

COMPLAINTS AND PALS POLICY

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Sponsoring Director:	Director of Quality, Safety and Governance
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**CONFIRMATION OF EQUALITY IMPACT ASSESSMENT FOR
SOMERSET CLINICAL COMMISSIONING GROUP
DOCUMENTS/POLICIES/STRATEGIES AND SERVICE REVIEWS**

Main aim of the document:

This document sets out the commissioner's policy for the management of Complaints

Outcome of the Equality Impact Assessment Process:

Neutral impact identified

If relevant, outcome of the full impact assessment:

Review of Policy in two years (2018)

Actions taken and planned as a result of the equality impact assessment, with details of action plan with timescales/review dates as applicable:

Groups/individuals consulted with as part of the impact assessment:

The commissioner staff

COMPLAINTS AND PALS POLICY

1 INTRODUCTION

- 1.1 Somerset Clinical Commissioning Group (CCG) commissions acute, community and mental health services for the population of Somerset and aims to be an innovative and dynamic leader of quality and safety within the local health and social care community.
- 1.2 As the commissioner of acute, community and mental health services, it is important for the organisation to understand the patients' experience of the services provided and to be responsive to the needs and expectations of service users, families, carers and the general public. Somerset CCG aims to commission high quality, safe, health services, however there may be occasions when the expectations of service users, families, carers and the general public are not met and this policy explains how to raise concerns or complaints.

2 PURPOSE AND AIMS OF THE POLICY

- 2.1 The purpose of this policy is to describe the systems in place to effectively manage all Patient Advice and Liaison Service (PALS) enquiries and complaints in accordance with NHS complaints regulations. It outlines the responsibilities and processes for receiving, handling, investigating and resolving complaints and PALS enquiries, relating to the actions of Somerset CCG, its staff and services.
- 2.2 Somerset CCG aims to promote best practice within its complaints management function that is compliant with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. Somerset CCG also adheres to the NHS Constitution, including the five rights covering complaints and redress.
- 2.3 This policy applies to all Somerset CCG staff members, including Governing Body Members, involved in the CCG's policy making processes, whether permanent, temporary or contracted-in (either as an individual or through a third party supplier).
- 2.4 The aims of the policy are to ensure:
- there is a clear process in place that is accessible for service users, families, carers and the general public to raise comments, concerns, complaints and compliments
 - that all complainants are listened to and provided with a plan of how and when responses will be provided

- that complaints are treated in a positive manner by staff
- the provision of care is not adversely affected for the individual as a result of a complaint or concern being raised
- that all complaints, concerns and Patient Advice and Liaison Service (PALS) enquiries receive a thorough investigation and a full, honest and fair reply within the time frame agreed
- that following the investigation of a complaint or concern appropriate action is taken where necessary to improve the quality of services
- all replies are considerate, courteous and sympathetic
- that replies provide a satisfactory explanation to all the issues raised
- staff involved in the investigation understand that complaints and concerns are learning events and should be used to improve services in order to prevent future occurrences
- that complainants are given the opportunity to comment on the response to their complaint and changes made to services following the raising of their complaint or concern
- that there is a culture of being open and that the Duty of Candour is applied to all complaints and apologies are provided when the service provided has not met the required standard

3 RELATIONSHIP WITH REGULATIONS AND NATIONAL GUIDANCE

3.1 All complaints are considered and handled according to the Local Authority Social Services and National Health Service Complaints England Regulations 2009 – Statutory (1 April 2009), which is a national procedure used for all complaints raised in respect of treatment and services received under the NHS. This policy also reflects the following regulations and national guidance:

- NHS England Guide to good handling of complaints for CCGs
- The Health and Social Care Act 2001 – PALS
- The Principles of Good Complaint Handling - Parliamentary and Health Service Ombudsman (2008)
- Good Practice Standards for NHS Complaints Handling - Patients Association
- Regulations and Outcomes – Care Quality Commission

- The NHS Constitution – Department of Health (updated October 2015)
- The NHS Outcomes Framework – Domains 4 for Patient Experience and Domain 5 for Patient Safety
- How to Make a Complaint – The Patients Association (January 2012)
- The mid Staffordshire NHS Foundation Trust Public Enquiry (The Francis Report February 2013)
- A review of the NHS hospitals complaints system; putting patients back in the picture – Department of Health (2013) (The Clwyd Report)
- Suffering in Silence – Healthwatch (October 2014)
- My expectations for raising concerns and complaints – Local Government Ombudsman (LGO), Healthwatch and Parliamentary and Health Service Ombudsman (PHSO) (November 2014)
- Complaints Matter – CQC (December 2014)

