## Complaints and concerns policy

<table>
<thead>
<tr>
<th>Policy Number:</th>
<th>CP09</th>
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<tbody>
<tr>
<td>Version:</td>
<td>1.4</td>
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<tr>
<td>Ratified by:</td>
<td>Governance Committee</td>
</tr>
<tr>
<td>Date Ratified:</td>
<td>8 February 2018</td>
</tr>
<tr>
<td>Revised:</td>
<td>26 February 2020</td>
</tr>
<tr>
<td>Name of originator/author</td>
<td>David Triggs Head of Corporate Governance</td>
</tr>
<tr>
<td>Date Issued :</td>
<td>9 February 2018</td>
</tr>
<tr>
<td>Re-issue:</td>
<td>27 February 2020</td>
</tr>
<tr>
<td>Date Implemented:</td>
<td>Version 1.4</td>
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<td></td>
<td>27 February 2020</td>
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<tr>
<td>Next Review Date:</td>
<td>February 2022</td>
</tr>
<tr>
<td>Target Audience:</td>
<td>Service users, carers and any member of the public who wishes to lodge a complaint or concern with NHS Basildon &amp; Brentwood CCG about any service they commission</td>
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</tbody>
</table>
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1 Introduction

This document is the policy of NHS Basildon & Brentwood Clinical Commissioning Group (“the CCG”) for handling complaints under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (“the regulations”), which took effect on 1st April 2009 and as clarified by the Department of Health in January 2010.

It is the intention of the CCG to capture the spirit of the legislation by creating an open, fair, flexible and conciliatory approach to all complaints, viewing them as opportunities to address concerns rather than as criticisms that need to be defended. The policy sets out a risk-based approach to the management of complaints and concerns to ensure that cases are handled in a manner which is proportionate to the risk associated with particular service or commissioning issues.

This policy is compliant with the Health Service Ombudsman’s “Principles for Remedy” (October 2007, amended February 2009), “Principles of Good Complaints Handling” (November 2008, amended February 2009) and “Principles of Good Administration” (March 2007, amended February 2009).

The policy also reflects the Duty of Candour placed upon all NHS commissioners and providers by the Health and Social Care Act 2012 and the Patients Association “Good Practice Standards for NHS Complaints Handling” (July 2013), both of which arose from the Francis Inquiry into the failings at Mid Staffordshire Hospitals NHS Foundation Trust.

2 Purpose and scope

2.1 Purpose

This policy ensures that the CCG’s complaints and concerns system centres on people’s needs and wishes and that it:

- Makes the complaints arrangements accessible to people
- Encourages and empowers people to come forward with their complaints and concerns
- Works as a “one-stop shop” at local level, with unified handling of complaints across organisational boundaries

This policy reflects a clear distinction between complaints and other staff issues, such as grievances and disciplinary matters, or contractual issues. This policy also distinguishes complaints from disputes or grievances between the CCG as a corporate body and its member practices, which must be handled under the dispute resolution procedure as detailed in the CCG’s Constitution.
2.2 **Scope**

CCGs are responsible for managing:

- Complaints about their own corporate functions or commissioning decisions;
- Complaints about providers of NHS services for which that particular CCG is the lead commissioner (this covers acute, mental health, learning disability and community providers), in cases where the complainant has exercised his or her right to complain to the commissioner of that service rather than directly to the provider.

The CCG is not responsible for handling complaints about primary care contractors (GPs, dentists, optometrists/opticians and community pharmacists) or for complaints about CCG governance or conflicts of interest. All such complaints are the responsibility of the Essex Area Team of NHS England.

*The CCG follows ‘My Expectations’ developed by the PHSO, with Healthwatch and the Local Government Ombudsman (LGO), explained in the ‘toolkit for commissioners: Assurance of Good Complaints Handling in Primary Care. It sets out five key steps for the complaints process linked to the ‘I’ questions to provide a user-led vision for raising concerns and complaints as follows:*

<table>
<thead>
<tr>
<th>“I” Statements</th>
<th>My Expectations - Steps</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 “I felt confident to speak up”</td>
<td>Considering a complaint</td>
</tr>
<tr>
<td>2 “I felt that making my complaint was simple”</td>
<td>Making a complaint</td>
</tr>
<tr>
<td>3 “I felt listened to and understood”</td>
<td>Staying informed</td>
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<tr>
<td>4 “I felt that my complaint made a difference”</td>
<td>Receiving outcomes</td>
</tr>
<tr>
<td>5 “I would feel confident making a complaint in the future”</td>
<td>Reflecting on the experience.</td>
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</tbody>
</table>
3 Definitions

3.1 Complaint

The CCG defines a complaint as “an expression of dissatisfaction made to an organisation, either written or spoken, and whether justified or not, which requires a response. There is no difference between a ‘formal’ and an ‘informal’ complaint. Both are expressions of dissatisfaction.”

