

# Concerns and Complaints Policy

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The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as 'uncontrolled' and as such may not necessarily contain the latest updates and amendments.

# POLICY AMENDMENTS

Amendments to the Policy will be issued from time to time. A new amendment history will be issued with each change.

New Version Number	Issued by	Nature of Amendment	Approved by & Date	Date on Internet
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This policy has been assessed using an Equality Impact Assessment and Sustainability Impact Assessment. These assessments are recorded in the relevant registers and available to view on the CCG website.

## 1.0 Introduction

NHS North Yorkshire Clinical Commissioning Group, hereafter referred to as the CCG, is committed to working in partnership with patients, the public and other key stakeholders for the improvement of health across the local community.

This document outlines our commitment to dealing with complaints about the services provided and commissioned by the CCG. It also provides information about how we manage, respond to and learn from complaints made about our services and the way in which they are commissioned.

## 2.0 Purpose

The CCG is committed to high quality care for all as a core principal of our vision and purpose. This includes the provision for any user of the organisation, their family, carers, or members of the public, with the opportunity to seek advice, raise concerns or make a complaint, about any of the services it commissions, or policies and procedures it has developed and implemented.

The CCG recognises that staff work very hard to get it right first time. However, there may be occasions when people will be dissatisfied with the service received, or decisions made, and wish to make a complaint or raise a concern.

The CCG will endeavour to respond as quickly and effectively as possible to resolve complaints and respond to enquiries, and to use the information to improve the quality of its commissioned services.

The complaints system incorporates the Parliamentary and Health Service Ombudsman Principles of Good Complaints Handling (2009):

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

The policy is also informed by the NHS Constitution that includes a number of recommendations relating to patient rights. Patients have the right to:

- Have their complaint acknowledged and properly investigated.
- Discuss the manner in which the complaint is to be handled and know the period in which the complaint response will be sent.
- Be kept informed of the progress and to know the outcome including an explanation of the conclusions and confirmation that any action needed has been taken.
- Take a complaint to the independent Parliamentary and Health Service Ombudsman if not satisfied with the way the NHS has dealt with the complaint.

- Make a claim for judicial review if the patient thinks that they have been directly affected by an unlawful act or decision of an NHS body; and receive compensation if the patient has been harmed by medical negligence via the claims process.

Other documents guiding the policy are:

- NHS England's Assurance of Good Complaints Handling for Primary Care – A toolkit for commissioners (2015)
- the Local Authority Social Services and National Health Service Complaints [England] Regulations (2009),
- recommendations from the Francis report (2013).
- Putting Patients First: The NHS England Business Plan for 2013/14 – 2015/16.

The policy includes the fundamental requirements of good complaints and concerns handling used by the CCG to deliver arrangements in an easily accessible, equitable, sensitive and open manner.

### **3.0 Definitions / Explanation of Terms**

#### Complaint

A complaint is an expression of dissatisfaction about an act, omission or decision of the CCG, either verbal or written, and whether justified or not, which requires an investigation and a formal response.

#### Concern

A concern is an expression of dissatisfaction without the need for formal investigation or formal correspondence.

### **4.0 Duties, Accountabilities and Responsibilities**

#### Accountable Officer Responsibilities:

The Accountable Officer has overall responsibility for ensuring that the CCG Policy meets the statutory requirements as set out in the regulations. Within the CCG this responsibility has been delegated to the Chief Nurse and in her absence the Director of Corporate Services, Governance & Performance.

#### Directors / Managers / Governing Body GPs and Clinical Leads

CCG Directors, managers, Governing Body GPs and Clinical Leads are responsible for investigating formal complaints about their services/areas of work in line with the policy.

#### Investigating Managers

Investigating managers will also be responsible for ensuring that staff actively engage in the complaints process and support investigations when required. Line managers are required to support their staff during the complaints process.

## Caldicott Guardian

The Caldicott Guardian has responsibility for the safeguarding of confidential patient information within the CCG.

## Corporate Services and EPRR Manager

The Corporate Services and EPRR Manager and the Patient Relations Team will consider emerging themes and learning from the complaints reporting mechanism and identify service improvements as a result of complaints and concerns being raised.

The Corporate Services and EPRR Manager is also responsible for reviewing the CCG Complaints Policy and processes.

## Chief Nurse

The Chief Nurse is responsible for ensuring information from complaints is reported into the Quality and Clinical Governance Committee to enable organisational review and learning.

