



## Complaints Policy

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page 1 of 20

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# Complaints Procedure

## CONTENTS

	Page
1 Document Information .....	4
2 Introduction.....	5
3 Scope .....	5
4 Duties & Responsibilities.....	6
4.1 CCG Responsibilities .....	6
Clinical Commissioning Group specific duties and responsibilities are set out below:.....	6
4.2 Accountable Officer .....	6
4.3 Medical Director .....	6
4.4 The Governing Body .....	6
4.5 Directors / Associate Director or Heads of Service.....	6
4.6 Managers.....	6
4.7 The Complaints Manager.....	6
4.8 Stockport CCG Staff .....	7
5 Definitions & Terms Used .....	7
6 Overview.....	8
6.1 General.....	8
6.2 Fairness & Equity in Complaints Handling .....	9
6.3 Process to ensure that Service Users, Relatives & Carers are not Treated Differently as a Result of their Complaint .....	9
7 Definition of a Complaint.....	10
8 Exclusions .....	10
9 Who Can Make a Complaint? .....	10
9.1 General.....	10
9.2 Member of Parliament (MP) Complaints .....	11
10 Procedure.....	12
10.1 Principles of Complaint Handling .....	12
11 Local Resolution – Stage 1 .....	13
11.1 On receipt of a complaint .....	13
11.2 The key elements of the process are:- .....	13
11.3 Duty to cooperate – a coordinated approach .....	14
11.4 Acknowledgement of a complaint .....	14
11.5 Respond .....	14
11.6 Confidentiality and Consent .....	15
11.7 Review by the Parliamentary & Health Service Ombudsman – Stage 2.....	15
12 Use of Email & electronic Communication .....	16
13 Management of Vexatious Complainants.....	16
13.1 Introduction .....	16

- 13.2 Definition ..... 16
- 13.3 Actions prior to designating a Complaint as Vexatious ..... 17
- 13.4 Process for Managing a Vexatious Complaint ..... 18
- 13.5 Urgent or Extreme Cases ..... 18
- 13.6 Appealing a decision to Restrict Contact ..... 18
- 13.7 Recording and Reviewing decisions ..... 18
- 14 Clinical Negligence Claims, Legal Action & Police Involvement..... 19
- 15 Corporate Performance, Monitoring & Reporting ..... 19
  - 15.1 Publicity .....19
  - 15.2 Monitoring complaints .....19
  - 15.3 Performance Targets .....19
  - 15.4 Reporting .....19
- 16 Trend Analysis & Lessons Learnt / Service Improvements..... 20
- 17 Training..... 20
- 18 Revision History ..... 20

# 1 DOCUMENT INFORMATION

## DOCUMENT DETAILS

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## 2 INTRODUCTION

Stockport Clinical Commissioning Group (CCG) exists so that Stockport people will access high quality health services that empower them to live healthier, longer and more independent lives.

Our vision is to be quality obsessed, putting patients at the centre of decision making and consistently improving our services. Fundamental to this is our commitment to listen to our patients and to act upon the feedback we receive. We recognise the importance of complaints, comments, concerns and compliments as a means of reviewing our standards and as an avenue by which patient experience can be improved.

In our management of complaints we undertake to listen to and respond to concerns raised and to use the information gathered to improve the quality of the services commissioned by Stockport CCG.

The CCG has considered The Human Rights Act and the equality benefits of a Human Rights based approach when handling complaints.

## 3 SCOPE

3.1.1 The aim of this procedure is to set out Stockport Clinical Commissioning Group's approach to receiving, handling and responding to complaints made, under the provision of the following:-

[The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009 \(SI 2009/309\)](#)

[The NHS Constitution](#)

[The Principles of the Parliamentary & Health Service Ombudsman](#)

3.1.2 Stockport CCG welcomes complaints as a valuable means of receiving feedback on the services they commission for the people of Stockport and aims to use information gathered from complaints as a means of improving services and the effectiveness of the organisations they commission. The CCG will seek to identify learning points that can be translated into positive action to implement recommendations and act on lessons learned.

3.1.3 This procedure is intended for use by Stockport CCG staff, persons wishing to make a complaint under the regulations, parliamentary and other representatives wishing to provide support to persons wishing to make a complaint. The procedure is also available for scrutiny by external agencies that have an audit and inspection role in relation to the CCG's complaints function.

