



Newham

Clinical Commissioning Group

NHS Newham Clinical Commissioning Group Complaints Policy 2019

Policy:	Complaints
Date Issued:	1 April 2019
Date to be reviewed:	31 March 2022 or if statutory change is required

Policy Title:	Complaints Policy 2019	
Supersedes:	Complaints Policy and Procedure V01	
Description of Amendment(s):	Policy reviewed and updated to be a comprehensive, user friendly guide on how to make and manage a complaint.	
This policy will impact on:	Patients, public, carers, CCG staff and NEL CSU staff	
Financial Implications:	No change	
Policy Area:	Governance	
Version No:	1.0	
Issued By:	CCG Partnerships and Governance Directorate	
Author:	Director of Partnerships and Governance	
Document Reference:	PG01	
Effective Date:	1 April 2019	
Review Date:	March 2022 or if statutory change is required	
APPROVAL RECORD		
	<u>Committees / Groups / Individual</u>	Date
Consultation:	CCGs Management	February - March 2019
	NEL CSU Patient Experience Team	February - March 2019
Approved:	Senior Management Team	March 2019

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NHS Newham Clinical Commissioning Group Complaints Policy

Introduction

NHS Newham Clinical Commissioning Group (the CCG) is committed to encouraging and responding to feedback from patients. On occasions, feedback will take the form of a complaint. This policy provides information on how we manage, respond to and learn from complaints made about services, and the way in which they are commissioned.

The CCG's approach to handling complaints is engagement led, focused on developing effective relationships that are able to support accessible, timely, clear, improvement focused resolution that embed learning for patients, providers and commissioners. This policy enables the CCG to:

- meet the requirements of the [Local Authority Social Services and National Health Service Complaints \[England\] Regulations \(2009\)](#)
- conform to the NHS Constitution
- reflect the recommendations from the [Francis Report \(2013\)](#)

The key issues taken into consideration when formulating this policy are that a complainant needs to:

- know how to complain
- feel confident that their complaint will be dealt with seriously
- understand that their concerns will be investigated and they will be informed of the findings of that investigation
- trust that the CCG will learn from complaints and feedback and apply those lessons while also learning from and sharing best practice.

The audience for this document is patients, residents, carers, children and young people. Within the NHS it is staff in the CCG and staff in the Commissioning Support Unit (CSU) responsible for, either the implementation of, or needing to reference to the complaints process; specifically, but not exclusively:

- the CCGs' senior management team and the extended management team employed to support them
- complaint investigators
- the CCG complaints lead and CSU complaints leads

We will expend all reasonable efforts to ensure that all complaints received by us are resolved locally to the satisfaction of complainants in a clear, accessible and timely way.

We support the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling (2009), My Expectations (2014) and the NHS Constitution which includes a number of patient rights relating to complaints. In summary, these include the right to

- have their complaint acknowledged and properly investigated
- discuss the manner in which the complaint is to be handled and know the period in which the complaint response is likely to be sent
- to be kept informed of the progress
- to know the outcome including an explanation of the conclusions and confirmation that any action needed has been acted upon
- take a complaint about data protection breaches to the independent Information Commissioners Office (ICO) if not satisfied with the way the NHS has dealt with this.

The role of the CCGs

The role of the CCG is to make the complaints process accessible, timely and clear; focussing on people not processes to ensure that making a complaint has no adverse consequences for the ongoing care of the complainant. In addition, the CCG as the local commissioner has an assurance and scrutiny role of all provider organisations. This is achieved through:

- our monthly provider Clinical Quality Review Meetings (CQRMs) at which we scrutinise provider quality and governance reports
- annual complaints submissions to the NHS Information Centre
- review of annual complaints reports
- annual quality accounts scrutiny and approval.

We will also review complaints trends in all our commissioned provider organisations as part of our wider quality review and assurances processes.

Scope

This policy applies to the handling of complaints or concerns relating to directly commissioned service or services provided by the CCG. For complaints about services other than those commissioned by the CCG, please refer to [the Comments and Complaints section of our website](#).

There is specific guidance on persistent and or unreasonable complaints in [Appendix 1](#) of this policy.

Definition of a complaint

The NHS Executive has defined a complaint as “an expression of dissatisfaction requiring a response.” This can be either verbal or written, and whether justified or not, will require a response.

The CCG will seek to distinguish between requests for assistance in resolving a perceived problem which may be dealt with immediately and a formal complaint. All issues will be dealt with in a flexible manner which is appropriate to their nature and dealt with in accordance with this complaints policy.

For the avoidance of doubt, whenever there is a specific statement of intent on the part of the caller or correspondent that they wish their concerns to be dealt with as a formal complaint, it will be treated as such.

