# COMPLAINTS AND CONCERNS HANDLING POLICY AND PROCEDURE

**June 2017**

## CONTROL RECORD

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<th>To inform staff of the Clinical Commissioning Group of the policy and procedure in relation to complaints and concerns.</th>
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<th>Audience</th>
<th>All employees of NHS Nottingham City Clinical Commissioning Group and members of the public</th>
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<td><strong>Paragraph 4.6</strong> inserted to provide more recent guidance: ‘My expectations for raising concerns and complaints’ by the Parliamentary and Health Service Ombudsman, NHS England and Healthwatch England (2014) and in particular the ‘I Statements’</td>
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<td><strong>Paragraph 4.11</strong> inserted to include reference to The NHS Equality Delivery System Toolkit outcome 2.4, ‘People’s complaints about services are handled respectfully and efficiently’.</td>
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<td><strong>Paragraph 13.2</strong> inserted to reflect current practice: ‘All complainants will be asked to provide demographic information about themselves in order to identify whether there may be any indication of discrimination on the basis of the protected characteristics of the complainant, the nature or the cause of the complaint.’</td>
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<td><strong>Paragraph 15.9.2</strong> amended to reflect current data protection regulations, ‘Consent (which must be explicit and informed) will be obtained if required before the complaint is accepted for investigation by the Quality Governance Manager (Patient Experience)’</td>
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<td><strong>Appendix 4</strong> amended to provide current examples of appropriate financial redress</td>
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1. **Introduction**

1.1 NHS Nottingham City Clinical Commissioning Group (the Clinical Commissioning Group) commissions health services for its local resident population. The Clinical Commissioning Group is committed to ensuring stakeholders, patients and the public are involved in shaping the services we commission.

1.2 The Clinical Commissioning Group aims to commission the highest quality health care, treatment and services for the local community. We want to know what people think about these services and welcome both positive and negative feedback from the local community.

1.3 Compliments, comments, concerns and complaints help us to confirm what we are doing right and to identify problem areas. They give us an insight into the standards of care in the services that we commission and they help us to take action to prevent similar problems occurring in the future and to continually improve the quality of services.

1.4 We take all complaints and concerns seriously and work with Providers to try to resolve them whenever possible at local level by front-line staff and their managers.

1.5 The Clinical Commissioning Group aims to ensure that patients, relatives, carers and all other users of local health services have their complaints and concerns dealt with sympathetically, promptly, confidentially, impartially and with courtesy.

2. **Purpose**

The purpose of this policy is to:

2.1 Ensure that patients, relatives, carers and all other users of local health services have their complaints and concerns dealt with in confidence and impartiality, with courtesy in a timely and appropriate manner.

2.2 Inform staff of the Clinical Commissioning Group of the policy and procedure in relation to complaints and concerns and their role within the procedure.

3. **Scope**

3.1 This procedure applies to all patient complaints and concerns relating to the Clinical Commissioning Group’s corporate services and decisions as well as services commissioned and contracted by or on behalf of the Clinical Commissioning Group.
3.2 This policy applies to all employees of the Clinical Commissioning Group and those that act in the capacity of employees.

4. **Legal Framework and standards**

4.1 This policy is written to conform with current regulations and guidance and in particular:

4.2 The Health and Social Care (Community Health and Standards) Act (2003)


4.4 Listening, Responding, Improving, a guide to better customer care (DH 2009)

4.5 The Patients Association Good Practice Standards for NHS Complaints Handling (2013):

- The Complainant has a single point of contact in the organisation and is placed at the centre of the process. The nature of their complaint and the outcome they are seeking is established at the outset.

- The complaint undergoes initial assessment and any necessary immediate action is taken. A lead investigator is identified.

- Investigations are thorough where appropriate obtain independent evidence and opinion and are carried out in accordance with local procedures, national guidance and within legal frameworks,

- The investigator reviews, organises and evaluates the investigative findings.

- The judgement reached by the decision maker is transparent, reasonable and based on the evidence available.

- The complaint documentation is accurate and complete. The investigation is formally recorded, the level of detail appropriate to the nature and seriousness of the complaint.

- Both the complainant and those complained about are responding to adequately

- The investigation of the complaint is complete, impartial and fair.

- The organisation records, analyses and reports complaints information throughout the organisation and to external audiences.

- Learning lessons from complaints occurs throughout the organisation.

- Governance arrangements regarding complaints handling are robust.
• Individuals assigned to play a part in a complaint investigation have the necessary competencies.

4.6 ‘My expectations for raising concerns and complaints’ by the Parliamentary and Health Service Ombudsman, NHS England and Healthwatch England (2014) and in particular the ‘I Statements’:

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

4.7 NHS England’s Guide to Good Handling of Complaints for CCGs (2015) and in particular that:

‘It is important to keep the patient/complainant at the centre of the response and that a single response is co-ordinated’.

4.8 The NHS Constitution and in particular the following rights and pledges:

‘You have the right to have any complaint you make about NHS services acknowledged within three working days and to have it properly investigated.

You have the right to discuss the manner in which the complaint is to be handled, and to know the period within which the investigation is likely to be completed and the response sent.

You have the right to be kept informed of progress and to know the outcome of any investigation into your complaint, including an explanation of the conclusions and confirmation that any action needed in consequence of the complaint has been taken or is proposed to be taken.

You have the right to take your complaint to the independent Parliamentary and Health Service Ombudsman or Local Government Ombudsman, if you are not satisfied with the way your complaint has been dealt with by the NHS.’

4.9 The Clinical Commissioning Group’s Media Handling Policy

4.10 The Equality Act (2010); the Public Sector Equality Duty of the Act requires public bodies to have due regard to the following three aims:

‘To eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.'
To advance equality of opportunity between people who share a relevant protected characteristic and those who don’t.

To foster good relations between people who share a relevant protected characteristic and those who don’t (which involves tackling prejudice and promoting understanding).

Protected characteristics as defined by the Act are Age, Disability, Gender reassignment, Marriage & Civil Partnership, Pregnancy & Maternity, Race, Religion or belief, Sex and Sexual orientation.’

4.11 The NHS Equality Delivery System Toolkit outcome 2.4, ‘People’s complaints about services are handled respectfully and efficiently’.

4.12 The Caldicott Principles

- Justify the purpose(s) of using confidential information
- Only use it when absolutely necessary
- Use the minimum that is required
- Access should be on a strict need-to-know basis
- Everyone must understand his or her responsibilities
- Understand and comply with the law

4.13 The Data Protection Act (1998) Principles; personal data must be:

- Processed fairly and lawfully
- Processed for specific purposes
- Adequate, relevant and not excessive
- Accurate and kept up-to-date
- Not kept for longer than necessary
- Processed in accordance with the rights of data subjects
- Protected by appropriate security (practical and organisational)
- Not transferred outside the European Economic Area without appropriate security

4.15 The Mental Capacity Act (2005) Statutory Principles:

- A person must be assumed to have capacity unless it is established that they lack capacity
• A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success

• A person is not to be treated as unable to make a decision merely because he makes an unwise decision

• An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests

• Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person’s rights and freedom of action.