3.1.4 Due to the diverse audience for which this procedure is intended, it is written in such a way as to make it a helpful and practical guide to using the CCG's complaints service, and the types of complaints that are managed by Stockport CCG.

## 4 DUTIES & RESPONSIBILITIES

### 4.1 CCG Responsibilities

4.1.1 Clinical Commissioning Groups are subject to a number of legal and statutory requirements in addition to applying good practice and guidance covering a wide range of subjects. In order to meet those requirements and to demonstrate sound governance principles within constraints of national directions and legislation, it is essential to have a clear and understandable operational procedure.

**Clinical Commissioning Group specific duties and responsibilities are set out below:**

### 4.2 Accountable Officer

4.2.1 In accordance with the complaints regulations the Accountable Officer is the designated 'responsible person' for ensuring compliance with the arrangements made under the complaints regulations, including insuring that action is taken if necessary in accordance with the outcome of the complaint. This function may be delegated to any person authorised by The Accountable Officer.

### 4.3 Medical Director

4.3.1 The Medical Director/ Clinical Director(s) will undertake a review of clinical information included within any complaint response. All complain responses which include clinical information must be authorised by the Medical Director/ Clinical Director(s) prior to sign off by the Accountable Officer.

### 4.4 Quality Committee

4.4.1 Quality Committee will oversee the complaints process and will receive regular updates re complaints performance and escalations within the process.

### 4.5 The Governing Body

4.5.1 NHS Stockport CCG Governing Body will have ultimate responsibility for the implementation of the Complaints Procedure and will monitor complaints arrangements via the submission of quarterly and annual reports.

### 4.6 Directors / Associate Director or Heads of Service

4.6.1 Directors/ Associate Directors and Service Leads will ensure that where a complaint relates to an area of their responsibility, it is processed as requested by the Complaints Manager or the Complaints Manager.

### 4.7 Managers

4.7.1 Managers will complete investigations and complaint response on behalf of their Director / Associate Director or Head of Service.

### 4.8 The Complaints Manager

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- 4.8.1 The complaints regulations provide that Stockport CCG must designate a person to be responsible for managing the process for handling and considering complaints in accordance with the arrangements made under the complaints regulations. This function may be designated to any person authorised by Stockport CCG The Complaints Manager is the central point of contact in relation to all complaints and is responsible for managing the process for handling and considering complaints and the management of enquiries received which require a response but which are not complaints.
- 4.8.2 The Complaints Manager will review final draft responses prior to clinical review and overall sign off by the Accountable Officer.

**4.9 Stockport CCG Staff**

- 4.9.1 All Stockport CCG staff have a duty to read and work within the spirit of Stockport CCG Complaints Procedure. Staff must ensure that they are aware of the location of Stockport CCG Complaints Procedure and how to access it.
- 4.9.2 All staff have a responsibility to bring to the attention of the document author / Lead Director, any part of the document that is identified to be no longer relevant or requires revision; staff should not wait until the identified review date of the document to notify of any suggested amendment.

**5. DEFINITIONS & TERMS USED**

Responsible Body	Local Authority, NHS body, primary care provider or independent provider
Primary care provider	A person or body who is a general medical services contractor providing primary medical services;
Independent provider	a person or body who provides health care in England under arrangements made with an NHS body and is not an NHS body or primary care provider
Complaint	Is defined as “an expression of dissatisfaction requiring a response’
Compliment	Expressions of appreciation or comments that can be recorded but do not require corrective action.
Guideline	A recommendation indicating how something should be done or an action that should be taken. It is used to guide conduct and acts in an advisory manner.
The complaints regulations	The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
Local Resolution	The first stage of the complaints process where the responsible body investigates and provides a full response to the matters raised by the complainant.
Local Resolution Meeting	A meeting within Stage 1 of the NHS Complaints Procedure , following the issue of the Trust response, where the NHS organisation meets with a complainant or a complainant’s representative to answer any outstanding concerns.
Complaints Procedure	The procedure adopted by Stockport CCG to deal with

