

Policy for Managing Complaints, Compliments, Concerns and Comments Policy

DR-02

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1. Introduction/Staff Summary

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 Commissions registrations 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).

- 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 and to learn from the feedback
- All staff, including non-employed staff, 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 are 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 on Datix and 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 and in a timely manner
- All members of staff 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.

Definition of a complaint :-

A complaint is an expression of dissatisfaction made by a patient, their family member or a member of the public regarding a service provided by LCD or specific behaviour of a person working for LCD whether written or verbal, whether justified or not, requiring an investigation and formal response. It is also where the complainant expresses they wish the matter to be dealt with as a formal complaint at the outset.

A concern expresses dissatisfaction made by a patient, their family member or a member of the public regarding a service provided by LCD or specific behaviour of a person working for LCD whether written or verbal, whether justified or not, where the complainant has expressed they do not require a formal investigation or formal response. An investigation would still be completed and any learning implemented and recorded.

2. Policy Statement

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 how the complaint will 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.
- Take their complaint to the independent Parliamentary and Health Service Ombudsman if they are unsatisfied with how LCD has dealt with their complaint
- Claim judicial review via the claims process if the patient thinks they have been directly affected by an unlawful act or decision of an NHS body and be compensated if the patient has been harmed by medical negligence

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

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

3. Purpose / Scope

This policy applies to the management of all patient complaints, comments, compliments and concerns for all services provided by Local Care Direct.

Local Care Direct staff and clinicians have a responsibility to ensure that anyone who makes a comment or gives a compliment receives the appropriate response. Anyone who raises a concern or complaint should be treated with compassion, dignity and respect.

All anonymous complaints will be investigated in accordance with this policy, providing there is sufficient detail to do so. If it is possible to verify the complaint, appropriate remedial actions will be taken and a record maintained.

There will be some complaints that cannot be dealt with under the scope of this policy or the Local Authority Social Services and National Health Service Complaints Regulations 2009: examples are:

- A complaint made by one external organisation about another organisation. This will be recorded as a service to service.
- A verbal complaint which has been resolved to the person's satisfaction not later than the next working day
- A complaint that has been previously investigated under these regulations
- A complaint made by a staff member about any matter relating to their employment or other staff members. Staff should use appropriate HR policies for this purpose.
- Any complaint that is being or has been investigated by the Health Service Ombudsman

3.1. A complaint arising out of LCD's alleged failure to comply with a data subject request under the Data Protection Act 2018 or a request for information under the Freedom of Information Act 2000

If a complainant has taken or intends to take legal action or has an inquest pending, this should not prevent the complaint from being investigated. Advice should be sought to determine next steps to ensure there is no prejudice to existing or planned investigations.

Any complaint or concern raised that relates to an issue of abuse (or suspected abuse) must be dealt with immediately following the guidance in the Safeguarding Adults or Safeguarding Children policies.

4. Who can make a complaint

A complaint may be made by the 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 that the representative is making the complaint in the best interest of the child

- Has died
- In the case of person who has died, the complainant must be the personal representative of the deceased. Where appropriate we may ask for evidence to substantiate the complaints claim to have the right to the information.
- Has physical or mental capacity

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, we need to be satisfied that the complaint is being made in the best interest of the person on whose behalf the complaint is made.

- Has consented to a third party acting on their behalf:

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

- Name and address of the person making the complaint
- Name and either date of birth or address of the affected person and
- Contact details of the affected person so that we can contact them for confirmation that they consent to the third party acting on their behalf. This will be documented in the complaint file and confirmation will be issued to both the person making the complaint and the affected person.
- Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which covers health affairs
- Is an MP acting on behalf of and by instruction from a constituent

5. Confidentiality

Complaints will be handled in the strictest confidence in accordance with LCD's policies concerning confidentiality and will be kept separately from the patients' medical records. All confidential information will be handled in compliance with the DPA 2018 and will meet the principles set out in the Caldicott Report. The designated Caldicott Guardian is responsible for ensuring confidentiality is maintained.

Only those managers who are leading on the investigation, or staff who are in other ways involved in the management of the complaint, will have access to details of the case. Anyone disclosing information to others who are not directly involved could be subject to disciplinary proceedings.

