



## **Local Care Direct DR-02**

# **Policy for Managing Compliments, Comments, Concerns and Complaints**

Version 1.3  
Clinical Governance  
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## Staff Summary

- Local Care Direct welcomes all feedback about the quality of our services.
- We will actively promote the channels via which patients and the public can make their views known about the services we provide and will ensure that the process is inclusive and accessible.
- Our approach to handling feedback is outcomes focused and seeks to resolve problems as early and as speedily as possible in the first instance.
- All staff, including non-employed, have a part to play in the resolution of problems for patients and members of the public and are empowered to do so.
- Local Care Direct is committed to learning from compliments, comments, concerns and complaints to improve the quality of its services and to contribute to continuous improvement of patient safety, clinical effectiveness and patient experience.
- We committed to recognising and rewarding excellent service provided by staff. Positive feedback from patients and members of the public will be shared with staff.
- Complaints and concerns will be handled in a way that is open, fair and proportionate.
- Appropriate and proportionate remedies will be made in line with Parliamentary and Health Service Ombudsman Principles.
- All complaints, concerns, comments and compliments are recorded. The record is an end-to-end record of the issue raised, local investigation, learning, action plan and response.
- Staff and managers must contribute openly, honestly and fully with investigations into complaints and concerns. They can be assured that the aim of complaints resolution is not to apportion blame but to determine what happened, with subsequent actions being taken to improve future service delivery.

### 1.0 Introduction

Welcoming and listening to feedback from patients, their families and members of the public is an essential part of Local Care Direct's (LCD) quality and risk governance. The effective management of that feedback is necessary to ensure that patients are confident their feedback is acted upon in a consistent, fair and timely manner, that it leads to changes in our service delivery, that we recognise the effect the quality of our services have had upon them and aim to remedy any hardship we may have caused.

Local Care Direct must comply with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and associated guidance 'Listening,

Responding, Improving' issued by the Department of Health in February 2009. LCD must meet the Care Quality Commission registration requirements as specified in Regulation 19. A number of recommendations regarding complaint handling are contained in the Francis Report (February 2013) and the review completed by Ann Clwyd MP and Professor Tricia Hart in October 2013. LCD needs to have regard to these recommendations and also to comply with the Principles of the Parliamentary and Health Service Ombudsman (PHSO).

## **2. Background**

Local Care Direct is committed to high quality care for all as a core principal of our vision and purpose. This includes the provision for any user of the organisation, their family, carers, or members of the public, with the opportunity to seek advice, raise concerns or make a complaint, about any of the services we provide.

Local Care Direct recognises that our staff work very hard to get it right first time. However, there may be occasions when people will be dissatisfied with the service received, or decisions made, and wish to make a complaint or raise a concern.

We will endeavour to respond as quickly and effectively as possible to resolve complaints and respond to enquiries, and to use the information to improve the quality of patient services.

The complaints system incorporates the Parliamentary and Health Service Ombudsman Principles of Good Complaints Handling (2009):

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement

The policy is informed by the NHS Constitution that includes a number of recommendations relating to patient rights. Patients have the right 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 will 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
- Take a complaint about data protection breaches to the independent Parliamentary and Health Service Ombudsman if not satisfied with the way LCD has dealt with the complaint

The policy is also informed by:

- Principles of openness, transparency and candour throughout the organisation
- Patients raising concerns about their care are entitled to have the matter dealt with as a complaint, unless they do not wish it
- Prompt and thorough processing

- Sensitive and accurate communication
- Effective and implemented learning
- Comments or complaints amounting to an adverse or serious untoward incident should trigger an investigation
- The importance of narrative as well as numbers contained within the data

### **3. Policy statement**

Local Care Direct will treat complaints seriously and ensure that complaints, concerns and issues raised by patients, relatives and carers are properly investigated in an unbiased, non-judgmental, transparent, timely and appropriate manner. The outcome of any investigation, along with any resulting actions will be explained to the complainant.

The main aims of the policy are:

- To provide easily accessible clear and easy to understand procedures for managing complaints
- To provide a consistent approach to the management and investigation of complaints
- To sympathetically respond to complaints and concerns in appropriate timeframes
- To provide opportunities for people to offer feedback on the quality of service provided
- To provide staff and complainants with support and guidance throughout the complaints process
- To identify the causes of complaints and to take action to prevent recurrences
- To use 'lessons learnt' as a driver for change and improvement
- To ensure that the care of complainants is not adversely affected as a result of making a complaint
- To assist in promoting an open, honest and transparent organisational culture
- To ensure that LCD meets its legal obligations
- To act as a key tool in ensuring the good reputation of Local Care Direct

### **4. Purpose/Scope**

The purpose of this document is to:

- A) Set out the principles by which LCD handles compliments, comments, concerns and complaints;
- B) Define the roles and responsibilities for handling compliments, comments, concerns and complaints.
- C) Set out the standards, structure and systems via which serious incidents and risks identified through patient feedback are managed and acted upon;
- D) This policy covers compliments, comments, concerns and complaints relating to any aspect of the services provided by Local Care Direct.
- E) This policy is not intended for use by staff who may have complaints or concerns relating to their employment.

- F) Concerns which LCD wishes to raise about other partner organisations are not covered by this policy. These concerns are to be recorded as incidents and raised through relevant operational management processes.
- G) This policy is designed to reduce the risk of repeated failures by ensuring that necessary improvements are appropriately identified and acted upon as a result of feedback by providing a robust governance framework; and to reduce the risk of escalated dissatisfaction through effective, early resolution wherever possible.

## **5. Who can make a complaint?**

Any person, who is affected by, is likely to be affected by or is aware of an action, omission or decision made by LCD and or its staff and clinicians, for the purposes of delivering health care with appropriate consent.

