

Customer Care Concerns & complaints Policy & Procedure



Customer Care Concerns & Complaints Policy and Procedure

**For
Walsall Clinical Commissioning
Group**

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CCG linked documents	<p>Walsall CCG Risk Management Strategy and Risk Management Plan</p> <p>Information Governance Policies</p> <p>Communication and Engagement Strategy</p> <p>Equality and Diversity Strategy</p>
Distribution of the document	Cascaded to Senior manager’s/team leaders via the safeguard system. Information agenda item for team meetings. Available on CCG Intranet site.
Implementation of the	How the document is going to be implemented.

document	NB. Implementation issues including resources and training needs should be identified. Clarification of resource availability should be addressed and resolved prior to the approval process.
Document Control and Archiving	Obsolete or superseded documents will be removed from the intranet and where relevant replaced with an updated version. Previous versions will be archived in the safeguard system in accordance with the Records Management NHS Code of Practice; disposal and retention schedule.
Monitoring Compliance and Effectiveness	This should identify : Risk and Assurance Manager is responsible for the monitoring the implementation of this policy This will be through the reporting to the Safety, Quality and Performance Committee at least annually indicating how learning has improved practice
References	

CONTRIBUTION LIST

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Circulated to the following for consultation

Committee/Group/Role	Comments
SQP	
Governing Body	
Audit & Governance	

Version Control Summary

Version	Date	Comments on Changes	Author
v0.1	August 2012	Agreed SQP	SS
v1.1	Jan 2015	In house customer care service to reflect current practice and latest guidance	SS/SC
V2.0	June 2019	Amended the Strategic Lead for Integrated Governance and Organisational Development to the appropriate senior Director Amended the Safety, Quality and Performance Committee to the Quality & Safety Committee Removed Safeguard System Audit & Governance Committee to receive a complaints annual report Appendix A Consent and the Complaints Procedure Appendix B Persistent Serial Vexatious complainants	Serena Ellis

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1. Our Values and Standards:

- 1.1. To provide an accessible, sensitive, courteous, timely, confidential, fair, equitable, responsive customer care (concerns and complaints) service.
- 1.2. To listen to patient concerns, promoting a solution-focussed approach and emphasising the benefits of early resolution for all parties.
- 1.3. To provide an equitable service that does not discriminate against the complainant or the complained against on the grounds of protected characteristic or any other factor. In responding to individual concerns and complaints, staff will consider on a case-by-case basis the presentation and format of information and correspondence in order to ensure that our handling and the organisation's response are accessible and appropriate for the individual.
- 1.4. To ensure that all formal complaints are dealt with appropriately within the parameters of the national regulations for responding to NHS complaints.
- 1.5. To ensure that staff can access information and support in dealing with customer care issues.
- 1.6. To learn from concerns and complaints, apologising when we should, and taking action and initiating change as appropriate.

2. Organisational Policy:

- 2.1. The NHS Constitution gives patients the right to have complaints about NHS services dealt with efficiently and to be properly investigated. All concerns and complaints should be dealt with in accordance with the established procedures for customer care, which have been designed so as to ensure that systems are in place to deliver handling of concerns and complaints in line with statutory requirements, and in line with our values and standards, with the emphasis on early and effective resolution, learning from experiences and operating within the framework of national regulations and guidance.

3. The reason for a Customer Care Policy

- 3.1. A concern may be easily resolvable by staff on the spot, or may be resolved when either staff or patients seek advice and assistance from WCCG staff. Occasionally concerns may need to be dealt with as formal complaints. All NHS organisations must have robust procedures in place that are compliant with the requirements of statutory regulations for responding to complaints.
- 3.2. The primary function of complaints management is to address the concerns of the complainant. This may include provision of an explanation, the extension of an apology, and assurance that action has or will be taken to prevent a reoccurrence.
- 3.3. The second, function of complaints management, is to ensure that patient feedback received via concerns and complaints is used to enable the

organisation to learn, develop and improve. WCCG believes that we learn from concerns and complaints, and, where appropriate, change practice in order to reduce risk and release opportunity for positive service and organisational transformation.

- 3.4. As an NHS commissioning organisation, WCCG also has a responsibility to ensure that providers from whom we commission services for our patients have arrangements in place that respond effectively to complaints.

