

Complaints Policy and Procedure

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<p>Policy Validity Statement This policy is due for review on the date shown above. After this date, policy and process documents may become invalid.</p> <p>Policy users should ensure that they are consulting the currently valid version of the documentation.</p>	



Version Control

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Approval

Role	Name	Date
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Approval	Quality and Patient Safety Committee Governing Body	June 2016 July 2016

Review

This document will be reviewed twelve months from its issue date and every two years after its first review.

Contents

1. Introduction	4
2. Definitions	5
3. NHS complaints procedure and process.....	6
4. Duties and Responsibilities.....	19
5. Implementation.....	20
6. Training Implications.....	21
7. Related Documents.....	21
8. Monitoring, Review and Archiving.....	22
9. Equality Analysis	23
Appendix A.....	24
Appendix B.....	25
Appendix C.....	26
Appendix D.....	27
Appendix E.....	29

1. Introduction

For the purposes of this policy South Tyneside Clinical Commissioning Group will be referred to as “the CCG”.

The CCG aspires to the highest standards of corporate behaviour and clinical competence, to ensure that safe, fair and equitable procedures are applied to all organisational transactions, including relationships with patients their carers, public, staff, stakeholders and the use of public resources. In order to provide clear and consistent guidance, the CCG will develop documents to fulfil all statutory, organisational and best practice requirements and support the principles of equal opportunity for all.

This policy is designed to outline the process for handling complaints generated by patients or their representatives and aims to set out clear guidelines for staff, managers and complainants around how complaints will be managed.

It is our aim that all patients, relatives and their carers will not be treated differently as a result of making a complaint. This will be achieved by ensuring that complaints are handled fairly and openly. It is clearly not always possible for the complainant to receive the outcome they hoped for, but if they feel that their complaint has been handled appropriately and that they have had a fair hearing, this is a positive outcome.

The CCG is very keen to ensure that complaints are used as learning opportunities and that trends are analysed and reported on. It is essential that information we gain from complaints is used to improve the quality and safety of the services we commission.

This policy has been written in accordance with the ‘Local Authority Social Services and National Health Service Complaints (England) Regulations 2009’. Reference is also made to the Department of Health guidance in complaints handling ‘Listening, Responding, Improving’, Parliamentary and Health Service Ombudsman’s ‘Principles of Good Complaints Handling’, the NHS Constitution (2008) and ‘A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture’ (Right Honourable Ann Clwyd MP and Prof Tricia Hart, 2013).

1.1 Status

This policy is a corporate policy.

1.2 Purpose and Scope

This policy describes the systems in place to effectively manage all complaints received by the organisation in accordance with NHS Complaints Regulations. It outlines the responsibilities and processes for receiving, handling, investigating and resolving complaints relating to the actions of the organisation, its staff and services.

The policy also includes the process used for complaints received relating to commissioned services such as NHS Acute and Foundation Trusts, Mental Health Trusts, Community NHS Services, independent contractors (general practices, dental practices, pharmacies and opticians) and independent sector providers.

The purpose of this policy is to ensure that the CCG promotes best practice within its complaints management function, and also that it is compliant with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. The CCG also adheres to the NHS Constitution including the five rights covering complaints and redress.

This policy and procedure sets out how the NHS complaints procedure will be implemented locally and must be followed by all staff employed or hosted by the CCG.

2. Definitions

The following terms are used in this document:

- 2.1 **Complaint:** a written or oral expression of dissatisfaction which requires a response.
- 2.2 **Issues/concerns:** a written or oral expression of dissatisfaction that can be resolved without the need for formal investigation or correspondence.
- 2.3 **Independent Complaints Advocacy (ICA):** is the organisation that provides independent help and support for people pursuing an NHS complaint.
- 2.4 **Investigating Officer:** the person identified as responsible for handling and investigating an individual complaint.
- 2.5 **The Parliamentary and Health Service Ombudsman (PHSO):** is the organisation that manages the second stage of the NHS complaints procedure

- 2.6 Serious Incident (SI):** is an incident or near miss occurring on health service premises or in relation to health services provided, resulting in death, serious injury or harm to patients, staff or the public, significant loss or damage to property or the environment, or otherwise likely to be significant public concern.

Any other special terms or abbreviations used in this document are defined as they occur.

3. NHS complaints procedure and process

A reformed complaints procedure covering both health and adult social care was introduced from April 2009. This enables organisations and the person complaining to agree on the best way to handle the complaint to achieve a satisfactory outcome. Within this process both concerns and complaints can be made either verbally, in writing or electronically via email.

There are two stages to the NHS complaints procedure:

- Local resolution of complaint through investigation and response by NHS Trust or provider.
- Independent Review of complaint by Parliamentary and Health Service Ombudsman.

3.1 Who can complain?

- 3.3.1 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. This includes services provided by independent contractors who have a contract with the organisation to provide NHS services and services that are provided by independent providers as part of an NHS contract.
- 3.3.1 If a patient is unable to complain themselves then someone else, usually a relative or friend, can complain on their behalf providing written authorisation is given. (Refer to appendix A for an example of an authorisation form.)
- 3.3.1 If a complainant is the parent or guardian of a child under the age of 18 (to whom the complaint relates) the organisation must be satisfied that there are reasonable grounds for the complaint being made by the representative instead of the child.
- 3.3.1 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 manager responsible for complaints.

