

# NHS Waltham Forest Clinical Commissioning Group Complaints Policy

Author(s):	David Pearce, Head of Governance Deirdre Malone, Deputy Director of Integrated Governance
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Amendments to previous version	Amendments made by: Kerry Naylor, Head of Patient Experience North East London Commissioning Support Unit (NELCSU) Susan Beecham, Project Director, Clinical Quality, NELCSU Anne Walker, Deputy Director of Quality and Clinical Governance Isabelle Davies-Tutt, Quality and Patient Experience Officer
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**Document History**

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## 1 Introduction

- 1.1 NHS Waltham Forest Clinical Commissioning Group (WF CCG) was statutorily established on April 2013 as a result of the Health and Social Care Act 2012.
- 1.2 This document sets out ways in which WF CCG will encourage feedback and respond to comments, concerns and complaints in respect of the services it provides or commissions to ensure that the organisation works towards the vision of putting patients at the centre of everything that we do by using their experience to shape care pathways, improve service delivery and ensure value for money.
- 1.3 The approach to complaints is based upon the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling 2009:
  - Getting it right.
  - Being customer focused.
  - Being open and accountable.
  - Acting fairly and proportionately.
  - Putting things right.
  - Seeking continuous improvement.
- 1.4 This policy also takes into account the recommendations of the Francis Report, including:
  - Openness, transparency and candour.
  - The importance of data narrative as well as numbers.
  - Complaints amounting to serious incidents should trigger an investigation.
- 1.5 The above recommendations and principles are supported by the Duty of Candour which ensures that providers of the NHS Health Services are open and honest with service users when things go wrong with care and treatment, and that they provide them with reasonable support, truthful information and a written apology.

## 2 Policy Framework

- 2.1 WF CCG is committed to providing patients, families, carers and members of the public with the opportunity to raise concerns or to complain regarding any services it provides or commissions and using the information received to improve services.
- 2.2 This policy is consistent with:
  - Local Authority Social Services and National Health Services Complaints (England) Regulations 2009
  - The Principles of Good Complaint Handling (Parliamentary and Health Service Ombudsman) 2009
  - Listening, Improving, Responding – a Guide to Better Patient Care (Department of Health 2009)
  - NHS Constitution (Department of Health 2009)
  - Guide to good handling of complaints for CCGs (NHS England 2013)
  - NHS Outcomes Framework: Domain 4 – Ensuring that people have a positive experience of care

- Review of the NHS Hospital Complaints System – Putting Patients Back in the Picture (Department of Health, 2013) (The Clwyd Report).
  - Being Open – communicating patient safety incidents with patients and their carers (NPSA, 2009).
  - The Francis Report – Guide to the Good Handling of Complaints for CCG, (May 2013.)
- 2.3 WF CCG is committed to having effective procedures in place to handle concerns and complaints brought to the attention of staff. All feedback will be treated seriously. Concerns will be listened to and assistance and advice will be provided on the process which the organisation will follow. All complaints will be properly investigated in an unbiased, open and transparent manner. Complainants will receive a timely response with the outcome of the investigation, together with any actions taken in light of the complaint.
- 2.4 WF CCG will ensure that the complaints process is appropriately publicised to ensure that people are aware how to make a complaint, should they wish to do so.

### 3 Aims of the policy

- 3.1 This policy aims to provide:
- Ease of access for complainants by empowering all staff to receive and, where appropriate, respond to complaints
  - A rapid, open, fair, conciliatory approach to complaints which meets the needs of the complainant whilst being fair to staff
  - A 'one-stop shop' approach to complaints that relate to more than one organisation, with unified handling of complaints across health and social care boundaries where possible
  - A means of identifying and managing complainants who are persistent/habitual
  - A high profile for good complaints handling – and responding within agreed timescales
  - A means of providing information to senior managers and the CCG's Quality Committee so that learning can take place, policies can be changed, services can be improved and complainants can be reassured that their complaint has made a difference
  - To provide a mechanism by which improvements to patient experience of care (NHS Outcomes Framework Domain 4) can be made.
- 3.2 A flow chart setting out how complaints; comments; compliments; concerns; and requests for information will be handled by WF CCG, can be found within section 16 of this document.

### 4 Scope of the policy

- 4.1 This policy covers all complaints received by WF CCG relating to a policy, service, or care or funding it provides.
- 4.2 The NHS Constitution was updated in 2013 to incorporate the requirements for NHS organisations under the Duty of Candour.

- 4.3 The Duty of Candour refers to the open discussion of incidents that resulted in unintended or unexpected harm to one or more people due to a system failure or human error and must include an appropriate apology and information regarding the incident.