A complaint or concern may be made by a person acting on behalf of a patient in any case where that person:

- is a child;
- has died;
- has physical or mental incapacity;
- Has given consent to a third party acting on their behalf;
- Is an MP acting on behalf of and by instruction from a constituent

## **6. Carers rights**

Carers can make a complaint on behalf of the person they care for where the person is a child, has asked the carer to act on their behalf, or is not capable of making the complaint themselves. The organisation has the discretion to decide whether the carer is suitable to act as a representative.

- In the individual's best interests.

If the Clinical Governance Lead is of the opinion that a representative does or did not have sufficient interest in the person's welfare, is not acting in their best interests or is unsuitable to act as a representative, they will notify that person in writing stating the reasons.

If a complaint or concern is an allegation or suspicion of abuse, for example sexual abuse, physical neglect or abuse, or financial abuse, it should immediately be investigated following appropriate safeguarding or serious incident policies and procedures.

In a situation where a person discloses physical or sexual abuse, or criminal or financial misconduct, it must be reported using appropriate policies and procedures even if the person does not want to make a complaint.

In case involving a vulnerable adults or children, including threat of self harm and/or harm to others, LCD should implement effective safeguarding policies and practice, referring to the appropriate safeguarding board.

Any allegations of fraud or financial misconduct should be referred to the National Fraud Reporting line; details should NOT be taken by the complaints team. Full details of the methods for reporting are on their website: <https://www.reportnhsfraud.nhs.uk/>

## **7. Process**

### **Accessibility of process**

People are able to give their feedback in a variety of ways. This includes by telephone, email, in writing to our postal address, via the website or using a paper feedback form. People may also give their feedback to a member of staff face to face who will ensure it is handled in accordance with the person's wishes. If a person wishes to give feedback verbally, they can expect a member of staff to make a written record and to receive a copy of the written record of their feedback should they so wish.

Information about how to give feedback is made widely available via posters in our centres and on the websites. Leaflets will also be made available at all reception points.

All responses to feedback will be made in plain language and will not contain specialist terminology without clear explanation of its meaning.

Any person wishing to communicate by email regarding their feedback will be alerted to the insecure nature of the internet for personal and confidential information, and will be asked to explicitly provide consent for LCD to correspond with them in this way for this purpose, which will be recorded.

Local Care Direct continuously reviews its accessibility standards and adheres to NHS England's best practice guidance on accessible information.

## **8. Investigation and organisational response**

LCD will investigate a complaint in a manner appropriate to resolve it as efficiently as possible, proportionate to the seriousness of the complaint.

All complaints will be acknowledged no later than three working days after the day the complaint is received (either by telephone, email or letter) and an offer will be made, as appropriate, to discuss with the complainant the following:

- An action plan for handling the complaint
- Timescales for responding
- The complainant's expectations and desired outcome
- Information in relation to the provider of independent advocacy services in their geographical area e.g. the Independent Complaints Advocacy Service or other support service.

The complainant can expect that:

- They will be kept up to date

- Their complaint will be investigated and, where appropriate, they will receive an explanation based on facts
- Assurance that the matter has been investigated and action has been taken to prevent a recurrence
- To be informed of any learning
- A remedy will be made where appropriate

On receipt of the investigation report a response to the complaint will be prepared which will include information on the next stages of the complaints procedure should the complainant wish to take matters further.

Where the complaint involves more than one NHS or social care body, LCD will adhere to the duty to cooperate contained in the legislation. Where complaints involve more than one body, discussions will take place about the most appropriate body to take the lead in coordinating the complaint and communicating with the complainant.

Where LCD receives a complaint involving several bodies, permission will be sought from the complainant before sharing or forwarding a complaint to another body. Consent will need to be obtained to forward the complaint to any provider.

As soon as it is reasonably possible after completing the investigation, and within the timescale agreed with the complainant, LCD will send a formal response in writing to the complainant which will be signed at Director level.

The response will include:

- An explanation of how the complaint has been considered
- An apology
- An explanation based on facts
- Whether the complaint in full or in part is upheld
- The conclusions reached in relation to the complaint including any remedial action that the organisation considers to be appropriate
- Confirmation that the organisation is satisfied any action has been or will be actioned
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Where possible, we will respond to people about any lessons learnt.

A key consideration is to make arrangements flexible; treating each case according to its individual nature with a focus on satisfactory outcomes, organisational learning and those lessons should lead to service improvement.

## **9. Compliments**

A compliment is the expression of satisfaction made by a patient, their family member or a member of the public regarding a LCD service or the specific behaviour of a member of LCD staff.

Compliments can be made to any member of staff and will be acknowledged by the person receiving them in the format in which they were received (i.e. verbally, by email, etc.) with the exception of compliment letters. All written compliment letters will receive a written response from the Clinical Governance & Quality department (CG&Q department).

The CG&Q Department will identify the team to which the compliment relates and will provide the Manager of the service with the details of the compliment. The individual named in the compliment will receive a letter from the CG&Q Department outlining the compliment a copy will also be sent to the HR department for inclusion in the staff members file.

## **10 Comments**

A comment is feedback from a patient, their family member or a member of the public giving a view of LCD's service, which has not been proactively sought or solicited, and to which they do not require a response.

Comments can be made to any member of staff and will be acknowledged by the person receiving them.

All comments should be considered and recorded by the CG&Q Department.

## **11 Concerns and Complaints**

Concerns and complaints are expressions of dissatisfaction made by a patient, their family member or a member of the public regarding a LCD service or the specific behaviour of a member of LCD staff in the course of their duties to which a response is required.

