



MAKING EXPERIENCES COUNT

POLICY FOR THE REPORTING & MANAGEMENT OF PATIENT COMPLAINTS AND CONTACTS WITH THE PATIENT ADVISORY LIAISON SERVICE (PALS)

Version 1.5

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MAKING EXPERIENCES COUNT

Policy for the reporting and management of patient complaints and contacts with the Patient Advisory and Liaison Service (PALS)

1. Introduction

Most patients have a very positive experience when they call on NHS services however there will inevitably be occasions when the outcome falls short of what should reasonably be expected. The NHS Hull Clinical Commissioning Group (NHS Hull CCG) is fully committed to upholding the principles of the NHS Constitution and working in partnership with patients, the public and other key stakeholders to ensure that there is an effective system in place to investigate and respond to complaints and concerns.

This policy sets out the principles and process adopted by Hull CCG for the management of complaints and comments received via the Patient Advisory and Liaison Service (PALS). It is based on the current national regulations issued by the Department of Health (DH) in 2009 and the best practice guidance as outlined in the 'Making Experiences Count' (MEC) document (2007).

The CCG has adopted 8 principles which will guide this work, as follows:

- **Open** – we will take full account of the NHS Constitution pledge to be open and honest if things go wrong or mistakes happen.
- **Clear** – we will ensure that a patient has a full understanding of how their complaint or concern will be investigated and what advice and assistance is available to them.
- **Responsive** – the process to be followed will be agreed with the patient and will reflect their needs and wishes.
- **Flexible** – the complaint/representation handling will be determined by the nature of the complaint & views of the complainant.
- **Proportionate** – action taken to resolve concerns and complaints will seek to gain a positive outcome by the simplest means available whilst remaining mindful of the nature of the complaint.
- **Accessible** – the procedure will be easy to access and use.
- **Timely** – complaint handling will be conducted in a timely fashion and to a timescale agreed with the patient.
- **Focussed on outcomes** – at all points through the process we will seek a positive outcome for the complainant and other parties.

2. Aims

This policy puts the patient/service user, and/or their representative, at the centre of efforts to resolve the issues they have raised. We also recognise the importance of listening to the experiences and views from the public about the work of the CCG – particularly if they are unhappy – and we want to make it as easy as possible for them to let us know their views.

There are two underpinning aims to this policy, as follows:

- i) To place the patient at the centre of the process, with the emphasis being to facilitate a positive outcome for all parties.
- ii) To recognise the importance of listening to and learning from the experiences and views of patients and ensure that any lessons that emerge are shared and acted upon.

Formal mechanisms are in place to make sure that the views of complainants and PALS service users inform the future commissioning plans of the CCG in meeting the reasonable health needs of the people of Hull. Regular reports on the outcomes of complaints and the activity of the PALS service **are** considered by the CCG as part of its commitment to support the continuous improvement of the quality of services.

3. Strategic Objectives

We want everyone who is involved to feel confident in the process and we will achieve this through a procedure that ensures:

- A robust and easily accessible complaints and PALS system which focuses on bringing all relevant parties together with the aim of seeking a prompt, positive outcome. This includes, where appropriate, the involvement of independent advocacy services.
- Patients can have confidence that their complaints will be taken seriously and dealt with in a confidential, courteous and conciliatory manner.
- A simple, consistent, unified approach to be used across health and social care services ensuring an open and honest culture is maintained across Hull, with fairness to both people using and delivering services.
- An early and effective resolution of issues ensuring that the information from complaints will be used to improve services incorporating a clear process for feedback regarding lessons learnt.
- Open and honest feedback to interested parties and the public on the outcomes of complaints and PALS enquiries, including publication of performance data and actions taken as a result of lessons learned from cases.

4. Equality and Diversity

This policy should be equally accessible to all residents, irrespective of their status. A full equality impact assessment has been undertaken and is appended to the back of the policy.

