



***South Sefton
Clinical Commissioning Group***

NHS South Sefton Clinical Commissioning Group

**Policy for the Management, Investigation
And Resolution of Complaints and Concerns
And for Managing Enquiries, (including contacts to PALS)**

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1. Introduction

South Sefton Clinical Commissioning Group (hereafter referred to as 'the CCG') expects all providers of healthcare with whom it commissions to give the best possible standards of care to patients and their carers; this includes respecting their views and trying to meet their expectations. It is, however, recognised that, on occasion, patients and/or their representatives may feel dissatisfied with the service they receive and will wish to express this dissatisfaction.

This policy sets out the process for complaints management and the standards that complainants and service providers can expect. It also explains how complaints will be reviewed, monitored and how lessons learned will be implemented and improve services as a result. The policy aims to provide a fair and effective procedure for the management of complaints and ensure that complainants not only feel fully engaged in the process, but actively involved in matters which relate to the care they have received and in the on-going complaints learning cycle.

Ensuring good practice in the handling of complaints is one way in which clinical commissioning groups (CCGs) can help to improve quality for their patients. Monitoring trends and patterns in complaints and concerns raised by patients about organisations facilitates early detection of systemic problems, whilst learning from complaints helps organisations to continually improve the services they provide and the experience for all their patients. Complaints, Concerns and Patient Experience are essential in identifying the users' perspective of the services provided. They can act as an early indicator of a system issue, or a quality and safety issue which may be putting patients at risk. Appropriate trends analysis of the factors which prompted complaints, concerns and enquires can also provide invaluable insight into areas where improvements may be required.

1.1 Legislation and Guidance

This policy is drawn up to ensure compliance 'The Local Authority Social Services and National Health Service Complaints (England) regulations 2009' (the Regulations). The CCG will ensure any subsequent amendments are integrated into this policy document as and when changes in statute are made or new guidance is issued.

Furthermore, this policy will ensure that the complaints service provided by the CCG (and its Commissioning Support function) observes NHS England's 'Guide to Good Complaints Handling for CCGs' (May 2013) and applies the Parliamentary & Health Service Ombudsman's (PHSO) 'Principles for Good Complaints Handling' wherever possible by:

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

The Regulations, NHS England guidance and PHSO principles all place emphasis on putting the patient at the heart of the handling of their complaint to ensure an inclusive investigative process which is conducted fairly and effectively and is outcomes driven.

Under the Regulations, complainants have a statutory right to bring their concerns directly to the CCG as commissioners of the service, thus giving the CCG a statutory responsibility with regards to the management of complaints involving both the CCG and NHS providers with which it commissions healthcare.

2. Aims and Objectives

The key objectives for the delivery of the CCG's complaints service are to ensure:

- Ease of access for complainants;
- Complaints are properly investigated;
- Complaints are dealt with efficiently;
- Fairness for staff and complainants alike;
- A process which enables a timely, appropriate and proportionate response to be provided;
- An approach that is honest, open and thorough with the primary aim of satisfying the concerns of the complainant;
- That action is taken (where necessary) in light of the outcome of the complaint, and;
- A robust complaints learning cycle which enables services to be improved and be more personal, effective and safe.

3. Scope

This policy applies to all complaints received by the CCG, all staff that are employed by, or have a contract of service with the CCG and all NHS funded services commissioned by South Sefton CCG. The CCG will make explicit within its contracts with all providers expectations regarding complaints reporting and management.

Where an NHS Trust makes arrangements for the provision of services with an independent provider, it must ensure that the independent provider also has in place robust procedures for handling NHS complaints and will ensure that sub-contractors are made aware of the CCG's policy.

The CCG is not responsible for the management of complaints in respect of primary care contractors (i.e. GPs, dentists, opticians and community pharmacists) as these services are directly commissioned by NHS England. The CCG will, however, work in partnership with NHS England to ensure that relevant local primary care complaints data is shared to continuously improve quality of care afforded to patients by member practices.

4. Roles and Responsibilities

All CCG staff have a responsibility to ensure they have an awareness and understanding of this Policy in order that they can provide relevant information to persons wishing to access/invoke the complaints procedure. Specific organisational responsibilities are as follows:

4.1 Chief Officer

The CCG Chief Officer is responsible for ensuring compliance with the arrangements made under the Regulations. The Chief Officer (or in their absence, a nominated deputy) will sign all complaint responses and all correspondence.

The Chief Officer has delegated responsibility to the CCG's Chief Nurse to ensure effective complaints management is in place, that policy and procedures are established and learning and improvement actions are implemented as a result of the complaints learning cycle.

4.2 Operational Complaints Lead

The CCG procures external commissioning support in relation to complaints management. The complaints team will be responsible for overseeing the operational process for the management of complaints, concerns and enquiries, on behalf of South Sefton Clinical Commissioning Group. The Chief Nurse will maintain an overview of these responsibilities from within the CCG. The complaints team will provide reports to Corporate Governance Support Group to enable them to monitor the effectiveness of the process and attend the meetings. The CCG in partnership with commissioners will liaise with commissioned providers, to request information regarding complaints and will present this information to the appropriate Committees.

4.3 Cheshire & Merseyside Commissioning Support Unit PALS

Cheshire & Merseyside Commissioning Support Unit (CMCSU) hosted Patient Advice & Liaison Service (PALS) will act as first point of contact for individuals wishing to make a complaint about a locally commissioned service or the actions/omissions/commissioning decisions of the CCG, and will provide a dedicated team of individuals during office hours (09:00 – 17:00) to deal with patient enquiries, contacts and complaints (individuals will still be able to contact the CCG directly should they wish to do so).

PALS offers a free, confidential service to represent the views of service users, carers, relatives or friends who may need advice, information, support or guidance with a particular concern or issue. PALS will provide on the spot help, support and advice and to listen to the concerns of people who use NHS services, their families and carers and members of the public with an aim to resolve problems as quickly and efficiently as possible.

The PALS service will:

- Be easily identifiable and accessible to enquirers, patients, relatives and carers;
- Work to resolve the concerns of users, patients and carers quickly by working directly with the individual and relevant members of staff and linking with other healthcare commissioners or providers;
- Provide reliable, updated information about services and other local NHS services and voluntary organisations;

- Act as a ‘navigator’ providing a gateway to services through signposting and advice (e.g. complaints system, involvement activities, independent advice and advocacy services), as well as to other NHS and non NHS services.
- Support wider involvement, consultation and accountability processes within an NHS organisation and;
- Identify areas for change and make recommendations for improvements.

CMCSU will act as a source of systematic intelligence gathering by recording and analysing the feedback of PALS service users and complainants and the outcomes associated with complaints, reporting into the appropriate CCG lead officers in order to promote quality and organisational change (either within the CCG or its commissioned providers). CMCSU will provide information, records of concerns raised and complaint responses to patients and members of the public which is in a format appropriate to their requirements such as in alternative languages and alternative media.

4.4 The CCG Quality Committee

The CCG’s Quality Committee is the responsible committee (under delegated responsibility from the Governing Body) for the monitoring of the complaints process and will receive reports on the following:

- The numbers of complaints/concerns and enquiries received and investigated by South Sefton Clinical Commissioning Group and NHS Trusts commissioned by the CCG;
- The classification of complaints in relation to the appropriateness for acceptance by South Sefton Clinical Commissioning Group for investigation;
- Trends in the issues raised, following analysis of complaints/concerns and enquiries received by South Sefton Clinical Commissioning Group and those received by large commissioned providers;
- Actions taken as a result of complaint/concern investigations and;
- Information about the time taken to respond to complaints by South Sefton Clinical Commissioning Group.

4.5 Corporate Governance Support Group

The Corporate Governance Support Group is a working group of the Quality Committee. Although the Group has no executive powers, it will provide assurances that all complaints and concerns are being managed effectively and in accordance with prescribed policies and procedures of the CCG. The Group will achieve this by:

- Tracking the progress of complaints investigations, agreeing actions to expedite any investigations as necessary;
- Monitoring and reporting on any common emerging trends which will support the Early Warning processes and inform the Quality Committee and;
- Aggregating and triangulating complaints information with other patient experience trends such as PALS and Healthwatch gained intelligence.

The group will also support the development of the CCG's Corporate Risk Register, ensuring any corporate risks to strategic objectives arising from complaints & other key patient experience data are CRR properly reported, escalated, RAG rated and mitigated.

