

Complaints Policy

Version – Final

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**Lead Director: Performance, Quality and Cooperate
Affairs**

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Description:	This policy has been developed by NHS Wandsworth Clinical Commissioning Group (WCCG) Clinical Quality Team to explain the responsibilities and actions for dealing with complaints. It applies to WCCG.
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1. Introduction

Wandsworth Clinical Commissioning Group (“Wandsworth CCG”) aspires to the highest standards of corporate behaviour and clinical commissioning competence, to ensure that safe, fair and equitable procedures are applied to all organisational transactions, including relationships with patients their carer’s, public, staff, stakeholders and the use of public resources. In order to provide clear and consistent guidance, Wandsworth CCG will develop documents to fulfil all statutory, organisational and best practice requirements and support the principles of equal opportunity for all.

This policy is designed to outline the process for handling complaints generated by patients or their representatives and aims to set out clear guidelines for staff, managers and complainants around how complaints will be managed. This policy provides assurance that no patients, relatives or their carers will be treated differently as a result of making a complaint.

This will be achieved by ensuring that complaints are handled fairly and openly. It is clearly not always possible for the complainant to receive the outcome they hoped for, but if they feel that their complaint has been handled appropriately and that they have had a fair hearing, this is a positive outcome. Wandsworth CCG is very keen to ensure that complaints are used as learning opportunities and those trends are analysed and reported on. It is essential that information we gain from complainants is used to improve the quality and safety of the services we commission.

2. Aims and Objectives

This policy describes the systems in place to effectively manage all complaints received by Wandsworth CCG in accordance with NHS complaints regulations. It outlines the responsibilities and processes for receiving, handling, investigating and resolving complaints relating to the actions of the organisation, its staff and services. The policy also includes the process used for complaints received relating to commissioned services such as NHS Acute and Foundation Trusts, Mental Health Trusts, Community NHS Services, independent contractors (general practices, dental practices, pharmacies and opticians) and independent sector providers.

The purpose of this policy is to ensure that Wandsworth CCG promotes best practice within its complaints management function, and also that it is compliant with relevant legislation and national guidance set for NHS organisations in managing complaints.

The main objective of the procedure is to ensure Wandsworth CCG deals with complaints concerning patients/users as quickly, appropriately and as close to the source of the problem as possible. This intention is reinforced and supported by the Customer Care Lead who will assist in dealing with their queries and concerns in an informal way.

This policy aims to achieve:

- a) Ease of access for complainants by empowering all staff to receive and, where appropriate, respond to complaints.
- b) A rapid, open, fair, conciliatory response which meets the needs of the complainant whilst being fair to staff.

- c) A high profile for complaints within the CCG which lead to quality improvements and learning for the organisation.
- d) A means of providing information to management in order that, where appropriate, services can be improved. This information will be gathered from many sources (e.g. through Clinical Quality Review Meetings, PALS contacts etc.)
- e) An environment in which organisations providing NHS commissioned care to Wandsworth patients welcome feedback on their services from service users and their relatives and/or carers as this is an opportunity for the organisation to learn from complaints, leading to the prevention or recurrence of incidents and complaints.
- f) Simplicity in the procedures so that it is easy to make comments or complaints about a service, throughout the organisation by a range of means e.g. orally, in writing or electronically.
- g) A culture in which staff will listen and take expressions of dissatisfaction seriously, including comments and concerns as well as complaints. Please see appendix A for roles and responsibilities.

3. Legislative Context

The procedure set out in this policy has been drawn up in response to Department of Health guidance published in “Listening, Responding, and Improving: a guide to better customer care”.

This policy adapts and supplements national guidance and legislation to meet local needs and recent developments within the NHS and aims to meet the principles of good complaints handling laid down by the Parliamentary and Health Service Ombudsman (PHSO). In particular, this policy adapts and complies with the following

- a) The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009;
- b) NHS England Guide to good handling of complaints for CCGs (2013);
- c) A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture (2013) by Ann Clwyd MP and Professor Tricia Hart (“the Clwyd-Hart Report”); and
- d) The (Statutory) Duty of Candour Guidance 2013.
- e) My Expectations Guide- PHSO Nov 2014 (See Appendix H)

As the organisation’s Accountable Officer, Wandsworth CCG’s Chief Officer is responsible for ensuring compliance with the procedure below and that action is taken in light of the outcome of any investigations.

4. Commissioner Obligations

Wandsworth CCG must have a person designated to deal with complaints; this role is in place within the CCG and the post is referred to within the organisation as the Customer Care Lead.

Any complainant who remains dissatisfied with the outcome of the investigation at local level has the right to request an investigation by the Parliamentary Health Service Ombudsman (PHSO). *A flow chart showing the complaints procedure is attached at Appendix C.*

The responsibilities of the CCG in handling complaints are to:

- Provide support and guidance to patients with complaints raised against the CCG.
- Investigate complaints raised against the CCG.
- Provide support and guidance to patients with complaints relating to Service Providers by directing them to local resolution.
- Provide support and advice to service providers (e.g. 111 providers, hospices, etc) and their staff to aid resolution and deal with issues raised.
- Identify and address any issues, advising complainants of the actions being taken as part of the formal response and ensure that the organisation learns any appropriate lessons.
- Ensure that making a complaint does not affect ongoing or future care, nor treatment provided and that complainants are reassured of this when necessary.
- Ensure that complaints are handled expertly by CCG staff.
- Ensure that possible improvements are identified and learning is captured.

The Commissioning Support Unit (CSU) will support the complaints process in relation to services they provide on our behalf. All complaints regarding a service provided by the CSU such as Continuing Healthcare (CHC), Independent Funding Request (IFR) or IT are forwarded to the CSU lead directly. The CSU lead is expected to investigate and compile an initial response. CCG director responsible (or their nominated lead) will sign off response before final authorisation by CCG chief officer as per normal process detailed in this policy

5. Who can complain?

Anyone who is receiving, or has received, NHS treatment or services or who is affected or is likely to be affected by an action, omission or decision can complain. This includes services provided by independent contractors or providers where Wandsworth CCG has a contract with the organisation to provide NHS services.

