NHS North Kirklees CCG
Complaints Framework
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1.1 Definition

For the purpose of this policy NHS North Kirklees CCG adopts the following definition:

A **complaint** is “any expression of dissatisfaction received from a patient, carer or service user about any aspect of services requiring a response.”

It is also therefore useful to define Compliments, Comments & Concerns.

A **compliment** is any expression of praise or approval.

A **comment** is a remark that states a fact or expresses an opinion.

A **Concern** is an expression that affects or involves a person.

*Often these three can interchange from one to the other and will require differing levels of investigation. Comments and Concerns are often managed via PALS (Patient Advice and Liaison Service).*

1.2 Aims

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

- To ensure the policy and procedure is flexible and meets the needs of patients.
- Meets the principles laid down by the parliamentary and Health Service Ombudsman and the Local Authority Social Services and National Health Service Complaints (2009) Regulations.
- Be well publicised and easy to access so that patients are helped to make complaints.
- Be simple to understand and use.
- Be fair and impartial and be seen to be so.
- Allow complaints to be managed promptly and be as close as possible to where they arise.
- 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 and comments.
- Enable lessons learned to be used to improve the quality of services.
- Ensure patients’ care actively promotes their privacy and dignity and protects their modesty.
- Ensures that the unique needs of children and young people are met in terms of compliments and complaints.
- Ensures that complainants are treated courteously and sympathetically.
- Be regularly reviewed and amended if found to be lacking in any respect.
- Be consistent with national guidance.

For staff:
To support staff who may be subject of a complaint.

3 Introduction

3.1 The majority of patients receiving care within the NHS are happy with the care provided. It is recognised however that there will inevitably be circumstances where the expectations of some of the service users are not met and they will need to voice their feelings through the complaints procedure. Complaints are viewed positively within NHS North Kirklees CCG and every effort is made to identify lessons from complaints to make positive improvements in services for patients.

3.2 This Complaints Framework details NHS North Kirklees Clinical Commissioning Group’s (CCG) arrangements for dealing with NHS complaints. The framework has been developed in line with the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009). The CCG also adheres to the NHS Constitution including those rights relating to complaints and redress.

3.3 The framework sets out the approach that NHS North Kirklees CCG takes to the handling, investigation and learning from complaints.

4 Purpose

4.1 The purpose of the Framework is to describe the systems the CCG has in place to effectively manage all complaints received in accordance with NHS complaints regulations. It outlines the responsibilities and processes for a fair and robust receiving, handling, investigating and resolving of complaints relating to the actions of the CCG, its staff and services.

4.2 The Framework also sets out the process used for complaints received relating to NHS services commissioned by NHS North Kirklees CCG. This may be in relation to NHS Acute and Foundation Trusts, Mental Health Trusts, Community NHS Services, independent contractors (e.g. general practices, dental practices, pharmacies and opticians) and independent sector providers.

4.3 The complaints process has four main aims:
1. To investigate
2. To explain
3. To apologise (where appropriate)
4. To take action to prevent a recurrence

5 Duties / Accountabilities and Responsibilities

5.1 Duties within the organisation

Accountable Officer - is accountable for signing off the final responses to the complainant and ensuring all the points raised have been covered in the investigation. The Accountable Officer is also responsible 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. If the Accountable
Officer is unavailable to sign off the final complaints response, a nominated deputy from the senior management team will act on their behalf.

**Governance and Corporate Affairs Senior Manager** - is responsible for ensuring the continuity of a high quality and sustainable complaints service across NHS North Kirklees CCG. This includes the performance management of the service, making arrangements for staff training as appropriate, ensuring that the themes and learning from complaints are passed on to the quality and service improvement teams.

**Governance Manager** - manages a robust complaints handling and co-ordination services for NHS North Kirklees 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 investigation officers/managers, quality assurance of responses, production of reports on performance, themes and lessons learned.

**Investigating Officer/ Manager** - Is responsible for ensuring that a high quality and prompt investigation is carried out and the comments are provided to the Governance Manager within the agreed timescale. They are responsible for identifying any learning to improve the quality of the commissioned healthcare services or CCG services. In many cases the Investigating Officer / Manager will be an employee within NHS North Kirklees CCG, such as a Head of Service. In other instances the Investigating Officer / Manager may be a Complaints Manager in an external organisation who will coordinate a response within their organisation that will then be sent back to the Governance Manager at NHS North Kirklees CCG.

**All employees** - All staff have a responsibility to work in line with the CCG’s complaints framework and should:

- be aware of how to access the framework;
- be aware of who to raise complaints to;
- attend any relevant training which is offered in relation to them;
- report any issues affecting them to their line manager, in order that these can be taken account of.

Heads of Service must also ensure that, through management lines, all staff have an awareness of all policies, with emphasis given to those that are specifically relevant to their area of work.

### 5.2 Responsibilities

The Senior Management Team has delegated authority from the Governing Body to approve the Complaints Framework.

### 6 Scope of the Policy

This Framework applies to NHS North Kirklees CCG and applies to all employees, members of the CCG, co-opted members and members of the Governing Body and its committees who must comply with the arrangements outlined in this policy.

Member practices are responsible for the development and management of their own
complaints processes and for ensuring compliance with relevant legislation.

7 The CCG’s Complaints Procedure and Process

7.1 What is a Complaint?

The CCG’s definition of a complaint is:

A complaint or concern is an expression of dissatisfaction about an act, omission or decision of North Kirklees CCG or another related NHS organisation, either verbal or written, and whether justified or not, which requires a response and/or redress.

