

COMPLIMENTS, CONCERNS AND COMPLAINTS POLICY

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Summary

The policy has been developed to provide clear best practice guidelines on the approach and procedures to be followed when handling and managing compliments, concerns and complaints to ensure this is undertaken effectively, responsively and complies with revised complaints regulations which came into force on 1 April 2009 entitled The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 ('the Regulations').

Review Log

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Final Draft Compliments, Concerns and Complaints Policy	October 2015	BSW CCGEMT	Amended following suggestion regarding commissioning gaps	Accountable Officer	November 2015
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Final Draft Compliments, Concerns and Complaints Policy	January 2019	Healthwatch Wiltshire	No feedback received	***	January 2019

Final Draft Compliments, Concerns and Complaints Policy	January 2019	Shared with CCG Lay Member and Lead for Patient Public Involvement	No feedback received	***	January 2019
Final Draft Compliments, Concerns and Complaints Policy	January 2019	Director of Nursing and Quality	Amended following comments and suggestions	Director of nursing and Quality	
Final Draft Compliments, Concerns and Complaints Policy V3.1	January 2020	Complaints Manager and Quality Lead	In preparation for the merger on 1 st April 2020 the three separate policies have been reviewed and the policy updated with the intention that this will go live on 1 st April 2020. To be ratified at QPAC	Director of nursing and Quality	May 2020
V4.0	August 2020	Complaints Manager and Quality Lead	Change of wording to replace 'Vexatious' with 'Persistent and repetitive'	Assistant Director of Quality and Patient Safety	Aug 2020 – no formal CCG approval

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COMPLIMENTS, CONCERNS AND COMPLAINTS POLICY

1. INTRODUCTION & PURPOSE

NHS BaNES, Swindon & Wiltshire Clinical Commissioning Group (BSW CCG) is committed to responding to service user needs and encouraging a culture that seeks and uses people's experiences of care to improve the commissioning of services. In line with the NHS Constitution, this will be accomplished by ensuring that when something goes wrong it is acknowledged and an apology and explanation is given by the most appropriate organisation involved in health care delivery. Things are also put right as quickly and effectively as possible. People have the right to express their views of their health care experience and need to have easy access to responsive procedures to do so, and in doing so must experience a culture where there are no repercussions for raising a concern or making a complaint. This standard also applies to staff working within the CCG.

This policy has been developed to provide clear best practice guidelines on the approach and procedures to be followed when handling and managing compliments, concerns and complaints. This policy also undertakes to ensure this is completed effectively, responsively and complies with revised complaints regulations which came into force on 1 April 2009, entitled 'The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 ('the Regulations').'

The CCG also expects that those organisations which it commissions to provide health care have their own procedures for managing comments, compliments, concerns and complaints, and as part of their NHS contract will provide assurance reports which identify trends, learning and quality improvement. Section 2 covers the scope of this policy.

The CCG will publish the policy and procedure on the CCG website making it easily accessible to the public, advocacy services, consumer advice services etc.

This policy aims to provide:

- An outcome-focused (rather than process-driven) complaints process
- Accessible, flexible and responsive patient-centred complaints handling focused on enabling continuous service improvement and patient safety.

This Policy has been developed with reference to the following documents:

'Principles of Good Complaint Handling' published February 2009 and 'Principles of Good Administration' published in February 2009 – Developed by The Parliamentary & Health Service Ombudsman, which set out the six principles which it advises public organisations use when handling complaints. In summary, the six principles are:

1. Getting it right
2. Being customer focused

3. Being open and accountable
4. Acting fairly and proportionately
5. Putting things right
6. Seeking continuous improvement

'My Expectations' (November 2014 www.ombudsman.org.uk) developed by the Parliamentary & Health Service Ombudsman, Local Government Ombudsman and Healthwatch, which is a user-led vision for raising concerns and complaints through a series of 'I statements':

1. I felt confident to speak up
2. I felt that making my complaint was simple
3. I felt listened to and understood
4. I felt that my complaint made a difference
5. I would feel confident making a complaint in the future

The key elements of the service are:

- Complaints & PALS dedicated telephone line and email address;
 - **BaNES & Wiltshire localities** tel no 0300 123 2103 or 0300 013 4762 (9-5pm, Monday to Friday except Bank Holidays, with answerphone service out of hours)
Email address – bswccg.feedback@nhs.net
 - **Swindon locality** tel no 0300 200 8844 (9-5pm, Monday to Friday except Bank Holidays)
Email address – scwcsu.palscomplaints@nhs.net
- Acknowledgement of issue or complaint
- Each contact will be logged on the CCG database
- Any case raising concerns will be sent to the provider concerned once consent has been obtained either verbally or in writing and in accordance with agreed protocols; where verbal consent is obtained this will be documented on the complaint record on the CCG database. Where verbal consent is given, the CCG will subsequently request written consent.
- Assist complainants to resolve concerns or problems with CCG Commissioned Services and related issues
- Preparation of CCG response cover letter to include input from a commissioning perspective
- Coordination of any further local resolution required to resolve the case
- Record all contact details and maintain database (Datix)
- Analysis of data and production of quarterly and annual reports (and ad hoc reports as required)
- Provide information on complaints to answer FOI requests
- Provide information for MP enquiries
- Point of contact and liaison with Parliamentary and Health Service Ombudsman's (PHSO) office
- Facilitate and support face to face meetings between complainants and CCG managed functions (and providers of health services where appropriate)
- Provide training on effective complaints handling within the CCG

The purpose of this policy is to:

- Ensure our procedure is easy to understand and simple to use;
- Make sure any investigations are thorough, fair, responsive, open and honest;

Demonstrate that we will learn from compliments, concerns and complaints and use them to improve the services we commission for patients;

- As a result of feedback received from patients and complaints, ensure that our services, and those we commission, are accessible to everyone i.e. any perceived commissioning gaps are reviewed and possible solutions identified, demonstrating that the CCG is learning from complaints and is using them to inform contract monitoring and future commissioning intentions;
- To answer complaints in a timely manner;
- Demonstrate that we respect individuals' rights to confidentiality;
- Ensure the CCG Governing Body is accountable for improving the quality of services through performance management of commissioned contracts;
- Enable staff to respond positively to compliments, concerns and complaints and endeavor to resolve and learn from issues as soon as possible
- Assure the complainant that a thorough investigation has been conducted and provide a full explanation;
- Ensure patients, relatives and their carers are not treated differently as a result of making a complaint;
- Seek assurance from commissioned providers that responding to and learning from complaints is a philosophy that is fully embedded within their organisation and seek evidence of this;
- Ensure the CCG is accessible to everyone, including when required, through the provision of independent advocacy for those people who need this;
- Reinforce positive outcomes reported by people through the communication of compliments and the factors which contributed to a positive experience.