	complaints.
Strategy (Strategic)	A strategy is a long-term plan of action designed to achieve a particular goal or set of goals. It is a high-level statement presenting a vision of what it is intended to achieve and why, and the benefits expected.
Policy	A policy is a plan of action to be applied and contains approved authoritative actions to be taken and adhered to by staff.
Procedure	A standardised method of performing an action or task to accomplish an objective, which tends to refer to the required method rather than the result.
Stockport Advocacy Services	Stockport Advocacy Service is a free service provided on behalf of the Department of Health and is available for patients who wish to seek independent support, advocacy, assistance or guidance on the NHS Complaints Procedure.
The Parliamentary and Health Service Ombudsman for England and Wales (PHSO)	The Parliamentary and Health Service Ombudsman represents the second and final stage of the NHS Complaints Procedure. Anybody wishing to complain to the Ombudsman must first have pursued their complaint via the responsible body concerned.
Complaints Manager	Central point of access at Stockport CCG for complaints and PALS matters. Has responsibility for Complaints Manager and oversees complaints service for Stockport CCG
Care Quality Commission	The independent regulator of health and social care in England.

## 6 OVERVIEW

### 6.1.1 General -The Complaints Procedure is designed to:-

- Enable complaints to be dealt with as swiftly as possible, in a conciliatory and courteous manner
- Empower staff to deal with complaints wherever possible, including training staff in the handling of complaints
- Entitle complainants to a full and fair investigation of their complaints, without fear of retribution
- Ensure that the Complaints Procedure is fair to both staff and complainants
- Ensure that the complaints system is simple and accessible
- Use the complaints procedure as a means of improving the quality of services we commission and the process by which we commission to ensure we learn lessons
- Keep managers, staff, clinicians and the complainant informed and involved throughout the process
- Ensure that all complaints are properly monitored and recorded and appropriate reports submitted

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- 6.1.2 Any issues highlighted by complaints investigations about service provision, clinical practice or of a disciplinary nature will always be dealt with by the Head of Service / relevant manager in accordance with associated policies and procedure.
- 6.1.3 Staff should have access to support throughout the investigation of a complaint. Taking into account the limitations in respect of confidentiality of complaints, staff may seek peer support or consult with their professional body (if they have one) and trade union.
- 6.1.4 Information gained from handling complaints should be used to:-
- promote learning within the organisation and, where things have gone wrong, avoid similar situations arising again
  - monitor complaints that come into NHS Stockport CCG to identify trends and drive service improvement
  - identify training needs
  - monitor good practice and ensure quality standards
- 6.1.5 Where appropriate, staff should have access to support throughout the investigation of a complaint. Staff may seek peer support, support from line management or, should they feel this to be inappropriate, may access the Occupational Health confidential counselling service, their professional body (if they have one) and / or trade union.

## 6.2 Fairness & Equity in Complaints Handling

- 6.2.1 Stockport CCG is committed to treating all complainants equally and fairly, regardless of age, caring responsibility, disability, gender, gender identity, race, religion and sexual orientation.
- 6.2.2 Under the regulations, complainants must not be discriminated against because they have made a complaint about any service commissioned by Stockport CCG or any commissioning decisions made by Stockport CCG. Stockport CCG is committed to dealing with complaints in a non-discriminatory manner.
- 6.2.3 Complainants can seek advice and support on how to make their complaint from the Complaints Manager – 07393 798116.
- 6.2.4 Stockport CCG supports the use of independent advocacy within the Complaints Procedure and any complainant wishing to access independent advocacy will be provided with contact details for Stockport Advocacy Service or other appropriate advocacy services including MIND which is a mental health charity offering advocacy support.

## 6.3 Process to ensure that Service Users, Relatives & Carers are not Treated Differently as a Result of their Complaint

- 6.3.1 It is important that patient care is not affected by a complaint and that complainants are not treated differently as a result of a complaint. Therefore the following steps should be taken:-
- Ensure that any service commissioned by the CCG observes the principle that details of a complaint should not be kept in the service users notes
  - Only staff involved in handling the complaint should be aware of details
  - Allow debrief time for staff and reflection on events surrounding the complaint
  - The acknowledgment letter sent to patients should ask them to contact the Complaints Manager if they feel that they have been treated differently. This will then be taken up with the department concerned.

Version

- 6.3.2 If a complainant does feel that they have been discriminated against in any way as a result of making a complaint, they can contact the Complaints Manager to discuss how these issues will be addressed.
- 6.3.3 The CCG commits to operating a learning, fair blame culture when dealing with complaints.

