



# Complaints Handling Policy and Procedure

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<b>Contact for Review:</b> Senior Manager, Complaints Service				

<b>Prepared by</b>	This Policy has been prepared by the Corporate Affairs team.
<b>Impact Assessment</b>	
<b>Consultation</b>	This Policy has been reviewed by the Leadership Team and Governing Body
<b>Authorised by</b>	Governing Body
<b>What is it for?</b>	If a person is unhappy about any matter reasonably connected with the exercise of the Group's functions, they are entitled to make a complaint, have it considered, and receive a response. This policy details that process.
<b>Who is it aimed at and which settings?</b>	The Policy is for use by all Patients, Carers and Service Users of North Norfolk.
<b>Evidence</b>	Parliamentary and Health Service Ombudsman – Principles for Remedy
<b>Other relevant approved documents</b>	Not applicable
<b>References</b>	Not applicable
<b>Training and competences</b>	Not applicable
<b>Monitoring and Evaluation</b>	This policy will be monitored and reviewed for effectiveness by the Complaints Manager July 2020.
<b>Appendix</b>	

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## 1. Introduction

NHS North Norfolk Clinical Commissioning Group (NHS North Norfolk CCG) complaints policy and procedure is written in accordance with **The Local Authority, Social Services and National Health Service Complaints (England) Regulations 2009** which came into force on 1st April 2009.

If a person is unhappy about any matter reasonably connected with the exercise of the Group's functions, they are entitled to make a complaint, have it considered, and receive a response. In particular, these complaints may relate to the commissioning of health care or other services under an NHS contract or making arrangements for the provision of such care or other services with an independent provider or with an NHS foundation trust,

Complaints about the Group's functions are managed and hosted by NHS South Norfolk CCG. Any reference to the Complaints Team or its staff members within this policy will be those staff employed by NHS South Norfolk CCG.

Matters excluded from consideration under these arrangements are listed at Appendix 4.

The Group aims to manage complaints by the procedure of local resolution. The primary objective of this process is to provide the opportunity for investigation and resolution of the complaint, as quickly as is sensible in the circumstances and minimising the need for the complainant to escalate concerns to the Parliamentary and Health Service Ombudsman (PHSO). It aims to satisfy the complainant while being fair to staff. Local resolution should be open, honest, fair, flexible and conciliatory.

## 2. Policy Statement

NHS North Norfolk CCG is committed to providing an accessible, fair and effective means for people (and/or their representatives) to express their views. It is also recognised staff have the right to make a complaint to senior managers on behalf of, or in the interests of, a patient.

The Group aims to promote a culture in which all forms of feedback are listened to and acted upon. Complaints, compliments, general comments and suggestions are encouraged. It is recognised such information is invaluable as a means of identifying both problems and areas of good practice and as such can be used as a tool for improving services.

**Being open:** Often, all that is required is a simple apology and/or explanation. This should, wherever possible, be given at the earliest opportunity by all front-line staff. Patients have a right to expect openness in their healthcare.

**No discrimination:** Patients should always be reassured that making a complaint will not affect their eligibility for, or the nature of, current or future treatment. This is achieved through the complete separation of complaint documentation from the patient's medical records. Complainants and members of staff are asked to inform the Group's Complaints Manager if they have any concerns about this.

Complaints about care that is felt to discriminate against a person will be reported to the Group's Governing Body.

**Dignity and respect:** Complaints about care that compromises the dignity of, or respect shown to, a person will be overtly reported to the Governing Body.

**Mindful of people's human rights:** The Group respects and observes the Absolute, Limited, and Qualified Rights contained in legislation and applies these rights to all its business undertakings. The Rights are set out at Appendix 1.

**Mental Capacity Act 2005, revised 2007:** The Group is also mindful of the statutory principles contained in this legislation, an overview of which is set out at Appendix 2.

**Legal Action:** Should a complainant explicitly indicate an intention to take any form of legal action the matter will be treated under the appropriate procedure.

The Group's Complaints Manager may investigate the complaint if it does not compromise or prejudice the concurrent investigation, but this can be discontinued at any time if circumstances change.

### **3. Complaints Handling Policy**

#### **3.1 Responsibilities**

**The Chief Officer** is accountable for the quality of the care commissioned and will, therefore, have an overview of all recorded dissatisfaction expressed by patients and service users.

**Chief of Corporate Affairs** is the senior person appointed by the Chief Officer to ensure the process for handling and reporting on complaints on behalf of the Group complies with this policy.