## 5 Definitions used in this policy

- 5.1 The NHS Complaints Regulations (2009) make it clear that a complaint can be made relating to any matter reasonably connected with the exercise of the functions of an NHS body or the exercise of social services functions by a Local Authority. This deliberately allows for complaints about a very wide range of issues relating either to the provision of services or the commissioning or policy decisions of an NHS organisation.
- 5.2 The complaint must relate to someone who receives or has received services from the responsible body or who is affected, or likely to be affected, by the action, omission or decision of the responsible body which is the subject of the complaint.
- 5.3 The NHS Executive has suggested that one definition of a complaint is '*An expression of dissatisfaction that requires a response*'. This is a wide definition and it is not intended that every minor concern should warrant a full-scale complaints investigation. The spirit of the complaints procedure is that front line staff are empowered to resolve minor comments and problems immediately and informally or to offer the assistance of the complaints team. WF CCG will therefore seek to distinguish between requests for assistance in resolving a perceived problem and an actual complaint.
- 5.4 Any person who is dissatisfied with the preliminary response to a matter, which has been dealt with outside of the complaints process, will be advised of their right to pursue the matter through the complaints procedure and offered support through independent advocacy.
- 5.5 Whenever there is a specific statement of intent on the part of the caller/correspondent that they wish their concerns to be dealt with as a complaint, they will be treated as such.
- 5.6 Member of Parliament (MP) letters on behalf of residents which relate to dissatisfaction with NHS services should be handled as a complaint and forwarded to the complaints team and a response will be sent within 20 working days. Accordingly, copies of MP letters will be sent to the communication team.
- 5.7 There will be some matters which may naturally 'fall' within the complaints remit; these are issues of a serious nature which require a clear process for handling and investigation.

## 6 Exceptions

- 6.1 Exceptions to the complaints process i.e. matters which are not a complaint (as outlined in 'The Local Authority Social Services & National Health Services Complaints Regulations 2009):

- Complaints or concerns raised verbally which are resolved to the satisfaction of the person who has raised the issue on the same day or the next working day after the complaint/concern was made
- Complaints which have been previously investigated
- Staff grievances (staff members should use whistle blowing policies or other processes to raise concerns about services)
- Contractual issues between services and commissioners and complaints by health organisations or local authorities against other health organisations or local authorities
- Any issue which will prejudice legal or any other formal proceedings (such as disciplinary or safeguarding concerns)
- Complaints about Freedom of Information Requests and Access to Information Requests (for complaints about Freedom of Information Requests see the Freedom of Information Procedural document)
- Complaints which are being or have been investigated by a Local Commissioner under the Local Government Act 1974, or the Health Service Commissioner under the 1993 Act
- Where disciplinary action is being taken against a member of staff, and progression of the complaint may prejudice the disciplinary process, in such cases the complaint will be closed and the complainant informed that the matter is now being investigated under Human Resources processes rather than the complaints process

6.2 Should there be any doubt about whether a complaint will prejudice any other formal proceedings then the person in receipt of the complaint should at once pass the relevant information to the appropriate senior personnel. This senior staff member will then make a decision with regard to when to initiate such action by taking appropriate professional advice. This reference to any of the above may be made at any point during any stage of the Complaints Procedure, this should not delay any investigation of unrelated issues raised within the complaint.

6.3 However, all feedback on issues mentioned above may provide opportunities for organisational learning and service improvement and will be captured through the reporting process, where relevant.

## 7 Receipt of complaints

- 7.1 Complaints may be received verbally over the telephone or during a face-to-face meeting, in writing, or email. WF CCG does not require complaints to be made in writing but if a complaint is made orally it must be ensured a written record is made and the complainant is provided with a copy of the written record.
- 7.2 If the complainant requires additional support in making their complaint, for example the use of interpreters, then this will be arranged accordingly.

## 8 Timescales for making a complaint

- 8.1 A complaint must be made within 12 months of the subject of complaint or within 12 months of the subject of the complaint coming to light. If it is still possible to investigate the facts, discretion should be used to extend the time limit in extenuating circumstances. An example of this may be where a complainant has been too unwell or unaware of the issues of complaint (e.g. something has been written in the records which the person is only just aware of). Any complaints received

should be directed to the complaints team for advice and management, who will make the decision as to whether 'out of time' complaints should be accepted and investigated.

## 9 Who this policy applies to

- 9.1 This policy applies to all members of staff working for WF CCG. It also applies to all staff working for the North and East London Commissioning Support Unit, voluntary or contractual workers on behalf of WF CCG.

## 10 Consent requirements

- 10.1 A complaint can be made by any person who has received or is receiving NHS treatment or services, or any person who has been affected by an action or decision of the CCG.
- 10.2 A complaint can also be made by a representative acting on another person's behalf, if that person:
- Has requested the representative to act on their behalf
  - Is a child
  - Is unable to make the complaint themselves because of physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005, which extends to those aged 16 years and older
  - Has died
- 10.3 Where a patient is able to give informed consent, the written consent of the patient must be obtained in order for the complaint to be pursued.
- 10.4 In the case of a child (under 16), a parent or guardian may make the complaint. However in some cases it may be appropriate to obtain consent from a child if that child is considered to be capable of understanding the situation and can give informed consent. The decision as to whether he/she is capable will need to be assessed on an individual basis
- 10.5 Children who received NHS treatment have the right to make a complaint in their own right and have the right to use the NHS complaints process. If the patient is a minor and unable to give consent the complaint should be discussed with the CCG's Caldicott Guardian.
- 10.6 If the patient has died then the person making the complaint must have had sufficient interest in the person's welfare to make the complaint (in legal terms this is usually defined as someone having a legal right to have a claim in the deceased estate).
- 10.7 If there are concerns about whether the patient has capacity to consent (i.e. if the patient is too ill or otherwise incapacitated) this matter should be discussed with the organisation's Caldicott Guardian and guidance taken from the Mental Capacity Act 2000. If the patient has given lasting power of attorney for their welfare to another person, then that person has the same rights as the patient.
- 10.8 If the service believes that the person making the complaint does not have sufficient interest in the person's welfare, or is not suitable to act as a representative, then the person will be notified in writing stating the reasons for this decision. An example of the above could be where the case relates to Protection of a Vulnerable Adult.