4.6 Engagement & Patient Experience Group

The Engagement and Patient Experience Group (EPEG) is a Sub-Group of the Quality Committee and acts in an advisory capacity to the CCG; assuring the Governing Body and the Quality Committee that there is an inclusive, integrated and consistent approach to engagement and involvement of South Sefton's population by:

- Ensuring that local people's voices are heard and that patient experience shapes CCG and agreed Integrated Commissioning priorities related to health and wellbeing;
- Ensuring that there are effective channels of communication and networks in place to ensure that the CCG can engage with local people on its key priorities and also listens to the priorities emerging from local groups and communities.

The Group will monitor and report on emerging key trends identified in complaints, PALS and patient experience information through proactive public and patient engagement, monitoring the development of Healthwatch community champions and local practices' patient reference groups.

5. Definitions

For the purpose of this policy and associated procedures, the following definitions will be applied:

Complaint - The definition of a complaint adopted by the CCG is "any expression of dissatisfaction that requires a response." A complaint may be made verbally (by telephone or in person) or in writing (including electronically by e-mail.) Complaints made orally, and that are resolved to the complainant's satisfaction no later than the next working day after the complaint was made, fall outside of 'the regulations' (although the CCG will routinely record these for learning and quality improvement purposes).

Responsible Body - refers to a local authority, NHS Body, primary care provider or independent provider.

Local Resolution – refers to the investigation and resolution of complaints under the first stage of the NHS complaints procedure.

Confidentiality – A duty of confidence arises when one person discloses information to another (e.g. patient to clinician) in circumstances where it is reasonable to expect that the information will be held in confidence. (Source: NHS Confidentiality Code of Practice)

Investigation - the act or process of investigating; a careful search or examination in order to discover facts.

Serious Incidents (SIs) – in broad terms, Serious Incidents relate to patient safety incidents which have led to unexpected death or severe harm. If during the course of investigating a complaint, it becomes apparent that a SI has occurred; the ‘investigator’ should discuss the complaint with the CCG Chief Nurse and complete an incident form. The Chief Nurse will then ensure that appropriate action is taken.

6. Persons Who May Make Complaints

Complainants can be made by anyone who receives (or has received) services from an organisation or by any person who is affected, or likely to be affected by the action, omission or decision of any services commissioned by South Sefton CCG or the CCG itself.

A complaint may be made by a representative acting on behalf of someone else where the patient has died, is a child, is unable to complain themselves due to physical incapacity or lack of capacity within the meaning of the Mental Capacity Act. A complaint may also be made on behalf of another person where the patient has consented for the representative to act on their behalf.

In the case of a child (under 16), a parent or guardian may make the complaint. Where a complaint is made on behalf of a child, the CCG must be satisfied that there are reasonable grounds for a complaint being made by a representative instead of the child. However in some cases it may be appropriate to obtain consent from a child if that child is considered to be capable of understanding the situation and can give informed consent. The decision as to whether he/she is capable will need to be assessed on an individual basis and in line with Fraser Guidelines.

Children who received NHS treatment have the right to make a complaint in their own right and have the right to use the NHS complaints process. If the patient is a minor and unable to give consent the complaint should be discussed with the CCG’s Caldicott Guardian.

Where a complaint is made on behalf of a child or a person who lacks capacity the CCG must be satisfied that the complaint is being made in the best interests of that person.

In the case of a patient or person affected who has died or who is incapable, the representative must be a relative or other person who, in the opinion of the CCG, had or has a sufficient interest in the patient’s welfare and is a suitable person to act as representative. If the CCG is of the opinion that a representative does not (or did not) have a sufficient interest in the person’s welfare or is unsuitable to act as a representative, the CCG must notify that person in writing, stating their reasons.

7. Exclusions under the Regulations and this policy

Whilst the CCG aims to operate an inclusive and open complaints process, the following exclusions are applied in line with the regulations:

- a) Any matter concerning employment within the CCG, any other NHS body or Local Authority;
- b) A complaint made by another NHS organisation or Local Authority;

- c) An oral complaint which has been resolved to the patient's satisfaction by the end of the next working day after receipt;
- d) A complaint the subject matter of which is the same as that of a complaint that has been made and resolved under (c);
- e) A complaint the subject matter of which is the same as that of a complaint that has been investigated previously under the NHS complaints system;
- f) A complaint investigated by the Parliamentary & Health Service Ombudsman;
- g) A complaint regarding failure to comply with a Freedom of Information request;
- h) A complaint regarding the administration of superannuation schemes.

Where the CCG receives a complaint relating to the above, the complainant will be informed (in writing) of the decision not to investigate and the accompanying reasons, and provided with the contact details of the Parliamentary and Health Service Ombudsman.

8. Complaints that May Involve Disciplinary Proceedings

The complaints procedure is only concerned with resolving complaints and not with investigating disciplinary matters. The purpose of the complaints procedure is not to apportion blame amongst staff, but to investigate complaints with the aim of satisfying complainants whilst being fair to staff.

If any complaint received by a member of staff indicates a need for referral to any of the following:

- An investigation under the disciplinary procedure;
- One of the professional regulatory bodies;
- An independent inquiry into a serious incident under section 84 of the National Health Service Act 1977; or
- An investigation of a criminal offence
- Managing Practitioner Performance Concerns

The person investigating the complaint should discuss the complaint with the CCG Chief Nurse or Head of Corporate Delivery and the staff member's line manager. Investigation of the other aspects of the complaint should be taken forward, as long as further investigation will not compromise or prejudice any concurrent disciplinary investigation.

Where it is decided that other action is necessary under any of the five areas listed above, before a complaint investigation has been completed, a full report of the investigation thus far should be made available to the complainant.

The complainant should be informed of the expected timeframe of the other investigative process and kept informed of progress. When that process is complete, a further response should be sent to the complainant, outlining the outcome and any actions to be taken, being mindful of patient and staff confidentiality at all times.

The CCG will not inform the complainant of the actual result of any disciplinary action, only that it has been concluded and that the incident has been managed in accordance with South Sefton Clinical Commissioning Group policies. Other actions or changes to practice that have occurred should be included in the complaint response letter.

9. Possible Claims for Negligence

Under the complaints regulations the complaints procedure does not cease if a claim for negligence is received. The default position since 1 April 2009 is where a complainant expresses an intention to take legal proceedings, an NHS body should continue to try to resolve the complaint quickly unless there are compelling legal reasons not to do so. The Department of Health issued a clarification note in January 2010 to remind NHS bodies of this revision. The CCG will take advice from the National Health Services Litigation Authority (NHSLA) if a letter of claim is received relating to a complaint being investigated at the time of receipt of the claim.

Where the complainant is taking, or plans to take, legal proceedings, a complaint may only be put on hold where there are exceptional reasons to justify it (or the complainant has requested that investigation be delayed).

In the early part of the process, it may not be clear whether the complainant simply wants an explanation and apology, with assurances that any failures in service will be rectified for the future, or whether the complainant is in fact seeking information with formal litigation in mind. An open and sympathetic approach and response may satisfy the complainant and in all cases, NHS bodies should make clear to people who are concerned it is taking an unreasonable amount of time to investigate and respond to their complaint that they can complain to the Parliamentary and Health Service Ombudsman about the delay.

Prima facie evidence of negligence should not delay a full explanation of events and, if appropriate, an apology should be issued. An apology is not an admission of liability; it is the right thing to do.

10. Complaints Management Process – Local Resolution

10.1 Informal Complaints

Minor criticisms can often be resolved on the spot. Concerns raised should be listened to sympathetically and it will frequently be possible for the member of staff to whom these were expressed, or the appropriate commissioner/team, to provide an acceptable answer or explanation.

All staff should be aware of the correct procedure to follow should a patient or relative wish to make a formal complaint. Where remedial action has been or is to be taken, its nature should be explained to the person raising the concern. A record of the informal complaint and any action taken, if appropriate, should be documented and sent to the CCG or their team

Staff should always attempt to deal with complaints swiftly, at the informal stage so that the complaint is resolved more quickly for the complainant. If you need help/support with handling an informal complaint you should contact the CCG or their team.

10.2 Time limit for making a complaint

A complaint must be made within:

- a) Twelve months of the date on which the matter, which is the subject of the complaint, occurred; or
- b) Twelve months of the date on which the matter, which is the subject of the complaint came to the notice of the complainant.

Where a complaint is made after the expiry of the period mentioned, the CCG may investigate if:

- The complainant had good reasons for not making the complaint within the time period; and;
- It is still possible to investigate the complaint effectively and efficiently.

Where complaints are considered to be 'out of time', the CCG will inform the complainant, in writing of its decision not to investigate and the reasons as to why it is not possible to investigate the complaint effectively and efficiently. The complainant will also be provided with the contact details of the Parliamentary & Health Service Ombudsman should they wish to complain about the CCG's decision.