If a patient is unable to complain themselves then someone else, usually a relative or friend, can complain on their behalf, providing written consent is given.

If a complainant is the parent or guardian of a child under the age of 18 (to whom the complaint relates) the organisation must be satisfied that there are reasonable grounds for the complaint being made by the representative instead of the child.

If a patient is unable to act, for instance due to physical incapacity or lack of capacity, within the definition set out in the Mental Capacity Act (2005), consent is not required. This will be agreed on an individual basis by the CCG Investigating Lead responsible for the complaint.

If a complaint is raised concerning a patient who is deceased, this must be made by a suitable representative, for example next of kin. If the Customer care lead does not consider that the complainant is a suitable representative, and with their line manager in agreement, they may decline to deal with the complainant and recommend that another person acts on the patient's behalf.

6. General Processes

6.1 Process for verbal complaints

Complaints can be made verbally to the CCG. In this instance, a written statement will be taken from the complainant ensuring all salient points requiring a response are documented.

The written statement will be sent to the complainant asking them to make any changes to ensure it is an accurate reflection of their complaint. The complainants will then sign and return the statement to the quality team. The complainant will be advised that their complaint will not be processed until the signed statement is returned.

6.2 Written complaints received

Most written complaints will come directly to the Customer Care Lead. However, if a member of staff receives a written complaint, they have a duty to send it immediately to the Customer Care Lead, who will advise on how best to resolve the issue.

The complainant has a choice of complaining directly to the CCG as commissioners rather than to the provider responsible for providing care to which they are complaining about (acute care provider or independent provider). When a CCG receives a complaint about a service it commissions they may decide to deal with the complaint or decide that it is more appropriate for the provider to do so. In either case, the CCG will need the complainant's consent to forward the complaint to the provider. This will include the complainant's wishes and the seriousness of the complaint, for example where there has been a poor record of complaints handling or the complaint suggests a significant risk to patient safety or there appears to be a trend.

6.3 Time-limit for making a complaint

The timescale within which an NHS or social care complaint must be made is 12 months from the date on which a matter occurred, or the matter came to the notice of the complainant.

The regulations set out that the organisation has the discretion to investigate beyond this time, especially if there is good reason for a complaint not being received within the 12 months. The time limit can, and should, be waived if it is still practicable and possible to investigate the complaint, for example, the records still exist and the individuals concerned are still available to be questioned.

When a complaint is made outside these limits and the time limits are not waived, the Customer Care Lead, or their manager, will advise the complainant of their rights to request that the Parliamentary and Health Service Ombudsman consider their case.

6.4 Issues that cannot be addressed within the complaints procedure

This policy and procedure does not address:

- a) A complaint made by a responsible body to another responsible body. For example disputes on contractual matters between independent contractors should not be handled through this procedure.
- b) Complaints regarding privately funded treatment.
- c) Complaints which are made verbally and resolved to the satisfaction of the complainant no later than the next working day after the complaint was made.
- d) Complaints regarding an alleged failure to comply with a request for information under the Freedom of Information Act (2000). These will be dealt with via information governance processes.
- e) A complaint made by an employee about any matter relating to his/her employment. These matters will be handled via human resources procedures.
- f) Complaints that have already been locally investigated under the complaints regulations or which are being or have been investigated by a Local Commissioner under the Local Government Act 1974 or the Health Service Commissioner under the 1993 Act.
- g) If the organisation decides that a complaint meets any of the criteria detailed above, the complainant will be notified in writing of this decision and the reasons why.
- h) Where a complaint is received that is disputing a funding decision for example an individual funding request/continuing health care case, this will be handled in accordance with the appropriate appeals process.¹The eligibility criteria are set nationally by Standing Rules and so are not a matter for local review or complaints processes. However, the complainant can use the complaints procedure to raise concerns about the processes used.

7. CCG Management Process

In compliance with the Guidance and the Clwyd-Hart Report stated above, complainants should be listened to with sincerity and openness. Complaints about the CCG and the services it provides should be dealt with as follows:

- Any and all correspondence pertaining to a complaint, or a possible complaint, must be sent to the Customer Care Lead via the generic inbox: waccg.customercare@nhs.net
- The CCG will seek to distinguish between requests for assistance in resolving a perceived problem and an actual complaint. All received 'complaints' will be risk assessed and dealt with according to the level of the issue (see appendix D).
- Queries/Enquiries/Concerns shall be resolved as quickly as possible by an immediate, informal response made by a front line member of staff, their manager, or the person receiving it if they are able to do so, in an open and non-defensive way. All issues will be dealt with in a flexible manner, which is appropriate to their nature. A matter deemed to be

¹ National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care November 2012 (Revised) Para 73.1 page 96.

a complaint (i.e. any issues where the immediate, informal response has not satisfied the complainant) will be dealt with strictly in accordance with the complaints procedure.

