



# Compliments, PALS and Complaints Policy

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<b>Target Audience</b>	<b>CCG Staff/Members Bolton Healthwatch</b>
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The CCG is committed to an environment that promotes equality, embraces diversity and respects human rights both within our workforce and in service delivery. This document should be implemented with due regard to this commitment.

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Approved documents are valid for use after their approval date and remain in force beyond any expiry of their review date until a new version is available.

## Version Control Sheet

Version	Date	Reviewed By	Comment
1.0	12.2.14	Quality and Safety Cttee	Approved pending feedback from Healthwatch and CCG Safeguarding Team
1.1	14.2.14	Healthwatch Bolton	Minor amendments included in policy
1.1	25.2.14	Safeguarding Team	Paragraph 11 amended
1.1	5.3.14	CCG Executive	Voluntary providers commissioned by CCG to be included in policy Paragraph 15.2.1. Joint Protocol – partner organisations amended.
1.2	12.3.14	CCG Executive	Amendments agreed, Policy approved.
2.0	10.2.16	Quality and Safety Cttee	Circulated to Members for review and feedback to Complaints Manager, inc PHSO principles
2.1	29.2.16	Diane Sankey	Updated 'Unacceptable Behaviour' from NHS Protect guidance (Appendix 4) and reference to updated CCG policies. Section 11 Safeguarding revised.
2.1	15.3.16	Healthwatch	Feedback from Healthwatch prior to review at Quality & Safety Committee. Amendment made to Para 10.3 and Appendix 2: CCG will acknowledge formal complaints within 3 working days.
2.2	13.4.16	Quality & Safety Cttee	Approved by Quality & Safety Committee on the 13 <sup>th</sup> April, 2016

Analysis of Effect completed:	By: Diane Sankey	Date: 25.1.16
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<b>Contents</b>	<b>Page No</b>	
1. Introduction	4	
2. Purpose and scope of the policy and Key Principles of good complaint handling	4	
3. Roles and responsibilities	5	
4. Access to the complaints procedure	9	
5. Complaints training	10	
6. Advice and support	10	
7. Time limits	10	
8. Exclusions	11	
9. Data Protection Act and patient confidentiality	12	
10. Investigation and grading of complaints	12	
11. Safeguarding children and protection of vulnerable adults	13	
12. Learning from PALS and complaints	13	
13. Monitoring themes and reporting	14	
14. Referrals to the Ombudsman	14	
15. Complaints relating to Primary Care Practitioners, NHS Trusts and other organisations	14	
16. Vexatious and unreasonably persistent Complainants/Unacceptable behaviour	15	
17. Annual reports	15	
<b>Appendix 1</b>	<b>Complaint Grading Tool</b>	<b>16-17</b>
<b>Appendix 2</b>	<b>Complaint Procedure</b>	<b>18</b>
<b>Appendix 3</b>	<b>Joint Protocol for Multi-Agency complaints</b>	<b>19-24</b>
<b>Appendix 4</b>	<b>Unreasonably persistent complainants/ Unacceptable behaviour</b>	<b>26</b>

## **Bolton Clinical Commissioning Group**

### **Compliments, PALS and Complaints Policy**

#### **1. Introduction**

- 1.1 Bolton Clinical Commissioning Group (CCG) is committed to commissioning high quality care for its patients. The CCG welcomes and actively encourages all service users and carers to comment on their experience. Compliments/positive feedback about local health services will be recorded and when things go wrong or are perceived to have fallen below the required standards, Bolton CCG will provide an accessible and impartial Patient Advice and Liaison Service (PALS) and complaints service.
- 1.2 Bolton CCG is committed to equality of opportunity and no person expressing concerns/raising a complaint will be treated differently to any other on the grounds of race, disability, age, religion or belief, gender or sexual orientation.
- 1.3 Bolton CCG recognises that comments and complaints are a valuable source of information from service users about the quality of the care it commissions and are seen as vital information to help support the continuous improvement of services and make best effective use of NHS resources. All concerns and suggestions for improvement will be positively received and responded to in an open and transparent way. Complex PALS enquiries and complaints will be investigated to identify learning points with the aim of reducing the risk of another patient/family having a similar, unsatisfactory experience.
- 1.4 Bolton CCG also recognises the complaints process needs to take account of the individual needs of the patient and/or complainant. Complainants will be given the opportunity to discuss the handling of their complaint, agree a timescale and confirm their desired outcome.

#### **2. Purpose and Scope of the Policy**

- 2.1 This policy describes the mechanisms in place to effectively manage concerns from individuals personally affected by the provision of NHS services and outlines the procedures in place for investigating and responding to a patient complaint or concerns raised on their behalf.
- 2.2 It covers complaints received by Bolton CCG relating to:
  - Services provided or commissioned by Bolton CCG
  - Other NHS or social care organisations
  - Independent providers of NHS services
  - Primary Care Practitioners or contractors
- 2.3 Bolton CCG has a statutory obligation to investigate complaints within its remit under the Local Authority Social Services and NHS Complaints

(England) Regulations 2009 and is committed to meeting the standards laid down in these Regulations.

2.4 Complaints about Primary Care Practitioners and contractors are investigated by the practice or NHS England. Complaints received by Bolton CCG shall, with the consent of the complainant, be referred to the relevant practice manager or to NHS England for investigation.

2.5 This policy should be read in conjunction with the following:

CCG Quality Strategy

CCG Communications and Engagement Strategy

CCG Francis Action Plan

Principles of good complaint handling (Parliamentary and Health Service Ombudsman)

NHS Constitution

Guide to good handling of complaints for CCGs (NHS England 2013)

Toolkit for Commissioners (assurance of complaint handling of providers) NHS England 2015

NHS Outcomes Framework: Domain 4 – Ensuring that people have a positive experience of care.

Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 20 Duty of Candour Regulations (CQC)

### **Key Principles of good complaint handling**

2.6 The CCG supports the Parliamentary & Health Service Ombudsman's principles of good complaint handling:

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

and PHSO principles about Complainants' expectations in raising concerns and complaints who should

- Feel confident to speak up
- Feel that making a complaint was simple
- Feel listened to and understood
- Feel that the complaint has made a difference
- Feel confident at making a complaint in future

## **3. Roles and Responsibilities**

### **3.1 Bolton Clinical Commissioning Group Board**

Bolton CCG Board is accountable for ensuring compliance with the Local Authority Social Services and NHS Complaints (England) Regulations 2009.

### **3.2 Chief Officer, Bolton CCG**

The Chief Officer, Bolton CCG, is the accountable executive officer responsible for the management of complaints relating to CCG functions and local commissioning decisions affecting the delivery of care to registered patients and will ensure that an effective complaints policy and procedure is in place.

He/she will take responsibility for authorising and signing response letters to complaints submitted against Bolton CCG and/or other healthcare providers where a complainant requests a 'commissioner led' investigation. In his/her absence, response letters will be signed by a deputy appointed to act in their absence.

### **3.3 Associate Director, Integrated Governance & Policy**

The Associate Director, Integrated Governance & Policy is responsible for overall operational management of the complaints process.