## 7 DEFINITION OF A COMPLAINT

- 7.1.1 A complaint may be defined as an expression of dissatisfaction or concern with any aspect of a service, including Staff performance, whether relating to patient care, the environment, facilities, systems or processes, by a patient, visitor, carer, representative group or member of the public.
- 7.1.2 If Stockport CCG employees have complaints or concerns that relate to other employees these should be raised through existing Human Resources policies and procedures e.g. [Grievance](#), [Whistleblowing](#), [Dignity at Work](#) or [Disciplinary](#) procedures.

## 8 EXCLUSIONS

- 8.1.1 The following complaints are not required to be dealt with in line with the regulations:-
- A complaint about private treatment
  - a complaint made by another responsible body
  - a complaint made by an employee of a local authority or NHS body about their employment.
  - a complaint which is made orally and resolved to the complainants satisfaction no later than the next working day on which the complaint is made
  - a complaint that has already been resolved in (c)
  - a complaint which has already been investigated under these regulations, the 2004 regulations, the 2006 regulations or a relevant complaints procedure before 1<sup>st</sup> April 2009
  - a complaint which is being or has been investigated by the Local Commissioner or Health Service Commissioner
  - a complaint arising from the alleged failure to comply with a request for information under the Freedom of Information Act 2000
  - a complaint which relates to any scheme established under section 10 (superannuation of persons engaged in health services, etc) or section 24 (compensation for loss of office, etc) of the Superannuation Act 1972[5], or to the administration of those schemes
- 8.1.2 Where Stockport CCG considers that a complaint falls within the above exclusions it must, (except in point c above) as soon as reasonably practicable, notify the complainant in writing of its decision and the reason for that decision.

## 9 WHO CAN MAKE A COMPLAINT?

### 9.1 General

- 9.1.1 Generally it will be the person who has received services commissioned by Stockport CCG or any person who is affected by or likely to be affected by an action, omission or decision of Stockport CCG (as a commissioner) that makes the complaint.

page 10 of 20

- 9.1.2 However there are circumstances in which another person (referred to as a representative) can make a complaint on behalf of the patient which are:
- If the complainant is a child who is not able to make the complaint on their own behalf
  - A person who has been assessed under the provisions of the Mental Capacity Act 2005 as not having capacity in this matter
  - Where the complainant with capacity has given consent for another person to act on their behalf
  - If a person has died we will need consent from the next of kin to progress the complaint
- 9.1.3 With regards to children and people without the capacity, the complaints regulations permit the responsible body for the complaint to take a view on whether the person is acting in the patient's best interests and if it is felt that this is not the case, the responsible body can refuse to handle a complaint by that person. In practice, this means that the CCG should not automatically assume that a parent or guardian can make a complaint on behalf of a child if it is felt that the child has sufficient maturity and capacity to make or withhold the complaint on their own behalf. In any case where the CCG are considering exercising this power, it will only do so after full and proper consultation with relevant other parties.
- 9.1.4 If an adult with capacity consents to a third person acting on their behalf and the appointed person can provide a valid and acceptable form of consent, the CCG will regard the appointed person as a proxy for the complainant in the complaints process. However where a third person who claims to be making a complaint on behalf of a complainant with capacity does not have that person's valid consent, the CCG will contact the complainant directly to request their consent for the complaint to proceed.
- 9.1.5 Where consent is given for a third party to deal with a complaint, the CCG will only maintain contact with the third party, unless consent is withdrawn.
- 9.1.6 Where consent is not provided, the complaints regulations may prevent the complaint from being progressed.
- 9.1.7 Deciding who can complain can often be a complex issue. If staff are unsure they should contact the Complaints Manager for clarification and advice.

## 9.2 Member of Parliament (MP) Complaints

- 9.2.1 On receipt of a letter of complaint from an MP the requirement for consent must be considered in line with:-
- The subject of the complaint is directly from the person(s) contacting the MP, the CCG will assume consent has been provided.
  - If the subject matter of the complaint has not directly contacted the MP, then explicit consent will be required.

## 10 PROCEDURE

### 10.1 Principles of Complaint Handling

10.1.1 The NHS complaints procedure states that arrangements for dealing with complaints must ensure that:

- complaints are dealt with efficiently
- complaints are properly investigated
- complainants are treated with respect and courtesy
- complainants receive, so far as is reasonably practical;
  - assistance to enable them to understand the complaints process or
  - advice on where they may obtain such assistance
- complainants receive a timely and appropriate response
- complainants will receive regular updates throughout the process
- complainants are told the outcome of the investigation of their complaint and action is taken if necessary in the light of the outcome of the complaint.