- 10.9 If a Member of Parliament makes a complaint on behalf of a constituent, it will be considered that the MP has obtained consent prior to contacting Waltham Forest CCG (In line with requirements of the Data Protection Act 1998 processing of Sensitive Personal Data – Elective Representatives Order 2002). If explicit consent is not provided the complaints team will request this as a matter of good practice.
- 10.10 There may be circumstances where patient consent is not required to pass on information, for example:
- When not revealing such information would be breaking the law.
  - Where there is a risk of harm to an individual or themselves.
  - Information is requested by H.M. Coroner, a court or a tribunal.
  - There are reasonable grounds to suspect abuse of a child or vulnerable adult.
- 10.11 The Caldicott Guardian will be consulted in the handling of these issues.

## 11 Safeguarding children and protecting vulnerable adults

- 11.1 If a complaint is received which raises child protection issues or concerns the protection of vulnerable adults, the responsibility for highlighting this through safeguarding processes lies with the person who has received the concern (link to website with safeguarding policies <http://www.walthamforestccg.nhs.uk/about/publications.htm> ).

If there is any doubt about how an issue should be handled then the person should contact WFCCG safeguarding/Caldicott lead and speak to their manager. If there is any immediate risk of harm then advice should be sought urgently. The safety of the child and vulnerable adult must always be paramount. Allegations made against professionals working with children should be discussed with the Designated Nurse for safeguarding children and Looked after children and the Local Authority Designated Officer (LADO)

<https://directory.walthamforest.gov.uk/kb5/walthamforest/directory/advice.page?id=oK2DeqFXzG0>.

- 11.2 It must be noted that complaints relating to safeguarding processes e.g. the passing of information from NHS to Social Care, or information which may be shared in a case conference, may form the subject of the complaint. However in responding the safety of children and others (e.g. where domestic abuse may be a concern) is paramount and complaints can be refused to be responded to if concerns of safety are raised.
- 11.3 Waltham Forest CCG will support children if they wish to submit a complaint. Children will be able to get support in the writing of their complaint through the Healthwatch Waltham Forest Advocacy Service. Complaints information will be available in an easy read format.

## 12 Joint complaints with other organisations

- 12.1 There is a duty within the complaints regulations for co-operation between NHS and Social Care bodies, wherever possible the person making the complaint should receive a joint response. However if no consent for the sharing of information is forthcoming then the organisations are required to respond independently.

## 13 Complaints about other services

- 13.1 Any complaints received about primary care services e.g. GP Practice, Dental, pharmacy or opticians should be referred to NHS England for complaint handling.
- 13.2 Any complaints relating to a local hospital or mental healthcare organisation should be referred to WF CCG complaints team with the appropriate explicit or implied consent who will then log and forward the complaint to the relevant organisation with the patients consent.
- 13.3 Please note that no complaint should be forwarded to another organisation without consent of the person making the complaint and/or a patient if it was made by someone other than the patient.
- 13.4 The commissioners of the service reserve the right to investigate complaints received by them about provider services commissioned on behalf of patients.

## 14 Roles and responsibilities

- 14.1 In order to fulfil its responsibilities the following personnel are responsible to ensure WF CCG meet its objectives:
- 14.2 **CCG Managing Director (MD)**
- Has overall responsibility for complaints handling issues, as stated in Section 4 of the Local Authority Social Services and NHS Complaints (England) Regulations 2009.
- 14.3 **CCG Director of Nursing, Quality and Governance**
- Is the Executive lead for Complaints with responsibility for reviewing the complaint and ensuring that the CCG response is accurate, fair and comprehensive before MD sign off.
- 14.4 **CCG Deputy Nurse Director of Quality and Clinical Governance**
- Is the complaints lead for WF CCG:
    - ensures that all complaints are directed to the complaints team
    - maintains a tracker to ensure that complaints are logged and have been assigned to an investigating officer by the complaints team
    - ensures that the responses are received at WF CCG at least 2 days prior to the deadline in order to allow sufficient time for review by the CCG Executive Lead before they are approved and signed off by the MD
  - Is responsible for ensuring that complaints information is reported through to the appropriate WF CCG committees
  - Reviews and agree response letters prior to MD sign off. The MD relies on directors, senior managers and the WF CCG complaints team to ensure investigation reports and responses are accurate, timely, fair and comprehensive.
  - Ensures that relevant clinical and specialist advice is sought where there are immediate or significant concerns regarding quality of care.
- 14.5 **Waltham Forest CCG Complaints Manager:**
- Are responsible for the operational management of the complaints procedure and will maintain an up-to-date database of all complaints
  - Maintain a record of all action plans and changes in practice resulting from complaints and obtaining progress reports on actions at regular intervals.