7.2 Who can complain?

7.2.1 Anyone who is receiving, or has received, NHS treatment or services or who is affected or is likely to be affected by an action, omission or decision can complain.

7.2.2 The majority of complaints are made directly from the patient. However, if a patient is unable to complain themselves then someone else (e.g. parent, spouse, sibling, MP, local councillor) can complain on their behalf, providing appropriate consent is given. Details of the consent process is provided in the following sections.

7.2.3 If a complaint is received from the parent or guardian of a child under the age of 18 (to whom the complaint relates), the CCG must be satisfied that there are reasonable grounds for the complaint being made by the representative instead of the child.

7.2.4 If a patient is unable to act, for instance due to physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005, consent is not required. This will be agreed on an individual basis by the Governance & Corporate Affairs Senior Manager, as the manager responsible for complaints.

7.2.5 If a complaint is raised concerning a deceased patient, this must be made by a suitable representative, for example, their next of kin. Consent will be sought from this representative (or appropriate other – see Appendix 1) on a case by case basis, depending on the circumstances of each complaint.

7.2.6 Letters received from solicitors raising a complaint on behalf of an individual should be dealt with in the same way as all other complaints (i.e. evidence of the solicitor’s authority to act on behalf of the complainant will be required in addition to appropriate evidence that the complainant has the authority to act on behalf of the patient). If the complaint is of significant concern an investigation may need to be undertaken without consent (as an internal investigation). However, if consent is not given, the findings of that investigation cannot be shared.

7.2.7 MP letters - when a complaint has been received from an MP, relating to a specific patient, the CCG will seek consent on a case by case basis from the patient or an appropriate family member. When an MP raises concerns, or asks a question in general terms, this will be dealt with as an MP Enquiry. Although following a similar investigation pattern, it will not include any reference to a named patient and hence
7.2.8 **Correspondence from Media Organisations** - If correspondence is received from media organisations regarding a complaint, the Communications Manager should be contacted in the first instance.

7.2.9 **Coroner** - The fact that a death has been referred to the Coroner’s office does not mean that investigations into a complaint should not be commenced (nor should it be suspended if already commenced prior to the Coroner’s involvement). It is important for NHS North Kirklees CCG to initiate proper investigations regardless of the Coroner’s inquiries, and where necessary to extend these investigations if the Coroner so requests. Responses to a Coroner request do not necessarily match those required in relation to a complaint and hence the Investigating Manager will be asked to provide a separate response to the complaint.

7.2.10 **Patient Advice and Liaison Service (PALS)** - complaints may be received from both internal and external Patient Advice and Liaison Services. Any PALS complaints will be triaged by the Governance Manager and dealt with as a standard complaint to NHS North Kirklees CCG. The Governance Manager will act as the first point of contact for the complaint and will liaise with the external service to ensure the complaint is captured and raised with the correct Investigating officer/manager. If the complaint is regarding the commissioning of services from the CCG, the Governance Manager will take ownership of the complaint and will make contact with the complainant.

7.2.11 Occasionally, a complaint will be received where the complainant has no apparent connections with the patient concerned. In such cases, before any investigation commences, the following points should be clarified:

- Does the patient know a complaint has been made on their behalf?
- Has the patient authorised the complainant to make enquiries or can an acceptable connection be established?

7.3 **Complaints Relating to Specific Organisation Types or Services**

7.3.1 **Complaints about Family Health Service Practitioners (FHSPs)**
Complaints regarding independent contractors (e.g. GPs, dentists, opticians, pharmacists and commissioned services) are the responsibility of NHS England or the provider concerned. Where it is identified via complaint triage that the complainant wishes to complain about these services they will be informed either verbally, by email or in writing that they should contact either the provider concerned or NHS England. As a delegated commissioner, NHS North Kirklees CCG is not responsible for complaints made about GPs, however GPs are required to keep the CCG informed about complaints and related relevant information.

7.3.2 **Complaints about Treatment Provided by any other NHS Service**
Complainants can choose whether to complain to the provider or the commissioner of NHS services. In the case of the NHS services for North Kirklees residents this would be NHS North Kirklees CCG. Where a complaint is received, then the
Governance Manager will inform the complainant of their options (for the CCG or the provider to lead) and facilitate the complainant's choice.

7.3.3 Complaints about a Continuing Care Decision / Individual Funding Request
It is important to recognise that the review procedure for continuing care or individual funding request is not a complaints procedure. The fact that someone has had their case considered by a continuing care review panel or individual funding request panel, does not affect their rights under the NHS complaints procedure. They can complain about the original decision of the continuing care review / special referrals process, through the NHS complaints procedure. In most cases IFR complaints will be passed to the Head of Transformation or her team for comment and investigation.

7.3.4 Complaints about NHS Choice
The NHS Constitution sets out choice as a right and includes the right to information to support that choice. If a patient complains to NHS North Kirklees CCG that they have not been offered a choice, and the complaint is upheld, NHS North Kirklees CCG is required to make sure the patient gets that choice.

This does not apply to prisoners (or those on temporary release from prison), serving members of the armed forces and persons detained under the Mental Health Act (1983).

Certain services are also excluded:

- Where speed of access to diagnosis and treatment is particularly important, e.g.:
  - emergency attendances/admissions;
  - attendances at a Rapid Access Chest Pain Clinic under the two-week maximum waiting time;
  - attendance at cancer services under the two-week maximum waiting time.
- Maternity services;
- Mental health services; and
- Public health services commissioned by local authorities.