However, the CCG does recognise in some instances it will not be possible to provide the complainant with a response which the complainant deems satisfactory where in these cases the CCG will work closely and cooperatively with the Parliamentary & Health Service Ombudsman on any case the Ombudsman chooses to investigate.

Those complaints which are not directed at the CCG but involve services commissioned by the CCG the CCG's approach will be to recommend that in the first instance the complainant contacts the provider of the service directly. This is because the service provider is usually best placed to investigate and respond direct to the individual making the complaint. However the CCG recognises that there may be circumstances in which this is not appropriate and in these cases will facilitate communication between the parties.

In instances where the CCG has signposted complainants to providers, a record will be kept of the contact to inform quality contract monitoring. At the same time,

the CCG will also monitor providers' adherence to the statutory Duty of Candour which places a duty on organisations to be open with patients when things go wrong and when harm has been caused.

National Requirements

This policy is in accordance with national requirements set out in the Local Authority Social Services and National Health Services Complaints (England) Regulations 2009 which came into force on 1 April 2009. It also reflects the reforms to the health and social care system brought about by the Health and Social Care Act 2012 and embeds the recommendations contained in the Francis Enquiry report, other reports such as "My Expectations" (Parliamentary and Health Service Ombudsman – PHSO) as well as the Government's response paper the Francis Enquiry report.

The Health Act 2009 also draws attention to the NHS Constitution, which sets out the following rights for patients.

- A right to have a complaint about services dealt with efficiently and to have it properly investigated
- A right to know the outcome of any investigation into the complaint
- A right to take a complaint to the independent PHSO if not satisfied with the way the complaint has been dealt with by the NHS

Further details can be obtained from www.dh.gov.uk/nhsconstitution

This policy also aims to ensure that patients, relatives, carers and all other users of local health services have their complaints and concerns dealt with in confidence, with courtesy and in a timely and appropriate manner.

2. SCOPE & DEFINITIONS

2.1 Scope

In 2017 the CCG assumed delegated responsibility for commissioning general practitioners (GPs); however complaints relating to GPs continue to be handled by NHS England. The NHS England Complaints and PALS team can be contacted on telephone number 0300 311 2233 or email England.contactus@nhs.net

The CCG is not responsible for commissioning other Primary Care services provided by dentists, pharmacists or optometrists and complaints relating to these services need to be directed to the national contact centre of NHS England using the contact details above. Similarly any complaints or concerns relating to services commissioned by Public Health will be directed to the Local Authority. The CCG will ensure any referral advice is clearly signposted to the complainant, alternatively, with the complainant's consent, the CCG will forward the complaint to the national contact centre at NHS England.

2.2 Definitions

The following is a list and description of the meaning of the terms used in this document:

<i>‘a complaint’</i>	Is an expression of dissatisfaction requiring investigation and a written response.
<i>‘an enquiry’</i>	Is a request for information which is fed back orally (within 24 hours, see below for more information on timescales) or by written response (within 14 working days).
<i>‘a concern’ (recorded as PALS)</i>	Is an expression of dissatisfaction requiring an oral response, with an aim of response within 24 hours but extended to 5 days where information gathering is required. Where concerns require a written response the team will endeavor to respond within 14 working days. However if this timeframe cannot be met the team will contact the enquirer. If a complaint or is under investigation by the relevant provider or has already been investigated by the relevant provider, the CCG will request a copy of the response.
<i>‘a compliment’</i>	Is an expression of views, namely appreciation, approval, admiration or respect, made in recognition of individuals, teams or services.
<i>‘PALS’</i>	Is the ‘Patient Advice and Liaison Service’.
<i>‘a comment’ or ‘suggestion’</i>	Is an expression of views or ideas for service development, for the CCG to act on or consider which may or may not require a response;
<i>‘the Regulations’</i>	Refers to The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and so amended by The Local Authority Social Services and National Health Service. Complaints (England) (Amendment) Regulations 2009.
<i>‘stakeholders’</i>	Includes but is not limited to patients, providers, members of the public, CCG staff and provider staff.

3 WHO CAN COMPLAIN?

A person is eligible to make a complaint where the service concerned is commissioned or provided by the CCG. This includes anyone who is affected or is likely to be affected, by the decision, action or lack of action on the part of the CCG. Consent to proceed with the enquiry is required by the CCG in line with the General Data Protection Regulations 2016 and the Data Protection Act 2018, explicit consent requires the CCG to explain to the complainant how their personal information will be used in the complaints process and how it will be stored.

A complaint may be made by a representative acting on behalf of an eligible person who has asked the representative to act on their behalf. A representative could include a family member, advocate or an MP. In the instance of a complaint being made by a family member or advocate, the CCG requires consent from the eligible person. This can be obtained either verbally or by the eligible person signing a consent form. If an eligible person is not capable of making the complaint themselves (this includes a child or a person who has died, or a person who lacks mental capacity according to the Mental Capacity Act 2005) supporting documentation will be required e.g. Grant of Probate, Death Certificate, evidence of kinship (e.g. Birth or Marriage Certificate) or Lasting Power of Attorney. Staff should also be aware of the Safeguarding Policy.