5. Definitions

5.1 A complaint is an expression of dissatisfaction which requires a response. An expression of dissatisfaction will be considered to be a complaint and handled in compliance with the complaints regulations when a) the complainant expresses their dissatisfaction in terms of a complaint and/or b) the complainant requires action to remedy their dissatisfaction.

5.2 A concern is an expression of interest or anxiety. Concerns include requests for information, advice, support and assistance and suggestions about service provision. Timely solutions to concerns will be sought including liaison with staff, managers and other relevant organisations where appropriate.

6. Principles

6.1. The Clinical Commissioning Group recognises that most patients receiving NHS health care do not wish to complain about their care, therefore when a complaint or concern is received it is significant. All complaints and concerns will be listened to and treated seriously. The Clinical Commissioning Group will make no distinction between complaints and concerns received in person, by telephone or in writing (including by email).

6.2. The Clinical Commissioning Group will have regard to its duty to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when responding to complaints and concerns.

6.3. Providers of NHS services commissioned by the Clinical Commissioning Group will be supported to resolve complaints and concerns themselves unless either the
Complainant chooses to complain to the Clinical Commissioning Group or the Clinical Commissioning Group decides to investigate the complaint.

6.4. The Clinical Commissioning Group will co-operate with other NHS organisations and local authorities in the handling of joint complaints in order to provide a seamless complaints process for the Complainant.

6.5. When patients and members of the public make a complaint to the Clinical Commissioning Group we will:

6.5.1. Treat all Complainants with respect and courtesy.

6.5.2. Invite the Complainant to be involved in how the complaint is handled and how to put things right where appropriate

6.5.3. Consider all aspects of the complaint in a timely manner using the most appropriate method

6.5.4. Provide an honest and open response including a detailed explanation of events covered by the complaint

6.5.5. Where possible, put things right and apologise if something has gone wrong

6.5.6. Consider all available forms of redress for complaints which are upheld including financial redress where appropriate (see the financial redress procedure at appendix 4)

6.5.7. Identify and disseminate learning from the complaint

6.6. When patients and members of the public bring a concern to the Clinical Commissioning Group we will:

6.6.1. Treat all persons bringing a concern with respect and courtesy

6.6.2. Liaise with staff, managers and, where appropriate, other organisations, to negotiate timely solutions.

6.6.3. Provide information in a balanced, impartial way to the person bringing the concern

6.6.4. Identify and disseminate learning from the concern.
6.7. Where a person complains on someone else’s behalf, the Clinical Commissioning Group will obtain the explicit, informed consent of the patient, or where that is not possible, will satisfy itself that the Complainant is acting in the best interests of the patient before accepting the complaint for investigation.

6.8. Where a person brings a concern about another person’s treatment and care then that concern will be addressed in general terms only.

6.9. The Clinical Commissioning Group will ensure that no-one is discriminated against or treated badly and that patient care is not compromised as a result of making a complaint or raising a concern through its commissioning and contracting processes.

6.10. The Clinical Commissioning Group encourages the use of advocacy to support patients and members of the public making complaints. All Complainants will be provided with details of the organisation providing independent advocacy for NHS complaints when their complaint is acknowledged.

6.11. All complaints and concerns information will be confidential to the patient, the Complainant, the person raising the concern, the Clinical Commissioning Group and providers of services commissioned by the Clinical Commissioning Group where appropriate.

7. Roles and Responsibilities

7.1 Chief Officer

The Chief Officer has overall responsibility for complaints handling within the Clinical Commissioning Group and for the sign-off of individual complaints.

7.2 Assistant Director of Quality Governance, Children and Learning Disabilities

The Assistant Director of Quality Governance is authorised by the Chief Officer to ensure compliance with the regulations and that any necessary action is taken in light of the outcome of complaints.

7.3 Quality Governance Manager (Patient Experience)

The Quality Governance Manager (Patient Experience) is responsible for managing the complaints and concerns procedures, and will:

7.3.1 Provide the organisation with the advice and leadership on complaints and concerns issues
7.3.2 Highlight any concerns in regard to organisational compliance with the complaints and concerns policy and procedure

7.3.3 Update the organisation as to changes in complaints and concerns processes

7.3.4 Maintain a database of all complaints and concerns

7.3.5 Develop clear information for patients, the public and staff in regard to the complaints and concerns processes

7.3.6 Risk rate all complaints received (and seek advice in doing so as appropriate)

7.3.7 Ensure consent, confidentiality and Caldicott principles are adhered to

7.3.8 Ensure that the complaints and concerns procedures are compliant with Mental Capacity Act 2005 guidance

7.3.9 Ensure that the complaints and concerns procedures are compliant with the duties under the Equality Act 2010

7.3.10 Report and provide relevant information to NHS England, the Care Quality Commission and the Parliamentary and Health Service Ombudsman

7.3.11 Review and evaluate compliance with the procedures

7.3.12 Be responsible for providing quarterly reports on patient experience including complaints and concerns to the Quality Improvement Committee.

7.3.13 Provide an annual report and any other information requested by the Governing Body of the Clinical Commissioning Group which enables it to understand the issues raised by and the improvements made from complaints and concerns.

7.3.14 Liaise with the Communications Team to highlight any risk of media attention.

7.4 Quality Governance Officer (Patient Experience)

The Quality Governance Officer (Patient Experience) is responsible for the day to day operation of the complaints and concerns procedures and will:

7.4.1 Assist and support patients and members of the public who wish to make a complaint or bring a concern

7.4.2 Agree the complaint details with the Complainant

7.4.3 Seek consent where required

7.4.4 Agree complaints handling with the Complainant
7.4.5 Liaise with Complainants, people bringing concerns, advocates, staff and providers of commissioned services to achieve resolution of complaints and concerns

7.4.6 Arrange meetings, mediation or other complaints handling methods agreed with the Complainant

7.4.7 Investigate complaints and ensure that each complaint is considered fully

7.4.8 Draft complaint responses

7.4.9 Ensure agreed timescales are met

7.4.10 Undertake post-resolution Complainant satisfaction surveys

7.4.11 Support the Patient Experience Lead to provide reports and complaints data

7.4.12 Support the Patient Experience Lead to provide training on complaints and concerns to staff and providers of commissioned services

7.5 **All Employees of the Clinical Commissioning Group**

All employees of the Clinical Commissioning Group should ensure that they respond to a complaint or concern in a positive manner, are able to signpost Complainants and people bringing concerns to the Quality Governance Team and are aware of the complaints and concerns policy