4 PRINCIPLES

4.1 This policy and the approach to complaints and PALS enquiries is based on the Parliamentary and Health Service Ombudsman's (PHSO's) Principles of Good Administration, Redress and Good Complaint Handling (2009), the NHS Constitution (2015) and My expectations for raising concerns and complaints (2014). The aims of this policy reflect the underlying principles of these documents which are as follows:

- getting it right
- being customer focussed
- being open and accountable
- acting fairly and proportionately
- putting things right
- ensure people know how to complain, in a way and time that suits them
- ensuring people are treated with courtesy and receive appropriate support on receipt of the complaint and throughout the complaint process

- ensuring the future treatment of anyone who has made a complaint will not be adversely affected
- acknowledging when mistakes happen, apologise, explain what went wrong and put things right quickly and effectively
- that the complainant receives a personal response, which clearly outlines the outcome/resolution in an appropriate format, which addresses all of the concerns they have raised
- to seek continuous improvement and ensure the organisation learns lessons from complaints and claims and uses these to improve NHS services
- ensuring people have a good experience of complaining and feel able to do so again

Duty of Candour

- 4.2 The above principles are supported by the Duty of Candour, which ensures that providers of NHS health services are open and honest with service users when things go wrong and they provide them with reasonable support, truthful information and a written apology.

Equality and Diversity

- 4.3 Somerset CCG commissions health services available to all, irrespective of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. NHS organisations have a duty to each and every individual they serve and must respect their human rights.
- 4.4 Somerset CCG has a wider social duty to promote equality through the services it provides and to pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population.
- 4.6 Every complainant will be treated fairly and equitably, regardless of age, disability, race, culture, nationality, gender, sexual orientation and faith/belief. The patient/complainant will not receive less help, will not have things made difficult for them, nor have the quality of their care compromised as a result of their complaint.

Investigation of Complaints

- 4.5 Somerset CCG expects all staff, including temporary and agency staff, to assist the Patient Safety Team to ensure complaints are properly investigated and ensure improvement of services and patient care through learning and development.

- 4.6 All staff are responsible for identifying training needs in respect of policies and procedures and bringing them to the attention of their line manager, and attending training/awareness session, when provided.

5 DEFINITIONS, WHO CAN MAKE A COMPLAINT AND TIMESCALES

Definitions

- 5.1 **Complaint:** a complaint is any expression of dissatisfaction regarding any aspect of service relating to patient care, clinical or non-clinical, relating to attitudes or behaviour, the environment, facilities or systems that requires an organisational response. Complaints can be made verbally, in writing and electronically and are included under this term along with formal complaints raised by Members of Parliament (MPs) on behalf of their constituents. Complaints are managed to enable patients, service users (or their representatives) to give feedback on the services they have received in as easy a way as possible.

Issues/concerns: A written or oral expression of dissatisfaction that can be resolved without the need for formal investigation or correspondence.

Joint Complaint: A formal complaint involving two or more organisations for which a co-ordinated approach is required.

NHS Complaints Advocacy (SWAN): is the organisation that provides independent help and support for people pursuing an NHS complaint.

The Parliamentary and Health Service Ombudsman (PHSO): Is the organisation that manages the second state of the NHS complaints procedure.

Serious Incident (SI): In accordance with the NHS England SI Framework, SI's are events in healthcare where the potential for learning is so great, or the consequences to patients, families and carers, staff or organisations are so significant, that they warrant using additional resources to mount a comprehensive response.

Investigating Officer: The person identified as responsible for handling and investigating an individual complaint.

Compliments: Positive feedback received, relating to Somerset CCG or one of the CCG's commissioned services.

Informal Enquiry (also known as PALS): An informal enquiry (or PALS) is an issue or concern that can be resolved informally without the need for a formal investigation.

