



Complaints Framework 2014/15

Version:	1.4
Responsible Committee:	Quality Committee
Date approved:	28 August 2014
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Date issued:	30 November 2014
Next review to be complete by:	April 2016
Target audience:	All staff – Clinical Commissioning Group and Yorkshire and Humber Commissioning Support Unit Public Commissioned Service Providers

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1. FOREWORD

This framework is based on the *Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*, which were introduced on 1 April 2009. The regulations set out an outcome based approach to complaints handling and cover both NHS services and social care:

“By listening to people about their experiences of health and social care services, managers can resolve mistakes faster, learn new ways to improve and prevent the same problems from happening in the future. In short, by dealing with complaints more effectively, services can get better, which will improve things for the people who use them as well as for the staff working in them.”

“Listening, Responding and Improving – a guide to better customer care 2009”

It is important that NHS Calderdale CCG has a robust process in place for receiving and handling complaints appropriately and makes positive use of the information gained to avoid similar occurrences and to improve the services it commissions.

The arrangements must be accessible and allow for individuals to complain in a variety of ways (including by telephone, in writing, email) and be able to expect a detailed, considered and prompt response in languages and formats that reflect the people and communities served by the organisation.

Since 1 April 2013, the West and South Yorkshire and Bassetlaw Commissioning Support Unit (CSU) has been providing a complaints handling service for NHS Calderdale CCG. A named Complaints Manager has been identified to ensure that Calderdale CCG, provides a high quality complaints service which includes the identification of the learning from complaints.

Independent Practitioner Complaints

Since 1 April 2013, complaints against an independent primary care practitioner, (that is, a general medical practitioner, dentist, pharmacist or optician) should be directed to NHS England. All practices have their own procedures for dealing with problems and complaints. These have to meet the standards set out in *Local Authority Social Services and National Health Service Complaints (England) Regulations 2009* and should provide information on making a complaint. Information reflecting the procedure must be available from the practice.

If, however, the complainant does not wish to raise their problem or complaint directly with the practice concerned, they are able to approach NHS England to have their complaint investigated.

Complaints about commissioned services and about the CCG

This Complaints Framework sets out the following in respect of complaints about services or care that come under the responsibility of NHS Calderdale CCG. The Framework sets out:

- Our aims, objectives and principles
- Procedures for handling, investigating and responding to complaints

- Monitoring and reporting on the performance and managements of
- Complaints and lessons learned
- Roles and responsibilities

See section 4.3 for other areas that are outside the scope of this complaints procedure.

SECTION ONE – AIMS, OBJECTIVES AND PRINCIPLES

1.1 Definition

A complaint is “*any expression of dissatisfaction whether justified or not.*”

1.2 Aims

This Framework sets out the approach that NHS Calderdale CCG takes to the handling, investigation and learning from complaints received into the organisation. The aims of the service are to meet the following criteria:

- Be well publicised and easy to access
- Be simple to understand and use
- Be fair and impartial
- Allow complaints to be dealt with promptly
- Provide answers or explanations quickly and within established time limits.
- Ensure that rights to confidentiality and privacy are respected
- Provide a thorough and effective mechanism for resolving complaints and also investigating matters of concern.
- Enable lessons learned to be used to improve the quality of services
- Be regularly reviewed and amended if found to be lacking in any respect.
- Be consistent with national guidance

1.3 Objectives

- 1.4 NHS Calderdale CCG aims to commission high quality services, but occasionally things can go wrong. When they do, it seeks to put them right and learn from the experience to improve services. Complaints are one way of identifying people’s perspective of the service provided. NHS Calderdale CCG therefore values the views, comments and suggestions of patients, carers, staff and the general public.
- 1.5 The objective is to provide an open, fair and accessible service for patients or their representatives for complaints about NHS Calderdale CCG or services it commissions with hospitals, community services and independent providers (including nursing homes).
- 1.6 This framework explains how NHS Calderdale CCG will handle complaints. It outlines the action to be taken and offers guidance on good practice at each stage of the process. It provides staff with clear guidance about referring concerns arising from complaints to professional regulatory bodies, the police, the coroner, and raising complaints involving vulnerable children and vulnerable adults to the appropriate protection agency.
- 1.7 It aims to provide staff with clear guidance about NHS Calderdale CCG’s procedures for investigating matters that fall outside the NHS complaints procedure (for example complaints about other patients; complaints about care provided by the independent sector; complaints pursued through legal action; complaints made about the application of the Data Protection Act and the Freedom of Information Act); and matters that will be investigated alongside the complaints framework (for example a related disciplinary process).

1.8 Principles

1.9 The Complaints Manager will apply NHS England's principles "Getting the Initial Contact Right" when initial contact is made with the complainant. These are:

- Be pleasant, courteous and keep calm;
- Maintain confidentiality. Don't discuss matters in front of others;
- Get consent. This is required for the investigation of the complaint. This must be from the patient if a complaint has been made on their behalf;
- Check how the complainant wants to be addressed and whether they have any particular access or communication preferences or needs;
- Arrange to discuss the complaint by phone or by meeting;
- Make the complainant aware of local advocacy support;
- Be prepared to listen to their complaint in detail. Don't be defensive, make assumptions or speculate about what may have happened;
- Get all the details so you are clear about the complaint. Try to agree a summary of the key points the complainant wishes you to address;
- Ask what they would like to happen as a result of the complaint and be honest right from the outset (explaining why) if their expectations are not feasible or realistic;
- Always resolve the matter immediately if you can and check that the complainant is happy with that. Confirm in writing; and
- Agree a broad plan of action, including when and how the complainant will hear back from your organisation and how they will be kept updated on progress. Let them know the name and contact details of the member of staff who will investigate their complaint.

1.10 Interpretation

1.11 The complaints framework applies to any complaint, whether it is received from a user of the service or their representative, or a member of the community who comes into contact with the service by other means. All complaints raised directly with NHS Calderdale CCG are investigated (subject to the receipt of necessary consent), and responses to them are structured in an appropriate way (for example, check all investigation comments cover all the relevant aspects of a complaint and address all the required issues; check to make sure the investigating officer has defined "what happened? what should have happened? what are the differences between those two things?")

SECTION TWO – POLICY CONTEXT

2.1 General Principles – Being Open and Accountable

It is important that the correct procedures are followed. All employees that are likely to receive complaints will be made aware of this document. Adherence must also be made to the National Patient Safety Agency (NPSA) Strategy on improving communication between healthcare organisations and patients and/or carers. This also forms part of the Government's initiative to establish a safer and better healthcare service in its report "*Building a Safer NHS for Patients*". All NHS Calderdale CCG staff must therefore take into account the guidance available in the NPSA's policy on openness and honesty following patient incidents, "*Being Open*," when handling and responding to complaints. Openness when things go wrong is fundamental to the partnership between patients and those who provide their care.