LCD values and encourages early resolution which focuses on outcomes and aims to resolve as many complaints and concerns as early as possible. This is also what many people raising concerns and complaints value too.

. Any member of staff receiving such a complaint or concern must pass this to the CG&Q Department for them to progress formally.

For all other complaints and concerns, these may be made to any member of staff. A staff member receiving a complaint or concern from a patient, their family member or a member of the public, should attempt to resolve the matter to the person's satisfaction by establishing what outcome the person is seeking which will resolve the matter for them and aim to deliver this if they are able to do so. This may be offering an appropriate apology and reassurance that the matter will be addressed or brought to the attention of the relevant manager. The staff member must also inform the CG&Q Department of any issues raised this way for formal logging and recording of any actions taken.

Should the person raising the concern or complaint remain dissatisfied following attempts to resolve the matter by the staff member, or should the staff member not feel they are able to deliver the solution being sought, the staff member should advise the complainant they will pass the matter to the CG&Q Department who will respond to them.

The Quality Team will grade all concerns and complaints received in accordance with the risk grading criteria detailed in Appendix C .

## **12 Timescales**

The CG&Q Department will aim to make initial contact with the person raising the concern or complaint within 3 working days of receipt to enable an early decision whether the case needs to be progressed formally.

All complaints must be acknowledged in writing, giving a named contact within 3 working days of receipt.

Individual timescales for resolution of concerns should be agreed with the person raising the concern on a case by case basis. The expectation is that most concerns should be resolved within 10 working days but may take up to 25 working days.

## **13 Consent for third party concerns and complaints**

The principle adopted by this policy is to work in accordance with the requirements of the Data Protection Act 1998 and the Caldicott principles. Where it is possible to obtain consent from the person to whose care the complaint or concern relates, then this will be obtained. However, this policy aims to enable dissatisfaction to be resolved and service issues to be identified and rectified, and therefore a pragmatic approach will be taken where obtaining consent is not possible or practical. This is expanded upon in the following paragraphs. Utmost care will be taken not to divulge unnecessary personal information in responding to concerns and complaints in these circumstances.

Complaints and concerns may be raised by a person acting on behalf of the patient who has received the services being complained about. In such cases, consent of the patient will be sought.

Where the patient is deceased, the consent of the 'nearest relative' will be sought. Where a complaint or a concern is progressed with the consent of the 'nearest relative', care will be taken to include only that information which is necessary to answer the issues raised. The 'nearest relative' will often but not always be the patient's next of kin. Care will be taken to ensure that the person identified as the 'nearest relative' is the most appropriate person to act on the patient's behalf.

Where the patient lacks capacity, the consent of the person who has 'Health and Welfare lasting power of attorney' will be sought.

Where the patient is a child or young person under the age of 16, the consent of a person who has 'parental responsibility' for the child or young person will be sought.

## **14 Anonymous concerns and complaints**

Concerns and complaints which are raised anonymously will be recorded and investigated to the extent which is possible given the information supplied. Any service issues identified from the investigation will be acted upon and a record made of action taken.

## **15 Concerns raised by Healthcare Professionals**

The healthcare professional will be advised of LCD's intention to obtain the consent of the patient to which the concern relates. If the patient wishes the matter to be pursued, this will be recorded as a concern or complaint and the patient will be responded to, and with their consent, details of our findings and response will be provided to the healthcare professional who raised the matter.

If consent of the patient or their representative is not obtained, the matters raised will be investigated and any learning identified will be acted upon but only a general response will be made to the Healthcare professional raising the concern.

## **16 Concerns and complaints raised by MPs**

Where a complaint or concern is raised by an MP or a Local Authority Elected Member and relates to services provided to an individual, the person will be assumed to have consented to the member raising the issue on their behalf where the person is also the patient to whom the concern or complaint relates. Where this is not the case, consent will be sought as outlined above.

All responses to MPs and Local Authority Elected Members will be approved and signed by the Chief Exec.

LCD will comply with the Information Commissioner's Office guidance 'Data Protection Technical Guidance Note Disclosures to Members of Parliament carrying out constituency casework'.

## **17 Concerns and complaints regarding multiple organisations**

All NHS and Local Authority Social Care Services are required to work together to provide a single response to complaints made about their services where the complainant has raised issues relating to multiple organisations in their complaint.

Where LCD is the organisation receiving the complaint, consent will be obtained from the complainant to share the complaint with other relevant organisations and contact will be made with the other organisations to agree a joint approach to resolving the complaint.

Staff who are approached by staff of other health or social care organisations for input to concerns and complaints should immediately refer the enquirer to the CG&Q department to enable appropriate joint working.

All written responses to complaints which another health or social care organisation is leading on must be approved and signed off in accordance with the sign-off process detailed in Appendix G.

## **18 Withdrawals**

A person who has raised a concern or a complaint may choose to withdraw their concern or complaint at any point in the investigation up to receiving a response.

LCD will continue to investigate the matter and to make a record of findings and action taken. A clear record will be made of the complainant's wish to withdraw the complaint, along with evidence to support this, and no response will be made to the complainant.

## **19 Links with other procedures**

### **Serious incidents**

The process by which a complaint is declared a serious incident (SI) is detailed in S-41 Serious Incident Policy. When the issues raised by a complaint are declared a serious incident, the serious incident investigation process will be instigated and will determine the timescale in which a complaint response can be made. This is normally in excess of the time taken to respond to complaints which are not also serious incidents.

### **Clinical case reviews**

Where a complaint raises issues of a clinical matter, the Clinical Governance Lead or Quality Group may decide that a Clinical Case Review (CCR) is necessary to explore the clinical issues more fully and ensure all learning is identified and acted upon.