4. **Purpose of the Policy and Procedures:**

- 4.1. The aim of this documentation is to clarify the organisation's responsibilities and the arrangements within WCCG for the handling of all concerns, formal complaints and compliments raised with the organisation.

5. **Scope of the Policy and Procedures:**

- 5.1. The policy and procedures apply to all WCCG staff at all times.

6. **Roles and Responsibilities:**

- 6.1. **WCCG Organisation:** Responsible for ensuring that providers from whom we commission services for our patients have arrangements in place that respond effectively to complaints, and that demonstrate that appropriate changes and improvements in response to complaints are implemented.

- 6.2. **WCCG Accountable Officer:** The Accountable Officer is ultimately responsible for ensuring that complaints are dealt with in an effective and timely manner, according to agreed procedures.

- 6.3. **Appropriate Director** A Director Lead who is Governing Body level has responsibility for customer care and complaints management. The Director will be responsible for:

- I. the operation of the customer care (concerns and complaints) arrangements,
- II. promoting with the service that lessons learned are implemented,
- III. signing complaint responses in the absence of the Accountable Officer.

- 6.4. **Head of Corporate Governance:** will be the designated Complaints Manager for WCCG, responsible for the effective running of the WCCG Customer Care function and for ensuring that concerns and complaints received within WCCG are dealt with in an appropriate way.

- 6.5. **Committees:** The Quality & Safety Committee will receive a regular complaints report, and themed information will be shared with relevant sections of the organisation to support our commissioning decisions. Various committees e.g. provider clinical quality review meetings will be asked to consider data arising from complaints analysis as required. Similarly, complaint and incident action groups may be established from time-to-time in response to specific complaints issues. Such groups will be required to consider any governance concerns arising from complaints and develop

action plans as appropriate, ensuring that all discussions and actions arising are minuted and action plans are monitored.

7. The Audit & Governance committee will receive a yearly complaints annual report

- 7.1. **All WCCG Employees:** All staff have a duty to read and work within the parameters of the Customer Care Concerns and Complaints Policy and Procedures, referring to the Complaints Manager for support and advice as necessary. The prime emphasis of Customer Care is that all staff have a role in ensuring that concerns and formal complaints are listened to and resolved at the earliest possible stage.

8. Definitions

Commissioned Services – any provider of NHS services with which WCCG holds a contract.

Concern - An expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation or its staff for which advice or assistance in seeking a resolution may be offered.

Customer – A patient, patient's representative or advocate, or other member of the public who receives a service from WCCG or who may be affected by the acts, omissions or decisions of WCCG or its staff.

Customer Care – a customer/patient/public-focussed approach to resolving concerns and complaints, aimed at listening to concerns raised and resolving the concern and or offering an explanation.

Formal Complaint – An expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the Service or its staff requiring investigation and formal, written response within the statutory complaints regulations.

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

9. Who can contact Customer Care?

- 9.1. Customer Care may be accessed by anyone who has, or is likely to be affected by an act, omission or decision of WCCG, or a commissioned service.
- 9.2. Someone acting on behalf of another person may raise a concern or complaint on behalf of that person where that person is unable to pursue the matter themselves or has asked the person to raise the concern for them. Staff will require explicit consent from the patient or their advocate.
- 9.3. In the event that the patient is unable to raise a concern themselves and is unable to provide written consent, then staff must ensure that they are compliant with the Data Protection Act 2018 and Common Law Duty of Confidentiality when considering whether the representative is an

appropriate person to pursue the matter on behalf of the patient. Advice can be sought from the Information Governance Lead.

- 9.4. Please see Appendix A for more information around consent and the complaints procedure
- 9.5. If it becomes apparent at any point in the process that a patient who is being represented no longer wishes to continue with the complaint, or no longer wishes the person who initially raised the complaint for them to continue acting on their behalf, then steps must be taken to clarify this before continuing any correspondence with the representative. The patient's wishes must be paramount unless there are over-riding safeguarding or public interest reasons to continue.
- 9.6. It will not ordinarily be possible to investigate concerns or complaints raised anonymously. However, each case will be considered on merit in the public interest.
- 9.7. Concerns may also be raised via formal advocates, such as the NHS Complaints Advocacy Service, although similarly, evidence of consent to represent will be required.
- 9.8. Concerns may be raised via Member of Parliament where constituents have informed the MP of an issue. In these circumstances explicit consent from the individual will not be required. The investigation will be on the basis of consent given to the MP.
- 9.9. The patient may withdraw their complaint at any time if new information comes to light or if their concerns are resolved. However, WCCG may continue investigations relating to the complaint if it considers that there is important practitioner, staff or organisational learning to be gained, or if there are over-riding safeguarding or public interest reasons to continue. The WCCG may raise a concern with providers of care if a clinical incident is exposed within a complaint. Where this requires the sharing of patient information explicit consent will be sought.