The CCG is committed to ensuring that patients whose first language is not English receive the information they need and are able to communicate appropriately with healthcare professionals. All information in relation to the complaints process is available in alternative languages and formats upon request.

If at any time this policy is considered to be discriminatory, the author of the policy should be contacted immediately to discuss these concerns.

5. Freedom of Information / Data Protection

The CCG maintains procedures which are fully compliant with the Freedom of Information Act 2000 and Data Protection Act 1998. The latter in particular makes provisions for the protection of personal or otherwise sensitive data held by public bodies which relate to an individual. This protection applies equally to those registering a complaint or PALS enquiry.

Information provided by a complainant for the purposes of a complaint investigation will only be shared with a third party by the CCG, or those acting directly on its behalf, with the express permission of the complainant.

Information published by the CCG in relation to complaints performance and lessons learned will be in anonymised form.

Queries in relation to these matters will be actioned in accordance with NHS Hull CCG's Freedom of Information Policy and / or directions from the CCG's designated Caldicott Guardian.

6. Definition

A complaint can be defined as 'an expression of dissatisfaction or annoyance requiring a response'. This can include expression in letters, emails, telephone calls or face to face discussions.

A representation, concern or comment to the CCG that requires action will typically be received via the PALS service and the response will also be dealt with according to this procedure.

The terms 'complaint' and 'complainant' are used for ease throughout this document but should be taken to apply to these other representations.

7. Who May Complain

A complaint may be made by:-

- A person who receives or has received services from NHS Hull CCG, or

- A person who is affected or is likely to be affected by the action, omission or decision of the NHS Hull CCG which is the subject of the complaint.

A complaint may be made by another person acting on behalf of a person who:-

- Has died.
- Is a child (however children aged under 16 who have capacity to demonstrate sufficient maturity and intelligence to understand and appraise the nature and implications of the course of action including the risks and alternative courses of actions may be able to make a complaint on their own behalf.)
- Is unable to make the complaint themselves because of physical incapacity or lack of capacity as described in the Mental Capacity Act 2005, or
- Has requested a representative to act on their behalf

In the case of a patient or person affected who has died or who lacks capacity, the representative must be a relative or other person who, in the opinion of NHS Hull CCG had or has a sufficient interest in their welfare and is a suitable person to act as a representative.

If the CCG is of the opinion that a representative does not have sufficient interest in the person's welfare or is unsuitable to act as a representative, the organisational representative will notify that person in writing stating the grounds for this decision.

In the case of a child, 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 a voluntary organisation, the representative must be a person authorised by the local authority or the voluntary organisation.

8. Timescales for Registering a Complaint

A complaint should be made as soon as possible after the incident and in any case not later than 12 months after the date the incident occurred. This time limit may be waived in exceptional circumstances if it is considered that the complainant had good reason for not making the complaint within the timeframe and there are reasonable grounds to believe it is still possible to investigate the complaint effectively and fairly. Such requests should be directed to the **Head of Corporate Governance**.

9. Limitations to the Complaints Procedure

There are a number of matters which sit outside the scope of the NHS complaints procedure, which include the following:

- Disciplinary or grievance proceedings
- Criminal investigations
- Where a statutory appeals process is in place
- When a complainant intends to take legal proceedings in relation to the substance of the complaint.
- Allegations relating to safeguarding.
- Matters within the scope of a Serious Untoward Incident investigation

The addressing of matters through other processes does not, however, automatically exclude other elements being considered through the complaints process, where it is appropriate and possible to do so.

If at any point in dealing with a complaint it becomes apparent that there are issues that are more appropriate to be addressed through other procedures, this part of the

complaint will be suspended, referred to the appropriate procedure and the complainant informed in writing.

10. How a Person May Make a Complaint

A person can complain to the NHS Hull CCG in a variety of ways:

- Formally by letter
- By email
- Verbally via telephone or face to face discussions
- Through a third party

If a complaint is received verbally a verbal complaint form must be completed (Appendix 3).