Who can make a complaint

5.2 A complaint may be made by:

- a patient or service user
- any person who is affected by or likely to be affected by the action, omission or decision of the CCG or one of its providers
- a representative of either of the above in a case when that person:
 - has died
 - is a child
 - is unable by reason of physical or mental capacity to make the complaint themselves
 - has requested a representative to act on their behalf (a representative may include a parent, guardian, relative, civil partner or friend, and in these cases consent will be required, (see Appendix 1 - example of Consent Form). In the case of a patient or person affected who has died or who is incapable, the representative must be a relative or other person who, in the opinion of the Patient Safety Team had or has sufficient interest in their welfare and is a suitable person to act as a representative. If, in any case it appears that a representative does not have sufficient interest in the person's welfare or is unsuitable to act as a representative, the Patient Safety Team will notify the person in writing, stating the reasons why
- anonymous complaints will be accepted (for example, telephone call, letter) but if possible the person should be encouraged to provide their name and other relevant details
- if a patient is unable to act, for instance due to physical incapacity or lack of capacity within the meaning of the Mental Capacity Act (2005), consent is not required. This will be agreed on an individual basis by the manager responsible for complaints
- advocates such as SWAN (Independent Complaints Advocacy Service) and voluntary organisations, such as Healthwatch
- Members of Parliament

- parents and legal guardians can raise concerns on behalf of the child. However, if the complaint or concern raised relates to a person over 16 years of age, consent must be sought from the individual to investigate and release medical information. In circumstances when a complaint or concern is raised for a child under 16 years by anyone other than the parent or legal guardian, consent must be sought from the parent or legal guardian or from the young person if there it can be demonstrated that the young person is competent to consent

Timescales for making a complaint

- 5.3 Complaints should be made within 12 months of the event, or within 12 months of the complainant realising there is something to complain about. The NHS will not usually investigate a complaint made outside these time limits – although the limits may be waived if there was good reason for the delay.
- 5.4 If there are good reasons for not having made the complaint within the above timeframe and, if it is still possible to investigate the complaint effectively and fairly, Somerset CCG may decide to still consider the complaint
- 5.5 When a complaint is made outside these limits and the time limits are not waived, the complainant will be informed of their rights to request the PHSO consider their case.

6 WHAT CANNOT BE DEALT WITH UNDER THE NHS COMPLAINTS PROCEDURE?

- 6.1 There are types of complaints that are excluded from the scope of the complaints process outlined in this policy including:
- a complaint that is currently/has been investigated by another NHS body or the PHSO
 - a complaint which is the same as a complaint that has previously been made and resolved
 - events requiring investigation by a professional disciplinary body
 - complaints about private medical or dental treatment
 - NHS primary care services. These complaints are handled by NHS England. The CCG will handle and coordinate complaints where a number of providers are involved, including primary care
 - complaints made by another NHS body which relate to the exercise of Somerset CCG function

- complaints made by a staff member about any matter relating to their contract of employment
- complaints made by an independent contractor/provider or NHS Foundation Trust about any matter in relation to arrangements made by Somerset CCG with the said providers
-
- complaints arising out of an alleged failure by an NHS body to comply with a data subject request under the Data Protection Act 1998
- complaints surrounding the process of requesting information under the Freedom of Information Act 2000
- complaints which have given rise to Somerset CCG initiating a separate disciplinary investigation. Where there are aspects of the complaint not covered by the disciplinary investigation, they will continue to be dealt with under the complaints procedures. The Managing Director will advise the complainant in writing of a disciplinary investigation is under-way; they may be asked to take part in that process; and how any outstanding aspects of their complaint will be taken forward

6.2 Complaints about private medical treatment or private medical treatment provided in NHS premises do not apply if the service is delivered in its entirety by privately employed staff and the premises are being leased under a private agreement. This policy does cover any complaints made about employees or contractors delivering medical care to private patients under their NHS contract of employment and/or facilities provided whilst receiving private medical care delivered by NHS staff in NHS property.

7 HOW TO MAKE A COMPLAINT

7.1 Complaints can be made in person, in writing, by telephone, or by email and can be sent to the Managing Director, the Chairman or directly to the Patient Safety Team: The following information will be required:

- name, date of birth, address, and telephone number of the complainant
- if the complainant is acting for someone else, their details and consent
- a list of issues the complaint relates to with a summary of what happened, who was involved and when it happened, giving dates if possible

- the preferred method of communication of the complainant
- the outcome that is being sought by the complainant

7.2 Where complaints are raised with Healthcare Professionals, if the patient required a response which the Health Care Professional is not able to deal with directly, patients should be advised to contact PALS/Complaints

7.3 Health Care Professionals in primary care may raise concerns through the Health Care Professional Feedback scheme and will receive a response appropriate to the concern raised.