10.3 Formal Complaints – Initial Stages

South Sefton CCG aims to treat all complaints in a fair and equitable manner and resolve complaints efficiently and effectively. Complaints can be made in person, by telephone, by e-mail or in writing. All complaints will be acknowledged **within three working days** of receipt and this may be in writing or verbally.

A complaint may be made orally, in writing or electronically. For all complaints accepted for investigation, the date received will be documented. All complaints will be acknowledged within three working days by the CCG or their team either in writing or verbally via telephone contact with the complainant.

All complaints will be analysed on arrival and coded by main theme, sub theme, staff type and service. This information (along with the personal details of the complainant and the concerns being raised) will be entered onto the DATIX database which will be kept up to date and accurate.

Each complaint will be documented and processed in the same way as written complaints. A written record of the complaint, which includes the name of the complainant, the subject matter of the complaint and the date on which it was raised will be created following initial contact. The written record of the verbal complaint must accompany the acknowledgement letter. The acknowledgement letter/email/discussion should include information about the right to assistance from the Independent Complaints Advocacy Service.

Complaints received by any officer in the CCG must be forwarded to the Chief Officer within 24 hours at the latest, who will in turn inform the complaints team of the complaint. Where complaints have been received in writing the complaint teams will ensure that the complaint is entered onto DATIX and acknowledged within **three working days**. The CCG will identify a plan for the investigation of the complaint, interpret the complainant's desired outcome and ensure timely and continuous communication with the complainant by way of a timetable. The complaints team will ensure a written record is made of the complaint and provide a copy of this to the complainant. The complainant will be asked to correct any points and offered the opportunity to discuss issues if required.

Under the Regulations, complainants have the right to complain to the commissioning CCG about the services provided by a local healthcare provider. South Sefton CCG acknowledges that commissioned services would prefer to investigate complaints about their services directly, however where the complainant explicitly states that they do not wish for their complaint to be investigated directly by the commissioned service, the CCG will consider if it is appropriate for the commissioner to investigate the concerns being raised and assure the response from the provider concerned. Details of the types of complaints about commissioned services that will be accepted for investigation and the types of complaints that are considered not appropriate for investigation by South Sefton CCG can be found in Appendix One.

Where it is considered that the complaint may be best investigated by the provider, a discussion will be held with the complainant and a written explanation will be given to the complainant and consent will be sought to forward the complaint onto the provider for investigation and response. If the complainant does not give consent for their complaint to be forwarded, then the CCG will take on management of the complaint. A flowchart outlining this process can be found at Appendix Three.

10.4 Consent

The CCG will make strenuous efforts to protect patient information and therefore apply strict criteria regarding who may receive clinical information related to patients. Any relative, carer or friend of a patient is entitled to make a complaint about the care of a particular patient and all complaints accepted for investigation will be thoroughly investigated by the CCG. However, the CCG can only provide a response to the complaint with the consent of the patient or the patient's named next of kin or the executor/executrix of their estate (This is the person that the patient has specified and designated as their next of kin).

This is in line with guidelines laid down by the Data Protection Act of 1998 in the interest of protecting patient confidentiality. The Act states that patient consent is fundamental to the collection and use of personal information and that releasing information without the patient's consent could amount to "unlawful disclosure".

10.5 Meeting with complainants following initial investigations

In certain circumstances the CCG, having conducted an initial investigation, may suggest that the parties involved in the complaint would benefit from meeting to discuss the complaint in an attempt to resolve matters together. Such meetings will be arranged and overseen by the CCG and will only take place if both parties agree. The CCG will ensure that a record of the discussions is taken and forwarded to both parties, including any agreed outcomes or actions.

Where a meeting with the complainant is arranged, sensitivity will be shown regarding the location of the meeting. In the event that the complainant is unable to leave their home the nominated CCG officer may visit but must be accompanied. A complainant may be accompanied at any meeting if they feel it would help to provide support and assist in the process. Such persons are for the complainant to decide and could be an advocacy representative, family member or friend or whoever the complainant feels would be most appropriate. It would not be appropriate or acceptable for a legal representative acting on

behalf of the complainant to attend such a meeting. The CCG nominated representative may also be accompanied, especially by a clinical colleague.

10.6 Investigation process

Each investigation into a complaint will, by its very nature, be a highly individual exploration of the concerns and events raised. Regulations do not require complaints to be responded to within specific timescales as this can be prejudicial to a full and complete investigation. The CCG will agree an individual timeframe for the completion and reporting of the investigation with the complainant. The timeframe agreed will be based on the complexity of the complaint and the nature and difficulty of the investigation. The CCG will inform the complainant where any revisions to this timeframe become necessary and agree a revised schedule. Matters which will influence the investigation and associated timeframe could include:

- Meeting with parties;
- Conducting interviews;
- Reviewing written records (including medical records) and copies of documents;
- Undertaking site visits when necessary;
- Obtaining expert clinical advice.

Once all the evidence has been gathered it will be assessed by the CCG in association with other relevant professionals as appropriate, in order to decide what is fair and reasonable in the circumstances of each case.

If a complainant's concerns about a commissioned service are accepted for investigation, the CCG will conduct an investigation in accordance with the regulations, and in line with the flowchart in Appendix Three. The commissioned service who is subject of the complaint will be informed of the complaint and a copy of the complaint will be sent to them for information and consideration. The complainant will then be informed that a copy of their complaint will be shared with the commissioned service.

At any point the complainant may request an update on their complaint and / or request a meeting with the CCG to review the status of the investigation and agree any amendments to the received information or response period. The CCG, via its commissioning support arrangements (where this is appropriate) will ensure the complainant is kept informed at all stages and is informed of any delays to the investigation; agreeing a new response period where appropriate.

Where applicable, the CCG will involve any healthcare professional, manager or member of staff in the investigation who would be in a position to progress the investigation and / or provide expert advice. Any requests for information from healthcare professionals and providers will be allocated a timeframe for response.

10.6.1 Appointing a Lead Investigator

If the complainant concerns a named member of staff from South Sefton CCG, a 'lead investigator' will be appointed to conduct the investigation. The lead investigator will be allowed access to all relevant documentation such as medical records, contracts, copies of any relevant correspondence and information. Where indicated, the investigator will also

need to take/ receive statements from all relevant staff. Guidance for staff regarding writing a statement can be found in Appendix Five. A blank statement form can be found in Appendix Seven.

Where the investigator has discussions with members of staff, patients and complainants, the main points discussed (and details of any proposed action) should be summarised and agreed with those involved. Guidance can be found in Appendices Four and Six. A Blank Record of Meeting Form, for recording these discussions can be found at Appendix Eight.

Investigators should always take written statements from staff where:

- The circumstances would seem to indicate that there might have been, or there is an allegation of professional misconduct;
- Where there is evidence that a formal policy or clinical guideline has been breached;
- Where there is evidence of negligence or allegations of negligence;
- Where a staff member is named in a complaint;

The Investigator will conduct an investigation into the complaint and will provide an investigation report to the Chief Officer within the agreed deadline following receipt of the complaint by South Sefton CCG. The investigation may include:

- Meeting with staff;
- Examining equipment/environment if applicable;
- Obtaining statements from staff;
- Documenting a timeline of events;
- Reviewing any policies/procedures/clinical guidelines or other supporting documentation related to the event
- Analysis of areas of concern;
- Seeking an independent clinical opinion and;
- Formulation of an appropriate action plan to address any areas of concern.

A full copy of the complete investigative process, statements from staff, timeline of events, and supporting documentation should be kept on file by the investigating officer and retained on DATIX.

10.6.2 Investigations by a third party

In some circumstances a complaint may warrant investigation by a third party. The circumstances when this could be required may include:

- Insufficient expertise within the organisation;
- Political/media interest in the case where an independent review will provide transparency and;
- A need to eliminate perceived bias or resolve wide differences in opinion.

All Investigating Officers should discuss complaints which they feel may warrant third party investigation with the CCG's Chief Officer.

10.7 Complaints response times

Under the NHS Complaint Regulations 2009, Responsible Bodies should aim to respond to complaints as quickly as possible. Complainants have the right to refer their complaint to the Parliamentary and Health Service Ombudsman if the complaint has not been answered six months after it is made. The important factor in any discussion of response times is the complainant's expectations. The CCG will negotiate with the complainant the 'expected' time needed to investigate their complaint following initial receipt. Once the complainant has agreed a time frame with the CCG, this should be documented within the acknowledgement letter sent to the complainant and set as the formal response target.

