

Policy and Procedure on Complaints Management

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Lead Director	Director of Organisational Development, Workforce and Governance

POLICY AND PROCEDURE ON COMPLAINTS MANAGEMENT

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NHS ROTHERHAM

COMPLAINTS POLICY AND PROCEDURE

1 Introduction

- 1.1 NHS Rotherham is committed to commissioning and ensuring high quality services, and being responsive to the needs of its population. It does however, recognise that there will be occasions when people will be dissatisfied with the service received and wish to make a complaint. NHS Rotherham places great emphasis on resolving complaints as quickly as possible in an open and transparent manner which is seen as vital to improve services and the patients experience of the NHS.
- 1.2 This policy sets out the process by which concerns, complaints and compliments may be brought to the attention of NHS Rotherham and subsequently investigated and responded to in accordance with recognised good practice and Department of Health guidance. It is based on the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, which came into force in April 2009. NHS Rotherham have established and maintain procedures to ensure compliance with requirements in the NHS Litigation Authority Risk Management Standards for PCTs.
- 1.3 The Patient Advice and Liaison Service (PALS), complements this policy by promoting the proactive resolution of problems as and when they arise, thus reducing the need for patients/carers to use the complaints procedure to obtain a solution.
- 1.4 It is the responsibility of NHS Rotherham to ensure that the patient's immediate safety and health care needs are being met. This may require urgent attention before any matters relating to the complaint are handled.

2 Scope

- 2.1 This policy and its procedures apply to both clinical and non-clinical complaints and relates to complaints about those services commissioned and managed by NHS Rotherham; complaints regarding actions, behaviours or attitude of any person employed by NHS Rotherham; health related complaints that include elements relating to the Local Authority; complaints regarding access to funded care; complaints regarding Commissioning decisions and complaints regarding an NHS body, primary care provider or independent provider. It should be read in conjunction with other associated NHS Rotherham policies, i.e. Incident and Near Miss and Serious Untoward Incident Reporting Policy and Procedure, Consent Policy, Risk Management and Assurance Framework.
- 2.2 The policy does not cover issues relating to NHS Rotherham staff which are handled separately through line management arrangements and Human Resource policies e.g. Grievance Procedure, Whistle Blowing Policy and Disciplinary Procedure.

3 Policy Statement

NHS Rotherham aims to ensure that all complaints are used positively as a learning opportunity and will ensure that the patient or carer is not detrimentally treated as a result of lodging a complaint, whilst being fair and supportive to staff. We will ensure that we will work with the complainant on a customer and person centred, responsive and timely basis, in accordance with our values: Putting People First; Working in Partnership; Continuously Improving Quality of Care; Showing Compassion, Respect and Dignity; Listening/Learning; and Taking Responsibility and Being Accountable, with a view to addressing and resolving the complaint at the earliest possible opportunity.

We will work with all providers of NHS Services to ensure that a similar customer focussed approach is taken to complaint handling.

3.1 Objective and Aims

The main objective of the policy and its procedure is to ensure that complaints are dealt with swiftly, appropriately and as close to the source of the problem as possible; to provide the fullest possible opportunity for investigation and resolution of the complaint; to provide a full explanation to the complainant; to learn from the experience and make changes/improvements as necessary. This will be achieved using the 'Principles of Good Complaint Handling' and 'Principles of Remedy' as laid down by the Parliamentary and Health Service Ombudsman. These are:

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

3.2 The policy aims to adopt the new approach to dealing with complaints in accordance with Department of Health Guidance, 'Listening, Responding, Improving'. The new approach ends the bureaucracy of the old complaints system, encourages a proactive process of early contact with the complainant and robust systems for organisational learning from complaints outcomes.

4 Definition of a Complaint

- 4.1 For the purposes of this policy a complaint is defined as "an expression of dissatisfaction" received from a patient, carer or service user about any aspect of the local health services which require a response, whether it be verbally or in writing.
- 4.2 Such expressions of dissatisfaction may be made in a variety of ways; verbally, in person, by telephone, in writing, including electronically by email or fax.
- 4.3 This wide definition empowers front-line staff to resolve minor comments, grumbles and problems immediately and informally.
- 4.4 The decision as to whether a matter is dealt with informally as a concern or as a formal complaint will depend on whether an immediate response can be given or whether further investigation is required.

5 Responsibilities

- 5.1 The NHS Rotherham Board will oversee the complaints management process to satisfy itself that the required quality of service by all providers and of commissioning activity and decisions is achieved and maintained. This includes the responsibility for approving NHS Rotherham's policy and procedures for the management of complaints.
- 5.2 **The Chief Executive** is ultimately responsible for all complaints received by NHS Rotherham. However, this responsibility is delegated at Board level to the Director of Organisational Development, Workforce and Governance, supported by the **Head of**

Patient Support Services, and Risk Management who will act as the designated '**Complaints Manager**' in accordance with the requirements of the NHS Complaints Procedure. The Chief Executive is responsible for responding in writing to all formal complaints.

5.3 The **Governance, Quality and Risk Committee (GQR)** is accountable to the Board for assurance on complaints management and handling and is chaired by a Non-Executive Director with Executive Directors and PE members as members. This committee is supported by a Serious Untoward Incident and Serious Complaints Committee which reviews serious untoward incidents and serious complaints on a regular basis and ensures appropriate learning is identified and shared. The GQR Committee will monitor the implementation of the policy and procedure, receive and review quarterly complaints reports including details on trends and themes, and review issues arising at the SUI and Complaints Committee, ensuring that appropriate actions are taken and lessons learned and making recommendations to the Board as necessary.

5.4 **The Complaints Manager** will take responsibility for:

- Ensuring effective implementation of complaints procedures.
- The satisfactory management of complaints handling, coordinating the complaints process
- Grading all complaints received and preparing reports for the Governance, Quality and Risk Committee, Board, Strategic Health Authority and the Health Service Ombudsman. Assess the severity of the complaint, whether escalation is required and the need to contact other agencies
- Provision of advice/support to NHS Rotherham staff dealing with complaints.
- Providing information to complainants regarding source of support such as ICAS Interpreters, Conciliators Complaints Leaflet.
- Ensuring publicity, explaining how to raise concerns/complaints, is accessible to the public and complainant.
- Providing/ensuring appropriate training for commissioning staff handling complaints
- Summarising complaints information and conclusions to inform commissioning quality monitoring and reporting across providers

5.5 The **Complaints Officer** will assist the Complaints Manager in particular by:

- Developing and maintaining a database to categorise and record all complaints received.
- Preparing standard acknowledgements and responses within the required timescales.
- Drafting complaints reports.

5.6 **All members of staff** are responsible for acquainting themselves with the complaints policy and the complaints procedures relevant to their area of work. Members of staff will be expected to assist as required in any complaint investigation, eg. Programme Managers, Senior Commissioning staff including Public Health staff. Members of staff with specific duties under the Complaints Procedure should ensure that a suitable colleague is nominated to deputise on her or his behalf in her or his absence.