8 COMPLAINTS INVOLVING A SINGLE PROVIDER ORGANISATION

8.1 If a complaint is received relating to a single provider or organisation commissioned by Somerset CCG, the Patient Safety Team will contact the complainant and seek consent for the complaint to be shared with the appropriate provider's complaints team for their investigation and direct response. If required, Somerset CCG will request a copy of the provider's response, to ensure all concerns have been addressed and appropriate learning identified.

8.2 In cases where this is not acceptable to the complainant, or Somerset CCG has particular concerns, Somerset CCG may decide to take the lead themselves.

8.3 Somerset CCG may also attend a provider's Local Resolution Meeting, when invited by the provider, to deliver external challenge.

9 COMPLAINTS THAT SPAN A NUMBER OF NHS AND/OR OTHER ORGANISATIONS

9.1 Enquiries/complaints may be received which may relate to services provided by more than one provider including NHS providers, the local authority or the independent sector. In these cases, there should be full co-operation between all providers in seeking resolution.

9.2 When determining which organisation will take the lead role in a joint complaint, the following should be taken into account:

- which organisation manages integrated services
- which organisation has the most serious complaints about it
- whether a larger number of the issues in the complaint relate to one organisation compared with the other organisation(s)
- which organisation originally received the complaint (if the seriousness and number of complaints are about the same for each one)

- whether the complainant has a clear preference for which organisation takes the lead

9.3 Somerset CCG has signed the local joint working protocol with the main health providers for Somerset area which is included at Appendix 2.

9.4 The Patient Safety Team will liaise with individual service providers to agree who is best to respond to complaints or concerns received by Somerset CCG that relate to a single provider. If the decision is to pass the correspondence onto the organisation concerned and this is agreed with the complainant, the decision will be confirmed in writing to the complainant.

9.5 Providers of healthcare services will inform Somerset CCG if issues arising from a complaint raised are the subject of internal or local investigation. There should not be more than one investigation into a complaint at any one time.

9.6 The roles and responsibilities of Somerset CCG in managing complaints are set out in Appendix 3.

10 CONFIDENTIALITY

10.1 It is not necessary to obtain a patient's express consent to use personal information to investigate a complaint or concern they have raised. Care must be taken to ensure that any information disclosed about the patient is confined to what is relevant to the investigation and only disclosed to those people who have a need to know for the purpose of the investigation.

10.2 If a complaint or concern is raised on behalf of a patient who has not authorised someone to act for them, care must be taken not to disclose personal health information to the complainant unless the patient has consented to its disclosure.

10.3 There may be rare occasions that, when for the sake of the patient's safety, it is necessary to override confidentiality. This action would only be taken if the complainant, the patient or any other person is at risk or harm. Any such action will be taken with advice and authorisation from the Director of Quality, Safety and Governance.

10.4 In transferring complaints between agencies (including the PHSO) confidentiality will be maintained at all times. Every effort will be made to obtain consent from the patient/service user (or their representative) before sharing confidential information with another body or organisation. Consent will be obtained in writing, or where this is not possible, Somerset CCG will seek further advice from the Caldicott Guardian.

11 CONSENT

- 11.1 If a complaint or concern is received from a person acting on behalf of a patient (including solicitors), permission must be obtained from the patient before information is provided.
- 11.2 Permission will be required from the complainant when Somerset CCG is required to forward a complaint for investigation, for example to an acute trust.
- 11.3 The Quality and Patient Safety Team will be responsible for obtaining such written consent.
- 11.4 Where there is concern about the validity of a signed consent form further steps may be taken to confirm the validity.

Correspondence received from Members of Parliament

- 11.5 Members of Parliament (MP), acting on behalf of their constituents, are already considered to have obtained consent from the complainant. This is supported by the Data Protection Act 1998 – Processing of Sensitive Personal Data – Elective representatives Order 2002 SI2002 No 2905 (v2,0 May2006). Where a constituent approaches an MP on behalf of someone else then consent may be required to ensure the complainant is acting with the patient's authority.
- 11.6 In cases when the MP complaint requires cross organisational investigation, the Patient Safety Team will request consent from the constituent to investigate their complaint with the additional organisations identified.

