



NHS

Greater Huddersfield
Clinical Commissioning Group

NHS Greater Huddersfield
Clinical Commissioning Group
Complaints Framework

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1 Introduction

- 1.1** The majority of patients receiving care within the NHS are happy with the care provided. It is recognised however that there will inevitably be circumstances where the expectations of some of the service users are not met and they will need to voice their feelings through the complaints procedure. Complaints are viewed positively within NHS Greater Huddersfield CCG and every effort is made to identify lessons from complaints to make positive improvements in services for patients.
- 1.2** This Complaints Framework details NHS Greater Huddersfield Clinical Commissioning Group's (CCG) arrangements for dealing with NHS complaints. The framework has been developed in line with the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009). The CCG also adheres to the NHS Constitution including those rights relating to complaints and redress.
- 1.3** The framework sets out the approach that NHS Greater Huddersfield CCG takes to the handling, investigation and learning from complaints.

2 Purpose

- 2.1** The purpose of the Framework is to describe the systems the CCG has in place to effectively manage all complaints received in accordance with NHS complaints regulations. It outlines the responsibilities and processes for a fair and robust receiving, handling, investigating and resolving of complaints relating to the actions of the CCG, its staff and services.
- 2.2** The Framework also sets out the process used for complaints received relating to NHS services commissioned by NHS Greater Huddersfield CCG. This may be in relation to NHS Acute and Foundation Trusts, Mental Health Trusts, Community NHS Services, independent contractors (e.g. general practices, dental practices, pharmacies and opticians) and independent sector providers.
- 2.3** The complaints process has four main aims:
1. To investigate
 2. To explain
 3. To apologise (where appropriate)
 4. To take action to prevent a recurrence

3 Duties / Accountabilities and Responsibilities

3.1 Duties within the organisation

Chief Officer - is accountable for signing off the final responses to the complainant and ensuring all the points raised have been covered in the investigation. The Chief Officer is also responsible for ensuring that systems and processes are in place for the delivery of a high quality complaints service and that the local health and social care system learns from complaints; improving services and preventing the same

problems from re-occurring. If the Chief Officer is unavailable to sign off the final complaints response, a deputy from the senior management team will be nominated.

Head of Corporate Governance - is responsible for ensuring the continuity of a high quality and sustainable complaints service across NHS Greater Huddersfield CCG.

The Head of Corporate Governance is also responsible for ensuring all complaint responses have been quality assured.

Governance Manager - is responsible for the performance management of the service, making arrangements for staff training as appropriate, ensuring that the themes and learning from complaints are passed on to the quality and service improvement teams. The Governance Manager will take the lead on all Parliamentary and Health Service Ombudsman cases.

Customer Information and Complaints Officer - manages a robust complaints handling and co-ordination services for NHS Greater Huddersfield CCG in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. This includes the provision of advice and support to investigation officers/managers, quality assurance of responses, production of reports on performance, themes and lessons learned.

Investigating Officer/ Manager - Is responsible for ensuring that a high quality and prompt investigation is carried out and the comments are provided to the Customer Information and Complaints Officer within the agreed timescale. They are responsible for identifying any learning to improve the quality of the commissioned healthcare services or CCG services. In many cases the Investigating Officer/ Manager will be an employee within NHS Greater Huddersfield CCG, such as a Head of Service. In other instances the Investigating Officer/Manager may be a Complaints Manager in an external organisation who will coordinate a response within their organisation that will then be sent back to the Customer Information and Complaints Officer at NHS Greater Huddersfield CCG.

All employees - All staff have a responsibility to work in line with the CCG's complaints framework and should:

- be aware of how to access the framework;
- be aware of who to raise complaints to;
- attend any relevant training which is offered in relation to them;
- report any issues affecting them to their line manager, in order that these can be taken account of.

Heads of Service must also ensure that, through management lines, all staff have an awareness of all policies, with emphasis given to those that are specifically relevant to their area of work.

3.2 Responsibilities

The Quality Committee has delegated authority from the Governing Body to approve the Complaints Framework.

4 Scope of the Policy

This Framework applies to NHS Greater Huddersfield CCG and applies to all employees, members of the CCG, co-opted members and members of the Governing Body and its committees who must comply with the arrangements outlined in this policy.

Member practices are responsible for the development and management of their own complaints processes and for ensuring compliance with relevant legislation.

5 The CCG's Complaints Procedure and Process

5.1 What is a Complaint?

The CCG's definition of a complaint is:

A complaint or concern is an expression of dissatisfaction about an act, omission or decision of NHS Greater Huddersfield CCG or another related NHS organisation, either verbal or written, and whether justified or not, which requires a response and/or redress.

5.2 Who can complain?

5.2.1 Anyone who is receiving, or has received, NHS treatment or services or who is affected or is likely to be affected by an action, omission or decision can complain.

5.2.2 The majority of complaints are made directly from the patient. Carers, relatives and other representatives can make a complaint on behalf of a person if that person has given consent for them to do so and if they consent to information being shared with their representative. This is particularly important where the response contains confidential or sensitive information of a clinical nature.

However, if a patient is unable to complain themselves then someone else (e.g parent, spouse, sibling, MP, local councillor, someone with delegated authority to do so, for example in the form of Power of Attorney) can complain on their behalf, providing appropriate consent is given by the patient where they have capacity to consent.

5.2.3 If a complaint is received from a representative of a child under the age of 18 (to whom the complaint relates), the CCG must be satisfied that there are reasonable grounds for the complaint being made by the representative instead of the child, whether the complaint is being made in the child's best interests and whether the representative is a suitable person to represent that child. If these criteria are not met the CCG will not respond to the complaint and will write to the representative explaining the decision.