Performance

Organisational performance indicators for complaints handling are as follows:

Indicator	Target	Report Detail
Complaints acknowledged within three working days.	95%%	Number of complaints target met/unmet.
Complaints closed within 25 working days or as agreed with the complainant.	90%	Number of complaints target met/unmet.

Who can make a complaint?

A complaint may be made by the person (adult, child or young person) who is affected by the action, or it may be made by a person acting on behalf of a patient in any case where that person:

- is a child (an individual who has not attained the age of 18)
- has died
- has a physical or mental condition; in the case of a person who is unable by reason of physical capacity, or lacks capacity to consent
- has given consent to a third party acting on their behalf
- has delegated authority to act on their behalf, for example in the form of a registered lasting power of attorney which must cover health affairs. Where there is no lasting power of attorney the CCG Caldicott Guardian must assess if the complaint is in the 'best interest' of the adult or child, as laid out in [section 4](#) of the Mental Capacity Act 2005.
- is an MP, acting on behalf of and by instruction from a constituent.

If the CCG is of the opinion that a representative does or did not have sufficient interest in the person's welfare, or is not acting in their best interests, the CCG will notify that person in writing.

Requesting consent

Staff should never assume that someone complaining on behalf of a patient has authority to do so. The investigation of a complaint does not remove the need to respect a patient's right to confidentiality.

Complainants should normally be current or former patients, or nominated representatives, which can include a solicitor or a patient's elected representative, for example an MP.

Patients over the age of 16 whose mental capacity is unimpaired should normally make a complaint themselves.

Children under the age of 16, who are able to do so, may also make their own complaint. If someone other than the patient makes a complaint staff will need to make sure they have authority, such as parental responsibility, to do so. If the person making the complaint is not the same person that the information relates to, the complaints department will liaise with the complainant to ensure that their consent is obtained.

In certain circumstances, the complaints regulations impose a duty on the responsible body to satisfy itself that a representative is an appropriate person to make the complaint. For example, if the complaint is about a child, the CCG must satisfy itself that there are reasonable grounds for the representative to make the complaint, and not the child concerned.

Mental capacity is the ability to make a decision. Someone lacks mental capacity when they are unable to make a particular decision at the time it needs to be made. If patients lack capacity to make decisions for themselves their representative must be able to demonstrate sufficient interest in their welfare and be an appropriate person to act on their behalf. This could include a partner, a relative or someone appointed under the [Mental Capacity Act 2005](#) with lasting power of attorney. If the power of attorney covers the person's welfare, this could include making complaints at a time when that person lacks capacity.

If the patient is a child or a patient who lacks capacity, staff must also be satisfied that the representative is acting in the best interests of the person on whose behalf the complaint is made. If staff are not satisfied that the representative is acting in the child's and or patient's best interest, it must not consider the complaint and must give the representative reasons for the decision in writing

and ensure appropriate steps taken to ensure the safety of the child and or patient. The Office of the Public Guardian supports and protects people who may not have the mental capacity to make certain decisions for themselves such as decisions about their health and finance. You can find out more about the Office of the Public Guardian here:

<https://www.gov.uk/government/organisations/office-of-the-public-guardian>

Telephone helpline: 0345 015 4033

In all cases, if the CCG is not satisfied that the representative is appropriate, it must not consider the complaint and must give the representative reasons for the decision in writing and contact the appropriate body such as the police or social care for instance.

How to complain

You can make a complaint in writing, by email, over the telephone or in person.

If you have a complaint about the way an NHS service has been commissioned by Newham CCG, contact North and East London Commissioning Support Unit Patient Experience Team on 020 3688 1666 or email: nelcsu.complaints@nhs.net, who manage the complaints process on our behalf on

The CCG will endeavour to make the necessary reasonable adjustments in order to receive, investigate and respond to any complaint. For people whose first language is not English, or those who are deaf or have hearing difficulties, we have access to a translation and telephony interpreting service. We can also accept and respond to complaints in alternative formats such as braille.

Information about giving feedback or making a complaint about services not covered in this policy can be found below and on [the Comments and Complaints section of our website](#).

Newham University Hospital:

Formal complaints should go to the central Barts Health complaints team at:

complaints@bartshealth.nhs.uk

or by phone on 020 7480 4776, 020 7480 4719

Mental Health and Community Services:

For mental health and community services such as a health centre, physiotherapy or podiatry service, you can contact East London NHS Foundation Trust's Patient and Advice Liaison Service at:

palsandcomplaints@eastlondon.nhs.uk

or free phone: 0800 783 4839.

Doctor (GP), dentist, pharmacist or optometrist:

If you want to make a complaint or comment for any of these services contact the practice in the first instance. If you are unable to resolve the issue there, contact NHS England Customer Contact Centre at:

england.contactus@nhs.net

or by phone on 0300 311 2233

Advocacy services

Individual local authorities have a statutory duty to commission independent advocacy services to provide support for people making, or thinking of making, a complaint about their NHS care or treatment. Complainants should be advised to contact Healthwatch, or the local authority for information about how to access these service for support.