7.3.5 Complaints about a Failure to meet the 18 week Referral to Treatment Target
The CCG is required to notify NHS England in writing where it receives notification from the patient (or complainant) that they have not, or will not, commence treatment within 18 weeks.

7.3.6 Complaints about Multiple Organisations
A requirement of the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009) is that complainants should, if they wish, receive one coordinated response to their complaint where it concerns a number of organisations. Where a complaint involves more than one NHS provider, or one or more other bodies (e.g. Social Services), there should be full co-operation in seeking to resolve the complaint as outlined in the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009).

If a complaint is made to NHS North Kirklees CCG regarding more than one provider the Governance Manager will (with the agreement of the complainant) liaise with each organisation and request that a response is forwarded back to NHS North
Kirklees CCG who will then arrange a combined response.

NHS England has advised in the Guide to Good Complaints Handling for CCGs that where a complaint concerns primary care this should be forwarded to them. NHS North Kirklees CCG will therefore liaise with NHS England regarding the response.

Where complaints are about both NHS and Local Authority services, the Governance Manager will liaise with the Local Authority to co-ordinate a joint response. Where NHS North Kirklees CCG takes the lead on a multi-organisation complaint all organisations will be copied into the final response to facilitate their learning and service improvement functions.

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

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

- **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.

- **Adult / Child Safeguarding concerns**
  
  If upon receipt of the complaint or during a complaint investigation it comes to light that there are safeguarding concerns the complaints process will cease allowing the safeguarding concerns to be investigated in line with the NHS North Kirklees CCG Adult/Child safeguarding policy.

- **Disciplinary Procedure**
  
  If a complaint is against a member of staff employed by a provider of a service commissioned by NHS North Kirklees 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 North Kirklees CCG.

  If a complaint is against one of NHS North Kirklees 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 Governance and Corporate Affairs Senior Manager.

- **Complaints about a commissioned service by staff or volunteers of that service**
  
  These should be deemed as whistleblowing and should be brought to the attention of the relevant CCG commissioning manager.

9 **How to complain**

NHS North Kirklees CCG will receive complaints in any format which the complainant wishes to use to forward the details relating to their complaint. This will include:

9.1 **Written Complaints - letters**

Any member of staff working within NHS North Kirklees CCG could receive written complaints. All written complaints should be forwarded to the Governance Manager for acknowledging as soon as they are received. This should not delay the investigation commencing in general terms. However, it is for the Governance Manager to liaise with the complainant and agree the specific issues of complaint.

9.2 **Written Complaints - Email**

Complaints received via email should be viewed as written complaints (see above 9.1) and processed in the same manner. Patient sensitive information will not usually be sent by email. Correspondence containing patient sensitive information will be sent by post where the complainant has given a postal address, otherwise correspondence may be emailed with the consent of the complainant and appropriately password protected.

9.3 **Verbal Complaints - telephone**

Verbal complaints should be viewed as seriously as written complaints. Any member of staff who is approached by a patient or their representative with a complaint
should endeavour to resolve the matter there and then. Whenever possible, complaints should be resolved at the time. Any verbal complaint that cannot be resolved at the time should be handled in the same timescale as written complaints. If the matter remains unresolved, the member of staff receiving the complaint should prepare a clear record of the details as soon as possible and refer this to the Governance Manager.

It may be appropriate for the entire process to be resolved verbally, without any written communication. Where this occurs a complaint contact sheet should be completed and forwarded to the Governance Manager to ensure the information is recorded for monitoring purposes. However, where the complainant indicates that they are not satisfied with the verbal response, then the complaint should be referred to the Governance Manager for formal investigation.

9.4 Verbal Complaints – face to face
As for Verbal Complaints – telephone (see above 9.3). If a complainant attends the premises, wishing to make a complaint, they should be facilitated to do so. A suitable room should have a table and chairs, have ease of disabled access, and good lighting. In addition, staff safety must be considered when taking details of a complaint on a face-to-face basis. Staff must always be accompanied by a colleague and the room used must be easily accessed by other colleagues. No meeting can commence until a senior member of the team is informed that the meeting is going ahead and they must know where it is being held.

9.5 Out of Office Hours
Should a written complaint be received out of office hours, the complaint should be passed to the Governance Manager as soon as possible within working hours. Should a verbal complaint be received out of office hours, relevant details should be taken and the complaint should be passed to the Governance Manager as soon as possible within working hours. Where applicable, complainants should be advised that NHS 111 is available for out of hour’s clinical advice.

9.6 NHS North Kirklees CCG seeks to facilitate complaints from disabled people and will seek to assist as appropriate to that individual’s disability. For example if a complainant has a sight disability the complainant should be invited to submit details in Braille, or an audio format and the Governance Manager should arrange for this communication to be transcribed and verified by the complainant.

10 Complaints Procedure

10.1 Receiving Complaints

10.1.1 Any member of staff receiving a complaint must notify the Governance Manager immediately and copies of all correspondence should be forwarded to ensure appropriate acknowledgment. All written complaints and subsequent documentation should be stamped with the date of receipt and a copy scanned to the complaints folder. The original correspondence should then be filed with the appropriate complaints reference number.
10.1.2 Governance Manager has responsibility to ensure all correspondence and complaints are logged on the locally held complaints log and given a unique identifier. Key dates, complaint theme and level will all be recorded to ensure the complaints log is maintained to provide statistical returns to the Department of Health, NHS Digital and to facilitate completion of quarterly and annual reports required by internal committees and NHS North Kirklees CCG Governing Body.