10. How we deal with Concerns and Formal Complaints

10.1. How staff should deal with a complaint

- 10.1.1. If the member of staff receives a complaint then they should clarify whether the person wishes to make the complaint formally which requires investigation and formal, written response within the statutory complaints regulations or raise it as a concern which is dealt with informally. If the request is for a formal complaint, then the Customer Care Officer will be informed and manage the complaint process

10.2. Raising a concern or complaint

- 10.2.1. Concerns and formal complaints can be raised verbally, in person via an appointment, by telephone or by e-mail. Concerns and formal

complaints can also be e-mailed in confidence to the WCCG Customer Care e-mail-address walsallccg.customer.care@nhs.net

10.3. Timescales

10.3.1. Normally a concern or complaint should be made within 12 months from when the matter being complained about occurred, or of discovering that there is a matter to raise. Should a concern or complaint be made after this time period, then staff with advice from the customer care team will carefully consider and determine in every case whether it is appropriate to investigate, particularly if:

- i. Having taken account of all the circumstances, the complainant had good reason for not raising their concern within the time frame; and
- ii. Notwithstanding the time that has elapsed, it is still possible to investigate the concern effectively and efficiently.

10.4. How staff should deal with a concern

10.4.1. If a member of staff receives a concern, then they should seek to resolve the matter as quickly as possible. In doing so staff are expected to:

- I. deal with all such contacts positively, professionally, courteously and sympathetically;
- II. offer to discuss the concerns with the complainant;
- III. offer an apology whenever possible and appropriate;
- IV. focus on resolution, solutions and learning;
- V. gain support and/or advice from other appropriate staff or from their manager as necessary;
- VI. inform the Customer Care Officer of the contact and action.

10.4.2. If informal resolution by staff is unable to satisfy the concerned person, particularly if immediate/same-day resolution cannot be achieved, then the concerned person should be advised that the concern can be raised with the Customer Care Officer who will engage to seek resolution.

10.4.3. At any time during the management of the concern the concerned person may inform the organisation that they wish to have the concern dealt with as a formal complaint. see 9.5

10.5. Formal Complaints Procedures

10.5.1. Formal complaints will be dealt with within the parameters of the statutory regulations for complaints handling, including:

- I. All formal complaints will be received or recorded in writing, will be logged on the organisation's confidential system and will be acknowledged within three working days, either in writing or verbally;

- II. If a complaint has been received verbally then the complainant will be provided with and asked to approve a typed summary prior to investigation;
- III. Complaints will not be passed forward for investigation without the complainant's explicit consent unless there is an over-riding public interest obligation;
- IV. All formal complainants will be extended the offer to discuss the handling of their complaint;
- V. All staff and managers are required to co-operate with resolution of concerns and investigation of formal complaints. Investigating managers will be required to provide thorough, proportionate investigations within 10 working days;
- VI. A written response, signed by the Accountable Officer or Appropriate Director, will be provided to the complainant within 25 working days. The response will detail the findings of the investigation, offer an apology if appropriate, and highlight any actions or learning to improve the service that have resulted from the investigation. The timescale begins from receipt of the complaint within the Governance function, although in the event that the complaint summary requires approval or proof of consent is required, then the timescale will not begin until those have been received in the Governance function;
- VII. Matters listed in the exemptions within the statutory procedures will not be accepted for consideration within formal complaints procedures;
- VIII. The organisation will make all reasonable efforts to achieve local resolution of the complaint. However, once local resolution has ended, complainants will be informed of their right to approach the Parliamentary and Health Service Commissioner (the Ombudsman).

10.6. Commissioned Services

- 10.6.1. If WCCG receives a complaint about an organisation providing NHS services, it will work with the complainant to determine how best to handle the case. Decisions will be taken on an individual case basis, but will always involve a discussion with the complainant. In many cases it is likely that agreement will be sought for the provider to investigate and respond to the complaint, and in all cases it must be explained to the complainant that a complaint cannot be properly investigated unless the provider has the opportunity to respond.