10.1.2 Complaints should also be handled in the spirit of the [Parliamentary and Health Service Ombudsman's \(PHSO\) Principles](#) - Principles of Good Administration, Principles of Good Complaints Handling and Principles for Remedy. The PHSO recommends NHS organisations follow these principles to ensure effective complaints handling:-

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

10.1.3 Key elements of the procedure are:-

- Central access point.
- Assist patients to resolve concerns or problems with CCG commissioned services and related issue
- Identification of when consent is required and a process of obtaining the same prior to the commencement of any investigation
- Acknowledgement of issue or complaint within 3 working days
- A clear record of each complaint to be logged on Stockport CCG's Risk Management System (Ulysses)
- Preparation of a response letter detailing the investigation findings which should be drafted and authorised by a Director or Service Head with responsibility for the service which is the subject of the complaint.
- The arrangement of Local Resolution Meetings (LRM) where this will support resolution within Stage 1 of the NHS Complaints procedure
- Coordination of any further local resolution required to resolve the case
- Analysis of data and production of six monthly reports
- Re-direction of complaints about other organisations
- Fulfil Stockport CCG's statutory complaints reporting obligations

## 11 LOCAL RESOLUTION – STAGE 1

*“Receive, acknowledge, investigate, respond”*

### 11.1 On receipt of a complaint

- 11.1.1 Ideally complaints and concerns will where appropriate, be resolved on the spot by front-line staff effectively and efficiently.
- 11.1.2 Staff are encouraged to make a record of locally resolved complaints including the name and reference of the complainant, what the complaint was about, what steps were taken to respond to the complaint and whether the complainant was happy that the complaint was resolved.
- 11.1.3 A complaint may be made orally, in writing or electronically. When a complaint is made orally, NHS Stockport CCG will make a record of the complaint and provide a written copy to the complainant.
- 11.1.4 Stockport CCG can provide information advice support and guidance to all staff on how to handle concerns or complaints.

### 11.2 The key elements of the process are:-

- Initial assessment to confirm that the case can be handled under NHS complaints regulations
- Initial assessment to identify reference to any potential safeguarding issues which should be immediately reported to the Safeguarding Team
- Stockport CCG will seek to identify where complaints may link to the organisation's wider statutory duties and responsibilities such as those relating to special educational needs, which will be directed to the appropriate Director / Head of Service at the earliest point following receipt of the complaint.
- Complaints which do not fall under NHS regulations, will be signposted to the appropriate organisation or process
- A complainant will be provided with a named complaint handler as per the complaints regulations
- If the complaint is regarding an NHS service which is commissioned by Stockport CCG, the complainant will be contacted to obtain consent to pass the details onto the provider as soon as possible
- If the complaint relates to Primary Care (GP Services) the complainant will be contacted to obtain consent to pass the details of the complaint onto NHS England who are responsible for all complaints relating to services provided by GPs.
- If it transpires that the complainant has already made a complaint which has been responded to by an NHS provider, the complainant will be advised that Stockport CCG cannot re-investigate; the complainant will be directed to the next stage of the complaints procedure which will be referral to the Parliamentary & Health Service Ombudsman (PHSO) which is Stage 2 of the NHS Complaints Procedure.
- If the complaint has not previously been made to the provider directly, the complainant can decide whether it is more appropriate for the provider to

page 13 of 20

handle the complaint. If so (and subject to the complainant's consent), the case will be transferred to the provider who will be required to handle the complaint in line with the regulations. In this case, the CCG will expect the provider to respond directly to the complainant, ensuring that a copy of their response is sent to the CCG.

- If the CCG feels it would be more appropriate for them to handle the complaint, they must notify both the complaint and the provider

### 11.3 Duty to cooperate – a coordinated approach

11.3.1 When considering a 'multi agency' complaint that requires investigation, all organisations must cooperate to:-

- a) Identify the lead organisation – to be **the** contact for the complainant all other contributing organisations.
- b) coordinate the handling of the complaint
- c) ensure the complainant receives a single coordinated response (authorised by all parties) to their complaint.
- d) To support the process throughout stages of the complaint.
- e) Each NHS body involved in jointly co-ordinated complaints responses must continue to maintain responsibility for their own service about which a complaint is made.

