



Policy for Handling NHS Complaints

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Training/resource implications:	Mandatory training including conflict resolution. Complaint Managers are trained to BTEC Level 5 Complaints Handling (Bond Solon). Ongoing training will be provided to all PACT staff		
Equality Impact Assessment:	In applying this policy, the organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic		
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1. INTRODUCTION

This policy sets out the SCW process for dealing with NHS complaints on behalf of NHS Commissioning organisations. All SCW staff, including temporary and agency staff, are responsible for co-operating with the development and implementation of the Complaints Policy as part of their normal duties and responsibilities.

SCW has a responsibility to have a complaints policy in place, in line with national requirements (Statutory Instrument 2009 No. 309: The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009). All information will be treated as confidential and will be kept in accordance with the Data Protection Act 1998.

2. SCOPE

SCW is responsible for the provision of complaints management services on behalf of NHS Commissioning organisations, who in turn commission health services from local acute hospitals, mental health providers, community providers, the independent sector and independent contractors. This policy sets out how the SCW will support the commissioners in the management of their complaints.

3. DEFINITIONS

Complaint	An expression of dissatisfaction that requires an investigation with the commissioner and/or service provider which necessitates a formal response
Concern	An experience or opinion that is of interest or importance to the service user that may require consideration and reply by the commissioner and/or service provider
Comment	A remark expressing feedback, opinion or reaction to a CCG customer commissioned service
Compliment	A positive expression of praise or gratitude
Complaint Manager	Individual employed in the function of administering complaints, on behalf of the commissioner, in line with the 2009 regulations and PACT policy.
Local Resolution	Resolution of a comment or complaint by the commissioner or provider
Independent Review	If a service user remains dissatisfied with the local resolution offered, they may contact the Parliamentary & Health Service Ombudsman and request a review of the local resolution process

Complaints Regulations	Statutory Instrument 2009 No. 309: The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
Service user	The term ‘patient’, ‘client’ and ‘service user’ are used interchangeably to describe all those people for whom the NHS Commissioning organisation commission and provide services
Advocate	An ‘advocate’ is a person who speaks for, or intercedes on behalf of another in the case of complaints. The complainant may choose anyone they wish to be their advocate; hence this may be (but not limited to) a relative, friend, or someone from an advocacy organisation such as SEAP, MP or Solicitor
Complainant	The ‘complainant’ is the person making the complaint, this may be the patient or advocate
SCW	South, Central & West Commissioning Support Unit. We work with our CCG customers to analyse, plan and improve the quality and value of health and care services
PACT	Patient Advice and Complaints Team. Integrated PALS and Complaints management team
PALS	Patient Advice & Liaison Service. Part of the integrated PACT
Commissioning organisation	Responsible for commissioning secondary services for their local population. Includes Clinical Commissioning Groups (CCGs)
Responsible Officer	Nominated individual within the Commissioning organisation who is accountable for complaints, this must be at executive level and can often be a Director of Nursing or equivalent.
Child	Any individual under the age of 16, unless assessed as competent under Gillick competencies
Gillick Competency	The ability of a child between the age of 12 – 16 to understand and consent to treatment, in the opinion of a registered health / social care professional (Taken from Fraser Guidelines)
Commissioning Function Complaint	A complaint about a service directly relating to a CCG funding strategy service provision.
PHSO	Parliamentary Health Service Ombudsman: make final decisions on complaints that have not been resolved by the NHS in England and UK government departments and other public organisations.

4. PURPOSE

SCW is committed to providing an accessible, equitable and effective means for service users (and/or their advocate) to express their views about a commissioned service.

SCW intends to provide a patient advice and liaison service (PALS) and a complaints service which provides easy access for all people, including those with disability and/or language issues; is supportive and open; and results in a fair and proportionate local resolution. The purpose of a local resolution is to provide the opportunity for the complainant and service provider to facilitate a timely and appropriate resolution of the complaint; for the service provider to put things right for the complainant, whilst giving the opportunity to review and continually improve their services.