12 SUPPORT FOR COMPLAINANTS - ADVOCACY

- 12.1 Within Somerset, SWAN Advocacy provides support for people in making a complaint and can provide advice about the NHS complaints process. SWAN can help draft or write a complaint letter, attend meetings with the complainant and provide an interpreter if required. SWAN has a number of advocates that provide a free, independent and confidential service. SWAN can be contacted:

Telephone: 03333 447928 (Monday to Friday, during office hours)

Fax: 01722 341379

E-mail: somerset@swanadvocacy.org.uk

Web: www.somerset-ias.org.uk

- 12.2 An independent conciliator can be involved at any stage to help achieve local resolution. Conciliators are trained to resolve disputes through discussion and are independent of the NHS. Either party can request conciliation, but both parties must agree to participate before it can proceed.

13 PATIENT ADVICE AND LIASION SERVICE (PALS)

Concerns and Suggestions

13.1 PALS are able to help people who are not happy about the care or treatment/service they have received, but do not wish to make a formal complaint. The team can help resolve concerns quickly and informally and make enquiries to ensure concerns and suggestions are used constructively to improve services.

13.2 The PALS service for Somerset CCG is provided in-house and will provide the following:

- a responsive and efficient service to those contacting the service, seeking advice and where possible have an early resolution of the issues and concerns through problem solving and negotiation
- co-ordinate the delivery of an effective visible and accessible PALS Service
- manage a triage process of all contacts received by Somerset CCG to assess the urgency required to address the issues raised and ensure that appropriate action is taken in agreed timescales
- act as advocate on patients behalf in relation to patient transport
- provide assistance and advice relating to GP practices

13.3 The service will also provide:

- essential information about local networks and support including a wide range of local intelligence and understanding with expert advice on the service and assistance for users of the service
- data capture and reports, including from the Datix system which captures relevant data in a way which ensures that information is available to monitor trends on a regular basis
- facilitation for meetings and liaison with patients, families and providers.

Compliments

13.4 The PALS service will pass on all compliments received about health care services in order for staff and their managers to use this information to help improve other service areas.

14 HANDLING OF COMPLAINTS, CONCERNS AND COMPLIMENTS

Risk Assessment

14.1 On receipt, each complaint/concern will be risk assessed using the NHS risk assessment matrix. This ensures the right action is taken, in addition to the complaints process. The Patient Safety Team will ensure that any high risk 'red' complaints are brought to the immediate attention of senior managers within the Quality, Safety and Governance Directorate and relevant leaders, as appropriate. Examples of 'red' complaints include:

- a complaint/concerns about the patient's immediate safety and care
- concerns that could impact on the safety and care of other patients
- a complaint that details substantial failings in basic care
- a complaint where care has been compromised
- a complaint detailing potential safeguarding concerns
- a complaint which could also be a potential Serious Incident and therefore should be managed as such in accordance with NHS England guidance

14.2 The Designated Nurse Safeguarding Children should be contacted if a complaint or concern received raises an issue relating to Safeguarding Children.

14.3 The Director of Quality Patient Safety should be contacted if a complaint or concern received raises an issue relating to Safeguarding Adults.

First Stage – Local Resolution

14.4 The first stage of the NHS complaints procedure is called Local Resolution. The purpose of Local Resolution is to deal with concerns or minor complaints quickly and informally. In many cases a verbal concern or minor complaint can be presented to a member of staff within the provider organisation involved. This could be a doctor, nurse, dentist, receptionist or any other appropriate staff member. The alternative for people wishing to speak to someone who is not directly involved with their healthcare is to contact PALS. Contact details for the relevant PALS teams in Somerset are provided at Appendix 4.

14.5 A complaint can be made orally, in writing or electronically. If Somerset CCG receives a verbal complaint the member of staff receiving the complaint must make a written record of the complaint and provide a copy to the Patient Safety Team as soon as possible. The Patient Safety Team will acknowledge the complaint within 3 working days of receipt. (Appendix 5 – Complaints Process Flowchart).

