



Luton

Clinical Commissioning Group

Complaints Policy

Version:	V3
Ratified by:	Patient Safety & Quality Committee
Date ratified:	28 February 2018
Name of originator/author:	Gill Humberstone – Complaints Manager
Name of responsible committee/individual:	Patient Safety & Quality Committee
Name of executive lead:	David Foord – Director of Quality & Clinical Governance
Date issued:	20 March 2018
Review date:	February 2020 – see point 26, page 13
Target audience:	All staff within NHS Luton Clinical Commissioning Group

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1. Introduction

- 1.1 Luton Clinical Commissioning Group (CCG) views complaints positively and recognises that feedback, concerns and complaints are an invaluable source of information from patients and service users, which can help improve the quality of the services it commissions.
- 1.2 We are committed to high quality care for all. We want our patients, service users and their representatives to feel confident that when they contact us to seek advice, provide feedback or make a complaint that we will listen to them and take their concerns seriously, taking action to resolve any issues as quickly as possible.
- 1.3 As a guide for good practice when handling complaints, the CCG refers to 'My Expectations' (2014) a user-led 'vision framework' and tool for ensuring the patient and service user are at the heart of our approach to handling concerns and complaints:
https://www.ombudsman.org.uk/sites/default/files/Report_My_expectations_for_raising_concerns_and_complaints.pdf
- Considering a complaint – *'I felt confident to speak up'*
 - Making a complaint – *'I felt that making my complaint was simple'*
 - Staying informed – *'I felt listened to and understood'*
 - Receiving Outcomes – *'I feel that my complaint made a difference'*
 - Reflecting on the experience – *'I would feel confident making a complaint in the future'*
- 1.4 This latest version of the CCG complaints policy (V3) has incorporated guidance from the NHS England 'tool kit' for managing complaints – *Assurance of Good Complaints Handling*.
<https://www.england.nhs.uk/wp-content/uploads/2015/11/ccg-toolkit-primary-care.pdf>
- 1.5 We support the Parliamentary and Health Service Ombudsman's Principles of *Good Complaints Handling (2009)* www.ombudsman.org.uk and the *NHS Constitution* which includes a number of patient rights relating to complaints. <https://www.gov.uk/government/publications/the-nhs-constitution-for-england>
- 1.6 In summary, these include patients' rights to:
- Have their complaint acknowledged and properly investigated.
 - Discuss the manner in which the complaint is to be handled and know the period in which the complaint response is likely to be sent.
 - To be kept informed of the progress and to know the outcome including an explanation of the conclusions and confirmation that any action needed has been taken on.
- 1.7 The CCG's complaints handling approach is structured around the Parliamentary & Health Service Ombudsman's Principles of Good Administration, Good Complaints Handling and Remedy 2009.
- Getting it right
 - Being customer focused
 - Being open and accountable
 - Acting fairly and proportionately
 - Putting things right
 - Seeking continuous improvement
- 1.8 These principles are supported through the Department of Health's - A Guide to better customer care *'listening, responding and improving'*. The CCG will take an active approach to asking for people's views, deal with complaints effectively and use the information received to learn and improve.

2. NHS Constitution

- 2.1 The NHS Constitution establishes the principles and values of the NHS. It includes staff pledges, which state what the NHS expects from its staff and what staff can expect from the NHS. The CCG will handle complaints by talking to the complainant ensuring understanding of their concerns and providing a focused response which addresses the concerns raised. Luton CCG will provide a full explanation to all complainants, take action where appropriate and ensure learning is shared and embedded from each complaint.

3. Purpose

- 3.1 The purpose of this policy is to ensure that Luton CCG meets its legal obligations under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, and conforms to the NHS Constitution and reflects the recommendations from the Francis Report (2013) <https://www.gov.uk/government/news/francis-report-on-mid-staffs-government-accepts-recommendations>
- 3.2 This policy also outlines the CCG's commitment to having an effective complaints procedure in place to ensure we investigate and respond to complaints in a patient focused, open and empathic way.

4. Duty of Candour Statement - See appendix 1

5. Policy Statement

- 5.1 Health and social care staff work hard to get things right first time but with busy services, mistakes can happen and service users' expectations are not always met. However, if services can respond to these mistakes quickly and effectively then future problems can be prevented.
- 5.2 Luton CCG will treat all complaints received seriously and will listen to what patients, service users and their representatives have to say and provide assistance and advise on the processes involved. Complaints managed by the CCG will be fully investigated in an unbiased, non-judgmental, open and transparent manner and receive a timely and appropriate response. The outcome of the investigation will be explained along with any actions and learning which are taken in light of the complaint.