### **3.4 Risk and Complaints Manager**

3.4.1 The Risk and Complaints Manager holds responsibility for ensuring that this policy and the procedures for management of patient concerns are properly implemented. He/she will ensure that:

- A database is maintained to record and monitor compliments, PALS enquiries and complaints received by Bolton CCG.
- Individuals receive appropriate information and advice in response to concerns raised. Individuals who require help in making a formal complaint will be provided with assistance according to their needs and/or referred to Independent Complaints Advocacy (ICA) for further support.
- Individuals are given an opportunity to discuss and agree the investigation process, which should be responsive and proportionate to the individual needs of the person raising concerns.
- Complaints received by Bolton CCG are graded in accordance with the Impact Assessment Matrix (Appendix 1), taking account of the seriousness of the issues raised and the likelihood of recurrence and the impact on the patient's experience/care pathway.
- The time frame for investigation and response is agreed with complainants.
- Complaints are effectively investigated in accordance with the process outlined at Appendix 2. He/she will review reports from investigating managers, seek further evidence if necessary and draft formal replies on behalf of Bolton CCG. He/she will ensure patients/carers are provided with an open, honest answer to their complaint.
- Complaint replies are authorised and signed by a 'responsible person' as determined in the Complaints Response and Timescale Matrix attached at Appendix 1.

- The Complaints Manager may co-ordinate the investigation of multi-agency complaints on behalf of Bolton CCG in accordance with the agreed Joint Protocol attached at Appendix 3.
- Individuals are informed of their right to approach the Parliamentary & Health Service Ombudsman if they remain dissatisfied with the response to their concerns.
- Guidance relating to the investigation of complaints is available to all Bolton CCG staff.
- Complaint themes, the number and type of complaints received by Bolton CCG and learning outcomes from complaints is provided to Quality and Safety Committee and to the CCG Board on a quarterly basis and will include complaints made against:-
  - Bolton CCG
  - NHS or social care provider organisations
  - Primary Care Practitioners
  - Independent Providers/Any Qualified Provider (AQPs)

3.4.2 He/she will work with Associate Directors and managers to ensure that:

- Clinical Leads or other suitable professional advisors are available to review complaints where this is necessary to fully respond to issues raised by a complaint.
- Complaint handling training is provided to CCG staff who provide NHS services or have direct contact with patients.
- Systems are put in place to monitor the implementation of any recommendations.
- Lessons learned from complaints are disseminated across Bolton CCG Member Practices, CCG staff and other health or social care organisations as necessary.
- Annual reports are received from health care providers commissioned by Bolton CCG to provide services to Bolton patients.

### 3.5 **Associate Directors and Department Managers**

3.5.1 Associate Directors and Department Managers will be responsible for ensuring that:

- Complaints relating to their departments are investigated appropriately and promptly in accordance with the procedure outlined in the flowchart at Appendix 2.
- A patient's care is not adversely affected due to the submission of a complaint. He/she will ensure complaint correspondence is not filed in patient clinical records.

- Action plans are produced where necessary and managed to completion.
- Changes in practice are implemented as a result of lessons learned through individual and overall trends in complaints, collating evidence as required.

### 3.5.2 Associate Directors and Department Managers will:

- Liaise with service user, other team members and NHS/Social Care colleagues to ensure a full investigation of a complaint is carried out. Discussions will also take place with clinical staff if deemed necessary, subject to the authorised consent of the service user.
- Interview relevant staff and obtain statements if appropriate.
- Review patient clinical notes if relevant to the complaint (subject to receipt of signed consent).
- Meet with the complainant and/or their representatives to discuss the complaint where this is felt appropriate. The investigating manager may be accompanied at a meeting by the Risk and Complaints Manager.
- Provide a full report or draft a written response to the complainant addressing the issues raised in a complaint and outlining any lessons learned within an agreed timescale.
- Provide feedback to members of staff involved in complaints and disseminate key learning points to them and to other members of their Team.
- Notify the Governance & Safety Team of progress and completion of any action plan produced as a result of a complaint investigation.
- Identify any potential risks to patient safety as a result of a complaint investigation and ensure they are reviewed by the Quality & Safety Committee.

## 3.6 Clinical Leads/Lead Nurse for Quality & Safety

### 3.6.1 CCG Clinical Leads/Lead Nurse for Quality & Safety will contribute to complaint investigations by:

- Providing professional comments/opinions on the clinical aspects of a complaint where necessary
- Meeting a patient and/or their representative where appropriate to the investigation and resolution of a complaint.

## 3.7 Independent Professional Advisors

- 3.7.1 Bolton CCG may appoint an independent professional advisor to review a complaint received against a NHS Provider if the CCG has agreed to investigate a complaint against a provider/providers.
- 3.7.2 The independent professional advisor will provide a written report or provide his/her clinical opinion on issues raised at a meeting held with the complainant and/or the NHS provider complained against.

### **3.8 Patient Advice and Liaison Service (PALS)**

- 3.8.1 Bolton CCG PALS will provide informal help, advice and support for patients/carers in relation to services commissioned by the CCG and provide feedback to the CCG of NHS Providers highlighting appropriate service changes and improvements.
- 3.8.2 PALS will provide patients/carers with details of the formal complaint procedure if they are unable to resolve an issue to the satisfaction of the service user.
- 3.8.3 PALS will advise and support staff when responding to concerns expressed about their service.

### **3.9 Bolton CCG staff and managers**

- 3.9.1 Every employee will cooperate fully to assist in a complaint investigation and provide statements to the person appointed to investigate a complaint if requested.
- 3.9.2 All staff should ensure patients are not adversely affected because a complaint has been submitted and must act in the patient's best interest at all times.

### **3.10 Primary Care Practitioners/CCG Member Practices/NHS England**

- 3.10.1 Complaints about Primary Care Practitioners and contractors are investigated by the practice or NHS England. Complaints received by Bolton CCG shall, with the consent of the complainant, be referred to the relevant practice manager or to NHS England for investigation.
- 3.10.2 CCG Members Practices will have in place a practice based complaint procedure that meets the requirements of the Local Authority Social Services and NHS Complaint Regulations (England) 2009.

## **4. Access to the Complaints Procedure**

- 4.1 Bolton CCG will ensure there is effective publicity for its complaint arrangements in collaboration with the Communications and Engagement Team.

- 4.2 Publicity will promote the use of PALS, ICA and Healthwatch Bolton and encourage patient feedback.
- 4.3 Bolton CCG will arrange translation or interpretation services where necessary to ensure equal access to the complaints procedure.
- 4.4 Independent Complaints Advocacy (ICA) will also arrange appropriate interpretation services for any complainant whom it assists with a complaint against Bolton CCG or other local health services.
- 4.5 Details of the complaints procedure is available via Bolton CCG's website [www.boltonccg.nhs.uk](http://www.boltonccg.nhs.uk)
- 4.6 Equality monitoring data will be collected by the Integrated Governance Team and reported to the Quality and Safety Committee, CCG Board and the Department of Health in order to monitor the protected equality characteristics of complainants and assist in the completion of an Equality Impact Assessment.
- 4.7 Analysis of monitoring data will help determine whether people from all backgrounds are accessing Bolton CCG's complaints procedure. Steps will be taken to promote access to the complaint process if data analysis indicates certain sections of the community are not accessing the CCG's complaint procedure.
- 4.8 Work will also be undertaken with other NHS organisations to help determine access to hospital/community provider complaint procedures by Bolton patients.