- Provide information to the Parliamentary and Health Services Ombudsman and relevant NHS regulatory bodies, ensuring actions arising from investigations are delivered and reported to the relevant committee.
- Provide the relevant committee with regular reports about the number and type of complaints made about WF CCG or any other matters reasonably connected with the exercise of their functions, as set out in the service level agreement.
- Co-ordinate any complaints relating to WF CCG and, where appropriate, co-ordinate joint complaints where there is a commissioning element within the complaint, in doing so providing a single integrated complaint response. In such cases the WF CCG complaints team will liaise with other complaints manager/s and agree who will take the lead in co-ordinating investigations and sending out the final response.
- Decide when a complaint requires a response from another organisation providing or commissioning NHS care or services within Waltham Forest. In such cases the WF CCG complaints team will advise the complainant where their complaint should go and send their complaint to the right organisation with their agreement.

#### 14.6 **WF CCG managers (Investigating Officers):**

- Are responsible for any immediate response to a concern relating to their area of responsibility which they receive directly. If the concern cannot be resolved in two working days, they will inform a member of the WF CCG complaints team and, where relevant, help identify an investigating officer who is independent of the events leading to the complaint.
- WF CCG managers will ensure that any member of staff who is the subject of a complaint relating to their area of responsibility, and any subsequent investigation, is informed and offered appropriate, timely support including, where appropriate, referral to Occupational Health Services if appropriate.
- WF CCG managers will, where appropriate, act as Investigating Officer (IO) and liaise with the WF CCG complaints team and, with their agreement, ensure that the investigation is completed within the agreed timescale and sent to the WF CCG complaints team for record keeping. Managers are responsible for writing draft complaint responses and ensuring these are in plain English and address all the concerns raised. They are also responsible for attending meetings with the complainant, when requested, and for any action plans drawn up as a result of the complaint.
- WF CCG managers are responsible for implementation of any action plan arising from a complaint relating to their area of responsibility and for providing a progress report on the action plan when requested.
- WF CCG managers are responsible for delivering and reporting on any recommendations arising from an Ombudsman's report relating to their area of responsibility and reporting progress to the WF CCG complaints team.
- WF CCG staff who are appointed to the role of an investigating officer are required to investigate the subject of the complaint and provide a fair, accurate, comprehensive report of their investigation in plain English within the agreed timescale.

