

Checklist for the Review and Approval of Procedural Documents
 To be completed and attached to any document which guides practices when submitted to the appropriate committee for consideration and approval.

	Yes/No/Unsure	Comments
Title of Document		COMPLAINTS POLICY AND PROCEDURE
Could this policy be incorporated within an existing policy?	NO	This is an update of the previous Complaints Policy and Procedure to reflect the latest national guidance.
Does this policy follow the style and format of the agreed template?	YES	
Has the front sheet been completed?	YES	
Is there an appropriate review date?	YES	Bi-annual- June 2019
Does the contents page reflect the body of the document?	YES	
Are there measurable standards or KPIs to support the monitoring of compliance with and effectiveness of the document?	YES	Quarterly reports to Quality Committee.
Are all appendices appropriate and/or applicable?	YES	
Have all appropriate stakeholders been consulted?	YES	See section 4.2

Has an Equality Impact Assessment been undertaken?	YES	
Is there a clear plan for implementation?	YES	The policy will be effective immediately following ratification and will be uploaded to the intranet and circulated by the shared with staff through the weekly newsletter.
Has the document control sheet been completed?	YES	
Are key references cited and supporting documents referenced?	YES	
Does the document identify which Committee/Group will approve it?	YES	HVCCG Executive Committee
Plans for communicating policy to – staff;	YES	The update policy will be published on Herts Valleys Clinical Commissioning Group’s intranet and all staff will be informed of the updated policy via the weekly communications update.

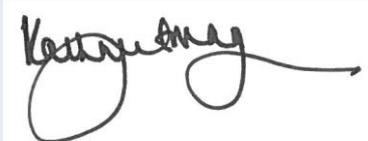
Director Approval

If you are happy to approve this document, please sign and date it and forward to the chair of the committee/group where it will receive final approval.

Name	Director of Nursing & Quality	Date	June 2018
Signature			

Committee Approval

If the committee is happy to approve this document, please sign and date it and forward copies to the person with responsibility for disseminating and implementing the document and the person who is responsible for maintaining the organisation’s database of approved documents.

Name	Chief Executive Officer	Date	10 July 2018
Signature			



COMPLAINTS POLICY & PROCEDURE

Version Number	4.0
Ratified By	Executive Team
Date Ratified	
Name of Originator/Author	Sarah Styles, Complaints Manager Updated by Julie Doherty, Patient Experience Advisor
Responsible Director	Diane Curbishley, Director of Nursing and Quality
Staff Audience	All Staff
Date Issued	July 2017
Next Review Date	July 2019

DOCUMENT CONTROL

Plan Version	Page	Details of amendment	Date	Author
3.0		Revised policy	Feb 2017	
		Sarah Styles, Complaints Manager		
	7	Duty of Candour moved from page 14/15 of old policy		
	8	4 Roles and Responsibilities - changes to job titles/team names and also throughout new policy		
	9	4.1 Roles and Responsibilities - paragraph added about KO41a returns		
	9	4.2 Changes to named stakeholders		
	10	5.1 Changes and additions to wording		
	10	Mental Health Capacity Act (2005) section has been re-worded as agreed with Tracey Cooper		
	11	Timescales for making a complaint – Changes and additions to wording		
	12	5.3 The Complaints Procedure – Changes to wording		
	12	5.3 The Complaints Procedure – Patient confidentiality paragraph moved from page 15 of old policy and re-worded		
	13, 14	Stage 1 Local Resolution – changes to first paragraph and changes to wording for b, c, f, g, h, l, and j		
	15	NB Old policy Safeguarding paragraph deleted on page 15 as agreed by Tracey Cooper		
	15	Complaints relating to provider services – changes to wording		
	15	Complaints involving multiple organisation – changes to wording		
	15	Complaints of a vexatious or persistent nature – added paragraph		
		NB Old policy Freedom of Information paragraph deleted from page 17		
	16	Police investigation – changes to wording		
	17	Staff who are the subject of complaints added		
	17	Monitoring Compliance – changes to wording		
	18	7 Education and Training – changes to wording		
	18, 19	9 Associated documentation – changes and additions to wording		
	21	New Equality form added by Paul Curry and old form from old policy deleted		
		NB Old policy Complaints Management Plan removed from old policy page 42-42		
	25	Appendix 3 Vexatious/Persistent Complaints Process – changes made to section		

	30	Equality Consent form added by Paul Curry		
V4	9 and 12	Data Protection Act 1998 updated to General Data Protection Regulation (GDPR)/Data Protection Act 2018	June 2018	
	27	Appendix 5 replaced with new consent form	June 2018	

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1. INTRODUCTION

Herts Valleys Clinical Commissioning Group (HVCCG) strives to promote a culture of patient and public involvement throughout the organisation and welcomes feedback from patients, carers and relatives to identify where services and patient experience can be improved. Where a complaint or enquiry is made, HVCCG will handle these in an honest and open way, with the principal aims of resolving the complaint, satisfying the complainant's concerns and learning from the experience.

In reviewing this policy, HVCCG has taken into account the Mid Staffordshire NHS Foundation Trust Public Enquiry, also known as the Francis Report, which was published in February 2013, along with the Government's response to this enquiry, *Hard Truths; the journey to putting patients first*. This policy also takes account of the subsequent reports commissioned by the Government and published up until March 2015, including the Clywd/Hart review of the NHS Complaints System (October 2013), the Keogh Review of Quality and Treatment Report (2013) and the Berwick Report (August 2013). Along with the need for compliance with the NHS constitution, these reviews have highlighted the need for a more responsive, compassionate, open and transparent NHS and this equally applies to the management of complaints.

2. PURPOSE

This policy sets out the process by which HVCCG handles complaints and concerns in line with the underpinning national and legislative context and guiding principles.

