

POLICY DOCUMENT

Policy for dealing with Complaints

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Version Control and Summary of Changes

| Version number | Date | Comments (description change and amendments) |
|-----------------------|---------------|---|
| V2 | 18/08/2015 | Policy updated to reflect CCG's current complaint process for dealing with complaints |
| V3 | February 2019 | Policy reviewed to ensure it remains fit for purpose - amendments made to job titles etc. |
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Contents

| | Page |
|---|-------------|
| 1. Aims and Objectives | 4 |
| 2. Guiding Principles | 5 |
| 3. Equalities, Diversity and Human Rights (EDHR) | 5 |
| 4. Duties | 6 |
| 5. What is covered by this Policy | 9 |
| 6. Who can complain | 10 |
| 7. What Complainants can expect from the Complaints Process | 10 |
| 8. Supporting Staff involved in Complaints Investigations | 11 |
| 9. Consent and Confidentiality | 11 |
| 10. Time Limits for Making a Complaint | 12 |
| 11. How a Complaint can be made | 12 |
| 12. Assessing Complaints | 12 |
| 13. Investigations | 13 |
| 14. Conciliation and Mediation | 13 |
| 15. Joint Complaints | 13 |
| 16. Help to make a complaint | 14 |
| 17. Persistent and Unreasonable Complainants | 14 |
| 18. Monitoring and Review | 14 |
| 19. Related Policies and Procedures | 14 |

1. AIMS AND OBJECTIVES

This policy applies to NHS West Leicestershire Clinical Commissioning Group, and hereafter referred to as WLCCG.

This policy covers all complaints received by WLCCG about the NHS services that it commissions for patients and the general public. WLCCG actively encourages feedback about the services for which they are responsible. The principal aim is to satisfy the complainant as fairly and as quickly as possible. It also aims to identify lessons learnt from complaints to prioritise service improvements and to continually improve the quality of commissioning and service delivery.

This policy applies to complaints received from patients and the public about the services the CCG commissions or buy from NHS bodies and independent health care providers.

The key objectives of the policy are:

- to ensure ease of access for patients and complainants
- having a fair, open and transparent process in the handling of complaints
- to ensure complaints are dealt with in a timely manner
- to ensure fairness for staff and complainants alike
- not discriminating against staff or complainants, either those subject to a complaint or those that are making a complaint
- to ensure lessons are identified and there is evidence of learning to improve services for patients and staff
- to maintain confidentiality in accordance with the Data Protection Act 2018, General Data Protection Regulations (GDPR) and the NHS Code of Conduct;
- to ensure that complaints involving more than one NHS organisation and joint complaints relating to health and social care are handled in a co-ordinated manner.

The current statutory framework for managing complaints in the NHS is set out in The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 No. 309. This framework applies to all NHS organisations including Clinical Commissioning Groups.

The policy has been updated to take account of the Equality Act 2010 and the NHS Constitution.

A protocol for handling local inter-organisational complaints has been developed with NHS and Social Services organisations in Leicester, Leicestershire and Rutland.

2. GUIDING PRINCIPLES

This policy is guided by the Principles of Good Complaints Handling published by the Parliamentary and Health Service Ombudsman for public bodies:

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

This is how we interpret the principals and how we will handle complaints:

- complaints are dealt with efficiently and confidentially
- complaints are properly investigated, monitored and recorded
- complainants receive, so far as reasonably practicable, assistance to enable them to understand the procedure or advice on where assistance should be available
- complainants receive a timely and appropriate response
- complainants are told of the outcome of the investigation of their complaint and action is taken, if necessary, in the light of the outcome of a complaint
- The process for dealing with complaints should be, and be seen to be, impartial and fair to both staff and complainant alike
- Complainants will be treated with respect and courtesy
- Complainants will not be discriminated against for making a complaint and making a complaint will not adversely affect future treatment
- Information will be provided to senior management to help services to be reviewed and improved
- All complainants will receive a sympathetic and caring response and, where appropriate, an apology given or an expression of regret
- Staff will receive appropriate training in handling complaints

3. EQUALITY, DIVERSITY AND HUMAN RIGHTS (EDHR)

A key principle of this policy is to ensure that all complainants will be treated equally and will not be discriminated against on the grounds of religion or belief, gender, race, disability including learning disability, age, sexual orientation, gender reassignment, marriage or civil partnership, pregnancy or maternity or because they have complained.