6. Accessibility of Process

Users of the service or their representatives 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. They 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.

7. Timescales for making a complaint

Complaints must not be made later than:

- twelve months after the date on which the matter which is the subject of the complaint occurred: Or
- Twelve months after the date on which the matter which is subject of the complaint came to the notice of the complainant.

If there are good reasons for not having made the complaint within the above timeframes and if it is still possible to investigate the complaint effectively and fairly, LCD may decide to consider the complaint.

8. Complaint Process

Stage 1.

This stage covers a concern raised with any member of staff for which the aim is to resolve it prior to it becoming a complaint. Where the complaint is resolved immediately to the satisfaction of the person raising it, the details of the concern should be logged with the response or actions taken.

Where a concern is not able to be resolved immediately, the member of staff should raise this as a complaint with the CG&Q team by sending an email to governance@lcdwestyorks.nhs.uk

Stage 2.

LCD will investigate a complaint in a manner appropriate to resolve it as efficiently as possible. The investigation will be 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 complainants 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.
- A named contact who will be their point of contact throughout the complaint process.

The complainant can expect that:

- They will be kept up to date with the progress of their complaint if we are unable to respond within the agreed timeframe
- 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.

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.

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

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.

If a complaint response has passed the 40 working day target (or the timescale agreed with the complainant if different), the complainant should receive an update on progress within a revised timeframe. This can be by telephone email or letter, but the format should be agreed with the complainant.

Saying Sorry

All complaints must be taken seriously by all staff and treated with compassion and understanding at all times. Poor communication can make it more likely that the complainant will pursue a complaint or that a complaint becomes a claim. It is vital that a meaningful apology is not delayed and that any apology is based on the facts at the current time. Apologising – saying sorry – for the fact that person has felt the need to make a complaint does not constitute an admission of personal or organisational legal liability. It is simply the right thing to do.

As part of the organisational response to complaint, if the findings of investigations warrant doing so, the response should include a sincere expression of sorrow or regret for the incident or issue giving rise to the complaint. The apology must be clear and unambiguous and may be given verbally in addition to the written apology.

Stage 3

Where a complainant remains unhappy with the outcome of the stage 2 complaint process, consideration will be given to the appropriate response to the issues raised and the complaint response should be reviewed. Following the review and further investigation a written response should be sent to the complainant which includes the following information:

- A summary of the review and any further investigation, including key facts and issues
- Conclusions of the review and any further investigation including determining if there was an error, omission or shortfall
- Provide an apology and explanation of what happens next i.e. signposting to the PHSO or local resolution

Where the complainant is seeking clarity or the response made has led to further questions, an attempt to provide the necessary information will be made in the most appropriate format as a follow up to the initial complaint. This will usually be done by the complaints handler originally assigned to the case.

Where the complainant is raising new or additional issues which were not part of the initial complaint and have not therefore been addressed by the previous investigation, this will be recorded as a new complaint and dealt with in accordance with this procedure.

Where the complainant is disputing the response they have received, the initial complaint record will be re-opened and this is be progressed as a complaint review

A complaint review will usually be carried out by the Head of Complaints and Quality or the Assistant Complaints Manager. In all cases, this will be somebody who was not originally allocated to the initial complaint.

Meeting with people who have made a complaint

Where a person who has made a complaint wishes to attend a meeting for feedback this will be offered as part of the process. Responsibility for arranging and documenting the meeting rests with the Head of Complaints and Quality and the Assistant Complaints Manager. A minimum of two Local Care Direct representatives will be present of which one will be the person investigating the complaint. The person who has made the complaint must be advised that they can be accompanied to the meeting as long as the companion is not acting in any legal capacity.

9. 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.

Patients have the right to approach NHS England or the ICB to co-ordinate a response on their behalf from each organisation. If a request is received from NHSE or the ICB, LCD must provide a response within the agreed timescales.

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 working together to provide a joined- up response (multi-agency) and the most appropriate body to take the lead in coordinating the complaint and communicating with the complainant.

Where LCD receives a complaint which identifies other organisations are involved, consent will be sought from the complainant before sharing or forwarding a complaint to another organisation. Consent will need to be obtained to forward the complaint to any provider. LCD will then make contact with the other organisation(s) to agree a joint approach to resolving the complaint.