5.7 **All Providers** are required to have their own arrangements for complaints handling in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, which came into force in 2009. The revised NHS Standard Contract for Acute Services requires each provider to: operate and publicise a complaints procedure that complies with the law; provide such details of its complaints procedure as the Commissioner may reasonably require and shall implement lessons learned from complaints and demonstrate at reviews the extent to

which service improvements have been made as a result. Independent providers are required to provide the Commissioners with an annual report giving the numbers of complaints received, of those the number of justified complaints, the subject matter of the complaints and actions taken to improve services as a result of the consequences of the complaint.

6 Time Limits

- 6.1 Complaints should normally be made within 12 months of the event or 12 months of the date of discovering the problem.
- 6.2 NHS Rotherham has the discretion to extend this time limit where it would be unreasonable in the circumstances of a particular case for the complainant to have made their complaint earlier providing it is still possible to investigate the complaint effectively and fairly. The Complaints Manager in consultation with the relevant service lead will make a decision on individual cases.

7 Who can make a complaint

- 7.1 Anyone who is receiving or has received NHS treatment or services can complain or anyone who may be affected by the action or decision of the organisation. If a patient is unable to complain themselves, then a relative or friend can complain on their behalf.
- 7.2 If a complaint is raised on behalf of a relative or friend, the patient must provide written consent, unless the complainant is the parent or guardian of a child under the age of 16.
- 7.3 If a patient is unfit to act, for instance due to physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005(a), consent is not required and this will be agreed on an individual basis by the complaints manager.
- 7.4 If a complaint is raised concerning a deceased patient, then this must be made by a suitable representative, preferably a close family member.

8 Communications/Publicity

- 8.1 The Complaints Manager will maintain a high profile for complaints by:
 - Ensuring and monitoring training and awareness raising arrangements for commissioning staff.
 - Publicising to service users the procedures for making complaints by means of leaflets, posters, website, newsletters etc. with the support of External Relations and Communications staff
 - Leaflets explaining the Complaints Procedure simply and clearly will be made available in appropriate locations, also in languages for people from minority ethnic groups, and information will be given in the appropriate medium for people with disabilities.
 - Liaising with PALS to learn from concerns and initial complaints.
- 8.2 NHS Rotherham is required to ensure that the right to complain and advice about how to use the Complaints Procedure is well publicised, including details of PALS (Patient Advice and Liaison Service) and ICAS (Independent Complaints Advocacy Service), Independent Conciliation, and the Health Service Ombudsman, should they be dissatisfied with how a complaint had been handled throughout the local resolution. Information on these services and the NHS Rotherham leaflet, 'Concerns, Complaints, Comments and Compliments' will be forwarded in response to all written complaints

and to all verbal complaints, where appropriate. (**Concerns, Complaints, Comments and Compliments – Appendix ‘H’**)

9 Training

- 9.1 Commissioning staff will receive awareness training and guidance on the complaints procedures to enable them to deal with concerns and complaints on the spot. This will include the requirement that there is no implication or practice of patients being treated differently because they have raised a concern.
- 9.2 Training will be provided for staff who are required to investigate and report on formal complaints.
- 9.3 Training needs will be regularly reviewed to ensure that staff keep up to date with the latest guidance.

10 Guidance and Support for Patients

10.1 Patient Advice and Liaison Service (PALS)

NHS Rotherham has a designated PALS service to provide advice and support to patients, their families and carers and provide information on NHS services and to help resolve problems quickly. Details are included in the Concerns, Complaints, Comments and Compliments leaflet. (**Appendix ‘H’**)

PALS acts independently when handling patient and family concerns and a key role of PALS is to help people talk through their concerns so that they can identify the nature of the problem and work out various options, including the use of the formal complaints procedure. Using PALS will not remove the right of clients to pursue the complaints option at any stage. However, it would not be appropriate to use PALS and the complaints process simultaneously to address the same problem. PALS will act as a gateway to the complaints service in NHS Rotherham.

There may be occasions when patients, carers or relatives contacting PALS have previously made a formal complaint, or taken other action to gain resolution regarding an ongoing issue. Clients should be advised not to use PALS to pursue an ongoing concern once the complaints procedure has been exhausted but to advise them to contact the Complaints Manager at NHS Rotherham. who will explain the next step in the NHS Complaints procedure.

10.2 ICAS (Independent Complaints Advocacy Service)

ICAS provides a free, impartial and independent service for people who wish to make a complaint about the NHS. Complainants are provided with guidance and support by a caseworker, through all the stages of the NHS Complaints Procedure. Details are included in NHS Rotherham’s Concerns, Complaints, Comments and Compliments leaflet (**Appendix H**) or on the Yorkshire and Humberside ICAS website www.carersfederation.co.uk

10.3 Being Open

The principles of the Being Open Policy apply to all cases of concerns, complaints and issues raised i.e. being open, responsive, honest and apologetic where appropriate, when explaining what happened to patients and/or their relatives and carers. PALS and complaints staff are experienced in handling such situations and may be called upon to advise and support clinical staff in communicating with the patient / carer/relatives.

11 Independent Conciliation Service

NHS Rotherham provides an Independent Conciliation service which is offered to complainants and those being complained about, particularly if they are experiencing problems in resolving the complaint. The complainant will be informed of this option in the formal response. It involves using an independent, impartial person to liaise between the conflicting parties, and can only go ahead with the agreement of both parties.

12 Interpreting Service

- 12.1 NHS Rotherham will arrange for translating and Interpreting Services to help complainants whose first language is not English or who need to communicate in other ways.

13 Expressions of Gratitude

- 13.1 NHS Rotherham receives many expressions of gratitude for services commissioned and other letters of appreciation from patients, carers and relatives. It is in the nature of such communications (which often take the form of greeting cards etc) that little hard evidence is obtained which can be fed into the clinical governance mechanisms. However the numbers of such communications received will be recorded and reported, and any information which identifies specific areas of good practice which may be considered useful to the Clinical Governance process will be passed on by the Complaints Manager.
- 13.2 Communications sent direct to NHS Rotherham will be acknowledged and copies forwarded to the appropriate departments and services for information.
- 13.3 Communications received elsewhere should be forwarded (copies only) to the Complaints Manager for information. These should be acknowledged locally as necessary.
- 13.4 The Complaints Officer will maintain a database of such information which will be used in quarterly performance monitoring reports and the annual reports.

14 Performance Monitoring/Reports/Sharing the Learning

- 14.1 Monitoring of Complaints is undertaken in order to extract the learning points which arise from complaints that have been investigated and to identify any serious concerns or themes. The Complaints Manager will maintain a database of information gathered from the Complaints Handling process.
- 14.2 The Complaints Manager will use the information from complaints, together with that obtained from user satisfaction surveys, letters of gratitude and other areas related as part of the information for identifying improvements in service delivery.
- 14.3 The Complaints Manager will provide an anonymised Complaints Report summarising complaints activity for the Governance, Quality and Risk Committee quarterly, Board on a six monthly basis, annually for the Strategic Health Authority and to share regularly with the Director of Performance and Intelligence re quality reports
- 14.4 The Complaints Report will detail acknowledgement times, the type and causes of complaints, concerns and compliments, trends, themes and action taken, or proposed action for lessons to be learned to prevent recurrence including any changes made as a result.