11. Consent

If a patient would like a representative to make a complaint on their behalf, consent must be acquired in writing. Staff should reasonably assure themselves that they:

- are competent to make the particular decision
- have received sufficient information to make it
- not be acting under duress.

If the complaint is received by NHS Hull CCG with regard to a third party, consent must be obtained from the complainant for details of the complaint to be forwarded on to the third party for investigation.

In such circumstances the complaint will be managed in accordance with the local Inter Agency Protocol to ensure that the complainant receives a co-ordinated response within the agreed timescale.

12. Process for Managing Complaints

The following section sets out the process for the management of complaints received by the CCG with regard to its commissioning functions. It has adopted the approach outlined in the DH Regulations which aims to resolve the issue at the most local level by the simplest means possible.

12.1 Local Resolution

The first stage of the complaints process is known as local resolution and the CCG will endeavour to facilitate a positive outcome for all complaints via this process.

All complaints will be acknowledged in writing within 3 working days however verbal contact may be made in advance as this often provides the most effective means to initially discuss and often address a patient's concerns.

Once a complaint is received the complaint will be risk graded and an appropriate Investigating Manager will be appointed who will:

- Contact the complainant to confirm they are responsible for investigating the complaint, gain an understanding of the key issues expected outcomes and agree timescales.
- Obtain relevant **information** and identify all members of staff concerned and collate all relevant statements.

- Investigate the complaint in a manner appropriate to resolve it speedily and efficiently.
- Identify any areas for action.
- Make recommendations for improvements.
- Keep the complainant informed as far as reasonably practicable as to the progress of the investigation.
- Provide an investigation report, action plan and draft response letter within 30 working days.

All responses must state if the complaint has been upheld or not and staff are encouraged to be honest and transparent with **complainants** when a complaint has arisen. Where there has been a failure of service, the response letter must contain an apology.

A detailed action table, together with timescales, is given at Appendix 1.

12.2 External Review by the Parliamentary & Health Service Ombudsman

This is the second stage of the complaints process. Should the complainant remain dissatisfied following receipt of the final written response they have the option to contact the Parliamentary and Health Service Ombudsman for an external review. The Parliamentary and Health Service Ombudsman will normally expect a complainant to have exhausted the local NHS complaints procedure before they intervene.

The Ombudsman will not automatically investigate all complaints received but will consider complaints put to them before deciding if further investigation is required.

The Ombudsman has highlighted the principles of good complaint handling which they will be looking for

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

13. Mediation

The CCG offers a mediation service via the Patient Relations Team within the North Yorkshire and Humber Commissioning Support Unit which can assist in resolving differences or concerns at the local resolution stage. In addition, information will also be provided to the complaint about the Independent Complaints Advocacy Service (ICAS) available to them via local Healthwatch.

14. Complaints regarding Commissioned Services / Independent Contractors

All services commissioned by NHS Hull CCG are required to have established systems and processes for complaints handling in line with Department of Health requirements. Whilst responsibility for the investigation and management of such complaints will rest with the provider body, the CCG will monitor complaints in commissioned services as outlined in the NHS Hull CCG Commissioning for Quality Strategy Framework. Complaints and PALS data will be routinely considered by the CCG Quality & Performance Group who will, in turn, advise the CCG Commissioning

& Planning Group of any matters of relevance or where a complaint is considered to be indicative of a wider concern or trend. In such circumstances an in-depth review may be undertaken through the established contracting arrangements.

Independent Contractors (GPs, Dentists, Opticians, and Pharmacists) similarly have a regulatory duty to operate their own complaints procedures and co-operate fully in handling complaints in line with the Department of Health requirements.

If a complaint about a commissioned service is received by NHS Hull CCG the complainant must consent to the details of the complaint being sent to the provider. The provider should then act as if the complaint were sent directly to them, investigating and providing a response within the timescales of the regulations. A copy of the response will be provided to NHS Hull CCG.