Where this is the case, the CG&Q Department will continue to investigate any other matters raised and will receive a copy of the CCR notes to inform those aspects of the complaint response.

CCRs will generally extend the timescale taken for the complaint response. The CG&Q Department will advise the complainant of the process being followed, the reasons for this and the estimated response timescale.

## **20 Being open**

This Policy is in line with the LCD's Being Open Policy and the Duty of Candour. All complaints and concerns are investigated and responded to in an open, honest and transparent way.

The Being Open Policy will not be instigated for any incidents which are also complaints as the communication with the patient and/or their representative will be handled via this Policy.

The Statutory Duty of Candour is a contractual duty of all healthcare providers. LCD will ensure patients are informed in line with CQC regulation 20 and the Health & Social Care Act 2008.

### **Freedom of Information and Environmental Information Regulations**

People raising complaints and concerns may request general information on how LCD operates, or request copies of policies, in addition to the more specific points of concern which relate personally to the service they have received.

In such cases, the Quality team will seek to provide the requested information. If the request is substantial and will take significant processing time, the complainant will be advised that the matter has been forwarded to the Information Governance Group to be processed in line with the Freedom of Information process.

Complaints and concerns raised about the way in which a Freedom of Information (FOI) request has been handled will be dealt with in accordance with this Policy but the complainant will be signposted to pursue the matter with the Information Commissioner should they remain dissatisfied, not the Parliamentary and Health Service Ombudsman, in accordance with the Freedom of Information and Environmental Information Regulations.

## **21 Data Protection Act subject access requests**

People raising complaints and concerns may request copies of personal information in connection with the specific points of concern about the service they have received.

In such cases, the CG&Q Department will seek to provide the requested information if the request is simple and the information relates directly to the person requesting it. If the request is more complex, substantial or if there is any third party information involved, the complainant will be advised that their request has been passed to the SIRO or Caldicott Guardian who will contact them directly to progress their request.

Where information has been requested in connection with a complaint, LCD will waive the normal fee which is required by the Data Protection Policy.

Complaints and concerns raised about the way in which a Data Protection Act subject access request has been handled will be dealt with in accordance with this policy but the complainant will be signposted to pursue the matter with the Information Commissioner should they remain dissatisfied, not the Parliamentary and Health Service Ombudsman, in accordance with Data Protection regulations.

## **22 Staff Complaints**

Complaints or concerns raised by staff in connection with their employment will not be dealt with by this Policy and are to be handled in line with the Grievance Policy'.

Staff concerns about the practice of others will not be dealt with by this Policy. Dependent upon the nature of those concerns, they may be raised via the Significant Event Procedure, Grievance Policy or the Whistleblowing Policy'.

## **23 Criminal matters**

Any concern or complaint which raises issues of a criminal matter will be escalated to Director Level. This may lead to involving the Police or advising the complainant to report the matter directly to the Police.

## **24 Safeguarding adults and children**

Any concern or complaint which raises safeguarding concerns will be reported immediately to the safeguarding lead in accordance with 'Safeguarding Children and Young People Policy' or 'Safeguarding Vulnerable Adults Policy'.

Where it is identified that an investigation into the matters raised in a concern or complaint has already taken place through the safeguarding procedures, the documentation gathered for that process will be utilised as far as possible to enable the resolution of the concern or complaint.

## **25 Claims**

Any concern or complaint which seeks financial remedy will be handled in accordance with this Policy.

If the outcome is that the matter cannot be remedied by the Policy and is more appropriate or consideration as a claim, the complaint will be responded to and the complainant will be advised of the limitations of this Policy to consider the remedy they are seeking and how to pursue the matter as a claim.

All contact from patients, their families and members of the public who do not wish to pursue a concern or complaint but clearly state they wish to make a claim will be signposted to the legal agencies.

## **26 Support to staff**

LCD's approach to concerns and complaints is that LCD is responsible for the issues raised.

LCD recognises, however, that some concerns and complaints raised are focused on the actions of individual staff members and can feel very personal for those staff involved. In those cases, LCD aims to support its staff through those experiences.

LCD also recognises that some concerns and complaints which relate to the actions of individual members of staff are upheld and action needs to be taken to improve practice and service delivery. This is often supportive and does not lead to the instigation of formal work performance or disciplinary procedures. Positive action taken will be shared with complainants.

Occasionally, however, more serious issues are found from investigation of complaint and concerns, and formal work performance or disciplinary policies and procedures need to be invoked. In such instances, complainants do not have the right to this level of information and will be advised of this accordingly.

## **27 Concerns and complaints involving the media**

Where a complainant advises that they intend to contact the media in respect of their issues, the Deputy Chief Exec will be informed and will handle any enquiries from the media in connection with the matter.

The concern or complaint will continue to be progressed in line with this Policy.

## **28 Complaints to the Parliamentary and Health Service Ombudsman**

Complainants have the right to approach the Parliamentary and Health Service Ombudsman (PHSO) with their complaint at any time throughout the process. The powers and the duties of the PHSO are laid down in the Health Service Commissioners Act 1993.

The PHSO will normally wish to satisfy themselves that the organisation which is the subject of the complaint has been given sufficient opportunity to respond to the complaint first before they accept a complaint for investigation.

The PHSO may decide to investigate a complaint before the organisation feels it has exhausted all opportunities to resolve the matter. The PHSO has discretion to do so, but will normally liaise with the organisation and the complainant to agree a way forward if they feel that is likely to result in a resolution.

All enquiries or notification of intention to investigate from the PHSO must be referred to the CG&Q Department, who will compile all formal responses to the PHSO.

All formal responses to the PHSO enquiries and investigations will be approved by the Clinical Director and signed by the Chief Executive.