## Quality and Clinical Governance Committee (QCGC)

QCGC receives regular patient safety, patient experience and complaints reports and is responsible for reviewing themes and trends and identifying areas for recommending change in practice.

## All Staff

All staff have a responsibility to report all feedback in accordance with this policy. All staff have a duty to their employer and fellow colleagues to co-operate fully with an investigation to ensure the most appropriate outcome.

Staff should actively encourage all individuals to feed back their experiences, including raising concerns and complaints where appropriate. This is to support the continuous improvement to services and to inform the CCG's commissioning intentions. All staff are responsible for being aware of their obligations.

## The Patient Relations Team

The Patient Relations team are responsible for ensuring the CCG has a robust system and process in place to receive feedback from services users and ensure effective complaints management which is in line with national legislation. The team will support the investigation process and liaise with investigators and other staff members to provide appropriate advice around complaints and concerns when required.

The Patient Relations Team:

- Are responsible for ensuring that the Complaints Policy and associated procedures are followed, and that complaints are actioned in line with this document.
- Ensures that the policy and procedures are regularly reviewed and updated.

- Ensures information from concerns, queries and complaints is available to CCG staff to ensure it is reported into appropriate clinical quality and risk committees and forums to enable organisational review and learning.
- Supports the CCG through analysis of patient queries received by the CCG to assist organisational learning and to inform local service commissioning.

#### **4.1 Responsibilities for Approval**

The Governing Body has delegated authority to approve the group's policy and arrangements for handling complaints.

### **5.0 Scope of the Policy**

The policy applies to the CCG and all its employees and must be followed by all those who work for the organisation, including the Governing Body, those on temporary or honorary contracts, secondments, pool staff, contractors and students.

This policy shall be applied to all members of the public (and/or their representatives) who have been in receipt of NHS care commissioned by the CCG, or who complain about any services directly provided by the CCG, such as, Continuing Health Care. For the purpose of this policy NHS care is defined as receiving care, or treatment, under the NHS Act 1977.

For complaints about services other than those commissioned by the CCG, please refer to the complaints service of the relevant organisation.

Complaints can be made by any person who is affected by, is likely to be affected by or is aware of, either through direct experience or observation, an action, omission or decision of the CCG.

All staff have a responsibility to ensure that they are aware of the contents of this policy and have undertaken training as appropriate. Further information regarding who can make a complaint can be found in Section 6.0.

#### **5.1 Complaints that cannot be dealt with under this policy**

The following complaints will not be dealt with under the NHS Complaints Regulations 2009:

- A complaint made by one NHS organisation about another NHS organisation.
- A complaint made by an employee about any matter relating to their employment. CCG staff should use appropriate HR policies for this purpose.
- A complaint, the subject matter of which has previously been investigated under these or previous Regulations.
- A complaint made by a primary care provider which relates to the exercise of its functions by an NHS body or to the contract or arrangements under which it provides primary care services.

- A complaint made by an independent provider, NHS Trust or an NHS Foundation Trust about any matter relating to arrangements made by an NHS body with that independent provider or NHS Foundation Trust.
- A complaint which is being or has been investigated by the Ombudsman.
- A complaint arising out of an NHS body's alleged failure to comply with a request for information under the Freedom of Information (FOI) Act 2000. Information regarding how to request a review of your FOI can be found in the CCG FOI Policy
- A complaint which relates to any scheme established under Section 10 (superannuation of persons engaged in health services) or Section 24 (compensation for loss of office) of the Superannuation Act 1972 or to the administration of those schemes.
- Concern about the outcome of a Continuing Healthcare Assessment. A separate Appeals framework is in place.
- A complaint regarding suspected fraud. Any allegations of fraud or financial misconduct should be referred to the National Fraud reporting line; details should NOT be taken by the Complaints team. Full details of the methods for reporting are on their Website: <https://www.reportnhsfraud.nhs.uk/>

If the complainant has made or intends to take legal action or there is an inquest pending, this should not get in the way of the complaint being investigated. Advice should be sought from the Chief Nurse to determine steps to ensure there is no prejudice to existing or planned investigations.

