

Complaints Policy

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VERSION HISTORY

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10/12/2012	V2	Updated to reflect comments made by Complaints Lead B Jacques.
17/01/2013	V3	Flowchart updated. For approval by Clinical Quality, Safety and Governance Committee (CQSG).
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04/04/2013	V4	Policy ratified and adopted by the Governing Body 04/04/2013.
17/04/2014	V5	Policy updated to reflect change in the way complaints are being managed from 1/04/2014. Approved by CQSG with amendments on 17/04/2014, recommended for ratification by Governing Body.
22/05/2014	V6	Updated following comments made at CQSG on 17/04/14, and ratified by the Governing Body on 22/05/14.
18/06/2015	V7	Policy reviewed and updated for consideration and approval by the CQSG. Subject to making minor amendments, the policy was recommended to the Governing Body for approval to
23/07/2015	V7	CQSG amendments made. The Governing Body approved the adoption of the policy.
17/07/19	V8	Approved by Governing Body meetings in common.

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1. Introduction

- 1.1. Throughout this policy, NHS Warwickshire North Clinical Commissioning Group and NHS Coventry and Rugby Clinical Commissioning Group are referred to as WNCCG and CRCCG or 'the CCGs'.
- 1.2. WNCCG and CRCCG Complaints Policy applies from the date of ratification and is based on The Department of Health published Regulations (Local Authority Social Services and NHS Complaints (England) Regulations 2009), which were introduced on 1 April 2009. The Regulations provide the statutory basis for the single approach to complaints handling in health and social care.
- 1.3. This Policy has been produced in line with the principles set out in the report entitled "My expectations for raising concerns and complaints" published in November 2014 by the Parliamentary and Health Service Ombudsman, Local Government Ombudsman and Healthwatch England which sets out a user led 'vision' of the complaints system. This report is available on the Ombudsman's website¹ with a summary provided at **Appendix 1**.
- 1.4. The complaints approach is structured around three main principles: listening, responding and improving. These have also been mapped to the user led 'vision' for raising complaints:-
 - **Listening (considering a complaint)** - taking an active approach to asking for people's views by working in partnership;
 - **Responding (making a complaint and staying informed)** - dealing with complaints effectively by finding out what the complainant wants to happen; and
 - **Improving (receiving outcomes and reflecting on the experience)** - using the information received to learn and improve services by agreeing a clear plan of action.
- 1.5. To achieve this, it is essential that people who use our services understand that we want to know what they think, and that we will listen to, act on and learn from their feedback. The CCGs recognise that suggestions and complaints provide valuable insight into services that we commission. We will use this information about the services we commission to ensure that they are high quality, safe and accessible and responsive to patients as we place patients and quality at the heart of what we do.
- 1.6. The Regulations are intended to make the complaints process more responsive and flexible and provide closer integration with the arrangements for responding to social care and multi-agency complaints. The complaints policy describes how the CCGs manage, respond and learn from formal complaints made about its services and the way in which they are provided and commissioned. The policy details how

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https://www.ombudsman.org.uk/sites/default/files/Report_My_expectations_for_raising_concerns_and_complaints.pdf

complaints are investigated through processes which reflect the different management arrangements within the organisation, allowing the most effective and responsive resolution for complainants.

- 1.7. All patients have the right to have their complaint treated as a formal complaint, which can be made verbally, in writing (including email) or through a third party.

2. Objectives

- 2.1. The purpose of this policy is to ensure that the objectives of the Local Authority Social Services and NHS Complaints (England) Regulations 2009 are achieved and that complaints are managed in line with the principles set out in the November 2014 report entitled "My expectations for raising concerns and complaints"

- 2.2. The CCGs need to have a consistent approach to complaints and ensure that anyone making a complaint about NHS services understands how their complaint will be handled and their involvement in the process. the CCGs are committed to meeting the standards laid down in these regulations and guidance with the objective to respond positively in a timely and effective manner, learning from complaints and implementing changes to prevent problems from recurring.