Healthwatch

Newham Healthwatch provides an NHS Complaints Advocacy Service. It is a free and independent service for Newham residents that can help them make a complaint about a National Health Service.

The service is delivered by Mind in Tower Hamlets and Newham (MiTHN) on behalf of Healthwatch Newham. Contact details are:

NHS Complaints Advocacy Service Newham
The Resource Centre, 200 Chargeable Lane
London, E13 8DW

Call 020 3828 8245 or email advocacy@healthwatchnewham.co.uk

Voiceability

Newham council commission a free and independent advocates through "Voiceability" for all residents that:

- would have [substantial difficulty](#) in being involved in their care and support processes such as assessments, care planning, reviews and safeguarding enquiries.
- have no one else (carer, family or friend) who can support their involvement.

Contact details for Voiceability are:

Stratford Advice Arcade
107-109 The Grove, Stratford
London, E15 1HP

Call 020 3355 7142 or email newham@voiceability.org.

Complaints that cannot be dealt with under this policy

The following complaints will not be dealt with under this Policy as stated in the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009):

- a complaint made by any NHS organisation or private or independent provider or responsible body
- a complaint made by an employee about any matter relating to their employment
- a complaint, the subject matter of which has previously been investigated under these or previous NHS Regulations
- a complaint which is made orally and resolved to the complainant's satisfaction no later than the next working day
- a complaint arising out of an NHS body's 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) or Section 24 (compensation for loss of office) of the Superannuation Act 1972 or to the administration of those schemes.

Timescales for complaints

Making a complaint within twelve months

Your complaint should be made as soon as possible. Formal complaints should normally be received within twelve months of the date the event concerned or within twelve months of the complainant becoming aware that concerns need to be raised. The CCG may waive the limit if there are good reasons why the complainant could not complain earlier.

Routine responses within 25 Working Days

The CCG expects complaints to be responded to in accordance with timescales in the flow chart below. The Director of Partnerships and Governance is responsible for ensuring the organisation is able to keep to these deadlines which are based on key performance indicators set by the CCG.

The 25 working day deadline starts on the day of receipt of a complaint letter/email/phone call. If the consent of the patient is required, the count will begin on the day the consent was received.

The CCG expects complaints to be responded to in accordance with the following timeframes:-	
Day 1	Complaint received in writing by CCG staff and sent to CCG complaints team.
Day 1	CCG complaints team to forward complaint to NEL CSU Patient Experience Team (PET) and Director of Partnerships and Governance.
Day 2	PET to prepare an investigation report template and forward to Director of Partnerships and Governance.
Day 2-3	Director of Partnerships and Governance to identify and inform PET of responsible director and investigating officer responsible for the complaint.
Day 3	PET to forward complaint and investigation report to responsible director and investigating officer confirming response timescales.
Day 3	PET will send formal acknowledgement of receipt of the complaint to the complainant.
Day 3-15	Investigating officer undertakes investigation, returning completed investigation report (including actions to be taken and lessons learnt) to PET within 10 working days.
Day 15-18	PET to draft complaint response letter and send to responsible director and investigating officer.
Day 19-20	Responsible director to approve/amend complaint response letter within three working days of receipt and return to PET.
Day 21	PET to undertake a final quality check and forward to Director of Partnerships and Governance for sign off.
Day 22	Director of Partnerships and Governance to sign off complaint response letter and return to PET.
Day 23	PET to undertake a final quality check and forward to CCG Managing Director for review and signing copying in complaints team.
Day 24	Managing Director to 'sign' final version of complaint response letter and return CCG complaints team.
Day 25	CCG to send final, signed complaint response letter to complainant copying in the NEL CSU PET.

Deviation from a 25 working day response

Where it is not possible to achieve the above timeframes, the complainant will be notified and kept up to date accordingly. This list is not exhaustive but in more complex cases, it may not be possible to achieve resolution within 25 working days. For example:

- where multiple providers are involved
- where the complainant has made a follow up request
- where staff are absent and need to be interviewed
- where the CCG has declared a serious incident or cases where unforeseen events have caused delay.

Stages of the complaints process

As a result of [the 2009 legislation](#), the NHS complaints process has been simplified to two stages:

- Stage 1. Local resolution at CCG level
- Stage 2. The Parliamentary and Health Service Ombudsman.

Stage 1: Local resolution

When patients, residents, carers, children and young people make a complaint, they will usually expect feedback on actions taken and lessons learned. In order to enable complainants to be satisfied with the response to a complaint, it is advantageous to clarify what outcome they are looking for at the start of the investigation process.