- 14.5 Learning is disseminated to staff as widely as deemed appropriate and these reports will be shared within NHS Rotherham and externally with the main providers to provide learning opportunities, to effect change locally and throughout the health community. Mechanisms for achieving this dissemination will include Team Briefings, Staff Newsletter, Rotherham LINK, posting on NHS Rotherham web site and Learning Events. Consideration will also be given to sharing this information with the NPSA.
- 14.6 An annual Complaints Report will be produced and summary details included in NHS Rotherham's annual report.
- 14.7 All reports will be rigorously anonymised to avoid patient identification.
- 14.8 Department of Health performance monitoring forms concerning NHS Rotherham and practitioner complaints will be completed annually by the Complaints Manager for submission to the NHS Information Centre, which is part of the Government Statistical Service.

15 Performance Targets (NHS)

- 15.1 The Trust aims to acknowledge all NHS Rotherham Complaints within 3 working days.
- 15.2 All complaints to be responded to in the timescale agreed with the complainant and Chief Executive to sign the final response.
- 15.3 Complainants will receive an interim holding letter if the originally agreed response timescale will not be met, explaining the reason for the delay and setting a new target date.

16 Ethnicity

- 16.1 NHS Rotherham welcomes and promotes its responsibilities under the Race Relationship (Amendment) Act and positively promotes race relations. To ensure that NHS Rotherham meets its obligations, complainants will sensitively be asked for their ethnic origin. The complainant and the member of staff involved will be asked to volunteer this information (**Ethnicity Monitoring Form – Appendix G**).

16.2 Equality and Diversity

This policy and procedure has been reviewed in line with NHS Rotherham's legal equality duties on the impact or potential impact of this process, and has been assessed as nil.

17 Review of Complaints Policy and Procedure

- 17.1 A review of the Complaints Policy and Procedure will be undertaken by NHS Rotherham every 3 years or earlier if new NHS Guidance or directions are issued.

17.2 Monitoring Effectiveness and Compliance

Implementation of this policy will be monitored by the Governance, Quality and Risk Committee. Effectiveness will be monitored by measuring performance against quality indicators, eg timeliness of response, feedback from complaint evaluation forms, progress of any relevant recommendations and actions as a result of complaints investigations.

18 References

- Listening... Responding... Improving, A guide to better customer care.
- Patients Advice and Liaison Service (PALS).
- Policy on Incident Reporting and Serious Untoward Incident.
- PCT Human Resources Policies.
- Directions to Primary Care Trusts on dealing with complaints (issued 2002).
- Directions to Health Authorities on dealing with complaints about family health service practitioners and personal medical services (amendment) Directions 2002.
- NHS Complaints Reform 'Making Things Right'.
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- Freedom of Information Policy.
- Data Protection Act 1998.
- Risk Management Strategy.
- Procedure for making decisions in respect of Individual Funding requests.
- Being Open Policy.

19 COMPLAINTS PROCEDURE

19.1 The NHS Rotherham Complaints Procedure consists of two elements:

- **Local Resolution**

Local Resolution aims to provide the fullest possible opportunity for the investigation and resolution of the complaint and will be tailored to meet the needs of the complainant.

- **Parliamentary and Health Service Ombudsman**

If complainants are dissatisfied with Local Resolution they have a right to refer their outstanding concerns to the Parliamentary and Health Service Ombudsman.

19.2 The NHS Rotherham Complaints Procedure aims to meet the following criteria:

- Be well publicised and easy to access.
- Simple to understand and use.
- Fair and impartial.
- Complaints dealt with in a timescale agreed with the complainant
- Provides a thorough mechanism for resolving complaints and investigating matters of concern.
- Be regularly reviewed and amended if necessary.
- Be consistent with National Guidance.

20 Local Resolution Procedures

20.1 Complaints about NHS Rotherham and its staff

20.1.1 NHS Rotherham staff are encouraged, in conjunction with their line manager, and, if appropriate, PALS staff, to deal with concerns and requests for information to which they can provide an immediate response. If a matter remains unresolved the complainant should be informed about the formal complaints procedures and helped to access them.

20.1.2 Details of any formal complaints should be passed promptly to the Complaints Manager, acknowledged within three working days of receipt, and forwarded to the appropriate manager for investigation. If the complainant is not the patient, appropriate consent should be sought within two days.

20.1.3 Although there is no statutory deadline for providing a response NHS Rotherham aims to provide a response within 25 working days. If the complaint is complex and it is felt that the investigation will require more time, an appropriate time scale will be agreed as part of the individual resolution plan. The complaints manager, whenever appropriate will agree an individual resolution plan with the complainant **(Local Resolution Procedures for verbal, telephone and written complaints – Appendix A)**

20.2 Complaints about any services commissioned by NHS Rotherham e.g. Acute Services GP's, Dentists, Opticians Pharmacists, Hospice, CareUK

20.2.1 The complainant has a choice of complaining directly to an NHS body, primary care provider or NHS independent provider or asking NHS Rotherham to handle their complaint and obtain a response.

20.2.2 In cases where a complainant chooses NHS Rotherham to handle the complaint the Patient Support Services Team will seek the complainant's consent to refer the matter to and obtain a response from independent providers.

20.2.3 Complainants will be encouraged to put their concerns in writing so that an accurate interpretation of events can be forwarded on for a response.

20.2.4. NHS Rotherham will provide support to Independent Providers to ensure that they comply with the NHS Complaints procedure. Where appropriate, NHS Rotherham will arrange conciliation for the parties involved.

20.2.5 In some cases, it may be appropriate for the Complaints Manager to act as an intermediary between the Practice and the complainant. The Complaints Manager should remain impartial during this process and only advise parties of the complaints process and options available to them i.e. conciliation if appropriate.

20.2.6 Independent Providers are expected to have local complaints procedures which are comparable to those operated in the NHS Complaints directed to NHS Rotherham which relate to care commissioned by NHS Rotherham will be forwarded to the relevant provider for investigation if the complainant wishes this to happen. Progress and resolution of the complaint will be monitored by NHS Rotherham.

20.2.7 Independent Providers will be encouraged to co-operate in the investigation of any multi-sector complaints in which they are involved.

20.2.8 Independent Providers must provide NHS Rotherham with an annual report giving the number of complaints received, of those the number of justified complaints, the subject matter of the complaints and actions taken to improve services as a result of the consequences of the complaint.

20.3 Complaints About or Involving Another Sector of the NHS and/or the Local Authority/Inter Agency and Multi Agency Complaints

20.3.1 Complaints may sometimes need to be redirected to another agency within the NHS or to the Local Authority. This should be done promptly by the Complaints Manager in consultation and with the consent of the complainant, and details of the forwarding process should be recorded.

20.3.2 Sometimes complaints will require multi-agency investigation. Local protocols are in operation and in such cases discussions will take place between the relevant complaints managers of the organisations involved as to who will co-ordinate and lead the response. When an approach is agreed the complainant should be provided with details of how the investigation will take place, and the appropriate NHS

timescales should apply. The time limit for responding to a complex complaint will be agreed with the complainant, and any delay will be put in writing with an explanation for the delay and a new response date given.