10.2 Complaint levels

Level 1 - Simple queries
- Advice on waiting times
- Advice on appointments
- Advice on contact details for different trusts and services

Acknowledged and responded immediately if possible or within 3 working days (depending on the issue raised)

Level 2 – Low/simple, non-complex issues
- Delayed or cancelled appointments
- Event resulting in minor harm e.g. cut or strain
- Loss of property
- Lack of cleanliness
- Transport problems
- Single failure to meet care needs e.g. missed call back
- Medical records missing

Acknowledgement within 3 working days. Response within 3 to 5 working days

Level 3 – Moderate /complex, several issues relating to a short period of care) requiring a written response and investigation by provider
- Event resulting in moderate harm (e.g. fracture)
- Failure to meet care needs.
- Miscommunication or misinformation.
- Medical errors.
- Incorrect treatment.
- Staff attitude or communication.

Acknowledgement within 3 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
- Event resulting in moderate harm (e.g. fracture)
- Event resulting in serious harm (e.g. neglect)
- Failure to meet care needs.
- Miscommunication or misinformation.
- Medical errors.
- Incorrect treatment.
- Staff attitude or communication.

Acknowledgment within 3 working days. Response time will be with the agreement of the complainant following receipt of consent (depending on severity and number of providers involved).
10.3 **Acknowledgement and consent letter**

The Governance Manager will send out an acknowledgement and consent letter within 3 working days of receiving the complaint. The acknowledgment and consent letter will:

- Confirm when the original complaint was received by NHS North Kirklees CCG
- Confirm the basis of the complaint
- Outline the areas for investigations from the complaint and ask the complainant to confirm these.
- Contain the consent form for the patient/patient and 3rd party to sign
- Contain a leaflet on why we ask for consent
- Contain all contact details including phone number, written address and email address of the Governance Manager handling the complaint
- 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 Governance Manager.

The complaint cannot proceed until the consent form is returned from the Patient/Complainant. If consent is not received after one month of the acknowledgment and consent letter, the Governance Manager will send further correspondence chasing for this consent. If after a further month of sending a chasing consent form no further correspondence is received and/or the consent form is still unreturned it will be considered that the complainant no longer wishes to proceed with their complaint and the complaint will be closed.

10.4 **Acknowledgment and outline of Investigation**

When the patient/complainant consent form is received by NHS North Kirklees CCG this will be date stamped, recorded on the complaints log, an electronic copy scanned to the complaints folder and the original consent form filed in the appropriate complaints folder.

The Governance Manager will draft an acknowledgment and outline of Investigation letter to the patient/complainant. This will include:

- Confirmation of dates the consent form was received
- Confirmation of dates the original complaint was received
- Apologies regarding the complaint
- Offer condolences if appropriate
- Outline the areas for investigations from the complaint
- Explain who will be investigating i.e. appropriate head of service
- Confirm what outcome the complainant wants to happen as a result of their complaint
- Ask for further details on the complaint (if relevant)
- Outline the date expected for response from investigation- Usually 28 working days from receipt of consent form
- Contain all contact details including phone number, written address and email address of the Governance Manager handling the complaint
- Contain a leaflet on what to expect when making a complaint, including details of the NHS complaints advocacy service.
10.5 The investigation

Once the complaint has been logged and acknowledged, the Governance Manager will forward the complaint immediately to the appropriate Head of Service, or provider organisation, who will be responsible for investigation.

The receiving organisation will be responsible for nominating an Investigating Officer/Manager to investigate the issues raised and compile a draft response for submission to NHS North Kirklees CCG’s Accountable Officer. It is anticipated that the Investigating Officer/Manager 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 appropriate remedial action is taken.

The investigation requires the investigating officer/manager to provide the following information:

- Names and job titles of all parties involved in the investigation
- Details of documentation referred to in order to respond to the concerns
- For each issue of complaint:
  - A detailed investigation of what happened / an explanation of what should have happened
  - Specific apologies where appropriate
  - Confirmation of actions taken and lessons learnt

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

On completion of the investigation, the Investigating Officer/Manager should send the findings of their completed investigation to the Governance Manager. The full details of the investigation should also be provided including notes, minutes of any meetings, any statements and all information included as part of the investigation. This will then be retained within the complaint file.

10.6 Documentation

All aspects of the investigation will be clearly recorded and all documentation, including staff statements, how the facts have been ascertained etc. will be forwarded to the Governance Manager and retained on the complaint file. In the event that the complainant subsequently requests an independent review, NHS North Kirklees CCG will require copies of all documentation. Staff should be aware that, should the matter proceed to Parliamentary and Health Services Ombudsman review or litigation, all the complaint documentation is subject to disclosure.

Copies of complaint correspondence must NOT be held on the patient’s health records.

10.7 Timescales

In exceptional circumstances, where there is any delay in receiving back the investigation template or where it has not been possible to contact all those involved to enable a full response, the Governance Manager will send a holding letter to the complainant if it is anticipated that these delays will impact on the timescale set for
the final response. Further contact will be made by telephone or holding letters as appropriate.

The investigating officer/manager has responsibility to provide a reason for the delay and to provide a revised timescale to the Governance Manager.

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

Where the Investigating Officer/Manager arranges a meeting with the complainant, the Investigating Officer/Manager and Governance Manager will determine how the meeting will be structured. The Investigating Officer/Manager will conduct the meeting and ensure notes are taken. The complainant will be offered the opportunity to have someone else present to assist them. The meeting must be formally recorded and the notes agreed with the complainant.