This will usually be the role of the Patient Experience Team (PET). Although, not exhaustive, the following is a summary of potential remedies:

- an apology – any patient who has had the misfortune to suffer through an error of whatever nature should receive a full explanation and a genuine apology. The CCG encourages staff to adopt this approach and to clearly express what we are sorry for
- an explanation of what happened and why
- assurance that the same will not happen to others
- a face to face conciliation/mediation meeting attended by staff involved
- a second or independent review of care provided to the patient

If after the CCG has expended all possible remedies at the first stage and the complainant remains dissatisfied, or if either party believes local resolution cannot take the complaint any further, the complaint may go to Stage 2.

Stage 2: The Ombudsman

The Ombudsman undertakes an independent investigations into complaints where it is believed the NHS has not acted properly, fairly or has provided a poor service. The role of the CCG is to ensure that it has acted properly and fairly, and provides a high quality complaints service. When it is established that a complaint has gone to the Ombudsman and no further action may be taken by the CCG, the complaints process is closed.

Circumstances where the complaints process is suspended

The complaints process is suspended if the complainant decides:

- to seek legal redress or go to the police
- to apply for judicial review
- the complaint is a Freedom of Information or Subject Access Request.

Complaints are suspended until these processes are concluded and the complaint is referred back to the PET. If investigated a serious incident it will be investigated in line with the guidance

Joint Working between Health and Social Care

Since 2009, statutory sector organisations have been obliged to provide a single point of access to complainants. This includes complaints which involve both health and social care.

In such cases, the CCG will liaise with local authority providers or commissioners to determine a lead responsible for a complaint. The CCG will then either provide an investigation report template and terms of reference or agree to coordinate a response to the complaint, including consent. If the CCG

is coordinating a response, the CCG will set a deadline for receipt of completed investigations while liaising with the complainant providing details of the actions being taken to resolve the complaint.

Consent will be requested from complainants for each provider or commissioner involved.

There may be circumstances in which information disclosure is in the best interests of the patient, or the protection, safety or wellbeing of a child or vulnerable adult. In these circumstances, a complaint will be escalated as necessary in line with NHS England Safeguarding policies and procedures. Any allegations of fraud or financial misconduct should be referred to The NHS Counter Fraud Authority. Full details of the methods for reporting are on their website: <https://cfa.nhs.uk/>.

Roles and responsibilities

[The Local Authority Social Services and National Health Service Complaints](#) (England) Regulations 2009 includes statutory responsibilities for senior management. Appendix 2 outlines these in detail.

Referrals to the Parliamentary and Health Service Ombudsman

If a complainant remains dissatisfied with the handling of the complaint by the CCG, they can ask the [Parliamentary and Health Service Ombudsman](#) (PHSO) to review the case.

Parliamentary and Health Service Ombudsman
Millbank Tower
Millbank
London, SW1P 4QP

Phone: 0345 015 4033

For public health services complaints, contact the [Local Government Ombudsman](#).

Communication and training

The CCG will provide training opportunities to support referral, investigation and the overall handling of complaints.

Monitoring and reporting

The CCG will demonstrate how feedback is used to learn and improve. The CCG annual report will detail:

- numbers of complaints received
- numbers of complaints received considered to be based on solid evidence or good reasons (complaints upheld)
- issues and key themes that the complaints have raised
- lessons learnt
- actions taken, or being taken, to improve services as a result of the complaints made
- number of cases which NHS England has been advised are being considered or referred to the parliamentary and Health Service Ombudsman
- include reporting on praise and other feedback and how that information has been shared.

Learning from complaints

Routine reporting and trend analysis

Complaints should make a difference to how the NHS works and when something goes wrong; the very least patients have a right to expect is that we will do our best to make sure something similar does not happen again in the future, because the service has learned and understands where, how and when things went wrong the last time.

It is the role of the Director of Partnerships and Governance in partnership with the Patient Experience Team to make this happen. We will do this by monitoring trends in complaints reporting and preparing and submitting regular reports to governing body. Reports will be presented at the Board who will review learning from complaints and determine trends as well as developing routes for dissemination of this learning across Primary Care Networks and the local health economy.

Reports will specify the number of complaints received, identify subject trends, summarise handling, outcomes, performance to targets and identify any cases dealt with by the Parliamentary and Health Service Ombudsman.

The CCG is responsible for monitoring action plans arising from investigations in commissioned organisations. The Director of Partnership of Governance will follow up the implementation of action plans keeping a database of agreed actions where this is appropriate for later follow up based on agreed monitoring and completion dates The CCG will implement a process of internal audit to assure itself that this monitoring is taking place to the required standard.

Communication with the public

The Patient Experience Team will work closely with the Director of Partnerships and Governance to agree how best to disseminate information about improvements and learning from complaints to assure the public that we are learning from mistakes. This kind of information can be disseminated using anonymised case studies, details of specific improvements or describe learning which has been incorporated into policy. For example “you said, we did”.