- Whenever there is a specific statement of intent on the part of the caller/ correspondent that they wish their concerns/enquiries/queries to be dealt with as a complaint, they will be treated as such.
- With the agreement of the person raising the concern/enquiry/queries, if unresolved will be passed to the Customer Care Lead to be logged and acknowledged through the normal complaints process.
- Any formal complaint will be forwarded directly to the Customer Care Lead. The Customer Care Lead will take reasonable steps to contact the complainant prior to investigation in order to go through the complaints plan and where possible agree on how the complaint will be handled and clarify what the complaint is about if required. Customercare will also manage coordination of what the outcome is and when the complainant should receive a response.
- The complainant will be advised in the acknowledgement (Appendix F) that support can be provided to them by the Independent Complaints Advocacy Service (ICAS), along with contact details.
- A written copy of any **ORALLY** received complaint and the complaints plan must be sent to the complainant with the acknowledgement and an invitation to sign and return it. Action will not be taken without the explicit consent of the patient where the CCG needs to forward or find out more details external to the CCG e.g. from providers. If the patient is unable to consent, action will not be taken unless it is deemed in the best interests of the patient (taking advice from the Power of Attorney/ Next of Kin/ Best Interests Assessor, etc.).
- The response should include an apology where appropriate. Saying “I am sorry this has happened” or “I am sorry this has caused you such distress” at an early stage often helps to reduce frustration and uncertainty. An explanation will be offered giving details of any action taken to prevent a recurrence of the incident and information about the Parliamentary & Health Service Ombudsman (PHSO). The Director/Manager will record any actions taken as part of this process.
- All complaints responses will notify the complainant of the role and contact details of the Parliamentary Health Service ombudsman, in the event of them being unhappy with the response.
- This initial response should be drafted by the CCG investigating lead responsible for the issue with support from the Customer Care Lead where required. Before final sign off by the Chief Officer, the complaint must be reviewed by the director and sent to the customer care inbox.
- The Director/Manager will aim to provide the Customer Care Lead with the investigation file (which will include, for example, statements taken and evidence gathered as part of the investigation) and a drafted response letter within 20 working days in order that a response, under the signature of the Chief Officer, can be sent to the complainant within 25 working days (or a time agreed with the complainant when discussing the complaint plan). Any issues involving clinical judgement will be agreed with the clinician involved.

- If it is not possible to respond to the complainant within the agreed time scale, the complainant will be contacted and advised of the delay and agree a new response time, which normally should not exceed twenty working days from the date of that conversation/confirmation letter.
- A meeting can be offered as part of the resolution process and the Customer Care Lead can arrange some form of dispute resolution to aid this process, including the possible use of a Lay Conciliator/Mediator if required.
- The Customer Care Lead will refer any relevant issues such as incidents to the Patient Safety lead. If a complaint raises concerns around safeguarding the appropriate action will be taken
- Complaints that highlight a risk of potential litigation will be referred to the Deputy Director of Quality, who will initiate appropriate procedures for claims process if there is an explicitly stated intention to take legal action.
- Complaints that raise issues relating to Freedom of Information will be referred to the FOI lead, who will initiate the FOI process as appropriate.
- In compliance with the Clwyd-Hart Report, a monthly report of the complaints will be made available to the Quality Group for scrutiny.

7.1 Independent Provider Complaints

Independent providers are expected to have local complaints procedures, comparable with those operated in the NHS and to cooperate with the commissioning organisation and any other relevant bodies. For complaints relating to NHS purchased care provided within the independent sector, the CCG will provide advice to help resolve a complaint. A Lay Conciliator/Mediator may also be provided to support this process where requested. The CCG will also provide advice to any provider which has concerns about a patient's use of services or behaviour. The provider will have to cooperate in the investigation of any multi-sector complaints in which it was involved (see Appendix B) or any investigation by the CCG when requested by the complainant.

7.2 NHS Providers Complaints

In the majority of cases when a complaint is received by the CCG about a NHS provider the provider will normally be given the opportunity to respond to the complaint. The complaint will be acknowledged verbally or in writing within 3 working days and consent will be sought to forward the complaint to the provider. (Please refer to appendix G for example of consent statement).

When consent is received the complaint will be passed to the provider who will handle it in accordance with the NHS complaints procedure. A letter confirming that the complaint has been passed to the provider will then be sent to the complainant.

There may be occasions when the Wandsworth CCG considers it appropriate to handle the complaint rather than the provider. This decision will be taken once all mitigating circumstances have been taken into account, including the complainant's wishes, seriousness of complaint or significant patient safety issues or where there appears to be a pattern. In such cases both the complainant and provider will be notified and the complaint will be processed in accordance with section 7 above

Wandsworth CCG will ensure via contractual agreement that all NHS providers and any private provider with whom it has a contract or service level agreement have arrangements in place for handling complaints made about services they provide that is comparable with the NHS complaints procedure.

All providers will, via contractual agreement, be asked to report on the number and nature of complaints, concerns, comments and compliments received on an annual basis. This will include evidence of all lessons learned and improvements to services to prevent a reoccurrence of similar complaints.

7.3 Complaints involving multiple organisations

a) Multiple NHS Organisations Complaints

Where a complaint is received that spans a number of NHS provider organisations Wandsworth CCG will seek assurance that there will be a co-ordinated approach to the handling of the complaint across the various parties involved, prior to passing the complaint to the lead organisation.

The organisation who will lead in the handling of the complaint will be agreed upon following discussion with the parties involved. This decision will be made taking into account the organisation that has the greater part in the complaint as well as the complainant's wishes.

Where the complaint is particularly complex or where serious patient safety issues have been identified, the CCG may choose to co-ordinate the response or lead in the investigation of the complaint with the complainant's consent, rather than the providers.

b) Multi- Sector Complaints (Involving NHS, Local Authority and Other Sectors)

Where a complaint spans across more than one organisation, with the complainants consent, the organisations involved will co-operate with each other to deal with aspects of the complaint that relates to them. Discussions should take place between the relevant complaints teams as to whether the issues should be handled separately or as part of a joint response.

In the case of a joint response, the agencies will agree who will lead on the complaint and will aim to provide a single co-ordinated response (The lead is usually the organisation which has the bulk of issues to address). One officer should be nominated to coordinate the investigation and to be the main point of contact for the complainant during the investigation. The complainant should be provided with details of how the investigation will take place and the appropriate timescales should apply.

Joint responses should generally be jointly signed by the respective Chief Executives/ Accountable Officers. Irrespective of lead responsibility each organisation retains its duty of care to the complainant and must handle its part of the complaint in accordance with its own procedures.

This section of the procedure covers complaints received by an organisation which is part of the Wandsworth health economy which relate to a service which involves the CCG, either concerning

- A jointly managed agency, or
- The services of both agencies.