5.3 The key aims of this policy are:

- To provide clear, simple, easy to understand procedures for managing complaints which are widely publicised and accessible to all
- That staff and the complainant are provided with support and necessary guidance throughout the complaints process
- That the causes of complaints are identified and actions are taken to prevent recurrences
- That responses are provided to complainants in appropriate timeframes and methods, with the sympathy and understanding that is required
- That lessons learnt from complaints are acted upon and shared throughout the organisation to improve standards of care
- To ensure that complainants care is not adversely affected in any way as a result of having made a complaint

5.4 The policy is consistent with:

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
- NHS Constitution (Department of Health DH,2013)
- The Principles of Good Administration, Good Complaints Handling and Remedy (Parliamentary & Health Service Ombudsman, 2008)
- DH 2009 - Listening, improving, responding: a guide to better customer care
- Review of the NHS Hospital complaints System: Putting Patients back in the picture (DH,2013)
- Health and Social Care Act 2012
- My Expectations – vision framework (2014)
- NHS England toolkit – assurance of Good Complaints Handling
- Records Management – Code of Practice 2016

6. Definition and Scope of the Policy

6.1 Scope of the policy

6.1.1 This policy applies to the handling of concerns and complaints relating directly to the CCGs commissioning and funding decisions and when appropriate, provider organisation complaints (for services commissioned by the CCG). For complaints about services that are not commissioned by the CCG, please refer to the complaints service of the provider concerned.

6.2 What is a complaint

6.2.1 Concerns may be expressed about any area of treatment, attitude or any other influences which directly or indirectly affects the service user.

6.2.2 A complaint is an expression of concern or dissatisfaction about a service which the CCG provides or commissions. Commissioned services are those that are paid for by the CCG but provided by other organisations such as acute hospitals, community care and any other providers.

6.2.3 A complaint can be made about 'inaction' as well as 'action'.

6.3 Complaints that cannot be dealt with under this policy

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

- A complaint made by an NHS organisation or private or independent provider or responsible body.
- A complaint made by an employee about any matters relating to their employment.
- A complaint, the subject matter of which has been previously investigated under these or previous NHS regulations.
- A complaint which is made orally and is resolved to the complainants' satisfaction no later than the next working day after the day on which the complaint was made.
- A complaint arising out of an NHS body's alleged failure to comply with a request for information under the Freedom of Information Act 2000.
- Where a complaint is raised which the CCG that is not able to investigate under the NHS Complaints Regulations 2009, where possible the complainant will be signposted appropriately to progress their concern.

6.4 Who can make a complaint

6.4.1 A complaint can be made by any person who is affected by the action, or it may be made by a person acting on behalf of a patient, in any case where that person:

- *is a child* – 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. The CCG will be sensitive when responding under such circumstances.
- *has a 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 being 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 information 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 behalf*, for example in the form of a registered Power of Attorney which must cover health affairs.
- *is an MP*, acting on behalf of any by instruction from a constituent.

7. Safeguarding

7.1 Safeguarding is a key element of complaints management. It may be necessary to identify if any of the following elements are evident in the complaint information:

- Safeguarding concerns to the person, to include their ability to manage with daily living.
- Safeguarding concerns regarding the adequacy of care and support being provided to the person.
- Safeguarding concerns regarding the behaviour of a professional to a patient, service user or carer.
- Safeguarding concerns regarding the behaviour of the person/complainant to professional staff.

7.2 If any safeguarding issues are identified, guidance and support should be sought immediately from the CCGs safeguarding lead. Newly recruited members of the complaints team should be made aware of this during their induction.

8. How to complain to Luton CCG

8.1 Contact details of complaints team:

By telephone:	01525 624275
By email:	lccg.feedback@nhs.net
By post:	Luton CCG Complaints and Feedback Service, Suite 1, Capability House, Silsoe, Bedford, Bedfordshire, MK45 4HR

8.2 The Complaints Team can provide advice on the complaints procedure and can direct complainants to the appropriate pathway for raising their concerns and complaints.