8. **What is not covered by this policy**

8.1 The following are not covered by the NHS complaints procedure:

8.1.1 Complaints that have already been investigated under the 2009 complaints regulations, unless there are significant reasons to do so

8.1.2 Complaints which are under investigation by the Parliamentary and Health Service Ombudsman

8.1.3 Complaints from professionals about other professionals

8.1.4 Staff complaints about employment issues

8.1.5 Complaints about privately funded health care

8.1.6 Allegations of a criminal nature, including allegations of fraud

8.1.7 Complaints which are subject to an ongoing police investigation or legal action, where a complaints investigation could compromise the police investigation or legal action
8.1.8 Complaints about an alleged failure to comply with a request for information under the Freedom of Information Act 2000

8.1.9 Complaints about an alleged failure to comply with a data subject access request under the Data Protection Act 1998

8.2 Where the Clinical Commissioning Group has decided not to investigate a complaint because it falls within one of the categories specified above, the Clinical Commissioning Group will write to the Complainant to explain the decision and give reasons.

8.3 Complaints regarding decisions about continuing care funding will be considered under the NHS Midlands and East NHS Continuing Healthcare Local Dispute Resolution Procedure. Complaints about any other aspects of the continuing care assessment and decision-making process will be considered in accordance with this complaints handling policy.

9. Who can make a complaint?

9.1 A patient or any person affected by or likely to be affected by the action, omission or decision of the Clinical Commissioning Group and providers of services commissioned by the Clinical Commissioning Group.

9.2 Someone acting on behalf of a person specified in paragraph 9.1 with that person’s consent.

9.3 A child (under 18) who is considered competent to make her/his own decisions under the Fraser guidelines.¹

9.4 A parent, carer or guardian on behalf of a child, either with that child’s consent if the child is considered competent to make his/her own decisions under the Fraser guidelines, or without consent where the child is not considered competent.

9.5 A person complaining on behalf of someone who lacks capacity to make their own decisions (within the meaning of the Mental Capacity Act 2005) or on behalf of someone who has died, where the Quality Governance Manager (Patient Experience) considers that the Complainant is acting in the best interests of the patient.

9.6 A person who holds a lasting power of attorney for a person specified under paragraph 9.1, where the power includes health and welfare matters and is registered with the Court of Protection.

¹ “Parental right yields to the child’s right to make his own decisions when he reaches a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision.” Lord Scarman, Gillick case 1985
9.7 If the Quality Governance Manager (Patient Experience) decides not to accept a complaint because the Complainant does not fall within any of categories specified above, the Clinical Commissioning Group will write to the Complainant to explain the decision and give reasons.

10. **Time Limits for Making a Complaint**

10.1 The time limit for making a complaint is 12 months from the date of the incident giving rise to the complaint or the date that the Complainant became aware of the incident giving rise to the complaint.

10.2 Where a complaint is made after the 12 months time limit then the Quality Governance Manager (Patient Experience) may use his/her discretion to accept the complaint if the Complainant had good reason for not complaining earlier and it is possible to investigate the complaint fairly and effectively despite the delay.

11. **Support for Complainants**

11.1 Complainants will be offered independent advocacy support when making a complaint and, where appropriate, specialist advocacy services.

11.2 The Clinical Commissioning Group will support Complainants with information and communications needs to enable them to make a complaint in line with the scope of the NHS Accessible Information Standard 2015.

11.3 The Clinical Commissioning Group will communicate with Complainants in their preferred medium, e.g. email, letter, telephone or face to face wherever possible.

12. **Training and Support for Staff**

12.1 Members of the Quality Governance Team will be available to offer help and advice on dealing with complaints for any member of staff.

12.2 Staff who are subject to a complaint will be supported by their manager who will ensure that he/she is informed of the details of any complaint made against them, given the opportunity to answer the complaint, and kept informed of the progress of the complaint and its outcome.

13. **Reporting and Learning**

13.1 The Clinical Commissioning Group is committed to learning from complaints and patient feedback and where appropriate making service changes. The Clinical Commissioning Group welcomes complaints as opportunities to maximise learning and service development and improvement.
13.2 All complainants will be asked to provide demographic information about themselves in order to identify whether there may be any indication of discrimination on the basis of the protected characteristics of the complainant, the nature or the cause of the complaint.

13.3 Following the investigation of individual complaints an action plan will be drawn up by the Quality Governance Manager (Patient Experience) who will monitor progress in its completion. Where appropriate the Complainant should also be advised of progress in completing the action plan.

13.4 Satisfaction surveys will be sent to Complainants with the response to the complaint and information obtained will be included in the annual report.

13.5 The Clinical Commissioning Group will require quarterly Provider service complaints reports to be submitted to the appropriate quality leads and commissioning managers for information and analysis.

13.6 The Clinical Commissioning Group will require quarterly Provider service complaints reports to be submitted to the relevant committees for information and analysis. These reports will contain both qualitative and quantitative information.

13.7 Quality Reports including Patient Experience data will be provided to the Quality Improvement Committee, these reports will also be provided to NHS England, Healthwatch Nottingham, the Care Quality Commission and other bodies on request. These will be available to the public and patients on the Clinical Commissioning Group’s website following approval.

13.8 An annual report compiling information on complaints and concerns received will be submitted to the Governing Body of the Clinical Commissioning Group, the Care Quality Commission, Healthwatch Nottingham, NHS England and other interested parties and organisations. This will be available to the public and patients on the Clinical Commissioning Group’s website following approval.

14. **Unreasonably Persistent Complainants**

14.1 The Clinical Commissioning Group is committed to treating all complaints equitably and recognises that it is the right of every individual affected by the actions of the Clinical Commissioning Group to pursue a complaint against it and/or the Providers of services commissioned by it.
14.2 However in a minority of cases people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant and unreasonable resource implications for the Clinical Commissioning Group.

14.3 Unreasonably persistent Complainants are those Complainants who, because of the frequency or nature of their contacts with the Clinical Commissioning Group, hinder the consideration of their or other people’s, complaints.

14.4 Where the Quality Governance Manager (Patient Experience) decides that a Complainant is considered to be unreasonably persistent then the Complainant will be informed and asked to behave reasonably.

14.5 Where the Complainant does not behave reasonably then the Quality Governance Manager (Patient Experience) will plan how to deal with the Complainant and send copies of the plan to the Complainant and any professional also in contact with the Complainant.

14.6 The full procedure for unreasonably persistent Complainants is set out in appendix 3.

15. Complaints Procedure (Please see Appendix 1 for Process Flowchart)

15.1 Complaints will be resolved as quickly and efficiently as possible. It is anticipated that many complaints will be resolved within two working days without the need for them to go through a formal complaints process.

