in processing their complaint.

Definition

A vexatious complaint is one where, on the facts of the case, it has little merit or substance and has been made with the intended consequence of distress or harm to either the individual receiving the complaint, or the subject of the complaint (where they are different individuals).

A persistent or habitual complainant is defined as 'someone who continually makes contact with the CCG to request review of a regular complaint issue'. This may also include offensive, rude, aggressive, discriminatory or abusive behaviour or comments during contact. As applicable, reference to the policy on aggressive or abusive behaviour should be made.

A prolific complainant is someone who raises the same issue despite having been given a full response and may display certain types of behaviour:

- Complains about every part of the health system regardless of the issue
- Seeks attention by contacting several agencies and individuals
- Always repeats the full complaint
- Automatically responds to any letter from the CCG
- Insists that they have not received an adequate response
- Focuses on a trivial matter
- Refuses Advocacy support to assist them with their complaint issues

Complainants may be deemed a 'persistent complainant' where ongoing contact with them shows that they meet at least two of the following criteria.

The complainant:

- Persists in pursuing a complaint for which the NHS complaints procedure has been fully and properly implemented and exhausted.
- Changes the substance of a complaint, or continually raises new issues or seeks 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 overlook new issues that are significantly different from the original complaint. These might need to be addressed as separate complaints.
- Is unwilling to accept documented evidence as being factual (for example medical records), or denies receipt of an adequate response in spite of correspondence specifically answering their questions; or does not accept that facts can sometimes be difficult to verify when a long period has elapsed.
- Does not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts of staff and, where appropriate, the advocacy service to help them specify their concerns.
- Where the concerns identified are not within the remit of the CCG to investigate.
- Focuses on a particular matter to an extent that is out of proportion to its significance and continues to focus on this point. It is recognised that this can be subjective and careful consideration must be used in applying this criteria.
- Has in the course of addressing a registered complaint had an excessive number of contacts with the CCG, which is placing unreasonable demands on staff. (A contact may be in person or by telephone, email, letter or fax. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case.
- Is known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- Displays unreasonable demands or patient/complainant expectations and fails to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).

- During the process of complaining, threatened or actual physical violence is used towards staff or their families or associates at any time, and/or offensive/discriminatory comments are made in communications with staff.

Prior to action being taken under section of the Complaints Handling Policy, senior staff should first consider:

- Has the complaints procedure been correctly implemented so far as is possible and has any material element of a complaint been overlooked or inadequately addressed?
- The stage at which a complainant has become or is developing into a persistent complainant where the complaint and responses have become repetitive, habitual or persistent (following a review of the available information).
- Whether there is evidence available to demonstrate the habitual and persistent nature of the complaint.

The purpose of this procedure is to ensure that any restrictions placed on complainants should be the result of a fair and consistent process. The procedure will be applied only in the absolute circumstances outlined, not because the complainants are forceful and determined.

The CCG's Accountable Officer (or nominated deputies) may decide to handle the complaint in one or more of the following ways:

- Decline contact with the complainant in person, either by telephone, letter, email or any combination of these.
- Notify the complainant in writing that the CCG's Accountable Officer has responded fully to the points raised and has tried to resolve the complaint, but 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 responded to.
- Inform the complainant that in extreme circumstances the CCG reserves the right to pass unreasonable or persistent complainants to be dealt with through the CCG's solicitors and where appropriate other agencies.
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the CCG or any other relevant agencies.
- Consider whether there are any relevant equality considerations that may be linked to the persistency of the complaints. It is the responsibility of the managers reviewing each individual case to recognise that some complainants may need the CCG to implement relevant adjustments to the process for the handling of their complaint(s), to minimise communication issues and barriers.

In making a decision to determine, an individual as a persistent complainant, the CCG's Accountable Officer (or deputies) will need to be satisfied that:

- In the CCG's handling of an individual's complaint(s), all necessary and reasonable practical steps have been taken to minimise or overcome any barriers that complainants might experience as a result of relevant equality factors (for example, disability)
- Any planned actions do not constitute unlawful victimisation.

Withdrawing persistent complainant status

Once a complainant has been determined as a 'persistent complainant' there needs to be a mechanism for withdrawing this status at a later date if, for example, the complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate.