The policy reflects the legal requirement placed upon NHS organisations to have written procedures in place which highlight the arrangements for the handling of complaints in accordance to the National Health Service (Complaints) Regulations (2009) and the principles set out in the *Guide to Good Handling of Complaints*, published by NHS England in May 2013.

This policy provides guidance on how complaints will be managed and learned from, in accordance with the NHS Complaints System and the underpinning legislation and guiding principles as set out below to drive high quality care, and promote compassionate care across the services commissioned by HVCCG. HVCCG works in collaboration with other organisations such as local Healthwatch, an independent organisation that provides a signposting and advocacy function and works with health and social care organisations to help resolve concerns and complaints in a timely manner, which avoids the need for patients to make a formal complaint. Information is also provided by the advocacy service POhWER, a service which provides the NHS Complaints Advocacy Service in Hertfordshire.

This policy identifies who is responsible for dealing with complaints and what process to follow if the complainant is not satisfied with the response. The Policy also sets out how HVCCG will manage complaints received with multi-organisational involvement.

2.1 Our Values

HVCCG has developed and adopted a set of values which staff are expected to display across the organisation, and these reflect the manner in which complaints will be handled. The six values are:

1. Being: Caring and respectful.
2. Having: Ambition, courage and high standards.
3. Making sure we: are open, transparent, honest and straightforward.
4. Working: with partners and the public – as a team.

5. Empowering and energising: clinicians, staff and local people.
6. Learning: to be the best we can.

2.2 Duty of Candour

HVCCG welcomes the government's introduction of the statutory duty of candour within the NHS which identified the need for organisations to be more open and transparent when things go wrong. This regulation requires staff at all levels within an organisation 'to operate within a culture of openness and transparency, understand their individual responsibilities in relation to the duty of candour' and that they are 'supported to be open and honest with patients and apologise when things go wrong'. Sir Robert Francis highlighted the need for organisations to have greater openness and transparency, enabling concerns and complaints to be raised freely without fear and questions asked to be answered. Complaints raised with HVCCG will be investigated in this manner alongside the complainant.

HVCCG will ensure that in responding to complaints and particularly when things go wrong, people are provided with reasonable support, truthful information and an apology in accordance with the Duty of Candour regulation.

3. DEFINITIONS

3.1 What is a Complaint?

The Patients Association defines a complaint as:

"An expression of dissatisfaction made to an organisation, either written or spoken, and whether justified or not, which requires a response. There is no difference between a "formal" and an "informal complaint". Both are expressions of dissatisfaction.
(The Patient Association Good Practice Standards, 2013)

Complaints can be made verbally, in writing or electronically and can be raised by Members of Parliament (MPs) on behalf of their constituents.

Complaints are managed to enable patients, services users (or their representatives) to provide feedback on the services they have received in as easy a way as possible. Equally important is that HVCCG is able to learn from complaints to improve existing services and to inform commissioning decisions.

4 ROLES AND RESPONSIBILITY

4.1 Roles and responsibility within the organisation

The Chief Executive (the responsible person) is ultimately accountable for the quality of care commissioned by HVCCG.

The Chief Executive of HVCCG, or any other person authorised by the responsible body to act on behalf of the responsible person, is accountable for responding in writing to all complaints whether they have been made verbally, electronically or in writing.

The Director of Nursing and Quality has delegated responsibility for complaints management within HVCCG.

The Clinical Quality Lead will have oversight of the management of complaints, providing leadership to the Complaints Team, and ensuring reports are provided to the Quality and Performance Committee as required. The Clinical Quality Lead will support the Complaints Team in training and supporting staff in dealing with complaints.

The Complaints Team will have day to day responsibility for management of complaints and will;

- Be readily accessible to the public and members of staff, providing advice on any aspect of complaints resolution
- Co-ordinate the complaints investigation
- Provide training and advice to staff on complaints handling
- Ensure all complaints are recorded on DATIX and an electronic complaints file is established and held securely
- Ensure the complaints file is accessible to the complainant under the Access to Health Records Policy
- Ensure records management is in line with the General Data Protection Regulation/Data Protection Act 2018
- Ensure appropriate operating procedures are in place to deliver the Complaints Policy
- Ensure that concerns arising from a complaint or where the agreed timescale for responding cannot be met, are escalated to the Clinical Quality Lead or appropriate senior colleague to take forward
- Ensure recommendations made by the Parliamentary Health Service Ombudsman (PHSO) are shared, actioned and completed.
- Ensure where necessary, a complaints action plan is put in place to ensure actions are implemented Ensure that complaints action plans are reviewed quarterly to provide assurance that actions have been completed.
- Request assurance from the action plan holder that there is a plan in place to review completed actions for continued robustness and assurance Support the production of regular reports to the Quality and Performance Committee including the number of complaints received, themes and trends, actions taken as a result and learning from complaints.
- HVCCG provides information quarterly for the KO41 (a) returns to NHS Digital who are the national provider of information, data and IT systems for commissioners, analysts and clinicians in health and social care. The KO41 (a) are completed with information about written complaints about hospital and community health services made by, or on behalf of, patients. A written complaint is one that is made in writing to any member of the Trust or CCG staff, or is originally made orally and subsequently recorded in writing. Once it is so recorded, it should be treated as though it was made in writing from the outset. Complaints and comments/suggestions that do not require investigation should not be included.

4.2 Other members of HVCCG;

- All Directors are responsible for ensuring that the Complaints Policy and Procedure is implemented across their Directorates.
- Directors and Department Leads are responsible for disseminating the Complaints Policy and Procedures and ensuring that their staff members understand the procedure.
- All members of staff are expected to assist the Complaints Team to ensure complaints are investigated and responded to in accordance with this policy.

- All members of staff are expected to learn from, and support any development /change required as a result of a complaint.
- Managers are expected to ensure that complaints and concerns are shared and discussed at team meetings and support where appropriate service improvements.