2.2 The Parliamentary and Health Service Ombudsman defines 'Being Open and Accountable' as outlined below:

- Acknowledging, apologising and explaining when things go wrong.
- Conducting a thorough investigation of the complaint
- Reassuring the complainant that any lessons learned will help prevent the experience from happening again.
- Providing support to cope with the physical and psychological consequences of what has happened.

2.3 Complaints will be managed in line with the standards provided following the Patients Associations Peer Review into complaints at the Mid Staffordshire NHS Foundation Trust. These are:

- The investigation of the complaint is impartial and fair
- Individuals assigned to play a part in a complaint investigation have the necessary competencies
- The roles and responsibilities of the complaints handling team are clearly defined
- The governance arrangements regarding complaint handling are robust
- The complainant has a single point of contact in the organisation and is placed at the centre of the process
- Investigations are carried out in accordance with local procedures, national guidance and within any legal policies
- The investigator reviews, organises and evaluates the investigative findings
- The judgement reached by the decision maker is transparent and reasonable, based on the evidence available
- The complaint documentation is accurate and complete. The investigation is formally recorded, the level of detail appropriate to the nature and seriousness of the complaint
- The organisation responds adequately to the complainant and those complained about
- Learning lessons from complaints occurs throughout the organisation

- The organisation records, analyses and reports complaints information throughout the organisation and to external audiences.
- 2.4 Complaints should be viewed positively; using them to identify where improvement in service provision is necessary.
- 2.5 All NHS employees have a responsibility to do all that is possible to reduce the need for complaints by patients, their relatives and advocates.
- 2.6 All complaints should be treated confidentially. However the right to confidentiality is not absolute and it can be waived or over-ridden in a number of circumstances, for example:
- where a patient has expressly or implicitly consented to information being disclosed, e.g. when a victim makes a witness statement and details the injuries suffered;
 - regardless of consent, it can be over-ridden by primary or secondary legislation, for example, Health Service Directions or the *Public Health (Control of Diseases) Act 1984*
 - regardless of consent, if disclosure is in the public interest, then the duty of confidence can be over-ridden.
- 2.7 The Chief Officer is the responsible officer for ensuring that complaints are investigated and handled following the *Local Authority Social Services and National Health Service Complaints (England) Regulations 2009* and that appropriate action is taken to learn from the findings of any complaint investigations.
- 2.8 Great emphasis is placed on providing a comprehensive response as quickly as possible and in meeting staff members' needs for support and guidance while any investigation is taking place.
- 2.9 This framework should be read in conjunction with the *Local Authority Social Services and National Health Service Complaints (England) Regulations 2009* and resource pack.

This policy is also cross referenced with other policies within the CCG. Staff may wish to access the following policies for further information:

Integrated Risk Management Framework
 Serious Untoward Incident Policy
 Freedom of Information Policy
 Training Policy
 Access to Health Records
 Safeguarding Children and Adults Commissioning Policy
 Supervision Policy
 Appraisal, Grievance and Whistle Blowing Procedures

These can be accessed via the NHS Calderdale CCG intranet and website at www.calderdaleccg.nhs.uk

SECTION THREE – CCG COMPLAINTS PROCEDURE

3.1 There are two main stages involved in making a complaint

1) Local Resolution

This aims to provide a fast, informal and satisfactory response to the complainant. It is hoped that most complaints will be resolved at the Local Resolution stage.

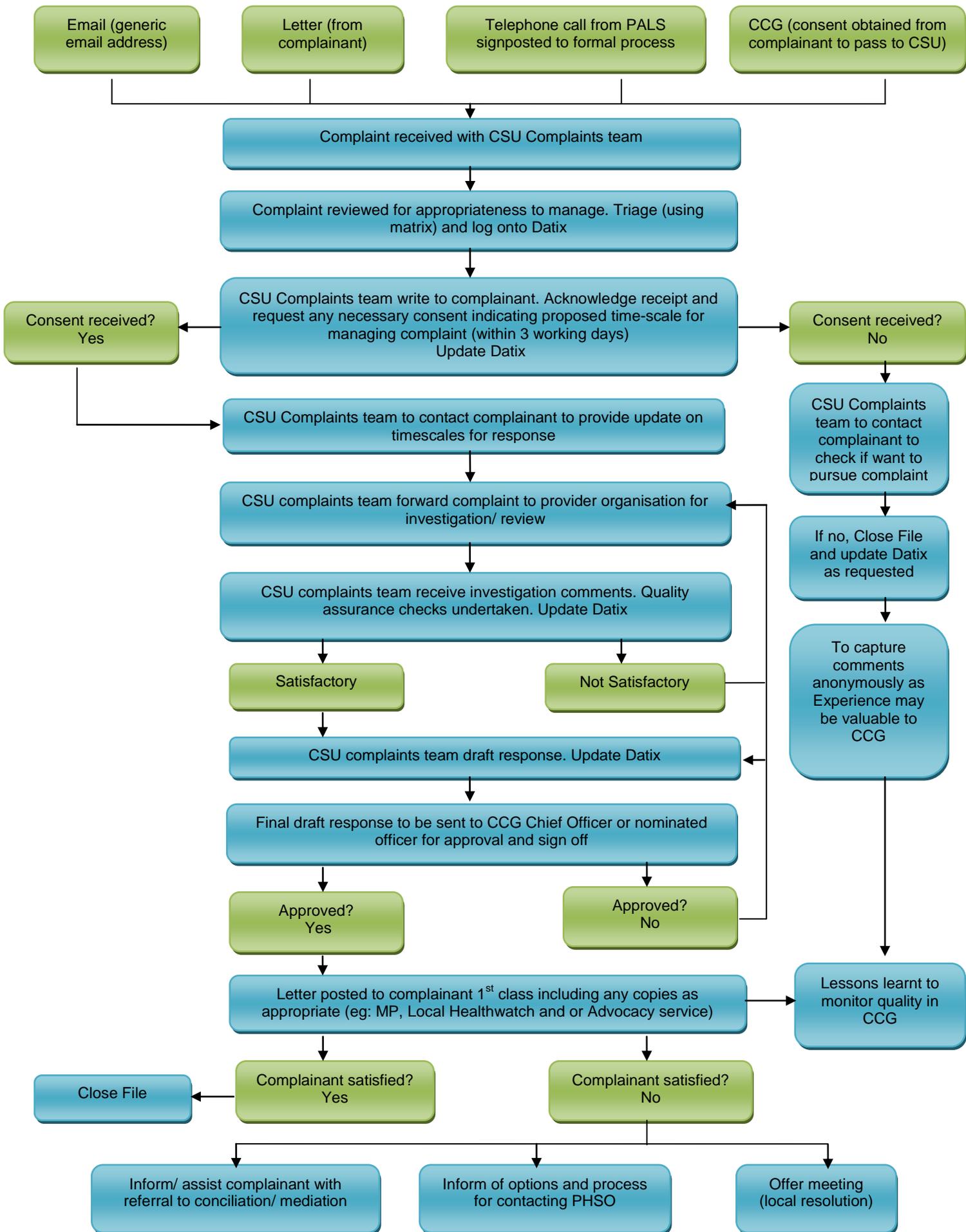
2) Parliamentary and Health Service Ombudsman

If the complainant feels their case remains unresolved, they have the option of referring it to the Parliamentary and Health Service Ombudsman. More details can be found at www.ombudsman.org.uk

This Framework sets out the processes to be followed as part of the Local Resolution Procedure.