- 3.3.1 If a complaint is raised concerning a patient who is deceased, this must be made by a suitable representative, for example next of kin. If the NECS Complaints Team does not consider that the complainant is a suitable representative, they may decline to deal with the complainant and recommend that another person acts on the deceased patient's behalf.
- 3.1.6 Where a complaint is received about a Primary Care Contractor (ie GP practice, dentist, community pharmacy, optician), the CCG or NECS Complaints Team will advise the complainant to send their complaint to NHS England for investigation and response.

3.2 Support for persons making a complaint

- 3.2.1 ICA provides a free, impartial and independent service for people wishing to make a complaint about the NHS. All complainants will be provided with information about ICA. Information regarding other specialist advocacy services will be provided, as required.

3.3 Process for verbal complaints

- 3.3.1 Clear information about the complaints process is made available to patients, the public and staff via the CCG's website.
- 3.3.2 Complaints can be made verbally to a member of the North of England Commissioning Support (NECS) clinical quality team and in this instance a written statement will be taken from the complainant ensuring all salient points requiring a response are documented.
- 3.3.3 The written statement will be sent to the complainant asking them to make any changes to ensure it is an accurate reflection of their complaint. The complainant will then be asked to sign and return the statement to the NECS clinical quality team. The complainant will be advised that their complaint will not be processed until the signed statement is returned.
- 3.3.4 There may be instances when it is not appropriate to take a formal complaint over the telephone, for example, if the concerns raised are complex. In cases such as this a face to face meeting will be offered to clarify the complaint or with the complainant's permission a referral can be made to ICA. Face to face appointments with the NECS Complaints Team are by appointment only.

3.4 Time-limit for making a complaint

- 3.4.1 The timescale within which an NHS or social care complaint must be made is 12 months from the date on which a matter occurred, or the matter came to the notice of the complainant.

- 3.4.2 The regulations set out that the organisation has the discretion to investigate beyond this time, especially if there is good reason for a complaint not being received within the 12 months. The time limit can, and should, be waived if it is still practical and possible to investigate the complaint, for example, the records still exist and the individuals concerned are still available to be questioned.
- 3.4.3 When a complaint is made outside these limits and the time limits are not waived, the manager responsible for complaints will advise the complainant of their rights to request that the Parliamentary and Health Service Ombudsman consider their case.

3.5 Issues that cannot be addressed within the complaints procedure

- 3.5.1 This policy and procedure does not address:
- 3.5.2 A complaint made by a responsible body to another responsible body. For example disputes on contractual matters between providers and the CCG should not be handled through this procedure. However, the issues raised should still be subject to a thorough investigation and appropriate action taken for service improvement
- 3.5.3 Complaints regarding privately funded treatment.
- 3.5.4 Complaints which are made verbally and resolved to the satisfaction of the complainant no later than the next working day after the complaint was made.
- 3.5.5 Complaints regarding an alleged failure to comply with a request for information under the Freedom of Information Act (2000). These will be dealt with via Information Governance processes.
- 3.5.6 A complaint made by an employee about any matter relating to his/her employment. These matters will be handled via Human Resources procedures.
- 3.5.7 Complaints that have already been locally investigated under the complaints regulations or 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.
- 3.5.8 If the organisation decides that a complaint meets any of the criteria detailed in sections 3.5.1-3.5.6 the complainant will be notified in writing of this decision and the reasons why.
- 3.5.9 Where a complaint is received that is disputing a funding decision for example an individual funding request/continuing health care case this will be handled in accordance with the appropriate appeals process.

3.6 Written complaints received

- 3.6.1 Most written complaints will come directly to the Accountable Officer. However, if a member of staff receives a written complaint, they have a duty to send it immediately to the Accountable Officer, who will decide on how best to resolve the issue. This may be on an informal basis or through a formal complaints investigation, depending upon the nature of the complaint.
- 3.6.2 The complainant's verbal or written consent must be obtained by the CCG prior to forwarding the complaint to NECS and this should be sought within one working day of receipt. Formal complaints received by the CCG staff must be forwarded to the NECS generic email account, necsu.complaints@nhs.net, within one working day of receiving consent.
- 3.6.3 The complainant has a choice of complaining directly to the CCGs as commissioners rather than to the NHS body, primary care provider or independent provider who provided the care. The final decision on who will investigate the complaint rests with the CCGs once all mitigating circumstances are taken into account.
- 3.6.4 This will include the complainant's wishes and the seriousness of the complaint, for example where there has been a poor record of complaints handling or the complaint suggests a significant risk to patient safety or there appears to be a trend. Please refer to section 9.9 for guidance on how provider complaints are handled.

3.7 Process for complaints handled by the CCG

3.7.1 Acknowledging the Complaint

- 3.7.1.1 Upon receipt of a complaint the manager responsible for complaints will assess the issues raised for wider governance issues, such as patient safety issues or potential poor performance concerns.
- 3.7.1.2 The complaint will be risk rated to determine the level of risk to the CCG and the level of investigation required.
- 3.7.1.3 All complaints received will be acknowledged verbally or in writing within three days of receipt or from when the signed verbal statement is received.
- 3.7.1.4 At the time of acknowledging the complaint the NECS Complaints Team must offer to discuss and agree the following with the complainant:
- An action plan for handling the complaint.
 - When the investigation is likely to be completed.
 - What reasonable outcome is desired.
 - When the response is likely to be sent.
 - Offer an early meeting if appropriate.
 - Advise the complainant of advocacy services, such as ICA.

3.7.1.5 The agreed action plan and timescales for response will be confirmed in writing to the complainant. Please see Appendix B.

3.7.1.6 If the complainant does not take up the offer of a discussion the NECS Complaints Team should determine the response period and the complainant will be notified of this in writing.