4.3 Consultation and Communication with stakeholders

The following stakeholders have been consulted in relation to this policy:

- Director of Nursing and Quality
- Deputy Director of Nursing and Quality
- Head of Quality Assurance
- Clinical Quality Lead
- Risk Manager
- Equality and Diversity Manager
- Head of Adult Safeguarding
- Head of Community Resilience

5. CONTENT

5.1 Who Can Make a Complaint?

A complaint may be made by;

- A patient or service user.
- Any person who is affected by or likely to be affected by the action, omission or decision of HVCCCG has the right to complaint, including family carers. In this latter case it will be important to be clear whether a carer is complaining in their own right or on behalf of a consenting adult with capacity. Carers in Herts also provide carers' advocacy at <http://www.carersinherts.org.uk/have-your-say/advocacy-support>.
- A representative of either of the above in a case where that person:
 - Has died.
 - Is a child (under 16)?
 - Is unable by reason of physical or mental capacity to make the complaint themselves.
 - Has requested a representative to act on their behalf (a representative may include a parent, guardian, relative, civil partner, friend or MP), and, in these cases consent will be required.

5.2 In the case of a person lacking capacity under the Mental Capacity Act (2005):-

The complaints regulations permit the responsible body for the complaint subject to take a view on whether the person is acting in the patient's best interests, and if it is felt that this is not the case, the responsible body can refuse to handle a complaint by that person.

- If a person lacks the mental capacity to make a complaint HVCCG would seek assurance from the person's representative that they are acting in the person's best interests and request confirmation that the person lacks mental capacity to make this decision. The representative

would need to have a Lasting Power of Attorney recorded with the Office of the Public Guardian or be a relative who can evidence that they are involved in the person's on-going care and provide evidence of a Mental Capacity Act Assessment in regard to this decision.

- If HVCCG is not sufficiently assured from the representative that they are acting in the person's best interest and that the person lacks mental capacity then they will notify the representative in writing setting out the reasons why they are not assured.

In the case of a child or young person aged under 16:

- The representative must be a parent, guardian or other adult person who has care of the child. Where the child is under the care of a Local Authority or a voluntary organisation, the representative must be authorised by that Local Authority or voluntary organisation.

In the case of anyone who may require support and assistance:

- All members of the public who wish to raise a formal complaint will be given the details of POhWER. This includes people with disabilities, as the advocacy service provide support and assistance throughout the process and can provide information in different languages, braille, large print, easy read and audio format and advocates that can sign.

In the case of anonymous complaints:

- These will be accepted (e.g. telephone call, letter) but if possible the person should be encouraged to provide their name and other relevant details. If the person is unwilling to provide contact details, the Complaints Team will record the complaints and investigate if possible.

Timescales for making a complaint

- A complaint must be made no later than 12 months after the date on which the matter occurred or no longer than 12 months after the incident came to the notice of the complainant. There is discretion to waive the time limit if the complainant can demonstrate exceptional circumstances about why the complaint was not raised sooner. The Complaints Team will follow process to be assured that it is still possible and practical to investigate the complaint.
- If the complaint cannot be investigated, the complainant will be informed in writing of the reasons why and their right to approach the PHSO to consider this decision.

5.2 Complaints that cannot be dealt with under this policy

- In accordance with the NHS complaint regulations, HVCCG cannot investigate complaints which relate to:
 - A primary care provider (GP, dentist, pharmacist, optician) as these are managed by NHS England.
 - Any matter concerning employment or administration of superannuation schemes
 - An oral complaint which has been resolved to the patient's satisfaction by the end of the next working day after receipt.
 - A complaint that has been previously investigated by HVCCG, or another commissioner, where no additional significant information is supplied.

- A complaint being investigated by the PHSO.
- A complaint regarding the failure to comply with a Freedom of Information request – these will be dealt with under the Freedom of Information and Environmental Information Regulations Policy and Procedure.
- A dispute being raised by one organisation about another.
- Where HVCCG has applied the vexatious complaints process to an individual and no satisfactory change in behaviour has been identified (see appendix 3).
- If a complainant approaches HVCCG to investigate a complaint already handled by a provider, the Complaints Team will write to the complainant to advise that under the NHS Complaints Regulations, HVCCG cannot reinvestigate a closed complaint. However, in line with the NHS England Good Complaints Handling Guidance for CCGs, HVCCG may offer to ‘broker a solution’ if it is felt that more can be done to resolve any outstanding concerns. HVCCG will advise the complainant that they (the complainant) retain the right to contact the PHSO and HVCCG ‘S support does not form part of the formal complaints procedure in these cases. The complainant will be signposted back to the provider and details of how to contact the PHSO will be provided.
- Where HVCCG receives a complaint relating to the above, the Complaints Team will write to the complainant explaining the reasons why the complaint cannot be investigated advising them which organisation will be able to assist and provide the complainant with their contact details.

5.3 The Complaints Procedure

- HVCCG will follow the NHS Complaints procedure (see below 2 stages of the NHS Complaints procedure framework) when dealing with complaints and will work to the nationally recognised timescales for acknowledging complaints involving their services.
- Many concerns can be resolved quickly and all staff should make every effort to enable this happens by communicating with the complainant, listening to their concerns and attempting to resolve. The Complaints Team will respond to enquiries by listening and providing relevant information and support to patients, public and carers to help resolve concerns quickly and efficiently.
- The Complaints Team will liaise with staff and managers and where appropriate with other complaints and patient and advisory liaison services to facilitate enquiries being dealt with appropriately. Enquiries or concerns received should be handled in a similar fashion to complaints, ensuring that they are handled with sensitivity, and within a timely manner.
- Patient confidentiality will be maintained at all times when handling a complaint. All related records will be kept in a confidential and secure manner in accordance with The General Data Protection Regulation (GDPR)/Data Protection Act 2018.
- . If required, consent will be obtained from the patient, so that the complaint can be handled by the most appropriate organisation to affect the best outcome. There may be very rare occasions, when for the sake of patient safety, it is necessary to disclose confidential information to a relevant third party. This action would only be taken if the complainant, the patient or any other person is at risk of harm, to ensure patient safety. Any such action will be taken with advice from the appropriate senior member of staff.