A local protocol has been agreed for handling these complaints - (**Protocol for Handling NHS/Social Services Inter Agency Complaints - Appendix I**)

20.4 Complaints Regarding Commissioning Decisions

Complaints to NHS Rotherham about commissioning decisions will be considered by the Chief Executive.

20.5 Complaints received through Members of Parliament

Complaints received through Members of Parliament will invariably be addressed to the Chief Executive. As in all other complaints the Chief Executive will sign the reply. However in some cases the complaint will be handled directly by the Complaints Manager with the complainant and in such cases a letter stating that this is happening may be an appropriate reply to the MP.

21 Parliamentary and Health Service Ombudsman

A complainant who is not satisfied with the outcome of Local Resolution may ask the Health Service Ombudsman for a review of their complaint. At the end of Local Resolution the complainant MUST be advised of their right to take their complaint to the Health Service Ombudsman.

22 Persistent Complainants

NHS Rotherham is committed to treating all complaints equitably and recognises that it is the right of every individual to pursue a complaint. NHS Rotherham therefore endeavours to resolve all complaints to the complainant's satisfaction. However, on occasions, NHS Rotherham may consider that a complainant who persists in making complaints raising the same or similar issues repeatedly, despite having received full responses to all the issues they have raised may be identified as a persistent complainant. This is often symptomatic of an illness and the complaints procedure may not be the most appropriate means of dealing with the issues involved. Where a complainant is considered persistent in nature, the Complaints Manager will follow '**Procedure for Handling Persistent Complainants' – Appendix B.**

23 Issues not suitable for the NHS Complaints Procedure

The Complaints Procedure is for patients, users of the service or their representatives. The following issues do not fall within the NHS Complaints Procedure:

- **Private Treatment**
The complaints procedure does not address complaints regarding private treatment
- **Staff Grievances**
Staff grievances should be followed up via the Human Resources Grievance Procedure.
- **Compensation and Litigation**
Where the complainant indicates an intention to take legal action advice should be sought from local legal advisers or the NHSLA. This will determine whether progressing the complaint might prejudice subsequent legal action. The complaint should only be put on hold if this is the case.

- **Disciplinary Procedure**
The Complaints Procedure will not deal with matters that are the subject of disciplinary investigation. It must be kept separate from NHS Rotherham's Complaints Procedure so that the Complaints Manager is only concerned with resolving complaints and not investigating disciplinary matters.
- **Criminal Matters**
Where there are allegations relating to assault or other serious criminal matters the Chief Executive must be informed immediately for a decision to be taken on whether to refer the matter to the Police.

24 Support to NHS Rotherham Staff

- 24.1 NHS Rotherham recognises the impact that being the subject of a complaint can have on individual staff members or staff groups. Support will be provided to staff by the Support Services Team including written information about how the complaint will be handled and advice on access to staff counselling services. The Board will also support staff and services, where appropriate, in dealing with complaints.
- 24.2 It is important that staff who are the subject of a complaint are kept informed of a complaint's progression. This will be undertaken via the Complaints Manager and the relevant management structures.

25 Confidentiality/Patient Consent

- 25.1 It is important that anyone who raises a complaint with NHS Rotherham are reassured that their confidentiality will be respected and that future care will not be compromised.
- 25.2 All correspondence and reports relating to complaints must be stored securely and only those staff directly involved in providing a response should have access. No complaints files or correspondence should be stored in clinical records.
- 25.3 All personal information relating to complaints must be treated confidentially and protected in accordance with the requirements of the Caldicott Guardian and the Data Protection Act 1998. Information will only be disclosed to those persons with a need to know to enable them to investigate and/or respond to specific matters.
- 25.4 Anyone, whether patient, relative, carer or friend is entitled to have their complaint investigated. The consent of the patient is however required when investigating a complaint made on their behalf by a relative, carer or friend This is particularly important when the complaint is of a clinical nature and in responding would require by necessity the disclosure of clinical information to the complainant. The receipt of the complaint will be acknowledged enclosing a consent form for the patient to sign and returned to the Complaints Manager. This must be done before confidential or information of a sensitive nature is released to a third party. Once consent has been established the process and investigation will follow the same procedure as a complaint.
- 25.5 Where the patient has died, or is not competent to give consent, it will be necessary to establish that the complainant is appropriate to represent the patient. Particular attention shall be paid to the need to respect the confidentiality of the patient, and to any known wishes expressed by the patient that information should not be disclosed to third parties.

26 Service Improvements and Clinical Governance

- 26.1 Commissioning Managers should use the issues raised in individual complaints to explore and, where appropriate, initiate service improvements.

- 26.2 Whenever concern is expressed about the clinical care provided, the appropriate service manager should arrange a prompt re-assessment.
- 26.3 In line with risk analysis and quality processes the Complaints Manager will, at the conclusion of a complaint, routinely share, as part of quality reports, issues raised, with appropriate colleagues eg Programme Managers, Contract Managers, Heads of Department).
- 26.4 Issues and trends identified from complaints will be considered by the Governance Quality and Risk Committee.
- 26.5 If information from complaints and their investigation indicates that patients could be at risk, the matter must be reported immediately to the Chief Executive, lead Director and Programme Manager

LOCAL RESOLUTION PROCEDURES

1. Complaints about NHS Rotherham and Staff

1.1 Verbal Complaints – Members of staff who receive face to face verbal complaints of a minor nature should try to resolve them to the complainant's satisfaction by offering an explanation and an apology. A written record of complaint, action taken and the outcome should be made and sent to the Complaints Manager within seven days. If the complaint is of a more complex nature and cannot be resolved by the member of staff receiving it they should inform the senior person on duty or head of department. That person should attempt to investigate and resolve the matter immediately, making a written record of the complaint made and action taken.

1.1.1 If the senior person on duty or head of department is unable to achieve immediate resolution he or she should:

- a) Record fully the details of the complaint. **(On pro forma for recording verbal complaints – Appendix C) and send to the Complaints Manager the same day.**
- b) Inform the complainant that their complaint has been passed to the Patient Support Services Team.

1.1.2 The completed pro forma should be returned to the Complaints Manager.

1.2 Complaints made by Telephone – when a complaint is made by telephone, the recipient should make a written record of the details including the complainant's name, address and telephone number **(on pro forma – Appendix C)**. The complainant should then be handled in accordance to the procedure for verbal complaints outlined in 1.1 and 1.1.1

1.2.1 If the complaint is immediately resolvable, a telephone reply should be made.

1.2.2 Any member of staff who inadvertently answers a call from a complainant should:

- Explain that he or she is not the appropriate person to deal with the complaint.
- Take the caller's name and telephone number.
- Attempt to connect the caller to the Complaints Manager or the Manager of the service being complained about.

Or

- Check with the caller that his or her details are recorded correctly and undertake to arrange a call back from the appropriate member of staff within a timescale acceptable to the caller.

The member of staff who answered the call should then immediately pass on the details of the complaint.

1.3 Verbal Complaints not immediately resolved - the details of a complaint made orally but not resolved immediately should be recorded in writing (see 1.1.1) and a copy sent to the complainant. The same procedure as for written complaints should be followed.