5. AIMS

SCW Patient Advice & Complaints Team (PACT) is the first point of contact for complainants. PACT will engage with the complainant to agree how they would like their concern or complaint managed. If it is anticipated the comment/enquiry can be resolved within one working day it is likely this will be directed towards the PALS process. However, if the comment or complaint requires an investigation it is likely this will be directed towards the complaints process.

The complaints policy will:

- Be publicised and easy to access;
- Be simple to understand and use;
- Be fair and impartial;
- Be consistent with national guidance;
- Offer a thorough and effective mechanism for resolving concerns and complaints;
- Undergo regular review and amended in accordance with any change in national guidance;
- Ensure all complaints are dealt with in an honest, open, confident and sensitive way;
- Ensure that rights to confidentiality and privacy are respected;
- Guarantee that no complaint will form any part of a medical record and complainants will not be discriminated against, in any way as a result of making a complaint;
- Provide complainants with a nominated PALS Officer or Complaints Manager who will offer the complainant support and guidance throughout the complaints process;
- Ensure complainants are treated with respect and courtesy;
- Ensure answers or explanations are provided within negotiated time frames;
- Ensure responses are thoroughly investigated, evidence based and transparent and provide outcomes of the investigation;
- Enable lessons learnt to be used to inform the improvement of the services commissioned by our CCG customers; and

6. ROLES AND RESPONSIBILITIES

The Accountable Officer of the commissioning organisation is responsible for ensuring compliance with the agreements made under the Complaints Regulations and for ensuring that action is taken if necessary, depending on the outcome of the complaint.

The Complaints Manager is responsible for managing procedures, on behalf of the Commissioners, for handling and considering complaints in accordance with the arrangements made under these regulations.

The Investigating Officer is responsible for undertaking a thorough investigation into the facts, preparing a report on the findings with the inclusion of any recommendations and attend local resolution meetings, where necessary. There is an expectation for the Investigating Officer to liaise with the Complaints Manager to provide an update on the progress of the investigation and timescales of their response.

PACT is the single point of entry for service users or advocates, who require advice, assistance or information, the aim of this team is to provide information and support to the complainant in navigating the complaint process. PACT will make an initial assessment of the concern or complaint and a decision will be taken, in conjunction with the complainant, as to the best route for resolution.

7. WHAT IS A COMPLAINT?

A complaint usually relates to dissatisfaction about a service our customers' commission, such as hospitals, mental health providers, community providers, independent sector and contractors.

Complaints can be submitted about any of the following:

- An action or omission which is against the choices and wishes of a service user;
- The way in which care, treatment or service has been provided, or withheld, from a service user;
- Discrimination against a service user;
- The lack of, access or provision of a particular service;
- Attitude or behaviour of staff; or
- The financial availability of a particular treatment, intervention or equipment

This list is not exhaustive; it is an indication of the nature of potential complaints.

8. WHERE DO I COMPLAIN?

A complaint about any services provided or commissioned by our CCGs customers should be directed to the CCGs Accountable Officer or the PACT.

A complaint solely about primary care services (i.e. GPs, Dentists, Pharmacy, Opticians), specialised services, health and justice healthcare, and services for members of the armed forces falls under the remit of NHS England and should be directed to the provider of the service or NHS England, as the commissioner of those services.

A complaint solely about Local Authority services should be directed to the local council.

9. WHO CAN COMPLAIN?

A service user may make a complaint about the services received by our CCG customers commissioned providers, or a decision made about their care.

A service user may nominate an advocate to act on their behalf. Alternatively, an advocate may make a complaint regarding: someone who has died, a child, someone who is unable to make the complaint themselves because of physical incapacity or the lack of capacity within the meaning of the Mental Capacity Act 2005.

SCW must ensure that the correct authority to act has been sought. A patient may nominate an advocate with written consent. This may be supported by legal documentation in the form of a Lasting Power of Attorney (LPA), Court of Protection Deputy, Legal Guardian, Executor of the Will, a person mentioned in the Will or Grant of Probate. Where a patient lacks capacity or is deceased, in the absence of the above, the Next of Kin will be considered.