LCD is committed to improving joint complaint handling for its patients. LCD strives to achieve single co-ordinated resolution for complainants and to actively encourage more effective links and relationships to aid more effective joint complaint handling.

10. Investigation approach

The allocated complaints handler will identify the relevant head of service or locality manager who need to be advised of the complaint and required as part of the investigation team. Where the complaint relates to clinical care, a relevant clinical manager will also be notified.

11. Arriving at conclusions

Having gathered the relevant information, the complaints handler will consider the evidence gathered and arrive at a conclusion whether or not the complaint is to be upheld on the basis of the evidence. Conclusions must logically follow from the information gathered by the investigation in relation to what happened in the case and whether this is what should have happened in accordance with documented procedures/policies and or specialist opinion.

12. Identifying learning and service improvements

All complaints which have parts upheld must result in learning actions

Some complaints which have not been upheld may still give rise to some learning actions as the investigation may have found issues with the service delivered or areas where the service could be improved.

What action needs to be taken to improve the service or to minimise the possibility of recurrence should follow logically from the conclusion arrived at in respect of what the cause was in that case.

The complaints handler, in consultation with the investigating team/person, should identify appropriate learning actions and these must be agreed by the Head of Service and/or Locality Manager.

Where a clinical case review has taken place in connection with a complaint, the learning from the review will feed into the overall learning actions identified from the investigation.

The Head of Service and /or Locality manager will be responsible for ensuring the actions agreed as a result of a complaint are implemented.

The complaints handler will be responsible for ensuring the actions and their completion are recorded on the complaint record.

13. Concerns and Complaints raised by MP's and Elected Members of Local Authorities

Where a complaint or concern is raised by an MP or Local Authority Elected Member and relates to services provided to an individual, the MP's statement that they are acting for their constituent will satisfy the requirement for consent 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 in section 16. This is in line with the Information Commissioner's Office Guidance "data protection technical Guidance Notes Disclosures to Members of Parliament carrying out constituency casework".

Where the matter raised is not a concern or complaint about a service provided to a specific individual, the correspondence will not be progressed in line with this policy and will be handled by the CG&Q team in liaison with the Corporate Exec Team

14. 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.

As with complaints, compliments from one staff member to another will not be dealt with by this policy. Employed staff wanting to compliment another member of staff should inform the employees line manager and the compliment will be shared with them and placed on their HR file. This does not apply for agency or sessional clinicians and will be recorded on Datix. Staff should also be encouraged to use the nomination process. The 4c's process is for recording compliments from patients/service users.

15. Concerns and complaints about contractors

Concerns and complaints received about services provided by other organisations on behalf of LCD will be progressed in line with this policy.

The expectation to comply with LCD policies is included in all contracts and copies of all policies are made available to our contractors.

Contractors are required to contribute openly, honestly and fully with LCD investigations and to participate in any meetings with complainants as required by LCD.

16. 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 2018 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 questions 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.

17. Withdrawals

A person who has raised a concern of 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 provided to the complainant.

18. Links with other procedures

Patient Safety Incident Investigation

The Patient Safety Incident Response Framework (PSIRF), a core element of the NHS Patient Safety Strategy, establishes the NHS's approach to the development and maintenance of mechanisms for responding to patient safety incidents (PSI's) to maximise learning and improvement. The PSIRF is a contractual requirement and is mandatory for providers of NHS funded care. The PSIRF requires that each organisation develop its own plan on how they intend to respond to Patient Safety Incidents. This plan is the Patient Safety Incident Response Plan (PSIRP). This new framework replaces the Serious Incident Framework.

The process by which a complaint is dealt with as a Patient Safety Incident Investigation is described in S-73 Patient Safety Incident Response Plan (PSIRP). When the issues raised by a complaint highlights significant new learning for LCD or has significant learning in an area of focus on Local Care Direct's PSIRP, then the issue will be dealt with as a Patient Safety Incident Investigation. the PSII will be instigated and will determine the timescale in which a complaint response can be made.