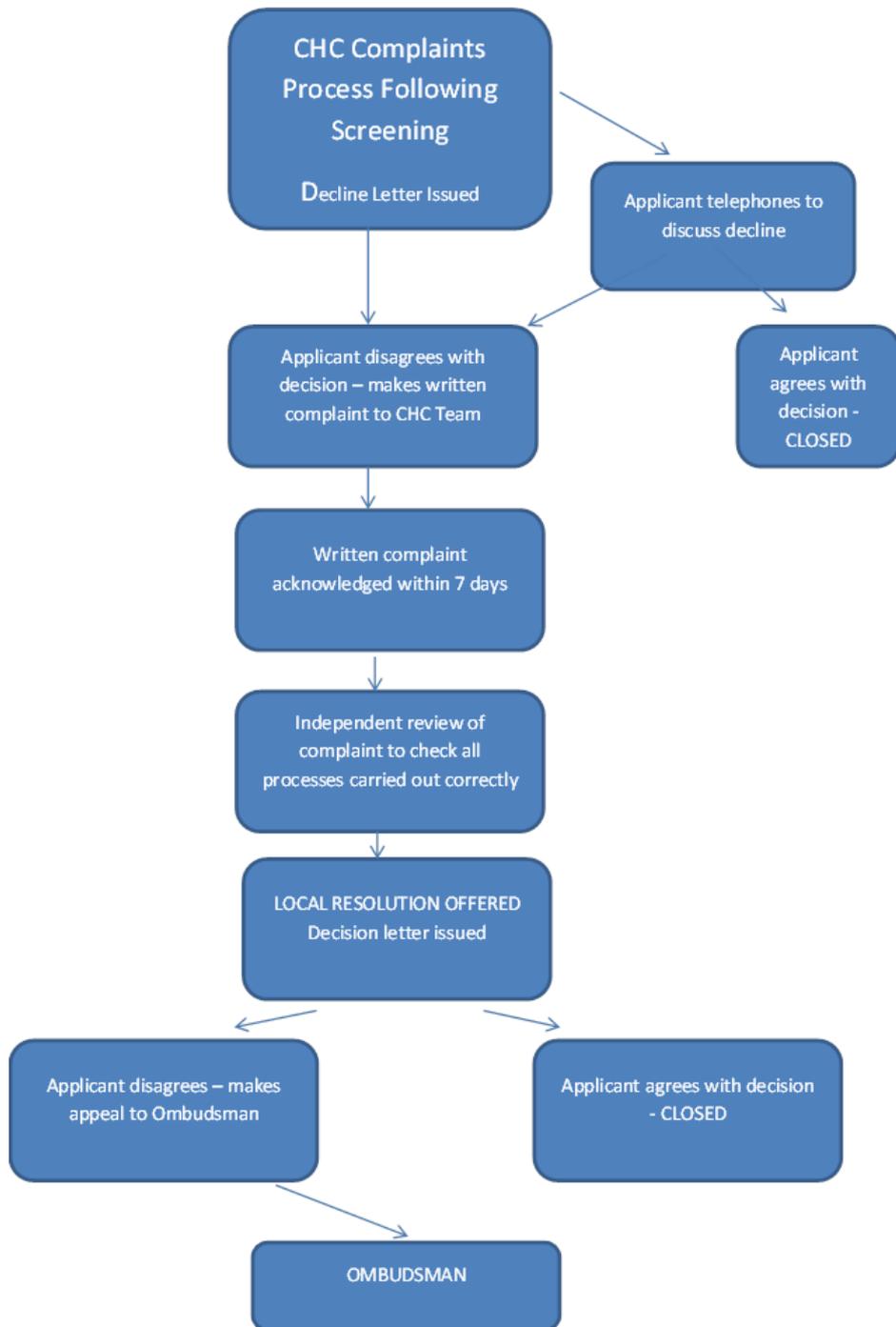
3.2 Local Resolution

The following flow diagram sets out the complaints handling procedure that has been agreed between NHS Calderdale CCG and the Governance and Risk Team of the Commissioning Support Unit:

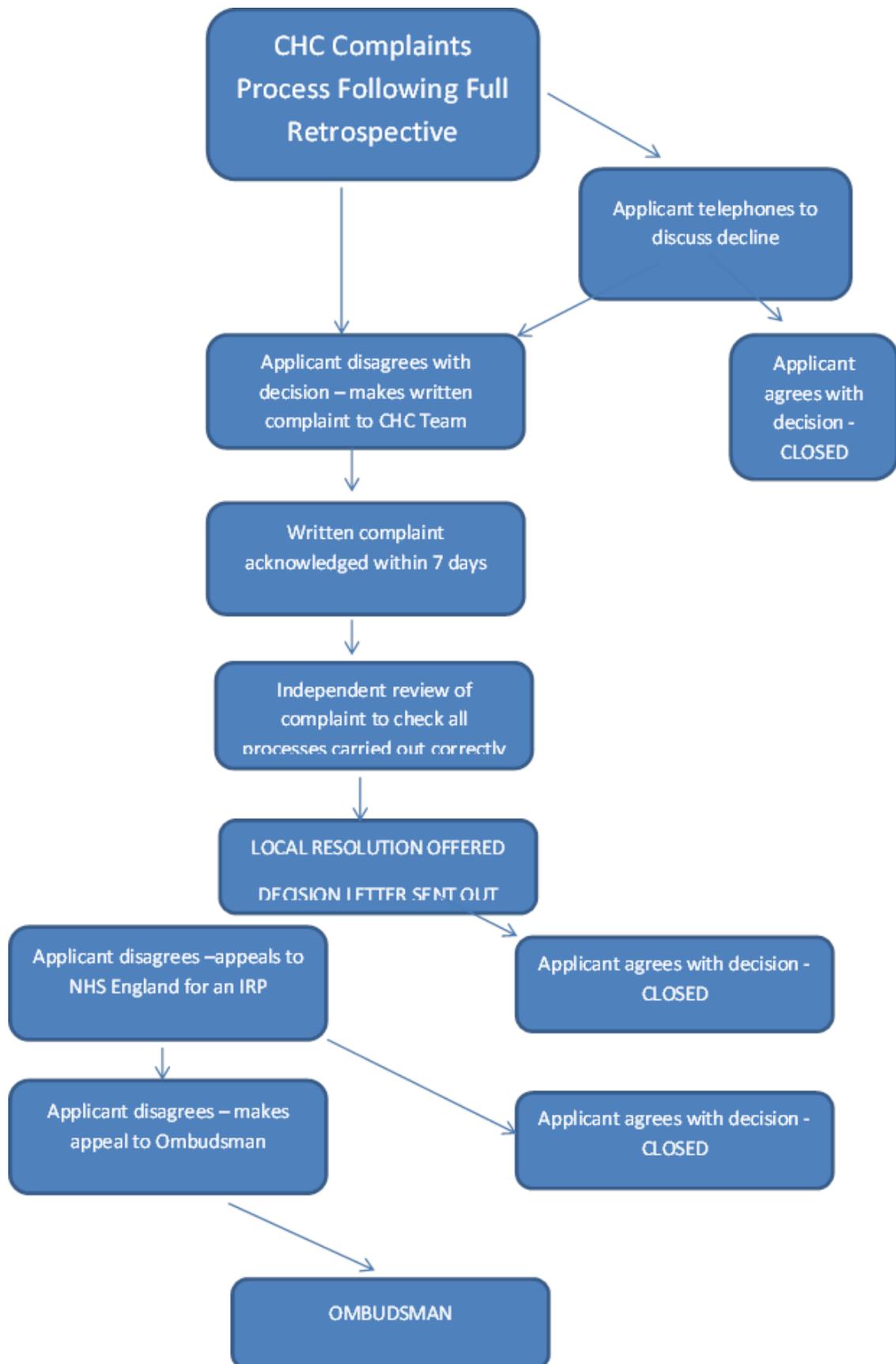


3.3 Continuing Health Care Appeals Processes

- 3.3.1 Following the closedown for retrospective appeals for continuing care in September 2012 it was acknowledged that as part of this process there would be a high number of appeals. It was important to have a process within the CCG for these to be managed separate to the CCGs and Commissioning Support Unit's complaints process. A separate process has been developed within the Continuing Health Care (CHC) team to manage the appeals.
- 3.3.2 The following flow diagram sets out the retrospective appeals process for CHC complaints after screening:



3.3.2 The following flow diagram sets out the CHC process following full retrospective:



3.4 Receiving Complaints

3.4.1 Verbal enquiries and complaints

Where complaints are received in person or over the telephone, every effort will be made to resolve the situation at the time. Where the member of staff receiving the complaint is unable to resolve the issue, then assistance from an appropriate line or senior manager should be requested.

3.4.2 In all circumstances where a verbal complaint is taken, a *First Contact Log* form should be completed immediately. This ensures a comprehensive record of the conversation and concerns is made and that all necessary details (names, addresses, staff involved) are recorded. This information should then be forwarded to the CSU Complaints Manager who will ensure her team logs this onto the Datix database.

3.4.3 Any verbal complaint, which cannot be resolved informally should be reported to the CSU Complaints Manager and then handled in accordance with timescales for complaints. The complainant will be informed of NHS Calderdale CCG's Complaints Procedure at this point.

3.4.4 The patient or their representative will be asked to put their concerns in writing and advised to send their correspondence to the Complaints Manager.

3.4.5 All verbal enquiries, concerns and complaints should be the subject of investigation and response of the same quality as a written complaint whether or not the complainant has indicated a desire to have the matter dealt with as such.

3.4.6 Written Complaints received directly by Calderdale CCG

Written complaints, whether in form of a letter, fax or email received by any member of staff will be date stamped on the date received. The letter will be passed to the Chief Officer for information, at this point. If consents are required these will be sought at the same time (see section 3.3.3).

3.4.7 Where there is no date stamp on a written complaint, the Complaints Manager will register the complaint when he/she receives it.

3.4.8 When consent is received from the complainant, the Corporate and Governance Manager will make arrangements to pass the details to the Complaints Manager.

3.4.9 Complaints received by email

Complaints received via email will be viewed as seriously as written complaints and processed in the same manner and the same procedures for consent are followed.

3.4.10 Acknowledgement Letters

The CSU Complaints Manager will send out an acknowledgement letter to the complainant. This will:

- Explain how the complaint will be handled and who will be investigating the issues.

- Inform the complainant that they will receive a full written response to the issues they have raised in accordance with the respective level given to the complaint. In some more complex cases, the deadline may need to be extended, but only following agreement with the complainant.
- Provide contact details of the Complaints Manager in case there are any queries about the investigation or the complaints procedure.
- Include an apology if there has been a delay of more than three working days from the date the complaint was received or the date it was received by the Complaints Manager.
- Inform the complainant of the role of the Calderdale Citizens Advice NHS Complaints Advocacy Service (ICAS)¹.

3.4.11 Once the complaint has been logged and acknowledged, the Complaints Manager will forward it immediately to the relevant Head of Service, or provider organisation, who will be responsible for investigation. The receiving organisation will be responsible for nominating an Investigating Officer to investigate the issues raised and compile a draft response for submission to Calderdale CCG's Chief Officer.

3.4.12 Where the Investigating Officer becomes aware that he/she is unable to meet the deadline given, they will notify the Complaints Manager of the reasons for the delay and give an indication of when the response is likely to be available. The Complaints Manager will contact the complainant to agree an extension to the deadline.

3.4.13 The Chief Officer, or nominated representative, is responsible for responding in writing to all Level 3 and 4 complaints received by NHS Calderdale CCG.

3.4.14 Making Reasonable Adjustments

Upon receipt of a complaint it is clear that the complainant or their representative has additional communication needs, we will ask how we can meet their needs most appropriately and put in place suitable arrangement. This may include communicating in their (native) first language, or corresponding in large print.

3.4.15 Lowering Barriers

Complaints received where litigation is being undertaken, or considered, will not be excluded from the being investigated following the *Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*.

However, it may be prudent for parties in actual or potential litigation to agree to a stay of proceedings pending the outcome of the complaint investigation.

¹ ICAS offers information, advice and support to people wishing to make a complaint regarding NHS services. Their service is free and confidential and details are included in NHS Calderdale CCG's Complaints Leaflet and website.

3.4.16 Complaints which may also be an adverse or serious incident

On receipt of a complaint in which it becomes apparent that an adverse or serious incident may have occurred, the Complaints Manager will inform the CCG's Head of Quality and provide support and advice from the Quality Team in the West and South Yorkshire and Bassetlaw Commissioning Support Unit.

3.5 Inter-organisation Consents

3.5.1 CSUs are not legal entities in their own right. They are hosted by NHS England. The CSU Complaints Manager is employed by the Business Services Authority.