### **5.1.1 Safeguarding - Concerns Relating To Potential Abuse**

Should any complaint or concern include a disclosure or suspicion of abuse, the CCG Safeguarding Policies must be followed:

- Safeguarding Children Policy
- Safeguarding Adults Policy
- Allegations Against People Who Work with Vulnerable Persons Policy

## **6.0 Who can make a complaint**

A complaint may be made by the person who is affected by the action, or it may be made by a person acting on behalf of a patient in any case where that person:

- is a child; (an individual who has not attained the age of 18);
- in the case of a child, we must be satisfied that there are reasonable grounds for the complaint being made by a representative of the child, and furthermore that the representative is making the complaint in the best interests of the child.
- has died;
- in the case of a person who has died, the complainant must be the personal representative of the deceased. NHS England needs to be satisfied that the complainant is the personal representative. Where appropriate we may request evidence to substantiate the complainant's claim to have a right to the information.
- has physical or mental incapacity;

- In the case of a person who is unable by reason of physical capacity, or lacks capacity within the meaning of the Mental Capacity Act 2005, to make the complaint themselves, NHS England needs to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is made.
- has delegated authority to act on their behalf for example in the form of a registered Power of Attorney which must cover health affairs.
- has given consent to a third party acting on their behalf, including MPs;

In the case of a third party pursuing a complaint on behalf of the person affected, including an MP acting on behalf of and by instruction from a constituent, consent will be required as outlined in section 6.2.

The following information will be documented in the complaint file and confirmation will be issued to both the person making the complaint and the person affected.

- Name and address of the person making the complaint;
- Name and either date of birth or address of the affected person; and
- Contact details of the affected person so that we can contact them for
- Confirmation that they consent to the third party acting on their behalf.

If the Corporate Services Manager or equivalent officer in the CCG is of the opinion that a representative does not or did not have sufficient interest in the person's welfare, or is not acting in their best interests, we will notify that person in writing.

## **6.1 Carer's Rights**

Carers can make a complaint on behalf of the person they care for where the person is a child, has asked the carer to act on their behalf, or is not capable of making the complaint themselves. The organisation has the discretion to decide whether the carer is suitable to act as a representative in the individual's best interests.

If the Accountable Officer or their delegated officer is of the opinion that a representative does or did not have sufficient interest in the person's welfare, is not acting in their best interests or is unsuitable to act as a representative, they will notify that person in writing stating the reasons.

## **6.2 Consent**

If a complaint is received on behalf of someone else, including by an MP, consent will be required. A copy of the CCG consent form is available on the CCG website and on the CCG y drive at <Y:\North Yorkshire CCGs\0 ALL STAFF\Policies>

Consent is also required if the CCG is required to share the complaint with a third party, such as the provider of a service.

There is an expectation that when capturing consent for the use and sharing of information, that the patient has made an informed decision and clearly understands the processing and potential sharing of their information. Staff must also understand the expectations of confidentiality under which the information is provided.

Information will not be disclosed to third parties unless the complainant or appropriate authorised party who has provided the information has given consent to the disclosure of that information.

Consent should be pursued. If by the 40th working day consent has not been received the complaint should be closed and categorised as a concern.

## 7.0 Complaints Procedure

### 7.1 How to make a complaint

A complaint may be made in writing, verbally, face to face or by email.

If an individual is unsure regarding the process or who to contact advice can be sought by contacting the Patient Relations Team by:

Telephone	01609 767607
Email	NYCCG.PatientRelations@nhs.net
Post	NHS North Yorkshire Clinical Commissioning Group 1 Grimbald Crag Court St James Business Park Knaresborough HG5 8QB

Face to face discussion of a complaint can take place by prior arrangement. There are no facilities within the CCG for 'drop in' advice.

Where it is possible and appropriate, complaints and concerns can be resolved on the spot or quickly by front line staff or the service provider. This is called local resolution. Local resolution aims to resolve complaints quickly and as close to the source of the complaint as possible. *Appendix A – Key Contact Details*, provides patient relations contact details of the CCG's main providers.

Where attempts to resolve the issue fail to achieve a satisfactory outcome, the complainant has the right to raise a formal complaint with either the service provider or the commissioner of the service.

### 7.2 Timescales for Providing Feedback or Making a Complaint

Complaints can be made twelve months from the date on which the matter that is the subject of the complaint came to the notice of the complainant.

If there are good reasons for not having made the complaint within the above time frame and, if it is still possible to investigate the complaint effectively and fairly, the CCG may decide to still consider the complaint, for example, longer periods of complaint timescales may apply to specific clinical areas.

There is no time limit for giving feedback to the CCG for those issues which fall outside the Complaints Regulations. All feedback will be received and acted upon wherever possible to ensure learning and improvement.