Risk analysis

A CCG risk rating matrix will be applied to all complaints and will support learning and improvement by inclusion in trend analysis and day to day reporting for the management of the service. The Patient Experience Team will use the corporate risk grading matrix working closely with the SI process.

Safeguarding

Safeguarding is a key element of complaints management and review. It may be necessary to identify if any of the following elements are evident in the information/complaint:

- safeguarding concerns to the person, to include their ability to manage with daily living
- safeguarding concerns regarding parenting capacity
- safeguarding concerns regarding the adequacy of care/support being provided to the person
- safeguarding concerns regarding the behaviour of a professional to a patient or carer
- safeguarding concern regarding the behaviour of the person/complainant to professional staff.
- safeguarding concern regarding attempts to seek patient identifiable information and location

If you are unsure, staff can seek advice from the designated safeguarding professional in the CCG.

All complaints staff have safeguarding training in line with the requirements of their role. This is to enable them to identify any key safeguarding concerns when dealing with a complaint

Non-routine reporting

Board members, including the clinical lead may request ad-hoc reports based on issues which have come to their attention. The Director of Partnerships and Governance will be responsible for reporting data back to the governing body as required.

Requests for information may be made by a number of bodies, for scrutiny, governance or trend analysis, these may include:

- Local Authority Overview and Scrutiny Panels or
- Healthwatch

For the purposes of trend analysis and service improvement all such requests will need to be approved by the Director of Partnerships and Governance.

Audit

There are a number of different forms of audit which may be expected from a variety of different audiences, this means that data systems must be capable of delivering the expected returns, for example:

- The Department of Health monitor CCG performance through the annual Korner (KO41) returns submitted by the CCG ;
- The governing body will monitor and evaluate CCG's performance through the annual complaints report prepared and submitted by the Director of Partnerships and Performance.

The Patient Experience Team will prepare and submit weekly and quarterly reports to the Director of Partnerships and Governance which will feed into data for audit. There will be periodic audits of the complaints process. This will be done either by internal audit or by governance.

Patient feedback on complaints handling

The Patient Experience Team will carry out surveys on complainants' experience of using the complaints process by sending complainant an evaluation sheet accompanying their final letter. Any other surveys which take place will focus on improving the efficiency, pace and accessibility of the complaints process, including all communication whether written or verbal.

Information on ethnicity and language preferences will be included for equality monitoring purposes and to enable early identification of access problems and data will inform service development and reports to stakeholders.

Appendix 1: Guidance for dealing with persistent and or unreasonable complaints

Purpose of the guidance

To assist the CCG to identify when a person is persistent or unreasonable and setting out the actions to be taken.

Introduction

This section of the guidance covers all contacts, enquiries and complainants. It is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint within the Newham CCG Complaints Policy.

Persistent and or unreasonable complaints

There is no definition of a persistent or unreasonable complainant. For the purposes of this policy, the term applies to members of the public, patients, residents, carers, children and young people who, because of the frequency or nature of their contact with the CCG, hinder the CCGs' consideration of their or other people's complaints, or require a disproportionate level of resource to handle their complaints¹.

This category may be applied where a complainant has become abusive, has called with a frequency which is unreasonable or inhibits the normal functioning of the complaints service or where all possible avenues for resolution at a local level have been exhausted and the complainant refuses to accept this outcome despite correspondence clarifying the position of the CCG.

It is important to differentiate between persistent complainants and unreasonable complaints. Persistent complainants may submit multiple or repeat complaints through a reasonable belief that their original complaint has not been adequately addressed. Persistent contact may be as a result of individuals having genuine issues and it is therefore important to ensure that this process is fair and the complainant's interests have been taken into consideration.

Unreasonable complaints may stem from a complaint or grievance which is being pursued in a way that is without basis and is intended to cause worry, upset, annoyance or embarrassment. It is essential to remember that this definition applies to the complaint itself, not the complainant or their contact with the CCG.

Use of this categorisation for a complainant should be infrequent and take place only after approval has been sought from the Director of Partnerships and Governance.

Complainants can become frustrated when the outcome of a complaint is not what they had hoped for. This can sometimes lead to further, possibly unreasonable, complaints in the hope that this approach will assist in getting the original complaint re-visited.

The CCG recognises that persistent or persistent complaints may mask an underlying systemic or health problem, such as a mental distress or other vulnerability. In all cases, whether someone is categorised as a persistent complainant or otherwise, complainants and their concerns will be treated with dignity and respect, and the complaints team will do all they can to support the complainant to achieve resolution of the problems they experience.

¹ This definition is broadly in line with the descriptions used in Local Government Ombudsman (LGO) guidance, which has been adopted by a range of public sector organisations.

There is no single model that will be appropriate for every circumstance. Ultimately, all complaints must be considered and complainants' needs identified and responded to on an individual basis.