## 5. Complaints Training

- 5.1 Training on Bolton CCG's complaints procedure and the Patient Advice and Liaison Service will be provided to staff responsible for dealing with patients and to individual staff groups if the need is identified by an Associate Director or the Risk and Complaints Manager.
- 5.2 Complaint investigation training for senior managers/clinical leads will be arranged in consultation with the Chief Officer/Assistant Chief Officer.

## 6. Advice and support for complainants and staff

- 6.1. Complainants may seek independent advice and support in making a complaint from the Independent Complaints Advocacy (ICA) provided by the Carer's Federation. Tel 0808 801 0390 or [www.carersfederation.co.uk/ica](http://www.carersfederation.co.uk/ica)
- 6.2. Healthwatch Bolton will provide patients, carers, their families and any member of the local community with up-to-date information regarding their rights and choices in health and social care.
- 6.3. Staff can seek help and support from their line manager or Associate Director as necessary if they are requested to contribute to a complaint investigation.

6.4. Staff may contact the Risk and Complaints Manager or the Associate Director, Governance & Safety for assistance during the investigation of a complaint and may also seek help and advice from their professional representative body, defence organisation, clinical lead or staff representative.

## 7. Time limits for making a complaint

7.1 A complaint should be made as soon as possible and should be submitted:

- within twelve months of the date on which the matter which is the subject of the complaint occurred; or
- if later, the date on which the matter which is the subject of the complaint came to the notice of the complainant.

7.2 Detailed investigations of complaints tend to become more difficult and factually unreliable as time passes but discretion will be exercised when considering any complaint received more than twelve months after the date of the incident or discovery.

7.3 In certain cases the time scale can be extended at the discretion of the Risk and Complaints Manager if it is felt that the complainant had good reasons for not making a complaint within the twelve month time limit and it is still possible to investigate the complaint effectively and fairly.

## 8. Complaints Excluded

8.1 The complaints policy and procedures apply to complaints made by or on behalf of patients or persons affected by the actions and decisions of Bolton CCG. They exclude:

- Verbal complaints resolved within 1 working day of receipt or where the patient/representative wishes their 'concern' to be dealt with outside the formal complaint procedure. This type of case will be recorded as a PALS enquiry.
- A complaint which has already been investigated under NHS and Social Services complaint regulations.
- Complaints made by patients relating to funding of treatment/equipment unless their case has been considered under Bolton CCG's
  - Effective Use of Resources Treatment Policies
  - Individual Funding Panel procedures
  - Internal local resolution process or other arrangements to consider requests for Bolton CCG to provide NHS funding.

Refer to the CCG website for up to date policies and procedures.

- Complaints about decisions made by Bolton CCG funding of NHS continuing health care. A separate review process is available and is

administered by NHS England Area Team, Leeds and complainants have direct access to the PHSO if they remain dissatisfied.

- Complaints and grievances by members of staff relating to their contract of employment.
- Complaints/allegations referred to the Children or Adult Social Care Teams or Police in accordance with the CCG's Safeguarding Children & Adults at Risk Policy and:
  - Bolton Local Safeguarding Children Board (LACB) Procedures
  - Bolton Local Safeguarding Adults Board (LSAB) Procedures
- Complaints by Primary Care Practitioners which relate either to the exercise of the Bolton CCG's functions or to the contract or arrangement under which health care is provided.
- Complaints relating to the administration of the NHS superannuation scheme.
- Complaints made by another NHS Trust or general complaints from other organisations.
- Complaints by an independent provider or AQP about contracts arranged by Bolton CCG under its commissioning arrangements.
- Complaints about the non-disclosure of information requested under the Freedom of Information Act 2000 or the Data Protection Act 1998. Applicants will have the right to appeal direct to the Information Commissioner's office.
- Complaints that are being / have been investigated by the Parliamentary and Health Service Ombudsman.

8.2 In addition the complaints procedure will not commence or may cease if;

- Bolton CCG commences disciplinary proceedings against a member of staff under its internal disciplinary proceedings.
- A case for considering disciplinary action becomes apparent in order to protect patients, which may involve referral to the police or a professional registration body such as the General Medical Council.

8.3 In these cases, the complainant will be informed of the decision in writing and matters relating to disciplinary/legal action will be referred to the Associate Director, Integrated Governance & Policy or the Chief Officer for consideration under separate procedures.

8.4 At the termination of disciplinary proceedings, where Bolton CCG feels the issue relating to the complaint has not been properly dealt with, an investigation under the complaints procedure shall resume.

## **9. Data Protection Act 1998 and patient confidentiality**

- 9.1 Although consent is not required by Bolton CCG in order to investigate concerns about the quality of services provided, Bolton CCG has a duty to maintain patient confidentiality at all times. The patient/client will be asked to provide written consent to Bolton CCG to allow access to his/her health information during a complaint investigation if necessary.
- 9.2 Personal health information will not be disclosed to a person acting on behalf of the patient unless the patient has provided their consent to do so or unless it is clear to Bolton CCG that the patient is unable to do so through illness, infirmity or has died.
- 9.3 The Access to Health Records Act 1990 applies where a patient has died and the views of a clinician will normally be sought before disclosing health information to the complainant.
- 9.4 The duty of confidentiality extends to third parties who are not health professionals and whose personal information is contained in a patient's records. The informed consent of any third party will be required before such information can be released.
- 9.5 Where complaints relate to information contained in Bolton CCG records, a data subject may lodge a formal complaint, which will result in a review of their records and a formal response from the Chief Officer. Complainants may complain to the Parliamentary Health Service Ombudsman or to the Information Commissioner if they remain dissatisfied.

## **10. Investigation and grading of complaints**

- 10.1 Complaints will be assessed and graded (Red/Amber/Green/Yellow) following initial review of the perceived severity, impact on patient care pathway and the likelihood of recurrence in line with the Impact Assessment Matrix (Appendix 1).
- 10.2 Complaint details will be recorded on the Safeguard database and investigated in accordance with the procedure outlined in Appendix 2.
- 10.3 Complaints will be acknowledged verbally, electronically or via letter by the CCG within 3 working days.
- 10.4 The outcome, learning points and summary of any actions taken following investigation will be recorded on the database.
- 10.5 Complaint/PALS staff will liaise with the Associate Director, Integrated Governance & Policy or other appropriate senior manager if there is a possibility that an external agency such as the Health and Safety Executive, Local Authority or regulatory bodies needs to be informed of a complaint.