(Patients Association, July 2013)

The regulations make it clear that a complaint can be made under the health and social care complaints procedure relating to any matter reasonably connected with the exercise of the functions of an NHS body or the exercise of social services functions by a Local Authority.

This deliberately allows for complaints about a very wide range of issues relating either to the provision of services or the commissioning or policy decisions of an NHS organisation.

4 Roles and responsibilities

<table>
<thead>
<tr>
<th>Role</th>
<th>Responsibility</th>
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<tr>
<td>Patient Safety and Quality Committee</td>
<td>This Committee has responsibility for monitoring quality across services commissioned by the CCG. The Committee will be mindful of the importance of gaining and tracking “soft” intelligence about services in addition to the more formal quantitative indicators of quality. This soft intelligence may include patient feedback through formal complaints and informal concerns, comment cards, media coverage and trends of low-level incidents. The Chief Nurse will act as a conduit for both hard and soft quality information between the Patient Safety and Quality Committee and the Essex-wide Quality Surveillance Group.</td>
</tr>
<tr>
<td>Accountable Officer</td>
<td>Ultimate strategic responsibility for the handling of complaints and concerns by or on behalf of NHS Basildon &amp; Brentwood CCG. Authorised to sign letters responding to formal complaints.</td>
</tr>
<tr>
<td>Chief Nurse</td>
<td>The Chief Nurse has Board-level responsibility for improving patient experience, clinical quality and patient safety. They will be alerted by the Complaints and Concerns Team to any trends in complaints and concerns to be managed through the CCG’s quality assurance processes with providers.</td>
</tr>
<tr>
<td>Role</td>
<td>Responsibility</td>
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</tbody>
</table>
| Will also provide direct oversight of any complaints from or about children and young people.  
As Caldicott Guardian, the Chief Nurse is responsible for ensuring that confidentiality is maintained.  
Authorised to sign letters responding to formal complaints. | Board members  
Authorised to sign letters responding to formal complaints.  
Associate Director of Involvement and Governance, supported by  
Associate Director of Involvement and Governance will serve as Designated Complaints Manager (DCM) for NHS Basildon & Brentwood CCG in line with the regulations.  
The Head of Corporate Governance is responsible for ensuring that this policy is regularly reviewed in line with changes in legislation, regulation or best practice and for working with the Chief Nurse and the Deputy Chief Nurse to ensure that the CCG has in place appropriate governance mechanisms for embedding learning from complaints into the commissioning cycle and quality management processes.  
This post is responsible for ensuring that mechanisms are in place for communicating the outcomes and learning from complaints to individual patients/complainants and to the public at large.  
Provide day to day support to the wide Complaints and Concerns team as required  
Resolve concerns and complaints at the earliest possible opportunity and to prevent matters progressing unnecessarily through the complaints process.  
Acts as a visible contact point to enable patients and their representatives to raise their concerns.  
Inform the CCG of the outcome of cases to facilitate improvement of clinical services and commissioned pathways.  
All Board members and staff have a responsibility to appraise themselves of the content of the Complaints and Concerns Policy.  
All Board members and staff have a duty to work within the standards and guidelines as specified in this policy, ensuring that complainants are made fully aware of their rights under the health and social care complaints process and the support available to them in making their complaint.  
All Board members and staff have a duty to ensure that patients, their relatives and carers are not discriminated against or treated in any way less favorably when complaints are made. |
<table>
<thead>
<tr>
<th>Role</th>
<th>Responsibility</th>
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<tbody>
<tr>
<td>All Board members and staff</td>
<td>are required to co-operate with and assist the Complaints and Concerns Team with the investigation of complaints upon request.</td>
</tr>
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</table>

5 Policy procedural requirements

5.1 Who can make a complaint?

Complainants will generally be existing or former users of services that are commissioned by the CCG.

A complaint may be made by a service user or any person affected by or likely to be affected by the action, omission or decision of the NHS body, independent provider or local authority that is the subject of the complaint. A complaint can also be made on behalf of a service user.

Additionally, it may be made by a person acting on behalf of a patient in any case where that person:

- is a child; (an individual who has not attained the age of 18)

In the case of a child, we must be satisfied that there are reasonable grounds for the complaint being made by a representative of the child, and furthermore that the representative is making the complaint in the best interests of the child.