#### **3.2 Who can complain?**

A complaint can be made under this policy by:

A patient or person affected or likely to be affected by the actions or decisions of the Group;  
or

someone acting on behalf of the patient or person concerned, with their consent;

or

someone acting on behalf of a person mentioned above, and in any case where that person has died;

or

is a child;

or

is unable by reasons of physical or mental incapacity to make the complaint themselves.

#### **3.3 Local Resolution**

The first stage of the NHS complaints procedure is called 'local resolution' and complaints should be made, in the first instance, to the organisation providing the service.

Local resolution aims to resolve complaints quickly and as close to the source of the complaint as possible, using the most appropriate means; for example, the use of conciliation. Local resolution enables concerns to be raised immediately by speaking to a member of staff who may be able to resolve issues without the need to make a formal complaint.

#### **3.4 Making a Formal Complaint**

If local resolution does not resolve matters and the complainant wishes to continue with their complaint they can do this orally or in writing (including e-mail) to the Complaints Manager for NHS North Norfolk CCG at the following address:

The Complaints Manager  
Lakeside 400  
Old Chapel Way  
Broadland Business Park  
Thorpe St Andrew  
Norwich  
NR7 0WG

Tel - 01603 595857

Email – [snccg.complaintsservice@nhs.net](mailto:snccg.complaintsservice@nhs.net)

The complaint will be recorded as being made on the date on which it was received by the Complaints Manager.

### **3.5 Time limit for making a complaint**

A complaint should be made within 12 months of the event(s) concerned, or within 12 months of the date on which the matter came to the notice of the complainant. The Complaints Manager has discretion to waive this time limit if there are good reasons for the complaint not having been made within that time frame.

### **3.6 Complaints about Primary Care Services**

Dealing with complaints about the delivery of primary care in the Group's area that cannot be resolved directly with the practitioner or the practice is the responsibility of the NHS England. Complaints in this regard should be sent directly to NHS England. However, there are some instances when the Group's Complaints Team may become involved in trying to resolve concerns within primary care. These will be triaged by the Group's Complaints Manager to identify if there is a role for the Group.

### **3.7 Duty of Candour**

The Group welcomes the government's commitment to introducing a duty of candour within the NHS. This recommends that all providers of NHS care should owe a duty of candour to their commissioners under which they provide, amongst others;

- Timely reports, prepared to an agreed protocol, of all complaints made by NHS patients;
- In cases when complaints are upheld, Complaints Action Plans to address the weaknesses that have been identified;
- Progress reports in relation to implementation of complaints action plans

The Clinical Quality and Patient Safety team will review and monitor the reports received from providers and will report to the relevant Quality Committee to ensure the quality of services provided is of a high standard and they continually strive for further improvement. This will be addressed with providers through the existing quality monitoring mechanisms.

## **4. Complaints Handling Procedure**

### **4.1 Acknowledgement and record of complaint**

The Complaints Manager will send to the complainant a written acknowledgement of the complaint within **3 working days** of the date on which the complaint was received. This acknowledgement will include:

- a copy of the Complaints Leaflet;
- a weblink to an ethnic category form (as required by the Department of Health (DoH));
- if necessary, a consent form to be signed and returned by the patient if they are not the person who has identified the concerns to be investigated;
- information concerning how to access the local NHS advocacy provider, POHWER;
- information concerning how to access the Parliamentary and Health Service Ombudsman;
- information about obtaining a leaflet, letter or other information in another language or in large print or Braille

### **4.2 Complaints in Writing**

The Group's Complaints Manager will review the complaint, then identify the appropriate senior manager to investigate the matter.

Where the complaint involves services or care commissioned from or provided by more than one organisation, the Group's Complaints Manager will liaise with the complaints manager(s) of the other organisation(s) to ensure all aspects of the complaint are appropriately investigated and responded to.

### **4.3 Verbal Complaints**

When a verbal complaint is made to the Group's Complaints Manager, the letter of acknowledgement and associated enclosures must be accompanied by a written file note summarising the issues raised, with an invitation to the complainant to sign and return it. This will ensure all aspects of the complaint have been thoroughly understood.

### **4.4 Investigation**

The Group's Complaints Manager will discuss the investigation of high risk cases with the Group's Chief Officer and Director of Quality. The investigation must be of sufficient rigour and detail to enable the Group to provide an open, honest and comprehensive response to the complainant. The investigating officer will request the review of patient records and statements from the staff involved as necessary and provide a response to the complaint to the Groups' Complaints Manager.

Investigating managers will share a copy of the written complaint response with any person who was the subject of the complaint.