10.7. Joint Working

- 10.7.1. On occasions complaints are received which relate to services provided by another organisation, or which relate to services provided by two or more organisations. Such complaints will be dealt with in accordance with the protocol agreed between WCCG and neighbouring health and social care organisations. In the event that a different agency who is not a party to the agreed joint protocol is involved in the concern or complaint (for example, hospitals from out-of-borough) then WCCG will liaise with them to ensure that, as far as it is possible for us to influence, the concern or complaint is dealt with in a co-ordinated way in line with these arrangements.

11. Requests for Independent Review

11.1. Complainants who remain dissatisfied on conclusion of Local Resolution can seek external Independent Review by the Parliamentary and Health Service Ombudsman in accordance with statutory regulations and guidance. The Parliamentary and Health Service Ombudsman will only review a complaint once Local Resolution has been thoroughly explored and has ended. WCCG will co-operate with Independent Review of any complaint, and will respond to all requests for information or documentation from the Parliamentary and Health Service Ombudsman in a timely manner. In doing so, due regard will be given to the responsibilities of WCCG to comply with Data Protection legislation.

11.2. If a complaint lodged with the provider organisation is not resolved locally, the complaint cannot then be referred to WCCG, although it can still be referred to the Parliamentary and Health Service Ombudsman.

12. Information and Support for Complainants and Staff

12.1. NHS Complaints Advocacy

12.1.1. Some patients find it helpful to engage with an independent advocate to help them bring their complaint. This is within the patient's right to do and should not be discouraged. If a complainant requests support with their complaint, then they can be provided with details for the Independent NHS Complaints Advocacy. This is a free, professional and independent advocacy service, commissioned by the Department of Health to assist members of the public in making complaints regarding health services. WCCG will co-operate with the NHS Complaints Advocacy in seeking early resolution of patient complaints whenever patients request their involvement.

12.1.2. WCCG is happy to co-operate with any established, professional, independent advocacy service. However, the Customer Care Department will need to obtain proof of patient consent for staff to discuss their complaint and aspects of their care with the NHS Complaints Advocacy or any other advocacy service.

12.2. Patient Information

12.2.1. WCCG will ensure that the Customer Care Concerns & Complaints Policy & Procedures is available via WCCG's website.

12.2.2. WCCG will make all reasonable efforts to respond to requests for complaints literature in formats that are accessible and easily understood by as wide a range of patients as possible. Information about how to access the NHS Complaints Advocacy will also be publicised via patient information literature about WCCG's Customer Care Concerns & Complaints Policy & Procedures.

12.3. Staff Information

All staff should be made aware of and have access to the Customer Care Concerns & Complaints Policy & Procedures and should have the contact details to refer complainants to the Customer Care Officer quickly and efficiently. Information will be

distributed across WCCG sites, and information will be available on WCCG's internet at: <http://walsallccg.nhs.uk/contact-us/complaints-procedure>

13. Special Circumstances:

13.1. Staff Complaints

- 13.1.1. Staff concerns and complaints cannot be pursued via the CCG complaints procedure or the formal NHS Complaints Procedure.
- 13.1.2. Employment issues should be considered within the relevant Human Resource policies and procedures.
- 13.1.3. Concerns about clinical governance, Health and Safety, unsafe or unethical practice, near miss or actual incidents should be reported via Incident Reporting, Risk Management, Whistle-blowing, and/or Health and Safety processes.

13.2. Commissioning Decisions

- 13.2.1. Disputes regarding Individual Funding Decisions will be considered via WCCG's procedures for consideration of single patient funding decisions. Complaints about Continuing Care decisions will be considered via separate processes for management of Continuing Care.

13.3. Police Matters, Performance Management or Disciplinary Action

- 13.3.1. On occasions investigation of a concern or complaint may indicate a criminal, performance management or disciplinary investigation is appropriate. Under these circumstances complaint investigation does not necessarily have to cease, but consideration should be given to halting the <http://walsallccg.nhs.uk/contact-us/complaints-procedure> if the integrity of a concurrent investigation could be compromised.
- 13.3.2. Complainants do not necessarily have rights to receive information relating to such ongoing investigations or outcomes from performance management or disciplinary investigations.