8.3 If a complaint is received verbally, the CCG complaints team will make a written record of the complaint, they will read this back to the complainant to ensure the details are correct and will write to acknowledge receipt and confirm the timescale for the response.

8.4 Where required, interpreters should be used to ensure that accurate details of the complaint are recorded.

8.5 Where possible the Complaints Manager will have a conversation with the complainant and discuss the following issues:

- To clarify the issues of the complaint.
- The complainants desired outcomes from raising their complaint.
- The manner in which the complaint is to be handled i.e. written response or meeting.
- The period of time in which the investigation is likely to be completed.

8.6 If it is not possible to discuss the above with the complainant, the CCG will determine the response period and notify the complainant of that response period in writing advising that they may contact to discuss this if they wish.

8.7 Where to send a complaint:

8.7.1 Complaints about a healthcare provider should be sent to the provider's complaints team (this is the organisation that provides the NHS service). However, complaining to the CCG as the service commissioner may be the right option if the complainant is not comfortable complaining directly to the healthcare provider, or if they feel this is not appropriate.

8.7.2 Please note: if a complainant has already complained to their healthcare provider, the CCG will not be able to re-investigate the same concerns. If the complainant is unhappy with the outcome of their complaint, and wish to take the matter further they should go to the next stage of the NHS complaints procedure and contact the Parliamentary and Health Service Ombudsman (PHSO) which makes final decisions on unresolved complaints about the NHS in England. It is an independent service which is free for everyone to use. For more information about this stage of the complaints process, visit the PHSO website <https://www.ombudsman.org.uk/making-complaint> or call 0345 015 4033.

9. Timescale for making a complaint

9.1 Complaints must be made not later than:

12 months after the date of the incident that was the cause of the complaint; *or*
12 months after the incident that was the cause of the complaint came to the notice of the complainant.

9.2 If there are good reasons for not having made the complaint within the above timeframe and, if it is still possible to investigate the complaint effectively and fairly, the CCG may decide to still consider the complaint, for example, longer periods of complaint timescales may apply to specific areas.

10. Complaints Meetings (Local Resolution Meeting)

10.1 Should the complainant wish to meet with the Complaints Manager to discuss their complaint this will be arranged. Complainants may also wish to meet with representatives of the CCG to discuss their concerns as part of the investigation process or as their method of response, if so this will be discussed when the complaint plan is drafted at the beginning of the process.

11. Joint Complaints (which involve more than one organisation)

11.1 When managing a joint complaint that involves more than one NHS or social care organisation, discussions will take place between all parties (including the complainant), to ascertain which is the most appropriate organisation to take the lead in coordinating the complaint and communicating with the complainant. If the CCG takes the lead, it will work together with all parties to ensure a full investigation takes place and that a single response which answers all concerns is provided to the complainant. The provider organisation that the majority of the complaint issues relate to is usually identified as the most appropriate to take the lead.

12. Responsibilities

12.1 The Accountable Officer for Luton CCG is responsible for ensuring compliance with the arrangements made under these regulations and ensuring that action is taken if necessary depending on the outcome of the complaint and also for cultivating a culture of listening and learning from patient experience.

12.2 The Accountable Officer is also responsible for approving and signing all complaints response letters or appointing an appropriate deputy.

12.3 The Complaints Manager is responsible for managing the procedures for handling and considering complaints in accordance with the arrangements made under the regulations and this policy.

12.4 The Complaints Manager will manage all complaints centrally as stated by the NHS Complaints Regulations 2009. They will implement systems for ensuring that all current investigations into complaints are tracked and monitored and target dates are met.

13. Confidentiality

13.1 Complaints will be handled in the strictest confidence at all times and should be kept separately from patients medical records. Care will be taken that information is only disclosed to those who have a demonstrable need to have access to it.

13.2 Suitable arrangements are in place for the handling of patient identifiable data to meet the compliance of the Data Protection Act and other legal obligations. The Caldicott Report sets out a number of general principles that health and social care organisations should use when reviewing its use of patient or client information.

13.3 The designated Caldicott Guardian for the CCG is responsible for ensuring that confidentiality is maintained.

13.4 Confidentiality will be maintained in such a way that only managers and staff who are leading the investigation know the contents of the case. Anyone disclosing information to others who are not directly involved in this may be dealt with under disciplinary procedures.