- 2.3. Information from complainants or their relatives and carers can provide an opportunity for:

- our organisation to see itself as others see it;
- a clear identification of issues that concern service users;
- rectifying past mistakes to improve services;
- increasing the patient's trust in our staff and services and in those that we commission;
- identifying adverse events that may go undetected;
- identifying possible problem areas before people feel the need to make a complaint; and
- learning from adverse events.

- 2.4. The way in which all staff within the CCGs respond to comments, suggestions, enquiries, concerns and complaints is a direct reflection on the CCGs' attitude to the quality of the patient services it commissions. A consistent and responsive complaints system, focused on early resolution of complaints, will lead to improved relations with patients and their relatives and carers as well as increasing the confidence of staff and patients that the CCGs are committed to reviewing and improving services.

3. Scope of Policy

- 3.1. A complaint may be made by:

- A patient or service user

- Any person who is affected by or likely to be affected by the action, omission or decision of the CCGs
- A representative in either of the above cases when that person:
 - Has died
 - Is a child
 - Is unable by reason of physical or mental incapacity to make the complaint themselves
 - Has given consent for a representative to act on their behalf (a representative may include a parent, guardian, relative, civil partner).

3.2. In the case of a patient or person affected who has died or who is not able to give consent, the representative must be a relative or other person who, in the opinion of the Complaints and Enquiries Officer, had or has a sufficient interest in their welfare and is a suitable person to act as representative. If in any case the Complaints and Enquiries Officer is of the opinion that a representative does or did not have a sufficient interest in the person's welfare or is unsuitable to act as a representative, they must notify that person in writing, stating their reasons

3.3. In the case of a child, age 16 or under who does not meet the Fraser Competency, the representative must be a parent, guardian or other adult person who has care of the child and where the child is in the care of a local authority or voluntary organisation, the representative must be a person authorised by the local authority or the voluntary organisation. Fraser competence is a term used in medical law to decide whether a child (16 years or younger) is able to consent to his or her own medical treatment, without the need for parental permission or knowledge.

3.4. Some complaints raise issues regarding services which are funded by the CCGs, but not provided by them. In these cases, if the complaint is solely about the staff or service provided by the organisation concerned, for example a care home or a private hospital undertaking NHS treatment under arrangement with the NHS, the complainant will be asked to direct their complaint to the relevant organisation which will follow their own complaints procedure in the first instance.

3.5. There are some types of complaint that fall outside of the scope of this procedure. The suggested route for these complaints is shown in Table 1: Full details of the types of complaint which fall outside this procedure can be found in Regulation 8 of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

Full details of the types of complaints which fall outside this policy can be found in Section 8 of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009².

² <http://www.legislation.gov.uk/uksi/2009/309/regulation/8/made>

Table 1: Complaints that fall outside of the scope of this policy

Complaint Subject	Complaint Route
A complaint relating to the provision of Healthcare	Relevant provider of healthcare e.g. hospital, GP, community services etc.
A complaint that has already been investigated through the CCGs' complaints process.	Health Service Ombudsman
A complaint made by a current or past employee about any matter relating to their employment (including complaints about managers and colleagues)	Relevant HR policy e.g. Grievance Policy, Whistleblowing Policy etc.
A complaint that is or has been investigated by the Health Service Ombudsman	Health Service Ombudsman
A complaint arising out of the CCGs' alleged failure to comply with the Data Protection Act 2018 or Freedom of Information Act 2000	Information Commissioner's Office
A complaint made about another health organisation or local authority	Relevant Health organisation or Local Authority
Private services or treatment (unless provided under arrangements with the NHS)	Relevant Private Provider
GP practice relating to a member of practice staff or service received	Practice Manager of the GP practice or NHS England

Where complainants are unsure of the most appropriate complaint route, the CCGs' Complaints and Enquires Officer can provide advice.