There are 2 stages of the NHS Complaints procedure framework, which are:

- Stage 1: Local Resolution – investigation and response.
- Stage 2: Referral to the PHSO.

Stage 1: Local Resolution

(See Appendix 1)

There are no statutory timescales for responding to a complaint, within the NHS procedures framework, however, HVCCG will endeavour to respond to complaints within 25 working days or within the timescale agreed with the complainant. This is in line with the national expected standard for responding to complaints, which is 85% within the timeframe agreed. This includes, following the process set out below;

(a) An acknowledgment within three working days

This will be sent to the complainant in writing, by letter or email. The acknowledgement will identify the process that the complaint will undergo, with expected timescales for response and provide advice to the complainant on how they can access independent support for example through the Independent Complaint Advocacy Service.

(b) Agreement of how the complaint will be handled

The Complaints Team will take reasonable steps, such as contacting the complainant via email or letter to agree the most appropriate way to resolve their complaint. The Complainant is provided with a timeframe for the response and will be kept fully informed of any delays if the timeframe cannot be met.

(c) Risk assessment of the complaint

The Complaints Team will assess the complaint to determine if there are any patient safety concerns, such as safeguarding concerns or issues of clinical need, which require escalation or action to be taken. The Complaints Team will escalate any such concerns as necessary, to the appropriate lead within HVCCG. Where any risks are identified, these will be escalated as necessary in line with HVCCG's Risk Management Strategy.

(d) Gaining appropriate consent

Consent will be obtained if the complainant is not the person to whom the complaint pertains, or if consent is required to pass the information to the relevant provider for investigation and feedback to HVCCG for the final response.

(e) Appointing an investigation lead

The Complaints Team will work with the service the complaint relates to in order to identify the appropriate service lead or provider organisation to investigate the complaint within the agreed timescales and liaise with them weekly to offer support in order to ensure the investigation progresses and the response is sent to the complainant within the agreed timescales.

(f) Completion of investigation

The person or provider of the care allocated to investigate the complaint will investigate the circumstances of the complaint within the set time scale, providing a written response with analysis of what happened, identifying where learning can be applied and providing an action plan to implement the learning in the form of a letter.

The investigator will ensure that should there be a delay in completing the investigation the Complaints Team is notified, setting out the reasons for this and will also provide a revised timescale, which will be agreed with the complainant.

(g) Agreement of extended investigation period

If it becomes apparent during the investigation that further time is required and therefore the initially agreed timescales will not be met, the Complaints Team will contact the complainant by telephone and agree a revised timescale. This will be followed up in writing to the complainant.

(h) Providing a final response within the agreed timescale.

The final response will be sent to HVCCG's Accountable Officer a minimum of three days prior to the response deadline in order for the response to be reviewed and signed off.

(i) The final response will include:

- Who has investigated the complaint
- Appropriate apologies
- Analysis and outcome of the investigation
- Identified learning and actions
- Process to undertake should the complainant be dissatisfied with the final response

(j) Quality assurance of final response:

All complaints will be subject to HVCCG's quality assurance process to ensure responses are produced in line with the Patient Association Good Practice Standards for NHS Complaints Handling Standard 2015, to ensure the investigation and outcome reached is transparent, reasonable and based on the evidence available. This will include review by senior members of the Nursing and Quality Team and the Medical Director (for complaints relating to the Pharmacy and Medicines Optimisation Team).

Complaints relating to provider commissioned services

- Where a complaint is received by HVCCG which relates to care and treatment received from a provider organisation, HVCCG will refer the complainant to the Complaints Team of the provider organisation and request consent to forward the complaint on their behalf, the provider organisation will then contact and respond directly to the Complainant.

Complaints involving multiple organisations

- Where a complaint is made about more than one organisation, a discussion will be held with all organisations to establish the best approach for the complaint investigation. HVCCG will work with providers to promote a seamless and collaborative approach to such complaints and in line with any agreed protocols with its partner organisations. In these circumstances, HVCCG reserves the right to take the lead on the investigation and co-ordinate responses from each provider to collate a unified response. Each case is individual and will be discussed with the relevant providers on a case by case basis. This will be discussed and agreed with the complainant.

Complaints regarding Individual Funding Requests and Continuing Healthcare

- If a complaint is received about an Individual Funding Request (IFR) or a Continuing Healthcare (CHC) decision, the complainant will be advised that they are entitled to appeal the decision and a copy of the appeals process will be provided if requested. If the complainant still wishes to make a formal complaint, this will be investigated under the NHS Complaints Procedure and the complainant will be advised that only the IFR or CHC process will be investigated and not the actual funding or CHC decision, as this decision would have been undertaken by the appropriate Panel.

Complaints of a vexatious or persistent nature

- Where a complainant is considered to be acting in a vexatious or inappropriately persistent manner, the CCG will consider following the vexatious/persistent process for handling such a situation (see appendix 3).

Correspondence from Members of Parliament (MP)

- When HVCCG receives an enquiry from an MP on behalf of a constituent, consent will be sought from the constituent if it's necessary to contact other organisations involved in their care and also to ensure the constituent is happy to share potentially personal information with the MP. There are no formal response timescales for an MP enquiry however HVCCG endeavours to handle the enquiry in a timely manner and within 25 working days. Should an MP make a formal complaint on behalf of their constituent, the correspondence will be handled in line with the Complaints Procedure.