## **11. Safeguarding children and protecting vulnerable adults**

- 11.1 If a complaint is received by the CCG that raises child protection issues or concerns the protection of vulnerable adults, the matter will be referred to the CCG Safeguarding Children Lead or Safeguarding Vulnerable Adults Lead to review concerns raised and provide advice in line with the CCG's Safeguarding Children & Adults at Risk Policy.
- 11.2 Where a CCG Safeguarding Lead does not feel the concerns meet the criteria for referral to Bolton Council Safeguarding team, the matter will remain an issue for investigation under the NHS complaint procedure.
- 11.3 When a matter is referred to Bolton Council Safeguarding Team for investigation, the complaint will be closed down on the complaint database at this stage and no further action taken under the NHS complaint procedure.
- 11.4 A safeguarding enquiry or a safeguarding strategy discussion lead by the Local Authority will identify which information can be shared and the most appropriate way to communicate the outcomes of the investigation to the complainant/patient and significant others.

## **12. Learning from PALS and complaints**

- 12.1 Bolton CCG takes a positive attitude in dealing with PALS enquiries and complaints and recognises lessons can be learned by highlighting areas where changes can be made to improve services and help service users receive a more positive healthcare experience.
- 12.2 The Governance & Safety Team will work in collaboration with GP Clinical Leads, NHS Providers and GP Member Practices to help disseminate key learning points to help improve clinical care pathways/patient experience.
- 12.3 Bolton CCG will undertake reviews of complaints, analysing the number of complaints received, complaint types, underlying causes and themes arising from investigations.
- 12.4 To ensure wider learning from PALS and complaints, lessons learned will be included in communications issued to Bolton CCG staff/GP member practices and shared with other Providers where appropriate.

## **13. Monitoring the outcome of investigations and learning from complaints/PALS**

- 13.1 The Quality & Safety Committee will receive PALS/Complaint reports for the CCG and from other NHS provider organisations. Reports will include learning outcomes and identify any cases referred to the Parliamentary and Health Service Ombudsman.
- 13.2 Members of this Committee will consider any further action required to improve care commissioned by Bolton CCG.

- 13.3 Bolton CCG Quality & Safety Committee may request a representative from a NHS Trust/health care provider to present learning outcomes and action plans developed as a result of complaint investigations in order to seek assurance that appropriate action has been taken to reduce recurrence and improve patient experience.
- 13.4 The CCG will submit quarterly data on formal complaints via K041A submission to the Health & Social Care Information Centre (HSCIC). Data submitted will relate to complaints against Bolton CCG in relation to its actions/commissioning decisions/staff. Individual NHS providers will submit data direct via K041A to the HSCIC as required.

#### **14. Referrals to the Ombudsman**

- 14.1 Complainants will be given the right to approach the Parliamentary and Health Service Ombudsman if they remain dissatisfied with a formal response from Bolton CCG.
- 14.2 Bolton CCG will also ensure complainants are made aware of their right to approach the Ombudsman if they remain dissatisfied with a response from a NHS provider.
- 14.3 If a formal complaint remains unresolved six months from the date of initial receipt, Bolton CCG will refer the complaint to the Parliamentary & Health Service Ombudsman if it receives the complainant's consent to do so.
- 14.4 Bolton CCG will provide positive and active support to the Ombudsman, via the Complaints Manager or by appointing a nominated senior manager or Associate Director to coordinate an investigation.

#### **15. Complaints relating to Primary Care Practitioners, NHS Trusts or other Organisations**

##### **15.1 Complaints against GPs, Dentists, Pharmacists and Opticians**

- 15.1.1 Complaints received by Bolton CCG about Practitioners and primary care contractors will be passed onto the relevant Practice Manager or to NHS England following receipt of the patient/complainant's consent.
- 15.1.2 Multi-agency complaints will be investigated in accordance with the Joint Protocol attached at Appendix 3. Parties will agree which organisation should lead on the complaint and be the key point of contact for the complainant.
- 15.1.3 NHS England or the GP Member Practice will share a copy of the complaint response with the Governance & Safety Team.
- 15.1.4 Bolton CCG PALS/Complaints Team will ensure complainants are informed of their right to request an independent review by the Parliamentary Health Service Ombudsman if they remain dissatisfied with the final response to their complaint.

## 15.2 Complaints against NHS Trusts and other organisations

15.2.1 Complaints received by Bolton CCG about NHS Trusts or other organisations e.g. Social Services, AQP's, NHS England, voluntary service providers commissioned by the CCG will be acknowledged and consent obtained to forward the complaint onto the relevant Complaints Lead for investigation.

15.2.2 Where Bolton CCG has agreed with a complainant to co-ordinate and investigate their complaint against a NHS Trust or other organisation, it will seek comments on the concerns raised from the relevant NHS Trust or organisation. These comments will be reviewed and a clinical view obtained where necessary from an appropriate clinician to help inform the CCG's final written response to the complaint.

15.2.3 Multi-agency complaints will be investigated in accordance with the Joint Protocol attached at Appendix 3 and parties will agree which organisation should lead on the complaint and be the key point of contact for the complainant.

15.2.4 Where the complaint relates to a service commissioned by Bolton CCG, and is investigated by the NHS Trust or provider complained against, a copy of the complaint response will be sent to Bolton CCG.

The complaint response will be forwarded to a CCG GP Clinical Lead for Learning & Development and to the Lead Nurse for Quality and Safety or the Associate Director, Governance & Safety Team for observations.

15.2.5 Bolton CCG will ensure complainants are informed of their right to request an independent review by the Parliamentary & Health Service Ombudsman if they remain dissatisfied with the final response of their complaint.

## 16. Vexatious and unreasonably persistent complainants

16.1 To ensure best and effective use of available resources when responding to complaints, Bolton CCG has a procedure for dealing with vexatious complainants or those whose behaviour is considered to be unacceptable (see Appendix 4).

## 17. Annual Reports

17.1 Complaint data will be included in the year end analysis of incidents/complaints/PALS enquiries received by Bolton CCG and give examples of learning from complaint investigations.

Annual reports will be submitted to:

- Quality & Safety Committee
- Department of Health/HSCIC via a KO41a submission

**Appendix 1  
Complaint Grading Tool**

This table will help determine how to categorise the consequences of a concern/complaint.

CATEGORY	DESCRIPTION
<b>Negligible</b>	Unsatisfactory service user experience not directly related to care. No impact or risk to provision of care.
<b>Minor</b>	Unsatisfactory service user experience related to care, usually single resolvable issue. Minimal impact and relative minimal risk to the provision of care or the service. No real risk of litigation.
<b>Moderate</b>	Service user outcome/experience below reasonable expectations in several areas but not causing lasting detriment. Potential to impact on service provision/delivery. Justifiable complaint. Slight potential for litigation.
<b>Major</b>	Significant issues of standards, quality of care, or denial of rights. Concern/complaints with clear quality assurance or risk management implications or issues causing lasting detriment that require investigation. Possibility of litigation and adverse local publicity.
<b>Catastrophic</b>	Issues regarding serious adverse events, long-term damage, grossly substandard care, professional misconduct or death that require investigation. Serious safety issues. High probability of litigation and strong possibility of adverse national publicity.

**Likelihood Categorisation Table**

This table is used to determine the likelihood of recurrence of the incident or circumstances giving rise to the concern/complaint.

LIKELIHOOD	DESCRIPTION
<b>Rare</b>	Isolated or “one off” – slight/vague connection to service provision.
<b>Unlikely</b>	Rare – unusual but may have happened before.
<b>Possible</b>	Happening from time to time – not constant, irregular.
<b>Likely</b>	Will probably occur several times a year.
<b>Almost Certain</b>	Recurring – experienced often.