All public areas must display notices advising on how and to whom complaints may be made. Information leaflets must also be readily available giving this information.

4. Definitions

4.1. **The Regulations:** Local Authority Social Services and NHS Complaints (England) Regulations 2009.

4.2. **Formal Complaint:** it is important for staff to be able to identify those issues which, even if raised verbally, need to be brought to the attention of senior managers in the organisation, for example, where they raise patient safety concerns. All patients have the right to have their complaint treated as a formal complaint.

4.3. **Commissioning Complaints:** these may be in respect of funding issues or, services provided by other organisations which are funded by the CCGs.

4.4. **Investigating Officer:** a manager or senior person allocated to carry out an investigation into a formal complaint and to draft a report/response on their findings as well as any lessons to be learnt, within a specified time.

- 4.5. **PHSO**: an acronym for the Parliamentary and Health Service Ombudsman.
- 4.6. **IFR**: an acronym for Individual Funding Request.
- 4.7. **Conciliation/Mediation**: is a way of dealing with complaints that helps to avoid adversarial situations. By bringing the two sides together with a neutral conciliator/mediator it aims to achieve a satisfactory conclusion for both the complainant and the CCGs.
- 4.8. **Fraser Competence**: is a term used in medical law to decide whether a child (16 years or younger) is able to consent to his or her own medical treatment, without the need for parental permission or knowledge.
- 4.9. **HealthWatch** provides the Independent Complaints Advocacy Service (ICAS) for people living in Coventry. ICAS provides free, independent, confidential information and support for people using the different stages of NHS complaints process (but not medical negligence legal action).

VoiceAbility provides the Independent Complaints Advocacy Service (ICAS) for people living in Rugby and Warwickshire North. ICAS provides free, independent, confidential information and support for people using the different stages of NHS complaints process (but not medical negligence legal action).

5. Roles and Responsibilities

- 5.1. The CCGs have a duty to ensure compliance with the regulations. The Governing Body will be kept informed of any risks or issues in relation to compliance with the policy via the Clinical Quality and Governance Committee (CQG).
- 5.2. **The Chief Officer** has ultimate responsibility for compliance with the regulations.
- 5.3. **The Director of Integrated Governance** is responsible for complaints across WNCCG and for overseeing the implementation of the Regulations. The Director of Integrated Governance will regularly report to the Governing Body, via the CQSG, in relation to complaints, activities and compliance and is responsible for dealing with and making decisions on all formal complaints. The Director of Integrated Governance will liaise with the Complaints and Enquiries Officer.
- 5.4. **The Associate Director of Governance and Corporate Affairs** is responsible for the NHS Publication Scheme of the CCG
- 5.5. The **Complaints and Enquiries Officer** is responsible for processing and handling all formal complaints received by the CCGs, and for advising and providing assistance to those who request it. The Complaints and Enquiries Officer will assist with the implementation of this policy and will keep the Associate Director of Governance and Corporate Affairs and the CQSG informed of any issues. However the overall responsibility and accountability for all complaints received falls with the Associate Director of Governance and Corporate Affairs.

5.6. The Complaints and Enquiries Officer will be responsible for maintaining a complaints database to record and monitor complaints received by the CCGs.

5.7. Other **Senior Managers** within the CCGs are responsible for:

- ensuring that complaints are fully and fairly investigated by an appropriate manager (Investigating Officer) and that fully completed Complaints Investigation toolkits are forwarded to the Complaints and Enquiries Officer within the specified time
- ensuring that all committed actions as a result of a complaint being made are implemented within the specified time; and
- ensuring that all their staff are aware of their duties under the regulations and that they adhere to this policy.

5.8. **All staff** of the CCGs will comply with the most up-to-date version of this policy.

5.9. **The CQG Committee** is responsible for

- The approval of this policy and submission to the Governing Body for approval to adopt; and
- Receiving quarterly reports on complaints from the Associate Director of Governance and Corporate Affairs.