Guidance and support for members of the public

- HVCCG will publish information on how to make a complaint via the HVCCG internet where a copy of this policy will be available.
- Patients, their families and carers can contact the Complaints Team for advice on how to make a complaint and for advice and guidance on the complaints process and regulations at:
Complaints Team
Herts Valleys Clinical Commissioning Group
Hemel One
Boundary Way
Hemel Hempstead
Herts
HP2 7EQ
Telephone: 01442 898865 or 01442 284055
Email: hvccgpatientfeedback@nhs.net
- The Independent Complaints Advocacy Service (ICAS) can assist members of the public who wish to make a complaint about NHS services. This is provided for HVCCG by:
POhWER
PO Box 14043
Birmingham
B6 9BL
Telephone: 0300 456 2370
Email: Pohwer@pohwer.net

Police Investigation

- If the subject of the complaint is a matter being referred to the police, the complaints procedure will be suspended pending the outcome of that investigation and the complainant will be informed of the reasons for this delay. Once the police investigation has concluded, the complaint will be investigated after consultation with the complainant.

Litigation

- The National Health Service Litigation Authority (NHSLA) handles all legal claims against the NHS. Should complainants wish to file a litigious claim to they should be advised to contact the organisation they intend to file a claim against and then notify the NHSLA.

Staff who are the subject of complaints

- Where a complaint is made about an individual member of staff, the individual will be given the opportunity to respond to the complaint and be kept informed of the progress and outcome of the complaint. Where a complaint is made against an individual because of their racial background, gender, marital status, disability, sexuality, religion or age or other protected characteristic under the Equality Act (2010), the Complaints Team will discuss this with a senior member of the Nursing and Quality Team and if necessary the CCG's Equality and Diversity Lead to determine how the complaint should be investigated. For example a different policy may apply Equality and Diversity Policy). Harassment or abuse of staff will not be tolerated, and staff members who are the subject of such complaints will be offered support by HVCCG.
- If the decision is taken not to progress the matter through the complaints process the complainant will be notified in writing that the complaint will not be progressed and informed that harassment against any member of staff will not be tolerated.
- Where a complaint is investigated that is couched in discriminatory language the complainant will be advised that such language/behaviour will not be tolerated.
- Any complaints couched in discriminatory language that raise legitimate issues about clinical practice, procedures and communications will be investigated using the complaints system, without prejudice to the outcome of the investigation.

6. MONITORING COMPLIANCE

HVCCG pays particular importance to monitoring of complaints. Repeated complaints/concerns relating to a particular area or service can be an indicator of serious and systemic failings. There are arrangements in place to address this and these are set out below:

- A complaints database will be held centrally to record and monitor all complaints. Information gathered for the purposes of reporting will be anonymised.
- An Annual Report of complaints handling will be produced to monitor HVCCG's performance in respect of the following;
 - Number of complaints received.
 - Trends and areas of concern.
 - Summary of lessons learnt/actions to improve services as a result of the complaints.

- Number of complaints HVCCG were informed were referred to the PHSO and outcomes
 - Year on year analysis of complaints.
- The management of complaints by HVCCG will be overseen by the Quality and Performance Committee, a sub-committee of the Board. The Quality and Performance Committee will receive information and assurance that complaints are being managed in line with relevant legislation, national guidelines and local policy. The Committee will be provided with quarterly reports, detailing:
 - Number of complaints received.
 - % of complaints acknowledged within 3 day timeframe.
 - % of complaints responded to within agreed timeframe.
 - Number of re-opened complaints.
 - Number and detail of complaints referred to the PHSO.
 - Number of outstanding complaints (not meeting agreed timescale).
 - Themes and trends of complaints.
 - Actions taken as a result and learning from complaints with assurance that the learning identified from complaints is being used to inform commissioning decisions and the monitoring of the quality of services provided by HVCCG and its providers.

The complaints team will develop a process whereby complainants will be asked to provide feedback on the service to ascertain satisfaction and identify areas for improvement. Outcomes will be reported through the Quality and Performance Committee.

- This policy will be reviewed every two years or sooner in the event of legislative change, or any amendments identified within HVCCG that make it necessary to do so.

7. EDUCATION AND TRAINING

The Complaints Team, supported by the Clinical Quality Lead, will be available to support staff in investigating and responding to complaints