**Impact Assessment Matrix**

Having assessed the consequence and likelihood categories. the matrix below is used to determine the impact rating to be assigned to the concern/complaint.

	Likelihood				
Consequence	1	2	3	4	5
	Rare	Unlikely	Possible	Likely	Almost Certain
<b>5. Catastrophic</b>	5	10	15	20	25
<b>4. Major</b>	4	8	12	16	20
<b>3. Moderate</b>	3	6	9	12	15
<b>2. Minor</b>	2	4	6	8	10
<b>1. Negligible</b>	1	2	3	4	5

### Complaint grading tool/timescale matrix

The table below will be used to determine the level of investigation required and who is responsible for responding to the complaint.

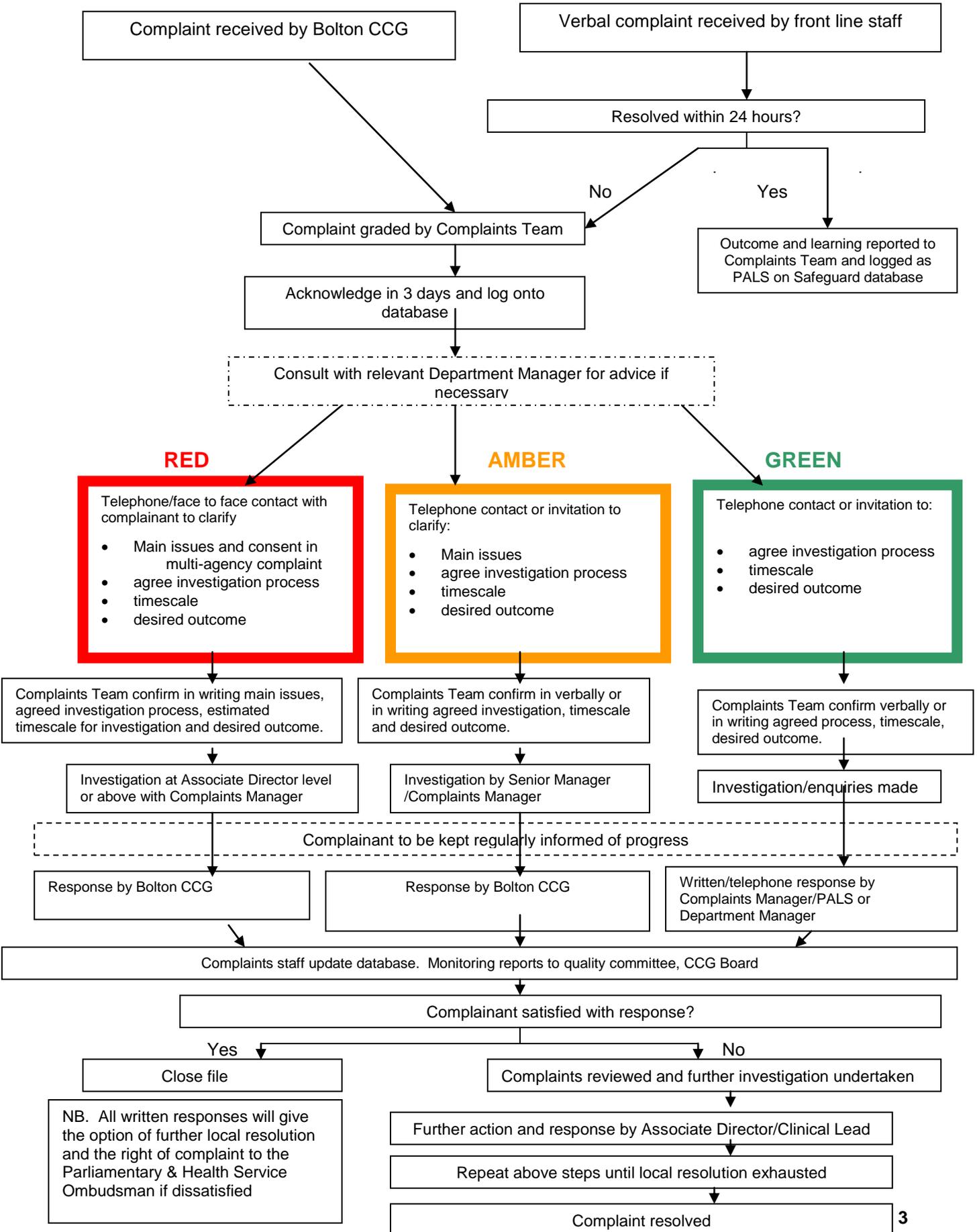
<b>Risk Management</b> Red Amber Green	<b>Timescale for responses</b>	<b>Who should investigate</b>	<b>Complaint response authorised by</b>	<b>Who should provide final response</b>
<b>RED (Score 15 – 25)</b>	Complaints staff agree timescale with complainant. Aim to reply in 40 working days in complex cases but 6 months maximum timescale applies. Complaints Manager to advise/agree extension with complainant.	Associate Director/ Clinical Lead or Department Manager	Associate Director or Clinical Lead in liaison with Complaints Manager.	Chief Officer or deputy appointed to act in his/her absence.
<b>AMBER (Score 8 – 12)</b>	Complaints staff to agree with complainant (target of 25 working days). Complaints staff to advise/agree any extension with complainant	Department Manager or Service Lead	Departmental Senior Manager/Asst Director or Complaints Manager	Chief Officer or deputy appointed to act in his/her absence.
<b>GREEN/ YELLOW (Score 1 – 6)</b>	Front line staff or complaints staff agree timescale with complainant (target of 10 working day, maximum 25 working days)	Person receiving complaint/PALS or Complaint staff. If unresolved, refer for Amber investigation	Department Manager or Complaints/PALS staff	Department Manager or Complaints/PALS Manager

**GREEN/YELLOW** - This type of concern/complaint requires minimal level of fact finding prior to a prompt remedy or resolution being provided.

**AMBER** - These issues will be more complex and require a robust investigation. They could also focus on cross boundary or cross-organisational issues and they may also have been logged as an incident. Concerns/complaints triaged at this level would require analysis of the investigation and a report outlining findings.

**RED** - These complaints are highly complex and therefore require the highest level of intervention. Complaints of this type are those which have had a significant impact on the patient.

**Appendix 2  
PROCEDURE FOR COMPLAINTS AGAINST BOLTON CCG**





### **Appendix 3**

#### **Protocol for the handling of multi-agency complaints**

##### **Partners**

**Bolton CCG**  
**GP Member Practices/NHS England**  
**Bolton Council**  
**Bolton NHS Foundation Trust**  
**North West Ambulance NHS Trust**  
**GMW Mental Health Foundation Trust**  
**Other NHS providers where patient treatment is commissioned (paid for) by Bolton Clinical Commissioning Group**

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 came into force on 1<sup>st</sup> April 2009. These Regulations place a duty of co-operation on NHS bodies and local authority social services in the handling of complaints involving an NHS body and a local authority social service function.