15.2 The Complaints procedure has three fundamental elements; these are:

- Listening
- Responding
- Improving

15.3 When a verbal complaint is resolved to the Complainant’s satisfaction by the next working day after the day on which the complaint was made, then it will be recorded as a complaint but will not require investigation or a written response.

15.4 The complaints procedure has two stages:

- Local resolution
- Independent review
15.5 At the local resolution stage, complaints about the Clinical Commissioning Group will be considered by the Quality Governance Team (Patient Experience) with appropriate clinical advice as necessary.

15.6 Where a complaint is received by the Clinical Commissioning Group about a commissioned service, the Quality Governance Team (Patient Experience) will ask the Complainant which NHS organisation they wish to handle the complaint and either pass the complaint to the Provider (with the Complainant’s consent) or consider the complaint at the local resolution stage.

15.7 Where a commissioned service fails to co-operate with or causes significant delay to the Clinical Commissioning Group’s investigation the Quality Governance Manager (Patient Experience) will escalate the matter to the Assistant Director of Quality Governance, Children and Learning Disabilities for appropriate resolution.

15.8 Independent review is carried out by the Parliamentary and Health Service Ombudsman. Once all reasonable steps have been taken to resolve the complaint at the local resolution stage the Quality Governance Team (Patient Experience) will inform the Complainant that local resolution has been completed and advise them of their right to complain to the Parliamentary and Health Service Ombudsman.

15.9 Receiving complaints

15.9.1 Complaints can be received:

- In person
- verbally
- in writing
- by email
- via the Clinical Commissioning Group’s website
- via the Clinical Commissioning Group’s social media pages

15.9.2 Consent (which must be explicit and informed) will be obtained if required before the complaint is accepted for investigation by the Quality Governance Manager (Patient Experience).

15.9.3 Verbal complaints will be recorded and a written copy provided to the Complainant. All complaints will be acknowledged in writing within 3 working days and the Complainant provided with the contact details for the Quality
Governance Team (Patient Experience). At the same time the Complainant will be advised of their right to access the independent advocacy support.

15.9.4 On receiving a complaint, firstly any action required to meet immediate health care needs will be taken.

15.9.5 Complaints will be assessed by the Quality Governance Team (Patient Experience) on the risk to the individual and to the organisation, clinical advice will be obtained where appropriate, and graded high, medium or low. Please see Appendix 2 for Risk Matrix.

15.9.6 The relevant healthcare professional(s) will be notified of any immediate risks identified to the health and safety of the patient or others arising from the complaint without delay.

15.9.7 The relevant Safeguarding Lead(s) will be notified of any potential safeguarding risks identified arising from the complaint without delay.

15.9.8 Complaints will be assessed for the likelihood of media attention through liaison with the Communications Team.

15.8.9 All complaints received will be recorded on the Complaints database.

15.10 The Complaint Plan

15.10.1 Where possible the Complainant should be contacted to discuss the details of their complaint, establish their desired outcomes and agree a complaint plan. The complaint plan will include:

- For commissioned services, which NHS organisation will investigate the complaint
- Where complaints span more than one NHS service, which organisation will take the lead on investigating and responding to the complaint
- The complaints handling process (this could be a meeting, mediation or investigation either by the Quality Governance Team (Patient Experience), another manager or an independent clinician.
- The timescale for providing the Complainant with a response to their complaint
- Who will inform the Complainant of the progress of their complaint
- How the organisation handling the complaint will respond to the Complainant
15.10.2 Where the Complainant does not wish to discuss the complaints handling arrangements the Complaints Team will draw up the complaint plan and inform the Complainant.

15.10.3 Generally complaints will be responded to within 25 working days unless the issues are complex and/or they cover more than one organisation in which case 40 working days or 65 working days will apply, whichever is considered appropriate by the Quality Governance Team (Patient Experience) based on discussions (where possible) with the Complainant. Any extensions to timescales will be discussed with the Complainant up to a maximum of 6 months.

15.11 Local Resolution

15.11.1 Where the Complainant has agreed to a meeting to discuss their complaint the Quality Governance Team (Patient Experience) will arrange the meeting with the Complainant (and their supporter or advocate) and the appropriate manager and/or clinical advisor. The Quality Governance Manager (Patient Experience) will chair the meeting and provide minutes to all attendees.

15.11.2 Where the Complainant has agreed to mediation to resolve their complaint, the Quality Governance Manager (Patient Experience) will appoint an appropriately trained and qualified mediator. The mediator will arrange a mediation meeting with the Complainant (and their supporter or advocate) and the appropriate manager and/or clinical advisor.

15.11.3 Where the Complainant has agreed to an investigation to resolve their complaint, the Quality Governance Manager (Patient Experience) will appoint an appropriately trained and qualified officer to conduct the investigation. Where an investigation by an independent clinician is agreed, the Quality Governance Manager (Patient Experience) will establish terms of reference for the investigation taking into account appropriate clinical advice, assist the investigator with any necessary arrangements and receive and quality assure the investigator’s report.

15.12 Investigating a Complaint

15.12.1 An investigator will be appointed by the Quality Governance Manager (Patient Experience) and will be either a member of the Quality Governance Team (Patient Experience) another manager within the Clinical Commissioning Group or an independent clinician.
15.12.2 The Quality Governance Team (Patient Experience) will provide the investigator with:

- Details of the Complainant
- The complaint plan (including risk rating)
- Any consent obtained
- Terms of Reference (independent clinician only)

15.12.3 The investigator will:

- Contact the person making the complaint if appropriate
- Decide on the level of investigation required in line with the risk grading of the complaint
- Review medical records where appropriate
- Interview staff members concerned and make a record of the interview where appropriate
- Review relevant policies and guidance
- Reflect service learning
- Document actions to be taken as a result of the complaint where appropriate with timescales and a named staff member who will lead on the implementation of the actions
- Provide a completed investigation report to the Quality Governance Manager (Patient Experience)
- Negotiate an extension of timescales with the Complainant if required

15.13 Complaint Response

15.13.1 The outcome of the meeting, mediation or investigation and any actions agreed will be reported to the Complainant in writing, signed by the Chief Officer or in their absence by their deputy. The response will cover all aspects of the complaints, offer appropriate redress and advise the Complainant of their right to make a complaint to the Parliamentary and Health Service Ombudsman.

15.13.2 If the Complainant is not satisfied with the response, then the Quality Governance Manager (Patient Experience) will discuss with the
Complainant what further complaints handling might be beneficial and agree a further complaint plan if appropriate.

15.13.3 If the Quality Governance Manager (Patient Experience) considers that all reasonable steps have been taken to resolve the complaint then the Complainant will be informed that local resolution has been completed and advised to contact the Parliamentary and Health Service Ombudsman.