Identifying a persistent and or unreasonable complainant

Persistent or unreasonable complainants are defined by their behaviour. The behaviour must be defined over a reasonable period of time. Complainants (and/or anyone acting on their behalf) may be deemed to be persistent or unreasonable where the complainant:

- Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
- Seek to prolong contact by changing the substance of a complaint or continually raising new issues and questions whilst the complaint is being addressed.
- Deny receipt of an adequate response despite evidence of correspondence specifically answering their questions.
- Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what a 'trivial' matter is can be subjective and careful judgement must be used in applying this criteria).

Discretion must be used in determining the precise number of 'excessive contacts' applicable under this section using judgement with the CCG placing unreasonable demands on staff. A contact may be in person or by telephone, letter, e-mail or fax.

- Are known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.
- Display unreasonable demands or expectations and fail 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).
- Repeated refusal to attend local resolution/conciliation meetings to explore their concerns.
- Do not accept the findings of an independent investigation and review of their case.
- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual.
- Have, in the course of addressing a registered query or complaint, had an excessive number of contacts. This also includes:
 - telephoning repeatedly with no clear issues other than the original complaint.
 - turning up at CCG reception points without notice and demanding to be seen
 - bypassing the CCG complaints team
 - sending correspondence by e-mail or letter directly to named individuals in the CCG
- Consume a disproportionate amount of time and resources.

Actions for managing persistent or unreasonable complainant

Where a complainant's contact with regards to their complaint has been identified as persistent or unreasonable, the decision to declare them as such is made the Director of Partnerships and Governance.

Where there is an on-going investigation the Director of Partnerships and Governance will write to the complainant setting parameters for a code of behaviour and the lines of communication. If these terms are broken, consideration will then be given to implementing either:

- their complaint is being investigated and a response will be prepared and issued as soon as possible within the timescales agreed.
- that repeated calls regarding the complaint in question are not acceptable and will be terminated.

Where the investigation is complete the Managing Director should write a letter informing the complainant that:

- The Managing Director has responded fully to the points raised, and
- Has tried to resolve the complaint, and
- There is nothing more that can be added, therefore, the correspondence is now at an end.

The CCG may also wish to state that future letters will be acknowledged but may not be responded to.

Managing contact with persistent or unreasonable complainants

We recognise that there is a need to manage contact with a small minority of complainants whose actions or behavior is considered to have an undue or excessive impact on staff welfare or resources. While you may need to manage contact with individuals making unreasonable complaints, or who are persistent in pursuing their complaints, access to the complaints system should remain open. Contact with complainants should not be blocked but it can be sensitively handled. It is important that access is not compromised but is managed appropriately.

If you feel it is necessary to manage contact with a complainant, you should be clear that this relates only to the handling of their complaints. They should not be prevented from contacting the CCG in relation to non-complaint issues, or be left unsure about this due to unclear or incomplete contact agreements.

In exceptional circumstances, consideration should be given to implementing a discrete communications policy which manages complainant contact through limited channels. This could be limiting the frequency of calls, or introducing a process which allows the complainant to send correspondence to fixed schedules, such as weekly or monthly. However, the decision to bring in any communication strategy must be justified and explained to the complainant in writing. A strategy could include:

- restricting complainant contact to emails or post only, using a specific email/postal address (this can assist with complainants who make unreasonable telephone/voicemail contact and helps ensure there is an audit trail of contact)
- not giving out direct dial numbers for individual staff in your department or accepting one call on a specific day each week
- if a complaint has been finalised and dealt with and unreasonable contact continues, explain that subsequent correspondence relating to that complaint will be read and filed but not responded to unless there is something new to consider.
- appointing a single point of contact within the CSU Complaints Team or the CCG.

Be very clear about boundaries – only deal with matters which fall within the remit of your organisation.

Keep good auditable records so that others know what has been done previously with a complaint and so they can identify if it is unreasonable, persistent or a variation on a previously made complaint.

When setting boundaries for persistent complainants, you could consider:

- Meeting the complainant in person to get to the heart of their concerns and explain what the complaints system can offer.

- Keeping a log of all complaints made so you can review histories and outcomes easily.

Introducing a contact strategy, document it and ensure the complainant is aware of the content.

In extreme cases the CCG should reserve the right to take legal action against the complainant.

All appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation.

If the declared complainant raises any new issues then they should be dealt with in the usual way.

Urgent or extreme cases of persistent or unreasonable behaviour

In urgent or extreme cases of persistent or unreasonable behaviour, the CCG will adopt safeguarding policy and procedures. The Director of Partnerships and Governance will discuss the case with the appropriate Director to develop an action plan that may include the use of emergency services in some circumstances. In these circumstances the CCG will carry out a review of the case at the first opportunity after the event. Cases that may fall under this category are where complainants:

- have threatened or used actual physical violence towards staff or their families or associates at any time – this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication.
- have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this.) Staff should document all incidents of harassment in line with the zero tolerance procedures, completing an incident form.