### **7.3 Confidentiality**

Complaints will be handled in the strictest confidence in accordance with the CCG's Confidentiality Policy, and should be kept separately from patient medical records. Care will be taken that information is only disclosed to those who have a demonstrable need to have access to it.

Suitable arrangements must be in place for the handling of patient identifiable data, to meet compliance with the General Data Protection Act (2018) and other legal obligations such as the Human Rights Act 1998 and the common law duty of confidentiality. The Caldicott Report sets out a number of general principles that health and social care organisations should use when reviewing its use of patient or client information.

Confidentiality will be maintained in such a way that only managers and staff who are leading the investigation know the contents of the case. Anyone disclosing information to others who are not directly involved in the case should be dealt with under disciplinary procedures.

Arrangements should be backed up by clear information-sharing protocols, defining how information will be shared and for what purpose, the process and contractual arrangements in place, what each party will do to ensure compliance with protocols and legal obligations, and the penalties for noncompliance.

### **7.4 Investigation and Organisational Response**

The CCG will investigate a complaint in a manner appropriate to resolve it as efficiently as possible, proportionate to the seriousness of the complaint.

All complaints received will be triaged and assessed to determine the level of risk and complexity within the complaint. Complaints will be graded accordingly which will also influence the proportionate timescales for investigation and response.

There are instances whereby a complaint is received regarding an individual provider. Where possible the complainant will be advised to make the complaint direct to the service provider. The CCG will support the individual to do this either in an advisory capacity or with the consent of the complainant will forward the complaint direct to the provider to investigate and respond direct to the complainant. In these circumstances the CCG will not undertake any form of investigation.

Where a complaint involves more than one organisation or service provider, the CCG will agree with the service providers which organisation should lead and coordinate the investigation. This should avoid duplication and enable a single response to be provided to the complainant. The organisation to which the majority of the complaint relates will normally act as the lead respondent. Consent will be sought from the complainant to share the detail of their complaint with each of the relevant providers.

## 7.5 Timescales for responding to complaints

All complaints will be acknowledged no later than three working days.

Complaints will be investigated and responded to according to their grading:

Grading	Type	Description	Timescales
White	Complaint is downgraded to a Concern	Unsatisfactory service or issue easily resolved with simple action	Within 2 working days
Green	Complaint	Issue raised but with minimal impact	Within 25 working days
Yellow	Complaint	Unsatisfactory service user experience in several areas but not causing lasting problems	Within 25 working days
Amber	Complaint	Significant issues of standards, quality of care, safeguarding with quality assurance and risk management issues that may cause lasting problems or death	Up to 60 working days
Red	Complaint – Also categorised as a Serious Untoward Incident	Serious adverse incidents also raised as a complaint causing long term damage or death such as criminal offence, gross substandard care or gross professional misconduct, multiple allegations of neglect resulting in serious harm.	Within 90 working days

## 7.6 Acknowledgement and Expectations

Once the complaint is received (either by telephone, email or letter) an offer will be made, as appropriate, to discuss with the complainant the following:

- Clarification on the exact issues which the individual wishes to complain about to ensure an appropriate investigation and response to meet the complainants expectations.
- Timescales for responding.
- The complainant's expectations and desired outcome.
- Information in relation to the provider of Independent Advocacy services in their geographical area. Advocacy services can help support the patient through the complaint process and can be helpful in facilitating a resolution.
- Consent for the CCG to pass the complaint to the relevant service provider/s (as appropriate).

- Consent for CCG staff to handle the response provided by the service provider.
- How the complainant would wish to receive the outcome of their complaint i.e. verbal, formal written response, face to face meeting.

The complainant can expect that:

- They will be kept up to date.
- They will be provided with contact details for the duration of the investigation.
- Their complaint will be investigated and they will receive an honest explanation based on facts.
- Assurance that the matter has been investigated and action has been taken to prevent a recurrence.
- To be informed of any learning.
- A remedy will be made where appropriate and at the earliest opportunity.

Where the complaint involves more than one NHS or social care body, the CCG discuss and agree the most appropriate body to take the lead in coordinating the complaint and communicating with the complainant.

Permission will be sought from the complainant before sharing or forwarding a complaint to another body. Consent will need to be obtained to forward the complaint to another provider.