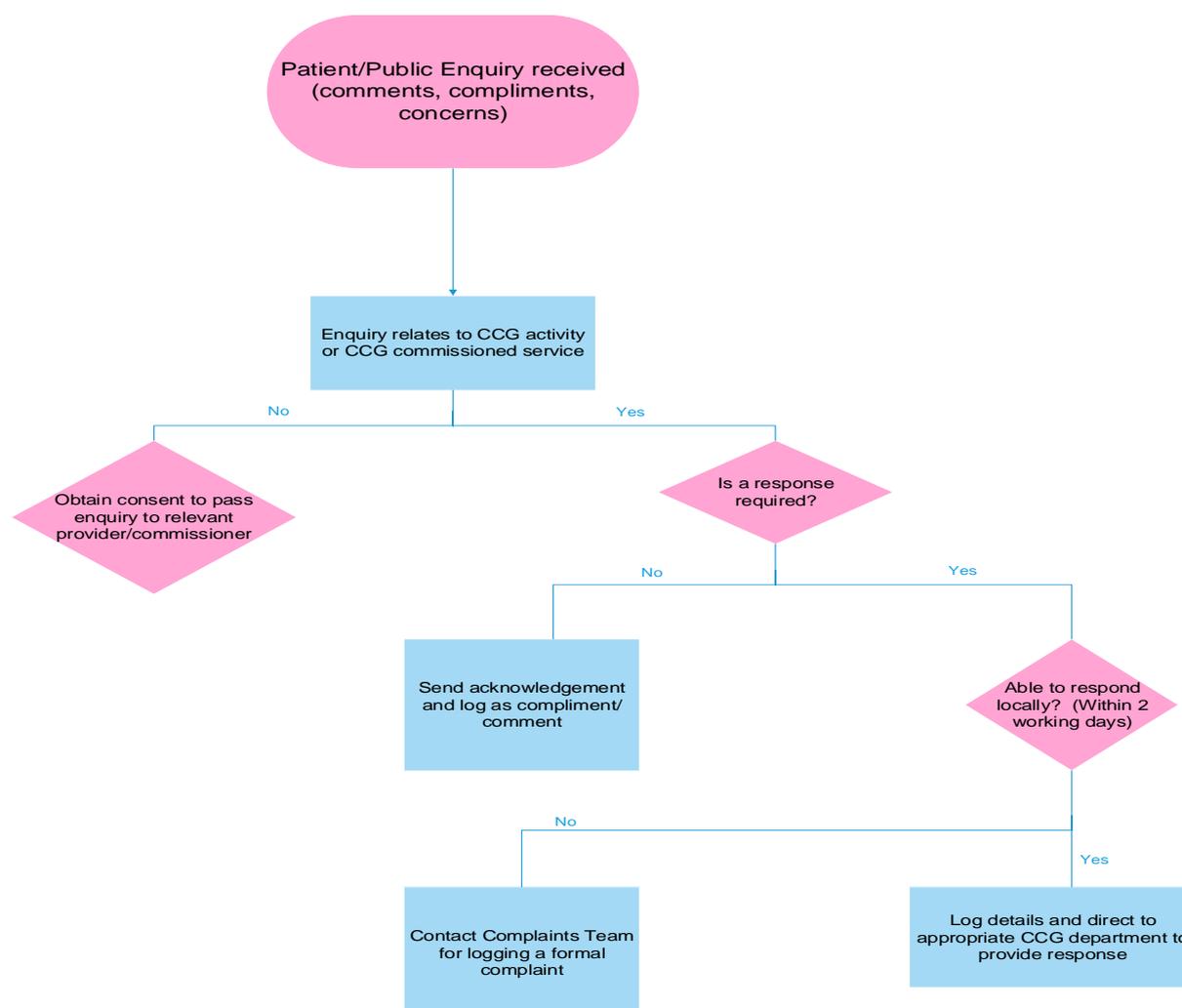
#### 14.7 **All WF CCG staff:**

- Are responsible for knowing how to contact the WF CCG complaints team and for responding to expressions of dissatisfaction about a policy, service or commissioning decision by WF CCG.

## 15 WF CCG complaints procedure

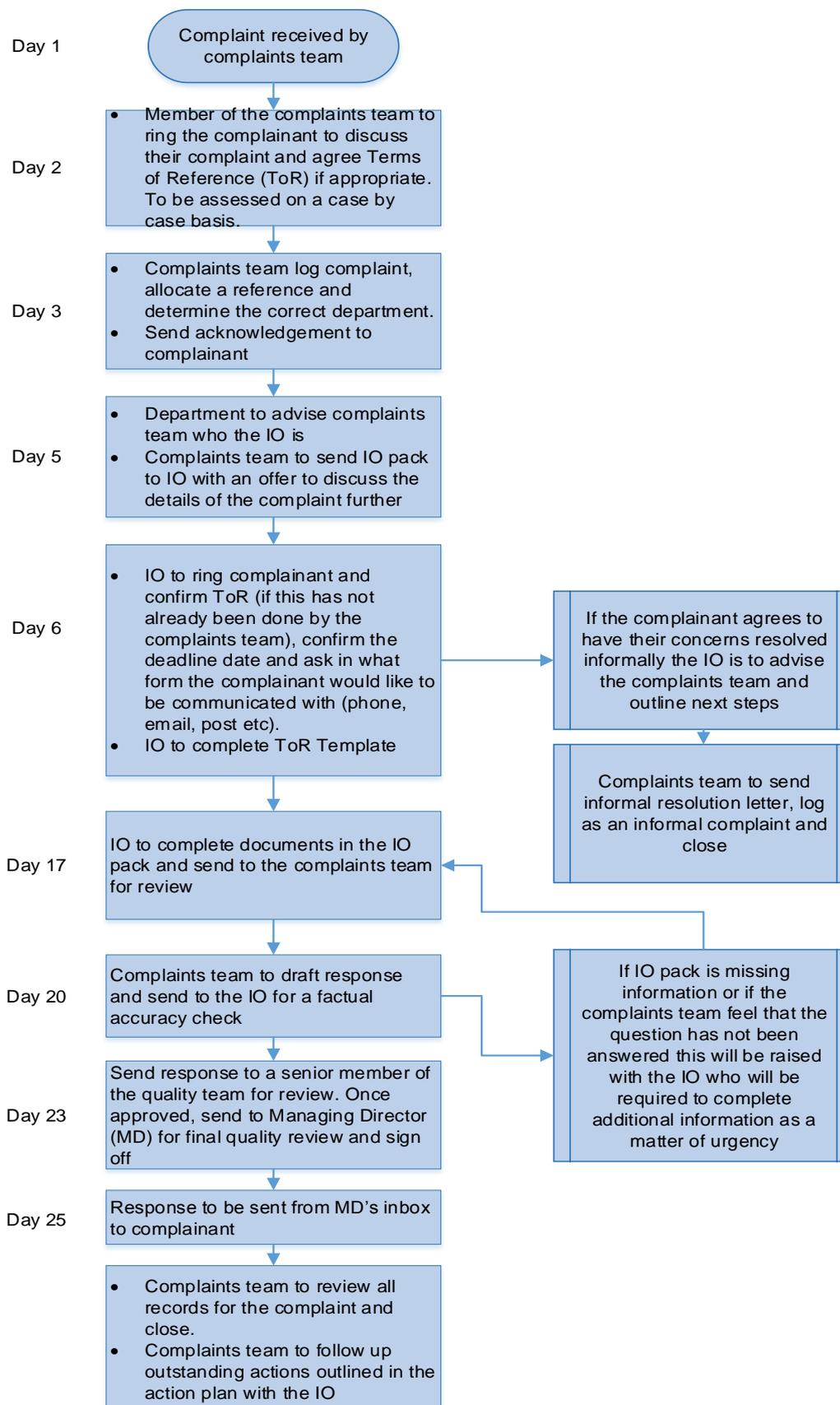
- 15.1 It is recognised that a number of people using the word 'complaint' do not wish to make a formal complaint, but they do require a swift and effective resolution of their issues. If it is unclear whether the issue is a complaint or not the person who has raised the issue should be asked.
- 15.2 It is the responsibility of all staff who receive a concern to attempt to resolve it at the point of contact. In most cases, it is still essential that consent is obtained from the patient for the purposes of sharing personal information with a third party.
- 15.3 Where the enquirer accepts the response as being satisfactory and appropriate, and where that response is communicated within the next working day, there will be no requirement for further action. If the enquirer is not satisfied with the response, they have the right to make a complaint.
- 15.4 It is important that all concerns resolved informally are reported to WFCCG and are recorded, to ensure that actions have been implemented and learning has taken place.