### 11.4 Acknowledgement of a complaint

- Will include point of contact for the complainant
- Will contact the complainant, where this is possible, to agree a date by which the complainant may reasonably expect to receive a response to their complaint
- Will acknowledge receipt of a complaint within 3 working days either verbally or in writing
- The acknowledgement will include the manner in which the complaint will be handled and will confirm the agreed date for a response
- Will provide information to the complainant on the local arrangements for a complaints advocacy.
- Will advise the complainant of any alternative options they may have for pursuing their concerns where the complaint falls outside the regulations

### 11.5 Respond

11.5.1 Once the investigation is finalised, a letter of response must be prepared by the Director who has undertaken the investigation and passed to the Complaints Manager who will prepare the final document. Any response which includes reference to clinical information / decisions must be reviewed by the Medical Director prior to final sign off by the Accountable Officer. In the absence of the Accountable Officer a complaint response may be signed by any person with delegated responsibility to undertake this task.

11.5.2 A complaint response should include:

- a report containing an explanation of how the complaint has been investigated, the conclusions reached and any actions identified
- confirmation that any action identified within the complaint investigation will be completed within an agreed timescale

- Offer of a Local Resolution Meeting (LRM) within Stage 1 of the NHS Complaints process where it is felt that such a meeting would support resolution of the complaint.
  - Confirmation of the complainant's right to refer their complaint to the Parliamentary & Health Service Ombudsman (PHSO), where the complaint relates wholly or in part to health
- 11.5.3 Every effort should be made to provide a full response to the complainant at the earliest point and wherever possible the aim of Stockport CCG is to respond within 25 working days. However in the case of a complex or multi agency complaint the response time will be longer and this should be agreed with the complainant.
- 11.5.4 Under the terms of the NHS complaints regulations, whilst the specified response time has been removed, all complainants are entitled to receive a response within a maximum period of six months. If in exceptional circumstances it is not possible for a response to be provided within this timescale Stockport CCG must:-
- a) Inform the complainant of the reason for the delay in the provision of the response
  - b) Provide the response as soon as possible on completion of their investigation
- 11.5.5 It should be noted that failure to provide a response within a six month period following receipt of a complaint will entitle the complainant to refer their complaint to the PHSO under Stage 2 of the NHS complaints regulations.
- 11.5.6 If a complainant contacts Stockport CCG after receiving the response to their complaint requesting further information or explanation, every effort should be made to answer these enquiries to achieve local resolution.
- 11.5.7 It is important to note that this should not be considered a review or appeal of their complaint. If the complainant remains unhappy with the response following all efforts to achieve local resolution they should be advised of their right to refer to progress to Stage 2 of the procedure which would be to contact the [Parliamentary and Health Service Ombudsman's \(PHSO\) Principles](#).

## 11.6 Confidentiality and Consent

- 11.6.1 Care must be taken at all times throughout the complaints process, to ensure that any information disclosed about the patient is confined to that which is relevant to the investigation of the complaint and only disclosed to those people who have a demonstrable need to know for the purpose of investigating the complaint.

## 11.7 Review by the Parliamentary & Health Service Ombudsman – Stage 2

- 11.7.1 Every effort should be made to resolve a complaint at the local resolution stage but if a complainant is unhappy with the response to their complaint, they have the right to contact the Health Service Commissioner – more commonly known as the Parliamentary and Health Service Ombudsman (PHSO) – and request a review of their complaint.

- 11.7.2 More information about the role of the PHSO can be found at: [www.ombudsman.org.uk/index.html](http://www.ombudsman.org.uk/index.html)

## 12 USE OF EMAIL & ELECTRONIC COMMUNICATION

- 12.1.1 Email and electronic communication may be used where the complainant has consented in writing or electronically and has not then withdrawn their consent in writing or electronically.
- 12.1.2 When complaints documentation is to be sent electronically, it can be signed by the individual authorised to sign the document by typing their name or producing their name using a computer or other electronic means (electronic signatures).

## 13 MANAGEMENT OF VEXATIOUS COMPLAINANTS

### 13.1 Introduction

- 13.1.1 This policy aims to provide staff with a clear and fair process for dealing with situations where a complainant might be considered to be vexatious and to recommend ways of handling those situations. The term “vexatious” covers those people considered to be persistent, habitual or prolific complainants.
- 13.1.2 The process is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint within the guidance on complaints set out in Stockport CCG’s Complaints Policy.
- 13.1.3 In applying this policy it is important to distinguish between those people who are simply being unreasonable and those who raise a number of issues that are relevant to the CCG’s role and remit.
- 13.1.4 Reasonable adjustments will be made, as appropriate, to this policy where disability may be impacting on a complainant’s approach.
- 13.1.5 The policy should be implemented following careful consideration by and with the authorisation of the Head of Quality Assurance, Patient Safety & Complaints.