## **4.5 Response**

The complainant should receive a full written response from the Group's Chief Officer as soon as reasonably practical following completion of the investigation and within a preferred timescale of 25 working days following receipt of the complaint if possible. If this is not achievable the Complaints Manager will write to the complainant explaining the reason, and an achievable date will be negotiated. A response must be sent within six months of the date of a complaint being received.

If a complainant is not happy with aspects of the response, they are encouraged to contact the Group's Complaints Team in the first instance, but they will also have the option of appealing to the PHSO.

## **5. Parliamentary and Health Service Ombudsman and Principles for Remedy**

The Group will follow the principles of good administration outlined by the Parliamentary and Health Service Ombudsman and will consider the impact of the organisation's actions on the individual concerned. The key principles are as follows:

### **i. Getting it right**

- Acting in accordance with the law and with due regard for the rights of those concerned
- Acting in accordance with the public body's policy and guidance (published or internal)
- Taking proper account of established good practice
- Providing effective services, using appropriately trained and competent staff
- Taking reasonable decisions, based on all relevant considerations

### **ii. Being customer focused**

- Ensuring people can access services easily
- Informing customers what they can expect and what the public body expects of them
- Keeping to its commitments, including any published service standards
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances
- Responding to customers' needs flexibly including, where appropriate, co-ordinating a response with other providers

### **iii. Being open and accountable**

- Being open and clear about policies, procedures and decisions, and ensuring that information and any advice provided is clear, accurate and complete
- Stating its criteria for decision making and giving reasons for decisions
- Handling information properly and appropriately
- Keeping proper and appropriate records
- Taking responsibility for its actions

### **iv. Acting fairly and proportionately**

- Treating people impartially, with respect and courtesy
- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests
- Dealing with people and issues objectively and consistently
- Ensuring that decisions and actions are proportionate, appropriate and fair

### **v. Putting things right**

- Acknowledging mistakes and apologising where appropriate

- Putting mistakes right quickly and effectively
- Providing clear and timely information on how and when to appeal or complain
- Operating an effective complaints procedure, this includes offering a fair and appropriate remedy when a complaint is upheld

#### **vi. Seeking continuous improvement**

- Reviewing policies and procedures regularly to ensure they are effective
- Asking for feedback and using it to improve services and performance
- Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.

### **6. Role of the Health Service Ombudsman**

The Ombudsman is completely independent of the NHS and of government and derives his powers from the Health Service Commissioners Act 1993. The Ombudsman is the final arbiter in the complaints process where it has not been possible to resolve concerns locally. The Group will co-operate fully with any investigation undertaken by the Ombudsman. Further information on the role and work of the Ombudsman is available at:

Parliamentary and Health Service Ombudsman  
Millbank Tower  
Millbank  
London, SW1P 4QP

Tel: 0345 015 4033 e-mail: [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)

Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

### **7. Role of the Complaints Advocacy Service (POHWER) and Patient Advocates**

POHWER has an important role in helping complainants at each stage of the process. Under the Mental Capacity Act 2005, the role of advocate for patients who lack capacity is undertaken by the Independent Mental Capacity Advocate Service (IMCA). All complainants are sent a leaflet with POHWER details to inform them of POHWER and their role in providing support and information.

### **8. Complaints and Disciplinary Procedures**

The complaints procedure is concerned only with resolving complaints and not with investigating disciplinary matters. Whether disciplinary action is warranted is a separate matter for management outside of the Complaints Procedure and there must be a separate process of investigation.

### **9. Monitoring and Learning from Complaints**

- All complaints will be recorded on the Group's database and complaint files maintained for a period of not less than ten years;
- The Complaints Manager will provide regular reports, no less than quarterly, to the Group's Governing Body and to each meeting of the Joint Quality Committee, if clinically appropriate. The report will provide information about the number of complaints; the services involved; the reasons for complaints and any ongoing trends.

- The Group's Complaints Manager will prepare information regarding complaints handling which will be included in the Group's Annual Report.

## **10. Staff Support**

The Group acknowledges the importance of supporting those involved in complaints and recognises the need to ensure that all parties are provided with timely and appropriate support.

## **11. Habitual, Unnecessarily Aggressive or Repetitive Complainants**

Habitual, unnecessarily aggressive or repetitive complainants are an increasing problem for staff, reflecting a pattern experienced throughout the NHS. The difficulty in handling such complainants can place a strain on time and resources and cause undue stress for staff that may need support in difficult situations. Staff are trained to respond in a professional and helpful manner to the needs of all complainants. However, there are times where nothing further can reasonably be done to assist the complainant or to rectify a real or perceived problem. Appendix 3 sets out the procedure for the management of habitual, unnecessarily aggressive or repetitive complainants.