15.14 Complaints about Commissioned Services

15.14.1 Complainants have the choice to complain about services commissioned by the Clinical Commissioning Group either to the Provider or to the Clinical Commissioning Group.

15.14.2 Where a complaint is received about a commissioned service the Quality Governance Team (Patient Experience) will ask the Complainant which organisation they wish to investigate their complaint. If the Complainant wishes the Provider to investigate, then the complaint details will be recorded and passed to the Provider with the Complainant’s consent, which need not be in writing but must be explicit and informed and will be recorded by the Quality Governance Team (Patient Experience). Otherwise the Clinical Commissioning Group will investigate and respond to the complaint and provide a copy of the response to the Provider.

15.14.3 Where a Provider has investigated a complaint under the complaints regulations, the Clinical Commissioning Group will not reinvestigate unless the Quality Governance Manager (Patient Experience) considers that

- the investigation by the commissioned service Provider does not meet the requirements for complaints handling under the complaints regulations and further investigation is required
- The complaint is graded as high risk and further investigation is required

15.14.4 There may be other circumstances in which the Clinical Commissioning Group will re-investigate complaints under different procedures, for example where the complaint raises issues of performance or safeguarding.

15.15 Joint Complaints with Other Organisations

15.15.1 The Clinical Commissioning Group has a duty to co-operate with other NHS bodies and local authorities in the handling of joint complaints. We also
realise that even where complaints involve a number of services the Complainant wants to be assured that all departments and/or organisations have worked together to ensure that any changes are made in a consistent and sustainable way

15.15.2 The Quality Governance Team (Patient Experience) will co-operate with other NHS bodies and local authorities on joint complaints handling to establish lead agency arrangements and joint complaint responses.

15.15.3 A ‘Protocol for the Joint Handling of Health and Social Care Complaints’ has been agreed with health and social care agencies in Nottingham and Nottinghamshire and is attached as appendix 5.

16. Concerns Procedure

16.1 Concerns can be raised directly by the public, patients, carers, NHS staff and staff from other agencies:

- In person
- verbally
- in writing
- by email
- via the Clinical Commissioning Group’s website
- via the Clinical Commissioning Group’s social media pages

16.2 Support is available for people raising concerns requiring interpreting services and leaflets about the service are available in other languages and formats.

16.3 The Clinical Commissioning Group aims to resolve concerns or problems immediately or if this is not possible to respond to a concern within two working days.

16.4 If the concern raised is complex in nature or involves multiple services and/or organisations it may take longer to resolve; in this instance the person raising the concern will be kept updated on the progress of the enquiry until it is resolved.

16.5 If the enquiry would be better handled by another organisation, the person raising the concern will either be directed to the other organisation or the Quality Governance Team (Patient Experience) will contact the other organisation with the consent of the person raising the concern.
16.6 Any potential performance or safeguarding issues arising from the concern will be referred to the relevant Commissioning Manager, Quality Lead and/or Safeguarding Lead.

16.7 All concerns received will be recorded on the Concerns database.
Appendix 1

Complaints Process Flowchart

**Complaint received**
Complainant or Quality Governance Team (Patient Experience) fills in complaint form
Complaint assessed for any urgent referrals to underperformance and/or safeguarding

Able to resolve within 2 working days?

**YES**
If the person is satisfied with the outcome then this will be recorded as a complaint with no further action needed

**NO**
Is the complaint about a commissioned service?

**YES**
Does the Complainant agree to the complaint being forwarded to the provider?

**NO**
The Clinical Commissioning Group will handle the complaint

**YES**
Quality Governance Team (Patient Experience) acknowledges complaint and sends details of the complaint to the Provider

**NO**
Patient Experience Team agrees a complaint plan with the Complainant

**Quality Governance Team (Patient Experience) will:**
Arrange a meeting, or
Arrange mediation, or
Investigate
Arrange an independent investigation

**Quality Governance Team (Patient Experience) will:**
Quality assure the complaints handling
Draft a written response for the Chief Officer
Look at further options if required
Direct to Ombudsman if required
## Appendix 2

### Risk Matrix

<table>
<thead>
<tr>
<th>LIKELIHOOD</th>
<th>RARE</th>
<th>UNLIKELY</th>
<th>POSSIBLE</th>
<th>LIKELY</th>
<th>ALMOST CERTAIN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rare isolated or ‘one-off’ – slight or vague connection to service provision</td>
<td>Rare – unusual but may have happened before</td>
<td>Happens from time to time – not frequently or regularly</td>
<td>Will probably occur several times a year</td>
<td>Recurring and frequent, predictable</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>IMPACT</th>
<th>INSIGNIFICANT</th>
<th>MINOR</th>
<th>MODERATE</th>
<th>SIGNIFICANT</th>
<th>MAJOR</th>
</tr>
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<tbody>
<tr>
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<td>Low</td>
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</tr>
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</table>
## COMPLAINTS HANDLING

<table>
<thead>
<tr>
<th>RISK LEVEL</th>
<th>ACTION AND TIMESCALE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Low</strong></td>
<td>Simple, non-complex issues</td>
</tr>
<tr>
<td></td>
<td>Low level investigation, mediation or face-to-face meeting within 25 working days</td>
</tr>
<tr>
<td><strong>Moderate</strong></td>
<td>Several issues, may involve more than one provider</td>
</tr>
<tr>
<td></td>
<td>Mediation, face-to-face meeting or more detailed investigation within 40 working days</td>
</tr>
<tr>
<td><strong>High</strong></td>
<td>Complex issues often involving more than one organisation</td>
</tr>
<tr>
<td></td>
<td>In-depth investigation or independent review within 65 working days</td>
</tr>
</tbody>
</table>
Appendix 3

Unreasonably Persistent Complainants Procedure

1. Introduction

1.1 The Clinical Commissioning Group is committed to treating all complaints equitably and recognises that it is the right of every individual who is affected by the actions of the Clinical Commissioning Group to pursue a complaint against it.

1.2 Generally, dealing with a complaint is a straightforward process, but in a minority of cases people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant unreasonable resource implications for the Clinical Commissioning Group. These actions can occur either while their complaint is being investigated, or once the Clinical Commissioning Group has concluded the complaint investigation.

1.3 In such cases the following procedure will apply.

2. Definition

2.1 Unreasonably Persistent Complainants are those Complainants who, because of the frequency or nature of their contacts with the Clinical Commissioning Group, hinder the consideration of their or other people’s, complaints.

2.2 Some of the actions and behaviours of Unreasonably Persistent Complainants include:

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from patient experience staff.
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure’s scope.
- Insisting on the complaint being dealt with in ways which are incompatible with the organisation’s complaints procedure or with good practice.
- Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage.
• Introducing trivial or irrelevant new information which the Complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.

• Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.