Any member of staff receiving any contact from an officer of the PHSO must ensure the CG&Q Department is informed or previously aware.

The PHSO may wish to have direct contact with any staff member involved in a complaint which is being investigated by them. This should not occur without the CG&Q Department being aware of the purpose of this and facilitating the direct contact.

## **29 Unreasonable complainant behaviour**

A minority of complainants can display unreasonable behaviour or be unreasonably persistent in pursuing their complaints. In order to ensure that these complainants do not take up a disproportionate amount of resource but still receive fair and appropriate consideration of the issues they raise, LCD has arrangements in place for the management of such behaviour in a way which is transparent, fair and consistently applied.

## **30 Training expectations for staff**

All members of the CG&Q Department must be fully aware of all aspects of this policy. They should be able to advise other colleagues on any aspect of the policy as well as following the correct procedure for each case received.

All staff must be aware of the expectations of them in the early resolution of concerns which are brought to their attention in the normal course of their duties. All staff must be aware of the role of the CG&Q Department. Information about this Policy is given at Corporate Induction, and is available in hard copy at all sites and via knowledge base on the web

### **31 Implementation plan**

The latest approved version of this Policy will be posted on knowledge base for all members of staff to view. New members of staff will be signposted to how to find and access this guidance during Induction.

All individuals who have a direct role in the handling or approval of compliments, comments, concerns and complaints will receive individual briefing in respect of their role and offered support and advice on an on going basis from the CG&Q Department

### **32 Monitoring compliance with this policy**

The key performance indicators for compliments, comments, concerns and complaints are included in the monthly Performance Report.

Quality of case handling is monitored through case file audit. A 6 monthly sample of cases is selected for end-to-end review against the requirements of this Policy. Any points of non-compliance will be raised with the Clinical Governance Lead. The outcomes of audits will be reported via the Quality group

## **References**

### **Legislation**

*The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009* [www.legislation.gov.uk](http://www.legislation.gov.uk)

*Health Service Commissioners Act 1993* [www.legislation.gov.uk](http://www.legislation.gov.uk)

*Data Protection Act 1998* [www.legislation.gov.uk](http://www.legislation.gov.uk)

### **Guidance**

*“Being Open”* National Patient safety Agency, November 2009 [www.nrls.npsa.nhs.uk](http://www.nrls.npsa.nhs.uk) *‘Listening, Responding, Improving’* Department of Health in February 2009 [www.dh.gov.uk](http://www.dh.gov.uk)

*Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, February 2013* [www.gov.uk](http://www.gov.uk)

*A Review of the NHS Hospitals Complaints System 'Putting Patients Back in the Picture Right Honourable Ann Clwyd MP and Professor Tricia Hart [www.gov.uk](http://www.gov.uk)*

*Parliamentary and Health Service Ombudsman – Principles for Remedy, Principles for Good Complaint Handling, Principles of Good Administration [www.ombudsman.org.uk](http://www.ombudsman.org.uk)*

*Caldicott Principles [www.dh.gov.uk](http://www.dh.gov.uk)*

*Data Protection Technical Guidance Note Disclosures to Members of Parliament carrying out constituency casework – based on Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002 S.I. 2002 No. 2905*

*[http://ico.org.uk/for\\_organisations/sector\\_guides/~media/documents/library/Data\\_Protection/Detailed\\_specialist\\_guides/DISCLOSURES%20TO%20MPS\\_CARRYING\\_OUT\\_CONSTITUENCY\\_CASEWORK\\_WEB\\_MAY\\_07.ashx](http://ico.org.uk/for_organisations/sector_guides/~media/documents/library/Data_Protection/Detailed_specialist_guides/DISCLOSURES%20TO%20MPS_CARRYING_OUT_CONSTITUENCY_CASEWORK_WEB_MAY_07.ashx)*

### Roles & Responsibilities

#### 1. The Board

The Board has responsibility for assuring itself that an appropriate system is in place for managing complaints and that monitoring of themes and trends and learning of lessons is embedded in LCD's governance systems. The Board will seek assurance via the Quality Group and the Clinical Group that these systems are functioning effectively and that LCD complies with the 2009 Complaints Regulations. The Quality Group will, on behalf of the Board, receive the Complaints Annual Report.

#### 2. Clinical Director

Responsible for ensuring that the duties within this policy are carried out effectively in practice.

Ensuring that the management of complaints and concerns is an integrated part of the Quality Strategy and that information from complaints and concerns is brought together with other information sources to identify common issues.

Ensuring that themes and trends are monitored and that, where necessary, risks are escalated and improvement plans are developed and implemented.

Has a specific case management role in:

- Approving all formal responses to the PHSO;
- Overseeing decisions regarding criminal matters raised through complaints;
- Agreeing use of externally independent investigations;
- Decision-making on unreasonable complainant behaviour restrictions

#### 3. Chief Executive

Has a specific case management role in:

- Approval and sign-off of all complaint responses to MPs
- Consider appeals against unreasonable complainant behaviour appeals.

#### 4. Quality Group

Is responsible for reviewing individual incidents, complaints and concerns from a multi-disciplinary perspective to ensure that all patient safety issues are identified and that an appropriate action plan for resolution and organisational learning is put in place.

Receives reports of themes and trends and identifies common issues across departmental boundaries.

#### 5. Clinical Governance Lead

Ensures that this policy is delivered effectively at an operational level.

Is the first escalation point for any risks to delivery of this policy or matters of concern to the CG&Q Department.

Provides performance reports to the Executive.

Manages the quality assurance process of the complaints/concerns handling process and agrees and oversees improvement measures where necessary.