## **12. Review**

The Complaints Policy and Procedure will be reviewed bi-annually, or sooner, if changes occur in legislation. The effectiveness of the policy will be reviewed in the light of performance against response timeframes; numbers resolved and referred complaints as well as implementation of lessons learned.

The procedure will also be reviewed in the light of any audit recommendations, learning and developments cycles or changes to organisational structure that may impact on how the procedures operate.

## **Appendix 1**

### **Articles of Human Rights**

The Human Rights Act 1998 gives further effect to the rights and freedoms contained in the European Convention on Human Rights. Article 1 of the European Convention is introductory and is not incorporated into the Human Rights Act.

#### **Article 2: Right to Life**

A person has the right to have their life protected by law. There are only certain very limited circumstances where it is acceptable for the state to take away someone's life, e.g. if a police officer acts justifiably in self-defence.

#### **Article 3: Prohibition of Torture**

A person has the absolute right not to be tortured or subjected to treatment or punishment which is inhuman or degrading.

#### **Article 4: Prohibition of Slavery and Forced Labour**

A person has the absolute right not to be treated as a slave or to be required to perform forced or compulsory labour.

#### **Article 5: Right to Liberty and Security**

A person has the right not to be deprived of their liberty except in limited cases and provided there is a proper legal basis in UK law.

#### **Article 6: Right to a Fair Trial**

A person has the right to a fair and public hearing within a reasonable period of time.

#### **Article 7: No Punishment without Law**

A person normally has the right not to be found guilty of a crime arising out of actions which, at the time they committed them, were not criminal.

**Apart from the right to hold particular beliefs, the rights in Articles 8-11 may be limited where that is necessary to achieve an important objective.**

#### **Article 8: Right to Respect for Private and Family Life**

A person has the right to respect for their private and family life, their home and their correspondence.

#### **Article 9: Freedom of Thought, Conscience and Religion**

A person is free to hold a broad range of views, beliefs and thoughts and to follow a religious faith.

#### **Article 10: Freedom of Expression**

A person has the right to hold opinions and express their views on their own or in a group. This applies even if those views are unpopular or disturbing.

**Article 11: Freedom of Assembly and Association**

A person has the right to assemble with other people in a peaceful way. They also have the right to associate with other people, including the right to form a trade union.

**Article 12: Right to Marry**

Men and women have the right to marry and start a family; however, national law will still govern how and at what age this can take place.  
(Article 13 is not included in the Human Rights Act)

**Article 14: Prohibition of Discrimination**

A person has the right not to be treated differently because of their race, religion, sex, political views or any other personal status unless this can be justified objectively.

## Appendix 2

### Mental Capacity Act 2005, revised 2007

#### Introduction

The Mental Capacity Act 2005 (the Act) provides the legal framework for acting and making decisions on behalf of individuals who lack the mental capacity to make particular decisions for themselves. Everyone working with and/or caring for an adult who may lack capacity to make specific decisions must comply with this Act when making decisions or acting for that person, when the person lacks the capacity to make a particular decision for themselves. The same rules apply whether the decisions are life-changing events or everyday matters.

The Act's starting point is to confirm in legislation that it should be assumed that an adult (aged 16 or over) has full legal capacity to make decisions for themselves (the right to autonomy) unless it can be shown that they lack capacity to make a decision for themselves at the time the decision needs to be made. This is known as the presumption of capacity. The Act also states that people must be given all appropriate help and support to enable them to make their own decisions or to maximise their participation in any decision-making process.

The underlying philosophy of the Act is to ensure that any decision made, or action taken, on behalf of someone who lacks the capacity to make the decision or act for themselves is made in their best interests.

The Act is intended to assist and support people who may lack capacity and to discourage anyone who is involved in caring for someone who lacks capacity from being overly restrictive or controlling. But the Act also aims to balance an individual's right to make decisions for themselves with their right to be protected from harm if they lack capacity to make decisions to protect themselves.

The Act sets out a legal framework of how to act and make decisions on behalf of people who lack capacity to make specific decisions for themselves. It sets out some core principles and methods for making decisions and carrying out actions in relation to personal welfare, healthcare and financial matters affecting people who may lack capacity to make specific decisions about these issues for themselves.

Many of the provisions in the Act are based upon existing common law principles (i.e. principles that have been established through decisions made by courts in individual cases). The Act clarifies and improves upon these principles and builds on current good practice which is based on the principles.

