

### Document Control Sheet

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29/12/15	Point 7 (pg. 5) strengthened consent section to reference use of NEHF consent forms and added in section regarding option for electronic consent; amendment undertaken on recommendation of internal Complaints Audit (September 2015).	Fiona Hoskins – Deputy Director for Quality and Nursing.
29/12/15	Point 7 (pg. 5) removed option for verbal consent with exception of those lacking physical ability. Removal undertaken on recommendation of internal Complaints Audit ( September 2015)	Fiona Hoskins – Deputy Director for Quality and Nursing.
29/12/15	Point 7 paragraph 5 (pg. 6) – Strengthened the verbal consent process for those lacking physical ability to include the words witnessed and documented.	Fiona Hoskins – Deputy Director for Quality and Nursing.
29/12/15	Appendix E (pg. 22) – NEHF consent form templates added.	Fiona Hoskins - Deputy Director for Quality and Nursing.

**CONTENTS PAGE**

<b>Item</b>	<b>Subject</b>	<b>Page</b>
1	Introduction	4
2	Scope of policy	4
4	Purpose	4
5	Aims	5
6	What is a complaint?	5
7	Who can complain?	5
8	Time limits for complaints	6
9	Serious complaints	6
10	Complaints that cannot be dealt with under this policy	7
11	Roles and responsibilities	7
12	Equality impact assessment	7
13	Complaints against providers of health care services	7
14	Complaints shared with the Local Authority	8
15	Procedure before investigation	8
16	Investigation	8
17	Response	8
18	Concluding local resolution and learning lessons	9
19	If the complainant is dissatisfied with the final response	9
20	Risk management	10
21	Support for staff	10
22	Complaint meetings	10
23	Improving services	10
24	Learning from experience	11
25	Independent complaints advocacy service (ICAS)	11
26	Legal advice and procedures for complaints involving litigation	11
27	Financial redress	11
28	Unreasonable / habitual complainers	12
29	Second and final stage (independent review) of NHS complaints procedure	12
30	Monitoring and governance	12
31	Training	13
32	Review	13
Appendix A	Complaints flow chart	14
Appendix B	Flow chart for handling of multi-agency complaints	15
Appendix C	Protocol for managing unreasonable complainants	17

<b>Item</b>	<b>Subject</b>	<b>Page</b>
Appendix D	Equality impact assessment	20
Appendix E	Statement for the disclosure of personal / clinical records	22
	Statement of consent to share details of complaint	23
	Consent form (deceased)	24
	Consent for someone to complain on my behalf	25

## **1. COMPLAINTS, CONCERNS AND COMMENTS POLICY**

### **1. INTRODUCTION**

This policy sets out the process for handling complaints, generated by patients, Relatives, carers and the general public, by the Clinical Commissioning Group (NEHF CCG). All staff are responsible for co-operating with the development and implementation of the Complaints Policy as part of their normal duties and responsibilities. Temporary and agency staff, contractors and subcontractors will be expected to comply with the requirements of this Policy. It also has implications for providers of services to NEHF CCG, all of which have a responsibility to have a complaints policy in place in line with national requirements.

### **2. SCOPE OF POLICY**

North East Hants and Farnham Clinical Commissioning Group (NEHF CCG) is committed to the principles of Equality and Diversity and will strive to eliminate unlawful discrimination in all its forms. We will strive towards demonstrating fairness and Equal Opportunities for users of services, carers, the wider community and our staff.

NEHF CCG is responsible for commissioning health services on behalf of their population from local acute hospitals, mental health providers, community providers, the independent sector and independent contractors. This policy sets out how NEHF CCG, supported by its commissioning support arrangements will manage these relationships in the context of complaints, concerns and comments.

### **3. DEFINITIONS**

The words “patient” and “client” are used interchangeably to describe all those people for whom we commission and provide services.

This procedure 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.

This policy is in line with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

This policy sets out the framework and the process that NEHF CCG will follow when dealing with a complaint. The policy will also provide additional details for service users who may wish to seek further advice from the Parliamentary and Health Service Ombudsman (PHSO).

### **4. PURPOSE**

NEHF CCG is committed to providing an accessible, equitable and effective means for patients (and/or their representative) to express their views about the services it provides or services it is responsible for commissioning. If a person is unhappy about any matter of NEHF CCG functions they are entitled to make a complaint, have it considered, and receive a response (acknowledgment within 3 working days of receipt by complaints officer). It aims to provide a complaints process which has easy access and is supportive and open which results in a speedy, fair and, where possible, local resolution. The purpose of local resolution is to provide an opportunity for the complainant and NEHF CCG to attempt a prompt and fair resolution of the complaint and to provide the opportunity to put things right for complainants as well as improving services.