6. Basic Principles of Good Complaints Handling

6.1. No-one is infallible and we can all make mistakes. Complaints sometimes arise from differences of understanding, perceptions and belief and are often about organisational matters rather than individuals. Patients are greatly influenced by the attitudes of professionals towards them.

6.2. The following basic principle will apply to all complaints received by the CCGs:

- Find out how the complainant would like their complaint resolved. Options include:
 - Face-to-face meetings with the complainant and parties involved
 - Resolution of the complaint by telephone
 - The use of an independent advocate or mediator
- There will be an emphasis on early resolution of complaints working with the person who has made the complaint.
- Arrangements will ensure that the complainants know they have acted appropriately and that the organisation is open to comments on performance and willing to make changes when necessary.
- Lessons learned from complaints will be used to support continuous quality improvements in service delivery.
- Staff must be able to recognise when a complaint is being made and need to feel confident about dealing with complaint.
- There is a need to ensure confidentiality at all stages of the complaints process not only for the complainant but also for those staff involved in the investigation.
- It is important that staff involved in complaints receive feedback on the outcome of the investigation. Feedback will be requested by the Complaints and Enquiries Officer by way of a prepaid questionnaire sent to the complainant to complete and return.

- Anyone making a complaint needs to be assured that they will not be treated any differently by any NHS organisation as a result of voicing their concerns.

7. Recognising a complaint

- 7.1. Comments and suggestions about the CCGs as a commissioner of services are welcomed. It is important for staff to acknowledge all comments and suggestions and to let the person making them know that they will be treated constructively and confidentially.
- 7.2. Not all issues raised are formal complaints and it is important that staff who are handling complaints understand the difference. Staff must be able to recognise when a person is making an enquiry, asking for advice or making a constructive suggestion and not to misconstrue this as a complaint. Many concerns can be addressed by the member of staff in direct communication with the contact. This should be the normal practice and staff will be empowered to resolve these quickly without the need for them to go through a more formal complaints process.
- 7.3. However, it is important that the organisation learns from all feedback, and the person who resolves the concern informally must provide the Complaints team, in writing or by email, brief details for the actions they have taken to resolve a concern. The Complaints team will record the information.
- 7.4. In all instances staff must clarify with the complainant what their concerns are and, if possible, the remedy. Where the complainant accepts the response as being satisfactory and appropriate there will be no need for further action.

8. How to register a complaint

- 8.1. All formal complaints should be registered with the Complaints team who will:
 - Register the complaint on the complaints database and give it a unique number, acknowledge and request consent (where appropriate) and manage expectation of the process and expected timescales direct with the complainant
 - Allocate an Investigating Officer and provide a Complaints Investigation Toolkit for completion which will advise on the date by which the investigation should conclude and be submitted
 - Prepare the letter of response for signature by the Chief Officer (or designated deputy) of the CCGs.
 - Monitor the learning and recommendations as identified in the Complaints Investigation Toolkit

Complaints that fall within the scope of this policy will be investigated by the CCGs.

9. Time limits for Complaints

- 9.1. A complaint must be made within 12 months from the date on which a matter occurred or the matter came to the notice of the complainant unless there are exceptional circumstances (as per 12 (1) of the Local Authority Social Services and NHS Complaints (England) Regulations 2009 - see Appendix 2).

- 9.2. The time limit will not apply if the CCGs are satisfied that the complainant had good reasons for not making the complaint within the time limit and, notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly.
- 9.3. The CCGs will endeavour to acknowledge all formal complaints within 3 working days from receipt and offer the complainant the opportunity to discuss how the complaint is to be handled.
- 9.4. The Department of Health have not set out a detailed prescriptive process for timescales for response (as per 14 (1) of the Local Authority Social Services and NHS Complaints (England) Regulations 2009 - see Appendix 3). However, the CCGs expect the majority of complaints to be investigated and a response sent to the complainant within 25 working days or within 35 working days in the case of:
- Retrospective Review Service;
 - A joint complaint involving several partner Agencies; or
 - Where a complaint is being investigated by the Provider and the CCG is being asked to review the findings.