- 14.6 Patient confidentiality will be maintained at all times when dealing with complaints. Written consent will be sought from a patient and/or representative to the sharing of confidential information necessary for an investigation.
- 14.7 Where possible (unless the complaint is anonymised), the Patient Safety Team will contact the complainant to discuss the following issues:
- details of the concerns
 - the outcome the complainant seeks
 - the preferred method of communication
 - agree the period of time in which the investigation is likely to be completed
 - consent
 - provide an explanation of the complaints process and the plan of action
- 14.8 During the complaints process, Somerset CCG will keep the complainant informed as to the progress of the investigation. If any delays occur, they will be informed of the reason why and a revised date for the response will be agreed with them.
- 14.9 Somerset CCG may also consider seeking an external review to assist the complaints investigation, where an expert opinion is required. Such a decision will be at the CCG's discretion.
- 14.10 The Patient Safety Team will endeavour to provide the complainant with a full response within 25 working days. However, if this timescale is not realistic given the number of providers involved or the complexity of the investigation, this will be discussed with the complainant and a target date agreed.
- 14.11 On completion of the investigation, a written signed response will be sent from the Chair (or other senior level Director), addressing the complainants concerns. The response will include:
- an explanation of how the concerns raised were investigated
 - the conclusions reached in relation to the complaint, including any remedial action that the CCG considers appropriate
 - confirmation that the CCG is satisfied any action required as a result of the complaints has been or will be taken

- 14.12 The formal written response can be in the form of minutes of a meeting held with the complainant, where a response has been provided.
- 14.13 If a complainant is dissatisfied with the response, every effort will be made to achieve a satisfactory outcome at local level by:
- identifying outstanding issues
 - arranging a Local Resolution Meeting
 - providing a further written response

Second Stage – Handling and Consideration of Complaints referred to the PHSO

- 14.14 If a complainant remains dissatisfied with the response gained at local resolution stage they can ask the PHSO to review the case. The PHSO considers complaints made by or on behalf of people who believe there has been an injustice or hardship because an organisation has not acted properly or fairly or has given poor service and not put things right. This service is free for everyone.
- 14.15 Requests must be made within 12 months of the event, or within 12 months of the complainant realising there is something to complain about. This time can be extended where good reason is shown. The Ombudsman can carry out independent investigations into complaints about poor treatment or service provided through the NHS in England. The PHSO contact details are as follows:

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

Complaints Helpline Tel: 0345 015 4033
Email: phso.enquiries@ombudsman.org.uk
Text: 07624 813 005
Website: www.ombudsman.org.uk

- 14.16 Literature and information explaining the process is available from Somerset CCG and all commissioned organisations. The information is available in paper, electronic and audio format and in other languages.

15 WITHDRAWAL OF A COMPLAINT

- 15.1 Any complaint or concern received by Somerset CCG can be withdrawn at any stage of the procedure. Any issues against an individual/ those complained about and/or the provider organisations involved, will be informed as soon as possible.

15.2 Where possible, any learning identified from any investigations which had already taken place, will be shared with the relevant parties.

16 CONFIDENTIALITY - THIRD PARTY CONFIDENCE

16.1 A duty of confidence applies equally to third parties who have given information or where there is reference made to a third party in a patient's record. Care must be taken if information has been provided in confidence by or about a third party who is not a healthcare professional. Prior knowledge must be given to the person(s) concerned to ensure they have consented to the disclosure of the information. If anonymous information is deemed to be adequate, identifiable information should be omitted. This does not remove the legal duty of confidence.

17 CORONER'S INQUESTS

17.1 A complaint associated with a death that has been referred to the Coroner may need to be suspended or delayed. Where appropriate the Patient Safety will liaise with the Coroner's Office and the complainant will be advised in writing with a clear explanation of the reason.

18 LEGAL ACTION

18.1 When a complaint is received and there is a prima facie case of negligence or an indication of possible legal action, the Patient Safety Team will inform and seek advice from the Director of Quality, Safety and Governance. The complaint investigation will continue. If there is a stated intention to initiate legal action, Somerset CCG will seek legal advice on whether the complaint investigation can continue alongside this.

18.2 In the event of a complaint being received that involves allegations of misconduct about a member or members of staff warranting a management investigation, involvement of a professional regulatory body or a criminal investigation, the Patient Safety Team will inform the Director of Quality, Safety and Governance, who will determine the action to be taken.