A suitable representative will be a parent, guardian or other adult person who has care of the child or parental responsibility. Where the child is in the care of a local authority or a voluntary organisation, the representative must be a person authorised

by the local authority or the voluntary organisation, and in the opinion of the Head of Corporate Governance, is making the complaint in the best interests of the child.

- 5.2.4** If a patient is unable to complain themselves, for instance due to physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005 then the CCG will consider whether the complainant is a suitable person to represent the patient. If the CCG believes that the complainant is not a suitable representative or is not acting in the patient's best interests the CCG will not respond to the complaint and will write to the representative explaining the reasons for this decision.

This will be agreed on an individual basis by the Head of Corporate Governance, as the manager responsible for complaints.

When a complaint is made by a representative of a patient who is not in a position to give their consent to information being shared, it may not be appropriate to share the full details of the investigation with the representative. Particular attention will be paid to the need to respect the confidentiality of the patient, and to any known wishes expressed by the patient that information should not be disclosed to third parties.

- 5.2.5** If a complaint is raised concerning a deceased patient, this must be made by a suitable representative. Authority to Act will be sought from this representative (or appropriate other – see Appendix 1) on a case by case basis, depending on the circumstances of each complaint.

A suitable representative must be their next of kin, a relative or other person, who had sufficient interest in their welfare.

When a complaint is made by a representative of a deceased individual it may not be appropriate to share the full details of the investigation with the representative. Particular attention will be paid to the need to respect the confidentiality of the deceased, and to any known wishes expressed by the patient when they were alive that information should not be disclosed to third parties.

- 5.2.6** Letters received from solicitors raising a complaint on behalf of an individual should be dealt with in the same way as all other complaints (i.e. evidence of the solicitor's authority to act on behalf of the complainant will be required in addition to appropriate evidence that the complainant has the authority to act on behalf of the patient, if the complainant is a third party).

If the complaint is of significant concern an investigation may need to be undertaken without consent (as an internal investigation).

- 5.2.7 MP letters** - when a complaint has been received from an MP (acting on behalf of and by instruction from a constituent) relating to a specific patient, the CCG will seek consent on a case by case basis from the patient (where they have capacity) or a suitable representative i.e. next of kin, a relative or other person, who had sufficient interest in their welfare.

When an MP raises concerns, or asks a question in general terms, this will be dealt with as an MP Enquiry. Although following a similar investigation pattern, it will not include any reference to a named patient and hence consent will not be necessary.

5.2.8 Correspondence from Media Organisations - If correspondence is received from media organisations regarding a complaint, the Communications Manager should be contacted in the first instance.

5.2.9 Coroner - The fact that a death has been referred to the Coroner's office does not mean that investigations into a complaint should not be commenced (nor should it be suspended if already commenced prior to the Coroner's involvement). It is important for NHS Greater Huddersfield CCG to initiate proper investigations regardless of the Coroner's inquiries, and where necessary to extend these investigations if the Coroner so requests. Responses to a Coroner request do not necessarily match those required in relation to a complaint and hence the Investigating Manager will be asked to provide a separate response to the complaint.

5.2.10 Patient Advice and Liaison Service (PALS) - complaints may be received from both internal and external Patient Advice and Liaison Services. Any PALS complaints will be triaged by the Customer Information and Complaints Officer and dealt with as a standard complaint to NHS Greater Huddersfield CCG. The Customer Information and Complaints Officer will act as the first point of contact for the complaint and will liaise with the external service to ensure the complaint is captured and raised with the correct Investigating officer/manager. If the complaint is regarding the commissioning of services from the CCG, the Customer Information and Complaints Officer will take ownership of the complaint and will make contact with the complainant.

5.2.11 Occasionally, a complaint will be received where the complainant has no apparent connections with the patient concerned. In such cases, before any investigation commences, the following points should be clarified:

- Does the patient know a complaint has been made on their behalf?
- Has the patient authorised the complainant to make enquiries?

When a complaint is made by a representative of a patient without capacity it may not be appropriate to share the full details of the investigation with the representative. Particular attention will be paid to the need to respect the confidentiality of the patient, and to any known wishes expressed by the patient that information should not be disclosed to third parties.

5.3 Complaints Relating to Specific Organisation Types or Services

5.3.1 Complaints about Family Health Service Practitioners (FHSPs)

Complaints regarding independent contractors (e.g. GPs, dentists, opticians, pharmacists and commissioned services) are the responsibility of NHS England or the provider concerned. Where it is identified via complaint triage that the complainant wishes to complain about these services they will be informed either verbally, by email or in writing that they should contact either the provider concerned

or NHS England. As a delegated commissioner, NHS Greater Huddersfield CCG is not responsible for complaints made about GPs, however GPs are required to keep the CCG informed about complaints and related relevant information.

5.3.2 Complaints about Treatment Provided by any other NHS Service

Complainants will, in the first instance, be encouraged to complain direct to the provider of the NHS Service they are concerned about. This will normally be the most effective method of complaining as it minimises the need for information to be passed between organisations and the time taken by this. If the complainant is uncomfortable or distressed about complaining directly to their healthcare provider, or feels this is not appropriate for another reason, NHS Greater Huddersfield CCG will receive and co-ordinate the complaint. Where a complaint is received, the Customer Information and Complaints Officer will inform the complainant of their options (for the CCG or the provider to lead) and facilitate the complainant's choice.