## **6. Quality Manager/ Assistant Quality Manager**

Ensures that complaints, concerns and healthcare professional feedback relating to LCD are investigated and resolved in line with LCD procedure.

Reports red and amber graded cases to the Quality Group.

Coordinates with NHS 111, regarding the West Yorkshire Urgent Care (WYUC) policy on complaints and concerns to ensure that it is consistent and integrated with the YAS policy.

Coordinates with NHS 111, regarding the West Yorkshire Urgent Care (WYUC) complaints and concerns to provide an integrated approach where it affects both services.

Works with the YAS NHS 111/WYUC Clinical Governance Groups to provide assurance on process and lessons learnt.

Agrees lead Coordinator for multi-service complaints.

Advises on and manages unreasonable complainant behaviour arrangements.

Provides the Ombudsman Liaison role for LCD

Acting as a single point of contact for the patient in relation to the handling of their complaint or concern

Acknowledging complaints and concerns

Risk-rating each complaint and concern in line with the complaints risk matrix.

Passing all the information regarding the complaint to the appropriate departmental in line with agreed locality procedures and overseeing the investigation process to meet target timescales

Documenting all information relating to the complaint or concern in line with this policy and other procedures

Presenting all cases with a red or amber risk score to the Quality Group

Liaising with the relevant Head of Service to ensure that a high quality, timely investigation is completed and that the final response letter is signed off

Responding to the complainant

Keeping records of numbers and types of complaints and concerns and the time taken to resolve each one to enable reporting

Keeping records of resolution plans/service improvement plans relating to issues arising from complaints and concerns so these can be audited for completion.

Identifying lessons learned from complaints and concerns and working with The Clinical Governance Lead to ensure these are reported appropriately

Providing management reports on complaints and concerns

Representing LCD on all national and regional patient experience and feedback networks.

also has specific case management roles in:

- Quality checking correspondence relating to complaints before submission to the relevant Head of Service/Director for signature –
- Carrying out reviews of complaints as required.

## **7. Management Team (Operational)**

Ensures the effective delivery of this policy within their operational services.

Ensures that lessons learned from complaints are used effectively to improve services and service delivery.

Ensures the early resolution of concerns and effective handling of dissatisfaction by all front line staff and managers within their respective service areas.

Promote a culture of early resolution of concerns raised within their service areas, amongst their staff members and managers.

Ensure the necessary information for complaint/concern resolution is provided to the CG&Q Department within the required timescale

Receive reports about complaints and concerns relevant to their business units and monitoring themes and trends as part of their ongoing performance and quality management systems

Promote a culture of learning throughout their business units and helping staff see complaints as an opportunity for improvement rather than an exercise in apportioning blame.

Consider patient comments regarding their service as forwarded from CG&Q Department

Agree conclusions and learning actions from complaints.

Implement learning actions agreed as a result of complaints and concerns.

Promote a culture of early resolution of concerns raised within their service areas, amongst their staff members.

Foster a culture of openness in their teams and reassuring staff that LCD operates an open culture where the emphasis is on learning and development and not on apportioning blame.

Work with the CG&Q Department to investigate and resolve complaints.

Support staff involved in investigations into complaints and concerns; respond to questions and concerns and provide feedback about the outcomes of the investigation

## **8. All Staff**

All are responsible for:

Maintaining a professional manner at all times, behaving in a way which demonstrates respect for the individuals they care for.

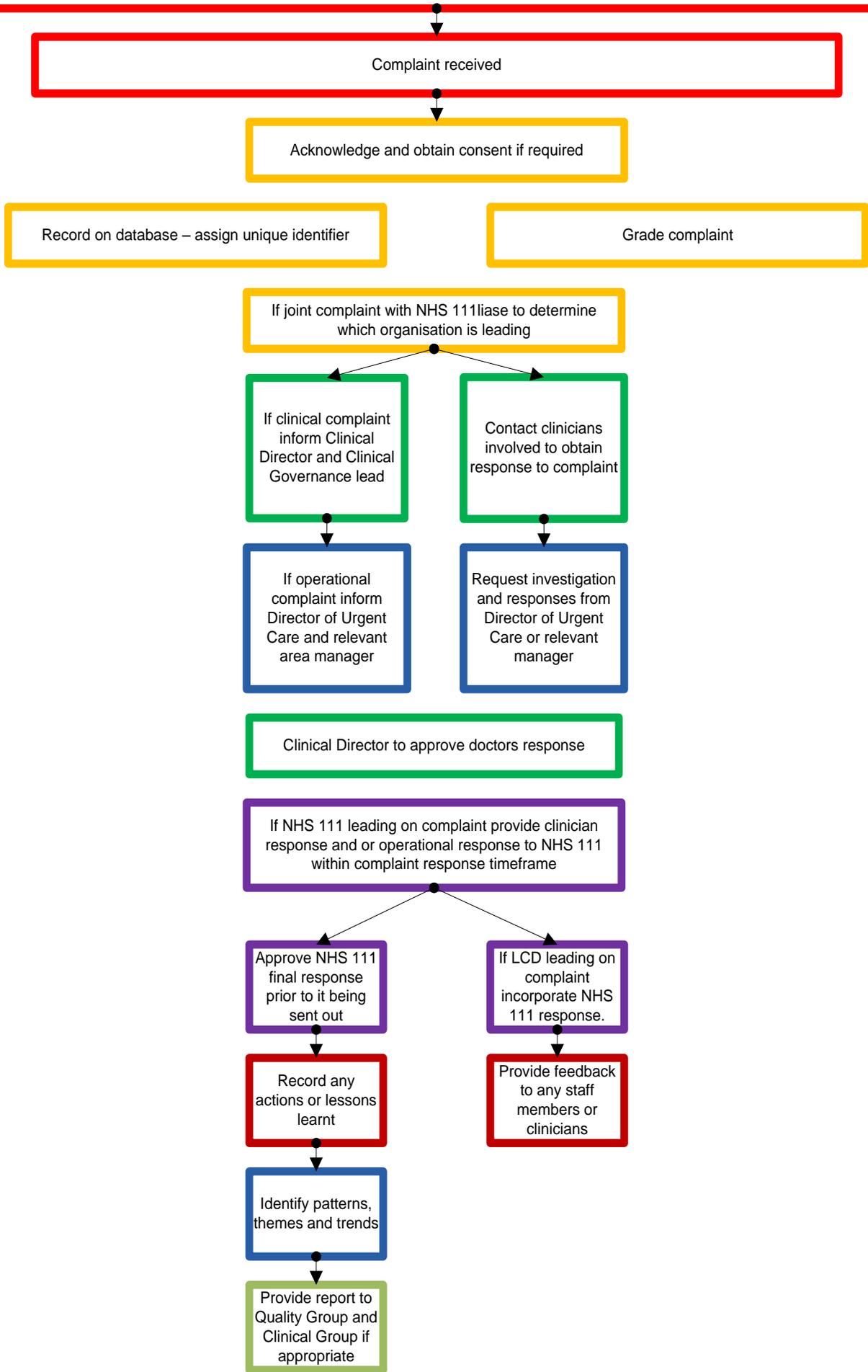
Attempt to resolve concerns “real-time” wherever possible, escalating to a senior manager, when this is not possible, in a timely way.