1.4 Written Complaints – complaints received in writing should be date stamped on the date received and forwarded immediately by fax or by hand to the Complaints Manager who will:

- Give the complaint a reference number and register this on the Sentinel database. **(Appendix D – Complaints Record and Resolution Plan)**
- **Acknowledge the complaint in writing** within 3 days of receipt by the Trust and an apology if there has been a delay in acknowledgment.
- **The acknowledgement** will include a copy of NHS Rotherham’s Complaints, Comments and Compliments leaflet and give details of appropriate support from PALS or an Independent Advocate such as ICAS. The letter will also inform the complainant that they will receive a full written response from the Chief Executive to the issues raised within 25 working days and give the name and telephone number of the Complaints Manager/link person assigned to the complaint in case they have any queries about the investigation or the Complaints Procedure.
- **Complaints will be graded** by the Complaints Team in accordance with the Trust Risk Evaluation Incident Categorisation grading matrix. The complaint will be graded upon receipt and revisited following the outcome of the complaint investigation.
- Bring the complaint to the attention of the responsible Director.
- **Root Cause Analysis** – all complaints should be investigated to ensure lessons are learnt. If appropriate NHS Rotherham will look at what action needs to be taken to reduce the risk of a similar occurrence happening again.
- The Complaints Manager and Director will determine **how the complaint is to be investigated** and by whom, delegating as appropriate.. It is desirable that the complaint is dealt with as close to the point of delivery as possible to ensure a prompt reply and that appropriate remedial action is taken.
- **The investigation** must be, and seen to be, independent and objective. The Investigating Officer must have the relevant skills to undertake the task and be selected according to the importance and seriousness of the complaint. Where complaints concern matters of clinical judgement these should be agreed with the clinician involved.
- **The Investigating Officer** will, in consultation with other senior employees involved, decide whether it is appropriate to offer the complainant an interview or meeting.
- **Where the Investigating Officer** arranges a meeting with the complainant, the professionals involved will determine how the meeting will be structured. The Investigating Officer will conduct the meeting and ensure that notes are taken. Two NHS Rotherham employees should normally attend any interview or meeting and the complainant should be offered the opportunity to have someone else present to assist them.
- **The meeting** must be formally recorded and the notes agreed with the complainant. If the Investigating Officer feels there is likely to be a delay in responding to the complainant, he/she must inform the Complaints Manager so that a holding letter can be sent to the complainant to keep them informed. **(Complaints Investigation Form – Appendix E)**
- **On completion of the investigation** and within 20 days of the complaint being received, a draft letter of response detailing the nature of the investigation

undertaken, together with the findings and any resulting action to be taken will be forwarded to the Complaints Manager. (**Action Taken Form – Appendix F**)

1.5 Holding Letters

- 1.5.1 A holding letter will be sent where the investigation is taking longer than expected and where the agreed response time is unlikely to be met.
- 1.5.2 The holding letter will include an apology for the delay and an indication of the date by which a full response can be expected.
- 1.5.3 A copy of this letter will be kept on the complainant File. Should a complaint response be delayed further, a holding letter will be sent regularly until the final response is sent.

1.6 Final Response Letter - The Complaints Manager will check that the response covers all aspects of the complaint raised by the complainant. The Complaints Manager will follow up any queries regarding the response with the Investigation Officer as soon as possible.

- 1.6.1 The final response letter must be factually correct and:
 - Include an apology where appropriate – N.B. An apology is not necessarily about accepting blame or fault, but will sometimes be an acknowledgement of the complainant's feelings about their experience.
 - Address each of the points the complainant has raised with a full explanation or give reasons on why it is not possible to comment on a specific matter.
 - Give specific details about the investigation, how it was carried out, who was interviewed, what was discovered etc.
 - Give details of action taken as a result of the complaint.
 - Provide the name and telephone number of the Complaints Manager or Senior Manager for further queries/discussion.
 - Include details of further action available to the complainant.
- 1.6.2 Once the response is finalised, it is printed off and taken with the initial letter of complaint to the Chief Executive for agreement and signature.
- 1.6.3 The final response letter will be copied to the Senior Manager/Investigating Officer and any member of staff implicated in the complaint. A copy will also be retained on the complaint file.
- 1.6.4 The final response should invite the complainant to contact the Chief Executive again if they have any outstanding concerns. In such cases, consideration should be given to arrange further action which might resolve the complaint, including offering a meeting with the Chief Executive or the Head of Service to which the complaint relates. The use of **conciliation services** should also be considered. A response should be sent to the complainant confirming the outcome of any further action and advising them of their right to ask the Parliamentary and Health Service Ombudsman to review their complaint.
- 1.6.5 If a delay in a response is anticipated, the complainant will be informed of the delay, the reasons for the delay, and the revised timescale for dealing with the complaint.
- 1.7 Conciliation** is a way of resolving a problem or a complaint or a difference of opinion of two parties using the skills of a conciliator to facilitate the process. It involves using an independent, impartial person to liaise between the conflicting parties with the aim

of achieving a clearer understanding of events from both sides and good relations between the two parties restored.

- 1.7.1 A conciliator is someone not personally connected with either party. Conciliators have been trained to do this work and work confidentially. A conciliator doesn't take sides and is concerned only to reach a resolution acceptable to both parties in the dispute.
- 1.7.2 Either the complainant or Practitioner can suggest it. If the other party agrees then either may ask the Complaints Manager to arrange for the involvement of a conciliator.
- 1.7.3 The Complaints Manager will copy the complaint and any responses already sent to the conciliator. The conciliator will contact the parties to establish whether it is appropriate to have a meeting with both parties together or to liaise between the two.
- 1.7.4 Following the conciliation process, the conciliator writes to both parties outlining the outcome. It is hoped that a satisfactory outcome will be achieved for both parties.
- 1.7.5 The Conciliator will provide NHS Rotherham with a brief report on the outcome of the Conciliation meeting.

2 Anonymous Complaints – if anonymous complaints are received and sufficient detail is provided, the complaint should be investigated in accordance with the above procedures. A report of the investigation's finding and action taken should be retained on file.

3 Complaints made to NHS Rotherham about Independent Providers, other NHS Providers their Services and their Staff.

- 3.1 The complainant has a choice of complaining directly to an NHS body, or NHS independent provider or asking NHS Rotherham to handle their complaint and obtain a response.
- 3.2 The complaint should be acknowledged by the Complaints Manager, in writing.
- 3.3 If the complainant's/patient's consent to refer is not implicit in the letter consent should be sought before the complaint is processed.
- 3.4 The acknowledgement letter should include details of the individual to whom the complaint has been passed (name, title, organisation, address, telephone number).
- 3.5 If the complainant wishes the Independent Provider or other NHS body to respond to the complaint then the letter of complaint and a copy of NHS Rotherham's acknowledgement should be sent with a covering letter to the Complaints Manager within 2 working days of receipt /consent being received. The letter should ask the Complaints Manager to inform NHS Rotherham's Complaints Manager when resolution is achieved. Complaints Managers should be encouraged to share details of the investigation, and the outcome with NHS Rotherham.
- 3.6 If the complaint chooses NHS Rotherham to handle the complaint the Patient Support Services team will, after seeking the complainant's consent, refer the matter to the independent provider and obtain a response from the Independent Provider which will then be shared with the complainant.