3.5.2 Because the CSU is not a legal entity in its own right, Calderdale CCG is required to seek consent from complainants contacting them, in order to pass the details over to the CSU Complaints Manager. This is because the CSU may need to look at those parts of their clinical record that relate to the complaint as part of their handling of the case.

3.5.3 This consent is sought by the CCG on receipt of the complaint into the organisation (see section 3.2.5)

3.5.4 NHS Calderdale CCG will also inform complainants that they will need their consent if their complaint information needs to be disclosed to other organisations as part of the investigation of their complaint. The names of these organisations will be made clear to the complainant.

3.6 Investigating Complaints

3.6.1 The complaints handled fall into one of four categories:

Level 1 - Simple queries

For example:

Advice regarding waiting times.

Appointments or contact details with acute trusts.

Acknowledge and respond within three working days

Level 2 – Low (simple, non-complex issues)

For example:

Delayed or cancelled appointments.

Event resulting in minor harm (e.g. cut, strain).

Loss of property.

Lack of cleanliness.

Transport problems.

Single failure to meet care needs (e.g. missed call-back bell).

Medical records missing.

Acknowledgement within three working days

Response within 3 – 5 days

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

For example:

Event resulting in moderate harm (e.g. fracture)

Failure to meet care needs.

Miscommunication or misinformation.

Medical errors.

Incorrect treatment.

Staff attitude or communication.

Acknowledgement within three working days

Response time will be agreed with the complainant following receipt of consent.

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

For example:

As moderate list, including:

Event may have resulted in serious harm (e.g. neglect)

Acknowledgement within three working days

Response time will be with the agreement of the complainant following receipt of consent (depending on severity and number of providers)

- 3.6.2 The Investigating Officer must have the relevant skills to undertake the task and be selected according to the importance and seriousness of the complaint.
- 3.6.3 It is anticipated that the Investigating Officer will normally be the senior manager responsible for the area concerned. It is desirable that the complaint is dealt with as close to the point of delivery as possible to ensure a prompt reply and that appropriate remedial action is taken.
- 3.6.4 If the Investigating Officer is not deemed to be sufficiently impartial another member of the senior management team will be the investigating officer.
- 3.6.5 The Investigating Officer will liaise with the Complaints Manager if advice or involvement of professionals or clinicians is required.
- 3.6.6 The investigation must be open, honest, factual, fair and identify any lessons which need to be learned.

3.7 Meeting the complainant

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

- 3.7.2 Where the Investigating Officer arranges a meeting with the complainant, the Investigating Officer and Complaints Manager will determine how the meeting will be structured. The Investigating Officer will conduct the meeting and ensure that notes are taken. The complainant will be offered the opportunity to have someone else present to assist them, for example, from ICAS (see section 3.2.10). The meeting must be formally recorded and the notes agreed with the complainant.
- 3.7.3 If the Investigating Officer feels there is likely to be a delay in responding to the complainant, he/she must inform the Complaints Manager so that a holding letter /extension request can be sent to the complainant, keeping them informed.
- 3.7.4 Guidance on investigating complaints is available from the Complaints Manager.

3.8 Complaints involving more than one organisation

- 3.8.1 If a complaint concerns a number of organisations they are entitled to receive one co-ordinated response² state that complainants should receive one co-ordinated response if their complaint concerns a number of organisations.
- 3.8.2 Where a complaint involves more than one NHS provider, or one or more other bodies; for example, Local Authority adult social services; there should be full co-operation in seeking to resolve the complaint.³
- 3.8.3 If a complaint is made to NHS Calderdale CCG regarding more than one provider, the Complaints Manager will liaise with each organisation and ask them to investigate the relevant issues raised in the complaint and ask them to forward their response to the Complaints Manager who will then arrange a combined response with the Chief Officer of the CCG. This ensures the patient only has to deal with one organisation.
- 3.8.4 A joint protocol is in place between NHS Calderdale CCG and health care providers. This has the following aims:
- a) avoid any confusion for the client about how their complaint will be handled and by whom;
 - b) provide clarity about the respective roles and responsibilities of each organisation;
 - c) ensure that the complaints' professionals involved in the case communicate regularly;
 - d) ensure that any lessons that need to be learned are identified and addressed by the relevant organisation.
- 3.8.5 Local Authority Children's Services are not part of the *Local Authority Social Services and National Health Service Complaints (England) Regulations, 2009*. Such complaints are redirected to:

Complaints and Compliments Team
Freepost RTGL-EXHR-SRLH

² *Local Authority Social Services and National Health Service Complaints (England) Regulations, 2009*

³ Ibid.

Halifax Customer First
1st Floor
19 Horton Street
Halifax
HX1 1QE

3.9 Holding Letters

- 3.9.1 If a response deadline is unlikely to be met, a holding letter will be sent four days before the deadline is due.
- 3.9.2 The holding letter will include an apology for the delay and an explanation of the reason. An indication of the date a full response can be expected. The complainant will be asked to agree to the extension.
- 3.9.3 A copy of this letter will be kept on the complaint file. Should a complaint response be delayed further, the file will remain under review and further holding letters with clear apologies and explanations for the delay will be sent on a regular basis until the final response is sent.
- 3.9.4 Alternatively, the agreement can be reached verbally between the complainant and the Complaints Manager, a record of these conversations will be kept and confirmation sent to the complainant.

3.10 Final Response Letter

- 3.10.1 All written complaints must receive a response in writing from the CCG's Chief Officer, or nominated representative. The final letter should be dispatched within the timescale for the level given to the complaint (see section 3.4.1).
- 3.10.2 The Investigating Officer will provide the Complaints Manager with a copy of the draft response when the matter has been investigated. The Complaints Manager will quality assure the response prior to submitting to the Chief Officer, or his nominated representative, for signature.
- 3.10.3 Wherever practical, replies to all complaints will be agreed with staff involved before the draft reply is sent to the Complaints Manager. If the response cannot be agreed with those involved, the Complaints Manager should be informed, in order to agree the wording of the response. It is essential, however, to remain objective at all times and present a fair reply to all complainants. Where it is clear that there has been a mistake or failure in procedures, this should be clearly stated and an appropriate apology given. Where this could constitute an admission of legal liability the matter may need to be referred for legal advice. The Complaints Manager will liaise with the Corporate and Governance Manager for advice on the recommended course of action.
- 3.10.4 The Complaints Manager will check that the response covers all aspects of the complaint raised by the complainant. The Complaints Manager will follow up any queries regarding the response with the Investigation Officer as soon as possible.
- 3.10.5 The final response letter must be factually correct, and include:

- an apology where appropriate - an apology is not necessarily about accepting blame or fault, but will sometimes be an acknowledgement of the complainants feelings about their experience;
- address each of the points raised by the complainant with a full explanation or provide reasons where it has not been possible to comment on a specific matter;
- specific details about the investigation, how it was carried out, who was interviewed or what was discovered;
- details of action taken and learning identified as a result of the complaint;
- the name and telephone number of the Complaints Manager and or the Investigation Officer for further queries/discussion;
- details of further action available to the complainant, for example, meeting with the investigating officer;
- contact details of the Parliamentary and Health Service Ombudsman should the client remain unsatisfied;
- timescale for referral of complaints to the Parliamentary and Health Service Ombudsman which is no later than 6 months after the complainant's receipt of the Chief Officer's response.