This protocol has been developed by the above organisations and is intended to provide guidance on the handling of complaints involving more than one body.

#### **Complaints made to an NHS body or Local Authority relating to more than one agency.**

1. Where a complaint is received by a local authority or NHS body that appears to the recipient to involve matters relating to more than one agency, complaints staff will attempt to contact the complainant to agree the coordination of a single response to their complaint.
2. If the complainant agrees, the Complaints Manager of the receiving agency will send the details to the other organisations involved as soon as reasonably practicable and will confirm this to the complainant in writing.
3. Where a complaint is being made by a representative of the patient (or person), the Complaints Manager of the receiving agency must first establish that the representative is acting with consent or is otherwise an appropriate person to be acting on the patient's behalf and request completion. Written consent should be obtained where necessary.

*Note: See Regulations and associated guidance for further information concerning 'persons who may make complaints'.*

4. Where a complainant does not wish the details of their complaint to be shared with other agencies named in the complaint, the receiving body should confirm this in writing and confirm that the investigation will deal with issues relating to that organisation.
5. Where a complainant agrees to a joint investigation and a single response to their complaint, the complaints leads of the organisations involved will agree which organisation should take the lead. Where agreement is not possible, the matter should be referred to the relevant Director/Chief Officer.
6. Having determined the lead organisation, time limits in terms of the response will be agreed between the Lead Agency and the complainant.

7. The duty to co-operate requires organisations to:
  - (i) Share relevant information.
  - (ii) Attend any joint meetings arranged to consider the complaint.
8. The Complaints Lead of the lead organisation must:
  - (i) Co-ordinate the handling of the complaint by working closely with all those involved.
  - (ii) Arrange a multi-agency meeting to discuss the complaint where appropriate.
  - (iii) Ensure that the complainant is kept informed of progress and agree an extension to the response timescale if necessary.
  - (iv) Draft a written response to the issues raised in the complaint and seek agreement to the draft response.
  - (v) Ensure the reply is signed off by an appropriate person e.g. Chief Officer or Director of Social Services.
9. The co-ordinated response must identify which parts of the response relate to the relevant aspects of the complaint letter. This will assist any independent body that might subsequently review the complaint.
10. Irrespective of 'lead' responsibility, each organisation retains its duty of care to the complainant.
11. The formal response will advise the complainant of their right to pursue the complaint further if they are dissatisfied with the response.
12. Following investigation and response, the agencies involved should continue to co-operate, where appropriate, in any learning points and/or actions identified as a result of the complaint, having regard to the Data Protection Act 1998.
13. Where a complainant is informed that they will be notified of the outcome of any follow up actions resulting from the complaint, the Complaints Managers involved will agree the timescale and wherever possible, the individual responsible for providing the update to the complainant.
14. Following any joint response, each organisation involved will retain records in accordance with its own arrangements.

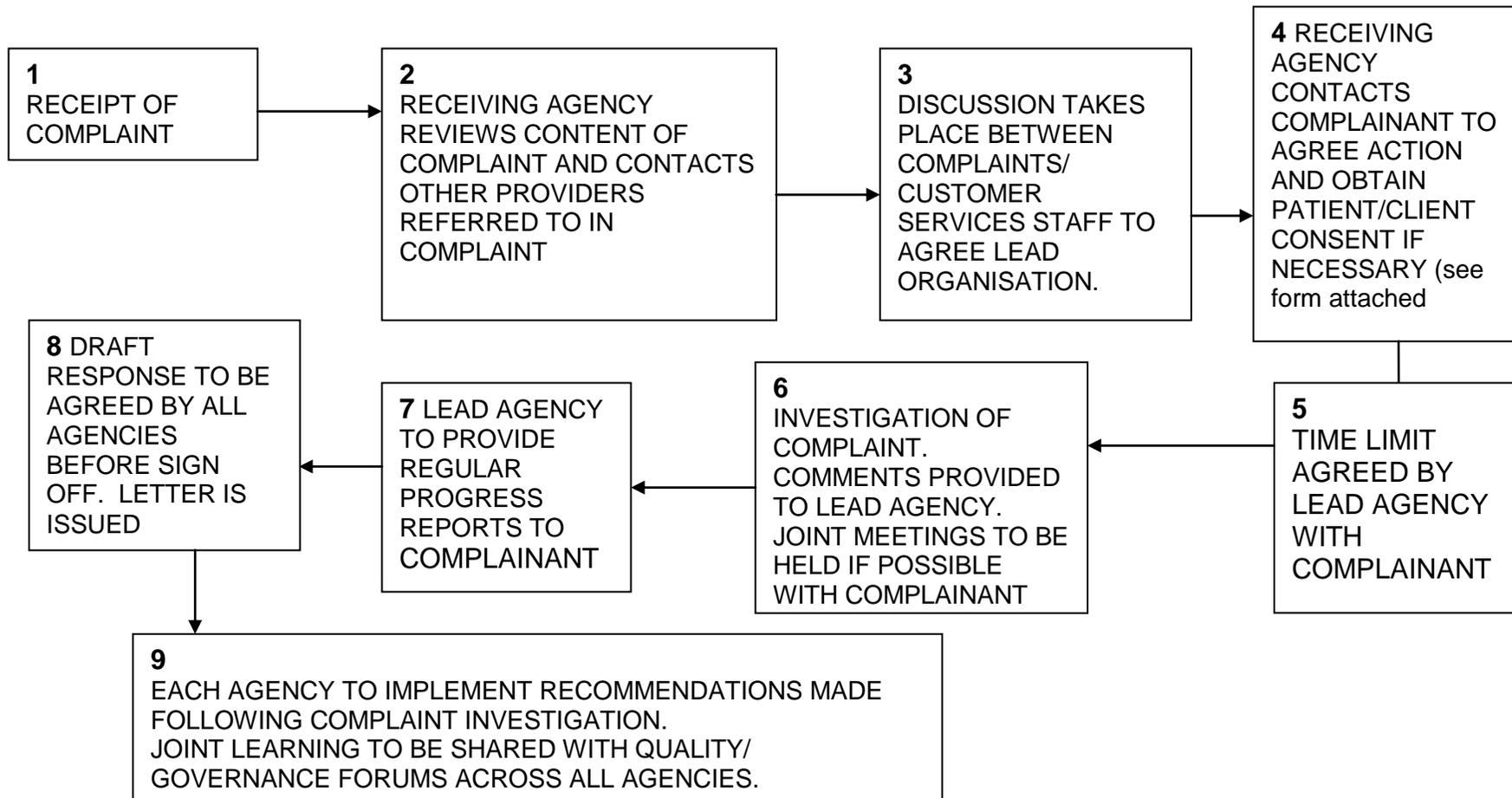
See flowchart at **Appendix (i)** for the process followed in multi-agency complaint investigations.

#### **Complaints made to an NHS Body relating only to a local authority service (or vice versa)**

1. Where an NHS body receives a complaint that relates only to services provided by Bolton Council (or if the Council receives a complaint that relates to NHS care only), the Complaints Manager of the receiving organisation will contact the complainant within three working days of receipt to check whether he/she wishes the complaint to be forwarded to the organisation responsible for the service complained about.
2. If the complainant agrees, the Complaints Manager will forward the complaint to the other organisation within 48 hours.