19 LEARNING FROM COMPLAINTS

Root Cause Analysis

- 19.1 Where a complaint investigation highlights significant issues in patient safety, procedures, systems or clinical outcomes, the Patient Safety Team will consider whether this incident should be reported as a serious untoward incident and may decide to instigate a root cause analysis investigation. The purpose of this approach to investigation is to determine the root cause of an incident and the lessons learned and recommendations for improvements to patient care or service delivery..
- 19.2 Investigations should be carried out by a team nominated by the Head of Patient Safety and Governance. When making this appointment, they should consider whether the investigator should be brought in from another part of the organisation or from an external body (for example: because the issues are particularly sensitive or recurrent, or because the service manager is involved). There will also be consideration of the relevant clinical expertise and advice required.
- 19.3 It should be borne in mind by those conducting a detailed investigation that statements taken and the investigation report produced may be disclosable to the defence in any legal action. Therefore care could be taken to ensure that they are:
- accurate
 - complete
 - factual
 - based on evidence rather than supposition or anecdote
- 19.4 Concerns and complaints provide a rich source of patient feedback on the health services which we commission and provide. They help to identify areas of risk and the need for change and improvement. Following each complaint investigation, actions should be identified, where appropriate, by the relevant NHS provider, CCG Directorate or service area to ensure service improvement, risk management, prevention of recurrence and staff learning, as a result of the complaint. This evidence may be in the form of an action plan, a copy of which should be filed in the complaint file. Actions as a result of complaints should be monitored regularly by the NHS Provider, Directorate or service areas, to ensure continued compliance with the change/ improvement. Provider organisations should have systems in place, to ensure that learning is disseminated within their organisation. The CCG has processes in place to share learning more widely within the local health community, through the SafetyNet Newsletter, and through the quarterly quality monitoring meetings with NHS providers.

19.5 Where no actions are deemed necessary as a result of a complaint, evidence to this effect should be provided, for inclusion in the complaint file.

20 ASSURANCE, MONITORING AND GOVERNANCE

20.1 The philosophy of Somerset CCG for the management of complaints is to recognise their positive value through effective investigation and monitoring. The CCG will monitor performance in relation to the complaints process for all NHS Providers and seek assurance that learning has been embedded through the following means:

- themes and trends of complaints will be discussed with the provider organisations at their Clinical Quality Review Meetings (CQRM's) and any further action identified
- the implementation of learning and completion of actions will be monitored through the CQRM's
- Somerset CCG will use intelligence from complaints relating to provider organisations to inform Quality Assurance visits and use this opportunity to seek assurance that specific actions have been implemented and embedded
- Somerset CCG will use the intelligence gained from complaints information to develop a greater awareness of services commissioned and where these may not meet quality standards. This intelligence will be shared with the commissioning teams to inform future service development

Reporting

20.2 A quarterly complaints report will be presented to the Somerset CCG Governing Body as part of the overall performance and patient safety reporting. The reports will identify any trends and patterns arising from complaints and any subsequent action taken as a result of lessons learned.

20.3 A Complaints and PALS Annual Report will be produced each year on the handling of complaints, outline actions, monitoring compliance and outcomes.

Transparency

20.4 Somerset CCG publishes anonymised summaries of complaints on its public website. These summaries provide details of the complaint, the outcomes from the investigation and any learning/actions identified. The content of these publication summaries will be checked with the complainant and they will be given the opportunity to with-hold publication.

Equality Monitoring and Diversity Forms

- 20.5 Equality Monitoring forms are sent to complainant with consent forms at the outset of an investigation and again when the complaint is closed with a complaints handling evaluation survey. These forms are filed separately and analysed at least annually to check whether there are any protected groups who are being adversely affected by service provision or complaints handling processes. (Appendix 6)

The effectiveness of complaints handling by the CCG

- 20.6 At the closure of each complaint a date will be scheduled to send a complaints handling satisfaction survey to the complainant one month after the date of sending out the final response. This service is managed by the Patients Association and any information shared by the complainants is anonymised and confidential. The findings from these surveys will be incorporated into the quarterly complaints report.

21 VEXACIOUS AND PERSISTENT COMPLAINANTS

- 21.1 It is recognised that there are times when there is nothing further that can reasonably be done to rectify a real or perceived problem.
- 21.2 Unreasonably persistent, serial, or habitual complainants are those complainants who, because of the frequency or nature of their contact with Somerset CCG hinder the consideration of their or other people's complaints.
- 21.3 Somerset CCG acknowledge that such complainants may have a genuine grievance that should be properly investigated. Before deciding that someone is an unreasonable persistent complainant, the CCG must be satisfied that:
- the complaint is being or has been investigated properly
 - any decision reached on the complaint is the right one
 - communication with the complainant have been adequate
 - the complainant is not now providing any significant new information that might affect the CCG's view on the complaint.
- 21.4 Further clarification of vexatious / habitual complaints can be found in Appendix 7.