19. Clinical Case Reviews

Where a complaint raises issues of a clinical matter, the Quality Team may decide that a Clinical Case Review (CCR) is necessary to explore the clinical issues more fully and provide independent clinical judgment to 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 assign to the most appropriate Clinical Advisor. The CG&Q dept will have access to the Clinical Advisor's review notes to inform those aspects of the complaint response.

CCR's will generally extend the timescale taken for the complaint response. The CG&Q Department will advise the complainant by progress letter if this is the case with reasons for this and the estimated response timescale.

20. Freedom of Information and Subject Access Requests

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

In such cases, the complaints handler will seek to provide the requested information for a SAR. All FOI requests, should be forwarded to the Data Protection Office for processing. The complaints handler will inform the complainant that their request is being processed by a different team and they will receive communication directly from that team. In all cases the request will be logged on the incident module and linked to the 4C.

Complaints and concerns raised about the way in which a Freedom of Information (FOI) or Subject Access Request (SAR) 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 Commissioners Office (ICO), and not the Parliamentary Ombudsman, should they remain dissatisfied

21. 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.

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 CG&Q Director Level. This may lead to involving the Police or advising the complainant to report the matter directly to the Police.

24. Claims

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

There may be occasions where a patient has suffered financial loss which can be reviewed as part of the complaint process and appropriate reimbursement provided. 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 legal agencies such as Action against Medical Accidents (AvMA) or solicitors specialising in the relevant field.

25. Colleagues' health and wellbeing/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.

26. Concerns and complaints involving the media

Where a complainant advises that they intend to contact the media in respect of their issues, the Chief Operating Officer 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.

27. 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 during 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.

We are keen to ensure that all contact with the PHSO is consistent and in line with its standards of governance. The role of Ombudsman Liaison for LCD will be the responsibility of the Head of Complaints and Quality and Assistant Complaints and Quality Manager.

All enquiries or notification of intention to investigate from the PHSO must be referred to the CQ & Q Department and specifically the Head of Complaints and Quality and Assistance Quality manager who will compile all formal responses to the PHSO.

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 Director of Clinical Governance and signed by the Chief Executive.

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.

28. 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 a process in place for the management of such behaviour in a way which is transparent, fair and consistently applied.

29. 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

30. Implementation plan

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 ongoing basis from the CG&Q Department

31. Monitoring compliance with this policy

The key performance indicators for compliments, comments, concerns and complaints are included in the monthly Performance Report, at Patient Safety Group and at Incident Review Group.

Quality of case handling is monitored through case file audit. An annual sample of cases is selected for review against the requirements of this Policy. Any points of noncompliance will be raised with the Director of Clinical Governance.

32. Legislation and References

The Local Authority Social Services and National Health Service Complaints

(England) Regulations 2009 www.legislation.gov.uk

Health and Social Care Act 2008 (regulated Activities) Regulations 2014

The Equality Act 2010

Duty of Candor Health and Social Care Act 2008

General Data Protection Regulations (GDPR) and Data Protection Act 2018

The complaint Handling Framework (PHSO 2022)

NHS complaint standards – Summary of Expectations (Dec 2022)

<https://www.ombudsman.org.uk/organisations-we-investigate/complaint-standards/nhs-complaint-standards/good-complaint-handling-guides-nhs>

<https://www.ombudsman.org.uk/organisations-we-investigate/good-complaint-handling>

<https://www.ombudsman.org.uk/organisations-we-investigate/complaint-standards/nhs-complaint-standards/using-nhs-complaint-standards-and-supporting-guidance>

<https://www.ombudsman.org.uk/sites/default/files/NHS%20-%20managing%20challenging%20situations%20in%20complaint%20handling.pdf>

Guidance

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

Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, February 2013 www.gov.uk

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

Parliamentary and Health Service Ombudsman – Principles for Remedy, Principles for Good Complaint Handling, Principles of Good Administration www.ombudsman.org.uk *Caldicott Principles* www.dh.gov.uk

Appendix A - Roles & Responsibilities

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 Clinical Governance & Quality Group and the Director Clinical Governance & Quality 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 Quarterly schedule 6 Report. The Audit and Risk group will receive an annual report on organisational clinical risk.