5.3.3 Complaints about a Continuing Care Decision / Individual Funding Request

It is important to recognise that the review procedure for continuing care or individual funding requests is not a complaints procedure. The fact that someone has had their case considered by a continuing care review panel or individual funding request panel, does not affect their rights under the NHS complaints procedure. They can complain about the original decision of the continuing care review / special referrals process, through the NHS complaints procedure. In most cases IFR complaints will be passed to the Head of Strategic Planning and Service Transformation for comment and investigation.

5.3.4 Complaints about NHS Choice

The NHS Constitution sets out choice as a right and includes the right to information to support that choice. If a patient complains to NHS Greater Huddersfield CCG that they have not been offered a choice, and the complaint is upheld, NHS Greater Huddersfield CCG is required to make sure the patient gets that choice.

This does not apply to prisoners (or those on temporary release from prison), serving members of the armed forces and persons detained under the Mental Health Act (1983).

Certain services are also excluded:

- Where speed of access to diagnosis and treatment is particularly important, e.g.
 - o emergency attendances/admissions;
 - o attendances at a Rapid Access Chest Pain Clinic under the two-week maximum waiting time;
 - o attendance at cancer services under the two-week maximum waiting time.
- Maternity services;
- Mental health services; and
- Public health services commissioned by local authorities.

5.3.6 Complaints about Multiple Organisations

A requirement of the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009) is that complainants should, if they wish, receive one coordinated response to their complaint where it concerns a number of organisations. Where a complaint involves more than one NHS provider, or one or more other bodies (e.g. Social Services), there should be full co-operation in seeking to resolve the complaint as outlined in the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009).

If a complaint is made to NHS Greater Huddersfield CCG regarding more than one provider the Customer Information and Complaints Officer will (with the agreement of the complainant) liaise with each organisation and request that a response is forwarded back to NHS Greater Huddersfield CCG who will then arrange a combined response.

NHS England has advised in the Guide to Good Complaints Handling for CCGs that where a complaint concerns primary care this should be forwarded to them (with the consent of the person or their representative in the case of a patient who does not have capacity to consent). NHS Greater Huddersfield CCG will therefore liaise with NHS England regarding the response.

Where complaints are about both NHS and Local Authority services, the Customer Information and Complaints Officer will liaise with the Local Authority (with the consent of the person or their representative in the case of a patient who does not have capacity to consent) to co-ordinate a joint response. Where NHS Greater Huddersfield CCG takes the lead on a multi-organisation complaint all organisations will be copied in to the final response to facilitate their learning and service improvement functions.

6 How to complain

NHS Greater Huddersfield CCG will receive complaints in any format which the complainant wishes to use to forward the details relating to their complaint. This will include:

6.1 Written Complaints - letters

Any member of staff working within NHS Greater Huddersfield CCG could receive written complaints. All written complaints should be forwarded to the Customer Information and Complaints Officer for acknowledgment as soon as they are received. This should not delay the investigation commencing in general terms however it is for the Customer Information and Complaints Officer to liaise with the complainant and agree the specific issues of complaint.

6.2 Written Complaints - Email

Complaints received via email should be viewed as written complaints (see above 6.1) and processed in the same manner. Patient sensitive information will not usually be sent back to the complainant by email. Correspondence containing patient sensitive information will be sent by post where the complainant has given a postal

address; otherwise correspondence may be emailed to the complainant with the consent of the complainant.

6.3 Verbal Complaints - telephone

Verbal complaints should be viewed as seriously as written complaints. Any member of staff who is approached by a patient or their representative with a complaint should endeavour to resolve the matter there and then. Whenever possible, complaints should be resolved at the time. Any verbal complaint that cannot be resolved at the time should be handled in the same timescale as written complaints. If the matter remains unresolved, the member of staff receiving the complaint should prepare a clear written record of the details as soon as possible and refer this to the Customer Information and Complaints Officer.

It may be appropriate for the entire process to be resolved verbally, without any written communication. Where this occurs a complaint contact sheet should be completed and forwarded to the Customer Information and Complaints Officer to ensure the information is recorded for monitoring purposes. However, where the complainant indicates that they are not satisfied with the verbal response, then the complaint should be referred to the Customer Information and Complaints Officer for formal investigation.

6.4 Verbal Complaints – face to face

As for Verbal Complaints – telephone (see above 6.3). If a complainant attends the premises, wishing to make a complaint, they should be facilitated to do so. A suitable room should have a table and chairs, have ease of disabled access, and good lighting. In addition, staff safety must be considered when taking details of a complaint on a face to face basis. Staff must always be accompanied by a colleague and the room used must be easily accessed by other colleagues. No meeting can commence until a senior member of the team is informed that the meeting is going ahead and they must know where it is being held.

6.5 Out of Office Hours

Should a written complaint be received out of office hours, the complaint should be passed to the Customer Information and Complaints Officer as soon as possible within working hours. Should a verbal complaint be received out of office hours, relevant details should be taken and the complaint should be passed to the Customer Information and Complaints Officer as soon as possible within working hours. Where applicable, complainants should be advised that NHS 111 is available for out of hour's clinical advice.

6.6 NHS Greater Huddersfield CCG seeks to facilitate complaints from disabled people and will offer assistance appropriate to the individual's disability. For example if a complainant has a sight disability the complainant should be invited to submit details in Braille, or an audio format and the Customer Information and Complaints Officer should arrange for this communication to be transcribed and verified by the complainant.