The **five statutory principles**, contained in Section 1 of The Act, are:

- A person must be assumed to have capacity unless it is established that they lack capacity.
- A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
- A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
- An act done or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
- Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

## Appendix 3

### **The Management of Persons Who are Identified as Habitual, Unnecessarily Aggressive or Repetitive Complainants**

#### **1. Introduction**

This guidance should only be used as a last resort and after all reasonable measures have been taken to assist the person concerned. All staff are expected to be familiar with the NHS Complaints Procedure.

The decision to categorise a person as a habitual, unnecessarily aggressive or repetitive complainant will follow discussion between the Group's Chief Officer, Complaints Manager and an appropriate member of the Executive Team.

It should be emphasised that the classification of an individual as a 'habitual, unnecessarily aggressive or repetitive' complainant will NOT mean that any new issues, having no connection with original concerns, will not be dealt with through the usual process.

#### **2. Criteria for definition of a habitual, unnecessarily aggressive or repetitive caller or complainant**

Complainants may be deemed to be habitual, unnecessarily aggressive or repetitive callers where previous or current contact with them shows that they meet two or more of the following criteria:

- Persist in pursuing a complaint where the NHS Complaints Procedure has been fully and properly implemented and exhausted
- Change the substance of a complaint or continually raise new issues or seek to prolong contact by repeatedly raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. (Care must be taken not to discard new issues that are significantly different from the original complaint. These might have to be addressed separately)
- Do not clearly identify the precise issues they wish to be investigated, despite reasonable efforts by staff and others (e.g. advocacy agencies) to help them specify their concerns
- The complaint or issue is trivial or appears to consume an excessive amount of resources
- Having, in the course of pursuing their concerns, had an excessive number of contacts with the Group by telephone, letter or fax. Staff should be instructed to keep a clear record of the number of contacts to demonstrate their excessive nature
- Display unreasonable demands or expectations and fail to accept these may be unreasonable, for example insist on immediate responses from senior staff when they are not available and this has been explained

- Have threatened or used actual physical violence. All such cases must be documented on an incident form in accordance with policy, in case of further action
- Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with them. All cases must be documented on an incident form in accordance with policy, in case of further action.

**The use of actual physical violence, albeit on one occasion only, will result in the application of measures described under (3) to limit the personal contact ordinarily available to complainants.**

### **3. Procedure for handling habitual, unnecessarily aggressive or repetitive callers or complainants**

- Ensure all relevant procedures and reasonable action has been correctly implemented. If you are at all uncertain, please check with the Group's Complaints Manager or Director of Corporate Affairs
- Even the most difficult of callers may have issues that contain genuine substance
- Remain professional and polite. This does not mean that you have to listen continually to the same story of complaint, nor that you cannot politely, but firmly terminate the call
- Record the date, time and how long you were on the telephone and inform the Groups' Complaints Manager as soon as possible
- When a caller has been officially declared an habitual, unnecessarily aggressive or repetitive caller, the Group's Chief Officer may decide no further telephone communication will be accepted
- Where there is ongoing correspondence or investigation, the Group's Complaints Manager will write to the caller setting the parameters for a code of behaviour and the lines of communication. These will be communicated to all staff to ensure consistency of approach.

Where investigation or correspondence is completed, the Group's Complaints Manager will, at an appropriate stage, write to the caller informing him/her the Group has responded fully to the points raised and that there is nothing further that can be added, therefore correspondence is at an end. The Group may wish to state that further correspondence will be acknowledged, but not answered.

**It should be emphasised that the classification of an individual as habitual, unnecessarily aggressive or repetitive will not mean that any new issues having no connection with the original complaint or dispute will not be dealt with in the normal way.**

## **Appendix 4**

### **Matters Excluded from Consideration under this Policy**

The following complaints are excluded from the scope of the arrangements described within this policy:

- A complaint made by an NHS body which relates to the exercise of its functions by another NHS body.
- A complaint made by a primary care provider which relates either to the exercise of its functions by an NHS body or to the contract or arrangements under which it provides primary care services, unless those arrangements fall within the Group's sphere of responsibility. In such cases, the Group's Dispute Procedure should be invoked.
- A complaint made by an employee about any matter relating to his/her contract of employment.
- A complaint made by an independent provider or an NHS foundation trust about any matter relating to arrangements made by the Group with that independent provider or NHS foundation trust.
- A complaint which is being or has been investigated by the PHSO or Local Government Ombudsman.
- A complaint arising out of the Group's alleged failure to comply with a data subject request under the Data Protection Act 1998 or a request for information under the Freedom of Information Act 2000.
- A complaint about which the complainant has stated in writing that s/he intends to take legal proceedings.
- A complaint about which the Group is taking or is proposing to take disciplinary proceedings in relation to the substance of the complaint against a person who is the subject of the complaint.