WLCCG want to develop services that are open, culturally aware and equally accessible to all sections of the community and will endeavor to achieve this by:

- Ensuring that individual's views are considered, recognising that everyone is different and valuing the contribution that individuals experience, knowledge and skills can make to provide a better service for the community;
- Being committed to providing and commissioning healthcare which is equally accessible and appropriate to everyone in the community we serve;
- Not tolerating any actions which obstruct access to, or delivery of, the services we provide and which lead to unfair treatment on the grounds of religion or belief, gender, race, disability including learning disability, age, sexual orientation, gender reassignment, marriage or civil partnership, pregnancy or maternity, nationality, ethnic or national origin, domestic circumstances, social and employment status, HIV status, political affiliation or trade union membership, or because they have complained;
- Ensuring provision of services adhere to the principles of treating people the way they expect to be treated and are in line with equality legislation and the Human Rights Act;
- Ensure people are treated with fairness, dignity, respect and equality;
- Taking appropriate action to remove any discrimination and promote equal opportunities;
- Monitor a wide range of our activities in order to make sure our commitment is being effectively delivered throughout the organisation;
- Ensuring fairness for all by developing a robust system for collecting equalities monitoring data when complaints are received about commissioned services. The information gathered will be analysed and will assist in addressing any gaps or lack of service provision identified.

4. DUTIES

In order to fulfil the requirements for handling of complaints, the following personnel have responsibility for delivering the policy:

Managing Director

The Managing Director has overall responsibility for complaints management within WLCCG, with responsibility for local resolution sign off of complaints delegated as detailed below.

Chief Nurse and Quality Lead

The Chief Nurse and Quality Lead has responsibility for complaints handling and local resolution sign off of complaints handled by WLCCG. The Chief Nurse and Quality Lead also has responsibility for ensuring compliance with the Complaints Policy and that action is taken in the light of the outcome of any investigation within these services.

Corporate Affairs Team

A Corporate Affairs Team is in place to manage the process for handling all complaints and will be available to complainants to provide help and guidance on

accessing the complaint procedure. The Corporate Affairs Team has operational responsibility for the case management of each complaint in line with the complaints policy and procedures.

The Corporate Affairs Team will:

- Assist and support patients and members of the public who wish to make a complaint. Agree the complaint details with the complainant.
- Seek consent to investigate the complaint where required.
- Liaise with complainants, advocates, staff and providers of contracted and commissioned services to achieve resolution of complaints.
- Arrange meetings, mediation or other complaints handling methods agreed with the complainant.
- Ensure that each complaint is considered fully.
- Ensure agreed timescales are met.
- Provide reports on a quarterly basis to the Quality and Performance Committee
- Support the Complaints process by providing advice, guidance or support on complaints.
- Keep contemporaneous records.

All staff

All members of staff, including temporary and agency staff, are required to comply with the requirements of this complaints policy in a positive manner and co-operate fully with any complaint investigation.

Staff must send all **formal written complaints** they receive to the Corporate Affairs Team on the same day as they are received. This should be done by secure e-mail to facilitate same-day receipt.

There is a 'duty to co-operate' between Social Care and WLCCG as well as all other healthcare providers, in order to co-ordinate one response to a complainant.

There is also an obligation to produce an annual report, which must be made available to the WLCCG Board. The report must include a summary of the subject matter of complaints, any trends identified and actions taken to improve services as a result of any complaints.

Each commissioned provider has a responsibility to have its own complaints policy and procedures in place which meet the requirements of the legislation.

Commissioned providers also have a responsibility to work with WLCCG and other providers/practitioners in resolving single and multi-agency complaints.

5. WHAT IS COVERED BY THIS POLICY

This policy covers complaints connected with:

- WLCCG's function of commissioning health care or other services under an NHS contract or making arrangements for the provision of such care or services with an independent provider

Sometimes it can be difficult to determine whether feedback is a complaint. If the person raising the issue would like to make a formal complaint then it will be treated as such.