Where a complaint is made by an elected representative, i.e. an MP, on behalf of their constituent the CCG will assume implied consent, unless the constituent who has written to the MP is not the eligible person. In this case it may be appropriate to contact the eligible person to seek consent, either verbally or in writing, to investigate and ensure that the eligible person is aware of how their data will be shared. If the complaint involves multiple providers or is complex in nature then it is appropriate to request a signed consent form. If the eligible person is not capable of making the complaint themselves supporting documentation will also be requested as detailed above.

It is important to ensure that there is appropriate consent to share the outcome of the investigation, including any personal information with the person complaining on their behalf.

If a complaint is being made by a person stating they are representing a child under the age of 18, who cannot demonstrate Gillick competence¹, it must be verified that this person is the legal guardian or formally nominated by the legal guardian to represent the complainant. The same applies where a representative makes a complaint on behalf of a person who lacks capacity under the Mental Capacity Act 2005.

A child or young person under 18 is entitled to make a complaint in their own right if they demonstrate Gillick competence. For all complaints regarding children or young people under 18, whether made by the parents, other family or friends or the children themselves, the circumstances of the complaint will need to be handled sensitively and advice sought from the CCG safeguarding lead as to any concerns for the child's immediate or future safety.

Anonymous complaints will always be recorded and referred in the same way as other complaints. Anonymous complaints fall outside of the scope of the statutory procedure and the decision on what action to take will be on a case by case basis. The fact the complaint is from an anonymous source should not in itself justify a decision not to pursue the matter.

¹ Gillick competence states that a young person below the age of 16 can consent for their own medical treatment if they demonstrate sufficient understanding. The Gillick principle is adopted within the complaints process. Therefore there is no minimum age for a young person to raise concerns about the care they have received. The young person will be offered support by PALS and signposted to any additional resources such as Healthwatch Wiltshire.

Staff should be aware of the Whistleblowing Policy and feel confident about raising concerns via this route.

4.0 PROCESS/REQUIREMENTS

4.1 How to raise a concern, complaint or compliment

The most effective way for someone to raise a concern, complaint or compliment is by raising this directly with the person or service with whom they are involved. This is usually the quickest way to resolve a problem or give a compliment.

It is not intended that every minor concern should warrant a full-scale complaints investigation. Rather, the spirit of the complaints procedure is that staff are empowered to resolve minor concerns and problems immediately and informally. The CCG will, therefore, seek to distinguish between requests for assistance in resolving a problem (i.e. a concern, which is treated as a 'PALS') and a formal complaint. All issues will be dealt with in a flexible manner, which is appropriate to their nature; however, the latter (formal complaints) will be dealt with strictly in accordance with the complaints procedure.

Compliments, concerns, or complaints are welcomed by the following means:

- In writing (letter or email) to any member of staff at the CCG
- Verbally - any member of staff can receive a complaint which must then be passed to the Complaints and PALS team to handle
- By email
- By telephone
- In terms of compliments, staff and/or managers can record the positive feedback received which should then be passed on to the Complaints and PALS team for logging on the database
- It is important that complaints or compliments received locally by staff of the CCG are shared with the Complaints & PALS Service in a timely manner for recording.
- Feedback and the lessons learnt will be used to inform the service improvement program if appropriate
- Where the complaint relates to more than one body the CCG will liaise with the complainant and agree who will lead on the coordination of the complaint investigation and provide the responses accordingly.
- The CCG Complaints and PALS Team will ensure the CCG Communications Department are aware of any complaints (or persistent and repetitive complaints/complainants) that could cause

reputational damage to the CCG and if there is potential that they may be shared with the media.

- The CCG encourages complainants to be able to contact them by all means possible. The CCG will also seek assurance that providers are considering accessibility of complaints information. This would include a form, letter, telephone, in person, email, text and social media. Language support for non-English speakers and the cross referencing of information provided with the Accessible Information Standard ensuring accessibility considers both physical and communication access will also be considered

www.england.nhs.uk/ourwork/patients/accessibleinfo-2/

- Assistance shall be given to complainants accessing the complaints policy and associated procedure. This includes providing an appropriate and acceptable response to complainants. The Complaints and PALS manager 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.

See Process Map (Appendix 1) which details the complaints process from initial receipt of the complaint through to investigation and the quality assurance processes.

The process enables NHS BSW CCG to meet their Statutory duties and obligations as set out in the 2009 Complaints Regulations.

This policy and associated process documentation is available on the CCG website at www.bswccg.nhs.uk.

Serious incidents and safeguarding issues

Where a complaint could indicate a serious incident (SI) has occurred, this will be shared with the CCG Quality Team and advice sought on whether the National Serious Incident Framework should be followed.

If a complaint is received which raises child protection issues or concerns about an adult at risk (adult at risk – over 18 and in need of care and support and because of those needs is unable to protect themselves against abuse or neglect) the responsibility for highlighting through safeguarding processes lies with the person who has received the concern. The safety of the child and adult at risk must always be paramount and if there is any safeguarding concerns identified these should be notified to the Local Authority and CCG safeguarding leads immediately.

Individual funding request (IFR) decisions

The IFR Policy outlines the appeals process in relation to IFR Committee Decisions; this is available on the CCG website. If a complaint is received about an IFR decision, the complainant will be advised that they are entitled to request the referring clinician to resubmit the funding request with extra clinical information, which has not been previously submitted to the panel.

Continuing Health Care (CHC)

Complaints in relation to the CCG's administration of the CHC process can be made via this policy. Further information in relation to the CHC appeals process can be found within section 4.7 of this policy; 'what falls outside of this policy.'

Complaints about social care

The Complaints Team will seek consent from the complainant to pass the complaint on to the respective Council's complaints team for investigation of concerns regarding adult social care or children's service. It should be noted that complaints about adult social care are dealt with under the same 2009 Regulations as NHS complaints but complaints about Children's services are dealt with through the procedures set out in the Children Act 1989.