Cooperating fully with any investigation into a complaint or concern raised by a patient to whom they provided care or into an issue relating to their area of responsibility.

Documenting any suggestion that a patient or carer is dissatisfied with the care provided at the time of provision and reporting the matter in line with the Significant event Reporting Procedure.

Delivering any actions allocated to them as part of an individual resolution plan or a service improvement plan.

# Complaints, flow chart



## Grading of Complaints and Concerns

### STEP 1 – Decide how serious the issue is

It is important to note that ‘seriousness’ takes into account a number of factors:

- How serious does the complainant perceive the issue to be?
- What potential risk and/or quality issues does the case highlight for LCD?
- What is the potential risk to LCDs reputation?

This means that an issue unrelated to clinical care or safety and involving no risk/harm to the patient can receive a high seriousness score if the complainant perceives it to be a highly serious matter and wishes to escalate it.

### STEP 2 – Decide how likely the issue is to recur

This is the likelihood of the issue recurring for this particular complainant.

### STEP 3 – Assign a grade on DATIX or Charter

There are three levels: green, amber and red. Identifying the correct grade is vital to ensuring that the complaint/concern is resolved appropriately and that all the necessary people are aware of the issues raised. This will help ensure that any risks to this patient’s care and to other patients in future are effectively managed.

<b>1. Seriousness</b>	If any one factor in the medium or high categories fits the complaint/concern then it should be placed into this category.
Low	<p>Patient received an unsatisfactory service but issue not directly related to their clinical care or safety have not been breached.</p> <p>No actual harm to patient, with the exception of distress or inconvenience.</p> <p>No apparent impact on the patient’s NHS care, other than potential delay.</p> <p>No/minimal impact on patient/complainant’s dignity and respect.</p> <p>Issue can be resolved directly between LCD and the complainant requiring minimum investigation.</p> <p>No real risk of litigation.</p> <p>No media interest.</p>

Medium	<p>Patient received an unsatisfactory service in several ways.</p> <p>One or more issue(s) relates to the patient's clinical care or safety<u>and</u>, on face value, LCD standards have been breached.</p> <p>Minor injury to patient or Risk of minor harm to patient or low risk of more serious harm.</p> <p>Issue led to detrimental impact on patient's overall NHS care.</p> <p>Patient/complainant perceived a significant breach of their/the patient's dignity and respect.</p> <p>Issue can be resolved directly between LCD and the complainant but it may take time to achieve this and will require robust investigation.</p> <p>Some potential for litigation.</p> <p>Some local media interest.</p> <p>The issue has occurred on multiple occasions for this complainant leading to repeated negative impact on care.</p>
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High	<p>Patient received a significantly sub-standard service which highlights clear quality assurance or risk management issues.</p> <p>Serious injury to patient or patient death. or Significant risk of serious injury or death.</p> <p>Issues while in LCD care led to a significant impact on the patient's overall NHS care which highlights clear quality assurance or risk management issues.</p> <p>Safeguarding or professional misconduct issues involved.</p> <p>Patient/complainant was subject to a serious breach of their dignity, respect or human rights</p> <p>Litigation a strong possibility.</p> <p>Widespread media interest.</p> <p>Issue is registered and investigated as a Serious Incident.</p> <p>LCD is unable to resolve the issue to the patient's satisfaction and the Parliamentary &amp; Health Service Ombudsman is involved.</p> <p>The complaint is related to a case for which there is a coroner's inquest.</p>
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<b>2. Likelihood</b>	
Very unlikely	Isolated or one-off.
Unlikely	May have happened before over a period of years or there is a slight risk of the same issue recurring for this complainant.
Possible	This type of issue happens from time-to-time but not frequently or regularly; or low-medium risk of the same issue recurring for this complainant.
Likely	This type of issue happens quite often or there is a high risk that the issue will recur for this complainant.
Almost certain	The circumstances of this complainant mean that recurrence of the issue is predictable without management intervention.