14. The complaint process, investigation and response

14.1 The CCG will acknowledge all complaints within 3 working days after the day the complaint is received (the acknowledgement will usually be in writing but can be verbally in some cases although this is the exception rather than the norm). An offer should be made to discuss with the complainant the following:

- The handling of the complaint
- Timescale for responding
- Expectations and desired outcome if unclear

14.2 At this stage, the complainant must be given the contact details for the local NHS Complaints Advocacy service provided by POHWER, should they wish to access support in making their complaint. This is a free, independent and confidential service.

Tel: 0300 456 2370	Email: pohwer@pohwer.net	Web: www.pohwer.net
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14.3 Visit the POHWER website for other methods of contact and more information about the support available.

14.4 The CCG will investigate a complaint in a manner appropriate to resolve it as quickly and efficiently as possible. The investigation will be led by someone who is not directly involved in the events leading to the complaint. During the investigation the Complaints Manager will keep the complainant informed as far as is reasonably practicable as to the progress of the investigation.

14.5 On completion of the investigation, and within the timescale agreed with the complainant (for the CCG this is generally 25 working days), the CCG will send a formal response in writing to the complainant which will go through a quality assurance process and be signed by the Accountable Officer or their appointed Deputy. Our response to a complainant will be wherever possible by the complainants preferred method of communication.

14.6 Occasionally investigations take longer than anticipated; if this is the case the Complaints Manager will contact the complainant to explain this and to extend the timescale.

14.7 The Complainant can expect that:

- If the case has reached the agreed response timescale the complainant should be notified and then receive regular updates thereafter. This could be by telephone, email or letter but the format should be agreed with the complainant.
- They can expect to receive a quality response with assurance that action has been taken to prevent a recurrence.
- They will be informed of any learning.

14.8 The formal written response can be in letter format or minutes from a meeting held with the complainant where a response was provided. The response will include:

- An explanation of how the complaint has been considered.
- An apology if appropriate. Apologising does not expose the CCG to liability.
- An explanation based on the facts.
- The conclusions reached in relation to the complaint including any remedial action that the the CCG considers to be appropriate.
- Confirmation that the CCG is satisfied any action has been or will be actioned.
- Where possible, we will respond to people about any lessons learnt.
- Information and contact details of the Parliamentary and Health Service Ombudsman as the next stage of the NHS complaints process.

15. Parliamentary Health Service Ombudsman (PHSO) Review Stage

15.1 If a complainant remains dissatisfied with the response gained at a local resolution stage they can ask the PHSO to review the case.

15.2 The PHSO may investigate a complaint where:

- A complainant is not satisfied with the result of the investigation undertaken by the CCG.
- The Complainant is not happy with the CCG's Response and does not feel the CCG has resolved their concerns.
- The Complaints Manager has decided not to investigate a complaint on the grounds that it was not made within the required time limit.

15.3 Complainants should have complained to the CCG or the provider involved before sending a complaint to the PHSO. The CCG will provide information on how to contact the PHSO when issuing formal written responses.

15.4 When the CCG is informed that a complainant has approached the PHSO the Complaints Manager will:

- Co-operate fully with the PHSO and provide all information that has been requested in relation with the complaints investigation.
- Advise the relevant director that a request for investigation has been made so that all staff involved can be informed.

15.5 The PHSO will notify the CCG of the outcome and the Complaints Manager will in turn notify the relevant Director to inform the staff involved in the complaint. The CCG can also refer a complaint to the PHSO for a final decision.

16. Consent

16.1 There is an expectation that when capturing consent for the use and sharing of information 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.

16.2 Information will not be disclosed to third parties unless the complainant or appropriate authorised party which has provided the information has given consent to the disclosure of that information. Consent must also be obtained before sharing patient information with the CCG contracts or

commissioning teams. Consent should be pursued, however if by the 25 working day consent has not been received, the case will be closed and categorised as a concern.