Complaints from MPs or elected representatives

From time to time the CCG receives complaints from MPs on behalf of their constituents. These follow exactly the same process as complaints received directly from individuals. As stated above, where a complaint is made by an elected representative, i.e. an MP, on behalf of their constituent the CCG will assume implied consent, unless the constituent who has written to the MP is not the eligible person.

Where a complaint comes via the complainant's MP copies of the written complaint responses should be provided to the patient or constituent whenever possible/appropriate.

Freedom of Information (FOI) & Data Protection Act (DPA)

Complaints can contain a request for information under either the Freedom of Information Act 2000 (FOI) or Data Protection Act 1998 (DPA). Requests which may include access to the complaint file need to be in writing in both cases. These must be handled under the policies and procedures relevant to FOI and DPA requests.

Requests relating to DPA will be referred to the Information Governance Lead, most commonly this will relate to patient record access requested by their representative or relative. Requests under FOI should be referred to the CCG FOI Lead.

Complaints which contain only FOI or DPA requests should be passed formally to the correct team within the CCG and the complainant informed of who will be handling their request.

Withdrawing a complaint

A complainant can withdraw their complaint at any stage of the investigation. If a complaint is withdrawn, the provider or service should be informed immediately in writing. The complainant should also be sent a letter confirming that the decision of the complainant has been noted by the CCG. Any identified issues or improvement should be followed up within the service area and any learning cascaded in the normal manner.

4.2 Help in making a complaint

The CCG will ensure all complainants are treated with courtesy and receive appropriate support throughout the handling of a complaint. Making a complaint should not be difficult or cause unnecessary worry. Complainants can use the Independent Health Complaints Advocacy; this service is free, confidential and supports people who wish to make a complaint about the commissioners and providers of NHS funded services. Details about the advocacy services available in BaNES, Swindon and Wiltshire and how they can be accessed is found below:

The Advocacy People (independent health and social care complaints advocacy service)	Tel: 0330 440 9000 Email: info@theadvocacypeople.org.uk www.theadvocacypeople.org.uk
Rethink (Mental Health advocacy service)	Unit 2 The Halve Trowbridge Wiltshire BA14 8SA Tel: 01225 774279 Email: wiltadvocacy@rethink.org

All complainants must be informed how to make contact with complaints advocacy services. Complainants may, however, choose to be supported by someone else, such as a family member or friend, or an advocate from another organisation. The complainant must be reminded that it is likely personal information will be shared with the person supporting them and consent for this must be recorded.

If a complaint has not been addressed to the complainant's satisfaction by written responses a local resolution meeting may be offered to the complainant. If they decide to attend such a meeting their advocate, or other representative (e.g. family member) is invited to accompany them.

The Parliamentary and Health Service Ombudsman independently reviews NHS complaints. They can only review a complaint if it has already been raised with the responsible organisation and the complainant is dissatisfied with the written responses. The final letter from the CCG will include information on referring complaints to the Ombudsman.

In managing complaints, the Complaints & PALS Service will aim to ensure:

- The risk of a complaint escalating into a court case or judicial review is minimised;
- Risk control systems are strengthened and lessons can be learnt and actions can be taken where non-compliance occurs;
- Decisions and the complaints process can withstand external scrutiny;
- Accountability is improved.

Formal complaints will only be handled via the complaints process to ensure consistent handling in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

Healthwatch Wiltshire provides a signposting service to information about health and social care services. This includes Independent Health Complaints Advocacy referred to earlier in the policy.

Agencies offering specialist guidance and advice:

Advice UK; a registered charity supporting the UK's largest network of independent advice services. They do not give out advice themselves, but the website has a directory of advice- giving agencies.

Telephone: 0300 777 0107 or 0300 777 0108.

Post: Advice UK, 101E, Universal House, 88-94 Wentworth Street, London E1 7SA

Email: mail@adviceuk.org.uk

www.adviceuk.org.uk

Citizens Advice provides free, independent and confidential legal advice and provides advice on a range of topics, including human rights.

www.citizensadvice.org.uk/about-us/contact-us/

Liberty is an independent civil liberties and human rights organisation, which runs an advice service for members of the public with human rights queries. They also have an advice website, which gives comprehensive information on the Human Rights Act.

Advice line: 0845 123 2307

www.libertyhumanrights.org.uk

4.3 Monitoring compliments, concerns and complaints

The CCG will establish effective monitoring systems to enable the capturing, analysis and reporting of concerns, complaints, and compliments.

Improving Quality and Service Improvements

Complaints will be monitored to identify if there are any wider issues that need to be addressed. This information will then be presented within quarterly reports to the Quality and Clinical Governance Committee.

The purpose of the monitoring system is:

- To inform future commissioning and service planning;
- To identify gaps in service provision, or gaps where services are not commissioned. Any complaint which relates to gaps in service provision or gaps where services are not commissioned will be shared with commissioning managers and relevant CCG Directors. The information will be assessed and where appropriate will be used to inform future service redesign work streams and any future specifications. This information will also be shared more widely within the CCG through a quarterly internal complaints and compliments briefing, produced by the Complaints and PALS team;
- To help in preparation for the CCG monthly Performance & Quality Report and Annual Reports. These reports are also made available to the public;
- To support the performance management of the service providers under contract to the CCG and as such the contracts with providers will require each to share trends and general information on complaints and compliments. Complaints received directly by the CCG will also be discussed at contract performance and quality meetings, particularly where trends and themes have been identified. Providers will be required to report back on any actions, learning and/or mitigations as appropriate.

All statements, letters, phone calls and actions taken in an investigation must be documented and kept in the electronic complaint file, which complies with CCG Information Governance Framework.

All complaints communications are entered onto a confidential database maintained by the Complaints Team. It is important that all issues relating to complaints are fully and accurately documented, dated and retained. Complaints records will be stored in accordance with the Records Management Code of Practice – and must be kept separate from a patient's medical records. Hard copy (paper) records will be kept securely, accessible only to the Complaints Team.