## **7.7 Investigation Report and Response**

On receipt of the investigation report a response to the complainant will be prepared by the Patient Relations team and will include information on the next stages of the complaints procedure should the complainant remain dissatisfied with the outcome or wish to take matters further.

The CCG will send a formal response in writing to the complainant which will be approved and signed by the Accountable Officer or their delegated deputy.

The response will include:

- An explanation of how the complaint has been considered.
- A sincere apology where appropriate.
- An explanation based on facts.
- Whether the complaint is upheld (in full or in part).
- The conclusions reached in relation to the complaint including any remedial action that the organisation considers to be appropriate.
- Confirmation that the organisation is satisfied any action has been or will be taken.
- Where appropriate, identification of lessons learnt and how changes have been addressed if possible.

A key consideration is to be flexible; treating each case according to its individual nature with a focus on satisfactory outcomes, organisational learning and those lessons should lead to service improvement. Where appropriate an offer to meet in person to discuss the outcome will be available to the complainant.

Where the complainant is dissatisfied with the outcome of the complaint, the opportunity to discuss the reasons why and consider re-opening the complaint may be made.

The final response will be quality assured by the Chief Nurse or their deputy to ensure the above criteria are adhered to.

See Appendix B – Process for complaint Investigation and Response

## **7.8 Referrals to the Parliamentary and Health Service Ombudsman**

If a complainant remains dissatisfied with the handling of the complaint by the CCG they can ask the Parliamentary and Health Service Ombudsman (PHSO) to review the case. The PHSO may investigate a complaint where, for example:

- The complainant is not satisfied with the result of the investigation undertaken
- The complainant is not happy with the response from the CCG and does not feel that their concerns have been resolved
- The CCG has decided not to investigate a complaint on the grounds that it was not made within the required time limit

The CCG will provide information on how to contact the PHSO when issuing the formal written response.

When informed that a complainant has approached the PHSO, the CCG will cooperate fully with the PHSO and provide all information that has been requested in relation with the complaint investigation. The relevant Director will be informed that a request for investigation has been made so that the staff involved can be informed.

## **7.9 Persistent and Unreasonable Complainants**

The CCG recognises that it is the right of every individual to pursue a complaint. However, there are times where nothing further can reasonably be done to assist a caller or complainant to rectify a real or perceived problem. On rare occasions, complainants may repeatedly contact the Patient Relations team, regarding the same issue, become persistent in their calls or become aggressive, threatening, abusive or violent towards those involved in the complaints process. These may be classed as habitual or vexatious complainants. The difficulty in handling such callers can place a strain on time and resources, while also causing undue stress on staff that may need support in difficult situations. The Patient Relations team are trained to respond in a professional and helpful manner to the needs of all complainants however if it is considered that a complainant is becoming unreasonable, the member of staff should refer this to the Chief Nurse who will manage the situation.

Appendix C – Guidance for Dealing with Persistent and Unreasonable Complainants outlines the CCG process.

## **8.0 Record Retention**

Keeping clear and accurate records of complaints is important.

All documentation relating to the investigation will be stored securely in the case file. Members of staff named in the complaint (personally or by role) should be informed of the complaint, and fully supported by their relevant line manager. The investigation should be comprehensive, fair and timely, and should not apportion blame.

Complaints case files are retained for 10 years in line with the [Records Management Code of Practice for Health and Social Care \(2016\)](#)

## **9.0 Public Sector Equality Duty**

In developing this policy an equality impact assessment has been undertaken. The policy does not appear to have any adverse effects on people who share Protected Characteristics and no further actions are recommended at this stage.

Every complainant is dealt with as an individual and spoken with to agree their preferred outcome and how we will maintain contact. Adjustments are made on an individual basis.

We seek the views of complainants at the end of the process for their input on whether the complaints process was followed to their satisfaction.

## **10.0 Consultation**

This policy has been written with insights from best practice in other CCGs and NHS England.

An initial review of the complaints policy will be done after 12 months in operation to assess its effectiveness and consider feedback captured from service users and CCG staff to inform future service development.

## **11.0 Training, Awareness and Staff Support**

This policy will be published on the CCG's website.

All staff dealing with complaints will be given training for implementation of this policy. A training needs analysis will be undertaken within the CCG to identify staff affected by this document. Based on the findings of that analysis appropriate training will be provided to staff as required.

The policy will be brought to the attention of all new employees as part of the induction process.

Where staff are the subject of a complaint from a member of the public/patient, the CCG will ensure that support is available for staff through line management structures, Human Resources Services, Occupational Health Services and where staff are members of a trade union/organisation, Staff Side organisational support.