These deadlines may be extended by agreement with the complainant.

10. Extensions

- 10.1. The need for an extension should be identified at the earliest possible opportunity and not be left until the deadline nears. This is sometimes the case, for example where the complaint is more complex and/or crosses over into other organisations and requires a joint response.
- 10.2. If it is clear either on receipt of the complaint or at any stage during the investigation that the investigation cannot be completed on time, the Investigating Officer must contact the complainant immediately to agree this and give reasons for the delay and advise about a new estimated time for completing the investigation. The Investigating Officer should then advise the Complaints Team who will update the database and follow this up in writing to the complainant.

11. Coordinated working across boundaries

- 11.1. The Complaints Regulations (2009) introduced a single system for all Health and Local Authority Adult Social Care Services in England and a duty to ensure co-ordinated handling of complaints.
- 11.2. When the CCGs receive a complaint which appears to span both Health and Adult Social Care Services and/or other organisation and including independent contractors, it will work with the other organisation(s) to ensure co-ordinated handling and to provide the complainant with a single response which covers all aspects of the complaint.
- 11.3. With consent from the complainant, a copy of the complaint will be forwarded to the organisation concerned. The lead organisation will be established by discussion with the complainant and organisation(s) concerned, which may

depend on which organisation has to address the majority of the issues raised and whether the complainant is happy with the proposed lead.

- 11.4. Joint complaints can be more complex and may require more time in which to respond and deadlines will be agreed between all parties concerned. If a complainant remains unhappy with the other organisation after receiving a joint response, the CCGs will endeavour to arrange a meeting with appropriate staff from that organisation for further resolution (a conciliation/mediation will be offered to the complainant).

12. Publicising the Policy

- 12.1. It is important that patients and their relatives or carers know about the CCGs' Complaints Policy and how to make comments, compliments, suggestions or complaints about services which the CCGs commission.
- 12.2. There are sections on the CCGs' websites³ which include the Policy and contain details on how to make a complaint. The guides on how to complain, comment or compliment on NHS Health Services can be found on the CCGs websites and in reception areas.
- 12.3. Complainants may contact the Complaints and Enquiries Officer if they have any questions or concerns about the complaints procedure. Complainants may be advised to speak to the local Healthwatch organisation if they wish to discuss their concerns informally. Complainants may also contact POhWER if they need help in making a complaint. The Complaints team will have contact details for the local Healthwatch and POhWER and these are also available in the complaints leaflet.
- 12.4. It is important to remember that complainants may be unable to read or write; may not have English as their first language or may suffer from disabilities which make formal written complaints difficult to make. The CCGs have access to interpretation/translation services and other services for those unable to put their complaint into writing and details can be obtained from the Complaints team.

13. Issues affecting complaints

- 13.1. **Confidentiality:** it is essential when dealing with complaints that employees of the CCGs observe the legal obligation not to release information relating to the patient to a third party without written consent. Should a complainant choose to make their complaint by email, they must be made aware that this system of communication is not considered secure whilst in transit and therefore no guarantee of privacy can be given.
- 13.2. **Consent**
In accordance with the Data Protection Act and patient confidentiality, when a complainant is not the patient, written consent is required from the patient and this must be dealt with in discussion with the complainant. Exceptions would be if

³ <https://www.coventryrugbyccg.nhs.uk/>
<https://www.warwickshirenorthccg.nhs.uk/>

the complainant has a Lasting Power of Attorney over the patient's affairs or if the patient is a child who is not 'Fraser competent' or is very ill or has died. When a patient has died or is unable by reason of physical or mental incapability to give consent, their representative must be a relative or other person who had, or has, a sufficient interest in their welfare and is a suitable person to act as a representative. Staff should use their discretion on this issue, however they must not hesitate to contact the Complaints team if guidance is needed