## 5. AIMS

The complaints procedure aims to:

- Be well publicised and easy to access.
- Be simple to understand and use.
- Be fair and impartial, and be seen to be so.
- Allow complaints to be dealt with promptly and as close to the point where they arise as possible.
- Provide answers or explanations quickly and within established time limits.
- Ensure that rights to confidentiality and privacy are respected.
- Ensure all complaints will be dealt with in an honest, open, confident and sensitive way.
- Guarantee that no complaint will form any part of a medical record and complainants will not be discriminated against in any way as a result of making a complaint.
- Provide a thorough and effective mechanism for resolving complaints and also investigating matters of concern.
- Enable lessons learnt to be used to improve the quality of services and to have action plans in place.
- Be regularly reviewed and amended if found to be lacking in any respect.
- Be consistent with national guidance.

## 6. WHAT IS A COMPLAINT?

A complaint usually relates to either a concern or dissatisfaction about a service that NEHF CCG commissions. Commissioned services are those that are paid for by NEHF CCG but provided by other organisations such as hospitals and community care providers.

Concerns and comments may be expressed about:

- Something which is against the choice or wishes of a patient
- The way treatment, service or care has been provided to a patient
- Discrimination against a patient
- How a service has been managed
- Lack of a particular service
- The attitude or other behaviour of staff

See Complaints Flowchart (Appendix A) for more details

## 7. WHO CAN COMPLAIN?

The NEHF CCG Quality Team manages complaints on behalf of the CCG. Consent must be obtained for the team to access patient information as a third party organisation. Ideally this should be written, signed, dated and obtained using a NEHF approved consent form (Appendix E); in certain circumstances electronic versions of the form can be accepted if received from personalised email accounts and authorised by the Head of Complaints in the Quality team.

Patients themselves or a representative, e.g. family member, friend, MP or other agency who has been given consent to act on behalf of the patient; can raise complaints, concerns or comments. If consent is in doubt, the patient will be asked to sign a consent form. In cases where NEHF CCG seeks consent from the patient, the response time will be agreed with the complainant, and will also take into account the date of receipt of consent.

Complaints can be made by the next of kin about a deceased patient's care, a child, or any patient who is unable by reason of physical or mental incapacity (or any other incapacity) to make the complaint themselves.

In the case of a patient who has died or who lacks capacity, their representative must be a relative or other person who, in the opinion of the Complaints Lead, had or has 'sufficient interest' in their welfare and is a suitable person to act as their representative.

In the case of a patient who lacks physical capacity to make a complaint, verbal witnessed consent will be sought and documented.

If a patient who lacks mental capacity has a legally appointed representative through the Court of Protection or an Enduring Power of Attorney, the Complaints Manager may request proof of this status.

In the case of a child, a suitable representative would normally be a parent, guardian or other adult person who has care of the child, or one who is authorised by the Local Authority / voluntary organisation in the case of children in care.

Assistance will be given to complainants in accessing the complaints procedure. This includes providing an appropriate and acceptable response to complainants who are unable to read English or have sight or hearing difficulties (see section 25).

## **8. TIME LIMITS FOR COMPLAINTS**

There is a time limit of 12 months after the date of the incident that caused the complaint, or 12 months from the date on which the matter came to the attention of the complainant. However, the time limit should not be presented as an obstacle to the investigation of the complaint. The time limit can, and should be, waived if it is still practical and possible to investigate the complaint (the records still exist and the individuals concerned are still available to be questioned) and the complainant can demonstrate reasonable cause for delay in making the complaint. It will be the decision of the Complaints Lead if the time limit can be set aside.

## **9. SERIOUS COMPLAINTS**

If an allegation or suspicion of any of the areas below is received regarding NEHF CCG functions. It should immediately be reported to the Accountable Officer and investigated as a formal complaint or referred to the appropriate agency e.g. Police if a possible criminal offence has been committed, Professional Regulatory bodies, Local Authorities and Safeguarding leads. This may include allegations against staff and this should also be referred to a senior HR officer.

- Safeguarding issues
- Physical abuse
- Sexual abuse
- Financial abuse
- Neglect
- Psychological abuse
- Fraud

If it relates specifically to NEHF CCG it should be reported to NHS Protect. It should also be reported as a Serious Incident Requiring Investigation (SIRI), or if it relates to a provider, the provider should be informed and told to report it as a SIRI.