NHS Hull CCG would be actively involved in the complaint about a commissioned service when the complainant requests NHS Hull CCG to investigate the matter as the commissioner of the service, or where there have been multiple complaints regarding the quality of a particular service, or when a complaint has been graded as major.

15. Supporting Staff through a Complaint

NHS Hull CCG acknowledges that investigation of a complaint can be unsettling for a member of staff. They will therefore have access to support throughout the investigation of a complaint if so desired. Within the confines of confidentiality, staff may seek peer support or the assistance and support of their professional association, trade union or other form of support, including counselling.

Any issues highlighted by a complaints investigation regarding CCG functions which present a case for a clinical / professional practice review or disciplinary investigation will be dealt with in full consultation with the appropriate director or manager and in accordance with CCG HR policies and procedures.

It is important that lessons are learnt when things go wrong and that blame is not unfairly apportioned to any individual. However, staff are equally expected to be accountable for their actions if a complaint is upheld. Support and training will be made available if this is an identified need.

16. Involvement of Professional / Regulatory Bodies or Other External Agencies

Where a matter is brought to the attention of the CCG via the application of this policy which potentially relates to fitness to practice or otherwise gives rise to serious professional concerns, the CCG may seek the confidential advice of the Medical Director of the NHS Commissioning Board Local Area Team, or any other relevant professional advisor or professional body, as appropriate. This may result in the referral of the matter for formal consideration by that body or other action short of formal referral which is considered appropriate to the circumstances presented.

The CCG will seek the immediate advice of the police in circumstances where there is prima facie evidence of criminal activity.

Complaints involving medical devices or consumable products will be notified to the Medicines and Healthcare Products Regulatory Agency. Complaints involving food poisoning will be notified to the Health Protection Agency (Public Health England).

17. Roles and Responsibilities

The Chief Officer as the Accountable Officer for the CCG is responsible for ensuring that NHS Hull CCG has a process for the management of patient complaints in accordance with the DH complaints regulations in relation to CCG functions.

The Head of Corporate Governance will ensure that the CCG agreed process for complaints management and investigation is appropriately implemented and regularly reviewed. They will be supported in this role by designated staff working in the Commissioning Support Unit.

Investigating Managers will be responsible for the management of the complaints investigation and response in line with the NHS Hull CCG Complaints Procedure. Support for this will be provided by the Commissioning Support Unit as identified in the associated contract specification.

All staff are responsible for being aware of their obligations with regard to complaints as outlined in the NHS Hull CCG complaints procedure. The CCG has documented a framework for staff to utilise when managing complaints which is consistent with this policy. This is separately issued to them.

18. Being Open with Patients and Relatives

In line with the NHS Constitution's Duty of Candour and the National Patient Safety Agency (NPSA) Strategy, NHS Hull CCG is fully committed to promoting an open and honest culture in the management of complaints. When things go wrong, it is essential that the relevant parties are kept fully informed and feel supported. The being open process underpins the local resolution stage of the complaints process.

Being open involves:

- Apologising and explaining what happened to patients and or their carers.
- Conducting a thorough investigation into the complaint and demonstrating to patients and/or their carers that lessons have been learned to prevent recurrence.
- Providing support for the patient, relative or carer to cope with the physical and psychological consequences of what happened and ensures communication is open, honest, and occurs as soon as possible after a complaint is received.

19. Persistent or Vexatious Complainants

The CCG promotes a sensitive and responsive approach to all complainants and will investigate each matter that is brought to its attention. There will however be exceptional occasions where it is recognised upon completion of an investigation that there is nothing further that can reasonably be done to assuage a real or perceived problem.

Complainants who continue to make unreasonable or unrealistic demands in such circumstances may be dealt with via the CCG's persistent unreasonable complainants process. Every effort will be made by the CCG to resolve a matter without recourse to call upon this guidance and only after the express authorisation of the Chief Officer on a case by case basis.