- 3.7 The final response letter from the Independent Provider should include details of the right of the complainant to ask the Parliamentary and Health Service Ombudsman to review their complaint.



Rotherham

**PROCEDURE FOR HANDLING
PERSISTENT COMPLAINANTS**

PROCEDURE FOR HANDLING PERSISTENT COMPLAINANTS

INTRODUCTION

- 1.1 Persistent complainants are becoming an increasing problem for the NHS putting a strain on resources and causing undue stress. NHS Rotherham staff are trained to respond with patience and understanding to the needs of all complainants but there are times when nothing further can be done to assist them or rectify a real or perceived problem.
- 1.2 In determining arrangements for handling such complainants staff are presented with two key considerations.
 - The first is to ensure that the complaints procedure has been correctly implemented so far as possible and that no material element of a complaint is overlooked or inadequately addressed. In doing so it should be appreciated that even persistent complainants may have issues which contain some genuine substance. The need to ensure an equitable approach is therefore crucial.
 - The second is to be able to identify the stage at which the complainant has become unreasonably persistent.

It is emphasised that the identification of a complainant as persistent should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the NHS complaints procedure.

2 IDENTIFYING A PERSISTENT COMPLAINANT

A persistent complainant may display some or all of the following behaviour:

The complainant changes the substance of a complaint or continually raises new issues or seeks to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed.

- The complainant is unwilling to accept documented evidence of treatment given as being factual, e.g. drug records, General Practitioner manual or computer records, nursing records
- The complainant denies receipt of an adequate response in spite of correspondence specifically answering their questions.
- The complainant does not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- The complainant does not clearly identify the precise issues which he/she wishes to be investigated,
- The complainant does not accept that the concerns identified are not within the remit of the Trust to investigate.
- The complainant persists in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
- The complainant makes an excessive number of contacts with the NHS Rotherham placing unreasonable demands on staff.

- The complainant is known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- The complainant makes unreasonable demands and fails to accept that these may be unreasonable (e.g. insists on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).

3 AGGRESSIVE / ABUSIVE COMPLAINANTS

Staff should be aware that some complainants may:

- Threaten or use actual physical violence towards staff or their families or associates.
- Harass or be personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. This will include racial harassment. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this. They should document all incidents of harassment).

4 OPTIONS FOR DEALING WITH A PERSISTENT, AGGRESSIVE OR ABUSIVE COMPLAINANT

Where a complainant persists with displaying any of the above behaviour, the complaints manager, in agreement with a relevant senior manager and Chief Executive, should take the following action:

- Warn the complainant that if they persist with the approach they are taking, they will be classed as a persistent complainant.
- Warn the complainant that in extreme circumstances NHS Rotherham reserves the right to pass unreasonably persistent complaints to NHS Rotherham's solicitors.
- If appropriate, draw up a signed agreement with the complainant which sets out a code of behaviour for the parties involved if NHS Rotherham is to continue processing the complaint.
- Consider involving the Local Security Management Services.

If this is not successful, then inform the patient / complainant that they are being classed as an unreasonably persistent complainant, state the reasons why and temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the Regional Office, or other relevant agencies such as the Counter Fraud and Security Management Services.

This notification may be copied for information of others already involved in the complaint, e.g. staff, ICAS or Member of Parliament. A record must be kept for future reference of the reasons why a complainant has been classified as persistent.

5 WITHDRAWING 'PERSISTENT COMPLAINANT' STATUS

- 5.1 Where a complainant subsequently demonstrates more reasonable behaviour on submission of a further complaint a discussion will be held with the Chief Executive and appropriate senior manager regarding the complainant's status. Subject to their approval, normal contact with the complainant and application of the NHS complaints procedures will then be resumed.

6 REVIEW OF PROCEDURE

This procedure will be reviewed and revised as appropriate in line with NHS Rotherham's Complaints Policy and Procedure on a 3 yearly basis.

NHS ROTHERHAM

PRO FORMA FOR RECORDING VERBAL COMPLAINTS, COMMENTS OR CONCERNS

Information to be obtained from caller:

Date and time of telephone call:

Complainant's name, address and daytime telephone number
Patient's name and address, if different (date of birth would also be helpful, if known)
Brief details of complaint/incident (including date, time, place and names of people or staff involved and any relevant background information)
Is any on the spot action possible which would resolve the matter to the satisfaction of the complainant? If so, give details. Ascertain whether the complainant would be satisfied with the action proposed and whether they require written confirmation
If matter judged to be more serious and requiring further investigation, inform complainant of action to be taken e.g. referral to service manager, and tell them that they will receive letter of acknowledgement confirming complaint and issues to be investigated

Action taken following telephone call:

Has complaint been resolved/referred to higher authority (if so, please specify)*

**Please delete as appropriate*

.....

Name/Designation:

Date/Time:

Please return the form to Complaints Manager, NHS Rotherham, Oak House, Moorhead Way, Bramley, Rotherham, S66 1YY

PSS Ref No.

Sentinel Number

Assigned to

**Appendix D
Qtr Report**

<input type="text"/>	<input type="text"/>
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COMPLAINTS RECORD AND RESOLUTION PLAN

Date received in Patient Support Services:

File Name:

Date of Initial discussion:

Date Acknowledged by letter:

Provider details:-

Name:.....

Address:.....

.....

.....

.....

.....

Tel No:.....

Patient details

Name:.....

Address:.....

.....

.....

.....

.....

.....

Tel No:.....

E-mail Address:.....

Date of Birth:.....

Date of Death (if app):.....

Complainant's details (if different)

Name:.....

Address:.....

.....

.....

.....

.....

.....

Tel No:.....

E-mail Address:.....

Relationship to patient:.....

Consent required:
Yes/No

Date consent requested:

Date of consent received:

Summary of complaint issues:.....

.....

.....

.....

Explained Procedure

Sent Leaflets

Letter 001a

Letter 001b

Letter 002

Joint Agency: Yes/No	Agreed Lead:
	Contact Number:

Complainants desired outcome/Agreed plan for local resolution (inc timescales):

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.....

Additional Information:

.....

.....

.....