Staff should previously have used discretion in recommending 'persistent complainant' status at the outset and discretion should similarly be used in recommending that this status be withdrawn when appropriate.

Where this appears to be the case, the Complaints Team should discuss with the CCG's Accountable Officer (or deputies). Subject to their approval, the CCG will resume normal contact with the complainants and application of NHS complaints procedures.

15. The Parliamentary and Health Service Ombudsman [PHSO]

The Ombudsman is in a position to take an independent view of how the CCG has handled and responded to a complaint, and whether we have provided sufficient redress where an injustice has taken place as a result of the matters being complained about.

By taking the approach that the CCG will seek to provide the best answer it can in the final response, and by taking whatever time is reasonably necessary in order to ensure the best quality response, the CCG can regard a referral to the Ombudsman in a positive light. A referral to the Ombudsman has two potential outcomes. The first outcome is that we have provided an appropriate response and no further action will be taken. The second outcome is that the Ombudsman will investigate and provide a view on the handling and outcome of the complaint.

From August 2018, the Ombudsman will ask the clinician or organisation complained about to give details of what if any standards or guidance they based their practice on, whether they followed them or departed from them in the situation complained about and why. If there is a relevant standard or guidance and the clinical decisions, actions, and judgements do not appear to have been in line with it, the PHSO will consider what evidence there may be to explain this. The PHSO will reach a decision about whether there has been good clinical care and treatment. The PHSO will seek to establish what constituted good clinical care and treatment by using a range of sources, including:

- Relevant standards or guidance National Institute for Health and Care Excellence (NICE) guidance, clinical pathways, professional regulators' Codes of Practice and guidance, guidance from Royal Colleges, local protocols or policies, and published research including clinical textbooks or research reported in peer-reviewed journal articles
- The accounts of the complainant and the clinician or organisation(s) related to the complaint, and
- Any other relevant records and information.

The CCG does not regard a referral to the Ombudsman as an indicator of failure to properly investigate and respond to a complaint because it is acknowledged that a full response may not always provide the complainant with answers that will satisfy them. This

is particularly relevant to cases where the redress sought by the complainant is beyond the power or lawful authority of the CCG to deliver.

The CCG will co-operate fully with the Ombudsman's office on any complaint that is referred to it and will take action on any findings that the Ombudsman makes as a result of a complaint.

It should be noted that the Ombudsman will be primarily concerned with identifying whether any maladministration has taken place in the matters raised in the complaint, or in the handling of the complaint, and whether the CCG has failed to provide a service that it is statutorily required to provide. The Ombudsman will not necessarily challenge a decision made by the CCG if it can be demonstrated that no maladministration or failing has taken place in the process by which the decision was made.

16. Learning lessons from complaints

Twice a year the complaints team provides learning and outcomes from complaints as part of the biannual patient experience report to the CCG's Quality Committee. This report highlights lessons learned from complaints and key outcomes and changes that have been made as a result of complaints. A review of complaints including themes and trends is also provided in the bi-monthly reports to the Quality Committee.

Where a complaint identifies risks that the CCG needs to record on their risk register the complaints manager will request the investigating manager complete a risk assessment and ensure appropriate actions are taken to mitigate or eliminate the risk.

17. Working in partnership

Multi-agency complaints

Note: This section is predicated on regulation 9 – duty to co-operate – and will only apply where a section of the complaint is about the CCG's exercise of their functions. If the CCG receives a multi-agency complaint and no element of the CCG's functions can be identified in it then the CCG will not act as broker for the complaint and will pass it on to the agency that has the majority of the content of the complaint.

Complaints can feature more than one service or organisation and the 2009 regulations permit responsible bodies to agree that one body should take the lead in the handling of a complaint. Where it is appropriate for the CCG to take the lead in handling a multi-agency complaint they will do so, and will work closely with the other agencies involved to ensure that the complaint is properly investigated and the issues are addressed.

Complaints may include a combination of commissioning and provider concerns. Where feasible the CCG will work with the service provider to produce a comprehensive response.

Where the CCG is not the lead agency but a party to the complaint, it will make all best efforts to ensure full co-operation and share relevant information with the lead agency.