The CCG will keep the complainant informed about the progress of the investigation, (as far as is reasonably practicable), and of any delay in furnishing the full response, giving reasons for any delay. It is important that wherever possible, the unavailability or lack of co-operation of certain personnel should not delay responses.

Where the agreed deadline with the complainant is missed, the CCG will inform the complainant of the delay and the reasons for it. This information may be given to the complainant by letter, email or verbally, when the information is conveyed verbally a record of the conversation should be made within the complaints file.

Every effort must be made to ensure that all possible local action is taken to resolve the complaint before the complainant approaches the Parliamentary and Health Service Ombudsman. Striking the right balance between a timely response and one that is informed by comprehensive local action will provide the best response for complainants and the best opportunities for learning within the CCG.

10.8 Collaboration with other NHS/Social Care Services

Where the CCG receives a complaint that includes other providers/services (such as local authority services) the CCG will agree with all parties who will be responsible for leading the complaint investigation and response. The agreed 'lead' will be responsible for providing the complainant with a single combined response to the complaint.

In deciding the lead organisation such factors as the seriousness of the various elements of the complaint, which organisation they relate to, the risks associated with the complaint and the wishes of the complainant will be taken into account.

The Regulations make provision for the CCG to forward complaints regarding commissioned healthcare providers to the subject organisation for resolution when it is appropriate to do so (and if the complainant agrees). In passing on responsibility for the investigation and co-ordination of the response to another organisation, the CCG would want to be assured that the complaint was dealt with quickly and appropriately and receive a copy of the final response (including details of any actions).

Where the complainant does wish the CCG to share the complaint with the other NHS commissioners/service providers the following steps should be undertaken:

- a) The complaint letter will be faxed or emailed to other NHS service provider(s)/Local Authority within 3 working days;

- b) Once the fax/email has been sent, the CCG will contact the other NHS service provider(s)/Local Authority by telephone and agree which organisation should take the lead in co-ordinating the complaint and dealing with the complainant. This will generally be the body at which the complaint is mostly aimed.

Where it is decided that the CCG will take the lead, the following action will be taken:

- Contact or write to the complainant immediately to advise that South Sefton CCG is taking the lead and will be including the comments from other service provider(s) to ensure that the complainant receives a comprehensive response to their concerns. The letter must include information about the right to assistance from complaints advocacy services;
- A copy of the coordinated final response letter will first be agreed with the other bodies before release to the complainant.

Where a complainant does not wish the complaint to be shared with other service providers, the CCG will write to the complainant to advise which parts of the complaint South Sefton Clinical Commissioning Group will be dealing with (given the limitations).

10.9 Complaints forwarded by External Organisations

The Regulations restricts the investigation of complaints to those concerns identified by persons who have received services from a responsible body or a person who is affected by the action, omission or decision of a responsible body.

The CCG may receive information from external organisations such as licensing bodies e.g. General Medical Council. In such circumstances the CCG may have a duty to review such concerns from a governance perspective or patient safety perspective but has no authority to deal with the complaint under this Policy unless requested to do so by the patient/complainant.

10.10 Parallel External Investigations

The CCG may receive a complaint that is also the subject of an external investigation (e.g. the Police). In these circumstances the CCG will consider, with the Chief Officer, Chief Nurse and legal advisors if appropriate, what course of action to take to ensure there is no risk of compromising the integrity of any external investigation.

11. Responses to Complaints

The CCG, whether responding to complaints concerning a commissioned healthcare provider or about the CCG's actions, omissions or commissioning decisions, will expect the following information to be included in all response letters:

- A description/summary of the complaint and investigation that has been undertaken;
- A response to each of the points raised by the complainant;

- Identification of any remedial actions needed/taken as a result of the investigation and;
- A clear conclusion on whether the complaint is upheld or not upheld, with a full rationale as to how the CCG has arrived at its conclusion.

On receipt of the investigation report (or response letter from a healthcare provider), the CCG will review the quality of the investigation process and response and that all the complaint issues have been reviewed.

Where applicable, associated statements and any further information requested from the provider will accompany the response letter to the complainant. In explaining the steps taken to investigate the complaint (including any evidence which has been considered in the investigation), the CCG's response should take into account the following points:

- The complainant's account of events;
- The account of events by the person(s) complained about (if relevant);
- Relevant law, policy, guidelines and procedures (quoted where appropriate) and;
- Any independent clinical or professional advice taken.

The CCG will ensure that all responses signed by the Chief Officer are written in plain English, are unambiguous, conciliatory in tone and expressed in terms that can easily be understood by lay persons (i.e. free of jargon, acronyms and with complex medical terminology fully explained).

The CCG will ensure that the response contains a sincere apology (where this is considered appropriate) and is not diluted with excessive reasons for a failure in service. The CCG will not accept any responses to a complaint which are essentially a factual timeline of events. The response must also include the findings and conclusions of the investigator as to how they investigated the complaint, what evidence they found and whether they think the actions of any staff members/provider organisations involved were reasonable. If any points of the original complaint have not been addressed an explanation will be provided as to why.

Once agreed, the draft response letter will be shared with the lead investigator (if appointed), and sent to the Chief Officer for approval and signature.

The CCG will inform the complainant of any actions taken as a result of the complaint (if not detailed in the outcomes driven action plan) and of the lessons learnt. The arrangements for keeping the complainant updated in relation to long-term actions (e.g. when training has taken place, when a policy is due to be updated) will also be included in the response letter.

All response letters will inform the complainant of their right to refer their complaint to the Health Service Ombudsman if they remain dissatisfied, although every opportunity will be given to the complainant to resolve their complaint at a local level (this could include the offer of any other remedy, including financial redress).

12. Further Local Resolution

The CCG is committed to ensuring that all possible avenues to resolve a complaint locally are fully explored. Where complainants return to the CCG if they remain dissatisfied following a response, the CCG consider if there is any further action it can take in order to achieve local resolution. This may involve organising a meeting. This could include facilitating further local resolution meetings (where the CCG may provide conciliation services), undertaking a further investigation or providing a further written response to the outstanding points. In these cases the complainant will be asked to provide a summary of their remaining or outstanding grievances and where their preferred outcome of the complaint has not been met.

13. Learning from Complaints

A vital aspect of the complaints process is to demonstrate the continued value of receiving complaints to enable the CCG to continually improve services and ensure on-going confidence in the services it commissions. As part of ensuring the quality, safety and clinical effectiveness of the services the CCG commissions, it is imperative that the CCG has robust systems in place for the dissemination and monitoring of lessons learnt from complaints. Lessons learned from complaints concerning the actions, omissions or commissioning decisions of the CCG will be collated and disseminated to embed within the CCG. The CCG's annual report will also contain collated/aggregated information relating to complaints concerning the functions of the CCG.

Monitoring complaints concerning providers will help identify themes, issues and emerging/actual risks so that appropriate action can be taken. When an investigation reveals deficiencies in services, treatment, or care the CCG will ensure that the department/provider organisation takes action to prevent such events occurring in the future. Details of short term/remedial actions taken (or long term actions proposed) should be included in the associated action plan. The CCG is accountable to ensure that remedial actions identified as part of a complaint investigation are executed. If the complaint relates to a provider organisation the CCG will obtain assurance from the provider organisation that the actions identified have been completed (where this applies to medium to long-term actions the CCG will use contracting and quality processes to monitor and assure outcomes). As stated in paragraph (11.) above the arrangements for keeping the complainant updated in relation to long-term actions (e.g. when training has taken place, when a policy is due to be updated) will also be included in the response letter.

13.1 Monitoring provider complaints

The CCG will set information requirements for monitoring provider complaints as part of the on-going contracting and quality surveillance process. As a minimum requirement, all providers with whom the CCG contracts with will be expected to share a detailed quarterly complaints report which includes:

- The numbers of complaints and an analysis of the subject matter, clinical area (or directorate);
- Any repeat occurrences, 'clusters' or increases (with a commentary about any potential patterns of concern);
- Details of risk assessments and action taken to mitigate risk;
- Analysis of outcomes of complaints;

- Summary of organisational learning/insight;
- Details of actions taken as a result of complaints and how the impact of any changes in policy, practice or service transformation will be measured;
- Whether any other provider organisations were involved in the complaint (multi-agency);
- What the information reveals about people's experience of complaining (and whether corrective action is required/has been taken as a result);
- Triangulation with other patient safety/quality information and other soft intelligence (i.e. PALS) feedback which may suggest areas for improvement.