In addition, consent must be obtained where access to patient identifiable information, held by a service provider commissioned by our CCG customers, needs to be accessed.

Consent, ideally is obtained from the patient the complaint is pertaining to. However, there are a number of noticeable exceptions. A parent or legal guardian must consent for children under the age of 16, with an exception of children from the age of 12-16 who are able to align as Gillick Competent. As mentioned above where a patient lacks capacity or is deceased the PACT must be satisfied the appropriate authority to act is in place. The PACT will issue a consent form to be signed by the patient or parent directly, or where an individual is acting on the authority of another, a signature with a copy of the appropriate document must be submitted.

Assistance shall be given to complainants in accessing the complaints policy and associated procedure. This includes providing an appropriate and acceptable response to complainants. Complaint Managers will provide guidance to complainants, who do not have English as their first language, unable to read English, or have communication barriers; this may include seeking support of a local advocate, where required.

A service user may raise a complaint anonymously. Should the complaint relate to medical care; the investigation will be limited due to the inability to access medical and personal records and will naturally focus on relevant policies and/or guidelines.

For further information refer to the SCW Consent Standard Operating Procedure.

10. TIME LIMITS FOR COMPLAINTS

A complaint should not be made later than 12 months after the date on which the matter occurred or, the date on which the complainant became aware of the matter.

This time limit may be waived if the complainant had good reason for not making the complaint within the time limit, and it is still possible to investigate the complaint effectively and fairly. Any such decision will be made by the Complaints Manager in conjunction with the Investigating Officer. The complaint will be notified of the outcome via letter and may be appealed with the PHSO

11. SERIOUS COMPLAINTS

Should a complaint contain information pertaining to an episode or action, which in the opinion of the Complaints Manager could be interpreted as a potential safeguarding issue, gross misconduct, or fraud, it should be immediately escalated to an available SCW Head or Deputy of PACT, in the unlikely absence of either of the PACT managers the matter can be escalated either to the Director or Deputy Director of Nursing within the CCG or to the Associate Director of Clinical Quality within SCW. If appropriate, the Safeguarding Policy and/or the service provider Serious Incident Requiring Investigation (SIRI) procedure must be enacted.

If possible, the matter will be investigated under the complaints process. Where required, the matter may be referred to the appropriate agency such as: Human Resources, Police, Professional Regulatory Body, and/or Local Authorities and Safeguarding Leads. The appropriate agency will maintain ownership of the complaint and will liaise directly with the Accountable Officer, unless the PACT is directly instructed by the agency to re-open the local resolution investigation.

For further information refer to the SCW Safeguarding Policy.

12. COMPLAINTS THAT CANNOT BE DEALT WITH UNDER THIS POLICY

The following complaints will not be dealt with in line with the Complaints Regulations:

- A complaint made by a local authority, NHS body, primary care provider or independent provider;
- A complaint made by an employee of a local authority, or NHS body, about any matter relating to employment;
- A complaint which is made orally and is resolved to the complainant's satisfaction within one working day;
- A complaint which has previously been made and resolved and where local resolution has been exhausted;
- A complaint which is, or has been, investigated by the Parliamentary and Health Service Ombudsman; or
- A complaint arising out of the alleged failure by our CCG customer to comply with a request for information under the Freedom of Information Act 2000

13. COMPLAINTS AGAINST PROVIDERS OF HEALTHCARE SERVICES

Under the NHS Complaints Regulations 2009 a service user can choose to complain to either the provider or the commissioner of the service, but not to both organisations about the same matter. Our CCG customers have contracts with numerous service providers and each of those has its own NHS Complaints Procedure.

Where a complaint encompasses more than one provider, the Complaints Manager will contact the service user to discuss who the most appropriate body is to handle the complaint. Should a complaint span more than one provider, the Complaints Manager will discuss and agree, in conjunction with the service providers, who is the most appropriate body to handle the complaint. It is likely the organisation the majority of the complaint relates to will lead on the co-ordination of the complaint.