• Adopting a 'scattergun' approach: pursuing a complaint or complaints with the Clinical Commissioning Group and at the same time, with a Member of Parliament/Councillor/Care Quality Commission/NHS England/solicitors/the Ombudsman.

• Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous members of staff, writing lengthy complex letters every few days and expecting immediate responses.

• Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations which the Complainant insists make these 'new' complaints which should be put through the full complaints procedure.

• Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.

• Combinations of some or all of these.

3. **Deciding that someone is an Unreasonably Persistent Complainant**

3.1 Before deciding that someone is an Unreasonably Persistent Complainant the Quality Governance Manager (Patient Experience) must be satisfied that:

   • the complaint is being or has been investigated properly;

   • any decision reached on it is the right one;

   • communications with the Complainant have been adequate; and

   • the Complainant is not now providing any significant new information that might affect the Clinical Commissioning Group’s view on the complaint.

3.2 Where the Quality Governance Manager (Patient Experience) is satisfied that someone is an Unreasonably Persistent Complainant, then the Quality Governance Manager (Patient Experience) will notify the Complainant, identify the behaviour that is considered to be unreasonable and ask the Complainant to behave reasonably in
future.

3.3 If the Complainant is unable or unwilling to comply with this request then the Quality Governance Manager (Patient Experience) will develop a plan for all future contacts with the Complainant.

4. Handling Unreasonably Persistent Complainants

4.1 The plan for dealing with Unreasonably Persistent Complainants could include all or some of the following:

- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of telephone calls that will be taken (for example, one call on one specified morning/afternoon of any week).
- Limiting the Complainant to one medium of contact (telephone, letter, email etc) and/or requiring the Complainant to communicate only with one named member of staff.
- Requiring any personal contacts to take place in the presence of a witness.
- Refusing to register and process further complaints about the same matter.
- Where a decision on the complaint has been made, providing the Complainant with acknowledgements only of letters, faxes, or emails, or ultimately informing the Complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer should be identified who will read future correspondence.

4.2 A copy of the plan and the policy on Unreasonably Persistent Complainants will be sent to the Complainant along with details about how to appeal the decision and/or the details of the plan.

4.3 The plan will specify how long it will apply to the Complainant and when it is to be reviewed.

4.4 When Unreasonably Persistent Complainants make complaints about new issues these should be treated on their merits, and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.

5. Review

5.1 The plan will be reviewed every 6 months or earlier if circumstances change.
5.2 The plan will be reviewed by the Assistant Director of Quality Governance, Children and Learning Disabilities.

5.3 The Quality Governance Manager (Patient Experience) will notify the Complainant that the plan has been reviewed and the outcome of the review with reasons for the decision and the date of the next review.

6. **Appeal**

6.1 The Complainant may appeal either the decision or the details of the plan or the review decision in writing or verbally.

6.2 Appeals about the decision and/or the details of the plan will be considered by the Assistant Director of Quality Governance, Children and Learning Disabilities and the Complainant informed in writing of the decision with reasons.

6.3 Appeals about the review decision will be considered by the Director of Contracting Quality and Personalisation and the Complainant informed in writing of the decision with reasons.

7. **Recording**

7.1 All contacts with persons considered to be unreasonably persistent will be recorded on the complaints log.
Appendix 4

Redress Procedure

1. Introduction

1.1 When dealing with complaints the Clinical Commissioning Group’s main purpose is to remedy the situation as soon as possible and wherever possible ensure the individual is satisfied with the response and feels that they have been fairly treated.

1.2 In all cases where a complaint has been upheld, the Clinical Commissioning Group will consider all appropriate forms of redress, whether or not the Complainant has asked for a specific form of redress.

1.3 The redress offered will be proportionate to the service failing and suitable for the complaint and designed where possible to put the Complainant back in the position they would have been had the failings in the service not occurred.

1.4 In most cases an apology or explanation will be sufficient.

1.5 However where no other form of redress is proportionate and suitable the Clinical Commissioning Group will consider an offer or recommendation of financial redress.

1.6 Where the Clinical Commissioning Group is handling a complaint about a commissioned service then the Clinical Commissioning Group will either provide appropriate redress on behalf of the service or, where appropriate, recommend that the service provides redress directly to the Complainant, for instance when financial redress is recommended.

2. Background

2.1 The Parliamentary and Health Service Ombudsman’s ‘Principles for Remedy’ states that all appropriate remedies should be considered for complaints that have been upheld and these include financial remedies.

2.2 The NHS Finance Manual provides guidance for NHS bodies on ‘special payments’, including ex-gratia payments. This guidance enables an NHS body to make such ex-gratia payments, generally where the Complainant has incurred financial loss following the actions or omissions of the relevant NHS body. However, it also makes provision for payments where there has been no financial loss but clarifies that such payments should only be made in exceptional circumstances.

3. Forms of Redress

3.1 When a complaint is received the Complainant will be asked what form of redress they seek.
3.2 There is no set list of form of redress but redress could include:

- Apology
- Explanation
- Acknowledgement that something has gone wrong
- Remedial action; such as changing a decision, revising a procedure, training for staff.

4. Financial Redress

4.1 Financial redress will be offered to the Complainant where

4.1.1 A complaint has been upheld, and

4.1.2 There has been maladministration by the Clinical Commissioning Group or a Provider providing services commissioned by the Clinical Commissioning Group, and

4.1.3 The maladministration has directly caused injustice to the Complainant or their carer, and

4.1.4 No other form of redress is proportionate or suitable.

4.2 Maladministration includes, for example, neglect or unjustified delay in service provision; failure to follow policies; providing inaccurate or misleading advice, bias or unfair discrimination.

4.3 Not all maladministration causes injustice; the Complainant may not have suffered any disadvantage or if the Complainant has been disadvantaged, this may not be as a direct consequence of the Clinical Commissioning Group’s (or a commissioned service’s) failure.

4.4 For financial redress to be considered it must be clear, on balance, that the injustice occurred as a result of the Clinical Commissioning Group's (or a commissioned service's) actions or non-actions.

4.5 Financial redress will be considered in cases where the patient and/or carer has suffered direct or indirect financial loss as a direct result of maladministration by the Clinical Commissioning Group (or a commissioned service).

5. Calculating financial redress

5.1 Where the financial loss is quantifiable the offer of payment will be calculated on the basis of how much the Complainant has lost and/or any additional costs the Complainant has incurred.
5.2 When the loss is not quantifiable, in order to calculate an appropriate amount to offer the following factors will be taken into account:

5.2.1 The effects of the Complainant’s own actions: for example, not attending an appointment.

5.2.2 Quantifiable loss: costs that would not have been necessary but for the Clinical Commissioning Group’s maladministration. For example,

- a patient paying for treatment from elsewhere because of an error on the part of the service provider. This will need to be assessed with care, on the basis that it was reasonable for the Complainant to incur costs and they were as a consequence of the maladministration.