3.7.1.7 Where it is agreed that the CCG will handle the complaint rather than the provider or where it has been agreed that the CCG will co-ordinate the response, consent will be required from the complainant to obtain access to relevant medical records and/or to seek a response from the provider organisation(s).

3.7.1.8 If the complainant fails to provide written consent they will be notified in writing of the elements of the complaint that are unable to be investigated and responded to.

3.8 Investigation

3.8.1 The investigation will be conducted in a timely manner, proportionate to the complaint.

3.8.2 The Accountable Officer or NECS Complaints Team will:

- Forward the complaint to the appropriate lead for investigation, with details of the issues to be investigated and agreed in the action plan.
- Send a copy of the complaint to the investigating officer.
- Identify at an early stage whether it would be helpful to introduce conciliation.
- Keep the complainant up to date with the progress of the investigation.

3.8.3 The Investigating Officer will:

- Establish what happened, what should have happened and who was involved and make written records of the investigation/staff statements.
- Make sure a sincere and appropriate apology is made as appropriate.
- Identify what actions can be implemented to ensure that there is no recurrence and address any training issues and learning points.
- Draft a report addressing the issues raised by the complainant and comment on what action is being taken to prevent a recurrence in the future.

3.8.4 Staff involved in a complaint:

- Will be made aware of the complaint and asked to prepare written statements as part of the investigation.
- Are required to co-operate with the complaints procedure as part of their terms of employment. Where an employee refuses to give an interview or a written account without reasonable grounds, this should be considered a disciplinary offence.

3.8.5 Where the complaint relates to a clinical matter, written reports from any appropriate clinician should be obtained. These reports can be potentially disclosed to the complainant and therefore must be written in plain English and without jargon or abbreviations.

3.9 The Response

3.9.1 The written response will include the investigation report (where appropriate) and will:

- Address all the issues raised by the complainant
- Provide explanations and apologies, where appropriate.
- Indicate lessons learned from the complaint.
- Include what steps have been taken to prevent a recurrence.
- Outline what options are available if the complainant is not satisfied with the response, including details of the Parliamentary and Health Service Ombudsman.

3.9.2 The NECS Complaints Team manager responsible for complaints will forward the formatted written response, including the investigation report, for the approval to the investigating officer and any other relevant staff involved in the complaint.

3.9.3 The response will then be forwarded for final approval to the Accountable Officer.

3.9.4 If for any reason a response cannot be made within the agreed timescale (for example a person involved in the complaint is absent from work) the complainant will be contacted by the NECS Complaints Team and an extension to the specified revised timescale will be agreed.

3.9.5 If the complainant is satisfied with the response the case will then be closed. The issues giving rise to the complaint and any changes made to practice or procedures as a result of the investigation will be subject to on-going review through the quality governance working group.

3.9.6 If a complainant is dissatisfied with the response, every effort will be made to achieve a satisfactory outcome at local level by:

- identifying outstanding issues
- arranging further meetings
- providing a further written response
- involving a conciliator, where appropriate

3.9.10 If following all attempts to resolve the complaint locally the complainant remains dissatisfied they will be notified that local resolution is at an end and that they can ask the PHSO to consider their case. Information on the PHSO will be routinely given to complainants at the completion of local resolution.

3.10 Conciliation Process

3.10.1 A conciliation service with access to trained lay conciliators is available to assist in the resolution of complaints. Arrangements for conciliation will be made via the NECS Complaints Team throughout the complaints process, as required.

3.10.2 The lay conciliator will report back to the NECS Complaints Team on outcomes and agreed action points but will not disclose the substance of any discussions.

3.10.3 The conciliation process is confidential. However, where information is raised within that process regarding a child protection or patient safety issue, the conciliator may have to breach confidentiality and seek further advice from the manager responsible for complaints.

3.11 Process for complaints received about NHS providers

3.11.1 In the majority of cases when a complaint is received the provider will normally be given the opportunity to respond to the complaint. The complaint will be acknowledged verbally or in writing within three working days and consent will be sought to forward the complaint to the provider. (Please refer to appendix C for example of consent statement).

3.11.2 When consent is received the complaint will be passed to the provider who will handle it in accordance with the NHS complaints procedure. A letter confirming that the complaint has been passed to the provider will then be sent to the complainant.

3.11.3 There may be occasions when the CCG considers it appropriate to handle the complaint rather than the provider. This decision will be taken once all mitigating circumstances have been taken into account, including the complainant's wishes, seriousness of complaint or significant patient safety issues or where there appears to be a pattern.

- 3.11.4 In such cases both the complainant and provider will be notified.
- 3.11.5 The CCG will ensure via contractual agreement that all NHS providers and any private provider with whom it has a contract or service level agreement have arrangements in place for handling complaints made about services they provide that is comparable with the NHS complaints procedure.
- 3.11.6 All providers will, via contractual agreement, be asked to report on the number and nature of complaints, concerns, comments and compliments received on an annual basis. This will include evidence of all lessons learned and improvements to services to prevent a reoccurrence of similar complaints.

3.12 Process for handling joint NHS and local authority complaints

- 3.12.1 When complaints are received about both health and local authority services, with the complainants consent, the organisations involved will co-operate with each other to deal with the aspects of the complaint that relates to them. Both agencies will agree who will lead on the complaint and will aim to provide a single coordinated response.
- 3.12.2 The Accountable Officer (or nominated deputy) will sign the response. Irrespective of lead responsibility each organisation retains its duty of care to the complainant and must handle its part of the complaint in accordance with its own procedures.

