



**South Sefton**  
Clinical Commissioning Group

# Complaints Policy

<b>Title:</b> Complaints Policy	
<b>Scope:</b> Patients Members of the public CCG staff	<b>Classification:</b> Policy
	<b>Version No:</b> Complaints/Ver-4/2018
<b>Replaces:</b> NHS South Sefton CCG Policy for the Management, Investigation and Resolution of Complaints	
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<b>Authorised by:</b>  Finance and Resource Committee	<b>Date:</b>  May 2018
To be read in conjunction with: Statutory Instrument 2009 No. 309 The Local Authority Social Services and National Health Service Complaints (England), Regulations 2009; NHS England – Guide to Good Handling of Complaints for CCGs; Parliamentary and Health Service Ombudsman’s Principles, February 2009	
<b>Date Published:</b> June 2018	<b>Next Review Date:</b> May 2020



## 1. Introduction

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.

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.

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 patient 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.

## 2. Purpose and Scope

The purpose of this document is to provide the CCG with a framework for investigating complaints in line with the requirements of The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

This policy describes how the CCG manages, responds to and learns from complaints made about its services and the way in which they are commissioned.

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 the CCG.

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.

## 3. Definitions of terminology

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.

#### **4. What is a Complaint?**

A complaint or concern is an expression of dissatisfaction about an act, omission or decision, either verbal or written, via any medium including social media, and whether justified or not, which requires a response and/or redress.

#### **5. Who can complain?**

A person (or their representative) who:

- receives or has received care from a NHS responsible body
- is affected, or likely to be affected by the action, omission or decision of the NHS responsible body which is the subject of the complaint

If you wish to make a complaint on behalf of an adult, we will require consent from that person giving us permission to release information to you, which may be confidential to them. We will provide a consent form for this purpose.

If you wish to make a complaint on behalf of an adult who does not have capacity to provide consent, the CCG will require evidence of Power of Attorney to make decisions on behalf of the adult.

If you wish to make a complaint on behalf of a child and you are not the parent(s) or legal guardian of the child, we will require consent from the parent(s) or legal guardian. We will provide a consent form for this purpose.

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.

The CCG if satisfied will apply reasonable adjustment to enable disabled people and people with sensory impairments to make a complaint and ensure the policy is accessible and inclusive.

## **6. Consent**

Most NHS care and treatment goes well but sometimes things can go wrong. If you are unhappy with your care or the service you have received, it is important to let us know so we can improve. When South Sefton CCG receive a complaint, to allow it to be fairly and thoroughly managed, in most cases personal information will be required. CCGs have statutory duties<sup>1</sup> which allow the processing of personal data in relation to complaints.

Any relative, carer or friend of a patient is entitled to make a complaint about the care of a particular patient, however, if a third party is acting on behalf of an individual or where there is a need to pass a complaint case to another organisation, then appropriate consent would be requested. Where consent is requested, the complainant will be informed of the reasons for the request and that the investigation will not proceed until consent is established. Information would not be disclosed to third parties unless the complainant has given consent to its disclosure.

## **7. Who do you complain to?**

A complaint can be received by mail (letter), electronically (email, website or social media comment) or by telephone.

The email address to use is [southseftonccg.complaints@nhs.net](mailto:southseftonccg.complaints@nhs.net)

The postal address is:  
The Chief Officer  
NHS South Sefton CCG  
Merton House  
Stanley Road  
Bootle  
L20 3DL

The telephone number is 0151 317 8456.

## **8. How to make a complaint**

A complaint or concern can be raised in a number of different ways. Written letter, Email or by telephone.

A telephone call is acceptable to initiate a complaint however; a formal record needs to be made about the nature of the conversation. Where a complaint is made verbally we will send a written record of the concerns to the complainant for agreement as this will form the basis of what we then investigate. This will include details of the Independent Complaints Advocacy Service who can assist them if required.

All contacts will be documented, a case file opened and a unique ID number provided.

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<sup>1</sup> (Section 6 of the Local Authority Social Services and National Health Service Complaints [England] Regulations (2009) (under section 113 "Complaints about Healthcare" of the Health and Social Care (Community Health and Standards) Act 2003)

Complaints should 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 Operational Complaints Lead may decide to still consider the complaint; for example, longer periods of complaint timescales may apply to specific clinical areas.

Consideration will always be given to complainant's individual circumstances, particularly caring commitments and bereavement.

## **9. Who will deal with the complaint?**

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:

### ***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.

### ***Chief Nurse***

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.

### ***Operational Complaints Lead***

Oversees arrangements for complaints handling. Ensures information from complaints is reported into appropriate clinical quality and risk committees and forums to enable organisational review and learning.