- loss of possessions. In such cases the individual should be reimbursed reasonable replacement value.

5.2.3 Loss of value: for example, damage to possessions.

5.2.4 Lost opportunity: for example, the Complainant may have been deprived of the right to appeal against a funding decision because he or she was not told of that right.

5.2.5 Distress: this will include stress, anxiety, inconvenience, frustration, worry and uncertainty. The amount will need to take account of all the circumstances including the severity of the distress, the length of time involved, the vulnerability of the individual and the number of people affected.

5.2.6 Professional fees: it may sometimes be appropriate to recognise the nature of the Complainant’s difficulty was such that expenditure on professional fees in pursuing the dispute was justified. For example, paying an advocate because one had not been offered by the Clinical Commissioning Group. However, this will need to be assessed with care. The Clinical Commissioning Group will need to be satisfied that it was reasonable for the Complainant to incur these costs, and that it was a consequence of maladministration. It may sometimes be appropriate to reimburse only part of the expenditure, from the point when the professional advice became appropriate.

5.2.7 Time and trouble in pursing the complaint: this should only be paid when the time and trouble in pursing the complaint are more than the minor costs that would routinely be expected. It is not the same as distress caused by the Clinical Commissioning Group’s actions. In assessing whether payment is appropriate, relevant factors to consider could include the passage of time in
resolving the matter; the effort required from the Complainant; the degree of inadequacy of the Clinical Commissioning Group's responses, the vulnerability of the individual and whether there has been any element of wilful action of the Clinical Commissioning Group as opposed to poor administration.

5.3 Where interest is applicable, the Clinical Commissioning Group will apply the rate of interest used by the courts.

6. **Complaints Redress Panel**

6.1 All recommendations for financial redress will be considered by a Complaints Redress Panel in order to ensure consistency and equality in the level of payments made for non-quantifiable loss.

6.2 The Panel will include at least 3 people from the following:

- A representative of the Quality Governance Team
- A Director or their representative
- Quality Lead or Clinical Lead
- An independent member of the Governing Body

6.3 The Panel will take account of factors outlined in section 5 above, any other known cases within the Clinical Commissioning Group or NHS England and any relevant Ombudsman cases.

6.4 The Panel will decide on the amount of financial redress to be offered or recommended in order to resolve the complaint.

7. **Making an offer of financial remedy**

7.1 When an offer of financial redress is made it will include the words 'without prejudice' at the top of the first page. Any offer will be made without prejudice and as a goodwill gesture ‘in full and final settlement’ of the complaint. This means that, if the offer is accepted, the matter is effectively closed. Confirmation of acceptance of the offer should be obtained in writing before payment is made.

7.2 All offers of financial redress will be made on a time limited basis of 3 months and will then expire. This will made explicit in the letter of offer or other format appropriate to the Complainant’s communication needs.
8. **Monitoring and authorisation of payments**

8.1 All financial redress paid will be recorded on the complaint log. All payments will be made using an appropriate cost code for the directorate where the maladministration occurred and authorised by the relevant Director.

8.2 The Patient Experience Lead will be responsible for maintaining the information on the level of financial redress paid and details will be included in the quarterly reports to the Quality Improvement Committee. The record will detail the reason why financial redress has been paid, and how the amount has been assessed.

9. **Commissioned Services**

9.1 Services commissioned by the Clinical Commissioning Group are also governed by the principles of redress in relation to NHS care, and should have a policy in place, or adopt the Clinical Commissioning Group’s policy, on payment of financial redress.

9.2 Where a commissioned service fails to pay financial redress as recommended by the Clinical Commissioning Group then the Commissioner will withhold the amount from any payments due to the service.

10. **Joint liability**

10.1 Where maladministration involves more than one organisation, agreement should be reached as to how the financial redress will be divided. This will take into account the proportionate level of failure by each organisation involved.

11. **Examples of Appropriate Financial Redress**

11.1 The amounts have been based on the following national guidance and precedence:


- Parliamentary and Health Service Ombudsman, Remedy in the NHS – Summaries of Recent Cases. (PHSO website April 2017)

11.2 The following amounts are for guidance only and each case should be considered on a case by case basis.
<table>
<thead>
<tr>
<th>CIRCUMSTANCES</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moderate time and trouble</td>
<td>£50 - £100</td>
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<tr>
<td>Considerable time and trouble</td>
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<tr>
<td>Moderate pain and discomfort</td>
<td>£100 - £500</td>
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<tr>
<td>Considerable pain and discomfort</td>
<td>Up to £2,500</td>
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Appendix 5

A Protocol For The Joint Handling Of Health And Social Care Complaints

PROTOCOL

FOR THE JOINT HANDLING OF HEALTH AND
SOCIAL CARE COMPLAINTS

Revised date: April 2016
Review date: April 2018

Organisations participating in this agreement:-

Nottingham University Hospitals NHS Trust
Sherwood Forest Hospitals NHS Foundation Trust
Nottinghamshire Healthcare NHS Trust
Health Partnerships, Nottinghamshire
Nottingham Citycare Partnership
East Midlands Ambulance Service
Non-Emergency Transport Service (Arriva)
Central Nottinghamshire Clinical Services
Nottingham Emergency Medical Services
Derbyshire Health United (NHS111 Service)
Nottingham NHS Treatment Centre (Circle Health)
BMI The Park Hospital
Nottingham City Council (Social Care)
Nottingham County Council (Social Care)
NHS Nottingham City Clinical Commissioning Group
NHS South Nottinghamshire Clinical Commissioning Groups
NHS Mid-Nottinghamshire Clinical Commissioning Groups
NHS North Nottinghamshire Clinical Commissioning Groups (Bassetlaw)
1.0 INTRODUCTION

1.1 This joint protocol provides guidance to reflect the Local Authority Social Services and National Health Service Complaints Regulations 2009 (April 2009) and Amendment Regulations (July 2009).

1.2 The protocol establishes a framework for the joint handling of complaints that cover both health and social care in order to meet the expectations of the 2009 regulatory framework.

1.3 Dealing with a wide range of health and social care organisations can be confusing for people. Therefore, the agreement aims to address these issues by bringing together the various organisations in Nottingham and Nottinghamshire to provide a unified, responsive and effective service for complainants.

1.4 The complaints regulations place a duty to co-operate upon health and social care agencies regarding the investigation of joint complaints. Key features include having arrangements that are clearly focused on outcomes and that adopt a person-centred approach to complaints handling.

2.0 PURPOSE

2.1 Each case has to be dealt with according to its individual nature and the complainant’s expected outcome (where appropriate). The emphasis is firmly placed on satisfactory results and swift local resolution.