3.13 Process for complex complaints that span several NHS organisations

- 3.13.1 Where a complaint is received that spans a number of NHS provider organisations the CCG will seek assurance that there will be a coordinated approach to the handling of the complaint across the various parties involved, prior to passing the complaint to the lead organisation.
- 3.13.2 The organisation who will lead in the handling of the complaint will be agreed following discussion with the parties involved. This decision will be made taking into account the organisation that has the greater part in the complaint as well as the complainant's wishes.
- 3.13.3 Where the complaint is particularly complex or where serious patient safety issues have been identified the CCG may choose to co-ordinate the response or lead in the investigation of the complaint with the complainant's consent, rather than the providers.

3.14 Process for handling complaints about non NHS services

3.14.1 Occasionally complaints are received about services not provided by the NHS, e.g. private treatment. In such cases, wherever possible, the NECS Complaints Team will advise the complainant of the correct agency to contact and will offer to forward the complaint for investigation. Beyond this the organisation will have no further input.

3.15 Staff support during the complaints process

3.15.1 It can be very stressful for those involved in the complaint process and advice and support is available to staff. Information is available on request from the NECS clinical quality team.

3.16 Equality and Diversity

3.16.1 Making a complaint does not mean that a patient/complainant will receive less help, or that things will be made difficult for them or that the quality of their care will be compromised.

3.16.2 Every complainant will be treated fairly and equally regardless of age, disability, race, culture, nationality, gender, sexual orientation and faith.

3.16.3 For people who require language or signed interpreting this will be made available throughout the complaints process.

3.17 Disciplinary procedures

3.17.1 The complaints procedure is concerned with resolving complaints to the satisfaction of complainants and learning lessons for improvement and not for investigating disciplinary matters.

3.17.2 The two procedures are entirely separate. However, complaints can occasionally reveal the need for an investigation under the disciplinary procedure. In such an event the NECS Complaints Team will not be involved in any disciplinary investigation.

3.18 Serious incidents (SIs) and complaints

3.18.1 The procedure for investigating SIs is separate from the complaints procedure and is managed in accordance with the Serious Incidents Policy. If during the course of investigating a SI, a complaint is also received, the incident procedure will normally take precedence in terms of the investigation.

3.18.2 If a complaint investigation reveals the need to take action under the SI procedure the incident procedure will normally take precedence in terms of investigation.

3.18.3 In these circumstances the complainant will be notified of the SI investigation and will be kept updated on the progress by the NECS Complaints Team. It should be remembered that the issues raised in a complaint will not always be exactly the same as those investigated under the SI procedure and a separate and full response to the complaint will be required.

3.19 Process for dealing with anonymous complaints

3.19.1 All anonymous complaints received will be investigated if there is enough information to carry out an investigation. Investigating officers will be requested to report to the appropriate director and make appropriate recommendations based on the allegations raised.

3.20 Withdrawal of a complaint

3.21 If a complainant withdraws a complaint at any stage in the procedure, which involves issues raised against an individual, those complained against will be informed.

3.21 Learning and monitoring of complaints

3.21.1 The CCG's philosophy for the management of complaints is to recognise their positive value through the effective monitoring of complaints. In applying these principles and sharing the learning we can all effect change.

3.22.2 The CCG will use the intelligence gained from complaints information (individual complaints received and provider annual complaints reports) to develop a greater awareness of services commissioned and where these may not meet quality standards.

3.22.3 Monthly complaint activity reports will be provided to the CCG by the NECS Complaints Team and the relevant quality committee and the governing body will receive quarterly complaints reports as part of governance and performance reporting. The reports will identify any trends and patterns arising from complaints, and any subsequent action taken as a result of lessons learned.

3.22.4 An annual report will be prepared for the governing body on the handling and consideration of complaints, outlining actions, monitoring compliance and outcomes.

3.23 Recording of Complaints

- 3.23.1 Record keeping will be in accordance with the Records Management Policy and Strategy, and will be of the highest standard and the electronic risk management system will be used to record and collate all complaints information.
- 3.23.2 The 'Principles of Good Administration' established by the PHSO have been adopted. However the principles are not a checklist but provide a framework which is used when dealing with complaints.
- 3.23.3 Staff dealing with complaints must maintain accurate and up to date complaints files at all times in accordance with the principles of good record keeping. The complaints record will not be filed within a clinical record but held within a separate complaints file.

3.24 Confidentiality/consent

- 3.24.1 Care will be taken at all times throughout the complaints procedure to ensure that any information disclosed about the patient/service user is confined to that which is relevant to the investigation of the complaint. Information will only be disclosed to people who have a demonstrable need to know it for the purpose of investigating the complaint or ensuring that the complaints process is followed.
- 3.24.2 In transferring complaints between agencies (including the PHSO) confidentiality will be maintained at all times. Every effort will be made to obtain the patient/service user (or their representative's) consent before sharing confidential information with another body or organisation. Consent will be obtained in writing or where this is not possible the NECS Complaints Team will seek further advice from the Caldicott Guardian.
- 3.24.3 It is recognised that there may be circumstances in which the nature of, or aspects of, a complaint indicate protection, safety or wellbeing concerns about a child or vulnerable adult. In these circumstances a complaint will be escalated as necessary in line with the CCG and Local Safeguarding Children and Adult Boards safeguarding procedures and such information contained in the complaint disclosed in the best interests of the complainant/patient.
- 3.24.4 Where a complaint refers to allegations against a member of staff of a safeguarding nature the CCG Managing Allegations against staff policy be followed and either supersede the complaints policy where such concerns form the whole of the complaint, or where only part of the complaint, the two process occur simultaneously with decisions about response times and involvement of the member of staff being taken jointly. Where the allegations against staff policy is invoked, the complainant must be notified immediately.