- Management of the procedures for handling complaints and concerns.
- Facilitation of the resolution of complaints and concerns.
- Recording details of the complaint on a database, the outcome, and any learning from the complaint.

## **10. How long will it take?**

Under the NHS Complaint Regulations 2009, Responsible Bodies should aim to respond to complaints as quickly as possible.

All complaints will be acknowledged no later than three working days after the day the complaint is received (either by telephone, email or letter) and an offer will be made, as appropriate, to discuss with the complainant:

- An action plan for handling the complaint.
- Timescales for responding.
- The complainant's expectations and desired outcome.

- Information in relation to the provider of independent advocacy services in their geographical area e.g. the Independent Complaints Advocacy.
- Consent for the CCG to pass the complaint to the service provider (as appropriate).
- Consent for the CCG to handle the response provided by the service provider.

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 providing 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.

On receipt of the investigation report, a response to the complaint will be prepared and will include information on the next stages of the complaints procedure, should the complainant wish to take matters further.

Where the complaint involves more than one NHS or social care body, the CCG will adhere to the duty to cooperate as contained in the legislation. Where complaints involve more than one body, discussions will take place about the most appropriate body to take the lead in coordinating the complaint and communicating with the complainant.

Where the CCG receives a complaint involving several bodies, 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 any provider.

As soon as it is reasonably possible after completing the investigation, and within the timescale agreed with the complainant, the CCG will send a formal response in writing to the complainant which will be signed by the CCG's Chief Officer or delegated deputy.

The response will include:

- An explanation of how the complaint has been considered.
- An explanation based on facts.
- Whether the complaint in full or in part is upheld.
- An apology (where it has been identified that there were failings in the care provided).
- 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 actioned.
- Where possible, we will respond to people about any lessons learnt.
- An explanation of the available options should the complainant be unhappy with the response.

A key consideration is to make arrangements 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.

## **11. 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: [www.southseftonccg.nhs.uk](http://www.southseftonccg.nhs.uk)

Breaches in Duty of Candour can be reported via the CCG's complaints email address: [southsefton.ccg@nhs.net](mailto:southsefton.ccg@nhs.net)

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.

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.

## **12. 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).

- a. Analysis of complaint, concern and enquiry trends and themes included in the monthly complaints/concerns and enquires report discussed at the Corporate Governance Support Group and the quarterly report to the Quality Committee;
- b. Feedback and progress on action taken/actions planned as a result of complaint/concern investigations to provide assurance to the CCG that lessons have been learnt. This will be included in the monthly complaints/concerns and enquires report discussed at the Quality Committee and;
- c. 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.
- d. The CCG will produce an annual report which will include the following:
  - The number of complaints received by the 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 the CCG website.

### **13. The Parliamentary and Health Service Ombudsman**

If a complainant remains dissatisfied with the handling of their complaint and does not wish to allow further local resolution of their complaint, they can ask the Parliamentary and Health Service Ombudsman (PHSO) to review the case.

The PHSO may investigate a complaint where, for example:

- A complainant is not satisfied with the result of the investigation undertaken.
- The complainant is not happy with the response 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.

Complainants also have the right to refer their complaint to the PHSO 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.

Every effort must be made to ensure that all possible local action is taken to resolve the complaint before the complainant approaches the PHSO. 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.

### **14. Help and Support**

#### ***Patient Advice and Liaison Service (PALS)***

The PALS team provides confidential advice, support and information on anything from how to make a complaint, to resolving an issue you might have about any of the services we commission. You can contact the PALS team using either of the following ways:

By Phone - 0800 218 2333 (Monday to Friday, 9am to 5pm, except Bank Holidays)

By email – [mlcsu.pals@nhs.net](mailto:mlcsu.pals@nhs.net)

#### ***Healthwatch Sefton***

You can also raise your queries or concerns with the independent patient's champion in the following ways:

By phone – 0800 206 1304 or 0151 920 0726 extension 240

By email – [info@healthwatchsefton.co.uk](mailto:info@healthwatchsefton.co.uk)

By post – 3rd Floor, Suite 3B, North Wing, Burlington House, Crosby Road North, Waterloo, L22 0LG

#### ***Complaints about doctors, dentists, pharmacists, opticians***

Compliments, comments or complaints about these services are dealt with by NHS England Customer Contact Centre using the following details:

By phone – 0300 311 22 33 (Monday to Friday, 8am to 6pm, except Bank Holidays)

By email – [england.contactus@nhs.net](mailto:england.contactus@nhs.net)

By post – NHS England, PO Box 16738, Redditch, B97 9PT

***Parliamentary and Health Service Ombudsman (PHSO)***

The PHSO is an independent body established to promote improvements in health care through the assessment of performance of those who provide services. If you remain unhappy you can contact the PHSO via the following:

By phone - 0345 015 4033 (Monday to Friday, 8.30am to 5.30pm, except Bank Holidays)

By email: [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)

By post - the Health Service Ombudsman, Millbank Tower, Millbank, London SW1P 4QP

## COMPLAINTS/RISK GRADING TOOL

Table 1 – Likelihood score (L)

What is the likelihood of the risk occurring?