7 Complaints Procedure

7.1 Receiving Complaints

7.1.1 Any member of staff receiving a complaint must notify the Customer Information and Complaints Officer immediately and copies of all correspondence should be forwarded to ensure appropriate acknowledgment. All written complaints and subsequent documentation should be stamped with the date of receipt and a copy scanned to the complaints folder. The original correspondence should then be filed with the appropriate complaints reference number.

7.1.2 The Customer Information and Complaints Officer has responsibility to ensure all correspondence and complaints are logged on the locally held complaints log and given a unique identifier. Key dates, complaint theme and level will all be recorded to ensure the complaints log is maintained to provide statistical returns to the NHS Digital and to facilitate completion of quarterly and annual reports required by internal committees and NHS Greater Huddersfield Governing Body.

7.2 Complaint levels

Level 1- Simple queries

- Advice on waiting times
- Advice on appointments
- Advice on contact details for different trusts and services

Acknowledged and responded immediately if possible or within 3 working days (depending on the issue raised)

Level 2 – Low/simple, non-complex issues

- Delayed or cancelled appointments
- Event resulting in minor harm e.g. cut or strain
- Loss of property
- Lack of cleanliness
- Transport problems
- Single failure to meet care needs e.g. missed call back
- Medical records missing

Acknowledgement within 3 working days. Response within 3 to 5 working days

Level 3 – Moderate /complex, several issues relating to a short period of care) requiring a written response and investigation by provider

- Event resulting in moderate harm (e.g. fracture)
- Failure to meet care needs.
- Miscommunication or misinformation.
- Medical errors.
- Incorrect treatment.
- Staff attitude or communication.

Acknowledgement within 3 working days. Response time will be agreed with the complainant following receipt of consent

Level 4 – High/complex multiple issues relating to a longer period of care, often involving more than one organisation or individual requiring a written response and investigation by provider

- Event resulting in moderate harm (e.g. fracture)
- Event resulting in serious harm (e.g. neglect)
- Failure to meet care needs.
- Miscommunication or misinformation.
- Medical errors.
- Incorrect treatment.
- Staff attitude or communication.

Acknowledgment within 3 working days. Response time will be with the agreement of the complainant following receipt of consent (depending on severity and number of providers involved).

7.3 Acknowledgement and consent letter

The Customer Information and Complaints Officer will send out an acknowledgement and consent letter within 3 working days of receiving the complaint. The acknowledgment and consent letter will:

- Confirm when the original complaint was received by NHS Greater Huddersfield CCG
- Confirm the basis of the complaint
- Outline the areas for investigations from the complaint and ask the complainant to confirm these.
- Contain the consent form for the patient/ patient and 3rd party to sign
- Contain an information leaflet on consent
- Contain all contact details including phone number, written address and email address of the Customer Information and Complaints Officer handling the complaint
- Include an apology if there has been a delay of more than three working days from the date the complaint was received or the date it was received by the Customer Information and Complaints Officer.

The complaint cannot proceed until the consent form is returned from the Patient/Complainant. If consent is not received after one month of the acknowledgment and consent letter, the Customer Information and Complaints Officer will send further correspondence chasing consent, if appropriate. If after a further month of sending a chasing consent form no further correspondence is received and/or the consent form is still unreturned it will be considered that the complainant no longer wishes to proceed with their complaint and the complaint will be closed.

7.4 Acknowledgment and outline of Investigation

When the patient/complainant consent form is received by NHS Greater Huddersfield CCG this will be date stamped, recorded on the complaints log, an electronic copy scanned to the complaints folder and the original consent form filed in the appropriate complaints folder.

The Customer Information and Complaints Officer will draft an acknowledgment and outline of Investigation letter to the patient/complainant. This will include:

- Confirmation of dates the consent form was received
- Confirmation of dates the original complaint was received
- Apologies regarding the complaint
- Offer condolences if appropriate
- Outline the areas for investigations from the complaint
- Explain who will be investigating i.e. appropriate head of service
- Confirm what outcome the complainant wants to happen as a result of their complaint
- Ask for further details on the complaint (if relevant)
- Outline the date expected for response from investigation - usually 28 working days from receipt of consent form
- Contain all contact details including phone number, written address and email address of the Customer Information and Complaints Officer handling the complaint
- Contain a leaflet on what to expect when making a complaint, including details of the NHS complaints advocacy service.

7.5 The investigation

Once the complaint has been logged and acknowledged, the Customer Information and Complaints Officer will forward the complaint immediately to the appropriate Head of Service, or provider organisation, who will be responsible for investigation. The receiving organisation will be responsible for nominating an Investigating Officer/Manager to investigate the issues raised and compile a draft response for submission to NHS Greater Huddersfield CCG's Chief Officer. It is anticipated that the Investigating Officer/Manager will normally be the senior manager responsible for the area concerned. It is desirable that the complaint is dealt with as close to the point of delivery as possible to ensure a prompt reply and appropriate remedial action is taken.

The investigation requires the investigating officer/manager to provide the following information:

- Names and job titles of all parties involved in the investigation
- Details of documentation referred to in order to respond to the concerns
- For each issue of complaint:
 - o A detailed investigation of what happened / an explanation of what should have happened
 - o Specific apologies where appropriate
 - o Confirmation of actions taken and lessons learnt

The investigation must be independent and the Investigating Officer/Manager must have the relevant skills to undertake the task and be selected according to the importance and seriousness of the complaint.

On completion of the investigation, the Investigating Officer/Manager should send the findings of their completed investigation to the Customer Information and Complaints Officer. The full details of the investigation should also be provided including notes, minutes of any meetings, any statements and all information included as part of the investigation. This will then be retained within the complaint file.