22 FREEDOM OF INFORMATION REQUESTS

- 22.1 The Director of Quality, Safety and Governance will respond to any request for information under the provisions of the Freedom of Information Act. Any complaints that arise out of Somerset CCG alleged failure to comply with either a data subject request under the Data Protection Act 1998 or Freedom of Information Act 2000 will be considered under the terms of the Somerset CCG Freedom of Information Act Policy.

23 RECORDING OF COMPLAINTS IN HEALTH RECORDS

- 23.1 Records of contacts and their complaints or concerns are kept separate from health records,. This applies to all reports and medical reports produced during an investigation. Electronic records will be stored within a secure database managed by and accessible only to the Patient Safety Team. Any hard copy (paper) records will be kept securely locked and accessible only to the Patient Safety Team.
- 23.2 Complaints records will be stored in accordance with the NHS Records Management Code of Practice and will be kept by the organisation for a minimum of 10 years.

24 DISSEMINATION AND ACCESSIBILITY OF POLICY

Dissemination, Accessibility and Implementation

- 24.1 The organisation will make leaflets and posters explaining the complaints procedure available to all staff and will be made available in a variety of formats and languages. The policy shall be posted on the Somerset CCG intranet for ease of access and reference for all staff.
- 24.2 Similar information will also be made available on the Somerset CCG internet site and provided to Somerset Healthwatch. A copy of this policy shall be given, free of charge, to any patient or member of the public requesting it.
- 24.4 Somerset CCG is committed to ensuring that the guidance in this policy is accessible to all. This means that, as required, additional support will be provided to help ensure that the information in this policy can be understood and its guidance followed. This support includes (but is not limited to):
- the provision of the policy and any associated documents in alternative formats or languages
 - enabling individuals to have an advocate or interpreter involved for support with communication
 - making reasonable adjustments, in discussion with individuals or their representatives, to procedures where these are necessary to ensure their accessibility

Training

- 24.5 Managers and staff referred to within the Policy are responsible for ensuring they and their staff are adequately trained to carry out the roles and responsibilities described.

24.6 The Patient Safety Team will provide training within the CCG to all new staff and provide advice to providers as required.

25 ASSOCIATED DOCUMENTS

25.1 This policy should be read in conjunction with the following policies and documents:

- Risk Management Strategy and Policy
- Policy on Procedural Documents
- Guide to Producing Patient Information
- Incident Reporting Policy
- Claims Policy
- “Being Open” Policy
- Raising Concerns Policy

26 REFERENCES

The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009 No. 309. Office of Public Sector Information. Available at: www.opsi.gov.uk

The Principles of Good Complain Handling (Parliamentary and Health Service Ombudsman) 2008. Available at: www.ombudsman.org.uk

The Patients Association – How to make a complaint. Available at: www.patients-association.org.uk

Listening, Improving, Responding – A guide to Better Patient Care (Department of Health 2009). Available at: www.dh.gov.uk/publications

The NHS Constitution for England (Department of Health 2009) Available at: www.dh.gov.uk/publications

Health and Social Care Act 2012. Available at: www.legislation.gov.uk

Being Open – communicating patient safety incidents with patients and their carers (NPSA, 2009). Available at www.npsa.nhs.uk/beingopen

Review of the NHS Hospital Complaints System – Putting Patients Back in the Picture (Department of Health, 2013) (The Clwyd Report). Available at: www.gov.uk

The Francis Report. Available at: www.midstaffpublicinquiry.com/report

Regulation 20: Duty of Candour, Care Quality Commission. Available at: www.cqc.org.uk

NHS England Serious Incident Framework. Available at: www.england.nhs.uk

Access for Health Records Act 1990. Available at: www.legislation.gov.uk

Data Protection Act 1998: Available at: www.legislation.gov.uk or www.gov.uk/data-protection

Mental Health Capacity Act 2005. Available at: www.gov.uk

NHS Complaints Procedure. Available at: www.england.nhs.uk

Freedom of Information Act 2000. Available at www.gov.uk