The procedure

- i. When a multi-agency complaint is received either an NHS agency or the Local Authority, the Complaints Coordinator of the receiving authority will:
 - Agree a written statement of the grievance with the complainant if this is not already available.
 - Acknowledge the complaint in writing within two working days, obtains consent
 - Send a copy to the other agency's complaints officer within two working days of receipt.
- ii. Within five working days of receipt of the complaint, the Complaints Coordinators should discuss the most effective way forward, ensuring that the complainant and staff are comfortable with the process being adopted. The method of investigation will take into account the NHS complaints procedures and those adopted by the relevant department of the Local Authority, or other agency.

Examples are:

 - Sharing a conciliator
 - Appointing a coordinator to oversee and collate all aspects of the complaint investigation
 - Using the "independent person" approach in the case of a complaint linked with Social Services
- iii. The agreed process, with time scales, should be clearly documented for all concerned and agreement reached on sharing any financial resource implications.
- iv. One of the officers should be nominated to take the lead and be the main point of contact for the complainant during the investigation.
- v. Once the findings of the investigation are known, relevant senior staff from each organisation involved should:
 - Collectively decide on a course of action as a result of the complaint. One of the main objectives of a complaints investigation is to highlight where services can be improved. Complaints relating to both health and local authority services are likely to identify areas of joint responsibility which need to be discussed and reviewed.
 - Agree the response to accompany the report to the complainant and decide who will sign the letter. It is recommended that in most cases it will be a jointly signed response.

Appeals process: The response to the complainant should include details of redress if the complainant remains dissatisfied.

Taking forward the recommendations: Lessons Learned: Recommendations for service improvements arising from a joint complaint investigation will be placed before the Management Team (MT) and/or the Quality Group (QG). The MT/QG will decide how the recommendations should be taken forward, by whom and with what overall timescale. The MT/QG will monitor the progress and ensure the recommendations are actioned through relevant sub-group which will report by exception any areas of issue. This procedure would take place regardless of any further action being taken by the complainant either through the review process of either complaints procedure or through legal channels. Should the

recommendations involve the need for action by an independent primary care contractor, that contractor will retain the right to act independently.

7.4 Non NHS Services Complaints

Occasionally complaints are received about services not provided by the NHS, e.g. private treatment. In such cases, wherever possible, the Customer Care Lead will advise the complainant of the correct agency to contact and will offer to forward the complaint for investigation. Beyond this the CCG will have no further input.

7.5 Serious incidents (SIs) and complaints

The procedure for investigating SIs is separate from the complaints procedure and is managed in accordance with the Serious Incidents Policy. If during the course of investigating an SI, a complaint is also received, the incident procedure will normally take precedence in terms of the investigation.

However if a complaint investigation reveals the need to take action under the SI procedure the incident procedure will normally take precedence in terms of investigation.

In these circumstances the complainant will be notified of the SI investigation and will be kept updated on the progress by the Customer Care Lead. It should be remembered that the issues raised in a complaint will not always be exactly the same as those investigated under the SI procedure and a separate and full response to the complaint will be required.

7.6 Process for dealing with anonymous complaints

All anonymous complaints received will be investigated if there is enough information to carry out an investigation. Investigating officers will be requested to report to the appropriate director and make appropriate recommendations based on the allegations raised.

7.7 Member of Parliament (MP) Complaints Letter Process

Day 0 to Day 2

- MP/Complaint Letter received into the organisation
- Complaint logged by customer care lead
- The Chief Officer's office sends an acknowledgement of receipt letter,
- Complaint forwarded to CCG lead responsible.

Day 2 to Day 15

CCG Investigating lead

- Obtains and examines the necessary paperwork
- Investigates complaint
- Drafts a response to all points raised
- Forwards the draft response to the Customer Care Lead

Day 15 –Day 25

- Response back to Chief Officer's office

- This leaves enough time from day 15 for any required amendments to be made
- If the amendments are straight forward/minor, these will be undertaken by Chief Officer's Office and the letter dispatched.
- If significant amendment/redraft is required, this will be returned to the CCG Investigating Lead responsible (and the Customer Care Lead is copied in on all correspondence) to ensure action is taken, and the amended response is returned to the Chief Officer's Office in **24hrs**

Note: If a letter requires either rerouting (e.g. provider) or reallocation of responsibility, this is done immediately.

Day 25(or earlier)

Response sent by Chief Officer's office

7.8 Unreasonable, persistent and vexatious complainants

Some complainants find it difficult to accept the findings following an investigation even when it has been to the second stage of the complaints procedure. The difficulty in managing such complaints places a strain on resources and causes undue stress for staff.

In such cases, it is important to ensure that the complaints procedure has been correctly implemented as far as possible and that no material element of the complaint has been overlooked or inadequately addressed.

The procedure on how to handle unreasonable and persistent complainants is attached (appendix E).

7.9 Staff who are the subject of complaints

The CCG recognises that complaints about its staff may be made. Staff will be informed of the details of any aspect of a complaint made against them. They will have the opportunity to answer the complaint and be kept informed of the progress of the complaint and its outcome by their manager. Specific HR process will also be followed in such circumstances

7.10 Access to personal information/medical records

Under the Data Protection Act (1998), individuals (both service users and employees) have certain rights regarding the way information about them is used. These include having the rights to see information that is recorded about them (subject access request) and to have any part of it that they do not understand explained.

Where clinical records are used in a complaint investigation, investigating officers must comply with regulations within the procedure for sharing of information across services or external agencies (incorporating the code of practice on openness in the NHS). Where copies or access to records is provided as part of the resolution of a complaint there is discretion to waive the usual access fee and associated charges.

Any requests received for access to complaint documentation will be sent to the information governance lead for appropriate action.

7.11 Complaints and Litigation

On receipt of a complaint in which legal action is being taken or the police are involved, the CCG should continue to resolve the complaint unless there are clear legal reasons not to do so. Advice will be sought from relevant authorities (such as legal advisors or the NHS Litigation Authority) to determine whether progressing the complaint might prejudice subsequent legal action. If there is likely to be any prejudice to the legal case the complaint will be put on hold and the complainant will be advised of this in writing and provided with an explanation. Paperwork relating to the complaints investigation can be used in a court of law.