7.6 Documentation

All aspects of the investigation will be clearly recorded and all documentation, including staff statements, how the facts have been ascertained etc, will be forwarded to the Customer Information and Complaints Officer and retained on the complaint file. In the event that the complainant subsequently requests an independent review, NHS Greater Huddersfield CCG will require copies of all documentation. Staff should be aware that, should the matter proceed to Parliamentary and Health Services Ombudsman review or litigation, all the complaint documentation is subject to disclosure.

Copies of complaint correspondence must NOT be held on the patient's health records.

7.7 Timescales

In exceptional circumstances, where there is any delay in receiving back the investigation template or where it has not been possible to contact all those involved to enable a full response, the Customer Information and Complaints Officer will send a holding letter to the complainant if it is anticipated that these delays will impact on the timescale set for the final response. Further contact will be made by telephone or holding letters as appropriate.

The investigating officer/manager has responsibility to provide a reason for the delay and to provide a revised timescale to the Customer Information and Complaints Officer.

7.8 Meeting the complainant

The Investigating Officer/Manager will, in consultation with other senior employees involved, and the Customer Information and Complaints Officer, decide whether it is appropriate to offer the complainant an interview or meeting.

Where the Investigating Officer/Manager arranges a meeting with the complainant, the Investigating Officer/Manager and Customer Information and Complaints Officer will determine how the meeting will be structured. The Investigating Officer/Manager will conduct the meeting and ensure notes are taken. The complainant will be offered the opportunity to have someone else present to assist them. The meeting must be formally recorded and the notes agreed with the complainant.

7.9 Final Response Letter

All written complaints must receive a response in writing from the Chief Officer or nominated representative. The final letter should be dispatched within the timescale for the level given to the complaint.

The Investigating Officer/Manager will provide the Customer Information and Complaints Officer with a copy of the draft response when the matter has been investigated. The Customer Information and Complaints Officer, Governance Manager and The Head of Corporate Governance will quality assure the response prior to submitting to the Chief Officer or her nominated representative for signature in line with the CCG's Correspondence Quality Assurance checklist

Wherever practical, replies to all complaints should be agreed with staff involved before the draft reply is sent to the Customer Information and Complaints Officer. If the response cannot be agreed with those involved, the Customer Information and Complaints Officer should be informed, in order to agree the wording of a response. It is essential, however, to remain objective at all times and present a fair reply to all complainants.

The Customer Information and Complaints Officer will check that the response covers all aspects of the complaint raised by the complainant and that any technical / medical terms are clearly explained. The Customer Information and Complaints officer will follow up any queries regarding the response with the Investigating Officer/Manager as soon as possible.

Where it is clear that there has been a mistake or failure in procedures, this should clearly be stated and an appropriate apology given. Where this could constitute an admission of legal liability the matter should be referred for legal advice.

Actual or intended litigation should not be a barrier to the processing or investigation of a complaint at any level. It may be prudent for parties in actual or potential litigation to agree a stay of proceedings pending the outcome of the complaint, but the duties of the system to respond to complaints should be regarded as entirely separate from the considerations of litigation.

The Customer Information and Complaints Officer will liaise with the Governance and Corporate Manager for advice on the recommended course of action.

The final response letter must be factually correct and include:

- An apology where appropriate as an acknowledgment of the complainant's feelings about their experience.
- Address each of the points the complainant has raised with a full explanation or give reasons on why it is not possible to comment on a specific matter.
- Provide specific details about the investigation, how it was carried out and by who, what was discovered.
- Provide details of actions taken and learning identified as a result of the complaint.
- Provide the name and telephone number of the Customer Information and Complaints Officer and/ or the Investigating Officer/Manager for further queries/discussion.
- Include details of further action available to the complainant (if appropriate, an invitation to meet with staff).
- Provide the address for the Parliamentary and Health Service Ombudsman and inform the complainant that if they take this course of action they should do so as soon as possible after the date of the response letter as any delay in doing this may prevent the Ombudsman from reviewing their case.

Once the response is finalised, it is printed off and taken with the complete complaints file to the Chief Officer, or nominated representative, for agreement and signature.

7.10 Action where the Complainant is Dissatisfied with the Final Response

If the complainant is dissatisfied with the final response they should be asked to identify their specific concerns. Consideration should be given to how the complaint might be resolved. On a case by case basis, either a further investigation by the relevant senior manager or a meeting with staff could be offered.

If the complainant subsequently remains dissatisfied, they should be encouraged to request an independent review of their complaint by the Parliamentary and Health Services Ombudsman.

8 Parliamentary and Health Service Ombudsman review

Independent review is the second stage of the complaints procedure and is implemented when the complainant has exhausted the local resolution stage.

NHS Greater Huddersfield CCG and independent contractors must inform the complainant within the final response of the next stage of the complaints procedure should they be dissatisfied and give details of how to contact the Parliamentary Health Service Ombudsman (PHSO).

Complainants who remain dissatisfied following the completion of local resolution may contact the PHSO, requesting an independent review of their case. Complainants should be advised that this should be done within a year of receipt of the final response, unless the PHSO considers that it is reasonable to review the complaint outside of this timescale.

The PHSO can conduct independent investigations of complaints about NHS providers and practitioners.

The PHSO has established three sets of principles which outline the approach it believes public bodies should adopt when delivering good administration and customer service, and how to respond when things go wrong: Principles of Good Administration, Principles for Remedy, and Principles for Good Complaints Handling.