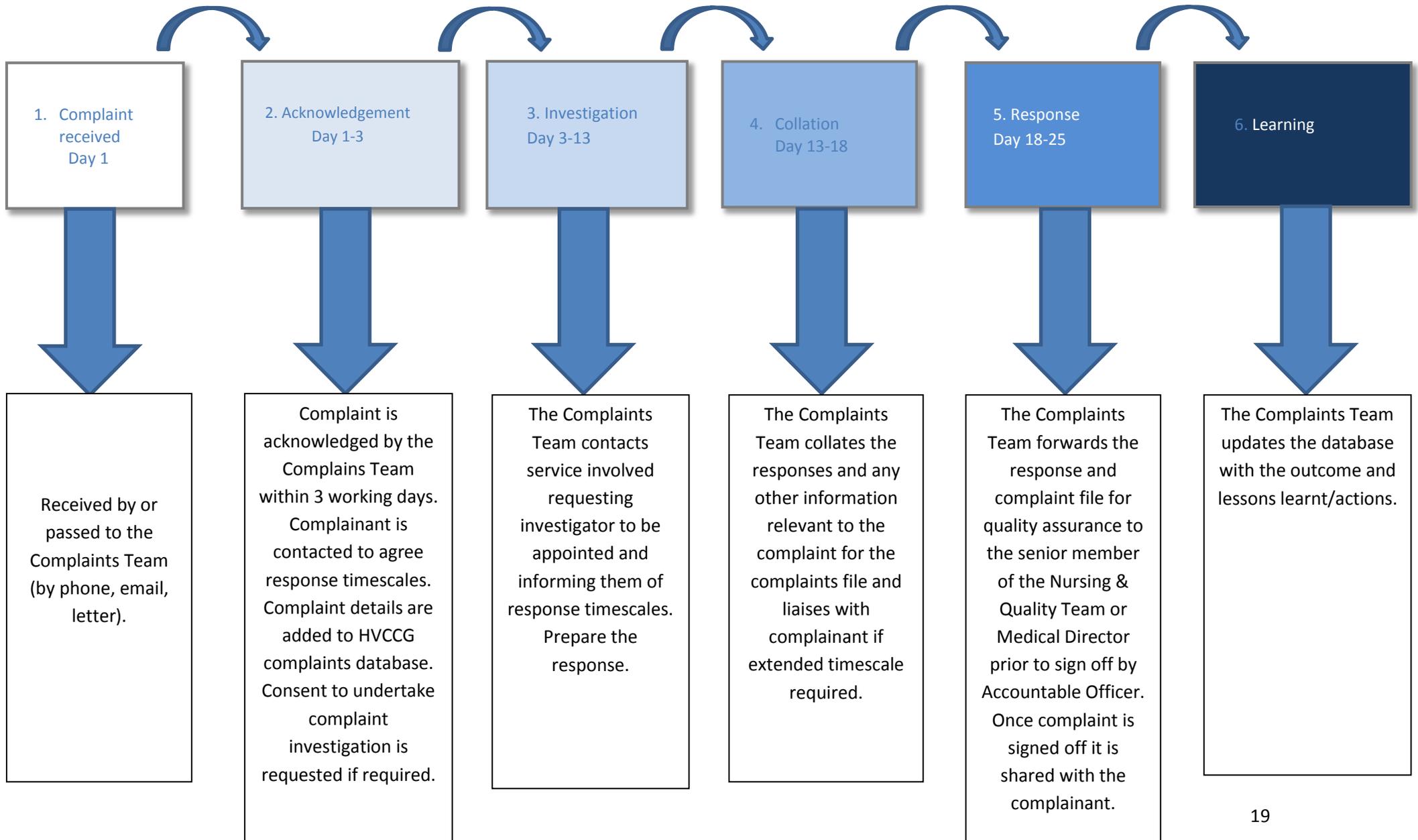
8. REFERENCES

- The NHS Complaints Regulations (2009)
- The Health and Social Care Act (2012)
- Report of the Mid Staffordshire NHS Foundation Trust Public Enquiry (2013)
- Hard Truths: The Journey to Putting Patients First (2014)
- Review into the quality of care and treatment provided by 14 hospital trusts in England: overview report (Keogh Review) (2013)
- A Review of the NHS Hospitals Complaints System: Putting patients back in the picture (Clywd/Hart Report) (2013)
- A Voice for Change (PHSO Report, 2013)
- The NHS Constitution (2013)
- Regulation 20 of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Duty of Candour)

9. ASSOCIATED DOCUMENTATION

- HVCCG Equality and Inclusion Strategy 2014-2017
- Hertfordshire Multi-agency Safeguarding Adults from Abuse Policy (issue 10, January 2017)
- Hertfordshire Safeguarding Children through the Commissioning of Services Policy (2014)
- HVCCG Information Governance Policy (October 2014)
- HVCCG Management of Freedom of Information Act Request Policy (June 2014)
- NHS England Serious Incident Framework (March 2015)
- HVCCG Incident and Serious Incident Policy (May 2015)
- HVCCG Risk Management Strategy (May 2015)

Appendix 1: The Complaints Process



Appendix 2: Confidential Equality Monitoring Form

The Department of Health requires NHS organisations to collect equality monitoring information. HVCCG recognises that equality monitoring is an important way of assessing our services. Equality Monitoring is an essential part of tackling inequality and discrimination and supports with providing assurance to HVCCG that the needs of those that come into contact with our services are being met. We would be grateful if you will consider completing the form below.

The information provided on this form is held confidentially. Return of this form is at your discretion and will not affect the investigation and response to any complaint you have made. If you choose not to return this form, please be assured that this will not affect the handling of your complaint.

Age: Please indicate which age range would best describe your age	Please tick one box
0 - 17	
18 – 64	
65+	
Prefer not to say	
Disability: Do you have any long term illness, health problems or disability?	
Yes	
No	
If Yes:	
Visual Impairment	
Hearing Impairment	
Mobility	
Learning Difficulties	
Social or behavioural issues	
Other Disabilities	
Ethnicity: I would describe my ethnic origin as follows	
Prefer not to say	
White British	
White Irish	

Other White Background	
Mix w & Black Caribbean	
Mix W & Black African	
Mix W & Asian	
Mix Other Background	
Asian Indian	
Asian Pakistani	
Asian Bangladeshi	
Other Asian Backgrounds	
Black/British Caribbean	
Black/British African	
Other Black	
Chinese	
Any other Ethnic Group	
Not Known	
Gender: I would describe my gender as	
Male	
Female	
Prefer not to say	
Gender Reassignment: Do you live in a gender other than that recognised at birth	
Yes	
No	
Prefer not to say	
Religion: Please indicate which term would best describe your religion	
Buddhist	
Christian	
Hindu	
Jewish	

Muslim	
No Religion	
Sikh	
Other	
Prefer not to say	
Sexual Orientation: Please indicate which term would best describe your sexual orientation	
Heterosexual / Straight	
Gay	
Lesbian	
Bisexual	
Prefer not to say	

Thank you for taking the time to complete this form. If you have any queries, please contact the Complaints Team on 01442 898865, or email hvccpatientfeedback@nhs.net

Appendix 3: Vexatious/Persistent Complaints Process

There are exceptional circumstances when HVCCG can reasonably do nothing to further rectify a real or perceived problem from a complainant. Prior to action being taken under this policy, senior staff should first consider:

- Has the complaints procedure been correctly implemented as far as possible and has any material element of a complaint been overlooked or inadequately addressed? Considering this question will entail appreciating that even persistent complainants may have aspects of a complaint which may contain some genuine substance.
- The stage at which a complainant has become or is developing into a persistent complainant where the complaint and responses have become repetitive, habitual or persistent (following a review of the available information). There should be evidence available to demonstrate the habitual and persistent nature of the complaint. The purpose of this procedure is to ensure that any restrictions placed on complainants should be the result of a fair and consistent process. The procedure will be applied only in the absolute circumstances outlined, not because the complainants are forceful and determined.