## **10. COMPLAINTS THAT CANNOT BE DEALT WITH UNDER THIS POLICY**

The following complaints will not be dealt under the NHS Complaints Regulations 2009:

- Complaint made by a local authority, NHS body, Primary care provider
- Complaint made by an employee of a local authority or NHS body about
- Any matter relating to employment.
- Complaint which is made orally and is resolved to the complainant's satisfaction within 24 hours.
- Complaint which has previously been made and resolved to the same complainant and where local resolution has been exhausted.
- Complaint which is, or has been, investigated by a Health Service commissioner under the Health Care Complaints Act 1993.
- Complaint arising out of the alleged failure by NEHF CCG to comply with a request for information under the Freedom of Information Act 2000.

## **11. ROLES AND RESPONSIBILITIES**

The Accountable Officer of NEHF CCG is responsible for ensuring compliance with the arrangements made under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and for ensuring that action is taken if necessary, depending on the outcome of a complaint.

The Quality Team is responsible for managing the procedures, on behalf of NEHF CCG, and for handling and considering complaints in accordance with the arrangements made under these regulations. The Quality Team is the single point of entry for both patients and service users who require advice, assistance or information. The aim of this team is to provide a speedy resolution to a problem. The Quality Team will make an initial assessment of the complaint or concern and a decision will be taken by the team as to the best route for resolution.

## **12. EQUALITY IMPACT ASSESSMENT**

This is a legal requirement under the Race Relations (amendment) Act 2000, the Disability Discrimination Act 2005 and the Equality Act 2006 (see Appendix D)

## **13. COMPLAINTS AGAINST PROVIDERS OF HEALTH CARE SERVICES**

NEHF CCG has contracts in place with a range of providers. Under the NHS Complaint Regulations 2009 a patient can choose to approach either the provider or NEHF CCG to make a complaint, but not both. Each contracted provider has its own complaints procedure based on the NHS procedure for complaints. If a complaint received by NEHF CCG concerns a provider of contracted services, the Complaints Lead, in discussion with the complainant, will decide who the most appropriate body is to handle the complaint. In most cases it is anticipated that providers will handle any complaints which concern their services. However, in some cases this may not be appropriate and the Complaint Lead will contact both the patient and the relevant organisation to explain what action will be taken and who will be managing the complaint.

## 14. COMPLAINTS SHARED WITH THE LOCAL AUTHORITY

Where a complaint includes issues that relate to the local authority, the Complaints Lead will liaise and work together to ensure a full investigation takes place and that a single response which answers all concerns is provided to the complainant. The Complaints Lead will obtain consent from the complainant to share the details of the complaint with the local authority. If the complainant does not consent then the Complaints Lead will advise on which parts of the complaint NEHF CCG can respond to and which parts will need to be dealt with separately by the local authority. Further details can be found in the 'Flowchart for the Handling of Multi-Agency Complaints' (Appendix B).

## 15. PROCEDURE BEFORE INVESTIGATION

A complaint may be made verbally, electronically or in writing. If the complaint is made verbally and is not resolved by the end of the next working day then a written copy of the complaint must be made and a copy provided to the complainant. Complaints must be acknowledged within three working days after the day on which it is received. The acknowledgement may be made verbally or in writing. If made verbally then it is best practise to follow this up in writing. The acknowledgement must contain an offer to discuss with the complainant the manner in which the complaint is to be handled and the likely timescales for the investigation and response.

If the offer of a discussion is not accepted, the Complaints Lead must determine the response period and notify the complainant in writing confirming the issues that are going to be investigated, the manner in which the complaint is to be handled and the likely timescales for the investigation and response.

## 16. INVESTIGATION

The Complaints Lead will arrange for the complaint to be investigated in the most appropriate manner to resolve it speedily and efficiently. The purpose of investigation is not only "resolution" but also to establish the facts, to learn, to detect poor practice and to improve services. The investigation into a complaint must:

- Be undertaken by a suitable person and the Complaints Lead should ensure an appropriate level of investigation.
- Be conducted in a manner that is supportive to all those involved, without bias and in an impartial and objective manner.
- Not be adversarial and must uphold the principles of fairness and consistency.
- Risk assessment process should be applied to all complaints to allow serious complaints, such as those involving unsafe practice, to be identified.
- Methods used for investigation should follow the National Patient Safety Association (NPSA) principles of root cause analysis, accessible via:  
<http://www.nrls.npsa.nhs.uk/resources/collections/root-cause-analysis/>
- During the investigation the Complaints Lead will keep the all those involved including the complainant informed as far as reasonably practicable, as to the progress of the investigation.

## 17. RESPONSE

As soon as reasonably practicable after completing the investigation, the organisation will send a formal response in writing to the complainant which will be signed by the NEHF CCG Accountable Officer or their nominated responsible person. It is good practice for letters to be as conciliatory as possible and include apologies as appropriate.