### 16.7 Comments, Compliments, and Concerns interaction with the Complaints process



The WF CCG compliments log can be found here <N:\WalthamForestCCG\CommunicationsResource\19.Compliments>

## 16.8 Management of complaint



- 16.9 All complaints received by Waltham Forest CCG complaints team will be risk assessed and escalated where appropriated.
- 16.10 Occasionally complaints give rise for concern about the immediate welfare or safety of the complainant or another person connected to the complainant. Contacts of this nature will be immediately prioritised for same day action, the Director of Nursing, Quality and Governance or the Deputy Nurse Director of Quality and Clinical Governance will be involved in the planning and handling of the case.
- 16.11 If staff are concerned about a caller, they will speak to a senior manager in the CCG who will consider informing relevant professionals either so that the matter is recorded for the future or in order to obtain immediate help for the patient. In particular, it may be appropriate to inform the caller's GP practice. If possible, the patient's agreement to this course of action should be obtained. However there may be cases where the patient is not willing to authorise any contact but staff assess that the situation is so serious that they do need to contact a third party. Before contacting anyone outside the Quality teams it must be remembered that breaking the patient's confidentiality in this way is only justified when there is perceived to be a danger to the patient or someone else. In these cases, staff **must** consult the Caldicott Guardian for the CCG who is the Director of Nursing, Quality and Governance. Any action taken without the patient's express permission must be considered very carefully and be in proportion to the assessed risk to the caller. All such cases should be recorded with full details of all contacts and action taken so that there is a clear audit trail and reasoning for the action taken.
- 16.12 If the complaint is suspected of being a Serious Incident (SI) the CCGs Deputy Nurse Director of Quality and Clinical Governance will be immediately informed to confirm categorisation and to take forward.
- 16.13 On completion of an SI report or investigation which is required to answer a complaint CCG Director of Nursing, Quality and Governance (or nominated deputy) will liaise on the process for feedback to the family. A formal complaint response will also be prepared to ensure that the original complaint is closed.
- 16.14 All complaints will be formally acknowledged within three working days of its receipt by the CCG complaints team.**
- 16.15 A written copy of any verbal complaint will be sent to the complainant with an acknowledgement.
- 16.16 Details of Health Complaints Advocacy will be provided to ensure complainants are aware of the support available to them in making their complaint. Staff should advise complainants, at the earliest appropriate opportunity, of the support offered by the Complaints Advocacy Service in all the processes of the NHS Complaints Procedure.
- 16.17 Once the appropriate CCG senior manager has approved a complaint response, it will be sent to the Deputy Nurse Director of Quality and Clinical Governance who will approve or advise changes and send to the WF CCG complaints team to make any amendments and re-issue accordingly. Once approved, the final letter will be sent to the MD consideration and will be accompanied by:
- Original complaint letter(s)
  - Investigation report
  - Other relevant documentation

- 16.18 The response should be provided within 25 working days from receipt of complaint by CCG complaints team and/or relevant patient consent.
- 16.19 Any complaints which may take longer than this timeframe then an agreed timeframe needs to be identified in conjunction with the complainant. These may be complaints of a serious nature or where a number of organisations are involved in the investigation of a complaint.
- 16.20 If a complaint is not released for MD signature by the CCG senior manager or their nominated deputy within the appropriate timescale, the CCG complaints team will escalate the case to their manager or Director.
- 16.21 Responses will be written in plain English, free of jargon, and wherever possible, include an apology. All responses will contain:
- An explanation as to what took place.
  - What actions have been, or will be, taken to prevent a recurrence of the incident.
  - Information about the Parliamentary and Health Services Ombudsman.
  - Information on Independent Complaints Advocacy Service who can support the complainant in taking forward the complaint.
  - All responses will include the contact details of a named person who will discuss the complaint and the response letter with the complainant, if required.
- 16.22 A meeting can be offered as part of the resolution process. The CCG complaints team can also arrange dispute resolution to aid this process, including the possible use of a Lay Conciliator/Mediator. Interpreting will be offered for any meeting where this would aid communication and complainants will be informed that they are welcome to bring a friend and/or advocate to any meeting if they wish.
- 16.23 Complaints received about other NHS services will be directed to the relevant Trust or provider service complaints manager/s for investigation and response when appropriate consent is obtained.