- 3.24.5 Where the receiving manager or member or the NECS Complaints Team is unsure about whether the nature of the complaint meets the criteria for escalation under safeguarding procedures, or should be dealt with under the managing allegations against staff process, they must consult with the Designated Nurse Safeguarding and Looked After Children or the Designated Nurse Safeguarding Adults as appropriate and within one working day.
- 3.24.6 Where safeguarding concerns are identified the complainant will be notified of the escalation and rationale for disclosure of information within one working day. Where safeguarding concerns form only part of a complaint the complainant will be informed of how the differing aspects of the complaint will be handled.

3.25 Access to personal information/medical records

- 3.25.1 Under the Data Protection Act (1998), individuals (both service users and employees) have certain rights regarding the way information about them is used. These include having the rights to see information that is recorded about them (subject access request) and to have any part of it that they do not understand explained.
- 3.25.2 Where clinical records are used in a complaint investigation, investigating officers must comply with regulations within the procedure for sharing of information across services or external agencies (incorporating the code of practice on openness in the NHS). Where copies or access to records is provided as part of the resolution of a complaint there is discretion to waive the usual access fee and associated charges.
- 3.25.3 Any requests received for access to complaint documentation will be sent to the information governance department for appropriate action.

3.26 Complaints and Litigation

- 3.26.1 On receipt of a complaint in which legal action is being taken or the police are involved the CCG should continue to resolve the complaint unless there are clear legal reasons not to do so.
- 3.26.2 Advice will be sought from relevant authorities (such as legal advisors or the NHS Litigation Authority) to determine whether progressing the complaint might prejudice subsequent legal action.
- 3.26.3 If there is likely to be any prejudice to the legal case the complaint will be put on hold and the complainant will be advised of this in writing and provided with an explanation.
- 3.26.4 Paperwork relating to the complaints investigation can be used in a court of law.

3.27 Complaints about Freedom of Information

3.27.1 Complaints about Freedom of Information are not dealt with through the NHS complaints procedure. Any complaint of this nature received will be forwarded to the appropriate information governance officer for investigation through relevant channels.

3.28 Dealing with media interest

3.28.1 All enquiries from the media must be immediately referred to the communications department ensuring that confidentiality is maintained at all times.

3.29 Retention of complaint records

3.29.1 Complaint files will be retained securely for a minimum of 10 years.

3.30 Unreasonable and persistent complainants

3.30.1 Some complainants find it difficult to accept the findings following an investigation even when it has been to the second stage of the complaints procedure. The difficulty in managing such complaints places a strain on resources and causes undue stress for staff.

3.30.2 In such cases, it is important to ensure that the complaints procedure has been correctly implemented as far as possible and that no material element of the complaint has been overlooked or inadequately addressed.

3.30.3 The procedure on how to handle unreasonable and persistent complainants is attached in Appendix E.

4. Duties and Responsibilities

<p>Council of Practices</p>	<p>The Council of Practices has delegated responsibility for setting the strategic context in which organisational process documents are developed, and for establishing a scheme of governance for the formal review and approval of such documents to the Governing Body (GB).</p>
<p>Chief Officer</p>	<p>The Chief Officer has overall responsibility for the strategic direction and operational management, including ensuring that CCG process documents comply with all legal, statutory and good practice guidance requirements.</p>
<p>North of England Commissioning Support Complaints Team</p>	<p>The NECS Complaints Team is responsible for the day-to-day handling of complaints and will be readily available to receive complaints, support staff with the local resolution process and to give information and advice where required.</p> <p>Where appropriate, the NECS Complaints Team will also arrange a conciliation service to assist in the resolution of complaints. Information will also be relayed to the complainant regarding advocacy services that are also available.</p> <p>The NECS Complaints Team will co-ordinate and collate all the information required in order to produce a draft response to the complainant. All actions arising as a result of a complaint investigation will be monitored by the NECS Complaints Team to ensure implementation in conjunction with line managers and heads of service.</p> <p>The NECS Complaints Team is responsible for entering information onto the risk management database and producing appropriate reports as required, including the collection of data to enable the annual complaints return to the Department of Health</p> <p>The NECS Complaints Team will keep up to date with current legislation and advise others as appropriate.</p> <p>In cases that involve the PHSO, the NECS Complaints Team will be the point of contact for the Ombudsman and will liaise with them in any investigation.</p> <p>The investigating manager is responsible for undertaking the detailed investigation of complaints, to provide information in order that the NECS Complaints Team can draft the written response for signature by the Accountable Officer or nominated Director.</p>

	The investigating manager will establish the underlying causes of complaints and ensure that these are properly understood, lessons are learned and where appropriate, improvements to patient care are implemented. The investigating manager is also responsible for ensuring that any actions arising from complaints are implemented and the outcome is fed back to the NECS Complaints Team
Senior Management Team	The Senior Management Team is responsible for ensuring that complaints are investigated in accordance with this policy; working with the NECS Complaints Team to ensure satisfactory resolution of complaints, including the implementation of any lessons learned.
All Staff	All staff, including temporary and agency staff, are responsible for: <ul style="list-style-type: none"> • Compliance with relevant process documents. Failure to comply may result in disciplinary action being taken. • Co-operating with the development and implementation of policies and procedures and as part of their normal duties and responsibilities. • Identifying the need for a change in policy or procedure as a result of becoming aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local/national directives and advising their line manager accordingly. • Identifying training needs in respect of policies and procedures and bringing them to the attention of their line manager. • Attending training/awareness sessions when provided.