7.12 Retention of complaint records

Complaint files will be retained securely in line with NHS records retention guidelines.

8. Service Improvements and performance monitoring

8.1 Service Improvements

Managers should use the issues raised in individual complaints to explore and, where appropriate, initiate service improvements. Guidance on conducting Root Cause Analysis (RCA) investigations including who should investigate and when, investigation methods and procedures and Root Cause Analysis processes will be available to investigators from the quality team. Managers should undertake a Root Cause Analysis investigation for complex complaints or on request by the Customer Care Lead.

If information from complaints and/or evidence from other sources, including that provided by other staff, indicates that patients could be at risk the manager of the service will have the discretion to discuss the matter with Director of Corporate Affairs and Performance or the Deputy Director of Quality and be guided by them as to the most appropriate action to be taken.

8.2 Performance Monitoring

Responsibility for complaints arrangements

The Chief Officer as Accountable Officer is the person ultimately accountable for the quality of care within the organisation and is responsible for responding in writing to all complaints. The designated lead of a complaint responsible for monitoring action is taken in light of the outcome of any investigation.

Complaints Monitoring

Complaints will form an integral part of quality, contract monitoring and performance management processes. This will be achieved through the regular review of complaints lodged with providers, thus ensuring that the required quality of service provision is achieved and maintained.

Managers should use the issues raised in individual complaints or concerns trends to explore and, where appropriate, initiate service improvements. Issues arising from complaints, problems and other user feedback should be a standard item for discussion at team meetings.

Reports to the Clinical Commissioning Group

A report setting out anonymised details of complaints lodged with the CCG, along with independent review activity will be submitted to the Integrated Governance Committee at the end of each quarter as part of a combined CLIP (Complaints, Litigation, Incidents and PALS) report. Quarterly reports will specify the number of complaints received, identify the subject matter, summarise the handling of the complaint including the outcome and identify any cases dealt with by the PHSO, and will include trends analysis across the various aspects in the report.

Other regular reports including annual reports will be decided upon and agreed with the CCG Quality group and will be discussed in the Integrated Governance Committee.

Regional and National Returns

The CCG annual complaints report will be made available to the relevant national bodies such as NHSE and HSCIC and reported through the national reporting platforms.

9. Policy Review and Implementation

In line with the organisations key documents policy this policy will be reviewed no later than 3 years from the date of original circulation or in the event of a significant national policy change, guidance or other significant learning. Staff will be made aware of this policy through staff briefings and team meetings. This policy will be made available on the CCG intranet.

Appendix A: Roles and responsibilities

Customer Care Lead

- Acknowledge all formal complaints with 2 days.
- Obtain consent to disclose information (as appropriate).
- Distribute complaint letter/details to the investigating, copy in Director and PA to the CEO.
- Maintain the CRM database
- Maintain contact with CCG lead investigating to ensure good progress of complaint and on-going support/advice is available.
- Ensure extended investigating periods are negotiated where appropriate.
- Attend meetings with complainant, where direct involvement will assist resolution.
- Organise and/or provide alternative dispute resolution where appropriate.
- Quality assesses the draft complaint response, ensuring that all aspects of the complaint are responded to.
- Supports the investigating lead with the formulation of the final letter of response where required.
- Supports the Director/Service lead to send the final response letter to the Chief Officer (or designated deputy when unavailable due to leave or absence), with copies to all parties involved in the complaint.
- Maintain a record of all action plans and changes in practice resulting from complaints.

- Obtain a progress report on actions at regular intervals.
- Provide all relevant information to the Health Service Ombudsman on request as part of the investigation process or other legislated data requests.

CCG Investigating Lead

- Obtains and examines the necessary paperwork
- Investigates the circumstances of the complaint within the set time scale
- Prepare a draft letter of response, integrating responses from other services where appropriate. Response to address all issues raised
- Carry out a risk assessment of the situation and draw up an action plan. This can be done with the responsible Director
- Asks Director responsible (or nominated other) to review response
- Forwards the draft response to the Customer Care Lead via generic inbox
- May need to contact the complainant and negotiate how the complaint will be investigated, timescales, review date and desired outcomes where required
- Retain staff statements, copies of relevant extracts of medical records and any other relevant documentation in the complaint investigation file (to be handed over to the Customer Care Lead on completion of the investigation).
- Attend meetings with the complainant, where direct involvement will help resolution of the complaint.
- Ensure that should there be a delay in completing the investigation, the Customer Care Lead is notified of the reason for the delay and can contact the complainant to ask for an extension of the investigation period.

Director/Service lead

- Support in identifying and agreeing an appropriate Investigating lead who is suitably independent of the events leading to the complaint.
- Ensure that any staff referred to in the complaint is informed.
- Ensure that the investigation is completed and the complete investigation file, along with a drafted response, is sent to the Customer Care Lead within the established time limits.
- Ensure that the response addresses all the concerns raised.
- Sign off a final response(or delegate as appropriate) before it is authorised by the Chief Officer
- Attend meetings with the complainant, where direct involvement will help resolution of the complaint.
- Ensure an action plan is drawn up (where appropriate) as a result of the complaint.
- Be responsible for the implementation of the action plan.
- Provide a progress report on the action plan when requested.
- Take action on any recommendations arising from an Ombudsman's report
- Ensures action from lessons learnt are implemented

Appendix B: Procedure for dealing with non CCG complaints

If a complaint is received which relates to another sector of the NHS or the Local Authority or about an independent provider, the following process should be followed.