5.1 GENERAL ENQUIRIES

Immediate action will be taken on any issue which can be dealt with within one day, and these issues will be handled by the Corporate Affairs Team as enquiries'. Where this is the case, it will not be automatically treated as a formal complaint unless the complainant wishes.

The Corporate Affairs Team will provide a rapid intervention service in tackling concerns with the aim of resolving them quickly and to the complainant's satisfaction, preventing the need to follow the formal complaints process. If at any time during this intervention the patient or his/her representative indicates that they wish to escalate the concerns to a complaint, it will be treated as such.

It may sometimes be necessary, due to the urgent nature of some issues (i.e. lack of medication or urgent medical assistance required) to allow an enquiry to be handled alongside the investigation of a formal complaint.

All reported concerns, regardless of if they are treated as formal complaints or not, will be recorded and used to identify and tackle any possible cause for concern.

5.2 EXCLUSIONS TO THIS POLICY

This policy **does not** cover:

- Complaints about private treatment;
- A complaint made by another NHS organisation about WLCCG services, which is not made on the behalf of a patient;
- A complaint which has already been investigated;
- Concerns raised by those patients not wishing to pursue a complaint. These will be investigated by the Corporate Affairs Team;
- A complaint which is being or has been investigated by the Parliamentary and Health Services Ombudsman;
- A complaint made by another NHS body or independent contractor which is not made on behalf of a patient or is concerned with WLCCG conduct;

- Complaints raised by healthcare professionals will be handled through the incidents process and investigated by the Patient Safety Team. It should be noted that the primary aim of this Policy is for patients to raise their concerns;
- Complaints relating to WLCCG's alleged failure to comply with a request for information under the Freedom of Information Act 2000;
- Complaints and grievances from members of staff relating to their contract of employment or any other employment matter. These will be handled through normal management arrangements or through the appropriate employment policy, e.g. Grievance Procedure;
- A complaint which relates to any aspect of the Superannuation scheme.

5.3 COMPLAINTS AND CAUSE FOR CONCERN

It may become apparent during the investigation of a complaint that further action may be needed to investigate any cause for concern. The staff member investigating the complaint will immediately alert the appropriate teams of any cause for concern or Fitness to Practice issues. Staff will also inform the Corporate Affairs Team of their concerns and of actions taken to flag their concerns.

Any reported concerns will be documented by the reporting staff member and a copy provided to Corporate Affairs Team for inclusion to the complaints file.

Any further action taken by WLCCG will be in conjunction with internal policies. In all such instances, information will be passed onto the responsible department who can make a decision on whether or when to initiate such action. This referral may be made at any point and at any stage of the complaints procedure.

The complaints policy and procedures are concerned only with resolving complaints and not investigating disciplinary matters. It should be noted that all efforts will be made to resolve the complaint while any internal procedures are being undertaken.

In cases where complaints or incidents are under investigation by other statutory bodies such as the GMC, complaints investigations may be placed on hold. WLCCG will endeavour to continue with complaints investigations where possible and advice should be sought from the Assistant Director of Corporate Affairs and the other investigating body.

5.4 POSSIBLE CLAIMS FOR CLINICAL NEGLIGENCE

If a complainant reveals that they wish to seek compensation or pursue legal action due to negligence, the Corporate Affairs Team will advise that the complaint will be investigated but will not be able to address the issues related to compensation. Where possible, the complaint will continue if an investigation is not likely to prejudice the outcome of any legal case.

5.5 CRIMINAL INVESTIGATIONS

If WLCCG becomes aware that the subject of a complaint is also the subject of a criminal investigation, advice will be sought from the Chief Nurse and Quality Lead. It may be necessary to adjourn investigation of a complaint to ensure any actions taken do not affect the criminal investigation. Where possible, the CCG will continue with a complaints investigation.

6. WHO CAN COMPLAIN

A complaint can be made by:

- A service user or any person affected by, or likely to be affected by, the action, omission or decision of the NHS body, independent provider or local authority, that is the subject of the complaint.
- Someone acting on behalf of another person may make a complaint where that person is unable to make the complaint herself/himself or has asked the person to make the complaint on her/his behalf.