14. COMPLAINTS AGAINST THE LOCAL AUTHORITY

The Local Authority shares the legislation governing the complaints procedure under the Complaints Regulations.

Where a complaint encompasses both the NHS and Local Authority; the Complaint Manager will contact the service user to discuss and agree who the most appropriate body is to handle the complaint. It is likely the organisation the majority of the complaint relates to will lead on the co-ordination of the complaint.

15. PROCEDURE BEFORE INVESTIGATION

A comment, concern or complaint may be made verbally, electronically or in writing. A comment or concern will be acknowledged within one working day and a complaint will be acknowledged within 3 working days.

The timeframe for response is negotiated with the service user. This is dependent on the complexity of the matter and the number of providers involved. As a guide, PALS aim for a 1 working day response time to a standard enquiry; this can be extended to 5 working days where information gathering is required. In terms of a complaint response, PACT aims for a 25 working day response time for a commissioning function complaint and 40 days for a provider complaint. The investigation will commence once the PACT is satisfied they have the appropriate authority to act.

For further information refer to the SCW Consent SOP .

At the time of acknowledgement, the PACT will discuss with the service user the most appropriate route for resolution, timeframe for response, consent requirements; and logged accordingly. In order to support the service user to navigate the complaints process, the acknowledgement must include signposting to the appropriate advocacy agency. If a discussion is not accepted or this is not possible, the route for resolution will be determined by PACT.

For further information refer to Appendix A, B and C.

16. INVESTIGATION

Concerns/enquiries that require the supply of information from a commissioner or provider will fall into the PALS remit. We aim to receive the information within 3 working days.

In terms of complaints, the PACT will liaise with the provider organisation or CCG department requesting they identify a suitable Investigating Officer.

During the investigation the PACT Complaints Manager will liaise with the Investigating Officer and keep the service user informed, as far as reasonably practicable, as to the progress of the investigation. The timeframe for the investigation will be negotiated with the Investigating Officer. We aim to receive the complaint investigation findings from the commissioner (commissioning function complaint) within 15 working days and from a provider within 30 working days.

The Investigating Officer has a responsibility to offer support to any staff members who have been cited within the complaint. For instance, the staff member may receive support via their line

manager and have access to a union representative or an Employee Assistance Programme service. There is an expectation that staff member will be treated fairly, with respect and compassion. It is recommended, the outcome and recommendations of the complaint is shared with the staff member.

17. RESPONSE

Comments and concerns will be responded to in a format agreed by the PACT with the service user. In terms of complaints, a written formal response to the service user will be signed by the commissioning organisation's Accountable Officer or their nominated representative. Alternative methods of responding to complaints may be considered by PACT in conjunction with the service user and Investigating Officer. This could be through an immediate response from front line staff or a local resolution telephone call or meeting. The service user should have the option of receiving either an electronic recording of the meeting and/or a written summary.

The final response should invite the service user to inform the PACT if they have any outstanding concerns. In such cases, consideration should be given to arranging further action which might resolve the complaint.

The response must include the details of the PHSO for an independent review, for the service user to contact if they are dissatisfied with the local resolution.

18. OUTCOMES, SERVICE IMPROVEMENTS AND REDRESS

On conclusion of a complaint, any tangible outcomes or service improvements will be shared with the service user within their response. Should any service improvement plans be identified, their completion will be monitored by the Investigating Officer.

If a service user can demonstrate a financial loss that has been directly or indirectly incurred as a result of the incident, and the Investigating Officer together with the Accountable Officer agree this cost is justified, a direct reimbursement may be made to the service user. An example of this would be a transport fare, a replacement item, or professional fees.

There may be occasions when, having investigated a complaint, the Investigating Officer and the Accountable Officer believe there are grounds for making an ex-gratia payment. Redress of this nature, include a discretionary payment for distress, inconvenience and loss of opportunity.