In this context “receiving officer” relates to the officer receiving the complaint from the complainant, “appropriate officer” relates to the officer who is responsible for ensuring the complaint is investigated.

a) Written complaint

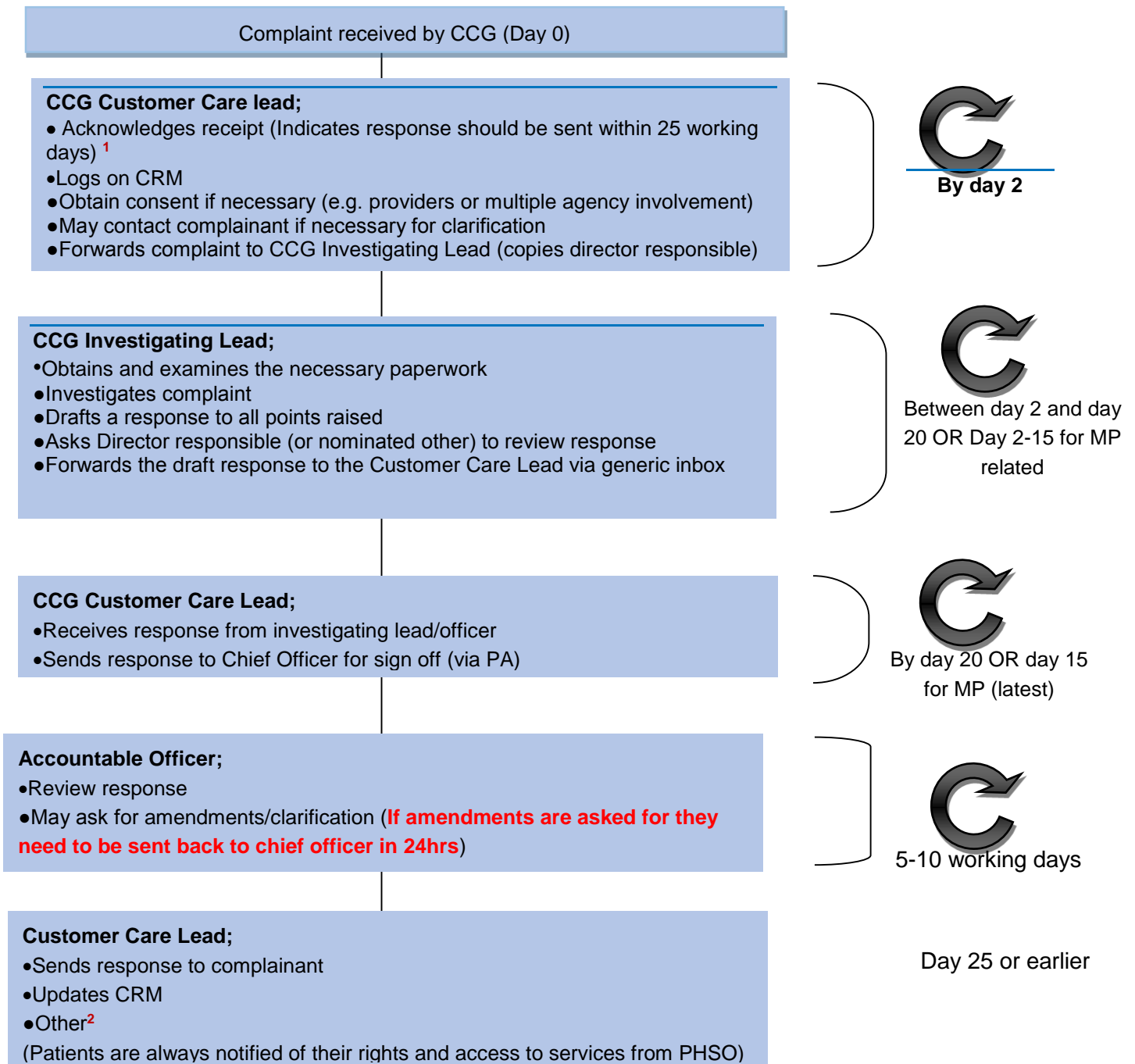
- The complaint should be acknowledged by the receiving officer (usually the Customer Care Lead, in writing, within three working days of receipt at the CCG by any member of staff.
- The acknowledgement letter should contain details of the individual to whom the complaint has been passed (name, title, organisation, address, tel. no.).
- If the complainant’s/patient’s consent to refer is not implicit in the letter this should be sought before the complaint is forwarded.
- The letter of complaint and copy of the acknowledgement should be sent with a covering letter to the appropriate officer within three working days of receipt/consent being received.
- It should be considered good practice to make a telephone call to the officer to whom the complaint is being sent, in order to ensure they are aware that the matter is being referred.
- Where the receiving officer has any doubts as to the identity of the appropriate investigating officer, telephone enquiries should be made to ensure the matter is referred correctly.

b) Oral complaints

- Where a complainant is enquiring how to lodge a complaint, the receiving officer should give either:
 - Details of the appropriate officer’s name, organisation, address, telephone number.
 - Or
 - Offer to ask the appropriate officer to contact the complainant. In this case the complainant’s full details, including telephone number, should be taken and passed to the appropriate officer within one working day.
- Where the complainant makes a statement of complaint, the receiving officer should offer to pass the details of the complaint to the appropriate officer, either:
 - By telephoning within one working day. This should then be confirmed in writing.
 - Or
 - In writing within two working days, setting out the basis for the complaint.

This letter should be copied to the complainant with a covering note confirming details of where the complaint has been sent.

Appendix C: Complaints Process Flow Chart



¹(Decision may need to be made if CCG responding directly or provider to do so. Either way CCG should be satisfied that each complaint has been fully resolved). Involve Safeguarding lead if issue raises safe guarding concerns.

²Note: If referred to Ombudsman, he may refer for another local resolution or resolve it with participation of CCG

Definition: A complaint is an expression of dissatisfaction requiring a response, communicated verbally, electronically, or in writing. Complaints may be made by any users of our service.

Definition: A concern or Enquiry is a problem raised that can be resolved / responded to straight away, (by the end of the next working day). These are not reported as complaints and fall outside the complaints arrangements.