The response will also:

- Offer an explanation of how the complaint has been investigated,
- Address the concerns expressed by the complainant and show that each element has been fully and fairly investigated,
- Report the conclusion reached including any matters where it is considered remedial action is needed,
- Include an apology where things have gone wrong,
- Report the action taken or proposed to prevent recurrence,
- Indicate that a named member of staff is available to clarify any aspect of the letter,
- Advise of the complainant's right to take their complaint to the Ombudsman if they remain dissatisfied with the outcome of the complaints procedure. The response should be clear, accurate, balanced, simple and easy to understand.

It should avoid technical terms, but where these must be used to describe a situation, events or condition, an explanation of the term should be provided. All statements, letters, phone calls and actions taken in an investigation must be documented and kept in the complaint file in chronological order. A complete complaint file is required should the complaint be referred to the Parliamentary and Health Service Ombudsman.

Where appropriate, alternative methods of responding to complaints must be considered. This may be through an immediate response from front-line staff, a meeting, or direct action by a senior person. It may be appropriate to conduct a meeting in:

- Complex cases,
- In cases where there is serious harm/death of a patient,
- In cases involving those whose first language is not English,
- In cases where the complainant has a learning disability or mental health illness (and other capacity challenges).

## **18. CONCLUDING LOCAL RESOLUTION AND LEARNING LESSONS**

The Quality Team on behalf of NEHF CCG should offer every opportunity to exhaust local resolution. Once the final response has been signed and issued, the Complaints Lead, on behalf of the Accountable Officer, should liaise with relevant managers and staff to ensure that all necessary follow-up action has been taken. Arrangements should be made for any outcomes to be monitored to ensure that they are actioned. Where possible, the complainant and those named in the complaint, should be informed of any change in systems or practice that has resulted from their complaint.

All correspondence and evidence relating to the investigation should be retained in line with the NHS Code of Practice Records Retention and Disposal Schedule. The Quality Team should ensure that a complete record is kept of the handling and consideration of each complaint. Complaints records should be kept separate from health records, subject only to the need to record information which is strictly relevant to the complainants ongoing health needs.

## **19. IF THE COMPLAINANT IS DISSATISFIED WITH THE FINAL RESPONSE**

The final response should invite the complainant to let NEHF CCG know if they have any outstanding concerns. In such cases, consideration should be given to arranging further action which might resolve the complaint, including offering a meeting with the Complaints Manager. A response should be sent to the complainant confirming the outcome of any further action and advising them of the independent

review process. If the complainant subsequently remains dissatisfied, they may request the Parliamentary and Health Service Ombudsman to review their complaint.

## **20. RISK MANAGEMENT**

In instances where the complaint or concern identifies that there may be a risk to the patient or other people's safety, then this will be considered in light of the arrangements that NEHF CCG has in place. This will include consideration of:

- Claims Management Procedures
- Safeguarding Adults and Children arrangements
- Equality and Diversity Strategy
- HR framework and policies
- Crime

## **21. SUPPORT FOR STAFF**

Members of staff named in the complaint, either personally or by role, should be informed of the complaint by their manager. Staff should be fully supported by their line manager and consulted during the investigation. The investigation should be full, fair and timely, and should not apportion blame.

The management style and culture within the organisation will promote positive attitudes towards dealing with complaints.

The decision on whether disciplinary action is called for is a decision for the line manager in consultation with Human Resources, in accordance with the normal disciplinary procedure. This must be kept separate from the complaints procedure.

## **22. COMPLAINANT MEETINGS**

Should a complainant wish to meet with the Complaints Lead to discuss the contents of their complaint, this will be arranged. The complainant may wish to meet with representatives of NEHF CCG to discuss their concerns as part of the investigation process and, if so, this will be discussed when the complaint plan is drafted at the beginning of the process.

All meetings will be recorded either by a recording device or by a written record. The consent of all parties must be obtained before use of a recording device. A copy of the written record will be sent to all those involved to confirm the accuracy before being documented in the complaints file.

## **23. IMPROVING SERVICES**

Following the conclusion of a complaint, all actions will be clearly documented, acted upon and monitored.

If an action has been identified during the complaints investigation, the Complaints Lead will log the details of the action to be taken on the complaints database and share these with the organisational lead involved. The organisation will demonstrate how feedback is used to learn and improve services by reporting to NEHF CCG.

## **24. LEARNING FROM EXPERIENCE**

The Complaints Lead will report the number and nature of complaints and outcomes received on a quarterly basis to NEHF CCG Governing Body. Service improvement informed by the Complaints process will also be reported.