5. Implementation

- 5.1** This policy will be available to all Staff for the effective management of all complaints received by the organisation in accordance with NHS complaints regulations.
- 5.2** All managers are responsible for ensuring that relevant staff within the CCG have read and understood this document and are competent to carry out their duties in accordance with the procedures described.

6. Training Implications

- 6.1** The NECS Complaints Team will provide or arrange coaching or training in complaints handling and good customer care. Managers should ensure that appropriate staff in their areas who require such support contact the NECS Complaints Team to arrange training.
- 6.2** Complaints awareness is included in the corporate induction programme for all new members of staff.

7. Related Documents

7.1 Other related policy documents

- Freedom of Information Policy and Procedure
- Records Management Policy and Strategy
- Serious Incidents Policy

7.2 Legislation and statutory requirements

- Cabinet Office. (2006) *Equality Act 2006*. London. HMSO.
- Cabinet Office. (2005) *Mental Capacity Act 2005*. London. HMSO.
- Cabinet Office. (2000) *Freedom of Information Act 2000*. London. HMSO.
- Cabinet Office. (1998) *Access to Health Records Act*. London. HMSO.
- Cabinet Office. (1998) *Data Protection Act 1998*. London. HMSO.
- Cabinet Office. (1998) *Human Rights Act 1998*. London. HMSO.
- Department of Health. (2009) *Local Authority Social Services and National Health Service Complaints (England) Regulations*. London. HMSO.
- Department of Health. (2009) *The NHS Constitution for England*. London. HMSO.

7.3 Best practice recommendations

- HMSO. (2009) *A guide to better customer care, 2009*
- PHSO. (2009) *Principles of Good Administration*
- PHSO. (2009) *Principles of Remedy*
- PHSO. (2008) *Principles of Good Complaint Handling*
- Department of Health. (2008) *Records Management: NHS Code of Practice*. London: DH.
- NHS Litigation Authority. (2008) *Risk Management Standard for Primary Care Trusts*. London: NHSLA.
- Healthcare Commission. (2007) *Spotlight on Complaints*.

8. Monitoring, Review and Archiving

8.1 Monitoring

- 8.1.1 The Governing Body will agree a method for monitoring the dissemination and implementation of this policy. Monitoring information will be recorded in the policy database.

8.2 Review

- 8.2.1 The Governing Body will ensure that this policy document is reviewed in accordance with the timescale specified at the time of approval. No policy or procedure will remain operational for a period exceeding three years without a review taking place.

- 8.2.2 Staff who become aware of any change which may affect a policy should advise their line manager as soon as possible. The council of members will then consider the need to review the policy or procedure outside of the agreed timescale for revision.

- 8.2.3 For ease of reference for reviewers or approval bodies, changes should be noted in the 'version control' table on the second page of this document.

NB: If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

8.3 Archiving

- 8.3.1 The Governing Body will ensure that archived copies of superseded policy documents are retained in accordance with Records Management: NHS Code of Practice 2009.

9. Equality Analysis

Equality Analysis Screening Template (Abridged)

Title of Policy	CO02 : Complaints Policy and Procedure
Short description of Policy (e.g. aims and objectives):	<p>This policy describes the systems in place to effectively manage all complaints received by the organisation in accordance with NHS Complaints Regulations. It outlines the responsibilities and processes for receiving, handling, investigating and resolving complaints relating to the actions of the organisation, its staff and services.</p> <p>The policy also includes the process used for complaints received relating to commissioned services such as NHS Acute and Foundation Trusts, Mental Health Trusts, Community NHS Services, independent contractors (general practices, dental practices, pharmacies and opticians) and independent sector providers.</p> <p>The purpose of this policy is to ensure that the CCG promotes best practice within its complaints management function and also that it is compliant with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.</p>
Directorate Lead	Designated Manager for Complaints
Is this a new or existing Policy?	Existing
Equality Group	Does this policy have a positive, neutral or negative impact on any of the equality groups? Please state which for each group
Age	Neutral
Disability	Neutral
Gender Reassignment	Neutral
Marriage and Civil Partnership	Neutral
Pregnancy and Maternity	Neutral
Race	Neutral
Religion or Belief	Neutral
Sex	Neutral
Sexual Orientation	Neutral
Carers	Neutral

Screening Completed By	Job Title and Directorate	Organisation	Date completed
Katharine Humby	Senior Clinical Quality Officer	NECS	May 2015

Director's Name	Director's Signature	Organisation	Date

COMPLAINTS AUTHORISATION FORM (for release of confidential medical information)

SECTION A - PATIENT DETAILS

Surname: _____ Forename(s): _____

Address: _____

Postcode: _____ D.O.B.: _____

SECTION B - AUTHORISATION (to be completed as appropriate)

EITHER

a) Patient: Iof
..... hereby authorise
to receive relevant medical details for the purposes of a complaint made on my
behalf. **I also confirm my consent to the disclosure of personal information about me
between organisations for the purpose of investigating my complaint.**

Signed: _____ **BLOCK CAPITALS:** _____

Date: _____

* **Please note the form should be signed by the patient themselves.**

OR

b) Other: I of
.....

hereby confirm that I am making a complaint on behalf of the above patient who
cannot make a complaint themselves because:

- under the age of 16
- other reason (please state)*
- (• please delete as appropriate)

**I also confirm my consent to the disclosure of personal information about me
between organisations for the purpose of investigating my complaint.**

Signed: _____ **BLOCK CAPITALS:** _____

Date: _____

*If you have any queries regarding the completion of this form please do not hesitate to
contact the Complaints Team on: **Tel no***



**South Tyneside
Clinical Commissioning Group**

Consent Form

Full Name of Complainant: _____

Address: _____

Telephone number: _____ (please complete)

NHS North England Commissioning Support Unit (NECS) handles complaints on behalf of NHS **XXX** CCG.