A number of supports are available for staff, including:

- Line manager
- Director
- Peer support
- Occupational health
- Professional bodies

## 12.0 Monitoring Compliance with the Document

The CCG will demonstrate positive use and feedback of complaints to learn and improve by monitoring both the effectiveness of the complaints process, and how complaints information is being used to improve services and delivery of care.

All information from patient complaints is collated and recorded onto a database and reviewed in conjunction with feedback and insight from other sources. This information is reported to the Quality and Clinical Governance Committee who will monitor the service delivery and provide assurance to the Governing Body.

Complaints information will be proactively considered as part of all service redesign projects to ensure patient feedback is routinely used to improve services and inform commissioning intentions.

The CCG will:

- Disseminate learning from complaints and concerns across the relevant parts of the organisation.
- Include the use of complaints procedures as a measure of performance and quality.
- Use complaints and concerns information to contribute to practice development, commissioning and service planning.

An annual report will be produced and presented to the Quality and Clinical Governance Committee and Governing Body which will detail:

- Numbers of complaints received.
- Numbers of complaints received considered to be upheld (based on solid evidence or good reasons).
- Issues and key themes that the complaints have raised.
- Lessons learnt.
- Actions taken, or being taken, to improve services as a result of the complaints made.
- Compliance with the organisational performance targets within this policy.
- Number of cases which the CCG has been advised are being considered or referred to the Parliamentary and Health Service Ombudsman.

## **13.0 Bribery**

The Bribery Act 2010 is particularly relevant to this policy. Under the Bribery Act it is a criminal offence to:

- Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and
- Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.

These offences can be committed directly or by and through a third person. It is therefore, extremely important that staff adhere to this and other related CCG policies on Anti-Fraud, Bribery and Corruption and Conflicts of Interest (available on the CCG website) should be referred to when considering sponsorship, acceptance of gifts and hospitality or other incentives.

If fraud is suspected, first refer the CCG's Policy on Anti-Fraud, Bribery and Corruption (available on the CCG website).

## **14.0 Arrangements for Review**

The policy will undergo a full review every four years. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation/guidance, as instructed by the senior manager responsible for this policy.

The Corporate Services and EPRR Manager will be responsible for the review.

## **15.0 Dissemination**

Notification of this document will be included in the all staff email bulletin and staff briefings.

The policy will be published on the CCG website and webpages will summarise to the general public how to make a complaint.

## **16.0 Associated Documentation**

- The NHS Constitution (revised 2015)
- CCG Confidentiality: Code of Conduct Policy
- CCG Data Protection and Confidentiality Policy
- CCG Serious Incident, Incident and Concerns Policy
- CCG Safeguarding Adults and Children Policies
- CCG Whistleblowing Policy
- CCG Risk Management Strategy
- CCG Strategic Plan for 2014 – 2019

## 17.0 References

- Caldicott Report 1997
- Equality Act 2010
- Freedom of Information Act 2000
- Human Rights Act 1998
- Listening, Responding and Improving – A Guide to Better Customer Care(2009) <http://dh.gov.uk>
- Principles of good administration. Parliamentary and Health Service Ombudsman (2009) <http://www.ombudsman.org>
- Principles of good complaints handling. Parliamentary and Health Service Ombudsman (2008) <http://www.ombudsman.org>
- Principles for remedy. Parliamentary and Health Service Ombudsman (2007) <http://www.ombudsman.org>
- Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry (2013)
- Superannuation Act 1972
- The General Data Protection Regulation (2018)
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 <http://dh.gov.uk>
- NHS England Complaints Policy: <http://www.england.nhs.uk/wp-content/uploads/2013/11/Interim-complaints-policy.pdf>
- Department of Health (2009) Implementation of the right to choice and the information set out in the NHS Constitution

## 18.0 Appendix A – Key Contact Details

The CCG aims to resolve complaints quickly and as close to the source of the complaint as possible and should be made to the NHS organisation who provided the service.

Complaints may be made initially to the commissioner of services to determine and agree the most appropriate way of resolution / investigation or direct with the provider. If the complaint is unclear who to make a complaint to regarding a specific service, the Patient Relations team at the CCG will be able to advise.