20. Monitoring and Reporting

All information from patient complaints is collated and recorded onto the DATIX Risk Management System from which anonymised reports are produced for internal and external reporting.

In particular, a quarterly report is received by the CCG's Quality & Performance Group detailing the performance and lessons learned, as appropriate, from the outcome of complaints and PALS enquiries.

Complaints performance and learning from complaints will also be published annually and available to the public.

21. Learning

Good complaint handling is not limited to providing an individual remedy to the complainant and all feedback and lessons learnt from complaints will contribute to service improvement.

The CCG will through its Quality & Performance Group:

- Ensure that learning is identified through complaint investigations.
- Monitor progression of action plans
- Ensure learning is disseminated internally and externally and recorded as part of a 'Closing the loop' report

22. Organisational Performance Targets

NHS Hull CCG will:

- Acknowledge all complaints within 3 working days in writing.
- Agree with complainant :
 1. The manner in which the complaint is to be handled
 2. The period in which the investigation of the complaint is likely to be completed
- Provide a full written response to the complainant documenting whether the complaint has been upheld/not upheld within the time period agreed with the complainant and where possible within 30 working days.

Where the response cannot be provided within the timeframe above this will be discussed with the complainant. Agreement for an extension to the timescale must be obtained from the complainant and the relevant extended period to be confirmed in writing.

A detailed performance reporting framework is set out in Appendix 2.

23. Training

NHS Hull CCG will ensure that staff have relevant training at the appropriate level and should aim to attend one complaints training session upon appointment. Statistics on the number of staff attending the training will be collated and reported annually to the Quality Performance and Improvement Group.

24. Implementation

This policy will be placed on the CCG internet site for public access.

25. Policy Review

This policy will be reviewed April 2014 and then not less than annually thereafter.

26. Supporting Documents

- NHS Hull Freedom of Information Policy (2012)
- NHS Hull Commissioning for Quality Strategy (2012)
- NHS Hull Being Open Policy (2012)
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
- NHS Litigation Authority Risk Management Standards
- National Patient Safety Agency (NPSA) Strategy
- National Reporting and Learning Service Being Open Process

APPENDIX 1

DETAILED ACTION TABLE FOR THE MANAGEMENT OF COMPLAINTS

Day	Action
Day of receipt	<ul style="list-style-type: none"> • Complaint received by Patient Relations at CSU. A copy is sent to the Chief Officer's PA to log and a copy to the CCG Corporate Lead to identify a senior manager to lead the complaint <p style="text-align: center;">or</p> <ul style="list-style-type: none"> • Complaint received by CCG. The Chief Officer's PA to log, send a copy to Patient Relations at the CSU, and a copy to the CCG Corporate Lead to identify a senior manager to lead the complaint
Within 1 working day of receipt	<ul style="list-style-type: none"> • Patient Relations to acknowledge receipt of complaint to the complainant and seek consent if appropriate
Within 2 working days of receipt	<ul style="list-style-type: none"> • Corporate Lead to notify Patient Relations of the senior manager lead
Within 5 working days of receipt	<ul style="list-style-type: none"> • Patient Relations to discuss the complaint with the senior manager and gain an estimate of how long is needed to investigate and respond • Patient Relations to agree a response date with the complainant. CCG standard is 30 working days • Patient Relations to notify Chief Officer's PA of the agreed deadline for response
Within 6 working days of receipt	<ul style="list-style-type: none"> • Patient Relations to request any internal input required, input from other organisations, additional information, records, policies etc. required by the senior manager and forward them to the senior manager upon receipt.
10 working days before 30 day deadline	<ul style="list-style-type: none"> • Senior manager to update Patient Relations on progress and draft response • If more time is needed senior manager to inform Patient Relations of this and how much more time is required • Patient Relations to agree an extension with the complainant • Patient Relations to notify Chief Officer's PA of revised extension
8 working days before 30 day deadline	<ul style="list-style-type: none"> • Senior manager to send draft response to Patient Relations to put into corporate format • Patient Relations to circulate to other organisations for approval if it is a joint response
6 working days before 30 day deadline	<ul style="list-style-type: none"> • Senior manager to sign off final draft
5 working days before 30 day deadline	<ul style="list-style-type: none"> • Final draft and original letter sent to Chief Officer's PA for Chief Officer to review
2 working days before 30 day deadline	<ul style="list-style-type: none"> • If no changes are required, Chief Officer signs off letter. Chief Officer's PA to take a copy and forward to Patient Relations and posts the letter <p style="text-align: center;">or</p>