14. The Parliamentary and Health Service Ombudsman

If the complainant is dissatisfied after the CCG has investigated their concerns and provided a response, they can ask the Parliamentary and Health Service Ombudsman to investigate their case.

The Ombudsman is completely independent of both the NHS and the Government. As well as complaints about NHS services, the PHSO can investigate complaints about how the complaints procedure is working.

The Ombudsman is not obliged to investigate every complaint that is put to him/her, and he/she will not generally take on a case, which has not first been through the NHS complaints procedure, or a case which is being dealt with by the courts.

On notification that a case has been referred to the PHSO and accepted for investigation, the CCG will:

- Ensure the Ombudsman is sent copies of the complaint investigation file within the timescale set by the Ombudsman;
- Liaise with the offices of the Ombudsman to provide additional information as requested;
- Update Datix in relation to the complaint to indicate its referral to the Ombudsman;
- Report any complaint referred to the Ombudsman to the Quality Committee
Co-ordinate the formulation of an action plan for any actions identified as needed as a result of the Ombudsman's review of the complaint;
- Submit any action plan produced to the Quality Committee.

15. Duty of Candour

The NHS Constitution sets out a series of rights and pledges for both staff and patients. It is integral for creating a positive and caring culture within the NHS and one which patients, carers and their families can expect openness and transparency when things go wrong. The 2013/14 NHS Standard Contract (used by clinical commissioning groups when commissioning NHS funded healthcare services) has been amended to include a specific requirement relating to the Duty of Candour. This 'Duty' applies to all patient safety incidents which result in moderate harm, severe harm or death. This builds upon the National Patient Safety Agency's principles of 'Being Open', but making it a contractual

requirement for provider organisations to be open and honest with patients, families and carers when a patient safety incident occurs. The Duty of Candour also requires organisations to support staff at all levels and to encourage even greater honesty when incidents occur which result in moderate harm, severe harm or death. A breach of the Duty of Candour will therefore be regarded as a failure to disclose when something has gone wrong.

The CCG has well established systems in place to ensure providers with whom it commissions fulfil their contractual obligations. The Chief Nurse will act as the CCG's named contact and responsible officer for which potential/actual breaches of Duty of Candour should be reported to. This will be clearly communicated to local clinicians, organisations and Healthwatch via the CCG's website:

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

Breaches in Duty of Candour can be reported via the CCG's complaints email address http://www.southseftonccg.org.uk/?page_id=254

Any member of the public, Healthwatch or whistleblower informing the CCG of a potential or actual breach of Duty of Candour by a provider, can expect a full investigation by the CCG's Chief Nurse. Once notified of a breach, the CCG will investigate to establish if the circumstances do constitute a breach of the contractual requirements. The investigation may include checking whether the incident concerned has been reported through the relevant local risk management systems (or Strategic Executive Information System).

The CCG has a responsibility to investigate if a complaint includes reference to a breach of Duty of Candour or where there is evidence in a complaints response to suggest that the provider has not acting in an open and honest manner.

The Quality Committee will receive exception reports from the Chief Nurse where providers are found to have breached the Duty of Candour.

16. Publicity

The CCG has a responsibility to make information available to the public as to its arrangements for dealing with complaints and how further information about those arrangements can be obtained. Information will be available on the CCG website <http://www.southseftonccg.org.uk/> Feedback on actions as a result of complaints will also be published.

17. Monitoring Compliance with this Policy

The implementation of this policy is integral to the management of complaints, concerns and enquires within South Sefton CCG. Compliance with the policy will be monitored by the CCG Head of Delivery and the Quality Committee. Compliance will be measured by the following:

- a. Percentage of complaints answered within agreed timescales. This information will be included in the monthly complaints/concerns and enquiries report discussed at the Quality Committee;

- b. Analysis of complaint, concern and enquiry trends and themes included in the monthly complaints/concerns and enquires report discussed at the Governance Support Group and the quarterly report to the Quality Committee;
- c. Feedback and progress on action taken/actions planned as a result of complaint/concern investigations to provide assurance to South Sefton CCG that lessons have been learnt. This will be included in the monthly complaints/concerns and enquires report discussed at the Quality Committee and;
- d. Number of complaints which are referred to the Health Service Ombudsman for investigation. This information will be reported to the appropriate monthly to the Quality Committee.
- e. The CCG will produce an annual report which will include the following:
 - The number of complaints received by South Sefton CCG (including the number of complaints that the CCG considered to be substantiated/upheld);
 - The number of complaints referred to the Parliamentary and Health Service Ombudsman;
 - Complaint subjects and trend analysis of complaints;
 - Details of general areas of importance identified as a result of complaint investigations;
 - Summary of actions taken and lessons learnt as a result of complaint investigations;

The annual report will be will be discussed at the Quality Committee and information made available on South Sefton CCG's website.

18. Education and Training

A two day training course in root cause analysis of incidents and complaints can be accessed by staff who are involved in the investigation of complaints and concerns. All commissioning staff who act as lead investigators for complaints requiring root cause analysis must attend this training.

19. Habitual and Persistent Complainants

South Sefton CCG is committed to resolving concerns and complaints raised by patients, and or members of the public. However, it is recognised that on rare occasions staff have contact with patients/members of the public whose complaints are considered to be habitual or persistent. Complaints/concerns raised by patients/members of the public are considered to be habitual/persistent where previous or current contact with the member of the public or complainant shows that at least two of the following criteria have been fulfilled or are in repeated breach of at least one, of the following criteria: -

- Persistent in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted;
- Seek to unduly prolong contact by restating what is essentially the same complaint in different terms. (Care must be taken not to discard new issues which are

significantly different from the original complaint. These should be addressed as separate complaints);

- Refuse to accept, without good cause, documented evidence of treatment given as being factual e.g. drug records, GP records, nursing notes;
- Deny receipt of an adequate response despite evidence of correspondence specifically answering their questions;
- Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed;
- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of staff and, where appropriate, independent advocacy, to help them specify their concerns, and/or where the concerns identified are not within the remit of the CCG to investigate;
- Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what a 'trivial' matter is can be subjective and careful judgement must be used in applying this criteria).
- Have, in the course of addressing a registered complaint, had an excessive number of contacts with the CCG placing unreasonable demands on staff. (A contact may be in person or by telephone, letter, E-mail or fax. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section using judgement based on the specific circumstances of each individual case).

In determining arrangements for handling habitual or persistent complaints South Sefton Clinical Commissioning Group must consider: -

- Whether the NHS complaints procedure and the CCG's complaints policy have been correctly implemented and that no aspect of a complaint has been overlooked or inadequately addressed. In doing so it should be appreciated that complainants or members of the public who raised habitual or persistent complaints may raise substantive concerns and issues which, even if unable to be resolved, should be approached rationally and sympathetically.
- Whether it can identify the point at which a complaint has become habitual or persistent;
- Whether the complainant or member of the public whose complaint is considered habitual and persistent is known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved;
- Whether the complainant or member of the public whose complaint is considered habitual and persistent displays unreasonable demands or expectations and fails to accept that these may be unreasonable (e.g. insist on responses to complaints or

enquiries being provided more urgently than is reasonable or normal recognised practice);

- Whether the complainant or member of the public whose complaint is considered habitual or persistent have threatened or used actual physical violence towards staff or their families or associates at any time - this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication (all such incidents should be documented in line with NHS Zero Tolerance protocols).
- Whether the complainant or member of the public whose complaint is considered habitual and persistent have harassed or been personally abusive or verbally aggressive towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this.) Staff should document all incidents.

19.1 Guidance for dealing with habitual and persistent complainants

Careful judgement and discretion must be used in applying criteria to identify habitual and habitual and persistent complaints and to decide what action to take in specific cases. This should only be implemented following agreement by all concerned, including the, the Chief Nurse / Head of Corporate Delivery and Chief Officer of the CCG.

The course of action must be agreed by the above and put in writing to the complainant, including reasons why the complaint has been classified as habitual and persistent, and signed by the Chief Officer. The letter should be copied for the information of those involved in the complaint and a record should be kept by the CCG of the reasons why a complainant has been classified as habitual/persistent and the actions taken.

Complainants considered habitual or persistent may be dealt with in one or more of the following ways:

- Decline further contact with the complainant, either in person, by telephone, fax, letter or electronically (or any combination of these) whilst ensuring that one form of contact is maintained;
- Notify complainants, in writing, that the Chief Officer has responded fully to the points raised and has tried to resolve the complaint, that there is nothing more to add and continuing contact on the matter will serve no useful purpose. Complainants should be notified that correspondence is at an end and that further communications will be acknowledged but not answered.
- Inform complainants that in extreme circumstances, the CCG reserves the right to refer members of the public whose complaint is considered habitual/persistent or unreasonable to solicitors and, if appropriate, the police.