- 13.3. **Discrimination:** making a complaint should not affect the standard of care received by the complainant at any time. If a complainant feels they are being discriminated against for making a complaint, they should contact the Complaints and Enquiries Officer (refer to Section 18 for further information regarding equality and diversity).
- 13.4. **Allegations of theft:** with regard to allegations of theft made against CCG staff, CCG will not register it as a formal complaint unless the complainant is prepared to inform the police.
- 13.5. If a complaint relating to alleged theft is received, these cases are reported to the CCG who will undertake to investigate the allegation. If the complainant has been directly to the police, the CCGs will co-operate with the police investigation and any legal proceedings. In these cases no further internal investigations will proceed as this may be detrimental to any legal proceedings.

14. Unreasonably persistent and vexatious complaints

- 14.1. Unreasonably persistent or vexatious complainants are becoming an increasing problem for NHS staff, causing undue stress to staff as well as placing a strain on time and resources. Staff are trained to respond with patience and sympathy to the needs of all complainants, but there are times when there is nothing further which can reasonably be done to assist them or to rectify a real or perceived problem.
- 14.2. The CCGs will ensure that the Complaints Policy and procedure is followed so far as possible and that no material element of a complaint is overlooked, as unreasonably persistent complaints may have some substance. the CCGs will use the following criteria in determining when a complaint has become unreasonably persistent. It is emphasised that this procedure will only be used as a last resort after all reasonable measures have been taken to try to resolve complaints through the NHS Complaints procedure.
- 14.3. To be considered unreasonably persistent or vexatious the complainant will usually have one or more of the following:
 - Persists in pursuing a complaint when the NHS Complaints Policy and procedure has been exhausted;
 - changes the substance of a complaint or continually raised new issues;
 - is unwilling to accept documented evidence of treatment given as being factual e.g. GP manual or computerised records, drug charts, nursing records;
 - does not clearly identify the precise issues they wish to be investigated;
 - focused on a trivial matter to an extent which is out of proportion to its significance;

- threatens or uses actual physical violence towards staff at any time;
- had an excessive number of contacts with the CCGs by telephone, letter, fax, email or in person; and
- harasses or is abusive or verbally aggressive towards staff dealing with their complaint; is known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved;
- displays unreasonable demands or expectations and fails to accept that these may be unreasonable (for example, insists on responses being provided more urgently than is reasonable or than is set out in national guidance on complaints handling).

14.4. In these circumstances, the Associate Director of Governance and Corporate Affairs will discuss the individual case with the Chief Officer and decide what action to take. This may include a review of all complaints documentation or seeking legal advice. Once a decision has been made the Chief Officer will write to the complainant and a record will be kept of the reasons why a complainant has been classed as vexatious.

14.5. Action taken may include:

- Declining contact with the complainant either in person, by telephone, by email, by letter or any combination of these provided that one form of contact is maintained.
- Assigning a designated person within the CCGs to be the single point of contact for the complainant.
- Temporarily suspending all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from NHS England or other relevant agencies.
- Informing the complainant that in extreme circumstances, the CCGs reserve the right to pass unreasonable or vexatious complaints to the CCGs' solicitors.

14.6. In cases where a complainant's behaviour is deemed to be abusive or verbally aggressive, the Complaints and Enquiries Officer may deem it necessary to alert other staff, who may come into contact with the complainant (for example Personal Assistants, or reception staff), of the complainant's name so that the complainant may be directed to the most appropriate person as directed by the Complaints and Enquiries Officer when the complainant contacts the CCGs to ensure one point of contact.

14.7. All complainants defined as unreasonably persistent or vexatious will have their status review on a regular basis, for example, every 6 months.

14.8. **Disposal of complaint files** Complaints files will be retained and disposed of in accordance with the Records Management Code of Practice for Health and Social Care. .