10.9 Final Response Letter
All written complaints must receive a response in writing from the Accountable Officer or a member of the senior team / nominated representative. The final letter should be dispatched within the timescale for the level given to the complainant.

The investigating Officer/Manager will provide the Governance Manager with a copy of the draft response when the matter has been investigated. The Governance Manager will quality assure the response prior to submitting to the Accountable Officer or the nominated representative for signature.

Wherever practical, replies to all complaints should be agreed with staff involved before the draft reply is sent to the Governance Manager. If the response cannot be agreed with those involved, the Governance Manager should be informed, in order to agree the wording of a response. It is essential, however, to remain objective at all times and present a fair reply to all complainants.

The Governance Manager will check that the response covers all aspects of the complaint raised by the complainant. The Governance Manager will follow up any queries regarding the response with the Investigating Officer/Manager as soon as possible.

Where it is clear that there has been a mistake or failure in procedures, this should clearly be stated and an appropriate apology given. Where this could constitute an admission of legal liability the matter should be referred for legal advice.

Actual or intended litigation should not be a barrier to the processing or investigation of a complaint at any level. It may be prudent for parties in actual or potential litigation to agree a stay of proceedings pending the outcome of the complaint, but the duties of the system to respond to complaints should be regarded as entirely separate from the considerations of litigation.

The Governance Manager will liaise with the Governance and Corporate Affairs Senior Manager for advice on the recommended course of action.
The final response letter must be factually correct and include:

• An apology where appropriate as an acknowledgment of the complainant’s feelings about their experience.

• Address each of the points the complainant has raised with a full explanation or give reasons on why it is not possible to comment on a specific matter.

• Provide specific details about the investigation, how it was carried out and by who, what was discovered.

• Provide details of actions taken and learning identified as a result of the complaint.

• Provide the name and telephone number of the Governance Manager and/or the Investigating Officer/Manager for further queries/discussion.

• Include details of further action available to the complainant (if appropriate, an invitation to meet with staff).

• Provide the address for the Parliamentary and Health Service Ombudsman and inform the complainant that if they take this course of action they should do so as soon as possible after the date of the response letter as any delay in doing this may prevent the Ombudsman from reviewing their case.

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

10.10 Action where the Complainant is Dissatisfied with the Final Response

If the complainant is dissatisfied with the final response they should be asked to identify the specific concerns that they have. Consideration should be given to how the complaint might be resolved. On a case by case basis, either a further investigation by the relevant senior manager or a meeting with staff could be offered.

If the complainant subsequently remains dissatisfied, they should be encouraged to request an independent review of their complaint by the Parliamentary and Health Services Ombudsman.

11 Parliamentary and Health Service Ombudsman review

Independent review is the second stage of the complaints procedure and is implemented when the complainant has exhausted the local resolution stage.

NHS North Kirklees CCG and independent contractors must inform the complainant within the final response of the next stage of the complaints procedure should they be dissatisfied and give details of how to contact the Parliamentary Health Service Ombudsman (PHSO).

Complainants who remain dissatisfied following the completion of local resolution may contact the PHSO, requesting an independent review of their case. This should be done within a year of receipt of the final response, unless the PHSO considers...
that it is reasonable to review the complaint outside of this timescale.

The PHSO can conduct independent investigations of complaints about NHS providers and practitioners.

The PHSO has established three sets of principles which outline the approach it believes public bodies should adopt when delivering good administration and customer service, and how to respond when things go wrong: Principles of Good Administration, Principles for Remedy, and Principles for Good Complaints Handling.

The six principles for Good Complaints Handling are:
• Getting it right
• Being customer focused
• Being open and accountable
• Acting fairly and proportionately
• Putting things right
• Seeking continuous improvement

The process for how NHS North Kirklees CCG will handle PHSO recommendations follows:

11.1 **Actions to be undertaken when a complaint is referred back/upheld by PHSO**

When a complaint concerning an organisation providing NHS services is referred back from the PHSO it is usual procedure for the PHSO to request a full copy of the complaint file and all relevant supporting documentation (including medical records), by a specified deadline.

The Governance Manager will use this opportunity to re-visit the complaint records, identify the points raised and ascertain if there are any points of action required by either NHS North Kirklees CCG or the organisation involved. If anything is identified, under the duty of candour, the PHSO must be aware of any shortcomings in the final response or investigation and an offer of further investigation made.

If, having reviewed the case, the PHSO has criticised the handling of a complaint by an organisation providing NHS services the Governance Manager will comply with the PHSO’s requirements which may include:
• Re-investigation of the issues raised or re-investigation of some of the issues raised.
• Contacting the provider organisation to discuss the issues raised.
• Notifying and seek appropriate clinical advice where necessary.
• Discussing with the organisation an action plan to address the issues raised.
• Responding to the PHSO regarding the action undertaken in line with requested guidelines.

If the PHSO has criticised NHS North Kirklees CCG directly the Governance Manager will notify the Accountable Officer and Governance & Corporate Affairs Senior Manager.

After consideration by the Accountable Officer, the Governance Manager will ensure that a response is made within the deadline set by the PHSO, and where necessary
a response is made to the complainant, outlining the action to be taken.