19.1.1 Withdrawing Habitual and Persistent Status

Once complaints are considered have been determined as habitual or habitual and persistent, there needs to be a mechanism for withdrawing this status at a later date if, for example, the complainant or member of the public subsequently demonstrate a more reasonable approach, or if they submit a further complaint for which the normal complaints procedure would appear appropriate. Discretion should be used in recommending that this status be withdrawn as appropriate.

Where this appears to be the case, discussion will be held with the CCG Chief Nurse or Head of Corporate Delivery. Subject to their approval, normal contact with complainants of the NHS complaints procedure will then be resumed.

19.1.2 Appeal

If a complainant, or someone with authority to act on their behalf, disagrees with the decision to deem their complaint as being habitual and persistent, they may put their reasons in writing and address them to the Chief Officer. Upon receipt of such a communication the Chief Officer will consider it as a request by the complainant for withdrawal of habitual and persistent status. The Chief Officer will reconsider the decision to impose such status on the complainant and will do so in consultation with the Head of Corporate Delivery and Head of Corporate Delivery.

20. Patient Advice & Liaison Service (PALS) & Complaints Interface

All patients, service users, carers, interested third parties and staff are able to access the PALS service. Where the issue is raised by a third party and it directly relates to the circumstances surrounding an individual, it will be necessary to gain authorisation from that individual before any action is taken.

20.1 Response Times

The PALS Team operates within normal office hours. The PALS Team will aim to respond to contacts relating to concerns or enquiries, where possible the same day and no later than the next working day.

20.2 Record Keeping

All concerns and enquires will be analysed on arrival in the PALS Team within the CMSCU and coded by main theme, sub theme, staff type and service. This information along with the personal details of the person raising the concern or enquiry, and details of the contact, will be entered onto Datix held within the CMSCU, which will be kept up to date and accurate. An enquiry form will be completed for each enquiry that is made to the team. Clients may wish their personal details to remain anonymous and these wishes would be respected, however, the issue would be recorded on an enquiry form so as to ensure that trends are identified and reported to the Quality Committee.

20.3 Confidentiality and Consent

The PALS Team within the CMSCU will treat all information received about patients and staff in strict confidence. Information about a caller, including the fact that they have made

contact, will not be disclosed to a third party even to a partner or family member without the express consent of the caller.

The majority of concerns or enquiries will be received by telephone. In order to facilitate the speedy response of enquiries, verbal consent will be gained from enquirers. However, callers will be asked to sign and return a formal consent form to the PALS Team within the CMSCU should the issues raised require more detailed investigation and discussion with service providers. If the enquiry is on behalf of a child under the age of sixteen, it is not necessary for PALS Team to obtain consent from the child.

20.4 Accessing PALS

The PALS team can be contacted by telephoning the freephone number 0800 218 2333. We aim to ensure this is answered by a member of the PALS Team during office hours. An answer phone is available when staff are not in the office. In addition the PALS Team can be contacted by email.

Members of the public are welcome to visit the PALS Team by appointment. Interview rooms are available where people may talk in confidence to members of the PALS Team.

Triaging Complaints Relating to Commissioned Services:

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 state that if a complainant raises concerns with the Commissioner of a service, the Commissioner may consider if it is appropriate for them to accept the complaint for investigation. The table below highlights the types of complaints that South Sefton CCG considers appropriate to accept for investigation by the Commissioner and those complaints that it considers appropriate for the Commissioned Service/Provider to investigate. Please note that on some occasions it may be appropriate to investigate complaints considered to have a low to moderate impact.

LEVEL	DESCRIPTOR	DESCRIPTION OF IMPACT OF CONCERNS BEING RAISED on the COMPLAINANT / PATIENT AND EXAMPLES	APPROPRIATENESS FOR INVESTIGATION BY THE COMMISSIONER
1	Almost None	No harm suffered	Not appropriate for investigation by the commissioner
2	Low	<ul style="list-style-type: none"> • Harm that will resolve quickly • Delayed or cancelled appointments • Single failure resulting in Low to Moderate Harm • Staff attitude or communication 	Not appropriate for investigation by the commissioner
3	Moderate	<ul style="list-style-type: none"> • Failure to meet care needs • Miscommunication and misinformation • Medical errors Resulting in Moderate Harm • Incorrect treatment • Potential clinician performance concerns • Potential concerns re clinical leadership 	May or may not be appropriate for investigation by the commissioner
4	Severe	<ul style="list-style-type: none"> • Ongoing failure to meet care needs • Miscommunication and misinformation Resulting in Serious Harm • Medical errors • Incorrect treatment 	Appropriate for investigation by the commissioner
5	Death or Catastrophic	<ul style="list-style-type: none"> • Gross professional Misconduct • Abuse or Neglect Resulting in Serious Harm or Death • Criminal Offence 	Appropriate for investigation by the commissioner

Qualitative Risk Assessment Matrix - Level of Risk

IMPACT	LIKELIHOOD				
	Almost Certain	Likely	Possible	Unlikely	Rare
X	5	4	3	2	1
Almost none 1	5	4	3	2	1
Low 2	10	8	6	4	2
Moderate 3	15	12	9	6	3
Severe 4	20	16	12	8	4
Death or Catastrophic 5	25	20	15	10	5

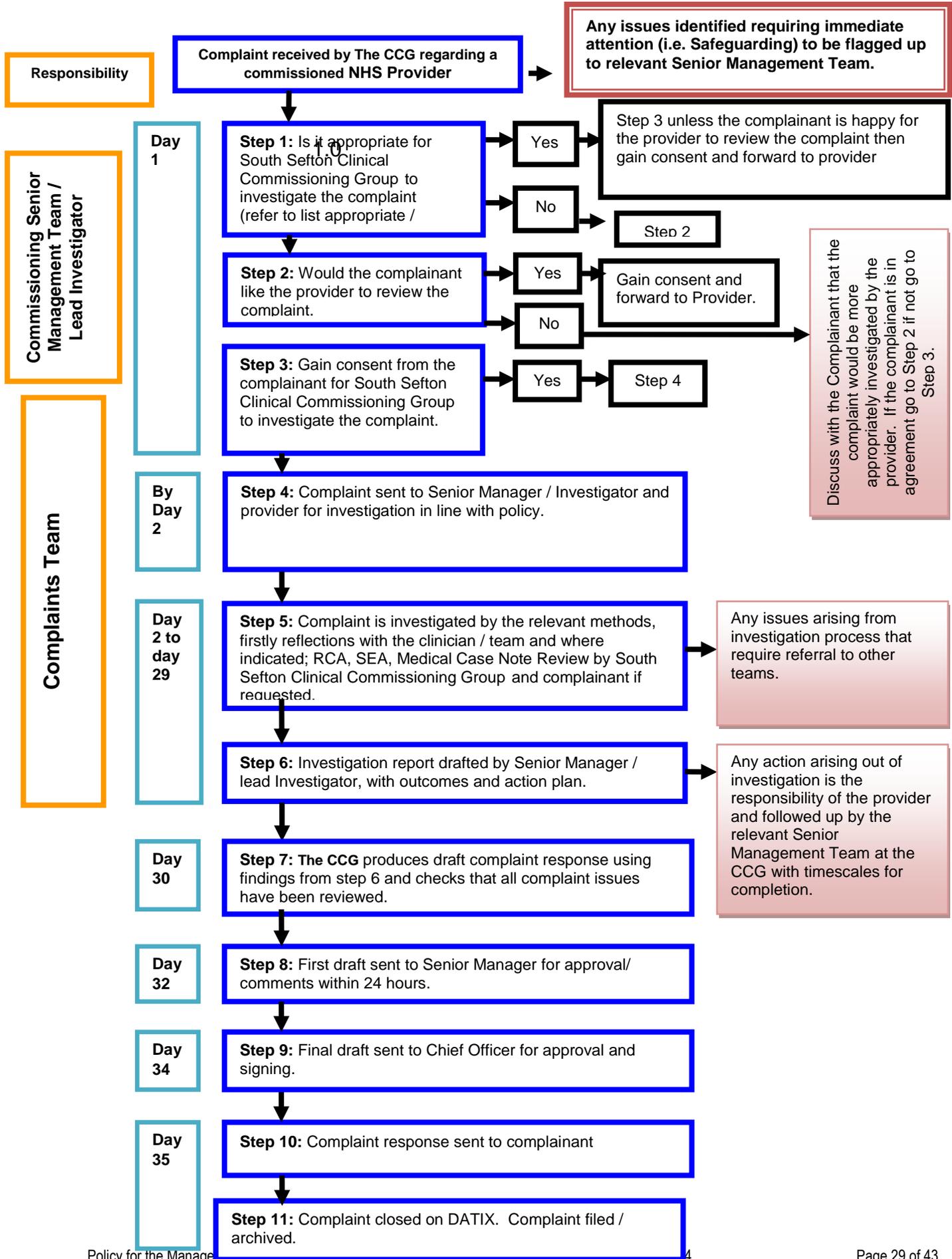
Qualitative Measures of Likelihood

LEVEL	DESCRIPTOR	DESCRIPTION
1	Rare	Isolated or "one off"- slight vague connection to service provision.
2	Unlikely	Rare – unusual but may have happened before
3	Possible	Happens from time to time – not frequently or regularly
4	Likely	Will probably occur several times a year
5	Almost Certain	Recurring and frequent, predictable.