3. The receiving organisation will write to the complainant confirming their complaint has been passed to the relevant agency and will provide contact details of the person to whom the complaint has been sent.
4. Where the complainant does not wish the matter to be forwarded for onto the relevant organisation, the complainant should be advised by the receiving agency that it is unable to deal with the issues raised and if he/she wishes to pursue the complaint, they have the option to raise their concerns directly with the relevant organisation.

# BOLTON MULTI-AGENCY COMPLAINTS PROTOCOL



1. Complaint received and acknowledged by receiving organisation.
2. Complaint reviewed by receiving organisation and views obtained from other providers/organisations named in complaint.

3. Complaint staff identify issues and agree a Lead Agency. Provisionally identify staff involved and each agency to register the complaint issues within their organisation and alert appropriate senior managers.
4. Receiving agency contacts complainant to discuss way forward and confirm Lead Agency.
5. Lead Agency makes contact with complainant, ensures patient/complainant consent is received and agrees time limit.
6. Complaint graded and investigated by partner agencies. The investigation may involve
  - Review of patient/client records
  - Review of policies and procedures
  - Statements/feedback from staff involved in patient/client care
  - Comments from senior managers/practitioners responsible for service complained about
  - A joint multi-agency meeting (with or without complainant)
7. Lead Agency keeps in regular contact with complainant and provides progress reports, agrees extensions to time-limit where necessary.
8. Formal response drafted by Lead Agency to be agreed with all partner agencies. Final sign off letter issued to complainant by Lead Agency and circulated to all partner agencies.
9. Each organisation to implement recommendations/action plan as a result of an investigation. Learning points shared with clinical and governance forums.

### Joint complaint investigation consent form

**Patient/client:** ..... **Date of birth**.....

**Address:** .....

.....

**Representative:** .....

**Telephone Number:** .....

I am the next-of-kin for.....and am making a formal complaint against:-

..... (Lead Organisation)

..... (Organisation)

..... (Organisation)

I agree to a joint investigation in my complaint , which is being co-ordinated by:

..... (Name of Complaints Manager)

Of

..... (Lead Organisation)

I consent to ..... health/social care records being reviewed in order to investigate the concerns I have raised and understand the records and the complaints correspondence will be forwarded to persons appointed to investigate my complaint. I understand this may include other NHS providers and social care agencies involved in .....’s care.

I also consent to ..... records and complaint correspondence being forwarded to the Parliamentary and Health Service Ombudsman or to a clinical professional body if required in due course.

**Signed** .....

**Dated** .....

.....(print name)

PLEASE FORWARD TO: Insert name/address of lead agency

## Dealing with unreasonably persistent complainants or unacceptable behaviour

### Introduction

A small number of people use a disproportionate amount of time (and resources) in pursuing enquiries and complaints. This causes undue stress for staff, those being complained about and the people themselves. These individuals usually achieve nothing positive and can end up feeling more dissatisfied.

The aim of this guidance is to encourage a modification of unacceptable behavior to assist the resolution of complaints and patient enquiries. It also aims to ensure consistent responses to unreasonably persistent complainants (or those whose behaviour is unacceptable) and that clinical and staff safety is not compromised. It also helps to avoid inappropriate use of NHS resources.

Although NHS Bolton Clinical Commissioning Group (CCG) must ensure the NHS complaints procedure is accessible, and that all complaints are fully investigated and answered, it is in everyone's interests that ongoing communication is effective.

The CCG recognise that people behave and react in different ways to situations and events. Each case to which this guidance applies will be looked at individually, taking account of the latest advice/guidance available from NHS Protect.

[www.nhsbsa.nhs.uk/Protect.aspx](http://www.nhsbsa.nhs.uk/Protect.aspx)

Unacceptable behaviour can arise for several reasons and the individual may be unaware that their actions are causing unnecessary distress to others.

The CCG accepts that in the initial contact a person making a complaint or enquiry to the CCG may act out of character, for example acting in an aggressive manner, and allowances are made for this. However, unacceptable behaviour that continues through several contacts should be considered against the background of this guidance.

### What is an unreasonably persistent complainant?

The Local Government Ombudsman guidance note on management of unreasonable complainant behaviour as:

***“unreasonable and unreasonable persistent complainants are those complainants who, because of the frequency and nature of their contacts with and authority, hinder the authority’s consideration of their, and other people’s complaints”.***

#### Examples can include:

- Excessively contacting different members of staff within the CCG. An individual will contact one person and then another member of staff relaying the same issues repeatedly.
- In constant contact with the CCG, on an almost daily basis either in person, by telephone, letters or email or other electronic means (website/facebook).

- Prolonging contact with the CCG by continually raising further concerns, complaints or questions that are a repetition of issues already dealt with.
- Continuing to pursue a complaint that has been completed through the NHS complaints procedure, when all avenues have been exhausted. (It is accepted that not all individuals will be satisfied with the NHS complaints procedure and in these cases, the right to complain to the Parliamentary & Health Service Ombudsman is repeated).
- Unwilling to accept evidence provided, but have no contra-evidence.
- Will not identify the precise subject matter of the complaint.
- Secretly recording meetings or conversations without consent.
- Unwilling to comply with the NHS complaints procedure and determined to proceed with their own agenda.
- Abusing the NHS complaint procedure by submitting a high number of formal complaints
- Making excessive demands and/or maintaining certain expectations and failing to accept that these are unreasonable e.g.
  - insisting that a member of staff is dismissed.
  - insisting that treatment is carried out on demand.
  - demands to see a particular member of staff/clinician.

### What is unacceptable physical and non-physical behaviour?

The NHS Protect definition of a non-physical assault:

***“the use of inappropriate words of behaviour causing distress and/or constituting harassment”***

Examples of unacceptable behaviour can include:

- Offensive language, verbal abuse and swearing
- Unwanted or abusive remarks
- Racist, sexist, homophobic or other discriminatory remarks
- Offensive gestures
- Threats or risk of injury to NHS staff
- Bullying or intimidating behaviour
- Loud and intrusive conversation
- Negative, malicious or stereotypical comments
- Stalking or other form of harassment
- Brandishing or objects or weapons
- Unreasonable behaviour and non-cooperation
- Throwing an object but missing the person
- Attempted assault where physical contact is not made including spitting
- Non-compliance with reasonable requests e.g. to follow recognised procedures

The NHS Protect definition of a physical assault:

***“The intentional application of force to the person of another without lawful justification, resulting in physical injury or personal discomfort”***

Examples can include:

- Punching
- Kicking
- Striking with an object
- Throwing an object where contact is made with a person
- Spitting where a person or their clothing is struck
- Head butting

### Bolton CCG Guidance

The health and safety of NHS Bolton CCG's employees is very important to the organisation. In the vast majority of cases, patients and their relatives are respectful towards those who are providing a service to them but a minority of people are abusive or use threatening behaviour towards staff.

Unacceptable behaviour can include communications such as e-mails, telephone, graffiti and letters as well as face to face contact.