## **25. INDEPENDENT COMPLAINTS ADVOCACY SERVICE (ICAS)**

The Independent Complaints Advocacy Service (ICAS) offer an independent service to advise complainants about making a complaint concerning NHS services. If patients need help to make a complaint, the Independent Complaints Advocacy Service (ICAS) offers advice and support to people wishing to make a formal complaint. This can include help with letter-writing and attending meetings; and, if the complainant is unable to visit their offices, ICAS can visit the complainant in their home or in another place where they feel comfortable. ICAS is independent of the NHS and is free. The Complaints Lead will provide information about the service that ICAS offers to service users.

## **26. LEGAL ADVICE AND PROCEDURES FOR COMPLAINTS INVOLVING LITIGATION**

Legal Advice on particular aspects of a complaint should be sought if there is the possibility of litigation ensuing. If, during an investigation, the complainant explicitly indicates in writing an intention to take legal action, the Complaints Lead will negotiate with the complainant how this can be taken forward. The Complaints Lead may then refer the matter to the NHS Litigation Authority and seek advice on whether it is possible for both investigations to proceed at the same time.

## **27. FINANCIAL REDRESS**

There may be occasions when, having investigated the complaint, the Investigating Officer/Complaints Lead believes that there are grounds for making an ex-gratia payment (without accepting liability). An apology and gesture of goodwill may avoid subsequent litigation and offers the opportunity to deal with certain circumstances in a fair and responsible manner.

Financial compensation may be considered where there has been:

- Direct or indirect financial loss
- Loss of opportunity
- Inconvenience
- Distress
- Any combination of these

It is recommended that, before any compensation is offered in respect of a complaint involving a member of staff, that member of staff should be involved in the discussions when the subject of compensation is raised, to ensure that he/she does not feel compromised by the decision to award compensation.

Any ex-gratia payments should be made having regard to NEHF CCG's Prime financial policies.

## **28. UNREASONABLE/HABITUAL COMPLAINANTS**

NEHF CCG is committed to treating all complaints equitably and recognises that it is the right of every individual to pursue a complaint. NEHF CCG therefore endeavours to resolve all complaints to the complainant's satisfaction. However, on occasions, staff 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. Habitual complaints are often symptomatic of an illness and the complaints procedure may not be the most appropriate means of dealing with the issues involved.

NEHF CCG's guidance on 'Habitual Complainants' should be referred to in such cases (Appendix C)

## **29. SECOND AND FINAL STAGE (INDEPENDENT REVIEW) OF NHS COMPLAINTS PROCEDURE**

If a complainant is dissatisfied with the outcome of their complaint at the conclusion of the local resolution stage they have the right to ask the Parliamentary and Health Service Ombudsman (PHSO) to independently review their complaint. Information is provided to complainants in the final response letter. Details are also available on NEHF CCG web site and the Comments and Complaints Services leaflet. NEHF CCGs will co-operate with the PHSO in any relevant independent review.

## **30. MONITORING AND GOVERNANCE**

A computerised complaints database will be kept by the Quality Team on behalf of NEHF CCG (and accessible at NEHF CCG HQ) and be available for inspection by NHS England and the Care Quality Commission. This will record the following information:

- Summary of complaint
- Date complaint acknowledged
- Date response sent to complainant
- Outcome of investigations
- Lessons learned and action taken to prevent recurrence.

Monthly reports will be submitted by the Quality Team to the NEHF CCG Quality and Clinical Governance Committee and will include:-

- The number of complaints open
- The subject matter of those complaints
- Whether the complaints were managed within the timeframes outlined in this policy
- Who is responsible within NEHF CCG for the investigation of the complaint
- What progress has been made against outstanding open complaints
- Any trends or themes identified
- Lessons learnt as a result of a complaint, concern or comment

Quarterly reports will be submitted by the Quality Team to the NEHF CCG Governing Body and will include:-

- The number of complaints received
- The subject matter of those complaints
- How they were handled including the outcome of the investigations
- Any trends or themes identified

- Lessons learnt as a result of a complaint or concern
- Actions to be implemented
- Any complaints where the recommendations of the PHSO were not acted upon, giving the reasons why if applicable.

NEHF CCG Governing Body will monitor the complaints handling process and consider trends in both the number and type of complaints received. It will also scrutinise the follow up actions taken as the result of complaints.

The appropriate clinical leads of NEHF CCG will be informed of any issues identified through the complaints.

### **31. TRAINING**

All staff will be expected to have a working knowledge of the Complaints Procedure and will be familiarised with this policy as part of their induction.