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

3.10.7 Where appropriate, the Investigating Officer will be advised that the formal response has been sent.

3.11 Taking the complaint further

There are three options if the complainant continues to be dissatisfied after they receive their final response:

3.11.1 Conciliation

Conciliation is a way of resolving a problem or a complaint or a difference of opinion between two parties using the skills of a conciliator to facilitate the process. It involves using an independent, impartial person to liaise between the conflicting parties with the aim of achieving a clearer understanding of events from both sides and good relations between the two parties restored.

A conciliator is someone not personally connected with either party. Conciliators have been specifically trained and work confidentially. A conciliator does not take sides and is concerned only to reach a resolution acceptable to both parties in the dispute.

Either the complainant, NHS Calderdale CCG or a commissioned service provider can suggest it. If the other party agrees then either may ask the Complaints Manager to arrange for the involvement of a conciliator.

Following the conciliation process the Complaints Manager will write to the complainant to outline the next stage of the complaints procedure. As conciliation is a confidential process no notes are taken.

3.11.2 Mediation

An alternative option which provides a similar route to a solution is mediation. Mediation differs from conciliation, in that it is the parties that arrive at a solution to the issues rather than this being led by the conciliator. Mediation is facilitative and requires good communication between the parties to achieve a resolution. Mediation is purchased by the NHS Calderdale CCG on an ad-hoc basis and should only be offered if there is a clear opportunity for resolution at this stage.

3.11.3 Health Service Ombudsman

If the complainant continues to be dissatisfied after all attempts have been made to resolve their concerns at Local Resolution stage, they can ask the Health Service Ombudsman to investigate their case.

SECTION FOUR - Other aspects of complaints handling and investigation to be considered

4.1 Time Limits

- 4.1.1 A complaint should normally be made within twelve months of the incident happening.
- 4.1.2 Complaints which relate to an incident that took place more than twelve months ago can be very difficult to investigate due to the time lapse involved. NHS Calderdale CCG has the discretion to extend this time limit where it would be unreasonable, in the circumstances of a particular case, for the complainant to have made their complaint earlier and where it is still possible to investigate the facts of the case. The Complaints Manager, in consultation with the relevant Head of Service, will make a decision on a case by case basis.

4.2 Third party consents

- 4.2.1 There are many occasions where a complaint is made indirectly through a third party (relative/friend/advocate). In such instances, the Complaints Manager will need to establish that the third party is acting with the consent of the individual concerned. A consent form for the patient to sign and return to the Complaints Lead is included as part of the acknowledgement process.

The investigation will not continue until the appropriate consents have been received.

- 4.2.2 In the case of a patient or person affected who has died or who is incapable by reason of physical or mental capacity, the third party must be a relative or other person who, in the opinion of the Complaints Manager, is the appointed next of kin, or she feels has a sufficient interest in the patient's welfare and is a suitable person to act as representative.
- 4.2.3 In the case of a child, the representative must be a parent, guardian or other adult person who has care of the child. Where the child is in the care of a local authority or a voluntary organisation, the representative must be a person authorised by the local authority or the voluntary organisation.
- 4.2.4 If authorisation is not received within two weeks, a reminder is sent to the complainant by the Complaints Manager restating why it is required and asking for it to be returned. Both the Complaints Manager and the Investigating Officer will need to take into account the patient's wishes and his/her responsibility to investigate matters of concern brought to his/her attention.
- 4.2.5 Once consent has been established, the process and investigation will normally follow the same procedure as a complaint, which is made directly. However, the Complaints Manager will always be aware of the confidential nature of the response and, in some cases, it may be more appropriate to send the reply direct to the patient concerned advising the third party that a reply has been sent. Each case will be considered individually.

4.2.6 Complaints received through Members of Parliament should be treated in the same way as all other complaints. The Chief Officer, or nominated representative will sign the reply. The response will be addressed to the MP. However, in some cases the complaint may be handled directly with the complainant and, in such cases, a letter stating that this is happening may be an appropriate reply to the MP.

4.3 Issues not suitable for the Local Authority and NHS Complaints Procedure.

4.3.1 The complaints procedure is for patients, users of the service or their representatives. The following issues do not fall within the NHS complaints procedure:

- A complaint which:

- Has been previously investigated
- Is being considered by the Parliamentary and Health Service Ombudsman

- Staff Grievances

Staff grievances should be followed up via the Human Resources policy on staff grievances.

- Staff Complaints About Patient Care

Staff concerns about patient care or services should be followed up via appropriate Clinical Governance Procedures and Policies.

- Disciplinary Procedure

If a complaint is against a member of staff employed by a provider of a service commissioned by NHS Calderdale CCG, any disciplinary action will only be started after the complaint has been completed and/or when the Parliamentary and Health Service Ombudsman has considered the complaint and, if applicable, produced its report. Disciplinary matters cannot be investigated under the complaints procedure and a separate disciplinary panel would be set up to investigate and report back to NHS Calderdale CCG.

If a complaint is against one of NHS Calderdale CCG's personnel and disciplinary action is indicated, the complaints procedure will be stopped and the matter will be investigated under the Trust's disciplinary procedure.

- Whistleblowing

Staff concerns about the organisation should be considered as 'whistleblowing' and referred to the Whistleblowing Policy.

- Criminal Matters

Where there are allegations relating to assault or other serious criminal matters the Chief Officer must be informed immediately for a decision to be

taken on whether to refer the matter to the Police.

- Private Treatment

Complaints concerning private care or treatment cannot be investigated through the NHS complaints procedure. Complainants should be referred to the private organisation involved for investigation and response.

- Freedom of Information (FOI) / Data Protection Act (DPA) 1998

Complaints concerning FOI or DPA requests should be referred to the Corporate and Governance Manager.

- Complaints about a commissioned service by staff or volunteers of that service

These should be deemed as whistleblowing and should be brought to the attention of the relevant CCG commissioning manager.

The Complaints Manager will notify the complainant by letter of any decision not to investigate their complaint and provide them with an explanation for this.