Where the CCG is the lead agency in handling a complaint and finds an agency to be uncooperative in assisting with the handling of the complaint, the CCG will remind the agency of its obligations under the regulations and any relevant legislation. If this does not resolve the issue then it will be clearly identified in the complaints response those matters that it has not been possible to resolve because of this lack of co-operation. It will then be a matter for the complainant to decide if they wish to raise these matters with the Ombudsman or other relevant body, such as the Information Commissioner.

NHS Complaints Advocacy

It is not the role of the Complaints Team to provide advice on the merits of a complaint or on how the complaint should be framed, but it can advise on the process that will be followed for handling and responding to complaints. The Department of Health established the NHS Complaints Advocacy to provide complainants with a service that can assist with writing letters, preparing for and attending meetings, exploring options at each stage of the complaint, and help with making decisions about the complaint.

The contact details for Complaints Advocacy in Northamptonshire are:

NHS Complaint Advocacy VoiceAbility NHS Complaints Advocacy Office Northamptonshire Doddridge Centre, 109 St James Road, Northampton, NN5 5LD	Tel: 0300 030 5454 Textphone: 0786 002 2939 Email: nhscomplaints@voiceability.org Website: http://nhscomplaintsadvocacy.org/northamptonshire/
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18. Monitoring and performance management of the policy

In addition to the bi-annual reports referred to in section 16, the CCG will produce an annual report of its complaints activity, lessons learned and changes made as a result of complaints, which will be summarised in a statutory annual report. This report will be presented to the Quality Committee.

This policy is scheduled for a further revision in August 2020, or earlier should a change in legislation occur.

19. Ensuring the policy is accessible to all

The CCG is committed to ensuring that the guidance in this policy is accessible to all. This means that, as required, additional support will be provided to help ensure that the information in this policy can be understood and its guidance followed. This support includes (but is not limited to):

- The provision of the policy and any associated documents in alternative formats.
- Enabling individuals to have an advocate or interpreter involved for support with communication.
- Making reasonable adjustments to procedures, in discussion with individuals or their representative, to ensure their accessibility.

All staff involved in the implementation of this policy must proactively consider the additional actions that might be required to ensure that individual needs can be met as far as is practicably possible. Ensuring accurate and appropriate communication will help to reduce communication errors and the effective and fair handling of complaints.

Actions to improve communication could include:

- Using easy read, Braille, pictures and symbols, or other formats when explaining information.
- Providing a translator for people for whom English is not their first language.
- Providing information using picture communication symbols.
- Supplying correspondence and leaflets in alternative languages and formats, including easy read.
- Ensuring the client can access advocacy if needed.
- Providing telephone advice and support using alternative languages and formats.
- Using an Induction Loop when communicating with clients with hearing loss.
- Using Augmented and Alternative Communication aids (AAC) for people with speech or writing difficulties.

Due regard

Having due regard to the Public Sector Equality Duty involves the CCG taking a proactive approach to eliminating discrimination; advancing equality of opportunity and fostering good relations between persons who share a protected characteristic and those who do not. This also includes taking steps to meet the needs of people from protected groups where these are different from the needs of other people and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low. This policy provides a commitment to these requirements in sections 2 and 8 of this policy.

20. Monitoring and Performance Management of the policy

This policy is scheduled for a further review in September 2020

21. Support and Additional Contacts

NEL Complaints Team:

Telephone: 01604 651102

Email: northants.complaints@nhs.net

22. References and Associated Documentation

This policy has been formulated with reference to the following:

- Department of Health (2009) The Local Authority Social Services and National Health Service (Complaints) Regulations 2009, Statutory Instrument 2009 No. 309 London, Stationery Office
- NHS Northamptonshire CCG Complaints Handling Policy
- NHS Northamptonshire CCG Equity and Inclusion Strategy
- Human Rights Act 1998
- The Mental Capacity Act 2005
- The Equality Act 2010
- NHS Northamptonshire CCG Serious Incident policy

23. Appendices

Complaints handling documentation:

1. Complaints handling procedure
2. Handling MP enquiries
3. Complaints risk rating.
4. Blank complaints form to record the details of the complaint.
Verbal complaint form (mainly for use by the CCG's complaints staff).
5. Consent form for a third person to act on behalf of the patient.
Consent form to transfer complaint to a provider organisation.
Consent form to enable complaints handler to access health records.
- 6 Investigation manager statement

Appendix 1: Complaints handling procedure

The complaints team provides all necessary activities to enable NHS Northamptonshire CCG to meet their statutory duties and obligation as set out in the 2009 Complaints Regulations.