It should be made clear to staff that all material relating to a complaint will be made available to all personnel involved in investigating the complaint. This may include external investigations e.g. Parliamentary and Health Service Ombudsman. Particular attention should be paid to the content and standard of electronic mail messages about complaints and hard copies should be retained within the relevant complaints file.

It is the responsibility of all line managers to ensure that the lessons learned from complaints are used as part of the continuing professional development for all staff. There should additionally be training available to staff to undertake Investigator's training so as to be able to provide the standard of investigation and investigation report required for complaint responses.

### **32. REVIEW**

This policy will be reviewed every two years or sooner if the complaint guidance changes.

**Appendix A – Complaints Flow Chart**

Quality Team to send response to complainant, send out copies to cc list, monitor any outstanding actions and close complaint (usually within 25 days)



Response signed by AO, AO's office to scan signed copy of response and forward to Quality team.



Complaints team to forward final response to Accountable Officer (AO) within CCG with any enclosures required and background documentation for complaint.



Complaints team to quality assure response and forward to designated person within the CCG for approval and return to Complaints team



Quality team to prepare response, including standard Ombudsman paragraph and forward to investigator for approval



Investigator in CCG/provider to provide draft response to Quality team within required timescale (usually within 20 days)



Complaints Team to ascertain appropriate investigator within CCG/provider and liaise re investigation and timescale for investigation. Quality team to obtain any extra information required by CCG investigator (e.g. consent for medical records)



Complaints team to contact complainant within three working days to acknowledge and discuss management of complaint



Complaints may be received by phone (01252 335 085) or in writing to CCG offices or by email:

[nehccg.commentsandcomplaints@nhs.net](mailto:nehccg.commentsandcomplaints@nhs.net)

If written complaint is received at CCG offices scan and forward to Quality team within one working day via secure email:

[nehccg.commentsandcomplaints@nhs.net](mailto:nehccg.commentsandcomplaints@nhs.net)

If the complaint is concerning a GP, Dentist, Orthodontist, Optician or Pharmacy, please refer to NHS England on 0300 311 2233, [england.contactus@nhs.net](mailto:england.contactus@nhs.net) or NHS England, PO BOX 16738, Redditch, B97 9PT.

MP letters which relate to a single constituent – most can be processed via the complaints process - Accountable Officer (AO) or Chair's PA to send brief acknowledgement before forwarding to Quality team.

**Appendix B**

**Flowchart for the Handling of Multi-Agency Complaints**

Action plans are prepared to demonstrate learning and organisational improvement where appropriate.

These should be shared across the organisations concerned.

Once consent is received the receiving organisation contacts the corresponding complaints professionals to confirm how the complaint will be investigated and how the response will be collated and sent to the complainant.



Complaint investigation completed and joint response agreed. Signed response sent to the complainant as agreed.



Acknowledgement letter and consent form (and if appropriate form of authority for disclosure of clinical records/or if someone is acting on behalf of a patient) sent to the client within three working days, along with a copy of the complaint plan.



Once decided the Complaints Lead contacts the complainant to discuss their complaint, agree how the complaint will be handled and confirm the issues to be addressed. Explain the implications of a multi-agency complaint and who will co-ordinate the response.



Complaint received – receiving organisation acknowledges complaint within three working days. See below regarding the factors that determine which organisation will take the lead (usually commissioner). Complaints Lead contacts the other organisations involved to determine how the complaint is best dealt with.

## **HANDLING OF MULTI-AGENCY COMPLAINTS**

This is required to reduce confusion for service users and patients about how complaints will be dealt with, and by whom. It provides clarity about the respective roles and responsibilities of organisations and enhances inter-organisation co-operation.

For successful inter-organisation complaints there needs to be a single consistent and agreed contact point for complainants and regular and effective liaison and communication between Complaints Managers. Learning points arising from complaints covering more than one body need to be identified and addressed by each organisation.

The following factors should be taken into account when determining which organisation will take the lead role with any inter-organisational complaint:

1. The organisation that has the most serious complaints relating to it
2. If a disproportionate number of the issues in the complaint relate to one organisation compared to the other organisation(s)
3. The organisation that originally receives the complaint (should the seriousness and number of complaints prove roughly equivalent)
4. If the complainant has a clear preference for which organisation takes the lead

It is the responsibility of the lead organisation to ensure that an assessment is undertaken in order to determine the seriousness/ urgency of the complaint. This assessment will require communication with personnel in all affected organisations. Contact should be made via the relevant complaints service. The complainant's consent must always be sought before information relating to the complaint is passed between organisations. The complainant is entitled to a full explanation of why his/her consent is being sought.

Consent to the passing on or sharing of information should be obtained, in writing, wherever possible. Where this is not possible, the complainant's verbal consent should be recorded and logged.