Complaints records are disclosable documents under legal processes and will be accessible to the Parliamentary Health Service Ombudsman (PHSO) in the event of further investigation. All electronic files should be appropriately maintained, updated and will be held by the CCG for a minimum of ten years.

In accordance with the Department of Health guidelines, files must be destroyed under confidential conditions in accordance with the CCG's Records Management Policy.

Complaint files for children and young people are kept until their 25th birthday. If the baby or child has died, the complaint file is kept for eight years.

The outcome of each complaint will also be recorded and submitted to Health & Social Care Information Service (HSCIC) in line with quarterly KO41 submission criteria.

4.4 Timescales and outcomes

The CCG aims to resolve all concerns by the next working day. A concern is classed as an expression of dissatisfaction requiring an oral response, with an aim of response within 24 hours. Where a person calls stating they wish to make a formal complaint but this is able to be resolved to the complainant's satisfaction within one working day, it will be recorded as a concern (PALS). Sometimes a concern may require a written response in which case the timescale for responding will be 14 working days. More information on timeframes can be found above.

All written complaints will be acknowledged within 3 working days and processed under this complaints procedure. Under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 there are no fixed and specified response time criteria for formal complaints. Response and resolution timescales are agreed with the complainant where possible and the complaint progressed and resolved in line with this agreement. The CCG anticipates all but the most complex complaints will receive a response within 25 working days. Where the investigation cannot be concluded and the response sent within 25 working days, the CCG will discuss and agree an extended timeframe with individual complainants.

During the investigation the Complaints and PALS team will keep the service user informed, as far as reasonably practicable, as to the progress of the investigation.

The CCG adopts the view that complaints should routinely be investigated by the organisation which gave rise to the complaint².

A response should:

- Explain how the complaint has been considered
- Address the concerns expressed by the complainant and show that each element has been fully and fairly investigated
- Report the conclusion reached including any matters for which it is concerned remedial action is needed
- Include an apology where things have gone wrong
- Report the action taken or proposed to prevent recurrence

² As at April 2013 complaints about Primary Care fall outside of BSW CCG's remit. This position may change during the life of the policy due to developments in co-commissioning with NHS England. The policy will be updated as required.

- Indicate that a named member of staff is available to clarify any aspect of the letter
- Advise the complainant who to contact in the first instance if they are not happy with the response

The letter or response should be written in plain English and clinical and other technical information should be explained. They should be drafted in a format which meets the complainant's needs.

The Complaints Team will review the draft letter for quality assurances before final approval by the relevant Director and then signature by the Director of Nursing & Quality or their Deputy (providing the Director of Nursing & Quality is assured that a full explanation of the issues has been carried out with a view to resolving the complaint and that, where appropriate, lessons have been learnt).

If a complainant contacts the CCG after receiving the response to their complaint requesting further information or explanation, every effort should be made to answer these enquiries at local resolution. For example, further information or explanation can be provided. Alternatively a meeting to discuss the issues raised in the complaint should be offered. It is important to note that this should not be considered a review or appeal of the complaint. If the complainant remains unhappy with the response following local resolution and any further efforts to explain they should be advised of their right to take their complaint to the Ombudsman.

Should a complainant raise new issues at this stage that were not included with the original complaint these must be investigated as a new complaint. The Complaints Team will close the complaints file two weeks after the final response has been sent if there is no further communication from the complainant. However, this can be re-opened (subject to statutory deadlines) if there is further communication from the complainant.

The complainant's desired outcomes should be determined in advance through negotiation between the complainant and the Complaints & PALS Service. The complaint is progressed and resolved in line with this agreement.

The process for investigating complaints is detailed in Appendix 1. When a complaint is regarding a CCG managed function the department manager allocates a lead investigator, who should not be the subject of any part of the complaint. The lead investigator should carry out the investigation and draft a response based on the outcome of the investigation, ensuring all issues are covered, learning is identified and proposed actions described. This investigation report and draft response should be provided within the timeframe identified by the Complaints & PALS Manager.

Complaints that involve issues which occurred more than 12 months previously are often difficult or impossible to investigate in a full and fair manner. However, the decision whether or not to consider the complaint will be made on a case-by-case basis. Possible reasons for accepting the complaint beyond the twelve month time limit are:

- The complainant had good reason for not making the complaint at the time
- It is still possible to investigate the complaint effectively and fairly

4.5 Other enquiries

Enquiries from a member of the public, Councillors or MPs on behalf of their constituents need to be considered on an individual basis. Most are general enquiries, requests for information or requests for services. However, a small number may be concerns or complaints. These enquiries will be dealt with under this policy.

If the matter giving rise to the complaint or concern relates to suspected fraud or corruption, then action must be taken immediately to bring the matter to the attention of the CCG's Local Counter Fraud Specialist telephone no 07870 582196 or NHS Protect Fraud & Corruption Reporting Line 0800 028 4060, or at www.reportnhsfraud.nhs.uk, and or to the Council's Audit Manager.

4.6 Services regulated under the Care Standards Act 2000

Complaints about services regulated under the Care Standards Act 2000, such as residential homes and home care providers will have their own complaints procedure.

In most cases, and only with the Complainant's consent, the complaint will be passed in its entirety to the Local Authority. The complainant will be advised to contact the Local Authority directly if they have further concerns or queries.

