Complaints Policy
2016/2017
and
2017/2018

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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.

From the end of 2015, the complaints management service, previously provided by Yorkshire and Humber Commissioning Support Unit (CSU), transferred to NHS Calderdale CCG. A Complaints Manager has been appointed to ensure that NHS Calderdale CCG provides a high quality complaints service which includes the identification of learning from complaints.

**Complaints about commissioned services and about NHS Calderdale CCG**

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

- Our aims, objectives and principles
- Procedures for handling, investigating and responding to complaints
- Monitoring and reporting on the management of complaints and lessons learned
- Roles and responsibilities

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

**Complaints about Independent Practitioners**

Complaints against an independent primary care practitioner, (i.e. a general medical practitioner, dentist, pharmacist or optician) should be directed to the practice directly or to NHS England. All practices have their own procedures for dealing with concerns and complaints and information about the procedure must be available from the practice. The procedures have to meet the standards set out in *Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*. 
SECTION ONE – AIMS, OBJECTIVES AND PRINCIPLES

1.1 Definition

A complaint is “an expression of dissatisfaction about any aspect of NHS Calderdale CCG and the services it commissions.”

1.2 Aims

This Policy 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 approach are to:

- 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

1.3.1 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.

1.3.2 The objective is to provide an open, fair and accessible process for patients or their representatives to raise complaints about NHS Calderdale CCG or services it commissions with hospitals, community services and independent providers (including nursing homes).

1.3.3 This policy explains how NHS Calderdale CCG will handle complaints on behalf of patients registered with a GP surgery in the Calderdale area. 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.

1.3.4 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 Policy (for example a related disciplinary process).
1.4 Principles

1.4.1 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 of the organisation and where possible the member of staff who will investigate their complaint.

1.5 Interpretation

1.5.1 The complaints Policy applies to any complaint, whether it is received from a user of a service commissioned or provided by NHS Calderdale CCG, or their representative, or a member of the community who comes into contact with the service by other means. Complaints which are managed by NHS Calderdale CCG are investigated (subject to the receipt of necessary consent) and responses to them are structured in an appropriate way (for example, all investigation comments are checked to ensure they address all the issues raised in the complaint; the investigating officer has defined what happened and where necessary identified any lessons which have been learned).
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:

- 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.
Complaints should be viewed positively; using them to identify where improvement in service provision is necessary.

All NHS employees have a responsibility to do all that is possible to reduce the need for complaints by patients, their relatives and advocates.

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.

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.

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.

This Policy 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 NHS Calderdale 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.calderdale.ccg.nhs.uk

SECTION THREE – NHS CALDERDALE 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

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

3.2 Complaints Handling Procedure Flowchart

3.2.1 The following flow diagram (on page 10) sets out NHS Calderdale CCG’s complaints handling procedure
Complaint received anywhere within CCG. Complaint passed to Complaints Manager within one day

Complaints Manager to review complaint for appropriateness to manage. Triage (using matrix) and log onto complaints handling tracker

Consent received? Yes

Complaints Manager to contact complainant to provide update on timescales for CCG’s response in line with matrix

Consent received? No

Complaints Manager to acknowledge complaint within three working days of receipt in CCG and request necessary consent

Complaints Manager to contact complainant after two weeks of sending consent form to check if want to pursue complaint

Complaints Manager to forward complaint to provider organisation for investigation/review. Investigation response timescale set in line with matrix

Complaints Manager to check 5 days before due date that investigation comments will be ready

If no, close file and update the complaints handling tracker

Yes

Complaints Manager to carry out quality assurance checks

Satisfactory

Complaints Manager to forward complaint to provider organisation for investigation/review. Investigation response timescale set in line with matrix

Not Satisfactory

Complaints Manager to send holding letter to complainant and re-set CCG’s response timescale

Lessons learnt to monitor quality in CCG

No

Approved Yes

Complaints Manager to draft response for the CCG’s Chief Officer or nominated officer for approval and sign off

Approved No

Letter posted to complainant 1st class including any copies as appropriate (eg: MP, Local Healthwatch and or Advocacy service)

Inform of options and process for contacting PHSO

Complainant satisfied? Yes

Inform/ assist complainant with referral to conciliation/ mediation

Complainant satisfied? No

Invite the complainant to submit outstanding issues to the Complaints manager

Close File
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 NHS Calderdale CCG for these to be managed separate to the NHS Calderdale CCG’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:
3.3.3 The following flow diagram sets out the CHC process following full retrospective:

CHC Complaints Process Following Full Retrospective

- Applicant telephones to discuss decline
- Applicant agrees with decision - CLOSED

Applicant disagrees with decision - makes written complaint to CHC Team

Written complaint acknowledged within 7 days

Independent review of complaint to check all processes carried out correctly

LOCAL RESOLUTION OFFERED
DECISION LETTER SENT OUT

- Applicant disagrees - appeals to NHS England for an IRP
- Applicant disagrees - makes appeal to Ombudsman

- Applicant agrees with decision - CLOSED
- Applicant agrees with decision - CLOSED

OMBUDSMAN
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 Complaints Manager who will ensure the team logs this onto the NHS Calderdale CCG spreadsheet.

3.4.3 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.

3.4.4 The Complaints Manager will be notified about any verbal complaint, which cannot be resolved informally. The patient or their representative will be asked to put their concerns in writing and advised to send their correspondence to the Chief Officer. The complainant will be informed of NHS Calderdale CCG’s Complaints Procedure at this point.