Director of Clinical Governance and Quality

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;
- Joint Decision-making with Head of Complaints and Quality on unreasonable complainant behaviour restrictions

Chief Executive

Has a specific case management role in:

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

4. Patient Safety Group and Incident Review Group

Is responsible for reviewing individual incidents, complaints and concerns from a multidisciplinary 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 Quality Lead

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

Provides regular learning reports to the Executive.

Works with the Head of Complaints to ensure that the QA audit is robust.

6. Head of Complaints and Quality

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

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

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

Advises on and manages unreasonable complainant behaviour arrangements

Provides the Ombudsman Liaison role for LCD

Keeping records and providing reports of numbers and types of complaints and concerns

Identifying lessons learned from complaints and concerns and working with the CG Lead to ensure these are reported appropriately

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. Assistant Complaints Manager / Quality Team Officer and Admin

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

Coordinates and agrees lead coordinator for multi-service complaints, regarding complaints to provide an integrated approach where it affects both services.

Advises on unreasonable complainant behaviour arrangements.

Acknowledging complaints and concerns.

Passing all the information regarding the complaint to the appropriate department 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

Quality checking correspondence relating to complaints before submission to the relevant Head of Service/Director for signature

Responding to the complainant

Keeping records and providing reports of numbers and types of complaints and concerns

8. 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 areas and monitoring themes and trends as part of their ongoing performance and quality management systems

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

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.

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

9. 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.

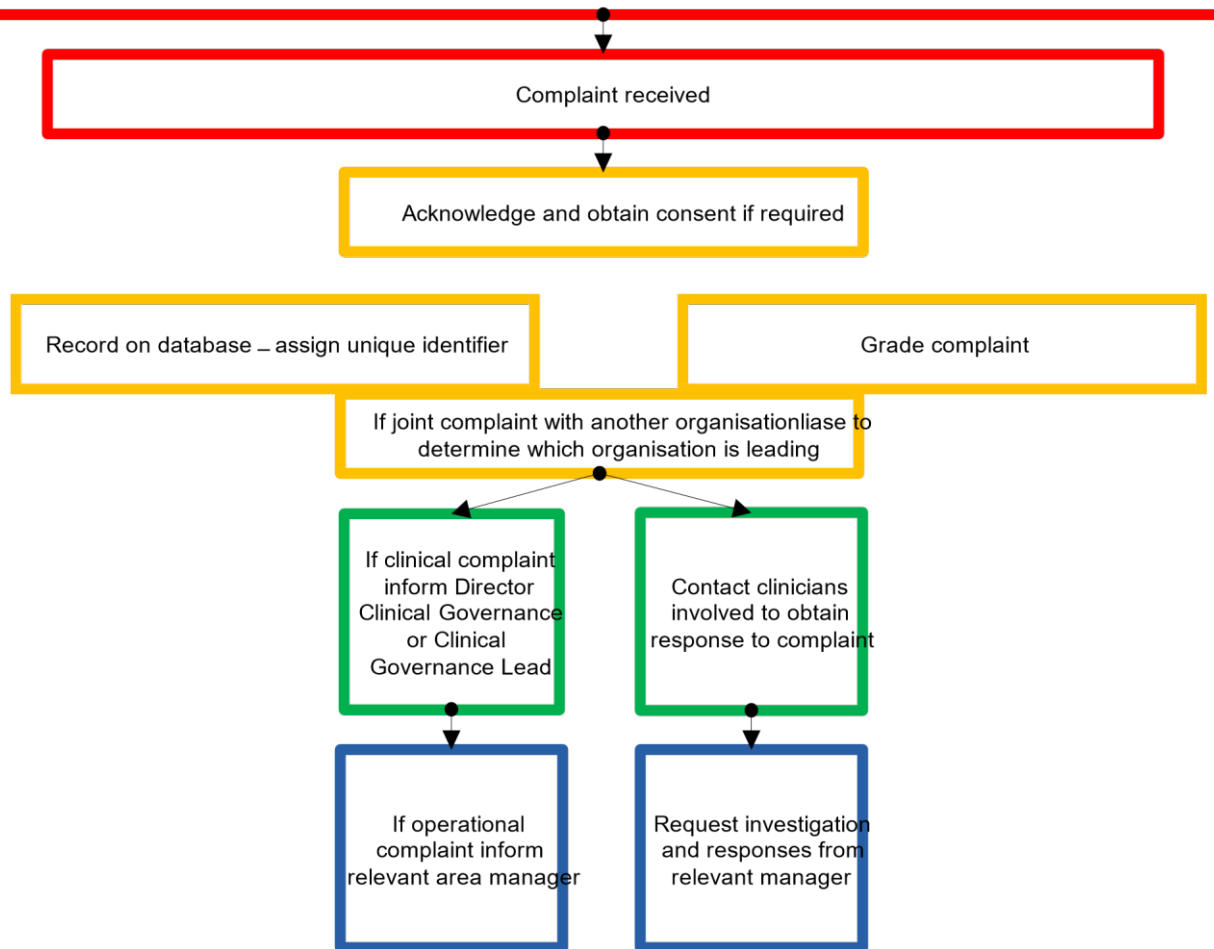
Attempt to resolve concerns “real-time” wherever possible, escalating to a senior manager, when this is not possible, in a timely way.