## 17 The Second Stage – Ombudsman

- 17.1 Complainants, who are dissatisfied with the local response, may in the first instance contact the CCG Complaints Team who will review any further requests for resolution. If the request is reasonable e.g. further questions arising from a response then it is likely further work at a local level would be carried out. This must be proportionate to the complaint. Further action at a local level should be taken in a speedy capacity so not to delay any referral to Ombudsman.
- 17.2 The person making the complaint has the right to request the Health and Parliamentary Services Ombudsman review the complaint. Contact details for Health Service Ombudsman:

Health Service Ombudsman  
Millbank Tower  
Millbank  
London

SW1P 4QP

Tel: 0345 015 4033

Email: [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)

Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

## 18 Complaint Records & Confidentiality

- 18.1 Complaints will be handled in strict confidence at all times. Care will be taken that information is only disclosed to those who have a demonstrable need to have access to it. Information will not be disclosed to patients or complainants unless the person who has provided the information has given written consent to disclosure.
- 18.2 Complaint records should be stored in accordance with the 'Records Management NHS Code of Practice – Part 1 & 2.'

## 19 Complaints and Litigation

- 19.1 The CCG complaints team will refer any relevant claims issues to relevant staff and forewarn the claims process where there is an explicitly stated intention to take legal action.

## 20 Complaints and the Media

- 20.1 Where a complainant indicates they will be contacting the media as a result of their complaint / issue or where the WF CCG complaints team feels there is a potential significant reputational risk relating to the complaint, the communications team will be informed of the complaint/issue within 2 working days.

## 21 Equality and Diversity

- 21.1 WF CCG is committed to ensuring that it treats all patients and staff fairly, equitably and reasonably and that it does not discriminate against individuals or groups on the basis of their ethnic origin, physical or mental abilities, gender, age, religious beliefs or sexual orientation, marriage and civil partnership and pregnancy and maternity.
- 21.2 The CCG will ensure that the Complaints Policy is equally accessible to all communities and will monitor equality data to ensure better compliance and performance. The CCG recognises the needs of its diverse population and therefore will put in place measures to address both the linguistic and the access needs of all groups.
- 21.3 Should there be any concerns relating to the implementation of this policy and its implications then please contact the Director of Nursing, Quality and Governance.

## 22 Persistent/Habitual Complainants

- 22.1 The CCG encourages users to raise concerns and complaints. However on rare occasions a persistent complainant may place undue demands on the service. It is emphasised that this section of the policy should be used as a last resort and after all reasonable measures have been taken to try to resolve complaints using NHS complaints procedures.
- 22.2 Complainants (and/or anyone acting on their behalf) may be deemed to be habitual, persistent or vexatious where contact within the last 12 months shows that they meet **at least** two of the following criteria:
- 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. (Care must be taken not to discard new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints).
  - Are unwilling to accept documented evidence of treatment given as being factual e.g. drug records, GP records, nursing notes.
  - Deny receipt of an adequate response despite evidence of correspondence specifically answering their questions.
  - Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
  - Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of staff and, where appropriate, independent advocacy, to help them specify their concerns, and/or where the concerns identified are not within the remit of WF CCG.
  - Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. However, what is considered 'trivial' is a subjective judgement and great care will be used when applying this criterion, particularly towards people who may have mental health issues.
  - Have, in the course of addressing a registered complaint, had an excessive number of contacts with WF CCG or the WF CCG complaints team placing unreasonable demands on staff. A contact may be in person, by telephone, letter, e-mail or fax. Care will be taken in determining 'excessive contacts' as this is a subjective judgement.
  - 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).
  - 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 will recognise that some complainants may be mentally ill and some will act out of character at times of stress, anxiety or distress and will make reasonable allowances for this.) Staff will document all incidents of harassment in line with the Zero Tolerance Procedures, completing an incident form.
- 22.3 Complainants that meet the definition of habitual, persistent or vexatious, as deemed by the MD, will be sent a formal letter or email setting out the ways in which the complainant can use the

complaints service, behaviour that is and is not acceptable and how to communicate with the complaints team.

- 22.4 The letter will also set out the time period that the complainant will be considered habitual, persistent or vexatious and when the procedure will be reviewed and the complainant will be reassessed.
- 22.5 If the WF CCG complaints team are at all concerned that the complainant will not be able to understand the first or second letters/e-mails a follow up 'phone call will be made by the CCG Deputy Nurse Director of Quality and Clinical Governance or deputy and a meeting will be offered to provide a verbal explanation. In some cases it may be appropriate for other services and organisations to be informed of a complainant's status (e.g. The Ombudsman).