Likelihood score	1	2	3	4	5
Descriptor	Rare	Unlikely	Possible	Likely	Almost certain
Frequency	This will probably never happen/recur	Do not expect it to happen/recur but it is possible it may do so	Might happen or recur occasionally	Will probably happen/recur but it is not a persisting issue	Will undoubtedly happen/recur, possibly frequently

Table 2 - Consequence Score (C)

Consequence Score		
Level	Descriptor	Impact Description
1	Negligible	Unsatisfactory experience not directly related to care or commissioning decision. No impact or risk to future provision and no harm to the patient.
2	Minor	Unsatisfactory experience related to care or commissioning decision. Can be a single resolvable issue with minimal impact and relative minimal risk to the provision or care of a particular service. No real risk of litigation or adverse publicity.
3	Moderate	Patient experience below reasonable expectations in several areas but no lasting detriment or harm. Issues in complaint present potential impact on future service provision/delivery across dimensions of quality/safety. Often a justifiable complaint with slight potential of legal action against provider with reputational risk for CCG if event leads to adverse local external attention e.g. HSE, media, external bodies.
4	Major	Significant issues raised in relation to standards/quality/safety of care, denial of rights. Clear quality assurance and/or risk management implications which require investigation with high probability of litigation. Risk to CCG reputation in the short term with key stakeholders, public & media.
5	Catastrophic	Complaints which describe serious adverse events, significant safety issues, long-term damage, grossly substandard care, professional misconduct or death of patient which carry high probability of legal action and strong possibility of adverse national publicity.

**Table 3 – Event Grading Matrix**

Risk scoring = likelihood x consequence (L x C)

	Likelihood				
Consequence Score	1	2	3	4	5
	Rare	Unlikely	Possible	Likely	Almost certain
5 Catastrophic	5	10	15	20	25
4 Major	4	8	12	16	20
3 Moderate	3	6	9	12	15
2 Minor	2	4	6	8	10
1 Negligible	1	2	3	4	5

For grading risk, the scores obtained from the risk matrix are assigned grades as follows:

1 – 3	Low risk
4 – 6	Moderate Risk
8 – 12	High Risk
15 – 25	Extreme Risk

**Table 4 - Complaint Grading Tool/Timescale Matrix (Commissioned Services)**

RAG Rating	Complaint actions	Suggested Timescale for Response
<b>RED (Extreme)</b>	CCG coordinated complaint with commissioner of service taking lead. Investigated by provider at Executive level (CEO, Medical Director or equivalent). Report signed-off by CEO (or equivalent) of each agency involved and sent to CCG Chief Officer. Review by Chief Nurse before sign-off by Chief Officer. Lessons learned identified & disseminated through Quality Team.	Complaints Lead negotiates timescale of <b>45-60 working days</b> . Extensions of time may be sought as long as maximum period of 6 months in total from acknowledgement of complaint or receipt of consent is not exceeded.
<b>AMBER (High)</b>	CCG coordinated complaint with commissioner of service taking lead. Investigated by provider at Executive level (Medical Director or equivalent). Report signed-off by CEO (or equivalent) of each agency involved and sent to CCG Chief Officer. Review by Chief Nurse before sign-off by Chief Officer. Lessons learned identified & disseminated through Quality Team.	Complaints Lead negotiates timescale of <b>25 – 45 working days</b> . Extensions of time may be sought as long as maximum period of 6 months in total from acknowledgement of complaint or receipt of consent is not exceeded.
<b>YELLOW (Moderate)</b>	CCG negotiates involvement as limited to 'honest brokerage' and puts in place monitoring systems for ensuring local resolution and successful outcomes. Response to complainant direct from provider with copy to CCG for information.	Complaints Lead negotiates timescale of <b>10 - 20 working days</b> . Extensions of time may be sought only where justification can be evidenced (e.g. staff absence, recall of records) with maximum period of 25 working days set from acknowledgement of complaint or receipt of consent.
<b>GREEN (Low)</b>	CCG Complaints Lead will encourage patient/complainant to approach provider directly & will offer advice on complaints process. Response to complainant direct from provider with copy to CCG for information purposes where dealt with under complaints process (if not resolved within 24 hours of provider receipt).	Agreement reached between complainant & Complaints Lead on way forward for local resolution within <b>3-5 working days</b> from acknowledgement of complaint.

## APPENDIX B

### PROCEDURE FOR MANAGEMENT OF COMPLAINTS