15. Management of complaints

15.1. **Conciliation/Mediation - in the event that the complainant is not satisfied with the outcome of the complaint investigation:** the CCGs will offer conciliation and/or mediation as a way of dealing with complaints to help to avoid adversarial situations. By bringing the two sides together with a neutral

conciliator/mediator it aims to achieve a satisfactory conclusion for both the complainant and the CCGs. Complainants wishing to engage in conciliation/mediation should notify the CCGs within 12 months of the date their complaint was answered.

- 15.2. The conciliator's/mediator's role is to identify any outstanding issues of complaint, establish what is hoped to be achieved by pursuing the complaint and to try and assist in addressing these issues in discussions or a meeting with the complainant and staff involved. If the complainant is not satisfied with the outcome of the complaint they can choose whether to engage in conciliation/mediation or whether to escalate the complaint to the PHSO. If the complainant chooses to engage in conciliation/mediation they still have the right to escalate the complaint to the PHSO if they are still not satisfied with the outcome.
- 15.3. The conciliator/mediator is a lay person who is used by the CCGs on an ad hoc basis; they are not employees of the CCGs. The conciliator/mediator is not an advocate for either party. Their role is to give impartial support to both parties. The conciliator/mediator will adopt procedures that are most appropriate for conducting the conciliation/mediation process. Conciliation/Mediation can be joint, both parties present, or a separate meeting for each party with feedback from the conciliator/mediator.
- 15.4. **Local Healthwatch:** is available to assist and advise patients, their relatives and carers should they have any concern about care or services commissioned or provided. Information is available from the complaints team on how the local Healthwatch services can be accessed.
- 15.5. **POhWER:** has an important role in supporting individual complainants and particularly in representing the needs of vulnerable groups when making complaints. POhWER is a free independent service. If appropriate, complainants should be advised about how POhWER can help them and how they can access this service.

16. **Parliamentary and Health Service Ombudsman (PHSO)**

- 16.1. The PHSO provides a service to the public by undertaking independent investigations into complaints that the NHS in England has not acted properly or fairly, or has provided a poor service. The PHSO will normally only take on a complaint after the NHS organisation complained about has first tried to resolve the issues and has responded to the complainant. The PHSO believes that the CCG or provider should be given a chance to respond and, where appropriate, put things right before the PHSO become involved. The PHSO is, therefore, the second stage of the NHS complaints process.

17. **Training**

- 17.1. The CCGs require all staff to be familiar with the Complaints Policy and to know who they should contact for advice on handling complaints. A copy of the Complaints Policy will be made available to all staff. General training on the Complaints Policy is provided as part of induction training for all new staff. Specific training is given to:

- Front line staff (handling complaints, identifying issues of concern,
- Investigating officers (root cause analysis, investigations, Complaints Investigation Toolkit); and

18. Equality and Diversity

- 18.1. The CCGs are committed to ensuring that services it commissions and all complaints received are dealt with fairly, regardless of race, age, gender, disability, religion or sexual orientation.
- 18.2. Monitoring and data collection: an anonymised prepaid Data Collection Form, identifiable only by the complaint number, will be forwarded by the Complaints and Enquiries Officer to all complainants regarding formal complaints made to WNCCG. The information will be included on a database and a report presented to CQSG
- 18.3. Diversity monitoring will be undertaken where complainants have provided information on complaint consent forms. This information will be submitted to NHS Digital on a quarterly basis.
- 18.4. The CCGs are committed to ensuring that it treats all its members fairly, equitably and reasonably and that it does not discriminate against individuals or groups on the basis of any protected characteristic. An Equality Impact Assessment has been undertaken and included in this Policy at Appendix 3.

19. Data Protection Act 2018

- 19.1. The Data Protection Act 2018 and General Data Protection Regulation outlines the ways in which information about living people may be legally used and handled and protects against misuse or abuse of personal information (see the Confidentiality and Data Protection Policy). The NHS relies on maintaining the confidentiality and integrity of its data through the implementation of the NHS Confidentiality Code of Practice. Unlawful or unfair processing of personal data may result in the CCGs being in breach of their Data Protection obligations.