Preferred feedback method:	Additional Support Arrangements: e.g. ICAS
Telephone	Contact:
Letter	
E-mail	
During meeting	
Other contact e.g. third party, relative, MP, advocate	

Category of Complaint			
Appointments		Medication	
Attitude		Service Provision	
Communication/Information		Treatment/Care	
Confidentiality		Waiting Times	
Entitlements to NHS Services		Other:-	
Equipment, Aids & Appliances			

Progress Monitoring	
Progressed from PALS: Yes/No	If Yes, PALS Ref No:

Complaint Grading					
Likelihood	Consequence				
	Insignificant	Minor	Moderate	Major	Catastrophic
Almost Certain	Amber	Amber	Red	Red	Red
Likely	Yellow	Amber	Amber	Red	Red
Possible	Green	Yellow	Amber	Red	Red
Unlikely	Green	Green	Yellow	Amber	Red
Rare	Green	Green	Yellow	Amber	Amber

Conciliation recommended: Yes/No	Additional conciliation info: e.g. assigned to:
Conciliation agreed by both parties Yes/No	

COMPLAINT INVESTIGATION FORM

Complaint Ref No:		Date Received:		Date completion of investigation due:	
Director:		Lead Investigator:		Draft Response Due: Please return to Complaints Manager (Oak House)	
Name & Address of Complainant:			Service Team (involved in complaint):		
Name & Address of Patient:			Names of Staff (identified in complaint):		
Key Issues To Be Investigated:					
Outline in chronological order phone calls, meetings held during the investigation and attach copies of any documents relevant to the investigation and any supporting statement forms					
Date/Time:	Notes of Phone Calls, Meetings, Interviews, Investigation activity etc:				

Date/time:	Notes of Phone Calls, Meetings, Interviews Investigation Activity etc:

FORMAL COMPLAINT ACTION PLAN

Complaint Ref No:	Service Area/Dept:	Period:
Issue:		
Actions identified as a result of the complaint (includes any specific actions for your service promised to the complainant in the letter of response, as well as action on general issues raised by the complaint) If no action is required, please state why	Named Individuals responsible for implementing the identified actions:	Time Scales for Completion of Actions:
Identify any learning or knowledge that has been gained from the investigation of this complaint that needs to be shared across the organisation Highlight any learning you feel should be shared with others in the PCT. If no learning has been gained, please state "NONE"	How may this be shared with others?	Action Status: (ongoing/complete including date).
Head of Department/Investigative Manager: Name: Position: Base: Date:		

ETHNICITY MONITORING ON COMPLAINTS

The ethnic category of staff should only be done where the complaint is about an individual as opposed to a service or administrative arrangements etc.

Complaints against staff Ethnic Category of staff involved		Ethnic Code	Line No	Please Tick
		<i>For Office Use</i>		
White	British	A	01	
	Irish	B	02	
	Other White	C	03	
Mixed	White & Black Caribbean	D	04	
	White & Black African	E	05	
	White & Asian	F	06	
	Other Mixed	G	07	
Asian or	Indian	H	08	
Asian British	Pakistani	J	09	
	Bangladeshi	K	10	
	Other Asian	L	11	
Black or	Black Caribbean	M	12	
Black British	Black African	N	13	
	Other Black	P	14	
Other Ethnic	Chinese	R	15	
	Other Ethnic Category	S	16	
Not stated	Not stated	Z	17	

Please return to Sue Hart, Patient Support Services, Oak House, Moorhead Way, Bramley, Rotherham, S66 1YY. Alternatively email on sue.hart@rotherham.nhs.uk

Concerns, Complaints, Comments and Compliments

This leaflet explains how you can raise a concern or a complaint about the services commissioned by NHS Rotherham, and how to let them know if you are pleased with the service you have received.

Raising a concern or a complaint about NHS Rotherham or Family Health Services* – Why it is important to raise concerns/complaints

**Family Health Services include Family Doctors, Dentists, Pharmacists and Opticians*

If you are not happy with the care or treatment you have received from services commissioned by NHS Rotherham, you can contact us to let us know your concerns. Concerns, complaints and comments are welcomed by NHS Rotherham as we can only ensure services are improved if we are informed of any problems you encounter. You will not be treated any differently because you have raised a concern or a complaint, but if you feel that this is happening, please inform the **Head of Patient Support Services** (see contact details).

How do I raise my concerns/complaint?

You can speak to any member of staff initially with your concerns or complaint. This gives them the opportunity to resolve any concern you may have without it going through a formal process. Often they will be able to sort out your problem quickly on the spot.

If however you feel you do not want to speak to a member of staff directly; or if you were not happy with how they dealt with your concern you can contact the **PATIENT ADVICE AND LIAISON SERVICE (PALS)**. PALS is a confidential service within the NHS, and their aim is to advise and support patients, their families and carers, and to deal with concerns informally and quickly (see contact details for PALS).

Who can complain and when?

Anyone who is receiving, or has received NHS treatment or services can complain. If you are anxious about making a complaint yourself you can always ask a relative, friend, carer or advocate to make a complaint on your behalf. We will ask your relative or friend whether they have your permission to do this and we will then ask you to sign a consent form, giving us permission to disclose your personal health information to your relative or friend. **A complaint should be made within 12 months of the event, or within 12 months of realising that you have something to complain about.** If you are complaining on behalf of someone else, you must have that person's permission.

Most complaints are best resolved within the service, or practice concerned. All NHS organisations and Family Health Services have designated staff who handle complaints.

How do I make a formal complaint?

If you feel that your concerns cannot be resolved through the **Patient Advice and Liaison Service (PALS)** you can make a formal complaint to the **Chief Executive of NHS Rotherham**. The National Health Service and Social Care Complaints Procedure has two main stages; Local Resolution and Independent Review.

At the **Local Resolution Stage** it is the responsibility of NHS Rotherham to look into and respond to your complaint. Every organisation is required to have a named person for dealing with complaints who will

support and advise you. You will be given the name and telephone number of your link person when you make your complaint.

You will need to outline your concerns in writing to the Chief Executive if the complaint relates to NHS Rotherham, staff or services. For Family Health Service complaints you can send your complaint to either the Practice Manager at the GP Practice, Dental Surgery, Optician and Pharmacist or to the Chief Executive at NHS Rotherham.

You do not need to write a long and very detailed letter, but you should include all the points you want to complain about. You should tell the organisation:

- Who or what you are complaining about. Try to make clear the most important points. If you are complaining about a member of staff, give their name and their position if you know it.
- Where and when the events you are complaining about happened.
- What you have already done about your complaint, if anything.
- What results you want from your complaint.

If you feel you need help in making your formal complaint, you can contact the **Head of Patient Support Services** or the **Independent Complaints Advocacy Services (ICAS)**. You will be allocated a link person who will support you through the NHS complaints procedure (see contact details for ICAS and Head of Patient Support Services).

Your complaint will be acknowledged within three working days and you will be contacted by a member of the Patient Support Services Team who will agree with you the manner in which the complaint is to be handled; agree the timescale when the investigation is to be completed by; agree a date when the response will be made available, and agree how you wish to be communicated with e.g. letter, telephone, e-mail.

What will happen if you don't resolve my complaint?

Local Resolution – Conciliation

We will do everything possible to try and resolve your complaint. If you feel we have not done this, you can ask for a conciliation meeting between yourself, the relevant staff and an independent conciliator. Conciliation is a way of resolving a problem or a complaint using the skills of an independent lay person to facilitate the process and try to help resolve the matter for you and the Patient Support Services Team will coordinate this meeting. Further information regarding conciliation is available upon request from the Patient Support Services Team.

Independent Review - The Health Service Ombudsman

If you remain dissatisfied after the conclusion of the NHS complaints procedure you can ask the Health Service Ombudsman to investigate your case. The Ombudsman is independent of both Government and the NHS (see contact details.)

Under the Health & Social Care complaints procedure, organisations can:

- Carry out investigation and offer an explanation for what happened,
- Offer an apology, or some other statement of regret,
- Take steps to put matters right and reassure you that they have done so.