Where people are unable to make a complaint themselves, the representative will need to have, or have had, sufficient interest in their welfare and be an appropriate person to act on their behalf.

A complaint may be made by a person acting on behalf of a person as described above where that person:

- has died
- is a child
- is unable by reason of physical or mental incapacity to make the complaint himself/herself
- has requested that a representative act on his/her behalf.

7. WHAT COMPLAINANTS CAN EXPECT FROM THE COMPLAINTS PROCESS

The Complaints Policy has been developed to ensure that a consistent and equitable approach is undertaken with all complaints, irrespective of the issues raised. When a complaint is made, the complainant can expect:

- An acknowledgement provided verbally or in writing, within 3 days of the complaint being received;
- The organisation will try to solve the issue within one day, therefore reducing the need to take their concern into the formal complaints procedure;
- To be asked for a consent form to be completed, where required
- An offer to discuss the complaint;
- The member of staff dealing with the complaint will understand the complaints procedure and comply with this policy;
- An explanation of options relevant to the issues raised in the complaint in order to ensure proper investigation and resolution which takes into account the views and wishes of the complainant;
- A complaints plan (including timescales) for dealing with the complaint to be

agreed and sent to the complainant.

- A response to a complaint which usually will be achieved within twenty five working days or sooner. In complex cases and those involving more than one agency, timescales for resolving the complaint may be longer and will be discussed and agreed with the complainant at the outset;
- To receive a response explaining the outcome of the investigation into the complaint and what appropriate action has been taken, together with an apology when things have gone wrong. This will also include information on their right to take the matter to the Parliamentary Health Service Ombudsman;
- To receive information on where support can be accessed, such as the Independent Complaints Advocacy Service or other suitable service;
- The offer of a conciliation meeting;
- Where the content of the complaint covers both health and social care we will co-operate with social care colleagues to investigate and provide a single letter of response;
- To receive a clinical review of the complaint, if required.

8. SUPPORTING STAFF INVOLVED IN COMPLAINTS INVESTIGATIONS

The Complaints Policy has been developed to ensure that a consistent and equitable approach is taken to both complainants and staff. The CCG appreciates that staff involved in investigating complaints or where they are the subject of a complaint will require support through the process. This can at times be stressful and/or traumatic. Staff can expect:

- That the organisation acts fairly towards staff as well as complainants;
- To be informed if they have been complained about and where appropriate have an opportunity to respond;
- To be provided with line management support and access to the complaints team when conducting investigations;
- To be advised that external support is available, for example referral to staff counselling or Occupational Health.

Guidance on the procedure for complaints investigations can be found in the Procedure for Complaints Handling.

9. CONSENT AND CONFIDENTIALITY

Written consent will always be sought from the patient before a complaints investigation is undertaken. Likewise, if a complaint needs to be re-directed to another service to respond directly to the complainant, written consent will be obtained before this can occur.

If a complaint is made regarding our organisation, and it is not necessary to contact any external organisations in order to provide a full response, written consent is not required. The complaints letter or verbal complaint form will be treated as express consent for us to start an investigation.

If the Corporate Affairs Team is of the opinion that a representative does not or did not have a sufficient interest in the person's welfare, or is unsuitable to act as a representative, they will notify that person in writing stating the reasons.

In the case of a child, the representative must be a parent, guardian or other adult person who has care of the child, in cases 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 voluntary organisation.

All information in relation to a complaint will be handled in accordance with the Data Protection Act 2018 and GDPR.

10. TIME LIMITS FOR MAKING A COMPLAINT

It is important that complaints are made as soon as possible after the event has occurred. Usually, complaints can only be investigated if they are:

- made within 12 months of the event; or
- made within 12 months of the complainant realising that he/she has something to complain about.

There is discretion to waive this timescale if, in the opinion of the Corporate Affairs Team that:

- the complainant has good reasons for not making the complaint within the given period or
- it is still considered possible to investigate the complaint effectively and fairly.