20. Freedom of Information Act 2000

- 20.1. Any information that is held by the CCG may be subject to disclosure under the Freedom of Information Act 2000. From 1st January 2005, the Freedom of Information Act 2000 allows anyone, anywhere to ask for recorded information to be disclosed (subject to limited exemptions). Further information is available in the CCGs' Freedom of Information Policy.

21. Review

This policy will be reviewed every three years or earlier if necessary.

Appendix 1: Summary: “A user led vision for raising concerns and complaints”

Extract from “My expectations for raising concerns and complaints⁴”, published in November 2014. A report produced by the Parliamentary and Health Service Ombudsman, the Local Government Ombudsman and Healthwatch England.

A user-led vision for raising concerns and complaints



⁴ https://www.ombudsman.org.uk/sites/default/files/Report_My_expectations_for_raising_concerns_and_complaints.pdf

Appendix 2: Extracts from The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009⁵

Time limit for making a complaint

12.—(1) Except as mentioned in paragraph (2), a complaint must be made not later than 12 months after—

- (a) the date on which the matter which is the subject of the complaint occurred; or
- (b) if later, the date on which the matter which is the subject of the complaint came to the notice of the complainant.

(2) The time limit in paragraph (1) shall not apply if the responsible body is satisfied that—

- (a) the complainant had good reasons for not making the complaint within that time limit; and
- (b) notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly.

Investigation and response

14.—(1) A responsible body to which a complaint is made must—

- (a) investigate the complaint in a manner appropriate to resolve it speedily and efficiently; and
- (b) during the investigation, keep the complainant informed, as far as reasonably practicable, as to the progress of the investigation.

(2) As soon as reasonably practicable after completing the investigation, the responsible body must send the complainant in writing a response, signed by the responsible person, which includes—

- (a) a report which includes the following matters—
 - (i) an explanation of how the complaint has been considered; and
 - (ii) the conclusions reached in relation to the complaint, including any matters for which the complaint specifies, or the responsible body considers, that remedial action is needed; and
- (b) confirmation as to whether the responsible body is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken;
- (c) where the complaint relates wholly or in part to the functions of a local authority, details of the complainant's right to take their complaint to a Local Commissioner under the Local Government Act 1974⁽²²⁾; and
- (d) except where the complaint relates only to the functions of a local authority, details of the complainant's right to take their complaint to the Health Service Commissioner under the 1993 Act.

⁵ <https://www.legislation.gov.uk/uksi/2009/309/made?view=plain>

(3) In paragraph (4), “relevant period” means the period of 6 months commencing on the day on which the complaint was received, or such longer period as may be agreed before the expiry of that period by the complainant and the responsible body.

(4) If the responsible body does not send the complainant a response in accordance with paragraph (2) within the relevant period, the responsible body must—

(a) notify the complainant in writing accordingly and explain the reason why; and

(b) send the complainant in writing a response in accordance with paragraph (2) as soon as reasonably practicable after the relevant period.

Appendix 3: Equality Impact Assessment

Directorate Team Name of lead person

Piece of work being assessed

Aims of this piece of work

Date of EIA Other partners/stakeholders involved

Who will be affected by this piece of work?

Single Equality Scheme Strand	Baseline data and research on the population that this piece of work will affect. What is available? Eg population data, service user data. What does it show? Are there any gaps? Use both quantitative data and qualitative data where possible. Include consultation with service users wherever possible	Is there likely to be a differential impact? Yes, no, unknown
Gender	n/a	No
Race	n/a	No
Disability	Complaints can be made verbally or in writing and assistance can be provided on request	No
Religion/ belief	n/a	No
Sexual orientation	n/a	No
Age	n/a	No
Social deprivation	n/a	No
Carers	n/a	No
Human rights	n/a	No