The CCG's Accountable Officer (or deputies) may decide to deal with the complaint in one or more of the following ways:

- Decline contact with the complainant either in person, by telephone, by fax, by letter, by email or any combination of these, provided that one form of accessible contact is maintained or alternatively to restrict contact to liaison through a third party.
- Notify the complainant in writing that the CCG's Accountable Officer has responded fully to the points raised and has tried to resolve the complaint, but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that the correspondence is at an end and that further letters received might be acknowledged but not responded to.
- Inform the complainant that in extreme circumstances the CCG reserves the right to pass unreasonable or persistent complainants to be dealt with through the CCG's solicitors and where appropriate other agencies.
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the CCG or any other relevant agencies.
- Consider whether there are any relevant equality considerations that may be linked to the persistency of the complaints. It is the responsibility of the staff reviewing each individual case to recognise that some complainants (for example, individuals with speech/hearing impairment, learning disability or other permanent or temporary cognitive impairment or service users for whom English is not their first language) may need the CCG to implement relevant adjustments to the process for the handling of their complaint (s) to minimise communication issues and barriers.
- In line with the NHS Complaints Procedure, the complainant has a right to refer their complaint to the PHSO if they are unhappy with our response.

In making a decision to determine an individual as a persistent complainant, the CCG's Accountable Officer (or deputies) will need to be satisfied that:

- In the CCG's handling of an individual's complaint(s), all necessary and reasonable practical steps have been taken (seeking professional advice as applicable) to minimise or overcome any barriers that complainants might experience as a result of relevant equality factors (for example, disability).
- Any planned actions do not constitute unlawful victimisation.

Withdrawing Persistent Complainant Status

Once a complainant has been determined as a 'persistent complainant' there needs to be a mechanism for withdrawing this status at a later date if, for example, the complainant subsequently demonstrates 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 complainant' status at the outset and discretion should similarly be used in recommending that this status be withdrawn when appropriate.

Where this appears to be the case, discussion will be held with the CCG's Accountable Officer (or deputies). Subject to their approval, normal contact with the complainants and application of NHS complaints procedures will then be resumed.

Appendix 4: Legislative Context and Guiding Principles

This policy is underpinned by a number of national public documents which seek to ensure that people receive compassionate and safe care across the NHS. The key documents are detailed below.

The NHS Complaints Regulations

The underpinning Department of Health Regulations were last updated in 2009 (Local Authority Social Services and NHS Complaints (England) Regulations 2009), The Regulations provide the statutory basis for the single approach to complaints handling in health and social care. The new complaints approach set out in the above referenced NHS Regulations, places the emphasis on the outcome of the investigation, rather than meeting targets within the process as being the main focus. The complaints approach is structured around three main principles;

- **Listening** – taking a more active approach to asking for people's views by working in partnership
- **Responding** – dealing with complaints more effectively by finding out what the complainants want to happen
- **Improving** – using the information received to learn and improve services by agreeing a clear plan of action

HVCCG understands that unless it listens, its response will not address the key issues raised by complainants and valuable opportunities to improve commissioned services will be lost. Complaints

and the outcomes of investigations will form part of HVCCG's continuous quality improvement process with providers.

The NHS Constitution 2013

The NHS Constitution sets out that you have the right to:

- have your complaint acknowledged and properly investigated,
- to discuss the manner in which the complaint is to be handled and know the period of when the complaint response will be sent
- to be kept informed of the progress and to know the outcome including an explanation of the conclusions and confirmation that any action needed has been taken on
- take your complaint to the independent PHSO if you're not satisfied with the way the NHS has dealt with your complaint,
- make a claim for judicial review if you think you've been directly affected by an unlawful act or decision of an NHS body, and
- Receive compensation if you've been harmed by negligent treatment

Further details can be found from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170656/NHS_Constitution.pdf

Health and Social Care Act 2012

The review of the Health and Social Care Act in 2012, led to the set up of Clinical Commissioning Groups and gives CCGs a duty to work together with partners to make it easier for health and social care services to work together. Within its statutory duties, HVCCG is required to improve the quality of services and feedback from complaints provides a valuable opportunity to do this.

There are a number of good practice guidance documents which underpin HVCCG's approach to compassionate and patient centred complaints handling. These include:

The Ombudsman's Principles for Remedy

This sets out the importance of getting it right; being customer focused, being open and accountable, acting fairly and proportionately, putting things right, and seeking continuous improvement.

The Francis Report and Hard Truths

Additionally, in response to the Mid-Staffordshire Enquiry in February 2013, the Government commissioned report by Sir Robert Francis QC dedicated one chapter to the subject of complaints and the importance of learning from patient's experiences of the care and services received. The report found that there was ineffective action in response to complaints. The report set out 14 recommendations for NHS organisations to follow and HVCCG will be working to ensure that those recommendations are adhered to which can be found in appendix 1. Sir Francis highlighted the need for a culture of openness and transparency in the NHS, and the government responded to this in its response entitled Hard Truths, with a commitment to ensuring that:

- Health care providers and professionals put patients first is the overriding ethos of everything the NHS does (recommendation 4).
- The values of the NHS Constitution take priority and to ensuring that it is easier to comment or make a complaint (recommendation 109).
- All healthcare organisations and their staff are honest, open and truthful in all dealings with patients and the public (recommendation 173)

These fundamental values build on the Ombudsman's Principles of Remedy and go further to promote a culture of compassion and openness to improve the way in which people are cared for, and the way in which complaints are managed.