- has died

In the case of a person who has died, the complainant must be the personal representative of the deceased. The CCG needs to be satisfied that the complainant is the personal representative. Where appropriate we may request evidence to substantiate the complainant’s claim to have a right to the information.

- has physical or mental incapacity

In the case of a person who is unable by reason of physical capacity, or lacks capacity within the meaning of the Mental Capacity Act 2005, to make the complaint themselves, the CCG needs to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is made.

- Has given consent to a third party acting on their behalf

In the case of a third party pursuing a complaint on behalf of the person affected we will request the following information:

- Name and address of the person making the complaint;
- Name and either date of birth or address of the affected person; and
- Contact details of the affected person so that we can contact them for confirmation that they consent to the third party acting on their behalf.

This will be documented in the complaint file and confirmation will be issued to both the person making the complaint and the person affected.
• Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs.

• Is an MP, acting on behalf of and by instruction from a constituent

Someone wishing to make a complaint about a healthcare related matter has the choice of making a complaint to either the organisation providing the service or the commissioner of that service. In cases where the latter course of action is chosen, the CCG will, at least, retain an overview of the handling of the complaint by the provider.

The CCG welcomes complaints and concerns from children and young people. As part of the arrangements for publicising the CCG’s role in complaints handling, a “children and young person-friendly” leaflet and web content will be produced. Given the additional safeguards and considerations when handling complaints from children and young people (such as consent and Gillick competence), any cases will be overseen by the Chief Nurse.

5.2 What people cannot complain about

The complaints arrangements cannot be used by health organisations or local authorities against other health organisations or local authorities. Similarly, staff working within, or contracted to, those types of organisation cannot use the arrangements to complain about employment, contractual or pension issues.

Also excluded from the arrangements will be complaints:

• That have already been investigated under the current or previous complaints regulations;
• Which are being or have been investigated by a Local Commissioner under the Local Government Act 1974, or the Health Service Commissioner under the 1993 Act
• Arising from the alleged failure to comply with a data subject request under the Data Protection Act 1998
• Arising out or an alleged failure by an English local authority or NHS body to comply with a request for information under the Freedom of Information Act 2000

The latter two types of complaint are handled under specific processes set out in the relevant Acts of Parliament, with a route of appeal to the Information Commissioner.

Although falling outside the scope of the complaints arrangements, user feedback on these types of incident may also provide opportunities for organisational learning and service improvement.

Complaints can be investigated if disciplinary action is being considered or taken against a member of staff, provided that the organisation has regard to good practice around restrictions in providing confidential or personal information to the complainant. Although the complaints handling arrangements operate alongside the disciplinary arrangements, the two processes will remain separate.

Complaints can still be investigated where legal action is being taken or the police are involved, provided that it can be established that progressing the complaint might not prejudice subsequent legal or judicial action.

5.3 Receiving Complaints

Complaints may be received verbally over the telephone or during a face-to-face meeting, in writing, by fax or email.
5.4 Complaints involving multiple organisations

Some patients' complaints may require input from multiple organisations to investigate. It is the policy of NHS Basildon and Brentwood CCG that responsibility for coordinating the complaint lies with the CCG within which the patient is registered. E.g. which GP they registered with, OR if the patient is unregistered, the geographical CCG within which they live.

This is shown diagrammatically in appendix 1: South Essex CCGs complaints responsibilities.

5.5 Consent

There is an expectation that when capturing consent for the use and sharing of information, that the patient has made an informed decision and clearly understands the processing and potential sharing of their information. Staff must also understand the expectations of confidentiality that the information is provided under.

Information will not be disclosed to third parties unless the complainant or appropriate authorised party who has provided the information has given consent to the disclosure of that information.

5.6 Time limits for making a complaint

A complaint should be made as soon as possible after the action giving rise to it, to enable a thorough investigation whilst all the facts regarding the complaint are readily available.

All complaints will be acknowledged no later than three working days after the day the complaint is received.

The CCG will aim to resolve complaints and provide a response to the complainant within 20 working days of receiving the initial response, or where consent is required within 25 working days of consent being received. This timescale may be extended where the CCG relies on a response from provider health trusts, local authorities or agencies external to the CCG.

A complaint must be made within 12 months from the date on which a matter occurred, or the date when the matter came to the notice of the complainant. For example, a patient may only become aware that they wish to make a complaint about a hospital consultant’s failure to diagnose a condition in an outpatient clinic once he or she has been seen by a specialist at another hospital following emergency admission. In this instance, the 12 months would be calculated from the date of diagnosis by the second specialist.