Upon completion of local resolution, the Investigating Officer together with the PACT will determine whether the complaint was well-founded.

19. UNREASONABLE OR HABITUAL COMPLAINANTS

PACT is committed to treating all service users equitably and recognises it is the right of every individual to pursue a complaint about an NHS service. On occasion, PACT or the Investigating Officer may find the behaviour and/or expectations of the service user to be unreasonable or habitual. We recognise the PACT threshold of a service user's behaviour or expectations is subjective and acknowledge a service user may be contacting PACT at a difficult and distressing time; every effort will be made to engage effectively with the service user in order to facilitate their right to complaint to seek local resolution.

For further information refer to SCW Unreasonable and Habitual Complainants Policy.

20. LEGAL ADVICE AND PROCEDURES FOR COMPLAINTS INVOLVING LITIGATION

PACT will arrange to seek legal advice, with agreement from our CCG customer, on particular aspects of a complaint if there is the possibility of litigation ensuing. A complaint can run concurrently with a legal case however, the complaint process will halt upon instruction from a Coroner, Police or Regulatory Body (i.e. General Medical Council, General Dental Council, and the Nursing and Midwifery Council). An investigation will only be recommence on specific instruction from any of the professional bodies listed above.

21. REPORTING AND GOVERNANCE

PACT maintains an electronic database of all comments, concerns, compliments and complaints on behalf of our CCG customers. This data may be interrogated for a number of purposes outlined below. Under the Complaints Regulations PACT must prepare an annual report for each year which must specify the number of complaints received, the number which were well-founded, the number referred to the PHSO, and a summary of the complaint subject matter together with resulting actions.

Examples are:

Weekly report volume of open PALS cases and complaints and the investigation status;

Quarterly report	volume of PALS cases and complaints, categorisation of complaints, subject and outcome, emerging themes and trends, recommendations, and the volume of well-founded complaints
Annual report	summary report, including significant themes and trends
KO41a report	statutory quarterly complaint data return to NHS Digital
FOI requests	fulfilling information requests
Bespoke reporting	drill into service line data to support commissioning intelligence

22. RECORDING KEEPING

The PALS and Complaints records should be retained in line with the NHS Records Management Code of Practice 2016 and SCW Records Management Policy . A single copy of a complaint record must be held by the organisation’s PALS & Complaints Team. The complaint record must be separate from health records, subject only to the need to record information which is strictly relevant to the service user’s ongoing health needs. Each Complaints Manager is responsible for ensuring, once a final response letter is issued, there is a single retained record within Datix only, it is the responsibility of the Head and Deputy of PACT to ensure this is audited every 6 months.

23. TRAINING

All staff will be expected to have a working knowledge of the complaints procedure and will be familiarised with the PACT Policy. The PACT Policy is publicised via the SCW website.

It is expected that the Investigating Officer will be sufficiently trained and competent to undertake the investigation.

PACT staff must adhere to all mandatory training; this will be monitored by the Head of PACT. Complaints Managers will hold a Complaints Handling certificate, at BTEC Level 5 or equivalent to be commenced within 12 months of joining PACT. PACT staff will also hold a Plain English certificate to adhere to the principles of the Plain English Campaign.

24. EQUALITY IMPACT ASSESSMENT

This is a legal requirement under the Equality Act 2010.

For further information refer to Appendix D.

25. REFERENCES

1. Statutory Instrument 2009 No. 309 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
2. The Parliamentary and Health Service Ombudsman Principles of Good Administration, Principles of Good Complaints Handling, Principles for Remedy 2009
3. The Department of Health A Guide to Better Customer Care 2009
4. The Data Protection Act 1998
5. The Equality Act 2010
6. Mental Capacity Act 2005
7. The Department of Health Records Management Code of Practice 2016
8. SCW Equality and Diversity Policy
9. SCW Safeguarding Policy
10. SCW Record Management Policy
11. SCW PACT Unreasonable/Habitual Complainants Policy
12. SCW Consent Policy

APPENDICES

END OF POLICY