Clwyd/Hart Review of The NHS Complaints System

Following on from this response, a number of national enquiries and reports have since been commissioned by the Government to continue the improvements recognised as required in the NHS, This included a more detailed review of the complaints system in the NHS by Clwyd and Hart (2013) which identified that:

- Vulnerable people find the complaints system complicated and hard to navigate
- There is a low level of public awareness of the NHS Complaints Advocacy Service
- People are reluctant to complain and staff can be defensive and reluctant to listen to or address concerns
- Organisations do not always deliver their legislative responsibilities on complaints handling
- There is a need for quality, trained staff to deal with complaints effectively and appropriately.

Keogh Review

Furthermore, Keogh highlighted the importance of patient and public involvement in his report into the quality and treatment of people in the NHS, and set out the ambition that:

Patients, carers and members of the public will increasingly feel like they are being treated as vital and equal partners in the design and assessment of their local NHS. They should also be confident that their feedback is being listened to and see how this is impacting on their own care and the care of others.

Healthwatch England

Healthwatch England is a national independent champion for consumers and users of health and social care in England. They provide leadership, support and advice to the wider Healthwatch network and have powers to ensure the consumers' voice is heard by those who make the decisions.

PATIENT CONFIDENTIALITY CONSENT FORM *(Please write clearly)*

Name of patient	
Address.....	
.....Postcode.....	
Telephone number.....	Date of Birth
Relationship to person making complaint	

I HEREBY AUTHORISE

Name of person making complaint	
Their Address	
.....Postcode.....	
Their telephone number	

To act on my behalf and to receive any and all such information as may be relevant to the complaint.

I understand that any information given is limited to that which is relevant to the investigations of the complaint (which may require access to the patient's health/social care records) and is only disclosed to those people who have need to know it in order to investigate my complaint.

I consent to Herts Valleys Clinical Commissioning Group (HVCCG) to contact:
[list organisation(s) here]

in order to progress my complaint.

Should HVCCG need to contact any other organisations, we will contact you to obtain your permission prior to making contact with them.

You have the right to withdraw consent at any time

PLEASE SIGN BELOW AS APPLICABLE

If patient is unable to sign, please give reason and then sign below	
.....	
Signature of person making Complaint.....	
Signature of patient	
Date.....	

Please note that the investigation of the complaint cannot begin until consent has been formally received

10. Equality Analysis – Full Equality Impact Assessment

Title of policy, service, proposal etc being assessed:

COMPLAINTS POLICY AND PROCEDURE

What are the intended outcomes of this work? This policy sets out the process by which HVCCG handles complaints and concerns in line with the underpinning national and legislative context and guiding principles.

How will these outcomes be achieved? By following the process.

Who will be affected by this work? Anyone considering or making a complaint

Evidence

What evidence have you considered? Against each of the protected characteristics categories below list the main sources of data, research and other sources of evidence (including full references) reviewed to determine impact on each equality group (protected characteristic).

This can include national research, surveys, reports, research interviews, focus groups, pilot activity evaluations or other Equality Analyses. If there are gaps in evidence, state what you will do to mitigate them in the Evidence based decision making section on page 9 of this template.

If you are submitting no evidence against a protected characteristic, please explain why.

Age We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Disability We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Gender reassignment (including transgender) We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Marriage and civil partnership We have identified there may be an equality impact for any

protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Pregnancy and maternity We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Race We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Religion or belief We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Sex We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Sexual orientation We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Carers We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Other identified groups We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Engagement and involvement

How have you engaged stakeholders with an interest in protected characteristics in gathering evidence or testing the evidence available?

There has been consultation with the CCG Equality and Diversity Lead

How have you engaged stakeholders in testing the policy or programme proposals?

This policy follows NHS England guidance.

For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs: n/a

Summary of Analysis

Considering the evidence and engagement activity you listed above, please summarise the impact of your work.

We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POwHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Now consider and detail below how the proposals could support the elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups (the General Duty of the Public Sector Equality Duty).

Eliminate discrimination, harassment and victimisation

The complaints procedure supports the elimination of discrimination, harassment and victimisation. The monitoring of complaints by equality group will support us to identify particular areas of concern or good practice.

Advance equality of opportunity

The complaints procedure supports patients accessing services without any impact as a result of a protected characteristic.

Promote good relations between groups n/a

Next Steps

Please give an outline of what you are going to do, based on the gaps, challenges and opportunities you have identified in the summary of analysis section. This might include action(s) to eliminate discrimination issues, partnership working with stakeholders and data gaps that need to be addressed through further consultation or research. This is your action plan and should be SMART.

We have identified there may be an equality impact for any protected characteristic group that may need additional support as a result of their protected characteristic. Our procedure includes the advice that POWHER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

How will you share the findings of the Equality analysis? This can include sharing through corporate governance or sharing with, for example, other directorates, partner organisations or the public. The completed EqIA will be published on the Herts Valleys CCG website either as part of the report on the proposals or separately on the equality and diversity pages.

This EqIA will be published alongside the proposed policy.

Health Inequalities Analysis

Evidence

1. What evidence have you considered to determine what health inequalities exist in relation to your work? All groups within society are able to make complaints about the services they receive. The process proposed ensures that those complaints are dealt with fairly whatever the complainant's equality or health inequality status.

Impact

2. What is the potential impact of your work on health inequalities? All groups within society are able to make complaints about the services they receive. The process proposed ensures that those complaints are dealt with fairly whatever the complainant's equality or health inequality status.

3. How can you make sure that your work has the best chance of reducing health inequalities?

Our procedure includes the advice that POhWER are able to offer support and guidance should it be needed. We will include equalities within our reporting requirements.

Monitor and Evaluation

4. How will you monitor and evaluate the effect of your work on health inequalities?

We will include equalities within our reporting requirements.