13.4. Legal Action

- 13.4.1. The Customer Care Concerns & Complaints Policy & Procedures do not make provision for payment of financial compensation or monetary redress. If a complainant explicitly indicates in writing an intention to take legal action, or indicates that they wish to make a claim, then it may be more appropriate to deal with the matter within the Litigations and Claims processes.
- 13.4.2. It should be noted that patients are still entitled to have their concerns considered via the Complaints Procedure even if they are contemplating or taking legal action, but consideration should be given to halting the Complaints Procedure if the integrity of a concurrent investigation could be compromised.

13.5. Media Enquiries

- 13.5.1. All media enquiries relating to complaints should be referred to the Communications Department.
- 13.5.2. That the substance of a complaint has been brought to the attention of the media does not diminish in any way WCCG's responsibilities in respect of patient confidentiality, and all complaints will continue to be dealt with on a confidential basis. All WCCG staff are expected to maintain standards in respect of confidentiality and information governance. Any release of information to the media will be via the approved CCG channels with the involvement of the Head of Corporate Governance and the Head of Communications.

13.6. Dealing with difficult or distressing calls

- 13.6.1. WCCG issues protocols for staff to support them in dealing with difficult or distressing calls. Staff should seek support from their line managers

13.7. Persistent, Serial or Vexatious Complainants

- 13.7.1. WCCG is committed to dealing with all complainants in a fair and equitable way, and seeks to provide a full and comprehensive response to all complaints. However, on rare occasions some complainants may attempt to pursue concerns and complaints in a manner which is unreasonably persistent, overly demanding, non-constructive or even vexatious. Similarly, from time to time complainants may seek to maintain a relentless communication via the raising of serial concerns or complaints. Such contacts may involve aggressive, abusive or threatening remarks or behaviour.
- 13.7.2. WCCG has procedures to address handling of Persistent, Serial or Vexatious complaints in order to ensure that there is equity, fairness and consistency in our response to such contacts. Staff must bear in mind that it is seldom the case that a complainant who is persistent in their contacts or who raises a number of complaints should be dealt with via this procedure.
- 13.7.3. Application of the procedure for dealing with a complainant as persistent, serial or vexatious will only be invoked when there is clear, documented evidence that reasonable efforts have been made to respond to the complainant's concerns within the usual processes, after careful consideration. The procedure for dealing with a complainant as a persistent complainant will culminate in the decision being communicated to the complainant, in writing. All such letters must be approved and signed by the Accountable Officer or the appropriate Director
- 13.7.4. Please see appendix B for more information around persistent serial vexatious complaints

14. Information Governance

- 14.1.** All staff should apply organisational policy in respect of information governance and personally identifiable data in the handling and storage of complaints.
- 14.2.** Complaints should never be placed on patient medical or treatment records, care plans or any other clinical documentation files. Similarly, complaints should not be stored on staff personal files.
- 14.3.** Information or records relating to complaints should be generated in electronic form as much as possible. Written information must be kept to a minimum and scanned for electronic storage only on to WCCG server drives, with appropriate limited/password protection. Complaints information must not be saved on to computer hard drives. Details of complaints should not be entered on to removable storage or lap tops. Staff should not use publicly-shared computers for carrying out complaints-related work involving personally-identifiable data.
- 14.4.** Details of complaints are entered on to the organisation's complaint database. Access to the Complaints Database has restricted access for relevant staff only. Similarly, access to all other computer software applications used for managing or storing complaints data is restricted to relevant staff.
- 14.5.** All written complaint files must be stored in lockable storage whilst the case is active. Complaint files will be shredded as confidential waste after the case is closed. All complaint documentation will be stored electronically and archived in accordance with the Records Management NHS Retention and Disposal Schedule, unless there are over-riding reasons to retain the documentation for a longer length of time.

15. Monitoring and Reporting

- 15.1.** Head of Corporate Governance is responsible for ensuring that a record is maintained of all formal complaints about WCCG, for analysing patterns, trends and concerns arising from complaints, and for regular reporting to the Quality & Safety Committee.
- 15.2.** An annual report of WCCG complaints will be provided to the Audit & Governance Committee.
- 15.3.** Complaints that identify potentially serious or significant concerns or shortcomings will be reported in order that risk management, auditing and monitoring arrangements can be made if necessary.