### 13.2 Definition

13.2.1 Complainants may be deemed to be vexatious as a result of their unreasonable behaviour. There is no single definition of “unreasonable behaviour”. Examples of behaviour may include one or more of the following:-

- Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted.
- Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff and, where appropriate, the relevant independent advocacy services, such as Stockport Advocacy Service.
- Change the substance of a complaint or introduce new issues
- Continually make excessive demands in terms of process and fail to accept explanation of that process.
- Make unnecessarily excessive demands on time and resources. For example, continual contact with staff when their complaint is being investigated and expecting immediate responses.
- Continue to focus on minor points to an extent that they are out of proportion to their significance. (It is accepted that “minor” is subjective and careful judgment must be applied and recorded).
- Harass, threaten or are personally abusive or verbally aggressive on more than one occasion. (This may include written abuse in, for example,

Version

emails.)

- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual. This may include complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
- Deny receipt of an adequate response despite correspondence specifically answering their questions and/or /concerns.

13.2.2 Complainants may be deemed to be vexatious in any situation where physical violence has been used or threatened towards staff or those associated with them at any time. This will cause personal contact with the complainant to be discontinued and the complaint will then only be pursued through written communication. All such incidents should be documented and reported in accordance with Stockport CCG incident reporting procedure.

### 13.3 Actions Prior to Designating a Complainant as Vexatious

13.3.1 It is important to ensure the details of a complaint are not lost because of the presentation of that complaint. There are a number of considerations to bear in mind when considering imposing restrictions on a complainant. These may include:-

- Ensuring the complainant's case is being or has been dealt with appropriately, and that reasonable actions will follow or have followed the final response.
- Confidence that the complainant has been kept up-to-date and that communication has been adequate with the complainant prior to them becoming vexatious.
- Checking that new or significant concerns are not being raised that require consideration as a separate case.
- Applying criteria with care, fairness and due consideration for the complainant's circumstances. This will take into account:-
  - Physical and/or mental health conditions which may explain difficult behaviour
  - Impact of bereavement, loss or significant/sudden changes to the complainant's lifestyle, quality of life or life expectancy.
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour and the impact on staff.
- Ensuring the complainant has been advised of the existence of the policy and has been warned about and given a chance to amend their behaviour.

13.3.2 It should also be considered as to whether any further action can be taken prior to designating the complainant vexatious. This may include:-

13.3.3 Ground rules may include:-

13.3.4 Before making a decision to restrict contact, the complainant will, whenever possible, be warned that if the specified behaviour or actions continue consideration will be given by Stockport CCG to apply some or all the restrictions as set out above.

### **13.4 Process for Managing Vexatious Complainants**

- 13.4.1 Where a complainant has been identified as vexatious, the Head of Quality Assurance, Patient Safety & Complaints will write to the complainant informing them that either:-
- 13.4.2 All appropriate staff should be informed of the decision so that there is a consistent and co-ordinated approach across the organisation.
- 13.4.3 If the declared complainant raises any new issues then they should be dealt with in accordance with usual procedure.
- 13.4.4 Review of the vexatious status should take place at six-monthly intervals.

### **13.5 Urgent or Extreme Cases**

- 13.5.1 In urgent or extreme cases, safeguarding and zero tolerance policies and procedures should be adopted. This should be discussed with the appropriate senior manager to develop an action plan. In such circumstances, a review should be carried out of the case at the first opportunity after the event.
- 13.5.2 Consideration should be given as to whether the organisation should take further action. This may be involvement of the police or legal action, where it is believed the complainant has committed a criminal offence, such as harassment, assault on staff or criminal damage. It may also be using the risk management or health and safety procedures to follow up an event in respect of the impact on staff.

### **13.6 Appealing a Decision to Restrict Contact**

- 13.6.1 A complainant can appeal against restricted contact. The appeal will be considered by the Head of Quality Assurance, Patient Safety and Complaints or a senior manager who has not been involved in the original decision. They will advise the complainant in writing whether the restricted contact arrangements still apply or a different course of action has been agreed.