4.7 What falls outside the policy

The complaints policy does not apply when:

- The person wishing to complain does not meet the requirements of 'who may complain' and is not acting on behalf of such an individual;
- A complaint made by an employee about any matter relating to their employment- this should be processed in line with CCG HR Policy;
- The complaint is made by a responsible body
 - The complaint is in regard to actions and decisions which fall outside of the CCG's responsibilities and remit for example relating to services the CCG does not commission;

- Formal Appeals relating to the outcome of a Continuing Health Care (CHC) assessment. The CHC team have the responsibility to process all appeals in this area. Further details can be found in the Continuing Healthcare Operational Policy available on the WCCG internet.
- A complaint, the subject matter of which has previously been investigated under these or previous Regulations; a complaint made by a primary care provider, which relates to the exercise of its functions by an NHS body or to the contract or arrangements under which it provides primary care services;
- Where matters are either under investigation or have been investigated by the Parliamentary and Health Service Ombudsman and are concluded;
- Where a complaint is made via social media e.g. Twitter. Please see the CCG Social Media Policy.
- The complaint is unclear and all reasonable efforts have been made to clarify the nature of the complaint
- Or if the complaint is persistent or repetitive;
- The complaint is about the CCG's alleged failure to comply with a data subject request under the General Data Protection Regulation and Data Protection Act 2018 or the handling of a Freedom of Information Act (FOI) request. These would be considered under the appeals route as outlined in the relevant organisational FOI policy and procedures;
- Matters that should be dealt with under other proceedings such as, personnel procedures, services for which an alternative statutory appeals process already exists, criminal investigation where Court action is pending, matters that involve a suspicion of fraud or corruption and other procedures supersede the complaints procedure e.g. Grievance Policy and Whistleblowing Policy. Should an employee have cause to raise a complaint in the public interest then the CCG maintains a Whistleblowing Policy which can be accessed via the intranet.
- Primary care complaints related to contracts, clinical care and performance
- Contractual issues between services and commissioners and complaints by health organisations or local authorities against other health organisations or local authorities

Each complaint is considered on an individual basis. The Complaints & PALS team will take advice from necessary sources including personnel and managers as to whether a complaint may be considered under this procedure. In some cases, elements may need to be considered under different procedures. If this is the case the Complaints & PALS Service will inform the complainant of this and the reasons why.

4.8 Other investigations

There may be circumstances where to consider a complaint may prejudice other procedures, investigations and enquiries.

Where a complaint is not investigated or is suspended in these circumstances, then the Complaints & PALS Service will notify the complainant of this and the reasons why.

Once the other investigation or enquiries are complete or discontinued then the Complaints & PALS Service, taking advice from relevant sources, will consider whether the complaint investigation should be started or resumed. Where the CCG determines not to consider the complaint in this circumstance, the Complaints & PALS Service will notify the complainant and detail the reasons why.

4.9 Safeguarding

Where you have a concern or an allegation that may relate to a child or an adult who needs safeguarding, this should be reported in the first instance to the Multi Agency Safeguarding Hub (MASH), the contact details are below. They will provide guidance and signposting to see if the concerns meet the criteria for intervention and safeguarding under relevant safeguarding legislation and enquiry. Reference should also be made to professional standard, internal recruitment, disciplinary and whistle blowing etc. policies if the concerns relate to conduct from a professional:

BaNES

If you are concerned that a vulnerable adult is at risk of abuse, please make an alert by ringing the Virgin Care Adult Safeguarding Team on 0300 247 0201.

Emergency Duty Team (EDT) for out of hours/Weekend calls - Tel 01454 615165 -

In the event of an emergency, always ring the Police on 999

If you have a concern about a child or young person, please call the Children and Families Assessment and Intervention Team on 01225 396312 or 01225 396313.

If outside of office hours, please call the Emergency Duty Team on 01454 615165.

If a child or young person is in immediate danger then please dial 999 and ask for police assistance.

LADO

The Local Authority Designated Officer for managing allegations or safeguarding concerns against staff can be contacted on 01225 396810 Monday – Friday in office hours.

Swindon

Adult safeguarding team, Swindon Borough Council

Tel: 01793 463555

E-mail: adultsafeguarding@swindon.gov.uk (During office hours - Monday to Friday inclusive, 8.30am to 5.00pm).

Safeguarding adults investigation team, Wiltshire police

Tel: 01380 826350 (During office hours: Monday to Friday inclusive, 9.00am-5.00pm).

Out-of-hours emergency duty service - the emergency duty service is only for reporting safeguarding concerns that require urgent action out of normal working hours. Any other concerns should be forwarded to the Adult Safeguarding Team at adultsafeguarding@swindon.gov.uk, which will be processed the next working day. Tel: 01793 436699

Children Safeguarding Non emergencies (office hours)

Email: swindonmash@swindon.gov.uk

Telephone: 01793 466903 (during normal office hours, 8.30am to 4.40pm Monday to Thursday, and 8.30am to 4.00pm Friday)

Non emergencies (out of hours) – call police on 101
Emergencies – call 999

Wiltshire

Wiltshire Safeguarding Adults MASH

<http://www.wiltshiresab.org.uk/contact-us/>

Telephone: 0300 456 0111 Textphone: 01225 712501

Email: adviceandcontact@wiltshire.gov.uk

Monday to Thursday: 08:30 – 17:20

Friday: 08:30 – 16:20

If you need urgent help or advice outside of these hours, you can call

0300 456 0100

Wiltshire Safeguarding Children

<http://www.wiltshirescb.org.uk/home/about-wscb/>

Wiltshire Multi-Agency Safeguarding Hub (**MASH**) **0300 456 0108** (08:45am-5pm Mon-Thurs) and (8:45am-4pm) Friday. Emergency Duty Service **0300 456 0100** (5pm - 8.45am)

If a child is in immediate danger or left alone, you should contact the police or call an ambulance immediately on **999**.

If you wish to report a crime contact the Police by calling 101

In an emergency always dial 999

4.10 Legal Proceedings

The Complaints Regulations 2009 no longer states that a complaint should be halted where legal action has started (or is implied). In addition, it should not necessarily be assumed that a complaint made via a Solicitor means that the complainant has decided to take legal action. A complainant has the right to be represented by whomever they chose throughout the complaints process. If consent has been received a response should be made in the normal manner. BSW CCG has a legal and moral responsibility under the Equality Act 2010 to provide any of its documents, leaflets, electronic resources in an alternative format if requested.