Appendix D- Grading of complaints

In order to understand the impact of complaints on the individuals involved and the organisation a system of grading is undertaken. The system used is outlined in the table below and is essentially assessing the risk to all concerned.

The grading is applied by the organisational complaints lead on receipt of the complaint and can be adjusted following the completion of the investigation if required. The grading will be recorded on the database.

The grading of the complaint will indicate the level of manager who should investigate. All investigations will use relevant Root Cause Analysis tool.

Risk Evaluation Matrix					
Consequence					
Likelihood	Not significant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
Rare 1	Green 1	Green 2	Green 3	Yellow 4	Yellow 5
Unlikely 2	Green 2	Yellow 4	Yellow 6	Amber 8	Amber 10
Possible 3	Green 3	Yellow 6	Amber 9	Amber 12	Red 15
Likely 4	Yellow 4	Amber 8	Amber 12	Red 16	Red 20
Almost certain 5	Yellow 5	Amber 10	Red 15	Red 20	Red 25

The plotting of Consequence (Severity) by Likelihood identifies the level of risk from a particular incident. It is a simple multiplication of the one factor against the other.

Consequence (Severity) Description

This is defined by what **actually** happened as a result of the matter which has given rise to the matter being raised. For instance a person died (catastrophic) a person was hospitalised or had their stay extended for an additional period (major).

Likelihood Description

- Rare- isolated or one off; slight or vague connection to service provision
- Unlikely – unusual but may have happened before
- Possible- happens from time to time; not frequently or regularly
- Likely- will probably occur several times a year
- Almost Certain- recurring and frequent, predictable

Appendix E: Handling persistent or vexatious Complainants

Introduction

The difficulty in handling persistent complaints places a strain on time and resources and causes undue stress for staff who may need support in difficult situations. NHS staff are trained to respond with patience and sympathy to the needs of all complainants but there are times when there is nothing further which can reasonably be done to assist them or to rectify a real or perceived problem. It is also recognised that a persistent complainant should be provided with a response to all their genuine grievances and are given details of independent advocacy and of the Parliamentary and Health Service Ombudsman.

Therefore, in determining arrangements for handling such complainants, staff are presented with the following key considerations:

- To ensure that the complaints procedure has been correctly implemented as far as possible and that no material element of a complaint is overlooked or inadequately addressed.
- To appreciate that persistent complainants believe they have grievances which contain some genuine substance.
- To ensure an equitable approach.
- To be able to identify the stage at which a complainant has become persistent.

Purpose of this Guidance

All complaints handled by the CCG are processed in accordance with NHS complaints procedures. During this process CCG staff inevitably have contact with a small number of complainants who absorb a disproportionate amount of NHS resources in dealing with their complaints. The aim of this policy is to identify situations where the complainant might be considered to be persistent and to suggest ways of responding to these situations which are fair to both staff and complainant.

It is emphasised that this guidance 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 procedures, for example through local resolution, conciliation, and involvement of independent advocacy as appropriate. Judgement and discretion must be used in applying the criteria to identify potential persistent complainants and in deciding the action to be taken in specific cases. **This guidance should only be implemented in relation to a specific complainant, following careful consideration by, and with the authorisation of, the appropriate Lay Member and the Chief Officer of the CCG.**

Definition of a persistent (Vexatious) Complaint

Complainants (and/or anyone acting on their behalf) may be deemed to be persistent where previous or current contact with them shows that they meet at least TWO of the following criteria:

- a) Persist in pursuing a complaint where the CCGs complaints procedure has been fully and properly implemented and exhausted.
- b) Continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response or whilst the complaint is being investigated. (Care must be taken not to discard new issues which emerge as a result of the investigation or the response. These might need to be addressed as separate complaints.) Health watch could be requested to assist in such circumstances, thus ensuring that new and legitimate issues are answered.
- c) Despite the best endeavour of staff to confirm and answer the complainant's concerns and, where appropriate, involving Health Watch, the complainant will not accept the response and, or where the concerns identified are not within the remit of the CCG
- d) In the course of addressing a registered complaint, have had an excessive number of contacts with the CCG, which have placed unreasonable demands on staff. (A contact may be in person or by telephone, letter or fax. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case.)
- e) Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this. Staff must document all incidents of harassment).
- f) Are known to have recorded meetings, face-to-face or telephone conversations without the prior knowledge and consent of other parties involved and used these recordings without prior permission.
- g) Focus on a matter to an extent which is out of proportion to its significance and continuing to focus on this point. (It is recognised that determining what is justified can be subjective and careful judgement must be used in applying this criteria.)
- h) Display unreasonable demands or expectations and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).
- i) Complainants (and or anyone acting on their behalf) may be deemed to be vexatious complainants where they have threatened or used actual physical violence towards staff or their families or associates at any time.
- j) Complainants (and or anyone acting on their behalf) may be deemed to be vexatious complainants where they have sent indecent or offensive items to staff or their families or associates in the post, or if they hand deliver indecent or offensive items to staff or their families or associates at any time.

All such incidents must be documented on an incident form, and will in themselves be grounds to stop personal contact with the complainant and, or their representatives and thereafter the complaint may only be pursued through written communications.

Process for dealing with persistent or vexatious complainants

- a) Assess whether the complainant meets sufficient criteria to be classified as a persistent or vexatious complainant.

Where there is an ongoing investigation:

- b) The nominated senior manager should write to the complainant setting parameters for a code of behaviour and the lines of communication. If these terms are contravened consideration will then be given to implementing other action.

Where the investigation is complete:

- c) At an appropriate stage, the Chief Officer or nominated senior manager should write a letter informing the complainant that:
- They have responded fully to the points raised, and
 - have tried to resolve the complaint, and
 - There is nothing more that can be added, therefore, the correspondence is now at an end.