11. HOW A COMPLAINT CAN BE MADE

If a person wishes to make a complaint this can be done either verbally, in writing or electronically: <http://www.westleicestershireccg.nhs.uk/contactus>

Complaints can be made to the Corporate Affairs Team at: 55 Woodgate, Loughborough, Leicestershire LE11 2TZ.

All complaints regardless of how they are made are treated as complaints, and will be investigated as such.

Verbal Complaints can be made to any member of staff either by telephone or in person. Where the complaint was made verbally to the Corporate Affairs Team directly, a written record will accompany the acknowledgement together with an invitation to the complainant to agree or amend the information, date and sign it and return it.

Complainants will be given the option of receiving a final response in writing, signed by the appropriate Director on behalf of the Managing Director, or via a Local Resolution meeting (with formal meeting notes produced as a written record).

12. ASSESSING COMPLAINTS

All complaints will be assessed by the Corporate Affairs Team in order to determine the complexity of the complaint. The assessment will determine the anticipated length of time needed to complete the investigation and, where appropriate, other

organisations who are required to input to a complaints investigation. The Corporate Affairs Team may take advice to determine if there could be associated clinical risks which will require an immediate response outside the complaints process.

The complaints categories and a description of complaints within the category are:

Category A (0-25 working days) – Will include no clinical aspects and will be a single provider complaint. Often best resolved by intervention at local level by the service provider. Examples of complaints commonly treated as category ‘A’ include access to services/appointment systems and attitude of staff.

Category B (0-25 working days) – Will include one service provider but will require more in depth investigations, and often includes some clinical aspects requiring advice from our own specialists. Examples of complaints commonly treated as category ‘B’ include lack of appropriate clinical care/treatment or delayed diagnosis.

Category C (0-60 working days) – Will be highly complex complaints and, as such, require the highest level of investigation and case management. These could either be multi agency or single organisation. Cases in this category will often include incident relating in fatalities, misdiagnosis or serious incidents.

13. INVESTIGATIONS

The Director responsible for the service area will appoint a Complaints Lead. The Complaints Lead will investigate the complaint with support and guidance available from Corporate Affairs and in line with the guidance given for each category of complaint.

It may be appropriate to employ an external clinician to review a complaint should it contain a specialist clinical element that the organisation’s Medical Advisors are unable to comment on.

14. CONCILIATION AND MEDIATION

Independent mediation and conciliation arrangements can be made available on a case-by-case basis. Requests for intervention of this type will be reviewed and considered by the Chief Nurse and Quality Lead.

15. JOINT COMPLAINTS

When a complaint received by WLCCG also involves services provided by another body we will work with other provider/s to agree who will lead the complaint investigation. We will:

- contact the complainant to discuss and agree how the complaint will be managed; and
- ensure that a single response is provided

16. HELP AVAILABLE TO MAKE A COMPLAINT

WLCCG will always offer assistance with connecting advocacy services with complainants. This will be done in conjunction with the complainant and will take account of any known individual needs.

The Corporate Affairs Team also offers complainants support in making complaints. We will offer services including, but not limited to, translation services, referring customers to other specialised agencies and groups and other general support. These can be accessed by making contact with the Corporate Affairs Team.

17. PERSISTANT OR UNREASONABLE COMPLAINANTS

There will be occasions when complainants remain dissatisfied following the investigation of their complaint. Whilst their frustrations can be acknowledged, some complainants will pursue their complaint in what is deemed to be an unreasonable manner.

18. MONITORING AND REVIEW

The WLCCG Quality and Performance Committee will receive a quarterly complaints report which will:

- outline the number of complaints received
- identify the subject matter
- detail achievement against performance standards
- identify trends and areas of concern
- highlight any improvements put into place resulting from lessons learnt from complaints
- contain details of any complaints referred to the Parliamentary and Health Services Ombudsman, if these were upheld and any recommendations made to the CCG.

An Annual Complaints Report will be produced on the handling and considering of complaints and the headlines will be included within the CCG's Annual Report.

19. RELATED POLICIES AND PROCEDURES

Associated WLCCG policies include:

- Records Management Policy
- Grievance Policy
- Whistleblowing Policy
- Equality, Diversity and Human Rights Policy
- Information Governance Policy
- Risk Management Policy and Strategy
- Whistleblowing Policy