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 to the Quality Team via the governance email governance@lcdwestyorks.nhs.uk

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

Complaints flow chart



Appendix C - 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.

Guide Timescales (from receipt of concern or complaint)	
Written complaint acknowledgement	Within 3 working days
Resolution of a concern	Within 10 – 25 working days
Written complaint response	Up to 40 working days or timeframe agreed with complainant For complaints awaiting consent, the timeframe is 40 working days from receipt of signed consent

Average response time target (concerns and complaints)	40 working days
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Process step timescale Guidance	
Informal concern resolution by operational services	0-5 working days from receipt
Case recording on Datix	0-2 working days from receipt
Requests for responses from Quality team to operational teams and requests for statements	10 working days from request
Response quality check	0-3 working days from request
Response approval and sign off	0-3 working days from request

Appendix D - Response Approval and Sign-Off

Correspondence	To be approved and signed by
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)	Director Clinical Governance & Quality
Written complaint review response clinical	Head of Complaints and Quality
Written complaint review response (red)	Approved by Director Clinical Governance & Quality Signed by Chief Executive Officer

Appendix E Complaint Response letter framework

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

- Standard opening paragraph
- I am writing in response to your complaint relating to contact with our service on the. I am sorry that you have had cause to complain and I am always disappointed to hear when we do not meet the expectations of our patients. I have therefore arranged for a review of the care you received in order to respond to your concerns.

- 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? Even if the complaint is not upheld, offer apologies for their negative experience.

- Actions/Recommendations/Learning:-

Actions must be SMART (specific, measurable, achievable, realistic, timely – 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 explainedetc.

Offer contact if further clarification or questions, etc. Inform of right to pursue with PHSO

Ensure following bullet points are considered in the response:-

- Include only what is relevant to the complaint being made
- Are all concerns clearly identified and fully addressed
- Are all facts clearly stated fairly and accurate
- Do not include unnecessary information or comments
- Is the language clear in a format suitable to the complainant
- Is the structure of the letter easy to follow
- Do not use judgemental language. Is it personal, displays compassion, does not feel defensive/passive
- Do not use jargon, abbreviations, clinical medical terminology. If it is necessary to use a medical terminology then explain what it means
- Does it display openness, transparency and is the response succinct and thorough
- Ensure that the format is appropriate to the individual complainant (e.g. large font, etc.)

- Think about how the complainant may react to the response – will they understand it
- Read it back to yourself as if you are the complainant, is the response patient centred or system/organisationally led?
- Will the complainant feel satisfied that the issues have been looked into properly even if not necessarily happy with the outcome. Will they need to ask further questions
- Check for typing and grammatical errors

Appendix F Case Recording

1. It is the role of the CG&Q Department to record all compliments, comments, concerns and complaints on the Datix system.
2. The Datix 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.

Appendix G - 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.

Reference:

S-54 Zero Tolerance policy & Statement

DR- 07 Policy for Unreasonable Persistent Complaints

Appendix H - Complaint Grading

This is to be added when Datix has the grading function.

See additional document in u-drive