The key elements of the service includes a central access point provided Monday to Friday (excluding bank holidays) 9am to 5pm, dedicated telephone and e-mail with supporting literature.

The complaints team acknowledges all issues or complaints and each contact is logged as a case. Any case raising concerns is immediately flagged in accordance with agreed protocols.

Complaints team actions:

- Identify and agree action plan to progress case
- Provide co-ordination and support to the investigation including consent as required
- Prepare the response letter from investigation findings
- Co-ordinate any further local resolution required to resolve the case
- Record all contact details and maintain database
- Analyse data and produce bi-annual and annual reports
- Re-direct complaints about other organisations
- Provide information on complaints to answer Freedom of Information (FOI) requests
- Provide information on MP concerns
- Point of contact and liaison with Ombudsman's office
- Facilitate and support face to face meeting between responsible team and complainant
- Provide complaint investigation expertise
- Fulfil the statutory complaints reporting obligations
- Keep up to date on any changes to NHS Complaints Regulations.
- Assist with resolving concerns or problems with CCG commissioned services

Accessibility of the complaints team (central access point)

- Service availability – office hours, Monday to Friday (excluding Bank Holidays)
- Named Complaints Manager as per complaints regulations
- Dedicated telephone number, office address, e-mail address, (link via CCG's web-site and contact details for inclusion in complaints leaflet)
- Signpost patients to appropriate agencies and support groups outside of the NHS

On receipt of a complaint

- Initial assessments are carried out to confirm the case may be handled under NHS complaints regulations
- If the complaint does not fall under NHS regulations the complainant will be contacted and signposted to appropriate organisation
- If the complaint is regarding an NHS service the CCG's commission, the complainant will be contacted to obtain consent to pass the details onto the provider directly as soon as possible
- If it transpires the complainant has already made a complaint, and has been responded to by the provider, the complainant will be advised the next stage of the complaints procedure is through the Ombudsman (see also section 15)
- If the complaint has not previously been made to provider directly, the CCG can decide if it is more appropriate for the provider to handle the complaint. If so, and subject to the

complainant's consent, the case will be passed to the provider who is required to handle the complaint in line with the regulations. In this case the CCG will expect the provider to respond directly to the complainant asking for a copy of the response

- If the CCG concludes it would be more appropriate for the CCG to handle the complaint they must notify both the complainant and the provider

Acknowledgment of complaint – team actions

- Provide point of contact for the complaint
- Undertake an initial assessment of whether the case comes under the remit of the complaints regulations and if so acknowledged within 3 working days of receipt by the service by the CCG.
- This will include:
The manner in which the complaint will be handled;
How long the investigation is likely to take and an estimated date for response
- Provide information to the complainant on the local arrangements for a complaints advocacy service where appropriate.
- Identify appropriate Investigation Lead who can work with the service to secure information and facts to enable a full response to be made.
- Where the complaint falls outside of the complaints regulations the complaints team will advise the complainant of any alternative options they may have for pursuing their concerns.

Identification and agreement of the case issues requiring investigation

- The main issues and the outcomes required by the complainant to achieve resolution will be identified
- Risk rate the complaint and escalate any cases that involve safeguarding, those with potential to attract media attention, and/or those which meet Serious Incident criteria under the Serious Incident Framework 2015
- Produce case handling plan for the Investigation Lead
- Provide Investigation Lead/CCG Manager with details of the case and timescales for completion
- Inform the CCG main contact when a case is received
- If the originally agreed timescale for completion cannot be met, inform the complainant at the earliest point that there will be a delay, the cause of it, and provide a new target response date
- Where the complaints regulation on the duty to co-operate is activated, facilitate and co-ordinate joint complaint handling with third party organisations
- Provide details of the CCG's procedures and related NHS procedures