The following is a list of the CCG's main providers and who a complaint can be made to:

Service the complaint is about	Who to make a complaint to	Contact details
Commissioning decisions Funding decisions including IFRs Continuing Healthcare	<a href="#">NHS North Yorkshire CCG</a>	Patient Relations Tel: 01609 767607 Email: <a href="mailto:NYCCG.PatientRelations@nhs.net">NYCCG.PatientRelations@nhs.net</a> Patient Relations NHS North Yorkshire CCG, 1 Gimbald Crag Court, St James Business Park, Knaresborough, HG5 8QB
GP Dentist Community Pharmacy Optician	The individual service provider or <a href="#">NHS England</a> who is responsible for commissioning these services.	Tel: 0300 311 22 33 Email: <a href="mailto:england.contactus@nhs.net">england.contactus@nhs.net</a> NHS England, PO Box 16738, Redditch, B97 9PT
Harrogate and District Hospital Ripon Community Hospital	<a href="#">Harrogate and District NHS Foundation Trust (HDFT)</a>	Patient Experience Team (PALS) Tel: 01423 555499 Email: <a href="mailto:hdft.patientexperience@nhs.net">hdft.patientexperience@nhs.net</a> Patient Experience Team Harrogate and District NHS Foundation Trust Lancaster Park Road Harrogate, HG2 7SX

Service the complaint is about	Who to make a complaint to	Contact details
<p>York Hospital Scarborough Hospital Malton Community Hospital</p>	<p><a href="#">York Teaching Hospital NHS Foundation Trust (YTFT)</a></p>	<p>Patient Experience Team (PALS) Tel: 01904 726262 Email: <a href="mailto:pals@york.nhs.uk">pals@york.nhs.uk</a></p> <p>Complaints Team York Hospital, Wigginton Road, York YO31 8HE</p>
<p>The James Cook University Hospital Friarage Hospital The Friary Community Hospital</p>	<p><a href="#">South Tees NHS Foundation Trust</a></p>	<p>Patient Experience Team (PALS) Tel: 0800 0282451 / 01642 854807 Email: <a href="mailto:stees.pals@nhs.net">stees.pals@nhs.net</a></p> <p>Patient Advice and Liaison Service, The James Cook University Hospital, Marton Road, Middlesbrough, TS4 3BW</p>
<p>Mental Health Services</p>	<p><a href="#">Tees, Esk and Wear Valleys NHS Foundation Trust (TEWV)</a></p>	<p>Patient Advice and Liaison Service Tel: 0800 052 0219 Email: <a href="mailto:tewv.pals@nhs.net">tewv.pals@nhs.net</a></p> <p>Patient Advice and Liaison services, Flatts Lane Centre, Normanby, Middlesbrough, TS6 0SZ</p>
<p>Ambulance Services Patient Transport Services</p>	<p><a href="#">Yorkshire Ambulance Service (YAS)</a></p>	<p>Patient Relations Team Tel: 0333 1300549 Email: <a href="mailto:yas.patientrelations@nhs.net">yas.patientrelations@nhs.net</a></p> <p>Patient Relations Team Yorkshire Ambulance NHS Trust, Springhill 2, Brindley Way, Wakefield 41 Business Park, Wakefield, WF2 0XQ</p>

## 19.0 Appendix B – Process for complaint Investigation and Response

### Incoming Complaint – Day 1

- Complaint logged on Patient Relations Log / Tracker
- Acknowledgment of complaint within 3 working days
- Negotiate with complainant the manner in which they would like to have future contact.
- Appropriate Lead Investigator appointed and detail timescale for investigation report to be submitted to Patient Relations Team.

### Investigation

- Lead Investigator to contact complainant to fully understand issues for investigation, process for keeping in touch and how they would like to receive the investigation findings i.e. written, face to face.
- Detailed review of complaint and any immediate / longer term actions identified.
- Investigation completed and distributed to all contributors for approval.
- Lead Investigator to confirm all issues raised in the complaint have been thoroughly investigated. This may be checked by contact with the complainant as required.

### Draft Response – Day 20

- Draft response report and action plan submitted to Patient Relations Team for initial quality assurance by Clinical Quality & Safety Manager
- Any queries / clarifications to be submitted back to Lead Investigator for urgent review.
- Chief Nurse to approve final response.

### Final Response – Day 25

- Response provided to complainant within 25 working days (or within agreed timescales dependant on complexity).
- Feedback form to be sent to complainant within 6 weeks.

### Learning

- Learning outcomes transferred to action plan & tracker.
- Action plan monitored/implemented.