11.2 Other reviews
The Care Quality Commission (CQC) are an independent regulator of health and social care in England. CQC monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety and they publish their findings, including performance ratings to help people choose care. As NHS North Kirklees CCG is not a care provider it would not fall under the remit of the CQC directly, however the CCG will comply with any request for information held on complaints if requested by the CQC.

12 Learning from complaints
Following investigation of the complaint, the Investigating Officer/Manager will be responsible for identification of lessons learned and ensuring that actions have been completed within a reasonable timescale. NHS North Kirklees CCG must be able to demonstrate that following investigation of a complaint any changes, which are identified and will reduce risk, are considered and implemented if appropriate.

Investigating Officers/Managers are routinely requested to consider and document any lessons learned as part of the management of complaints. A key part of the complaints process is to identify how services can be improved as a result of patient feedback and ensuring that lessons are learned at all levels.

The Governance Manager has a responsibility to have an overview of all complaint cases received by NHS North Kirklees CCG.

If the Governance Manager becomes aware of any issues being repeated they must bring this to the attention of the appropriate Head of Service and Quality Lead for further investigation to ensure that action is taken quickly.

13 Reporting arrangements
The Governance Manager will provide reports to the Governance and Corporate Affairs Senior Manager, SMT and the Quality, Performance and Finance Committee and Governing Body on complaints received at NHS North Kirklees CCG. Monitoring of complaints against providers helps to identify possible themes, issues or risk to ensure that appropriate action can be taken.

13.1 Monthly Performance Reporting
A monthly overview will be provided to the Governance and Corporate Affairs Senior Manager containing:
• Number of complaints received on a monthly basis
• Subject matter of complaint
• Level of complaint
• Number of Consent forms sent out and returned-
• Number of complaints currently under investigation
• Number of complaints closed in the month

13.2 Committee Reporting
The Senior Management Team and Quality, Performance and Finance Committee will receive a six monthly report detailing:
13.2.1 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, action to improve services and the identification of trends
- A commentary of 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

13.3 Annual Reporting
The Annual Report, which will be submitted to the Governing Body, 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, action to improve services and the identification of trends
- A commentary of 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

13.4 Department of Health / NHS Digital Reporting
On a quarterly basis a return to the NHS Digital is completed through the KO41a return.

NHS North Kirklees CCG will co-operate with organisations including the Care Quality Commission, NHS England, Monitor and Healthwatch, bearing in mind the need to maintain confidentiality or obtain consent as necessary, in any request for complaint information and/or documentation.

14 Monitoring Compliance and Effectiveness
This will be included within the six monthly and annual reports to the Senior management Team, Quality, Performance and Finance Committee and Governing Body.

15 Arrangements for Review
An annual review of the Complaints Framework will be undertaken by NHS North Kirklees CCG.

16 Dissemination
This Policy will be published on the CCG’s website and on the CCG’s corporate drive and intranet. Training for staff will be arranged by the Governance & Corporate Affairs Senior Manager as required.
17. **Equality Impact Assessment**
Complaints handling includes an equality monitoring form which will pick up any issues and learning.

18. **Appendices**

**Appendix A** - Vexatious, Persistent or Unreasonable Complaints

**Appendix B** - How to ensure the complainant has the appropriate authority to act on behalf of the patient

**Appendix C** - Matters excluded from consideration under the complaints procedure

**Appendix D** – Flow Chart – Complaints Process

**Appendix E** – Complaint Investigation Form
Appendix A - Vexatious, Persistent or Unreasonable Complaints

NHS North Kirklees CCG is committed to treating all complaints equitably and recognises that it is the right of every individual to pursue a complaint. NHS North Kirklees CCG therefore endeavours to resolve all complaints to the complainant’s satisfaction. On occasion NHS North Kirklees CCG may consider that a complaint is habitual in nature, i.e. the complaint raises the same or similar issues repeatedly, despite having received full responses to all the issues they have raised.

In cases such as these the guidance outlined is intended for use as last resort and after all reasonable measures have been taken to try and resolve a complaint within the complaints policy.

A.1 Definition of Vexatious, Persistent or Unreasonable Complaints

There is no one single feature of unreasonable behaviour. Examples of behaviour may include those who:

- Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted.
- Refuse to accept documented evidence as fact.
- Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff, and where appropriate, the relevant independent advocacy services could assist to help them specify their complaint.
- Continually make unreasonable or excessive demands in terms of process and fail to accept that these may be unreasonable e.g. insist on responses to complaints being provided more urgently than is reasonable or is recognised practice.
- Continue to focus on ‘trivial’ matter to an extent that it is out of proportion to its significance. It is recognised that ‘trivial’ is subjective and careful judgment must be applied and recorded.
- Change the substance of a complaint or seek to prolong contact by continually raising further issues in relation to the original complaint. Care must be taken not to discard new issues that are significantly different from the original issues. Each issues of concern may need to be addressed separately.
- Consume a disproportionate amount of time and resources.
- Threaten or use actual physical violent towards staff.
- Have harassed or been personally abusive or verbally aggressive on more than one occasion (this may include written abuse e.g. emails).
- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual.
- Make excessive telephone calls or send excessive numbers of emails or letters to staff.
- Make inappropriate or personal comments about staff
- Raising issues not relating to the NHS.

A.2 Actions prior to designating a complainant as vexatious, persistent or unreasonable
It is important to ensure that the details of a complaint are not lost because of the presentation of the complaint. There are a number of considerations to bear in mind when considering imposing restrictions upon a complainant.