## Appendix C

### PROTOCOL FOR MANAGING UNREASONABLE COMPLAINANTS

#### 1.0 Introduction

1.1 This protocol is necessary for managing the very small minority of complainants who are unreasonable in their expectations of the NHS complaints procedure. This policy should only be considered when all other avenues have been exhausted and then always in line with the NHS Complaints Procedure. All possible assistance will be employed, included Advocacy Services before the policy is invoked.

#### 2.0 Definition of an Unreasonable Complainant

2.1 Complainants (and/or anyone acting on their behalf) may be deemed to be unreasonable where previous or current contact with them shows that they meet two or more of the following criteria:

Where complainants:

- Persist in pursuing a complaint where Stage 1 of the NHS Complaints Procedure (Local Resolution) has been fully and properly implemented and exhausted and the complainant is unwilling to move to the next stage and refer their complaint to the Parliamentary and Health Service Ombudsman (PHSO).
- Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. Care must be taken not to discard new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints; consideration should be given to agencies that may assist the complainant with making their complaint.
- Are unwilling to accept documented evidence of treatment given as being factual, e.g. drug records, General Practitioner manual or computer records, or nursing records, or deny receipt of an adequate response in spite of correspondence specifically answering their questions, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of staff and, where appropriate, those of ICAS or other agencies to help them specify their concerns, and/or where the concerns identified are not within the remit of NEHF CCG to investigate.
- Focus on a trivial matter to an extent, which is out of proportion to its significance, and continue to focus on this point (It is recognised that determining what a 'trivial' matter is can be subjective and careful judgement must be used in applying this criterion).

- Have threatened or used actual physical violence towards staff or their families or associates at any time - this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will thereafter only be pursued through written communication. (All such incidents should be documented and an Adverse Event and entered onto DATIX).
- Have in the course of addressing a registered complaint, had an excessive number of contacts with NEHF CCG placing unreasonable demands on staff. (A contact may be in person or by telephone, letter, e-mail or fax. Discretion must be used in determining the precise number of “excessive contacts” applicable under this section, using judgement based on the specific circumstances of each individual case).
- Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this. They should document all incidents of harassment).
- Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of the other parties involved. (The tape recording of a telephone conversation without consent may amount to a criminal offence contrary to Section 1 of the Regulation of Investigatory Powers 2000).
- Display unreasonable demands or patient/complainant expectations and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).

### **3.0 Options for Dealing with Habitual or Unreasonable Complainants**

3.1 Where a complainant has been identified as habitual or unreasonable in accordance with the above criteria, the Chief Officer (or appropriate deputies in their absence) will determine what action to take. The Chief Officer (or deputy) will implement such action and will notify complainants in writing of the reasons why they have been classified as habitual or unreasonable complainants and the action to be taken. This notification may be copied for the information of others already involved in the complaint, e.g. clinical practitioners, Conciliator, ICAS, Member of Parliament. A record must be kept for future references of the reasons why a complainant has been classified as habitual or unreasonable.

3.2 The Chief Officer (or deputies) may decide to deal with a complainant in one or more of the following ways:-

- Try to resolve matters, before invoking this policy, by drawing up a signed “agreement” with the complainant which sets out a code of behaviour for the parties involved if NEHF CCG is to continue processing the complaint. If these terms were contravened consideration would then be given to implementing other action as indicated in this section.
- Once it is clear that a complainant meets any one of the criteria above, it may be appropriate to inform them in writing that they may be classified as habitual or unreasonable complainants,

copy this policy to them, and advise them to take account of the criteria in any further dealings with NEHF CCG. In some cases it may be appropriate, at this point, to suggest that complainants seek advice in processing their complaint, e.g. through the ICAS.

- Decline contact with the complainant either in person, by telephone, by fax, by letter, by e-mail or any combination of these, provided that one form of contact is maintained or alternatively to restrict contact to liaison through a third party. (If staff are to withdraw from a telephone conversation with a complainant it may be helpful for them to have an agreed statement available to be used at such times).
- Notify the complainant in writing that the Chief Officer has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that the correspondence is at an end and that further letters received will be acknowledged but not answered.
- Temporarily suspend all contact with the complainant or investigations of a complaint whilst seeking guidance from the Head of Risk Governance, or other relevant agencies.

#### **4.0 Withdrawing Habitual or Unreasonable Status**

4.1 Once complainants have been determined as habitual or unreasonable there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach

or

If they submit a further complaint for which normal procedures would appear appropriate. Staff should previously have used discretion in recommending habitual or unreasonable status at the outset and discretion should similarly be used in recommending that this status be withdrawn when appropriate. Where this appears to be the case, discussion will be held with the Chief Officer (or deputies). Subject to their approval, normal contact with the complainant and application of NHS complaints procedures will then be resumed.