Qualitative Measures of Impact

LEVEL	DESCRIPTOR	DESCRIPTION
1	Almost None	No harm suffered
2	Low	<ul style="list-style-type: none"> Delayed or cancelled appointments Events resulting in minor harm Single failure Staff attitude or communication
3	Moderate	<ul style="list-style-type: none"> Failure to meet care needs miscommunication and misinformation Medical errors Resulting in Moderate Harm Incorrect treatment Potential clinician performance concerns Potential concerns re clinical leadership
4	Severe	<ul style="list-style-type: none"> Ongoing failure to meet care needs Miscommunication and misinformation resulting in Serious Harm Medical errors Incorrect treatment
5	Death or Catastrophic	<ul style="list-style-type: none"> Gross professional Misconduct Abuse or Neglect resulting in Serious Harm or Death Clinical Offence

Process for the Management of Complaints for Commissioned Services



Guidance for Managers Interviewing Staff who are involved in Complaints

1 Introduction

Some reports and statements made by staff following an incident or complaint can be incomplete, lack key information or can be ambiguous. Good interview techniques can often increase both the quantitative and qualitative information gained from staff involved in incidents and complaints.

It is important for managers to interview a wide range of people present at the time of the incident in order to create a complete picture of what actually happened.

2 Preparing for the Interview

Staff should be formally invited to attend an interview and fully briefed on the purpose of the interview. Staff members may wish to bring someone else with them for support (i.e. a colleague, friend or union representative) and this should be fully permitted, although it should be made clear that their support must not actively participate in the interview. The main reason for this is that any interruptions whilst the interviewee is giving their account may interfere or significantly affect memory retrieval.

Interviews should be held in a relaxed setting, preferably away from the immediate place of work and in a private room. It is considered good practice to have one person undertaking the interview and one person either recording the conversation or taking notes. This enhances the flow of information and allows the interviewer to give their undivided attention to the interviewee. If it is not possible to transcribe the interview then managers may wish to consider recording the conversation (with the consent of the interviewee) and then having it transcribed at a later date.

Firstly, managers should ensure that the member of staff being interviewed has received written information explaining why the interview has been arranged. It should also be explained in the information that the interview is not part of a disciplinary process but a review of the complaint / incident to identify the cause. In order to allow the interviewee to prepare, managers should provide;

- the name of the person who will be conducting the interview and their role in the investigation
- details of the incident or complaint being reviewed
- details of what documentation will be provided before and during the meeting
- assurances that the interview will be confidential
- the approximate time or duration of the interview

Interviewees should be informed about the process of the interview and what will happen after the interview has taken place. This should include details of when the report will be completed and when the interviewee can expect to see the report in its draft stages. If a

transcript has been made of the interview, managers should provide a copy to the interviewee for agreement as soon as possible to ensure correct and accuracy.

3 Arranging the Interview

When arranging interviews with staff who may be involved in complaints or incidents managers should consider the following points as examples of good practice;

- Always ensure that a private and undisturbed room is booked for the interview.
- Try to avoid holding the interview at the end of the interviewee's shift.
- Inform the interviewee's manager, supervisor or clinical lead that the interview is taking place so that staff can be released and their shift covered. Some staff will find the process very upsetting and disturbing and may not feel able to return to work immediately afterwards.
- As some staff will find the process upsetting and disturbing, they should be given information on how to access support services after the interview.
- Arrange the room in an informal way – try to avoid placing physical barriers such as desks or tables between parties.
- Ensure that plenty of water is available.
- Make sure that telephones are diverted and mobile phones are switched off during the interview.

4 During the Interview

At the start of the interview, the interviewers should be introduced and their roles in the process explained, followed by an explanation of the sequence of the interview and approximate time it will take. Managers should try to reiterate any written information given to the interviewee prior to the interview and stress that the process is not part of any disciplinary procedure. Always allow time for the interviewee to ask questions.

5 Essential Factors for a Successful Interview

1. Ensure that the interviewee is aware that they are in control over the process and not the interviewer.
2. Always allow the interviewee to 'tell their story' and recall their experience without interruption. Interruptions often reduce the interviewee's ability to recall memories and will lead to incomplete or inaccurate information.
3. Try to ask questions in the order that the incident is presented to aid memory retrieval and improve information.
4. Ensure that you share your understanding of the interviewee's account with them before asking any questions. This will correct any misunderstandings and will serve as a 'prompt' to jog their memory about facts and important points that may have been forgotten.

5. Try to avoid open ended, rhetorical or quick-fire questions. It may be that the interviewee gives short answers that do not fully provide the information necessary to understand the incident.
6. Try to keep the discussion as open as possible and avoid making judgmental or critical comments, as this is likely to make the interviewee defensive and less likely to present the facts.

Guidance for Staff on Writing and Preparing Witness Statements

These guidelines are intended to cover general witness statements and reports collected from staff for complaints (but can also be applied to incidents and legal claim investigations) and may prove helpful to those staff who may be asked to provide such documentation or statements. Staff should always seek separate advice regarding statements for civil or criminal court proceedings.

The aim of this guidance is also to ensure that consistency regarding the quality of statements can be achieved as early as possible during the initial stages of the investigation.

Being involved in a complaint which is under investigation can sometimes be an incredibly stressful experience. The CCG has in place a number of services available to support staff.

1 Before you prepare your statement

The purpose of the following guidance is to help in the preparation of a statement and to help staff understand that the information provided during the investigation stages of a complaint or incident will not only help build an overall picture of the event, but will also help the investigator(s) understand how the incident occurred.

It is important to remember that any information provided will be treated in strictest confidence and will be kept in a safe and secure place. No part of the information staff provide will be disclosed to anyone outside of the investigation team (which can include a line manager, clinical lead, director and the complaints manager) without the subject's explicit consent.

If you are writing the statement or report as a result of a complaint or incident, make sure that you have seen all relevant correspondence and information relating to the case. If you are unsure as to whether you have all correspondence, always check with either your line manager, clinical lead or complaints manager.

2 Important things to remember

Good statements and reports should include an accurate and factual account of your involvement in the complaint or incident, and should focus on 5 main areas;

- What you said
- What your actions were
- What you saw
- What you didn't do
- Reasons for your actions / behaviour (e.g. protocols, clinical guidelines)

Statements should generally not rely on other documents to provide a clearer picture, or include your own opinion, details of third party conversations or assumptions as to what other people may have been thinking or doing at the time. (e.g. 'I thought that the Clinical

Lead was dealing with the patient's family') Wherever possible, you should try to submit a typed statement but if this is not possible then always use a black ball point pen or biro. Typed statements should be in a minimum size of 12 point font.

3 Preparing your statement

Begin your report or statement by providing your full name, designation, department and base. If you are writing your statement as a result of a clinical incident, you may wish to include your relevant professional qualifications, including year obtained, your registration number (where applicable) and an explanation of any abbreviations used.

Try to write your statement or report as soon as possible after the event – this makes it easier to recall important details and record the main facts.