The six principles for Good Complaints Handling are:

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

The process for how NHS Greater Huddersfield CCG will handle PHSO recommendations follows:

8.1 Actions to be undertaken when a complaint is referred back or upheld by the PHSO

When a complaint concerning an organisation providing NHS services is referred back from the PHSO it is usual procedure for the PHSO to request a full copy of the complaint file and all relevant supporting documentation (including medical records), by a specified deadline.

The Governance Manager will use this opportunity to re-visit the complaint records, identify the points raised and ascertain if there are any points of action required by either NHS Greater Huddersfield CCG or the organisation involved. If anything is identified, under the duty of candour, the PHSO must be aware of any shortcomings in the final response or investigation and an offer of further investigation made.

If, having reviewed the case, the PHSO has criticised the handling of a complaint by an organisation providing NHS services the Customer Information and Complaints Officer will comply with the PHSO's requirements which may include:

- Re-investigation of the issues raised or re-investigation of some of the issues raised.
- Contacting the provider organisation to discuss the issues raised.
- Notifying and seek appropriate clinical advice where necessary.
- Discussing with the organisation an action plan to address the issues raised.
- Responding to the PHSO regarding the action undertaken in line with requested guidelines.

If the PHSO has criticised NHS CCG directly the Governance Manager will notify the Chief Officer and Head of Corporate Governance.

After consideration by the Chief Officer, the Governance Manager will ensure that a response is made within the deadline set by the PHSO, and where necessary a response is made to the complainant, outlining the action to be taken.

8.2 Other reviews

The Care Quality Commission (CQC) are an independent regulator of health and social care in England. The CQC monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety and they publish their findings, including performance ratings to help people choose care. As NHS Greater Huddersfield CCG is not a care provider it would not fall under the remit of the CQC directly. However the CCG will comply with any request for information held on complaints if requested by the CQC.

9 Learning from complaints

Following investigation of the complaint, the Investigating Officer/Manager will be responsible for identification of lessons learned and ensuring that actions have been completed within a reasonable timescale. NHS Greater Huddersfield CCG must be able to demonstrate that following investigation of a complaint any changes, which are identified and will reduce risk, are considered and implemented, if appropriate.

Investigating Officers/Managers are routinely requested to consider and document any lessons learned as part of the management of complaints. A key part of the

complaints process is to identify how services can be improved as a result of patient feedback and ensuring that lessons are learned at all levels.

The Governance Manager is responsible for maintaining an overview of all complaint cases received by NHS Greater Huddersfield CCG. If the Governance Manager becomes aware of any issues being repeated this will be brought to the attention of the appropriate Head of Service and Quality Lead for further investigation to ensure that action is taken quickly.

10 Reporting arrangements

The Governance Manager with the support of the Customer Information and Complaints Officer will provide reports to the Head of Corporate Governance, Quality Committee and Governing Body on complaints received at NHS Greater Huddersfield CCG. Monitoring complaints against providers helps to identify possible themes, issues or risk to ensure that appropriate action can be taken.

10.1 Monthly Performance Reporting

A monthly overview will be provided to the Head of Corporate Governance for reporting to SMT containing:

- Number of complaints received on a monthly basis
- Subject matter of complaint
- Level of complaint
- Number of Consent forms sent out and returned
- Number of complaints currently under investigation
- Number of complaints closed in the month

10.2 Committee Reporting

The Quality Committee will receive a six monthly report detailing:

- Detail performance against agreed Key Performance Indicators for complaints handling
- Summarise the subject matter of complaints
- State how many complaints were received; upheld and how many investigated by the Parliamentary and Health Service Ombudsman
- Summarise matters of general importance, action to improve services and the identification of trends
- A commentary of repeats, increases or clusters; any significant risk assessments; and how the impact of any service improvements arising from complaints has been evaluated. It will also provide useful information about the quality of services and the patient experience of those services
- Demonstrate that changes have been made as a result of acting on feedback

10.3 Annual Reporting

The Annual Report, which will be submitted to the Governing Body, will:

- Detail performance against agreed Key Performance Indicators for complaints handling
- Summarise the subject matter of complaints
- State how many complaints were received; upheld and how many investigated by the Parliamentary and Health Service Ombudsman

- Summarise matters of general importance, action to improve services and the identification of trends
- A commentary of repeats, increases or clusters; any significant risk assessments; and how the impact of any service improvements arising from complaints has been evaluated. It will also provide useful information about the quality of services and the patient experience of those services
- Demonstrate that changes have been made as a result of acting on feedback

10.4 NHS Digital Reporting

On a quarterly basis a return to NHS Digital is completed through the KO41a return. NHS Greater Huddersfield CCG will cooperate with organisations including the Care Quality Commission, NHS England, Monitor and Healthwatch, bearing in mind the need to maintain confidentiality and only share anonymous information, obtain consent from the relevant patient or patients concerned, or ensure a lawful basis exists to share person identifiable information in relation to any request for complaint information and/or documentation.

11 Monitoring Compliance and Effectiveness

This will be included within the six monthly and annual reports to Quality Committee and Governing Body.

12 Arrangements for Review

An annual review of the Complaints Framework will be undertaken by NHS Greater Huddersfield CCG.

13 Dissemination

This Policy will be published on the CCG's website and on the CCG's corporate drive and intranet. Training for staff will be arranged by the Head of Corporate Governance as required.

14. Equality Impact Assessment

Complaints handling includes an equality monitoring form which will pick up any issues and learning.