Under the Health & Social Care complaints procedure, organisations cannot:

- Offer you financial compensation (except sometimes small, one-off payments, such as for lost property or for minor injuries sustained in the NHS),
- Look at issues relating to discipline, eg whether a member of staff should be sacked,
- 'Strike off' a doctor or other health professional, or suspend their registration,
- Look at complaints about treatment provided privately unless it was paid for by the NHS.

For further information about these points, please ask the **Patient Advice & Liaison Service (PALS)**

Compliments, Comments and Suggestions

If you are happy with the care and treatment you have received from NHS Rotherham, or if you have any suggestions that could improve the services we offer we would like to hear from you. There are Comment cards – ‘Your Opinion Counts’ in all GP practices, Health Centres, Clinics and Rotherham Community Health Service departments which can be completed and sent back to us. Alternatively you can write to the Head of Patient Support Services. (See contact details)Contact Details

Chief Executive
NHS Rotherham
Oak House
Moorhead Way
Bramley
Rotherham, S66 1YY
Tel: 01709 302012
Email: andy.buck@rotherham.nhs.uk

Head of Patient Support Services
NHS Rotherham
Oak House
Moorhead Way
Bramley
Rotherham, S66 1YY
Tel: 01709 302108
Email: stephanie.hopkins@rotherham.nhs.uk

Patient Advice & Liaison Service (PALS)
Rotherham Community Health Centre
Greasbrough Road
Rotherham
S60 1RY
Tel: 01709 423030
Email: health.enquiries@rotherham.nhs.uk

Independent Complaints and Advocacy
Service (ICAS)
Unit B1, The Patrick Tobin Business Park
Bolton Road
Manvers
Dearne Valley
Rotherham. S63 7JY
Tel: 0300 4568349

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

ROTHERHAM AND DONCASTER PROTOCOL FOR HANDLING NHS/SOCIAL SERVICES INTER-AGENCY COMPLAINTS

Introduction

This protocol has been developed by representatives from the agencies mentioned below. This initial version will apply to Rotherham and Doncaster, and may be extended to the whole of South Yorkshire at a later date.

1. Aim

To provide a framework for dealing with complaints involving more than one of the participating agencies and, where possible, to result in a single response.

2. Agencies

Rotherham Doncaster and South Humber Mental Health NHS Foundation Trust
 Doncaster and Bassetlaw Hospitals NHS Foundation Trust
 NHS Doncaster and Doncaster Community Healthcare
 NHS Rotherham
 Rotherham Metropolitan Borough Council
 The Rotherham General Hospital Trust
 Yorkshire Ambulance Service NHS Trust
 Doncaster Metropolitan Borough Council

3. Background

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 replaces previous regulations with a single process covering complaints about both Adult Social Care and Health Services from 1st April 2009, and emphasises the need for joint working/coordinated handling, to facilitate effective complaints handling between health and social care organisations. This inter-agency protocol has therefore been further developed for handling complaints, which cross boundaries between the responsibilities of both health and social services, to meet the criteria outlined in the subsequent new Directives.

4. Framework

- 4.1 Complaints will be acknowledged by the receiving agency within **three** working days- this may be either verbally or in writing.
- 4.2 The receiving agency will, as soon as possible, but within five working days of receiving the complaint:
 - Clarify the complaint;
 - Check the authorisation of the complainant;
 - Seek the written consent of the customer, patient, or their representative to allow the receiving agency to send a copy of the complaint to other agencies involved. Confidential information should not be shared without such consent (**please see Appendix I**). If written consent is not possible, verbal consent should be recorded and a copy sent to the complainant;
 - Offer a single reply, on behalf of all the agencies involved, from the agency against whom the bulk of the complaint has been made (lead agency); however, if the complainant chooses and/or in extreme circumstances, where this is not possible, a separate response should be sent from all the agencies involved in the complaint, with the receiving agency monitoring the process of each response.

- 4.3 Upon receipt of the patient or their representative's consent, a copy of the complaint letter and the receiving agency's responses will be sent immediately, but in any event no later than within 48 hours, to the other agencies involved in the complaint-in consultation with the patient/customer. This may be via safe haven fax initially.
- 4.4 The lead will be taken by agreement between the respective complaints managers but will usually be the agency against whom the bulk of the complaint is made. Irrespective of lead responsibility, however, each body retains its duty of care to the complainant and must handle its part of the complaint in accordance with its own regulated procedures. Where agreement to identify the lead is not possible, the relevant Directors should seek to reach agreement. The responsibilities of the lead agency are detailed at paragraph 5.
- 4.5 If the complainant does **not** want the complaint forwarded to other involved agencies, the receiving agency will inform the complainant of a named person, address and telephone number for each part of the complaint should he/she wish to pursue it. The respective agencies will then investigate the complaint via their respective complaints procedures.
- 4.6 If the complainant **does** want a coordinated response:
- The lead agency will obtain responses from all the organisations involved and prepare a final response to the complainant;
 - **The complaints managers for each agency will coordinate any requests for responses or information to the lead agency, ensuring that agreed deadlines are met;**
 - **Each agency will deal with its part of the complaint in accordance with the Department of Health Statutory Instrument, No. 309, which places a "duty to co-operate" with other agencies covered by the new Regulations. The aim will be to ensure that the timescales which organisations worked to prior to the new process being introduced, will still be adhered to;**
 - The agencies should consider a joint meeting with the complainant, if this will facilitate a more effective outcome. Joint conciliation may be considered;
 - The complainant must be kept informed of any delays. If difficulties arise with meeting the agreed timescales, the complainant should be consulted at the earliest opportunity and agreement sought in writing, or, if not possible, verbal agreement should be recorded, to any extension of the agreed timescales;
 - The final reply must identify which issues relate to which agency, state the complainant's right to refer the matter to the relevant Ombudsman, should they wish to pursue the complaint further and be approved by the other agencies involved before being sent;
 - The Chief Executive of the lead NHS agency, or the responsible manager of the local authority, must sign the response;

5. **Summary of responsibilities of the lead agency**

- Identify the responsible agency for each aspect of the complaint;
- Consider whether a single response on behalf of involved agencies would be feasible;
- Discuss and agree methods of effective communication between the respective complaints managers throughout the process;
- Agree timescales with the complainant and other agencies. Joint handling of a case should not affect the need to meet statutory deadlines for providing a response to the complainant, and both agencies should seek to avoid any unnecessary delay. If difficulties arise with meeting the agreed timescale, the complainant should be consulted at the earliest opportunity, and further agreement sought, and recorded, regarding how to proceed;
- Keep the complainant updated on action being taken;
- Answer any queries during the process;

- Ensure a coordinated and comprehensive response is received by the complainant following investigation(s);
- Identify any learning points that arise from the complaint and how these might be shared between the complainant and the other agencies.
- Each agency will deal with its part of the complaint in accordance with *The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*, and has a “duty to co-operate” with the partner organisation, with the aim of providing a co-ordinated response and resolving the entire complaint.

6. Compliance

There is an expectation that the organisations/agencies highlighted in point 2 of this document will comply with the agreed protocol, and/or national directives.

7. Review of protocol

The respective Complaints Managers will review this protocol every twelve months.

8. Chief Executive Sign-off (individual respective organisations):-

Reviewed 20.04.09

Inter-Agency Complaints Procedure