## 20.0 Appendix C – Guidance for Dealing with Persistent and Unreasonable Complainants

### Introduction

This guidance covers all contacts, enquiries and complainants. It is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint within the CCG's Complaints Policy.

Persistent complainants may have genuine issues and it is therefore important to ensure that this process is fair and the complainant's interests have been taken into consideration.

### Purpose of guidance

To assist officers to identify when a person is persistent or unreasonable, setting out the action to be taken.

### Definition of persistent and unreasonable complainants

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.
- 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 e.g. Independent Advocacy Service (ICAS) 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 a 'trivial' matter to an extent that it is out of proportion to its significance. It is recognised that defining '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 issue. Each issue of concern may need to be addressed separately.
- Consume a disproportionate amount of time and resources.
- Threaten or use actual physical violence 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.

### Actions prior to designating a complainant as unreasonable or persistent

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

To ensure impartiality a complaints panel should be convened to review the complainant's case. The panel should include the Corporate Services and EPRR Manager with responsibility for Patient Relations, a clinical lead, a lay member of the CCG Governing Body and the Chief Nurse or a senior manager as identified by the Chief Nurse.

The panel will review the handling of the complaint to ensure that all reasonable efforts have been made to establish a resolution including signposting to the Parliamentary and Health Service Ombudsman. This will be done in line with the following guidelines:

- Ensuring the complainant's case is being, or has been dealt with appropriately, and that reasonable actions will follow, or have 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 client'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, quality of life or life expectancy.
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour, and the impact upon staff
- Ensuring that the complainant has been advised of the existence of the policy and has been warned about, and given a chance to amend their behaviour.

The Panel should also consider whether any further action can be taken prior to designating the complainant unreasonable or persistent.

This might include:

- Where no meeting with staff has been held, consider offering this at a local level as a means to dispel misunderstandings (only appropriate where risks have been assessed).
- Where multiple departments are being contacted by the complainant, consider a strategy to agree a cross-departmental approach.
- Consider whether the assistance of an advocate may be helpful.
- Consider the use of ground rules for continuing contact with the complainant.

Ground rules may include:

- Time limits on telephone conversations and contacts.
- Restricting the number of calls that will be taken or agreeing a timetable for contacting the service.
- Requiring contact to be made with a named member of staff and agreeing when this should be.
- Requiring contact via a third party e.g. advocate.
- Limiting the complainant to one mode of contact.
- Informing the complainant of a reasonable timescale to respond to correspondence.
- Informing the complainant that future correspondence will be read and placed on file, but not acknowledged.
- Advising that the organisation does not deal with calls or correspondence that is abusive, threatening or contains allegations that lack substantive evidence. Request that the complainant provides an acceptable version of the correspondence or make contact with a third party to continue communication with the organisation.
- Ask the complainant to enter into an agreement about their conduct.
- Advise that irrelevant documentation will be returned in the first instance and (in extreme cases) in future may be destroyed.
- Adopting a “zero tolerance” policy. This could include a standard communication line, for example: “The NHS operates a zero tolerance policy, and safety of staff is paramount at all times. Staff have a right to care for others without fear of being attacked either physically or verbally”.

#### Process for managing unreasonable or persistent behaviour

Where a complainant has been identified as unreasonable or persistent, the decision to declare them as such is made by the panel identified above.

The Chief Nurse will write to the complainant, informing them that either:

- Their complaint is being investigated and a response will be prepared and issued as soon as possible within the timescales agreed.
- That repeated calls regarding the complaint in question are not acceptable and will be terminated, or;
- Their complaint has been responded to as fully as possible and there is nothing to be added.
- That any further correspondence will not be acknowledged.

All appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation.

If the declared complainant raises any new issues then they should be dealt with in the usual way.

Review of the persistent status should take place at six monthly intervals.

#### Urgent or extreme cases of unreasonable or persistent behaviour

In urgent or extreme cases, adopt safeguarding and zero tolerance policies and procedures. Discuss the case with the appropriate Director to develop an action plan that may include the use of emergency services in some circumstances. In these circumstances, carry out a review of the case at the first opportunity after the event.

#### Record keeping

Ensure that adequate records are kept of all contact with unreasonable and persistent complainants.

Consideration should be given as to whether the organisation should take further action, such as reporting the matter to the police, taking legal action, or using the risk management or health and safety procedures to follow up such an event in respect of the impact upon staff.