I, **XXX**, give my permission for NHS **XXX** CCG to forward my complaint to NECS to enable my complaint to be processed.

Signature of Complainant: _____ **Date:** _____

Please send completed form (freepost envelope provided) to:

FREEPOST RLSH-KHYU-YREH

Complaints Team
NHS North England Commissioning Support Unit
John Snow House
Durham University Science Park
DH1 3YG

COMPLAINT PLAN

This complaint plan must be read in conjunction with correspondence received from the complainant which provides specific detail relating to the complaint.

Reference number: XXX	
Complainant's name and current address (include title):	
Patient's Name:	
Brief Background to complaint:	
The following will be investigated by NHS XXX Clinical Commissioning Group (CCG):	
Agreed plan for addressing the issues: NHS XXX CCG will investigate and respond to the complaint in accordance with the NHS complaints procedure.	
Outcome the complainant is seeking:	
Agreed timescale for response:	
Agreed feedback following investigation:	To respond in writing
Client informed about ICA?	Yes
Date of complaint plan:	

Acknowledgement Letter Template for a Provider Complaint

Dear

I am writing to acknowledge receipt of your letter, which I received on **XXX** regarding the difficulties you are experiencing in **accessing an appointment**. I am very sorry to hear of the problems experienced and please accept my apology that you have found it necessary to bring this matter to my attention.

The concerns you have raised relate to services provided by **XXX** NHS Foundation Trust and it is appropriate that they respond to your concerns. I would be grateful if you could please complete and return the enclosed consent form in the freepost envelope provided confirming that you are happy for your letter to be forwarded to **XXX** NHS Foundation Trust.

Once your signed consent is received, the Complaints Team at NHS North of England Commissioning Support Unit (NECS), who handles complaints on our behalf, will forward your letter to **XXX** NHS Foundation Trust who will investigate and respond to your complaint in line with the NHS complaints procedure.

I have also enclosed information on Independent Complaints Advocacy (ICA), which you may find useful.

Yours sincerely

NAME
JOB TITLE

Enc: Consent form and freepost envelope
ICA leaflet

Consent Form for Provider Complaints

Full Name of Complainant: _____

Address: _____

Telephone number: _____ (please complete)

I, **XXX**, give my permission for my complaint to be forwarded to **XXX** NHS Foundation Trust, who will respond to the concerns outlined in my letter in line with the NHS complaints procedure.

Please note that the Complaints Team at NHS North England Commissioning Support Unit (NECS) handles complaints on behalf of NHS **XXX** CCG. To enable your complaint to be processed NHS **XXX** CCG is required to share details of your complaint with NECS.

Signature of Complainant: _____ **Date:** _____

Please send completed form (freepost envelope provided) to:

FREEPOST RLSH-KHYU-YREH
Clinical Quality Team
NHS North England Commissioning Support Unit
John Snow House
Durham University Science Park
DH1 3YG

Procedure for Handling Unreasonable and/or Persistent Complainants

1. Introduction

- 1.1 Unreasonable and/or persistent complainants can be a significant problem for the NHS. The difficulty in managing such complainants places a strain on time and resources and can cause undue stress for staff who may need support. NHS staff are trained to respond with patience and empathy to the needs of complainants but there are times where there is nothing further that can be done to bring a real or perceived problem to resolution.
- 1.2 It is also recognised that a persistent complainant should be protected by ensuring that they receive a response to all genuine grievances and are provided with details of independent advocacy. The Parliamentary and Health Service Ombudsman (PHSO) also clearly sets out the responsibility on NHS trusts to ensure that it deals with people and issues objectively and consistently and that all decisions and actions are appropriate and fair.
- 1.3 Complaints are processed in accordance with the NHS complaints procedure and every effort will be made to ensure that no genuine element of a complaint has been overlooked or inadequately addressed. During this process staff will inevitably come into contact with a small number of complainants who require a disproportionate amount of time and resources whilst dealing with their complaint.
- 1.4 This procedure will only be implemented with the full authorisation of the Accountable Officer, or a deputy in their absence. Where a deputy makes the decision, the reason for the non-availability of the Accountable Officer will be recorded on the complaints file.

2. Criteria for identifying an unreasonable and/or persistent complainant

Complainants (and/or anyone acting on their behalf) may be deemed to be unreasonable and/or persistent where previous or current contact with them demonstrates that they have met two or more (or are in serious breach of one) of the following criteria:

- 2.1 Persists in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted. For example where an investigation is deemed to be 'out of time' or where the PHSO has declined to investigate the complaint.