17. Exceptions to the policy

- 17.1 There may be circumstances in which information disclosure is in the best interests of the patient or service user, 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 CCGs Safeguarding policies and procedures.
- 17.2 Any allegation of fraud or financial misconduct should be referred to the National Fraud Reporting line at NHS Counter Fraud Authority. Full details of the methods for reporting are on their website: <https://cfa.nhs.uk/reportfraud>

18. Support for Staff

- 18.1 All statements, letters, phone calls and actions taken in an investigation must be documented and kept in the complaint file. A complete complaint file is required should the complaint be referred to the Parliamentary & Health Service Ombudsman.
- 18.2 Members of staff named in the complaint, either personally or by role, should be informed of the complaint by their manager. Staff should be fully supported by their line manager and consulted during the investigation. The investigation should be full, fair and timely and should not apportion blame. The following sources of support are available to staff:
- Line manager
 - Directorate manager
 - Complaints Manager
- 18.3 The organisational style and culture within the CCG will promote positive attitudes toward dealing with complaints.

19. Improving our Services

- 19.1 If an action plan is required due to the complexity of the case investigation, the Complaints Manager will log the details of the action to be taken and share these with the service managers and director of the service concerned.
- 19.2 The Complaints Manager will ensure that an action plan is completed by the relevant staff with details of what action will be taken and when this will be completed. This action plan should be completed at the same time as the complaints response and where appropriate enclosed with the response, with an opportunity to receive further updates at an appropriate future time.

20. Record Keeping

- 20.1 Keeping clear and accurate records of complaints is important and these should be retained for a period of 10 years and at this point reviewed and destroyed if no longer needed. A link to the Records Management Code of Practice for Health and Social Care 2016 can be found here: <https://digital.nhs.uk/article/1202/Records-Management-Code-of-Practice-for-Health-and-Social-Care-2016>

21. Reports

21.1 The CCG will also demonstrate how it uses feedback to learn and improve. We will produce an annual report which will detail the number of complaints we have received, the issues that the complaints have raised, where appropriate any lessons learnt and the number of cases that were referred to the Parliamentary & Health Service Ombudsman.

21.2 The Complaints Manager is responsible for the production of reports based on the complaints which will identify trends and highlighted issues for audit. Complaints reports will be made to the Patient Safety and Quality Committee (PSQC) on a quarterly basis.

22. Staff Awareness

22.1 The CCG will ensure that all staff are aware of the complaints policy and procedure and that all staff have access to:

- Complaints Policy
- Protocols and Guidelines
- The complaints Manager for direct advice

23. Persistent and unreasonable contact - Detailed guidance on the management of persistent and unreasonable contact is set out in Appendix 2.

24. Guidance for all staff handling persistent and unreasonable contacts and complainants

24.1 Any member of the LCCG staff who intends to terminate a telephone conversation with a complainant should use the following form of words – or a very close approximation. Grounds for doing so could be that the complainant has become unreasonably aggressive, abusive, insulting or threatening to the individual dealing with the call or in respect of other CCG personnel. It should not be used to avoid dealing with a complainant's legitimate questions/concerns, which may sometimes be expressed extremely strongly. Judgement and discretion must be used in determining whether or not a complainant's approach has become unreasonable.

24.2 **Form of words to assist staff when dealing with difficult calls:**

"I understand that you are upset, but if you continue to behave in this manner, I will end the call. We are here to help and will discuss the problem if you ring again in a calm manner. (Explain three times that if the caller continues to behave in this manner the call will be ended) I am now going to end the call".

A suggested response to racism is:

"This service operates a non-racist policy. This means that we do not allow callers to discriminate on the ground of race. If you wish to use the service, respecting the policy, please call again. I am now going to end the call."

24.3 **Follow-up action:** Any such incident should be reported by the completion and submission of an Incident Report Form. In respect of future means of communication with the complainant and any further action deemed necessary, advice should be sought from the Complaints Manager, who will liaise with the Accountable Officer or Deputy.

25. Equality Impact Assessment

25.1 Luton Clinical Commissioning Group is committed to promoting Equality in all its areas of responsibility- as commissioners of services as a partner in the local economy and as an employer. This policy will contribute to ensuring that all users and potential users of services and employees are treated fairly and respectfully with regard to the protected characteristics of age, disability, gender, reassignment, marriage or civil partnership, pregnancy and maternity, race, religion, sex and sexual orientation.

26. Policy Review

26.1 The Complaints Manager is responsible for the monitoring, revision and updating of this document. This policy will be reviewed taking in to consideration operational experience and national guidance. This policy will be reviewed bi-annually, or when new legislation or guidance is issued. The next review due in February 2020

Review and Amendment Log

Version No	Type of Change	Date	Description of change
3	Review	11/01/2018	Update to reflect current legislation