These may include:

- Ensuring the complainant's case is being, or has been dealt with appropriately and that reasonable action will follow, or have followed, the final response.
- Confidence that the complainant has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent.
- Checking that new or significant concerns are not being raised that require consideration as a separate case.
- Applying criteria with care, fairness and due consideration for the client's circumstances – bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss of significant/sudden changes to the complainant's lifestyle.
Appendix B- How to ensure the complainant has the appropriate authority to act on behalf of the patient

In general terms consent can be broken down into 3 areas:

- Consent provided by the patient
- Consent provided by the patient, who has nominated someone else to act on their behalf
- Consent provided by a third party who has the legal authority to act on behalf of a named patient

As such the consent form is broken down into these 3 sections. However, there can be complexities which must be considered under all 3.

B.1 Consent provided by the patient (Patient Consent Form)

Does the patient have capacity to understand exactly what consent means? Or do they actually understand what is included in the consent form? The Customer Information and Complaints Officer must be satisfied that the patient understands what they have signed.

One common misconception from patients is that consent is transferrable between different departments in an NHS organisation, or in relation to more than one request from one department. This is not automatically the case. A patient might make a complaint and request copy medical records – it would not be appropriate for the complaints team to transfer their consent to the access to records team as they relate to very different matters. A patient might raise a complaint about one issue and then 3 months later raise a differing complaint – we must have two separate consent forms if the issues are different. However, if the second complaint is a continuation of the first, i.e. the same issues, the original consent document will be valid. Patients also may not understand that we must have their consent before we can even approach a differing NHS organisation. We must have consent if we are going to investigate matters outside of the CCG as we have to contact that other organisation.

B.2 Consent provided by the patient, who has nominated someone else to act on their behalf (3rd party Consent form)

As well as using a family member or a good friend, a patient might approach their MP to act on their behalf. This is totally acceptable. It is for the patient to decide who is acting on their behalf – we cannot dictate who they use. Be aware that a GP might raise a complaint – if they are doing this with the full authority of the patient as their advocate this is acceptable, if they are doing this in a professional capacity it is not as professional to professional complaints cannot be accepted under the regulations. Review the documentation. Has the patient actually given consent – is it really their signature? E.g. mum is raising a complaint about the care provided to her 19 year old daughter – the Customer Information and Complaints Officer must be confident that the signature on the form is that of the daughter, and not faked by mum.

“Next of Kin” has no authority in law. A husband may be recorded as the next of kin to his wife. Whilst he can raise a complaint on her behalf he cannot have access to the response unless his wife has provided consent.
Completing the form Patient details are completed in the first box and nominated complainant’s details will be completed in second box. The patient will state their name, the name of the nominated complainant in the blank sections and will sign and date the form.

**B.3 Consent provided by a third party who has the legal authority to act on behalf of a named patient**

**Children under the age of 16**

It would be appropriate for a parent (or adult in a legal guardianship role) to make a complaint about the care or treatment of a child. Complaints being made by someone else must have the consent of the parent / guardian. Be aware when a parent lives at an address different to the child - you need to ascertain if the parent has retained parental responsibility or not (usually following a divorce or a separation). As an example: child lives with mum but dad has made the complaint – does dad have joint custody / parental responsibility for the child. This is very emotive but you must be satisfied that appropriate consent has been received.

Evidence: A copy of the child’s full birth certificate (not the abbreviated certificate as this does not name the parent). In a case of a separation there is usually a court document detailing the parental responsibilities that each parent holds.

**Children aged 16 to 18**

As above, for a child under 16.

However, it may be more appropriate for the child to give consent. This should be decided on a case by case basis being aware of the circumstances of the complaint and the child’s maturity and understanding (described as Gillick competency and explained in the Fraser guidelines). Thought should be given to the nature of the complaint: it would be preferable to get the child’s consent if the complaint related to reproductive health, GUM medicine, contraception or a long term condition which the child has extensive knowledge of such as Cystic fibrosis or diabetes, however for things like trauma and orthopaedics or general medicine it might not be necessary.

**Patients lacking capacity**

This will include patients with severe disabilities (physical or learning), dementia, locked in syndrome etc. and those who are unconscious where it is believed that this situation will continue for some time.

Where no evidence can be produced (e.g. young healthy patient unconscious following a road traffic accident with nothing in place) it would be appropriate to manage the complaint in the patient’s “best interests” by seeking consent from an immediate relative (a parent, spouse or child).

Evidence: Lasting Power of Attorney (appropriately authorised and with a court stamp), historic record of patient giving consent for access to their information.
Deceased patients

If the patient is dead any individual who is a beneficiary of the estate, is the executor of the estate, or is an immediate relative, has a right to raise a complaint. Remember that “next of kin” has no legal standing – if the patient had nominated their neighbour as their next of kin, it does not make them the appropriate person to raise a complaint on their death.