### **13.7 Recording and Reviewing Decisions**

- 13.7.1 When it is decided to restrict contact, all those involved will be notified and a record made on the complainant's electronic file.
- 13.7.2 Any further correspondence from the complainant will be read and checked for any significant new information.
- 13.7.3 If the complainant makes any new complaints about new issues these will be treated on their merits and a decision will be made by the Director of Quality and Commissioning as to whether any previously applied restrictions remain appropriate or are necessary.
- 13.7.4 A decision to restrict contact may be re-considered if the complainant demonstrates a more acceptable approach.

## CLINICAL NEGLIGENCE CLAIMS, LEGAL ACTION & POLICE INVOLVEMENT

- 13.7.5 Where the Complaints Manager considers that a complaint may result in legal action, this must be logged at the earliest opportunity as a potential claim.
- 13.7.6 Where a potential clinical negligence claim is intimated as part of a complaint or it becomes apparent that other legal action or Police involvement is underway whilst a complaint is being investigated, NHS Stockport CCG must consider whether by dealing with the complaint it might prejudice the potential defence of any legal claim or investigation.
- 13.7.7 However it should be noted that a potential claim should not automatically lead to the postponement of a complaint investigation.
- 13.7.8 Where there is any doubt, legal advice should be sought via the NHS Resolution
- 13.7.9 Where it is thought that dealing with the complaint may prejudice any future legal action, resolution of the complaint can be delayed until any legal action has concluded. If a decision is made to delay a complaint response in these circumstances the complainant must be notified of the reason for the delay.

## 14 CORPORATE PERFORMANCE, MONITORING & REPORTING

### 14.1 Publicity

- 14.1.1 Information should be made available to the public on the arrangements for making complaints and how further information on those arrangements may be obtained. Staff should be made aware of the regulations and their role in dealing with complaints.

### 14.2 Monitoring complaints

- 14.2.1 Each organisation must maintain a record of every complaint received, the subject matter and outcome of each case, the agreed response period (including any amendments to that period) and whether a response was sent out within the initially agreed response period. NHS Stockport CCG uses Ulysses to record all complaints activity. Directors are responsible for ensuring implementation of service improvements.

### 14.3 Performance Targets

- 14.3.1 "On the spot" verbal concerns should be resolved immediately or within one working day. (In this case, a note should be made of the complaint details)
- 14.3.2 Written complaints should be acknowledged within three working days
- 14.3.3 The final response to a complaint should be sent out within the timescale agreed with the individual complainant.

### 14.4 Reporting

- 14.4.1 The Complaints Manager with the support of the Complaints Manager will monitor complaints and ensure that the appropriate action is taken in line with Stockport CCG complaints monitoring process.
- 14.4.2 Stockport CCG Quality Provider Management Committee will be provided with anonymised details of any complaints made against any provider on a monthly basis.
- 14.4.3 Stockport CCG must produce an Annual Report for the Governing Body which will:
- specify the number of complaints received

Version

- confirm the number of complaints referred to the PHSO and details of any cases which may have been upheld
- summarise the subject matter of complaints received, identify any trends and/or areas of concern
- summarise any service improvements / amendment to policies which may have been achieved via the complaints process
- be available to the public on request

## **15 TREND ANALYSIS & LESSONS LEARNT / SERVICE IMPROVEMENTS**

- 15.1.1 Lessons to be learnt will be extracted from complaints wherever possible, whether or not something has gone wrong.
- 15.1.2 Complaints will be monitored and analysed alongside other areas such as PALS Enquiries and Incident reporting to identify if there are any wider issues that need to be addressed.
- 15.1.3 This information will then be used within bi-annual reports to the CCG Governing Body.
- 15.1.4 The CCG's commitment to learning from complaints will contribute to its strategic vision to improve the patient's overall experience.

## **16 TRAINING**

- 16.1.1 Training will be provided to staff, primary care providers and / or their staff and to specific staff groups where it will be tailor made to meet the needs of the group.
- 16.1.2 Information on the Complaints Procedure will be provided to all staff within the induction process.

## **17 REVISION HISTORY**

<b>Version</b>	<b>Date</b>	<b>Changes</b>	<b>Approved by</b>
	Sept 19	Final Approval amended policy	
Draft	4/11/16	KT formatted document	
1.2	10.09.15	Draft	

*Administrative changes or changes to Legislation will be amended by the Compliance Support Officer. Any significant changes to processes or procedures will be approved by the process owner / Director.*