Mental health issues, learning difficulties, disabilities and vulnerabilities

It is important to recognise that in some, but not all, cases involving persistent contact or unreasonable complaints there may be an underlying reason for the complainant's behaviour. For instance, the person may have a mental health issue, learning difficulty or disability that makes the complaints system more difficult for them to navigate. Complainants may have specific vulnerabilities within the context of what they have experienced, but they are not vulnerable as such.

While we do not expect staff to tolerate abusive behavior, we should be mindful of how different illnesses, disabilities or experiences could leave complainants feeling vulnerable, can affect people and occasionally their behaviour.

Do not make assumptions about whether a person has a specific condition. You should look for opportunities to sensitively explore whether a different approach may be required. Consider the needs, specific characteristics and particular vulnerabilities of the complainant, and if necessary seek advice from staff with specialist knowledge or skills which can inform the approach that you use.

If a person's behaviour is challenging, it should not automatically be dismissed as simply persistent or deliberately challenging. Consider the context of them coming into contact with the CCG complaints system and is there anything you could change in the way you engage with the complainant to mitigate their behaviour while dealing with their complaint effectively. You may also need to consider referring them to other agencies if you are concerned about their welfare or a child in their care and after discussion with the complainant, signposting them to support services available.

It may be appropriate to use some of the techniques outlined in Appendix 3 of this policy to manage contact, but you should first consider whether there are any additional steps you can take to support the complainant during the complaints process.

In contrast, unreasonable complaints may stem from a complaint or grievance that is being pursued in a way which is without basis and is intended to cause worry, upset, annoyance or embarrassment. It is essential to remember that this definition applies to the complaint itself, not the complainant or their contact with the CCG.

Record keeping

The CCG should keep an up to date and accurate record of all contact with persistent and/or unreasonable contact with the complaints to support action taken. Consideration should be given as to whether the organisation should take further action, such as taking legal action or using the risk management or health and safety procedures to follow up such an event in respect of the impact upon staff.

Record of contact

Date of Contact	Method (phone, letter)	Time spent	New or repeat issue

Appendix 2: Roles and responsibilities

Party	Key responsibilities
Managing Director	<ul style="list-style-type: none"> • Have ultimate accountability for the quality of care within the organisation and is responsible for responding in writing to complaints. • Arrange for a copy of the signed response to be sent to all relevant parties
CCG Complaints Team	<ul style="list-style-type: none"> • On receipt of a written complaint ensure that a copy has been provided to the NEL Patient Experience Team and the Director of Partnerships and Governance. • Send the final letter to complainant.
Director of Partnerships and Governance	<ul style="list-style-type: none"> • Identify a responsible director and an investigating officer who is suitably independent of the events leading to the complaint. This could be a head of service. • Ensure that any members of staff referred to in the complaint are informed. • Ensure that the investigation is completed and the investigation report/draft response sent to the complaints department within the established time limits. • Ensure that the response addresses all the concerns raised. • Attend meetings with the complainant, where direct involvement will help resolution of the complaint. • Ensure an action plan is drawn up (where appropriate) as a result of the complaint and lessons learnt are noted. • Be responsible for the implementation of the action plan. • Provide a progress report on the action plan when requested. • Take action on any recommendations arising from an Ombudsman's report. • Support, and ensure staff against whom the complaint is made feel supported during and after the investigation. • Maintain a record of all action plans and changes in practice resulting from complaints and lessons learnt.
Investigating Officer	<ul style="list-style-type: none"> • Investigate the circumstances of the complaint within the set timescale. • Retain copies of staff statements, relevant extracts of medical records and any other relevant documentation in the complaints file. • Attend meetings with the complainant, where direct involvement will help resolution of the complaint. • Ensure that should there be a delay in completing the investigation, the Director of Partnerships and Governance is notified of the reason for the delay and contact the complainant to ask for an extension of the investigation period.