2.2 A significant aspect of joint working is the need for regular and effective communication between complaints professionals and complainants to ensure agreed complaint plans, thorough investigation and a single co-ordinated response.

2.3 In order to achieve different organisations’ requirements it is also necessary to monitor that performance targets are met and that complainants are kept well informed should there be reasons why investigations are delayed.

2.4 This process will also provide a single consistent and agreed contact point for complainants and will enhance partnership working.

3.0 COMPLAINTS MANAGEMENT

3.1 The Complaints Lead in each organisation signing up to this protocol is responsible for ensuring:

- The co-ordination of whatever actions are required.
- Co-operation with other Complaints Leads and agreement as to who will take the lead role in joint complaints.
- That there is a designated person to whom any requests for collaboration can be addressed when they are absent.
3.2 Joint complaints will also be viewed as a mechanism to identify learning points and improve health and social care delivery, leading to:

- Collaborative working between complaints professionals to identify issues and make recommendations
- Co-operation in relation to the need to contact staff within participating agencies (joint investigation).
- Facilitate joint working leading to enhanced outcomes for.

4.0 DECIDING WHICH ORGANISATION SHOULD TAKE THE LEAD

4.1 The Department of Health suggests that the following issues should be taken into account when determining which organisation will take the lead role in a cross-agency complaint:

- Whether the complainant has a clear preference for which organisation takes lead.
- The organization receiving the complaint determines the lead based on factors of risk, sensitivity and the number of issues relating to each organisation.

5.0 PROCESS

5.1 When a complaint is received by one health or social care organisation about another health or social care organisation then verbal consent from the complainant will be sufficient to pass the complaint from the recipient organisation to the other organisation.

5.2 When a complaint is received that raises issues about more than one health or social care organisation, consent will be sought to discuss the investigation with the other relevant organisation(s) if this is not apparent from the outset. Having obtained consent the recipient will contact the relevant complaints manager to agree the lead organisation and co-ordinator of the investigation.

5.3 The lead complaints manager will contact the complainant to discuss their concerns, agree how the complaint will be handled, confirm the issues to be addressed and the anticipated timescale.

5.4 If consent is withheld a single agency approach may need to be adopted and the complainant informed accordingly, as this may restrict the extent of the investigation.

5.5 Clinical and/or additional professional expertise can be drawn upon at any point in the process as necessary.

5.6 Possible options for the joint handling of complaints include:

- Joint arrangements for the investigation followed by an agreed single response. The investigation may be in the form of each organisation undertaking their own investigation and providing their draft response to the lead organisation (or) the lead organisation undertaking the complete investigation.
- Individual consideration by each agency with an agreed single response to
the complainant by the lead organisation.

- In exceptional circumstances it may be agreed that each organisation will respond to the complainant independently.
- Consideration of conciliation/mediation at relevant stages of the process.

5.7 If adapted complaints responses should be agreed by all agencies prior to being issued to the complainant by the lead organisation. Local arrangements may differ in relation to the release of investigation reports alongside complaints responses and this should be negotiated by the relevant complaints staff. The lead organisation will provide a copy of the final response to all other involved organisations.

5.8 Complaints that are more complex may need additional investigation time. Therefore, the lead complaints manager should update the complainant detailing the reasons for any delay, the progress made to date and a revised timescale for issuing the final response.

5.9 Following the complaints investigation, it is each organisation's responsibility to identify and implement any learning from the complaint.

5.10 In circumstances where joint complaints are subject to an independent review (Parliamentary and Health Service Ombudsman/Local Government Ombudsman) the lead organisation will inform the other organisations about the Ombudsman's interest in the complaint and the outcomes of the Ombudsman's assessment (or) investigation will be shared to inform working practices.

6.0 HEALTH AND SOCIAL CARE COMPLAINTS FORUM (NOTTINGHAM & NOTTINGHAMSHIRE)

6.1 Quarterly meetings are held for complaints managers in health and social care to discuss current issues, promote good complaints handling and share learning.
APPENDIX 1

JOINT COMPLAINTS HANDLING FLOWCHART

Complaint received. If not provided at outset consent is sought from service user/patient to discuss joint organisation complaint.

Once consent obtained, receiving agency contacts corresponding complaints professional/s to agree lead organisation and co-ordinator of the complaint. The options for handling within the parameters of the protocol should be taken into account including the negotiation of timescales.

Lead complaints professional contacts complainant to discuss complaint, agree handling and confirm issues to be addressed. Explains implication of joint organisation complaint and who will co-ordinate the response.

If consent withheld a single agency approach may need to be adopted. Complainant informed that this may restrict the extent of investigation.

Clinical or additional professional expertise obtained as necessary.

Single response agreed by both/all agencies prior to being issued. Final signed response shared with all involved agencies.
## RELEVANT LEGISLATION & GUIDANCE

<table>
<thead>
<tr>
<th>Legislation</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>Local Authority Social Services and National Health Service Complaints Regulations 2009 (April 2009) and Amendment Regulations (July 2009)</td>
<td>A major reform in the way health and social care organisations manage complaints resulting in a single complaints system covering all health and social care services in England.</td>
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<tr>
<td>Health and Social Care Act 2008</td>
<td>The Government’s response to the report of the Joint Committee on Human Rights. Contains significant measures to modernise and integrate health and social care.</td>
</tr>
<tr>
<td>Principle for Remedy, The Parliamentary and Health Service Ombudsman (2009)</td>
<td>Provides the PHSO views on the principles that should guide remedy for injustice or hardship as a result of maladministration or poor service.</td>
</tr>
<tr>
<td>The NHS Constitution DoH 2009</td>
<td>All NHS bodies, private and third-sector providers supplying NHS services in England are required by law to take account of the Constitution in their decisions and actions. As well as capturing the purpose, principles and values of the NHS, the Constitution brings together a number of rights, pledges and responsibilities for staff and patients alike.</td>
</tr>
<tr>
<td>Health and Social Care (Standards and Community) Act 2003</td>
<td>Provides a statutory basis for NHS and Adult Social Care complaints.</td>
</tr>
<tr>
<td>Data Protection Act 1998</td>
<td>Governs the protection and use of person identifiable information (personal data). The Act does not apply to personal information relating to the deceased.</td>
</tr>
<tr>
<td>The Human Rights Act 1998</td>
<td>Article 8.1 provides that “everyone has the right to respect for his private and family life, his home and his correspondence”.</td>
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<td></td>
<td>Article 8.2 provides “there shall be no interference by a public authority with the exercise of this right except as in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well being of the country for the prevention of crime and disorder, for the protection of health or morals, or for the protection of the rights and freedoms of others”.</td>
</tr>
<tr>
<td>The General Protocol for Information Sharing Between Health and Social Care</td>
<td>Agencies in Nottingham</td>
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