4 Writing your statement

1. Write your statement or report as openly and honestly as possible, only stating the facts and not your opinions. Try to provide a chronological narrative of your involvement, preferably set out in numbered paragraphs and giving as much detail as possible. Normally, a statement should end with your last contact with the patient.
2. Try to give actual dates and times wherever possible, using 24hr clock. For example, stating "on Wednesday afternoon I made a home visit to Mr Smith" is not specifying any date or time, whereas writing "on 14th February 2006 at 14:30 I made a home visit to Mr Smith" does.
3. Only record your personal observations of the incident or complaint, do not comment on behalf of others or criticise others. For example, "Dr Jones thought that Mr Smith required 5mg diamorphine" State precisely what care was given and whether these were in normal limits.
4. When writing your statement or report, you should always assume that the patient or their relatives will see it at some stage. This should not prevent you from writing a clear, objective, factual account, but as with all documentation and records, you should always avoid writing derogatory, humorous or unnecessary remarks.
5. Give your report a heading - e.g. "Report concerning care of Mr Smith by Mr Green, Senior Physiotherapist" or "Report on clinical incident of the 7th February 2006 relating to Mrs White by District Nurse Black, February 2006"
6. Avoid using jargon and abbreviations - write the report as if you were writing to a lay person. If you refer to any complex medical terminology, always try and include a description in lay terms.
7. Use the first person singular ("I"), and write using an active rather than a passive voice. This avoids any ambiguity about who did what. A good example of an active voice would be "I gave Mrs White her injection at 08:30." An example of using a passive voice would be "Mrs White had her injection at 08:30"
8. If your report has to be written from memory then specify that you have not had access to the records. Similarly, if you have no memory of the patient, always state that you are relying on the records to provide your account.

9. If you are unsure about any aspect of the incident, always seek advice from your line manager or your staff representative, particularly if you are concerned that criticism may be directed at you.
10. Check your spelling, grammar and punctuation carefully. Sometimes words can be taken out of context even by the slightest spelling or grammatical error.
11. Each page of the statement must be signed and dated. On the final page, print your full name, job title and location of work below your signature on the final page. The final line of your statement should read "This statement is true to my knowledge and belief". Always retain a copy of your statement or report for your own records.

Some do's and don'ts on writing statements

Do	Don't
Refer to the patient's medical records and your memory	Restrict your report to a verbatim account of what is in the records, but if you can't remember particular details of the patient or incident say so
Give a detailed, chronological account of what you did and why. Give details of the factors you took into account and why you chose one course of action above another.	Cover up - even if this means admitting that the standard of care was not to the standard you were taught to expect
If you are responding to a complaint or solicitor's letter, read it carefully and answer all the points made	Attempt to write your report in a hurry
Identify others involved in the patient's care	Seek to blame others if something went wrong
Describe actions taken by others that you witnessed yourself	Attempt to 'second guess' what others were thinking
Include everything you can remember about the patient and the incident and any other relevant factors – was the ward busy at the time, who else was on duty	Include subjective comments (ie opinions) about the patient or others
Respond within the deadline - contact the person who has requested the report if this causes you problems	Don't put off responding to the request for your report hoping it will 'go away' - it won't.
Remember that the PCT is trying to establish the truth about what happened; be honest about your involvement, not defensive.	Don't worry about having been asked for a report - discuss your report with your manager or staff representative if you have any worries.

Guidance for Meeting with Patients, Carers and / or Family Members following a Complaint or Serious Incident

1.0 Introduction

Openness and honesty towards patients are supported and actively encouraged by many professional bodies including the Medical Protection Society (MPS), the Medical Defence Union (MDU) and the General Medical Council (GMC). In many cases where patients have been involved in serious incidents or have made formal complaints, early resolution can often be found by way of explanation, discussion, empathy and, if appropriate, apology. Duty of Candour requires organisations to support patients, families and carers

The following guidance is intended to provide a framework by which managers can address patient concerns following a complaint or incident by way of face-to-face meetings, which should take the form of an informal, open discussion between managers and the patient and / or their carers. Openness about what happened and discussing complaints and patient safety incidents promptly, fully and compassionately, can help patients cope better with the after effects and help in the swift resolution of outstanding issues.

2.0 Timing of Meetings

The initial meeting with the patient and /or their carers or family members should occur as soon as possible after an investigation has been completed, or within one month of the final written response to a complaint. Factors that also need to be considered when timing meetings should include;

- Clinical condition of the patient
- Availability of the patient's family, carer, family member or advocate
- Availability of support staff, such as a translator or independent advocate
- Patient preference of when and where the meeting should take place (for example, the patient's home or Trust premises)
- Privacy and comfort of the patient

Meetings arranged on Trust premises should take place in a sensitive location where confidentiality can be maintained and where there will be no disturbances.

3.0 Who should meet with the patient and / or their carers?

This should be the most senior person responsible for the service / patient's care and preferably be someone with experience and expertise in the field.

Ideally, Managers or Senior Clinicians involved in the process should;

- Have a good grasp of the facts relevant to the complaint or incident.
- Be willing and able to offer an apology, reassurance and feedback to patients, carers and family members.

- Be able to maintain a medium to long term relationship with patients, carers and family members and provide continued support and information where possible.
- Be senior enough to have sufficient experience and expertise in relation to the complaint to be credible to patients.
- Be culturally aware and informed about the specific need of the patient.

In exceptional circumstances where the Senior Manager or Clinician cannot attend, responsibility can be delegated to nominated deputy although this person should also be senior enough to have credibility with the patient and to have a grasp of the main issues and facts of the complaint. The suitability, qualifications and training of this person should also be clearly described to the patient before the meeting takes place where possible. This is essential for effective communication with the patient and their carer / family members without jeopardising the rights of the healthcare professional, or their relationship with the patient.

The Senior Manager or Clinician should also be accompanied by at least one other senior manager from the Trust, ideally with experience of such meetings and with experience or training in communication and local resolution procedures. Managers must be mindful of not having too many Trust staff present at the meeting, as this can often be seen as adversarial and may be regarded by the patient as intimidating.

4.0 Involving staff who are the subject of complaints

Some complaints made by patients are as a result of errors made by staff when caring for the patient. In these circumstances it is not recommended that staff or clinicians who are directly involved in (or the subject of) the complaint attend meetings, as the potentially confrontational atmosphere can often have a negative effect on the outcome of the meeting and can prove too stressful for staff. Every case where an error has been made needs to be considered individually, balancing the needs of the patient and / or carers and with those of the member(s) of staff concerned. In cases involving individual staff members, every effort should be made to ensure that a written apology from the member of staff involved or named in the complaint is available to the patient / carer or family members before the meeting takes place (if an apology is deemed as appropriate).

5.0 The Structure of the Meeting

Once the meeting has been arranged at a suitable date, time and location, the following points should be considered;

- The patient and any one attending with the patient should be advised of the identity and role of all people attending before it takes place. This allows the patient to state their own preferences about which members of staff should be present.
- Arrange the room in an informal way that facilitates discussion – try to avoid placing physical barriers such as desks or tables between parties.
- An early expression of genuine sympathy, regret and an apology for any distress or harm caused will assist greatly in the meeting being constructive. An apology is not necessarily an admission of guilt, but can be seen as ‘recognition’ that something has gone wrong which needs to be corrected.

- Facts that are known should be agreed at Senior Management level. Where there is disagreement, communicating these events should be deferred until after the investigation has been completed. The patient and carer / family members should be informed that investigations are still on-going and more information will become available as it progresses.
- The patient's perception and understanding of events should be taken into consideration, as well as any questions they may have. Ideally, outstanding issues and questions should be agreed with the patient before the meeting, so that the meeting can follow a clear agenda or direction.
- One person should take notes, so that any agreed action points or issues that need further clarification are documented and acted upon. Formal note taking also demonstrates that the patient's views are being heard and taken seriously.
- Avoid using jargon and terminology that is too technical. Where this is unavoidable, try to explain fully in lay terms as some terminology will be at best meaningless and at worse insulting to the patient.
- An explanation should be given about what will happen next, both in terms of process and, if relevant, continuing care and treatment. This should also include an explanation of any further analysis or investigation.

Patients, carers and family members attending meetings are very likely to be anxious, angry and frustrated, even when an early apology is made and the meeting is being conducted appropriately. Managers and Clinicians involved in meetings should therefore always avoid;

- Speculation or assumptions
- Attribution or apportioning of blame
- Denial of responsibility
- Providing any information from different individuals that may conflict

It is also important to remember that the meeting may well be the first part of an on-going communication process with the patient. Many points raised in the meeting may need further clarification or need to be expanded on in further meetings with the patient / carer and / or family member.

Statement Form in Response to a Complaint

Name:

Job Title:

Work Location:

Telephone:

Statement regarding:

Signed:

Date:

Continuation sheet

Page:

Statement of

Signed:

Date:

- A copy of this statement must be forwarded to the Complaints Team

Record of Meeting Form (e.g. Discussion with staff member or complainant)

Names of attendees:

Venue, date & time:

Subject:

Summary of points discussed:

Further actions agreed or required

Signed (Investigator)

Date:

Signed (Staff member or complainant) _____

Date: _____

A copy of this record must be forwarded to the Complaints Team