Compliance with the Accessible Information Standard is a legal duty under Section 250 of the Health and Social Care Act 2012.

In all cases, it will be important to ensure potential implications for patient safety and/or organisational learning are investigated as quickly as possible to allow urgent action to be taken to prevent similar adverse events arising.

4.11 Fraud and Corruption

Any complaint which concerns allegations of possible fraud or corruption is to be passed immediately to the Local Counter Fraud Specialist for consideration, telephone number; 07580 700845 or the Local Counter Fraud Area Manager; 07580 971240 or the NHS Protect Fraud & Corruption Reporting Line 0800 028 4060, or at <https://cfa.nhs.uk/reportfraud>.
Investigations should not proceed.

4.12 Support for Staff

Members of staff named in a complaint, either personally or by role, should be informed of the complaint by their line manager, where there is no police or Counter Fraud involvement. Staff should be fully supported by their line manager and consulted during the investigation. The investigation should be full, fair and timely and should not apportion blame. Where the complaint involves matters of serious employee performance or conduct an HR Manager will be consulted. Whilst it is important to respond to the complainant on the concerns they have raised, this must be balanced with the right to confidentiality owed to the employee. The Complaints Manager in conjunction with the relevant manager from the CCG and HR Manager will need to discuss how best to respond to the complainant.

It is at the discretion of the CCG to decide whether to investigate the complaint in these circumstances. Where a complaint is not investigated or is suspended in these circumstances, then the Complaints and PALS team will notify the complainant of this and the reasons why.

Once the other investigation or enquiries are complete or discontinued then the Complaints and PALS team, taking advice from relevant sources, will consider whether the complaint investigation should be started or resumed. It may be that the complaint has been fully considered through these other investigations. Where the CCG decides not to consider the complaint in this circumstance, the Complaints and PALS team will notify the complainant and the reasons why.

The management style and culture within the CCG will promote positive attitudes towards dealing with complaints.

4.13 Persistent and repetitive complainants

A persistent and repetitive complaint is one where, on the facts of the case, it has little merit or substance and has been made with the intended consequence of distress or harm to either the individual receiving the complaint, or the subject of the complaint (where they are different individuals).

A persistent or habitual complainant is defined as 'someone who continually makes contact with the CCG to request review of a regular complaint issue.' This may also include offensive, rude aggressive, discriminatory or abusive behaviour or comments during contact.

A prolific complainant is someone who raises the same issue despite having been given a full response and may display certain types of behavior:

- Complains about every part of the health system regardless of the issue
- Contacts several agencies and individuals simultaneously regarding the same issue
- Automatically responds to any letter from the CCG
- Insists they have not received an adequate response
- Focuses on a trivial matter.

Complainants may be deemed to be a 'persistent and repetitive complainant' where ongoing contact with them shows they meet at least two of the following criteria.

The complainant:

- Persists in pursuing a complaint for which the NHS complaints procedure has been fully and properly implemented and exhausted.

- Changes the substance of a complaint or continually raises new issues or seeks to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. (Care must be taken not to discard new issues, which are significantly different from the original complaint. These might need to be addressed as separate complaints).
- Is unwilling to accept documented evidence of treatment given as being factual e.g. medication records, nursing records; or denies receipt of an adequate response in spite of correspondence specifically answering their questions; or does not accept facts and can sometimes be difficult to verify when a long period of time has elapsed.
- Does not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of the CCGs staff and, where appropriate, SEAP Advocacy Service to help them specify their concerns, and/or where the concerns identified are not within the remit of the CCG's to investigate.
- Focuses on a particular matter to an extent which is out of proportion to its significance and continues to focus on this point. (It is recognised that determining what such a matter is can be subjective and careful consideration must be used in applying this criteria).
- Has in the course of addressing a registered complaint had an excessive number of contacts with the CCG's and is placing unreasonable demands on staff. A contact may be in person or by telephone, email or letter. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case.
- Is known to have recorded meetings or face-to-face/telephone conversations without prior knowledge and consent of other parties involved.
- Displays unreasonable demands or patient/complainant expectations and fails to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).
- During the process of complaining, threatened or actual physical violence is used towards staff or their families or associates at any time, and/or offensive/discriminatory comments are made in communications with staff.

Where a complainant is perceived to be a 'persistent and repetitive complainant', and where there is potential for reputational damage to the CCG, if, for example the complainant contacts the media, the Complaints Team will ensure the CCG Communications team is aware of the complaint.

Application of the criteria for persistent and repetitive complainants

Prior to action being taken under this policy, senior staff should first consider:

Has the complaints procedure been correctly implemented as far as is possible and has any material element of a complaint been overlooked or inadequately addressed?

- The stage at which a complainant has become or is developing into a persistent complainant where the complaint and responses have become repetitive, habitual or persistent (following a review of the available information). There should be evidence available to demonstrate the habitual and persistent nature of the complaint. The purpose of this procedure is to ensure any restrictions placed on complainants should be the result of a fair and consistent process. The procedure will be applied only in the absolute circumstances outlined, not because the complainants are forceful and determined.

The CCGs Director of Nursing & Quality (or deputies) may decide to deal with the complaint in one or more of the following ways:

- Decline contact with the complainant either in person, by telephone by letter, by email or any combination of these, provided one form of accessible contact is maintained or alternatively to restrict contact to liaison through a third party.
- Notify the complainant in writing that the CCG's Director of Nursing & Quality has responded fully to the points raised and has tried to resolve the complaint, but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that the correspondence is at an end and further letters received might be acknowledged but not responded to.
- Inform the complainant that in extreme circumstances the CCG reserves the right to pass unreasonable or persistent complainants to be dealt with through the CCG's solicitors and where appropriate other agencies.
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the CCG legal advisors or any other relevant agencies.
- Consider whether there are any relevant equality considerations that may be linked to the persistency of the complaints. It is the responsibility of the managers reviewing each individual case to recognise some complainants (for example, individuals with speech/hearing impairment, learning disability or other permanent or temporary cognitive impairment or service users for whom English is not their first language) may need the CCG to implement relevant equality factors throughout the complaints process (for example, disability).
- Any planned actions do not constitute unlawful victimisation.