## Appendix D

### Equality Impact Assessment

#### Complaint Policy and Procedure for Patients and Staff

##### Step 1 – Scoping

###### Question

1. What are the main aims and objectives?

###### Answer

To provide an effective mechanism for resolving complaints and enable lessons learned to be used to improve services

2. Who will be affected by it?

Staff, service users, general public

3. What are the existing performance indicators/measures for this?

Complaints Handling Survey

4. What information do you already have on the equality impact of this policy, strategy, proposal, function or service?

Equalities Monitoring information.

5. Are there demographic changes or trends locally to be considered?

Multinational and racial community

6. What other information do you need?

N/A

##### Step 2 – Assessing the impact

###### Question

1. Could the policy, strategy, proposal, function, or service discriminate unlawfully against any group?

		Answer
Yes	No	
		Provide evidence

No There is a clear pathway and protocol which is accessible to all groups and staff

2. Can any group benefit or be excluded from the service?

No Complaints leaflet can be provided in a variety of languages and modes

3. Can any group be denied fair and equal access to or treatment as a result of this?

No This policy demonstrates protocols for equality of access

4. Can this actively promote good relations with and between different groups?

Yes	Patient and Public involvement events will have representative present to promote policy
-----	--

5. Have you carried out any consultation internally and externally with relevant individual groups?      Yes      NEHF CCG Clinical Governance Committee

6. Have you used a variety of methods of consultation/involvement?      No

If there is no negative impact – end the cycle Sign off.

**Appendix E**

**Statement of Consent for the Disclosure of Personal/Clinical Records**

**Patient's Name:** \_\_\_\_\_

**Patient's Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Patient's Date of Birth:** \_\_\_\_\_

**Complainant's Name:** \_\_\_\_\_

**Complainant's Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I hereby give my consent for the organisations listed below to share any relevant information in order to complete the investigation into my complaint. I understand that this is likely to include disclosure of the patient's personal/clinical records.

**Name(s) of Organisations:**

- GP Surgery

This will assist the investigation of the complaint, which is being co-ordinated by:

**Complaints Officer's Name:** Amy Childerley

**Name of Organisation:** North East Hampshire and Farnham CCG

I understand that information exchanged as agreed by me must be used solely for the purpose for which it was obtained. I further understand that my consent will expire at the conclusion of the NHS complaints procedure.

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Statement of Consent to Share Details of Complaint**

**Patient's Name:** \_\_\_\_\_

**Patient's Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Patient's Date of Birth:** \_\_\_\_\_

**Complainant's Name:** \_\_\_\_\_

**Complainant's Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I hereby give my consent for the organisations listed below to share any relevant information in order to complete the investigation into my complaint. I understand that this may include disclosure of the patient's personal/clinical records.

**Name(s) of Organisations:**

This will assist the investigation of the complaint, which is being co-ordinated by:

**Complaints Officer's Name:** *Jon Beresford*

**Name of Organisation:** *North East Hampshire and Farnham CCG*

I understand that information exchanged as agreed by me must be used solely for the purpose for which it was obtained. I further understand that my consent will expire at the conclusion of the NHS complaints procedure.

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Once completed, please return this consent form to the address below;

**Consent Form (Deceased)**

**Name of Next of Kin:** .....

**Complainant's name (if different from N.O.K):** .....

**Address:** .....

.....

.....

**Relationship to patient:** .....

**Patient's name:** .....

**Date of Birth:** .....

I give my permission for the North East Hampshire and Farnham Clinical Commissioning Group to investigate the complaint made by above named complainant and, where necessary, obtain disclosure of relevant personal and confidential information relating to ..... (Patient's name), including any clinical notes to the complainant.

I understand that North East Hampshire and Farnham Clinical Commissioning Group will use any information gathered to assist in the investigation of the complaint.

**Signature of next of Kin:** .....

**Date:** .....

**Consent for Someone to Complain on My Behalf**

**Patient's full name:** .....

**Patient's Address:** .....

.....

.....

..... (Postcode) .....

**Patient's Date of Birth:** .....

**Statement**

I hereby authorise...

**Name of person making the complaint:** .....

**Relationship to patient:** .....

**Address:** .....

.....

.....

..... (Postcode) .....

...to act on my behalf and to receive any and all information, including personal and confidential information that may be relevant to the investigation and resolution of my complaint. I understand that the North East Hampshire and Farnham Clinical Commissioning Group may use any information gathered to assist in the investigation of my complaint and for no other purpose.

**Signature of patient:** .....

**Date:** .....