The CCG operates a 'zero tolerance' approach to all forms of abuse and such behaviour or the use of inappropriate words causing distress and/or constituting harassment will not be tolerated, and could lead to prosecution.

#### Action by Bolton CCG

- A log will be kept by PALS/Complaint staff to monitor contacts a person has with Bolton CCG and to help provide evidence to indicate unreasonable behaviour.
- Where a complainant displays unacceptable or threatening behaviour towards a member of staff an incident should be reported to <http://sg01/safeguard/>
- The Risk and Complaints Manager or other appropriate senior manager will consider whether the incident should be notified to NHS Protect Legal Protection Unit and/or the Police.
- The CCG will notify the individual that an incident has been reported and explain in writing why it is believed their behaviour was unacceptable. The CCG will inform the individual if the incident has been reported externally and request that they modify their behaviour.
- A meeting with an Associate Director who is not directly involved in the PALS/complaint investigation may be offered to discuss a way forward.

If the unacceptable behaviour continues, further action will be considered by the Risk and Complaints Manager and Chief Officer which may include:

- Nominating a single officer/manager to deal with the individual
- Not accepting telephone calls or visits to CCG offices
- CCG refusing to investigate concerns under its complaint policy where an unreasonable number of complaints have been submitted by a single individual. Letters of complaint will be passed onto the department/provider for information only and the patient given the right to approach the PHSO.

## GMCSU Equality Analysis Form

**The following questions will document the effect of your activity on equality, and demonstrate that you have paid due regard to the Public Sector Equality Duty. The Equality Analysis (EA) guidance should be used read before completing this form.**

To be completed at the earliest stages of the activity and before any decision making and returned via email to GMCSU Equality Diversity Human Rights Team for Quality Assurance:

**Rosie Kingham:** rosie.kingham@nhs.net

### Section 1: Responsibility

**EDHR Reference :**

1	Name & role of person completing the EA:	Diane Sankey, Risk and Complaints Manager
2	Service/ Corporate Area	Integrated Governance and Policy
3	Head of Service or Director (as appropriate):	Mike Robinson
4	Who is the EA for?	Bolton CCG
4.1	Name of Other organisation if appropriate	-

### Section 2: Aims & Outcomes

5	What is being proposed? Please give a brief description of the activity.	Compliments, PALS and Complaints Policy and Procedure March 2016
6	Why is it needed? Please give a brief description of the activity.	Local Authority Social Services and NHS Complaints (England) Regulations 2009 (as amended) and NHS England guidance
7	What are the intended outcomes of the activity?	An accessible PALS and complaint service is available to all service users and carers
8	Date of completion of analysis (and date of implementation if different). Please explain any difference	08 February 2016
9	Who does it affect?.	Any service user/carer accessing health services commissioned by Bolton CCG who wishes to complain about the service they receive/fail to receive.

### Establishing Relevance to Equality & Human Rights

<b>10</b>	<b>What is the relevance of the activity to the Public Sector Equality Duty? Select from the drop down box and provide a reason.</b>			
	<b>General Public Sector Equality Duties</b>	<b>Relevance (Yes/No)</b>	<b>Reason for Relevance</b>	
	To eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by Equality Act 2010	Yes	Everyone who wishes to complain has access to the complaints procedure on the same basis as any other member of the community	
	To advance equality of opportunity between people who share a protected characteristic and those who do not.	Yes	Everyone who wishes to complain has access to the complaints procedure on the same basis as any other member of the community	
	To foster good relations between people who share a protected characteristic and those who do not	Yes	Everyone who wishes to complain has access to the complaints procedure on the same basis as any other member of the community	
<b>10.1</b>	<b>Use the drop down box and advise whether the activity has a positive or negative effect on any of the groups of people with protected equality characteristics and on Human Right</b>			
	<b>Protected Equality Characteristic</b>	<b>Positive (Yes/No)</b>	<b>Negative (Yes/No)</b>	<b>Explanation</b>
	Age	Yes		
	Disability		Yes	A person unable to access public information available or contact CCG PALS/Complaints due to disability
	Gender	No	No	
	Pregnancy or maternity	Yes		
	Race		Yes	English not first language and unable to understand public information
	Religion and belief	No	No	
	Sexual Orientation	No	No	
	Other vulnerable group		Yes	Homeless people or those in deprived areas unaware of or unable to access PALS/complaint information
	Marriage or Civil Partnership	No	No	
	Gender Reassignment	No	No	
	Human Rights	Yes		Ensures an individuals right to a fair hearing/investigation into concerns about NHS services
	If you have answered No to all the questions above and in question 10, explain below why you feel your activity has no relevance to Equality and Human Rights.			
	n/a			

<b>Section 4: Equality Information and Engagement</b>		
<b>11</b> What equality information or engagement with protected groups has been used or undertaken to inform the activity. Please provide details.		
	<b>Details of Equality Information or Engagement with protected groups</b>	<b>Internet link if published &amp; date last published</b>
	Discussed with ETAG meeting 5 December 2011	
<b>11.1</b>	<b>Are there any information gaps, and if so how do you plan to address them</b>	Public information leaflets not available in other languages or other media forms. Some service users unable to access CCG website, NHS Choices for PALS/complaints information. (see box 12 for plans to address)
<b>Section 5: Outcomes of Equality Analysis</b>		
<b>12</b> Complete the questions below to conclude the EA.		
	What will the likely overall effect of your activity be on equality?	Investigation of complaints can identify equality issues relating to access to health services, improve service delivery and patient experience for registered population.
	What recommendations are in place to mitigate any negative effects identified in 10.1?	Information leaflets to be made available in other languages upon request, or information provided via other media e.g. audio, Braille, face to face meeting with CCG staff. Use of Interpreting service and Link Workers. Independent Complaints Advocacy Service will provide support to service users who need assistance in pursuing formal complaint CCG raising awareness of patient's right to voice their concerns, raise complaints at local engagement, public health events.
	What opportunities have been identified for the activity to add value by advancing equality and/or foster good relations?	Open and transparent responses to PALS and complaints improves CCG reputation as a listening organisation and leads to improved NHS services and patient experience of care.
	What steps are to be taken now in relation to the implementation of the activity?	PALS and Complaints procedure well established within Bolton CCG as a commissioner of NHS services. CCG Website and leaflets in place. Radio advertising in collaboration with Communications and Engagement Team. NHS Choices website. Good links to promote procedure with Healthwatch Bolton, Independent Complaint Advocacy Service, Bolton Council, Carers Support, Bolton NHS FT, Public Health, NHS England, GP Member Practices, local protected characteristic groups via ETAG.

	Patient Story from complaint investigations profiled in Quality and Safety report presented to monthly public Board Meeting. Quarterly reports to CCG Board.
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**Section 6: Monitoring and Review**

**13** If it is intended to proceed with the activity, please detail what monitoring arrangements ( if appropriate) will be in place to monitor ongoing effects? Also state when the activity will be reviewed.

Monitoring forms are sent to individuals accessing PALS and complaints service and a link to survey monkey is now available to service user. Analysis of completed forms is undertaken and the data from 2014/15 was presented to Quality and Safety Committee in August 2015.