Evidence: A copy of the “will” will name the beneficiaries and executors. Children can present their birth certificate, parents can present the deceased’s birth certificate and the spouse can show their wedding certificate. Be aware that a daughter may have changed her name – she will also need to show any document that confirms her name change from that on her own birth certificate to her new name (usually her wedding certificate).
Appendix C- Matters excluded from consideration under the complaints procedure

1. A complaint made by an NHS body which relates to the exercise of its functions by another NHS body;
2. A complaint made by a primary care provider which relates either to the exercise of its functions by an NHS body or to the contract or arrangements under which it provides primary care services;
3. A complaint made by an employee of an NHS body about any matter relating to their contract of employment;
4. A complaint made by an independent provider or an NHS foundation trust about any matter relating to arrangements made by an NHS body with that independent provider or NHS foundation trust;
5. A complaint that has been previously fully investigated.
6. A complaint which is being or has been investigated by the Parliamentary Health Service Ombudsman;
7. A complaint which is being or has been investigated by another NHS organisation;
8. A complaint arising out of an NHS body’s alleged failure to comply with a data subject request under the Data Protection Act 1998 or a request for information under the Freedom of Information Act 2000;
9. A complaint about which an NHS body is taking or is proposing to take disciplinary proceedings in relation to the substance of the complaint against a person who is subject of the complaint may be excluded depending on the circumstances of the case.
10. A complaint about a historic matter, specifically a complaint should be made not later than 12 months after the date at which the occurrence (the subject of the complaint) happened, or 12 months after the complainant became aware of the occurrence. This time limit will not apply if the complainant can show good reason for not making the complaint earlier or it is still possible to conduct a fair and effective investigation into the complaint.
Appendix D – Complaints Flow Chart

Email (generic email address) → Letter (from complainant) → Telephone call from PALS signposted to formal process → Yes Complaint received by Complaints team. → Complaint reviewed in line with policy. Triage → Complaints team write to complainant. Acknowledge receipt and request any necessary consent indicating proposed time-scale for managing complaint (within 3 working days) → Consent received? Yes → Complaints team to contact complainant to provide update on timescales for response → Complaints team forward complaint to Head of Service for investigation/review and draft response → Complaints team receive investigation comments and draft response. Quality assurance checks undertaken. → Satisfactory → Final draft response to be sent to CCG Chief Officer or nominated officer for approval and sign off → Approved? Yes → Letter posted to complainant 1st class including any copies as appropriate (e.g., MP, Local Healthwatch and or Advocacy service) → Close File → Complainant satisfied? Yes → Inform/assist complainant with referral to conciliation/mediation → Complainant satisfied? No → Inform of options and process for contacting Parliamentary & Health Service Ombudsman → Offer meeting (local resolution)

Consent received? No → Complaints team to contact complainant to check if want to pursue complaint → If no, Close File → To capture comments anonymously as Experience may be valuable to CCG → Lessons learnt to monitor quality in CCG
### Appendix E

**COMPLAINT INVESTIGATION FORM**

<table>
<thead>
<tr>
<th>Ref No</th>
<th>Date Consent Received:</th>
<th>Draft response due:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Head of Service:</th>
<th>Investigation Manager:</th>
<th>Response from:</th>
</tr>
</thead>
</table>

**B**

Name of Complainant:  
Name of Patient: As above (if not complainant)  
Department:  
Names of staff: (identified in complaint)

**C**

**Safeguarding Concerns**

<table>
<thead>
<tr>
<th>Are you aware of any safeguarding concerns?</th>
<th>Yes □ / No □</th>
</tr>
</thead>
</table>

If ‘Yes’, ensure that an IR1 form is completed and safeguarding referral made if appropriate.

Please indicate nature of concern:

- Physical □  
- Financial □  
- Sexual □  
- Neglect □  
- Institutional □  
- Discrimination □  
- Emotional/Psychological □

Has a safeguarding investigation been triggered as part of this case?  
Yes □ / No □

**D**

**Key issues to be investigated:**

**PROMPT**

Please could you look into the relevant key issues and questions to your service raised in this complaint and provide information for inclusion in a response by .......... If you have any further questions you feel are necessary to address, please include these in Section E.

Please see the attached file note for any other information that you may need to include.

The complaint response will require:

- Apologies were appropriate
- Explanation of issues raised
- Details of any action taken or lessons learned as a result of this complaint if it is established that things could/should have been done differently.

PLEASE ALSO REFER TO THE ORIGINAL LETTER OF COMPLAINT

PLEASE ALSO NOTE THAT THE COMPLAINT RESPONSE WILL ALSO REQUIRE ANY COPIES OF CLINICAL NOTES OR MEDICAL RECORDS USED IN THE INVESTIGATION
Outline in chronological order phone calls/meetings during the investigation of the complaint and attach any completed complaints/supporting statement forms:

<table>
<thead>
<tr>
<th>ACTION PLAN</th>
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<tbody>
<tr>
<td><strong>ACTION PLAN</strong></td>
</tr>
<tr>
<td>Action identified as a result of the complaint. <strong>PROMPT</strong></td>
</tr>
<tr>
<td>(This should cover any specific actions promised to the complainant in the letter of response and action on general issues)</td>
</tr>
</tbody>
</table>
raised by the complaint. Where action is not applicable, please indicate this.)

<table>
<thead>
<tr>
<th>Name of Investigating Manager (print):</th>
<th>Position:</th>
<th>Base</th>
<th>Tel:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
<td></td>
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</table>

Ref No:

**COMPLAINT SUPPORTING STATEMENT FORM**
(to be attached to the Complaint Investigation Form)  
Date Complaint
Rec'd

*All statements should be made on a separate statement form.*  
Date to be returned by
Please write clearly in black ink.

**PROMPT**
Record facts or make it clear when you are stating your view/opinion of a situation. Detail events in chronological order. Do not abbreviate or use jargon.

Please continue on the reverse side of this form if required.

<table>
<thead>
<tr>
<th>Full Name of person completing this form (PRINT):</th>
<th>(Signature):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position:</td>
<td>Tel.No.</td>
</tr>
<tr>
<td>Date:</td>
<td>Base:</td>
</tr>
</tbody>
</table>