Co-ordination of and support to the investigation including consent

- An information tool pro-forma is provided to investigation managers, setting out areas requiring investigation
- An investigating manager assurance requirement is included in the complaints file that summarises the managers involved in the investigation; dates they provided their response and assurances that the information provided is current and is reflective of the relevant policies and guidance (either national or local) pertinent to the complaint
- Provide support and advice to the Investigation lead throughout the investigation. Training is available for staff undertaking investigations
- Seek and obtain consent from the complainant/patient to access medical records where

appropriate

- Monitor and actively promote progress on the complaint investigation, including sending reminders of response deadlines
- Inform the complainant where more time is required to complete an investigation
- Where appropriate, provide guidance to investigators on the quality of investigation and any concerns with the investigation report
- In complex cases where there are commissioning and provider issues are addressed, this may require a combined response. The complaints team will ensure that there is clarity regarding commissioner and provider responsibilities and that responsibilities are clear within the complaint response. Individual organisational responses may be required.

Preparation of response letter from investigation findings

- Produce draft response letter from investigation findings, ensuring that all issues identified in the complaint have been addressed
- Where the investigation findings do not fully address all the issues raised, identify the issue, feedback to the Investigation Lead for further investigation and negotiate revised targets for response
- Identify learning points and organisational change, to be included in the response
- Ensure that the CCG's lead receives updates as agreed throughout the process and quality check draft response letters and seek authorisation from the Investigation Lead prior to submission
- Follow NEL quality assurance process
- Forward the final response letter to the Accountable Officer for signature and issue to complainant

Co-ordination of any further local resolution required to resolve the complaint

- Identify outstanding issues and outcomes required and forward onto the Investigation Lead for further investigation.
- Agree timescales for response with the complainant.
- Manage the process to ensure that the outstanding concerns are addressed and responded to within the agreed timescales.

Record case details and maintain complaint database

- Record and maintain details of each complaint and their outcomes on a complaints database.

Appendix 2: Handling of enquiries from Members of Parliament

MP enquiries can range from concerns relating to the provision and funding of local services to asking the CCG to investigate a constituent's health condition. MPs carry the status of elected representatives and can raise concerns on behalf of their constituents under the processing of sensitive personal data, Data Protection Act 1998. If the enquiry relates to a constituent's relative, friend or carer consent will be required directly from the person the concern relates to.

In some cases where the MP concern is complex, it may be in the constituent, or the person the concern is about, best interest to handle an MP enquiry as a complaint under the NHS Complaint Regulations. In these cases the complaints department would contact the constituent directly and discuss the handling of the concerns as a complaint and ask for their agreement. The case would then come under the process of the complaint handling procedure with all final response letters copied into the MP.

All MP enquiries that do not fall into the complaint regulations require a prompt and timely response. The complaints department offers a central access point where all MP letters received by the CCG are logged. The list below sets out the process for these cases:

1. CEO office receive MP letter and discern whether a coordinated response through the complaints team is required or whether this is a direct response from the executive team
2. CEO office send MP letter to complaints team
3. Complaints team identifies lead for response.
4. MP letter provided to lead officer (CCG or NEL) for investigation/response with clear internal timeframe for response (i.e. within 10 working days)
5. Complaints team send follow up email to lead investigator at 5 working days with a reminder of completion date
6. Exception report detailing any responses breaching 10 working day escalated to SMT for action by relevant executive lead
7. Receipt of response
8. Follow NEL's quality assurance process
9. Provided to CEO office for sign off 5 working days post receipt of final response.