There is discretion to extend this time limit where it would be unreasonable in the circumstances of a particular case for the complaint to have been made earlier and where it is still possible to properly investigate the facts of the case. An example of this may be where a complainant has been too unwell or upset to raise their complaint sooner.

The Chief Nurse and the Head of Corporate Governance, acting together, will make the decision as to whether “out of time” complaints should be accepted and investigated.

5.7 Publicising complaints arrangements

The CCG will ensure that its role as a single point of contact for complaints and concerns that are the responsibility of the CCG is effectively publicised on a rolling basis, using a variety of media. To maximise clarity and convenience for those wishing to raise complaints
and concerns, publicity and communication will be co-ordinated with other local NHS organisations, particularly other local CCGs and the Essex Area Team of NHS England.

The CCG will take all reasonable steps to ensure that the following patient/client groups and organisations are informed of the complaints handling arrangements and points of contact:

- Patients and their carers;
- Staff directly employed by the CCG;
- Primary care contractors and their staff;
- Independent providers with whom arrangements have been made under Section 16CC of Section 23 of the NHS Act, 1977;
- Essex HealthWatch

5.8 Remedy and Redress

The CCG recognises that providing fair and proportionate remedies is an integral part of good customer service and complaints handling, as recommended by the Health Service Ombudsman’s Principles for Remedy. It is recognised that in some cases, this may include some element of financial redress.

In reviewing complaints referred to them under stage two of the complaints process, the Health Service Ombudsman may recommend that a payment be made. All recommendations for financial and non-financial redress will be considered by the CCG Quality & Governance Committee as part of that committee’s review of all relevant Health Service Ombudsman complaint investigation reports. Any recommendations for making redress payments would need to be approved by the Chief Finance Officer. Where the recommendation to make a payment is not implemented, the reasons will be explained to the complainant and the Health Service Ombudsman in writing.

Where the CCG is investigating complaints about a primary, secondary or tertiary care provider, the provider (rather than the CCG) would be responsible for making any payments given as remedy at local resolution or following Health Service Ombudsman review.

Any payments made by the CCG itself by way of remedy would be logged in the Register of Losses & Special Payments and reported to the Audit Committee, in line with the CCG’s Standing Financial Instructions.

5.9 Dealing with unreasonable, abusive or persistent complainants

It is recognised that in a minority of cases, complainants may become unreasonably persistent in their pursuit of a complaint and that this in turn has a detrimental effect on staff and services. This applies not only to those who make a complaint but also those who contact the CCG verbally with informal concerns.

The CCG fully supports the NHS zero tolerance policy and whilst it is understood that complainants will sometimes be distressed and angry, abusive conduct in all forms is unacceptable and unfair to NHS staff.

In all cases where the Complaints and Concerns Team is considering terminating contact with a complainant on account of their unreasonable, abusive or unduly persistent conduct, this proposed course of action will be discussed with the Head of Corporate Governance in an attempt to explore alternative solutions or, in case termination of contact becomes necessary, to provide senior management support for the decision.
5.10 **Exceptions to the Policy**

There may be circumstances in which information disclosure is in the best interests of the patient, or the protection, safety or wellbeing of a child or vulnerable adult. In these circumstances, a complaint will be escalated as necessary in line with the CCG Safeguarding policy.

5.11 **Standings in complaints and concerns handling**

NHS Basildon and Brentwood CCG endorses and adopts the standards of good complaints handling proposed by the Parliamentary & Health Service Ombudsman in their “Principles of Good Complaints Handling” (November 2008, amended February 2009) and the Patients Association “Good Practice Standards for NHS Complaints Handling” (July 2013).

The Patients Association Standards are as follows:

<table>
<thead>
<tr>
<th>Standard one</th>
<th>The complainant has a single point of contact in the organisation and is placed at the centre of the process. The nature of their complaint and the outcome they are seeking is established at the outset.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard two</td>
<td>The complainant undergoes initial assessment and any necessary immediate action is taken. A lead investigator is identified.</td>
</tr>
<tr>
<td>Standard three</td>
<td>Investigations are thorough, where appropriate independent evidence and opinion are obtained, and are carried out in accordance with local procedures, national guidance and within legal frameworks.</td>
</tr>
<tr>
<td>Standard four</td>
<td>The investigator reviews, organises and evaluates the investigative findings.</td>
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<tr>
<td>Standard five</td>
<td>The judgement reached by the decision maker is transparent, reasonable and based on the evidence available.</td>
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<tr>
<td>Standard six</td>
<td>The complaint documentation is accurate and complete. The investigation is formally recorded, the level of detail appropriate to the nature and seriousness of the complaint.</td>
</tr>
<tr>
<td>Standard seven</td>
<td>Both the complainant and those complained about are responded to adequately.</td>
</tr>
<tr>
<td>Standard eight</td>
<td>The investigation of the complaint is complete, impartial and fair.</td>
</tr>
<tr>
<td>Standard nine</td>
<td>The organisation records, analyses and reports complaints information throughout the organisation and to external audiences.</td>
</tr>
<tr>
<td>Standard ten</td>
<td>Learning lessons from complaints occurs throughout the organisation.</td>
</tr>
<tr>
<td>Standard eleven</td>
<td>Governance arrangements regarding complaints handling are robust.</td>
</tr>
<tr>
<td>Standard twelve</td>
<td>Individuals assigned to play a part in a complaint investigation have the necessary competencies.</td>
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</tbody>
</table>
A random sample 10% of all complaints and concerns handled by the CCG will be audited against these standards each quarter and the outcome reported to the Patient Safety & Quality Committee.

6 Monitoring Compliance

Implementation of this policy will be monitored by the Patient Safety & Quality Committee.

Responsibility for operational monitoring of this policy within the CCG will be with the Head of Corporate Governance.

The Patient Safety & Quality Committee will receive a written report of the number and nature of complaints and concerns received each quarter, including an analysis of the outcome of each case and lessons for the CCG as commissioner. The annual complaints report (part of the overarching CCG Annual Report) will act as a vehicle for communicating how complaints have led to service improvements.

The Health Service Ombudsman will provide valuable feedback to the CCG following the independent review of complaints under stage two of the complaints process.

This Policy will ordinarily be reviewed every two years by the Head of Corporate Governance and Chief Nurse.

If only minor revisions are made, then the policy can be approved by the Patient Safety & Quality Committee and the version number for the policy will be updated by “.1” e.g. from version 1.0 to 1.1.

If significant amendments need to be made then the policy will need to be approved by the CCG Board. In this case the version number would increase to the next whole number e.g. from version 1.1 to 2.

Associated Documentation

- CP14 Whistleblowing Policy
- CP37 Zero Tolerance Policy
- CP34 IFR Policy
- HR03 Grievance Policy
- HR20 Managing Investigations Guidelines
- PSQ01 Serious Incidents Policy
- CP04 Adult Safeguarding Policy

7 Equality Impact Assessment

The CCG is committed to carrying out a systematic review of all its existing and proposed policies to determine whether there are any equality implications.

This policy has been assessed using the CCG’s Equality Impact Assessment framework and identified as having the following impact/s upon equality and diversity issues:
A full Equality Impact Assessment is not required. All of the target groups are covered equally by this policy.

8 Version control sheet

<table>
<thead>
<tr>
<th>Version</th>
<th>Author: Name &amp; Title</th>
<th>Date Policy Issued</th>
<th>Date Policy Due to be Reviewed</th>
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<tr>
<td>1.1</td>
<td>Andrew Stride, Head of Corporate Governance</td>
<td>15 December 2014</td>
<td>May 2015</td>
</tr>
<tr>
<td>1.2</td>
<td>Paul Balson, Head of Corporate Governance</td>
<td>TBC</td>
<td>TBC (At least 2 years from date of issue)</td>
</tr>
<tr>
<td>1.3</td>
<td>Paul Balson, Head of Corporate Governance</td>
<td>Feb 2018</td>
<td>Jan 2020</td>
</tr>
<tr>
<td>1.4</td>
<td>David Triggs, Head of Corporate Governance</td>
<td>February 2020</td>
<td>February 2022</td>
</tr>
</tbody>
</table>
Appendix 1: South Essex Complaints process

South Essex CCGs complaints responsibilities

1. Complaint made by patient / carer / other
2. Complaint is received by a CCG
3. Is the receiving CCG responsible for the patient? I.e. registered with a GP in the area OR if unregistered, in the CCG’s patch?
4. Receiving CCG forwards the complaint to the CCG that the patient lives in and informs the patient of this.
5. The responsible CCG coordinates the complaint. Responsibilities include:
   - Seek consent from the patient
   - Forward to / liaise with NHS England for complaints involving practices dependent on the nature of the complaint
   - Liaise directly with GP practices
   - Liaise with lead commissioning CCG – for complaints involving providers i.e. Thurrock for NEFT, CWR for OOH, etc.
   - Liaise with providers for which they are the lead commissioner
   - Compose final response, send to patient and all stakeholders

END