SECTION FIVE - VEXATIOUS AND PERSISTENT COMPLAINTS

- 5.1 NHS Calderdale CCG is committed to treating all complaints equitably and recognises that it is the right of every individual to pursue a complaint. Calderdale CCG therefore endeavours to resolve all complaints to the complainant's satisfaction. However, on occasions, the CCG may consider that a complaint is habitual in nature, i.e. the complaint raises the same or similar issues repeatedly, despite having received full responses to all the issues they have raised.
- 5.1.1 Vexatious complaints may be symptomatic of an illness and the complaints procedure may not be the most appropriate means of dealing with the issues involved.
- 5.1.2 They should be responded to with patience and sympathy, although at times there is nothing further that can be done or said to reasonably assist the complainant or to rectify a real or perceived problem.
- 5.1.3 The Complaints Manager and the Chief Officer will work to ensure that the complaints procedure has been correctly implemented as far as possible and that no elements or issues of a complaint have been overlooked or inadequately addressed. It should also be appreciated that all complainants may have issues which contain genuine substance. The need to ensure an objective, fair and consistent approach is crucial.
- 5.1.4 Support will be offered to staff in difficult situations. Any member of staff who feels that they are or have suffered harassment by a complainant should immediately report this to their Line Manager, Head of Service or the Complaints Manager.
- 5.1.5 If a complainant becomes abusive, aggressive or is threatening whilst they are making a complaint staff should be empowered to terminate the conversation having warned the complainant that they will do so. Staff can contact the Complaints Manager or their Line Manager for support in these circumstances.
- 5.1.6 It is recommended that the principles of the NHS Zero Tolerance Policy are implemented in dealing with patients who show violent and aggressive behaviour is considered in such circumstances.
- 5.1.7 If staff wish to withdraw from a telephone or face to face conversation with the complainant, they should be supported. Staff should be reminded of their right to feel safe and that the organisation will take steps to protect them from abuse. Any incidents of violence and/or abusive behaviour should be reported in accordance with Incident Reporting Procedures. Full written records of telephone conversations should be kept.
- 5.1.8 The Complaints Manager and the Chief Officer will consider the stage where the complainant becomes habitual or persistent. The following options should be considered as a last resort and after all reasonable measures have been taken to resolve the complaint following the *Local Authority and National Health Service Complaints (England) Regulations 2009*.
- Decline contact with the complainant either in person, by telephone, by fax, by letter, by email or any combination of these, provided that one form of contact

is maintained or alternatively to restrict contact to liaison through a third party.

- The complainant to be notified, in writing, by the Chief Officer that they have responded fully to the issues raised within the complaint and have tried to resolve the complaint but there is nothing more to add. Continuing contact on the matter will serve no useful purpose and correspondence is at an end. Further correspondence will be acknowledged but not answered.
- If the complainant persists with their complaint, the Chief Officer should write to the complainant to ask them to cease contact with the organisation unless new issues arise. The complainant may also be warned that NHS Calderdale CCG reserves the right to pass the individual complaint to solicitors.

SECTION SIX - MANAGEMENT AND REPORTING ARRANGEMENTS

6.1 Record keeping

6.1.1 A complaint file will be made, held and maintained by the Complaints Manager for each complaint received.

6.1.2 The record will contain the following information:

- each complaint received
- the subject matter and outcome of each complaint
- details of any agreed response period
- any amendment to this agreed period
- whether a report was issued to the complainant within the agreed period.

6.1.3 A complaint's file has the same status as any other created by a healthcare organisation. Its contents are confidential and the Complaints Manager is responsible for making sure that it is maintained to an appropriate standard in line with Information Governance requirements.

6.1.4 Complaints records will be kept separate from health records. Patient's health records should contain only information which is strictly relevant to their care and treatment. Any correspondence relating directly to a patient's complaint that is found in the patient's medical records should be forwarded to the Complaints Manager.

6.1.5 The Investigating Officer should forward any additional file notes and statements collated during the investigation to the Complaints Manager at the end of their investigation, for inclusion in the complaints file. This should include a review of any action plan produced by the organisation the complaint related to and highlight errors or shortcomings with any necessary remedial action. An example action plan is attached as Appendix 1.

6.1.6 The file may be required by the Parliamentary and Health Service Ombudsman and all papers must be considered 'disclosable' to the patient, their representative or solicitor (in the case of litigation). The Complaint file will be kept for a minimum of ten years.

6.2 Monitoring Mechanisms

6.2.1 All complaints are recorded as incidents on the electronic system Datix. The Complaints Manager will monitor the progress of the complaint investigation using the reminders built into the Datix system.

6.2.2 The Complaints Manager will also monitor response and investigation times to ensure that complaints are handled within the agreed timescales. Where this is

not possible and an extension needs to be negotiated, this will be recorded in the relevant complaint file.

6.2.3 The Complaints Manager will conduct a twice yearly satisfaction survey with complainants. Results obtained from such surveys will be reported to the Quality Committee and used to improve the complaints handling service.

6.3 Reporting

6.3.1 The Complaints Manager will report all complaints to the CCG's Corporate and Governance manager. General issues being raised as complaints within NHS Calderdale CCG will also be reported to the Chief Officer.

6.3.2 Monitoring complaints against providers helps to identify possible themes, issues or risk to ensure that appropriate action can be taken. The Complaints Manager will provide a quarterly report. This will form part of *Learning from Experience* report to the Quality Committee.

6.3.3 The Quarterly Report will include:

- the number of complaints and an analysis of the subject matter, clinical area or directorate
- identify any repeats, clusters or increases
- details of risk assessments and action taken to mitigate risk
- analysis of the outcomes of complaints
- summary of the learning/insight
- details of any action taken as a result of complaints and how the impact of any change in policy/practice will be measured
- whether any other provider organisations were involved in the complaint
- what the information shows about people's experience of complaining and whether action is required as a result
- triangulate with other soft intelligence and feedback that may suggest areas for improvement.

6.3.4 The Regulations require all commissioned service providers to produce an Annual Complaints Report for the CCG. This is publicised on the NHS Calderdale CCG website.

6.3.5 The Annual Report will:

- Detail performance against agreed Key Performance Indicators for complaints handling

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

6.3.6 Calderdale CCG's Quality Committee receives regular information from providers regarding complaints. This information is captured in Calderdale and Huddersfield NHS Foundation Trust's Quarterly "Learning from Experience" Report and the Quarterly Compliance Report from South West Yorkshire Partnership Foundation Trust.

6.3.7 Subject to anonymisation, a summary of upheld complaints relating to patient care will be published on the CCG's website. This will be with the complainant's consent. If the complainant, or if different, the patient, refuses to agree to their complaint being publicised, the summary should be shared confidentially with the Commissioner and the Care Quality Commission.

6.3.8 NHS Calderdale CCG will support the Care Quality Commission, Overview and Scrutiny Committee and Local Healthwatch with information they may require regarding complaints. Any disclosure of such information will be anonymous and in accordance with the Data Protection Act 1989.