Appendix 3: Complaints risk matrix

Consequence					
1	2	3	4	5	
Negligible/not significant	Minor	Moderate	Major	Catastrophic/Extreme	
Unsatisfactory experience not affecting immediate care. No risk to safety and wellbeing. No injury or harm. Some damage to confidence in services	Unsatisfactory experience resolvable with no long term effect on patient care. No immediate harm to patient. No likely media interest. System failures in mainly non clinical areas.	Service below expectations and/or significant contractual requirements resulting in actual or risk of harm or potential to impact on service provision. Mismanagement of patient care. Risk of local media interest and reputation damage.	Significant lapse of standards or professional conduct leading to potential or real harm. Failure to comply with clinical guidance. Failure to adhere to professional standards. Likelihood of media interest.	Significant harm or death of patient directly resulting from acts or omissions of provider. Illegal activity. High potential for national media interest.	
Examples					
Communication issues, attitude of staff	Appointment systems, payment of fess	Commissioning decisions, failure to assess/examine	Missed diagnosis, failure to refer, prescription error	Surgical error	
1	2	3	4	5	
Rare	Unlikely	Possible	Likely	Almost certain	
This will probably never happen/recur	Do not expect it to happen/recur but it is possible it may do so	Might happen or recur occasionally	Will probably happen/recur but it is not a persisting issue	Will undoubtedly happen/recur, possibly frequently.	
	Likelihood				
Likelihood score	1	2	3	4	5
	Rare	Unlikely	Possible	Likely	Almost certain
5 Catastrophic/Extreme	Medium	High	Extreme	Extreme	Extreme
4 Major	Medium	High	High	Extreme	Extreme
3 Moderate	Low	Medium	High	High	Extreme
2 Minor	Low	Medium	Medium	High	High
1 Negligible/Not significant	Low	Low	Low	Medium	Medium

Appendix 4: Complaints forms

Complaint Form

Date of complaint:

Complaint ref. no:

Details of person making complaint:

Full name:

Address:

Postcode:

Telephone number:

Patient's name (if not complainant)

Address:

Date of birth:

Summary of complaint:

Return address to be specified

Signature of complainant.....

Continuation Sheet

[Empty rectangular box for continuation content]

Return address to be specified

Signature of complainant.....

Verbal Complaint Form

Date of complaint:

Complaint ref. no:

Details of person making complaint:

Full name:

Address:

Postcode:

Telephone number:

Patient's name (if not complainant)

Address:

Date of birth:

Complaint relating to:

Summary of complaint:

Advice given:

Return address to be specified

Appendix 5: Consent forms

Consent Form – Third Party Authority to Act

Reference

When a complainant is not the patient, consent is required from the patient for us to proceed with the investigation of a complaint.

Please ask the patient to complete and sign the form below:

I _____ authorise the complaint reference.....
to be made on my behalf by and I agree that confidential information may
be disclosed to this person (only insofar as is necessary to answer the complaint). If necessary, I authorise the release
of my records to the Complaints Investigating Officer at NHS Northamptonshire CCG to enable them to carry out a
full investigation into the issues raised in the complaint.

Signed (patient) Date

of birth:.....

Full name and address

.....

.....

IF FOR ANY REASON YOU ARE UNABLE TO COMPLETE THIS FORM, PLEASE CONTACT THE COMPLAINTS TEAM ON
01604 651102

Reference:

Consent Form – Transfer to Provider Organisation

I,, give consent for NHS Northamptonshire CCG to forward my complaint to
..... to enable an investigation to be undertaken into my concerns and
for NHS Northamptonshire CCG to receive a copy of my complaint response if requested.

Signed: Date:

Please return the form to the address below:

Complaints Department
Francis Crick House
Summerhouse Road
Moulton Park
Northampton
NN3 6BF

Reference:

Consent Form – Release of Records

I _____ authorise the release of my relevant records to the Complaints Investigating Officer of NHS Northamptonshire Clinical Commissioning Group to enable a full investigation to be carried out into the issues raised in the complaint.

Signed: _____

Full name: _____

Address: _____

IF FOR ANY REASON YOU ARE UNABLE TO COMPLETE THIS FORM,

PLEASE CONTACT THE COMPLAINTS TEAM ON

01604 651102

Please return to:

Complaints Department
Francis Crick House
Summerhouse Road
Moulton Park
Northampton
NN3 6BF

Appendix 6 Investigation Manager Statement

Investigation Managers assurance statement

By investigating this case and returning the form you are confirming the following:

- The actions the staff/service took were in accordance with relevant protocol, policy or guidance documents
- Those documents are referenced within the response to the complainant where appropriate
- The protocol, policy or guidance documents are available for use, workable, intelligible, correct and in routine use

Date assurance provided	Investigating Manager	Returned for further review