15. Appendices

Appendix A - Vexatious, Persistent or Unreasonable Complaints

Appendix B- How to ensure the complainant has the appropriate authority to act on behalf of the patient

Appendix C- Matters excluded from consideration under the complaints procedure

Appendix A - Vexatious, Persistent or Unreasonable Complaints

NHS Greater Huddersfield CCG is committed to treating all complaints equitably and recognises that it is the right of every individual to pursue a complaint. NHS Greater Huddersfield CCG therefore endeavours to resolve all complaints to the complainant's satisfaction. On occasion, NHS Greater Huddersfield CCG may consider that a complaint is habitual in nature, i.e. the complaint raises the same of similar issues repeatedly, despite having received full responses to all the issues they have raised.

In cases such as these the guidance outlined is intended for use as last resort and after all reasonable measures have been taken to try and resolve a complaint within the complaints policy.

A.1 Definition of Vexatious, Persistent or Unreasonable Complaints

There is no one single feature of unreasonable behaviour. Examples of behaviour may include those who:

- Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted.
- Refuse to accept documented evidence as fact.
- Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff, and where appropriate, the relevant independent advocacy services could assist to help them specify their complaint.
- Continually make unreasonable or excessive demands in terms of process and fail to accept that these may be unreasonable e.g. insist on responses to complaints being provided more urgently than is reasonable or is recognised practice.
- Continue to focus on 'trivial' matter to an extent that it is out of proportion to its significance. It is recognised that 'trivial' is subjective and careful judgment must be applied and recorded.
- Change the substance of a complaint or seek to prolong contact by continually raising further issues in relation to the original complaint. Care must be taken not to discard new issues that are significantly different from the original issues. Each issues of concern may need to be addressed separately.
- Consume a disproportionate amount of time and resources.
- Threaten or use actual physical violent towards staff.
- Have harassed or been personally abusive or verbally aggressive on more than one occasion (this may include written abuse e.g. emails).
- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual.
- Make excessive telephone calls or send excessive numbers of emails or letters to staff.
- Make inappropriate or personal comments about staff
- Raising issues not relating to the NHS.

A.2 Actions prior to designating a complainant as vexatious, persistent or unreasonable

It is important to ensure that the details of a complaint are not lost because of the presentation of the complaint. There are a number of considerations to bear in mind when considering imposing restrictions upon a complainant.

These may include:

- Ensuring the complainant's case is being, or has been dealt with appropriately and that reasonable action will follow, or has followed, the final response.
- Confidence that the complainant has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent.
- Checking that new or significant concerns are not being raised that require consideration as a separate case.
- Applying criteria with care, fairness and due consideration for the complainant's circumstances – bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss or significant/sudden changes to the complainant's lifestyle.

A.3 Dealing with vexatious, persistent or unreasonable behaviour

Stage 1:

Once it is clear that an individual meets the criteria of vexatious, persistent or unreasonable behaviour, it may be appropriate to inform them, in writing, that their conduct is unacceptable and that, if it continues, they may be classified as "vexatious, habitual or unreasonable". The letter should state clearly which elements of their behaviour are causing problems and be accompanied by a copy of this framework.

If the complainant is using the NHS complaints procedure, they should also be advised to seek advice (e.g. from their local complaints advocacy service) in presenting their complaint.

Stage 2:

It may be appropriate to try to resolve matters by drawing up an agreement with the person, which sets out a code of behaviour for the parties involved, if the CCG is to continue communication or to process a complaint. If these terms are contravened consideration will be given to implementing Stage 3 of the procedure.

A code of behaviour could include the following:

- An agreement relating to appropriate behaviour and conduct. Any such agreement should normally not extend beyond six months without review.
- Restricting contact to one or two individuals within the CCG.
- Restricting the method of communication (e.g. by letter only, not telephone/email).

- Offering a meeting to attempt to resolve outstanding issues.

Stage 3:

Where the CCG has responded fully to the points raised by the person and has tried to resolve the issues but has not achieved this to the complainant's satisfaction, and continuing contact on the matter would serve no useful purpose, the individual will be notified by the Chief Officer that the contact is at an end and that further contact will be acknowledged, but not answered.

In extreme cases, or where the safety of staff is at risk, the individual will be informed that the CCG reserves the right to pass habitually unreasonable or vexatious behaviour to the police/CCG solicitors. All contact with the person and/or investigation of the complaint will be suspended whilst seeking legal advice or guidance.

Any further complaints received from a person who has been designated as habitually demanding or vexatious under this framework, will be subject to a reasonable investigation as deemed necessary by the Chief Officer in conjunction with advice received from staff dealing with complaints. The Chief Officer (or deputy), in conjunction with the Head of Corporate Governance, may, at their discretion, choose to omit one or two of the above stages.

Appendix B- How to ensure the complainant has the appropriate authority to act on behalf of the patient

In general terms consent can be broken down into 3 areas:

- Consent provided by the patient
- Consent provided by the patient, who has nominated someone else to act on their behalf
- Consent provided by a third party who has the legal authority to act on behalf of a named patient

As such the consent form is broken down into these 3 sections. However, there can be complexities which must be considered under all 3.

B.1 Consent provided by the patient (Patient Consent Form)

Does the patient have capacity to understand exactly what consent means? Or do they actually understand what is included in the consent form? The Customer Information and Complaints Officer must be satisfied that the patient understands what they have signed.