- 2.2 Changes the substance of a complaint or persistently raises further issues or seeks to prolong contact by unreasonably raising further concerns or questions upon receipt of a response whilst the complaint is still being dealt with. Care must be taken not to disregard new issues which differ significantly from the original complaint that may need to be addressed separately.
- 2.3 Unwilling to accept documented evidence of treatment given as being factual (egg drug records, GP manual or computer records, nursing records) or denies receipt of an adequate response despite correspondence specifically answering their questions or concerns being provided. This can also extend to include those persons who do not accept that facts can sometimes be very difficult to verify after a long period of time has elapsed.
- 2.4 Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by NHS North Durham Clinical Commissioning Group (the CCG) staff and, where appropriate, ICA, to help them specify their concerns and/or where the concerns identified are not within the remit of the CCG to investigate.
- 2.5 Focus on a trivial matter to an extent that it is out of proportion to its significance and continue to focus on this point. Please note careful judgement must be used before applying this criterion as determining what constitutes a 'trivial' matter is subjective.
- 2.6 In the course of addressing a complaint has an excessive number of contacts with the CCG, which places unreasonable demands on staff. Contacts may be in person, by telephone, letter, e-mail or fax. Discretion must be used in deciding how many contacts are required to qualify as excessive, using judgment based on the specific circumstances of each case.
- 2.7 Fail to engage with staff in a manner which is deemed appropriate, for example repeatedly using unacceptable language, secretly recording telephone calls or meetings without consent of the other parties involved. Refusing to adhere to previously agreed communication plans or behave in a threatening or abusive manner on more than one occasion, despite having been warned about this. It may be necessary to explain to a complainant at the outset of any investigation into their complaint(s) that such behaviour is unacceptable and in some circumstances can be illegal.

- 2.8 Have harassed or been abusive or verbally aggressive, either directly or in-directly, on more than one occasion towards staff, their families or associates. If the nature of the harassment or aggressive behaviour is sufficiently serious this could, in itself, be sufficient reason for classifying the complainant as unreasonably persistent. Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and reasonable allowances should be made for this. All incidents of harassment or aggression must be documented in accordance with the CCG's incident reporting procedures.

3. Possible options for dealing with complainants prior to classifying as unreasonable and or persistent

Consideration will be given as to whether any further action can be taken prior to classifying a complainant as unreasonable and/or unreasonably persistent.

This might include:

- 3.1 Trying to resolve matters before invoking this procedure by drawing up a signed agreement with the complainant which sets out a code of behaviour for both parties. If these terms are not adhered to then consideration will be given as to whether to implement the other options in this section.
- 3.2 Where no meetings with staff have been held, the complaints team will consider offering this as a means to dispel misunderstandings and move matters forward. This option will only be appropriate when risks have been assessed and a suitably senior member of staff can be present.
- 3.3 The NECS Complaints Team will consider whether the assistance of a lay conciliator or Independent Advocacy Service (ICA) advocate might be helpful in a formal complaint where this has not previously been taken up.
- 3.4 Where multiple departments are being contacted by the complainant, the complaints team will consider setting up a meeting to agree a cross-departmental approach.

4. Invoking the unreasonable and or persistent procedure

- 4.1 When complainants have been identified as meeting the criteria outlined in section 2 and all possible options in section 3 have been exhausted the NECS Complaints Team will escalate this to the Accountable Officer.
- 4.2 The Accountable Officer will consider any evidence of this behaviour and then make the decision as to whether to classify the complainant as unreasonable or persistent.

- 4.3 If the Accountable Officer considers that a complainant meets the criteria he/she will then be notified in writing of this. Written information will also be copied to other parties involved in the complaint, such as ICA.
- 4.4 A record will be kept for future reference of the reasons why a complainant has been deemed as unreasonable and/or persistent.
- 4.5 The Accountable Officer (or deputy) may decide to deal with the complainant in one or more of the following ways:
- Once it is clear that the complainant meets the criteria outlined in section 2 it may be necessary to write to inform them that if their behaviour persists they may be classified as an unreasonable and/or persistent complainant. The complainant will be provided with a copy of this procedure. This letter will also be copied to other persons involved in the complaint such as ICA.
 - Decline contact with the complainant in person, by telephone, fax or letter or any combination of these, providing that one form of contact is maintained. It may be necessary to consider contact via a third party such as ICA. If staff members are required to withdraw from telephone conversations with the complainant, an agreed statement will be made available.
 - Notify the complainant in writing that the points raised have been responded to in full and that the CCG has tried to resolve the complaint but there is nothing more to add and continued contact would serve no useful purpose. The complainant will also be notified that correspondence is at an end and any further letters received will only be acknowledged but not responded to.
 - Inform the complainant in writing that in extreme cases of harassment or verbal abuse, the CCG reserves the right to pass an unreasonable or persistent complainant to a legal representative for further advice.
 - Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the Parliamentary and Health Service Ombudsman.
 - In cases where the complaint is made against the Accountable Officer the decision about whether a complainant is persistent or unreasonable will be taken by the chair of the organisation.
- 4.7 Once a restriction is put in place, a letter will be issued to inform the complainant about the decision; what it means for their future contact with the CCG; how long the restrictions will remain in place; and what they can do to have their position reviewed. The complainant will be provided with a copy of this procedure.

4.8 Concluding letters to complainants will be sent by recorded delivery.

5. Withdrawing a persistent and/or unreasonable status

5.1 Once a complainant has been determined as persistent and/or unreasonable there needs to be a mechanism for withdrawing this status at a later date. For example if the complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate.

5.2 Staff will previously have used discretion in recommending persistent and/or unreasonable status at the outset and discretion should similarly be used in recommending that this status be withdrawn, when appropriate. This decision will only be taken by Accountable Officer in conjunction with the NECS Complaints Team and other relevant staff.

5.3 Once a complainant who had been deemed persistent or unreasonable is no longer considered to be such, normal contact will be resumed with him/her and the NHS complaints procedure will once again apply.

6. Requesting a review of the decision

6.1 If a complainant, or someone with authority to act on their behalf, disagrees with the decision to classify him/her persistent or unreasonable, they may put their reasons in writing and address this to the chair of the organisation.

6.2 Upon receipt of the request the chairman will reconsider the decision.

6.3 The chairman will notify the complainant in writing of the outcome