	<ul style="list-style-type: none"> • If minor changes are required to be made to letter, these will be done by Chief Officer's PA. Chief Officer signs off letter. Chief Officer's PA to take a copy and forward to Patient Relations and posts the letter <p style="text-align: center;">or</p> <ul style="list-style-type: none"> • If more significant changes are required, these will be done by Patient Relations and sent back to Chief Officer's PA
1 working day before 30 day deadline	<ul style="list-style-type: none"> • Chief Officer signs off letter. Chief Officer 's PA to take a copy and forward to Patient Relations and posts the letter

APPENDIX 2

DETAILED PERFORMANCE REPORTING FRAMEWORK

Indicator	Frequency
1. Number of complaints received during the period to which the report relates.	Monthly (SLT) Quarterly (Q&PG)
2. Number (and %) of those complaints to which substantive responses were sent within the original timescale agreed with the complainant.	Monthly (SLT) Quarterly (Q&PG)
3. Number of complaints that remain unresolved more than 30 working days after the date that they were received - together with a short exception report as to the reasons on a case by case basis.	Quarterly
4. Breakdown of the number (and %) of complaints which were upheld / not upheld.	Monthly (SLT) Quarterly (Q&PG)
5. Number of complaints that are known to have been referred to the Ombudsman, the number that were upheld by her together with a summary of the remedial action taken in such cases.	Quarterly
6. Breakdown of the complaints into a pre-determined set of categories. This to include data for complaints that relate in full or in part to one or more of the 9 protected characteristics as defined by the Equality Act 2010.	Quarterly
7. Synopsis of the lessons learned and emerging themes from the complaints received during the period covered by the report – including those within or across CCGs and national trends. This synopsis will also incorporate the results of insight work with complainants through the use of satisfaction surveys and other methodologies, as appropriate.	Quarterly

APPENDIX 3

VERBAL COMPLAINTS FORM

<p><u>COMPLAINANT NAME:</u> Date of Birth: Address: Telephone Number: Ethnic Origin:</p>	<p><u>DATE & TIME OF CALL</u> <u>NAME OF PERSON WHO TOOK THE COMPLAINT:</u></p>
<p><u>PATIENT NAME (If different):</u> Date of Birth: Address: Telephone Number: Ethnic Origin:</p>	<p><u>WHERE DID THE COMPLAINT ARISE?</u> <u>WHO / WHAT IS THE COMPLAINT IS ABOUT</u></p>
<p align="center"><i>If the patient is not the person making the complaint, has the patient given consent: YES/NO REMEMBER:- If the patient has not given consent you cannot disclose confidential information to the complainant. However, you can respond in general terms only.</i></p>	
<p><u>SUMMARY DETAILS OF COMPLAINT:</u> Please provide a summary of the complaint</p>	
<p><u>ACTION TAKEN / RECOMMENDATIONS MADE AS A RESULT OF THIS COMPLAINT</u></p>	
<p><u>DATE FINAL RESPONSE GIVEN OR FINAL LETTER SENT</u></p>	
<p>Name of person completing this form: (Please print) Dated:</p>	

Please fax this completed form to the Patient Relations Team within the CSU at The Maltings, Silvester Square, Silvester Street, Hull, HU1 3HA, fax: 01482 344617, e-mail h-pct.pals@nhs.net