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

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

WITHDRAWING 'PERSISTENT' OR 'VEXATIOUS' STATUS

Once complainants have been determined as 'persistent' or 'vexatious' there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate. Staff should previously have used discretion in recommending 'persistent' or 'vexatious' status and discretion should similarly be used in recommending that this status be withdrawn.

Appendix F: Acknowledgement Letter Template

Dear

[Enter this paragraph for all]

I am writing to acknowledge receipt of your **[enter how the complaint was received]** dated the **[enter date]**. I was sorry to learn of your concerns regarding (enter a brief description of complaint).

We are dealing with your concerns as a formal complaint. An investigation is now underway and we aim to respond to your complaint within 25 working days if not sooner.

[Enter this Paragraph if consent is required before forwarding complaint to provider]

I am sorry to hear about your negative experience and understand the concerns you must have. As this is a complaint regarding one of our providers, we would like to give them the opportunity to respond to the issues raised, if they have not done so already. They usually carry out an internal investigation and respond to you directly within 25 working days. Please could I get your permission to forward your complaint?

[Enter this Paragraph in addition if consent is required]

As you are not the subject of the complaint I am enclosing a consent form for **[enter subjects name]** for you to give to them to sign to enable us to respond to you. Please return it in the stamped addressed envelope enclosed.

[Enter this paragraph in addition if it looks like it may be a complex complaint]

However if the investigation is complex (one that may involve retrieving and examining medical records, interviewing staff or involving more than one organisation) this may take considerably longer but no longer than six months. We will let you know how the investigation is progressing. Please telephone me if you wish to discuss this.

[Enter this paragraph if required but usually complex ONLY if it is a complaint about a service/person – NOT if it is a complaint about funding]

[Use of this paragraph should only be made with agreement of the investigating officer]

It may also be useful for you to have a meeting with the investigating manager. I can arrange this through the Manager at a time convenient to you. If you would like for this to be arranged please contact me on the number above.

Once the investigation is complete, you will receive a full response from the Chief Officer of Wandsworth CCG, Graham Mackenzie.

Under the Data Protection Act 1998, I am obliged to tell you it may be necessary to share information contained in your medical records with those involved in the investigation.

I am enclosing a complaints leaflet for your information which also explains the support that is available to people making a complaint.

Yours sincerely

Appendix G- Consent Form

Wandsworth CCG

Consent Form

Re: *[Patient's name]*
Of *[Patient's address]*
National Health Number

Ref:

We, hereby give our consent for [NAME OF ORGANISATION(s)].e.g.Wandsworth Adult Social Services, Harmoni, St George's NHS Healthcare Trust, Ronald Gibson House, Collingwood Court, Age Concern Wandsworth

to be contacted by Wandsworth Clinical Commissioning Group to obtain further information regarding (patient name) to assist with the investigation into the complaint, which was raised by (whom and how i.e. letter), dated (date).

We understand that any information given, about our concerns, will be limited to that which is pertinent to the investigation and will also only be disclosed to those persons relevant to said investigation.

Name: _____

Signature: _____

Date: _____

Relationship to Patient (If not patient): _____

Independent Witness

Name: _____

Signature: _____

Date: _____

Relationship to person named above: _____

Comment

Appendix H: Investigation Report

{TEMPLATE}

To:	Wandsworth CCG Chief Officer
Complaint Ref No:	
Name & Job Title of Investigator:	
Director Responsible	
Name of Complainant	
Name of Patient if different	
Date of Report:	

Issues for investigation

{List them here- They need to address all issues in the complaint}

Methods Used for Investigation:

{May Include {Review case Notes, Interview Staff involved, Obtain Staff Statements Consult relevant Wandsworth CCG Policies and Procedures, Consult National Guidance & Good practice}

Background: (Consider Root Cause Analysis methodology)

Findings:

Conclusions:

Identified Shortcomings/Lessons learned:

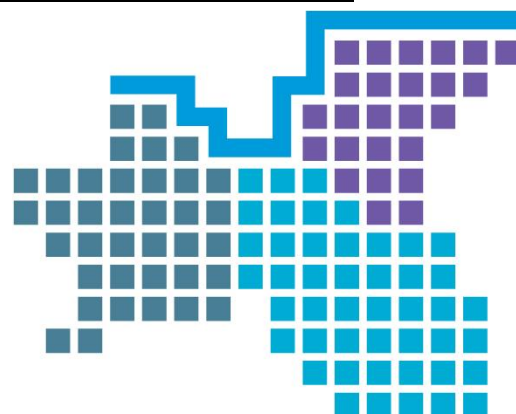
Recommendations:

Action Plan and Timescale:

Other Comments:

ENSURE ACTION IS TAKEN TO PREVENT A REPETITION

IT MUST BE REMEMBERED THAT ALL DOCUMENTS MAY BE REQUIRED IN A COURT OF LAW AND ANY FINDINGS MUST BE ACCURATE AND FACTUAL.



Appendix G- Definitions

The following terms are used in this document:

Complaint: a written or oral expression of dissatisfaction which requires a response. (Citizen's Charter Complaints Task Force) This is a wide definition and is not intended that every minor concern should warrant a full complaints investigation. Rather, the spirit of the complaints procedure is that front line staff are empowered to resolve minor comments, concerns and problems immediately and informally or to offer the assistance of the Patient experience lead.

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

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

Investigating officer: the person identified as responsible for handling and investigating an individual complaint.

The Parliamentary and Health Service Ombudsman (PHSO): is the organisation that manages the second stage of the NHS complaints procedure

Serious Incident (SI): is an incident or near miss occurring on health service premises or in relation to health services provided, resulting in death, serious injury or harm to patients, staff or the public, significant loss or damage to property or the environment, or otherwise likely to be significant public concern.

Service Provider: A service provider is an organisation who is commissioned to provide NHS funded care for instance a General Practice, a 111/ Out of Hours Provider, Acute Trust, or a private provider.

Any other special terms or abbreviations used in this document are defined as they occur.

Appendix H – PHSO My Expectations Guide

A user-led vision for raising concerns and complaints