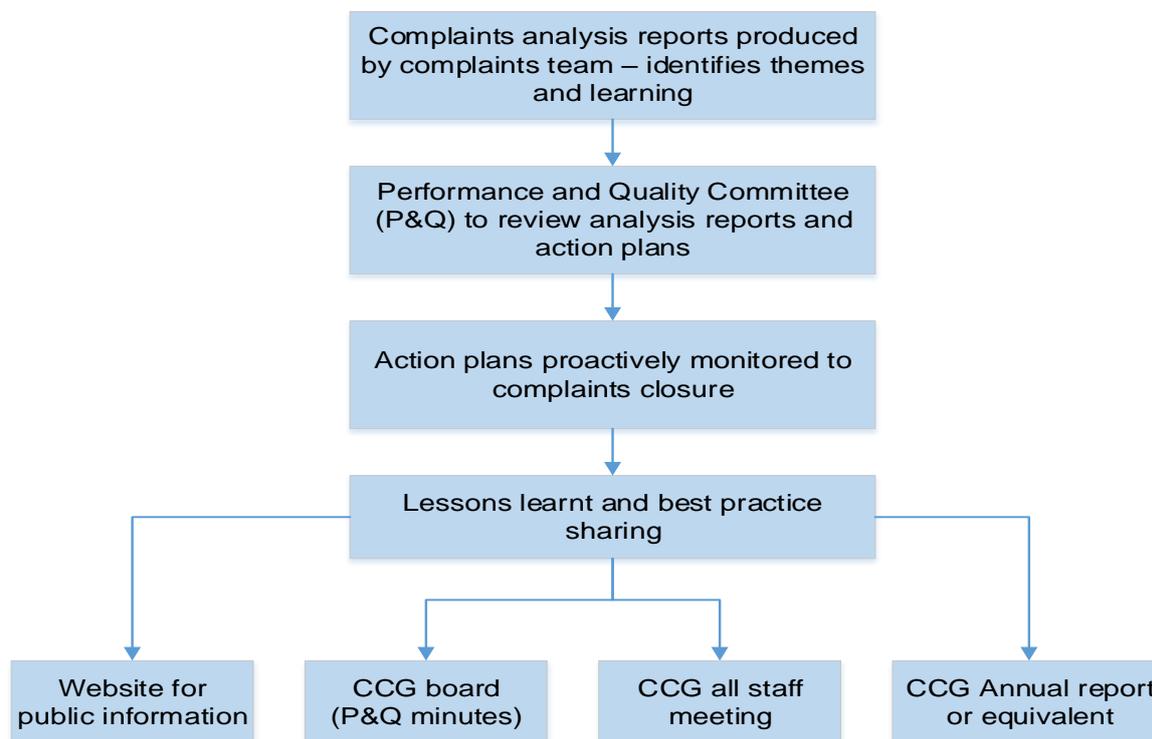
## 23 Learning from complaints

- 23.1 Every opportunity will be taken by WF CCG to learn from complaints and to use the insight and experience of complainants to resolve the complaint or issue and ensure it does not recur.
- 23.2 Where actions have been identified following the investigation of a complaint these will be shared with the service manager for the service concerned. An action plan should be put in place together with a timeframe for implementation.

## 24 Reporting of complaints

- 24.1 Reports will be produced by the CCG complaints team for consideration by the CCG's Quality Committee; monthly and quarterly. As outlined in NHS England's Guide to good handling of complaints for CCGs May 2013 quarterly reports should include the following;
- Number of complaints and an analysis of the subject matter and directorate
  - Any repeats, clusters or increases (with commentary about any patterns or potential concern)
  - Details of actions taken to mitigate risks
  - Analysis of the outcomes of complaints
  - Summary of the learning
  - Details of any action taken as a result of complaints and how the impact of any change in policy/practice will be measured
  - Whether any other provider organisations were involved in the complaint
  - What the information shows about people's experience of complaining and whether action is required as a result
  - Triangulation of soft intelligence and feedback that may suggest areas for improvement
- 24.2 An annual report on complaints will also be produced by the CCG complaints team and received by the Performance and Quality Committee prior to being presented to the Governing Body as well as monthly updates in the monthly patient experience report.

## 25 Complaints analysis and communications flow chart



## 26 Communication with the Public

- 26.1 WF CCG will ensure the dissemination of information about improvements and learning from complaints to assure the public that the NHS learns from mistakes.
- 26.2 This kind of information can be disseminated using anonymised case studies, details of specific improvements or describe learning which has been incorporated into policy to avoid repeating past mistakes for example “you said, we did”.
- 26.3 Information will be provided to Healthwatch and other local voluntary and statutory services as required.
- 26.4 A summary of complaints received and how these were handled will be included in the annual report published by the CCG and regular updates to the Board.
- 26.5 It is the responsibility of the WF CCG’s complaints team lead to update and maintain the CCG website with all relevant complaints details, including how to make a complaint, in order to ensure the public are fully communicated with at all times.

## 27 Monitoring and assurance

- 27.1 WF CCG will monitor the effectiveness of the complaints process and how information is being used to improve services. The complaints system will:

- Disseminate learning from complaints
- Use the complaint procedure as a measure of performance
- Use information to inform decisions, where appropriate

27.2 There will be periodic audits of the complaints process. The timing and management of these will be agreed with WF CCG.

27.3 The policy will be reviewed annually by the CCG.

## Appendices

### Appendix A - Templates

Document	Template
CCG Complaints acknowledgment letter/email	 Acknowledgement draft 1.docx
CCG Complaints telephone statement	 2017 Telephone Contact Sheet.docx
Complaints Standard Operating Procedure	 Complaints Officer Standard Operating

## Appendix B – Equality Impact Assessment

Equality Analysis Form	 equality monitoring form.doc
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