	<ul style="list-style-type: none"> • Prepare an investigation report and draft letter of response, integrating responses from other services where appropriate. • Carry out a risk assessment of the situation and draw up an action plan. This can be done with the responsible Director or Service Manager.
NEL Patient Experience Team.	<ul style="list-style-type: none"> • Maintain a database of formal complaints. • Obtain consent to disclose information if complainant is not the patient. • Distribute complaint letter/details to appropriate staff. • Maintain contact with responsible director and/or investigating officer to ensure good progress of complaint and on-going support/advice is available • Ensure extended investigating periods are negotiated where appropriate. • Attend meetings where direct involvement will assist resolution. • Organise and/or provide alternative dispute resolution where appropriate • Edit the response that is submitted along with the investigation report • Support services with carrying out investigations should the need arise • Send the final response letter to the Director of Partnership and Governance for approval. • Send final letter to Managing Director for signature. • Provide all relevant information to the Health Service Ombudsman on request as part of the investigation process.
CCG Legal Manager	<ul style="list-style-type: none"> • Provide advice on issues which may indicate admission of liability or any other legal issue. • Liaise with the National Health Service Litigation Authority (NHSLA) as required.
Clinical Advisors	<ul style="list-style-type: none"> • Provide advice on the clinical content of complaints and support risk grading based on these assessments • Support the acquisition of independent medical opinion about complaints if necessary • Attend meetings where clinical expertise is required or will offer reassurance to the complainant.
All staff and members of Newham CCG	<ul style="list-style-type: none"> • All CCG members and staff must understand how to refer complaints. • In addition all staff involved in complaint management must put the • Patient at the centre of the process and ensure that bureaucracy does not get in the way of effective complaints handling.

Appendix 3: Staff welfare

It is accepted that a small minority of complainants may take out their frustrations on CCG staff answering calls or responding to enquiries. This could be in the form of abusive or threatening words and behaviour.

Abusive communications can increase stress and anxiety levels within CCG and complaints staff. You should therefore take reasonable measures to minimise such pressures such as the following:

- The provision of training in handling difficult and abusive callers.
- Ensuring that there is a clear line of escalation procedures.
- Mechanisms to document and record details of difficult and persistent callers.
- Taking proactive action against abusive callers.

The safety of complaints staff

The majority of contact with complainants is by telephone, email or letter. However, there may be either planned or unscheduled meetings face to face with complainants and appropriate measures need to be in place to support staff in the engagement. The [NHS England Safeguarding policy](#) gives guidance and support for staff and managers.

While the complainant may wish to discuss a confidential matter it is essential that, based on the knowledge of the complainant, the complaints staff make a considered decision about where they speak to the complainant. In these circumstances complaints staff should not meet the complainant alone and if possible should be accompanied by a colleague with clinical experience.

If the decision is taken that the complainant does not pose a threat to staff safety, complaints staff should again not meet with the complainant alone. Good practice would suggest that the complaints staff advise other colleagues of where they are meeting with the complainant and to request that they check on them at regular points. A documented record of the discussion which takes place should be made by one of the staff in attendance.

Within the complaints process there is scope for a planned local resolution meeting. Complaints staff should never attend such meetings on their own and should be supported by a colleague with appropriate experience according to the nature of the complaint. A neutral and safe venue should be sought for such a meeting. Managers should be aware of the location and duration of the meeting. A colleague should be identified as a key point of contact and the complaints staff undertaking the engagement should make contact with this colleague prior to the start of the meeting and then again upon conclusion. Complaints staff should ideally check the suitability of the any suggested meeting space and an awareness of any security measures at the venue are recommended in advance of the meeting.

Appendix 4: PHSO information letter

Examples of standard Information in letters to complainants

In acknowledgement letters, information about assistance available should be provided:

If you would like free, independent advice and advocacy you can contact the London Borough of Newham Council here Corporate.Complaints@newham.gov.uk or write to them at:

London Borough of Newham
Newham Dockside
1000 Dockside Road
London
E16 2QU

In final letters, information about taking a complaint further including contacting the Parliamentary and Health Service Ombudsman is routinely provided:

Important Information about your Complaint Response

I hope that you have found our response clear and helpful. Your complaint is important to us and will be used by us to monitor and improve NHS services.

This letter is part of the formal NHS Complaint Procedure. If you have any questions regarding this response, or you would like to discuss anything in this response further, please contact Name, Job Title, and phone number.

Your care should in no way be compromised by raising these issues with us. The CCG has a duty to ensure that service users are treated with dignity and respect, and do not receive less favourable treatment, as a result of them making a complaint. The CCG will take appropriate action, in cases where there is evidence that this has occurred. We are reliant on feedback from our users and would ask that you inform us if you feel that this has been the case. Your concerns will always be discussed confidentially to agree what actions can be taken to address this.

If you are unhappy with the outcome of this complaint, you are entitled to take your complaint to the Health Service Ombudsman (please see enclosed). The Health Service Ombudsman is an independent body established to promote improvements in healthcare. Should you decide to approach the Ombudsman, you will need to do so within twelve months from the date of this letter. It may be useful to mention that The Ombudsman would normally only consider a complaint if local resolution has been exhausted. I have enclosed a leaflet that you may find helpful. You can contact the Ombudsman at:

The Parliamentary and Health Service Ombudsman Millbank Tower, Millbank, London SW1P 4QP
Tel: 0345 015 4033

Fax: 0300 061 4000

Email: phso.enquiries@ombudsman.org.uk

Website: www.ombudsman.org.uk



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