One common misconception from patients is that consent is transferrable between different departments in an NHS organisation, or in relation to more than one request from one department. This is not automatically the case. A patient might make a complaint and request a copy of medical records (which is a subject access request) – it would not be appropriate for the complaints team to transfer their consent to the access to records team as they relate to very different matters. A patient might raise a complaint about one issue and then 3 months later raise a differing complaint – we must have two separate consent forms if the issues are different. However, if the second complaint is a continuation of the first, i.e. the same issues, the original consent document will be valid. Patients also may not understand that we must have their consent before we can even approach a differing NHS organisation. We must have consent if we are going to investigate matters outside of the CCG as we have to contact that other organisation.

B.2 Consent provided by the patient, who has nominated someone else to act on their behalf (3rd party Consent form)

As well as using a family member or a good friend, a patient might approach their MP to act on their behalf. This is totally acceptable. It is for the patient to decide who is acting on their behalf – the CCG cannot dictate who they use. Be aware that a GP might raise a complaint – if they are doing this with the full authority of the patient as their advocate this is acceptable. If they are doing this in a professional capacity, then it is not, as professional to professional complaints cannot be accepted under the regulations.

A review of the documentation will take place to ensure the patient has actually given consent – and the signature is valid. E.g. mum is raising a complaint about the care provided to her 19 year old daughter – the Customer Information and Complaints Officer must be confident that the signature on the form is that of the daughter.

“Next of Kin” has no authority in law. A husband may be recorded as the next of kin to his wife. Whilst he can raise a complaint on her behalf he cannot have access to the response unless his wife has provided consent.

Completing the form - Patient details are completed in the first box and nominated complainant's details will be completed in the second box. The patient will state their name, the name of the nominated complainant in the blank sections and will sign and date the form.

B.3 Consent provided by a third party who has the legal authority to act on behalf of a named patient

Children under the age of 16

It would be appropriate for a parent (or adult in a legal guardianship role) to make a complaint about the care or treatment of a child. Complaints being made by someone else must have the consent of the parent / guardian. Be aware when a parent lives at an address different to the child - you need to ascertain if the parent has retained parental responsibility or not (usually following a divorce or a separation). As an example: child lives with mum but dad has made the complaint – does dad have joint custody / parental responsibility for the child. This is very emotive but you must be satisfied that appropriate consent has been received.

Evidence: A copy of the child's full birth certificate (not the abbreviated certificate as this does not name the parent). In a case of a separation there is usually a court document detailing the parental responsibilities that each parent holds.

Children aged 16 to 18

As above, for a child under 16.

However, for a child aged 16 to 18, it may be more appropriate for the child to give consent. This should be decided on a case by case basis being aware of the circumstances of the complaint and the child's maturity and understanding (described as Gillick competency and explained in the Fraser guidelines). Thought should be given to the nature of the complaint: it would be preferable to get the child's consent if the complaint related to reproductive health, GUM medicine, contraception or a long term condition which the child has extensive knowledge of such as Cystic fibrosis or diabetes. However for things like trauma and orthopaedics or general medicine it might not be necessary.

Patients lacking capacity

This will include patients with severe disabilities (physical or learning), dementia, locked in syndrome etc. and those who are unconscious where it is believed that this situation will continue for some time.

Where no evidence can be produced (e.g. young healthy patient unconscious following a road traffic accident with nothing in place) it would be appropriate to manage the complaint in the patient's “best interests” by seeking consent from an immediate relative (a parent, spouse or child).

Evidence: Lasting Power of Attorney for Health and Welfare (appropriately authorised and with a court stamp), historic record of patient giving consent for access to their information.

Deceased patients

If the patient is dead any individual who is a beneficiary of the estate, is the executor of the estate, or is an immediate relative, has a right to raise a complaint. Remember that “next of kin” has no legal standing – if the patient had nominated their neighbour as their next of kin, it does not make them the appropriate person to raise a complaint on their death.

Evidence: The name of the beneficiaries and executors will be contained within the deceased’s ‘Will’. Children can present their birth certificate, parents can present the deceased’s birth certificate and the spouse can show their wedding certificate. Be aware that a daughter may have changed her name – she will also need to show any document that confirms her name change from that on her own birth certificate to her new name (usually her wedding certificate).

Appendix C- Matters excluded from consideration under the complaints procedure

1. A complaint made by an NHS body which relates to the exercise of its functions by another NHS body;
2. A complaint made by a primary care provider which relates either to the exercise of its functions by an NHS body or to the contract or arrangements under which it provides primary care services;
3. A complaint made by an employee of an NHS body about any matter relating to their contract of employment;
4. A complaint made by an independent provider or an NHS foundation trust about any matter relating to arrangements made by an NHS body with that independent provider or NHS foundation trust;
5. A complaint that has been previously fully investigated.
6. A complaint which is being or has been investigated by the Parliamentary Health Service Ombudsman;
7. A complaint which is being or has been investigated by another NHS organisation;
8. A complaint arising out of an NHS body's alleged failure to comply with a data subject request under the General Data Protection Regulation (EU) 2016/679 and Data Protection Act or a request for information under the Freedom of Information Act 2000;
9. A complaint about which an NHS body is taking or is proposing to take disciplinary proceedings in relation to the substance of the complaint against a person who is subject of the complaint may be excluded depending on the circumstances of the case.
10. A complaint about a historic matter, specifically a complaint should be made not later than 12 months after the date at which the occurrence (the subject of the complaint) happened, or 12 months after the complainant became aware of the occurrence. This time limit will not apply if the complainant can show good reason for not making the complaint earlier or it is still possible to conduct a fair and effective investigation into the complaint.