Withdrawing Persistent and Repetitive Complainant Status

Once a complainant has been determined as a 'persistent and repetitive complainant' there needs to be a mechanism for withdrawing this status at a later date if, for example the complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate.

Staff should previously have used discretion in recommending 'persistent and repetitive complainant' status at the outset; the 'persistent and repetitive complainant' status will be reviewed after 6 months depending on the outcome of the review there can be a recommendation for this status to be withdrawn.

Where this appears to be the case, discussion will be held with the CCG Chief Officer. Subject to their approval, normal contact with the complainants and application of NHS complaints procedures will then be resumed.

5 ROLES AND RESPONSIBILITIES

Committees' Roles & Responsibilities

The Director of Nursing & Quality is accountable for ensuring effective management of complaints across the CCG and is the responsible signatory for written responses to formal complaints. Where the Director of Nursing & Quality is unavailable to sign responses they may nominate a deputy or deputies to undertake this. For the purposes of the Local Authority Social and National Health Service Complaints (England) Regulations 2009, the Chief Officer acts as the 'Responsible Person'.

The CCGs Lay Member/s provides scrutiny of CCG reports to ensure complaints, compliments and concerns are managed effectively with appropriate outcomes for individuals and the organisation learns from this feedback. The Lay member/s is a member of the CCG Governing Body which approves the Compliments, Concerns and Complaints Annual Report, once it has been presented and approved at the Quality & Performance Assurance Committee.

The Quality & Performance Assurance Committee will receive regular CCG reports providing a summary of complaint themes and agreed detailed information to inform the commissioning process. The approval of the Committee will be sought if any amendments are considered necessary to this policy in line with review dates. The Committee is also responsible for monitoring CCG compliance with this policy.

Individual Roles & Responsibilities

The Director of Nursing and Quality has the responsibility for ensuring the efficient and effective implementation of the Compliments, Concerns and Complaints Policy.

The Complaints & PALS Manager is responsible for ensuring this policy remains relevant and accords with national guidance.

CCG Directors and Senior Managers for CCG Commissioned Services (Continuing Healthcare, Exceptions & Prior Approvals) are accountable for the thorough investigation of complaints within CCG directorates where directed by the Complaints and PALS Team. They are responsible for ensuring the investigation is carried out in line with this policy and where an action is identified it is implemented. Delegated Senior Managers are responsible for ensuring the draft response, together with any supporting evidence and administration documents, is returned to the Complaints & PALS Manager within the stipulated timescale.

The Quality Directorate is responsible for operationally managing and administering the Complaints process, ensuring thorough replies are provided to the complainant within the required timescales.

All staff are responsible for providing good customer service when dealing with members of the public or their advocates particularly in the instances of complaints and concerns where there is a need for the involvement of multiple organisations in the healthcare system. All staff have a duty to comply with Information Governance protocols when sharing information across organisational boundaries.

6 TRAINING

The CCG will ensure all new staff are made aware of this policy on induction and signposting is available on the CCG intranet.

7 EQUALITY, DIVERSITY & MENTAL CAPACITY

The CCG ensures that every effort is made to facilitate and promote feedback from everyone and for those people that require specific assistance due to protected characteristics this is identified early and appropriate measures taken to support. This may for example take the form of interpreting services, to enable everyone who wishes to give feedback to be able to do so. Complaints can be made in a number of ways that are convenient to the complainant. The CCG is committed to reassuring anyone making a complaint that any future care they receive will not be negatively affected as a result of having made a complaint.

We welcome feedback on this policy and the way it operates. We are interested to know of any possible or actual adverse impact this policy may have on any groups in respect of gender, marriage or civil partnership, race, disability, sexual orientation, pregnancy or maternity, religion or belief, transgender, age, deprivation or other characteristics.

An Equality Impact Assessment (EIA) has been completed for this policy and no significant issues were identified. The EIA will be published on the CCG internet.

8 SUCCESS CRITERIA / MONITORING EFFECTIVENESS

The effectiveness of the policy will be demonstrated by carrying out a survey of complainants. Complainants who have provided consent to be contacted for their feedback about the CCG's complaints process at the start of the complaints process will be sent a survey approximately 6-10 weeks following the final response to the complaint. The survey will be sent by the Complaints & PALS Team with a reply envelope. The team will then collate responses on a quarterly basis and include summary information in the quarterly reports prepared for the CCG.

In addition to this we will also be using an internal quality assurance process to review and evaluate the responses sent to complainants. The Quality Assurance Process will involve the Lay Members who will be asked to review the quality of the responses being sent to complainants. This review will take place on a quarterly basis by two Lay Members who will review approximately 10% of complaint responses, which are randomly selected. The feedback will be used to inform the provider for future learning on complaint responses.

9 REVIEW

This document may be reviewed at any time as appropriate but will be reviewed after a maximum of three years.

10 REFERENCES AND LINKS TO OTHER DOCUMENTS

This policy is consistent with:

- Local Authority Social Services and National Health Services Complaints (England) Regulations 2009.
- Listening, Improving, Responding – a Guide to better Patient Care (Department of Health 2009).
- NHS Constitution (Department of Health 2009)
- My Expectations – Parliamentary & Health Service Ombudsman
- Human Rights Act 1998
- The Mental Capacity Act 2005
- The Equality Act 2010

This policy should be read in conjunction with:

- Information Governance Framework
- Confidentiality and Safe Haven Policy
- Freedom of Information Act Policy
- Safeguarding Adults, Children and Looked After Children Policy
- Human Resources Policies
- Freedom to Speak Up: Raising Concerns Policy
- Anti-Fraud, Bribery and Corruption Policy
- Security Management Policy