### 3. Overall Grade

	Likelihood of recurrence				
Seriousness	Very unlikely	Unlikely	Possible	Likely	Almost certain
Low	Green	Green	Green	Green	Green
Medium	Green	Green	Green	Amber	Amber
High	Red	Red	Red	Red	Red

## Timescales

In accordance with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, response timescales will be agreed with the complainant on an individual case by case basis, and in all events within a maximum timescale of 6 months. However, LCD is committed to a proportionate and timely response to complaints and therefore will aim to work in accordance with the following guide timescales, to avoid unnecessary delay. In exceptional circumstances, these timescales may be exceeded. In such circumstances the reason for this will be discussed and agreed with the complainant and will be recorded.

<b>Guide Timescales (from receipt of concern or complaint)</b>	
Written complaint acknowledgement	Within 3 working days
Resolution of a concern	Within 10 – 25 working days
Written complaint response	Green: Up to 25 working days Amber: Up to 40 working days Red: Up to 65 working days
Written complaint review response	Within 20 working days
Average response time target (concerns and complaints)	25 working days

**Response Approval and Sign-Off**

<b>Correspondence</b>	<b>To be approved and signed by</b>
Written complaint acknowledgement	CG&Q Department
Concern resolution	CG&Q Department
Written complaint response (green)	CG&Q Department
Written complaint response (amber)	CG&Q Department
Written complaint response (red)	Clinical Director or Director of Urgent Care
Written complaint review response (green)	Clinical Governance Lead
Written complaint review response (amber)	Clinical Governance Lead
Written complaint review response (red)	Approved by Clinical director Signed by Chief Executive

## Complaint Response letter framework

All written responses to complaints will be made in line with the framework detailed below.

- Standard opening paragraph  
Thank you for your letter/email/telephone call in which you explain you are dissatisfied with the services you received on ....., etc. Could add apology here for dissatisfaction with service received.
- Your complaint is that:-  
Summarise the points of complaint. May be helpful to use bullet points or a numbering system if there are multiple points of complaint.
- The outcome you are seeking is:-  
Summarise the outcome the complainant is seeking as a result of their complaint. May be helpful to use bullet points or a numbering system if there are multiple outcomes being sought.
- Explain how we have investigated the complaint, i.e.
  - Looked at relevant policies and procedures
  - Examined records regarding your care
  - Conducted interviews with staff/gathered statements from staff
  - Obtained clinical or specialist opinions
  - Listened to calls, had calls reviewed, audited, etc.
- Explain what should have happened, i.e.
  - What do the policies and procedures say?
  - What is the normal/expected practice/standards?
- Explain what did happen (from the records and statements – include information which is relevant to the complaint only). If bullet points or numbering system used in the summary of the complaint, then relay the findings under the same headings.
- Conclusions:-  
State whether what happened was in line with what should have happened by making reference back to the procedure and or opinions gathered.  
Include appropriate apologies at this point.  
Even if we didn't do anything wrong, could we have handled it better? Has the complainant got a point?
- Actions/Recommendations/Learning:-  
If complaint agreed – what are we doing about it?  
Refer to outcomes sought at this point – can we deliver these? If not, explain why and what redress/remedy can be offered which is appropriate.

- Standard closing paragraph  
Make it appropriate to outcome – e.g. I realise the outcome is not what you are seeking but I hope my letter has explained .....etc.  
Offer contact if further clarification or questions, etc.  
Inform of right to pursue with PHSO

General comments:-

- Include only what is relevant to the complaint being made
- Ensure all points of complaint are answered
- Do not include unnecessary information or comments
- Do not use judgemental language
- Do not use jargon or technical terms. If it is necessary to use a technical term then explain what it means
- Ensure that the format is appropriate to the individual complainant (e.g. large font, etc.)
- Read it back to yourself as if you are the complainant, is the response patient centred or system/organisationally led?
- Check for typing and grammatical errors

## Case Recording

1. It is the role of the CG&Q Department to record all compliments, comments, concerns and complaints on the Datix or Charter system.
2. Both system provides a unique reference number and holds a record of all documentation, correspondence and progress notes regarding each case.
3. The minimum requirements for all cases are:-
  - Key dates for receipt, acknowledgement, response (where relevant), and closure;
  - All subject code fields, including area of business and CCG area;
  - All correspondence and notes of verbal contact (internal and external).
4. For complaints and concerns, additional recording requirements are:-
  - All investigation notes or reports and copies of documented evidence;
  - Reference to (or excerpts of) relevant policies and procedures or practice guidance used in the investigation;
  - Content of clinical or specialist advice sought;
  - Record of outcome – i.e. upheld, partially upheld or not upheld;
  - Learning actions agreed and evidence of implementation including dates, in the relevant action fields;
  - Remedies agreed and evidence of implementation including dates, in the relevant action fields on the record.
5. All correspondence retained on the case record will be final signed copies. No draft correspondence will be retained.
6. All 4Cs records will be retained in accordance with LCD's Records Management Policy.

## Unreasonable Complainant Behaviour

### 1.0 Introduction

- 1.1 LCD is committed to dealing with all complainants fairly and impartially and to providing a high quality service. As part of this service we do not normally limit the contact complainants have with the us. However, we do not expect our staff to tolerate behaviour by complainants which is, for example abusive, offensive or threatening, or which because of the frequency of contact, hinders our handling of patient feedback and in such instances we will take action to manage this behaviour.
- 1.2 We will make every effort to ensure our feedback service is accessible to all of our patients, their family members and members of the public. To achieve this outcome we will make reasonable adjustments to meet the individual and particular needs of anyone who contacts us.
- 1.3 When we consider that a person's behaviour is unreasonable we will tell them this, the reason why we find their behaviour unreasonable, and we will ask them to change it. If the unreasonable behaviour continues, we will take action to restrict their contact with the service.