6.4 Improving services

6.4.1 The Investigation Manager will be responsible for ensuring action and identification of the lessons learned has been undertaken within a reasonable timescale. Calderdale CCG must be able to demonstrate that following investigation of a complaint that any changes which will reduce risk are identified, considered and implemented.

6.4.2 The Complaints Manager will share any learning identified in the complaint response with the appropriate manager of NHS Calderdale CCG to ensure the actions are implemented by the Investigation Manager. Themes on lessons learnt will also be included in the quarterly *Learning from Experience* report submitted to the Quality Committee (see section 6.3.2 and 6.3.3)

6.4.3 Calderdale CCG assists and supports NHS England in discharging its duty to secure continuous improvements in the quality of primary medical services in Calderdale. The Complaints Manager liaises with NHS England area team to use information about complaints in primary care to help improve quality in primary

medical care for instance by:

- reviewing complaint investigation comments with or on behalf of area teams
- identifying any patterns, themes or trends across the CCG area
- working with member practices to identify how best to improve quality
- helping monitor and evaluate the action taken in response to complaints.

6.5 Roles and Responsibilities

The following sets out a summary of the roles and responsibilities of the managers involved in the complaints handling process:

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

CSU Complaints Manager - is responsible for managing a robust complaints handling and co-ordination service to Calderdale CCG in accordance with the *Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*. This includes the provision of advice and support to investigating officers, quality assurance of responses, production of reports on performance, themes and lessons learned.

Head of Quality - is responsible for ensuring lessons learned from Complaints Manager to improvements in the quality of service and patient experience.

Corporate and Governance Manager - is responsible for ensuring the continuity of a high quality and sustainable complaints service across Calderdale. This includes the performance management of the service, making arrangements for staff training as appropriate, ensuring that the themes and learning to come out of complaints is passed on to the quality and service improvement teams.

Investigating Officer - is responsible for ensuring that a high quality and prompt investigation is carried out and comments are provided to the Complaints Manager within an agreed timescale. They are responsible for identify any learning to improve the quality of the commissioned healthcare services or CCG services.

6.6 Support to Staff

- 6.6.1 Staff requiring support after a particularly difficult or stressful complaint should speak to their line manager in the first instance. Alternatively support can be obtained by contacting the CSU Complaints Manager, union representative or the Occupational Health Service.

SECTION SEVEN - DISSEMINATION OF THE POLICY AND REVIEW

7.1 Dissemination and Implementation

- 7.1.1 Complaints information will be shared through the annual complaints report and a section in the CCG's annual report.
- 7.1.2 Information on the complaints handling service and improvements that have resulted from complaints will be shared on the CCG's website:
www.calderdaleccg.nhs.uk
- 7.1.3 This Complaints Framework will be shared with staff through staff briefings and publicised on the Calderdale CCG website **www.calderdaleccg.nhs.uk**

7.2 Equality Impact Assessment

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

7.3 Monitoring Compliance and Effectiveness

- 7.3.1 The CCG will agree a clear set of performance indicators with the CSU for the service being delivered. These will be monitored through the monthly contract management meetings.

7.4 Review of Complaints Framework

A biennial review of the Complaints Framework will be undertaken by NHS Calderdale CCG.

Janet Smart, Complaints Manager and Senior Associate, Risk and Governance,
WSYBCSU
28 August 2014

Learning from Complaints

<p>Theme of learning</p> <p>Please circle the appropriate theme of the learning as identified on the attached concerns/categories sheet.</p>	<p>What do we need to do?</p> <p>If the issue could be prevented - described how?</p> <p>e.g. a change in policy process, provide information to service users.</p>	<p>How long will it take to make the changes needed?</p> <p>e.g. immediate changes needed within the next quarter.</p>	<p>How will we know that we've got there?</p> <p>e.g. Patient feedback. Staff feedback.</p>	<p>How will you share the lessons learnt?</p> <p>e.g. committee staff groups.</p>

CONCERNS/CATEGORIES

1	<input type="checkbox"/>	Admissions, discharge & transfer arrangements	24	<input type="checkbox"/>	Misdiagnosis
2	<input type="checkbox"/>	Advice & information (customer services enquiry)	25	<input type="checkbox"/>	Multiple aspects of clinical treatment
3	<input type="checkbox"/>	Aids & appliances, equipment, premises	26	<input type="checkbox"/>	NHS Direct
4	<input type="checkbox"/>	Appointments	27	<input type="checkbox"/>	Non-referral/unwillingness to refer/delay in referral
5	<input type="checkbox"/>	Attitude of staff	28	<input type="checkbox"/>	Older people care & treatment e.g. in intermediate care homes
6	<input type="checkbox"/>	Bereavement	29	<input type="checkbox"/>	Out of hours care/walk in centres
7	<input type="checkbox"/>	Care and treatment	30	<input type="checkbox"/>	Patient status/discrimination
8	<input type="checkbox"/>	Choose and book	31	<input type="checkbox"/>	Patient's privacy & dignity
9	<input type="checkbox"/>	Cleanliness/hygiene	32	<input type="checkbox"/>	Patients records
10	<input type="checkbox"/>	Code of confidentiality/openness	33	<input type="checkbox"/>	CCG commissioning (incl. waiting lists, funding of care/treatment)
11	<input type="checkbox"/>	Communication/information given to patient	34	<input type="checkbox"/>	Policy and commercial decisions of CCG
12	<input type="checkbox"/>	Complaints handling	35	<input type="checkbox"/>	Practice/surgery management
13	<input type="checkbox"/>	Consent to treatment	36	<input type="checkbox"/>	Premises/access, etc.
14	<input type="checkbox"/>	Continuing care and CC funding	37	<input type="checkbox"/>	Reimbursement of costs
15	<input type="checkbox"/>	Failure to follow agreed guidelines/processes	38	<input type="checkbox"/>	Social Services care
16	<input type="checkbox"/>	Failure/delay in diagnosis	39	<input type="checkbox"/>	Transfer arrangements
17	<input type="checkbox"/>	Hospital care and treatment	40	<input type="checkbox"/>	Transport (ambulance and other)
18	<input type="checkbox"/>	Length of time waiting for response	41	<input type="checkbox"/>	Treatment charges
19	<input type="checkbox"/>	Level of nursing care	42	<input type="checkbox"/>	Unprofessional conduct
20	<input type="checkbox"/>	Maternity services	43	<input type="checkbox"/>	Waiting time to receive results
21	<input type="checkbox"/>	Medication related issues	44	<input type="checkbox"/>	Other NHS Trust (give details)
22	<input type="checkbox"/>	Mental health	45	<input type="checkbox"/>	Other (give details)
23	<input type="checkbox"/>	Miscommunication between staff/trusts		<input type="checkbox"/>	