3.4.5 Written complaints received directly by NHS Calderdale CCG

Written complaints, whether in form of a letter or fax received by any member of staff will be date stamped on the date received and passed to the Complaints Manager.

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

3.4.7 Complaints received by email

Complaints received via email will be viewed as seriously as written complaints and processed in the same manner.

3.4.8 Acknowledgement Letters

The Complaints Manager or a designated member of the Quality Team 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.
- Request consent if their complaint information needs to be shared with other organisations (see section 3.5.4) or if the complainant is making a complaint on behalf of somebody else (see section 4.2).

- 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 Healthwatch NHS Complaints Advocacy Service (ICAS)¹.

3.4.9 Making Reasonable Adjustments

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

3.4.10 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.

3.4.11 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 NHS Calderdale CCG’s Head of Quality.

3.5 Inter-organisation Consents

3.5.1 NHS Calderdale CCG will 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:

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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 website.
Level 1 - Simple queries

For example:
Advice regarding how to make a complaint
Contact details for NHS England

Response timescale: Where possible dealt with the same day

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

Response timescale: Acknowledgement within three working days
Response within 3 – 5 working 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

Response timescale: 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)

Response timescale: 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 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 provide their findings to NHS Calderdale CCG’s Complaints Manager.

3.6.3 The Investigating Officer must have the relevant skills to undertake the task and be selected according to the importance and seriousness of the complaint.

3.6.4 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.

3.6.5 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.

3.6.7 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 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 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 the regulations state that complainants should receive one co-ordinated response.

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.

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1 Local Authority Social Services and National Health Service Complaints (England) Regulations, 2009
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 forward their findings to the Complaints Manager who will then arrange a combined response with the Chief Officer of NHS Calderdale CCG. This ensures the complainant 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
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 to the complainant approximately 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.

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 Level 3 and 4 complaints must receive a response in writing from NHS Calderdale 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 should be no later than 6 months after the complainant’s receipt of the Chief Officer’s response.

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

3.10.7 Once the Complaints Manager has drafted the final response, it is taken with the complete complaints file to the Chief Officer, or nominated representative, for agreement and signature.

3.10.8 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 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.

4.2.2 In cases where the patient or person affected is incapable by reason of physical or mental capacity, the Complaints Manager may ask the third party to provide a Lasting Power of Attorney (LPA).

4.2.3 In the case of a patient or person affected who has died, the third party must be a relative or other person who, in the opinion of the Complaints Manager, is the appointed executor, or she feels has a sufficient interest in the patient’s welfare and is a suitable person to act as representative.

4.2.4 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.

4.2.5 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.

4.2.6 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.

4.2.7 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.

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

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 NHS Calderdale CCG commissioning manager.

**4.3.2** 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 – HABITUAL AND VEXATIOUS 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. NHS Calderdale CCG therefore endeavours to resolve all complaints to the complainant’s satisfaction. However, on occasions, NHS Calderdale CCG may consider that a complaint is habitual or vexatious in nature, for example, the complaint raises the same or similar issues repeatedly, despite having received full responses to all the issues they have raised.

5.1.1 Once a complainant has been identified as “habitual or vexatious” the Complaints Manager will discuss their considerations with the Chairperson and Chief Officer.

5.1.2 NHS Calderdale CCG’s Procedure for Habitual and Vexatious Complainants Procedure 2016 will only be followed after their careful consideration and authorisation.
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 response 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.

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 on the NHS Calderdale CCG’s tracking spreadsheet. The Complaints Manager will monitor the progress of the complaint investigation.

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 satisfaction survey at least twice a year 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 A quarterly anonymous summary of complaints data is submitted to the Health and Social Care Information Centre for their Hospital and Community Health Service Complaints Collection (KO41a).

6.3.2 A Complaints Update Report is provided twice a year to Calderdale NHS CCG’s Quality Committee.

6.3.3 The Complaints Update 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 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.

6.3.4 Themes and trends resulting from complaints are identified in a quarterly patient experience report which is reported to NHS Calderdale CCG’s Quality Committee.

6.3.5 The Regulations require all commissioned service providers to produce an Annual Complaints Report for NHS Calderdale CCG. This is published on NHS Calderdale CCG’s website.

6.3.6 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.

6.3.7 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. NHS 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.

6.5 Roles and Responsibilities

6.5.1 The following sets out a summary of the roles are 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.

**Complaints Manager** - is responsible for managing a robust complaints handling and co-ordination service to NHS 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 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 NHS Calderdale 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 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 NHS Calderdale CCG’s annual report.

7.1.2 Information on the complaints handling service and improvements that have resulted from complaints will be shared on NHS Calderdale CCG’s website: www.calderdaleccg.nhs.uk

7.1.3 This Complaints Policy will be shared with staff through staff briefings and publicised on NHS Calderdale CCG’s website www.calderdaleccg.nhs.uk

7.2 Equality Impact Assessment

7.2.1 A complainant and equality data collection form is sent to complainants to help NHS Calderdale CCG provide and deliver excellent services for all our communities.

7.3 Monitoring Compliance and Effectiveness

7.3.1 Detailed performance against agreed Key Performance Indicators for complaints handling is reported in the Annual Complaints Report.

7.4 Review of Complaints Policy

7.4.1 A biennial review of the Complaints Policy will be undertaken by the Complaints Manager for NHS Calderdale CCG.

Janet Smart
Complaints Manager

25 August 2016