

# **Shropshire, Telford and Wrekin Integrated Care System Protocol for the Handling of Multi-agency Formal Organisational Complaints**

Updated October 2023

## **1. Introduction**

- 1.1 A commitment to high standards in the management of complaints is fundamental to ensuring that service users and patients who complain either to social care services or to NHS bodies are provided with a prompt, comprehensive and consistent response.
- 1.2 Given the potential for confusion arising from the range of health and social care agencies with which people might be in contact, a complaints management protocol is seen as an effective means of bringing together the agencies in the interest of providing a responsive and effective service for complainants.
- 1.3 In a complicated service environment, the more general benefits of a protocol will be measured in terms of:
- reduction of confusion for service users and patients about how complaints will be dealt with, and by whom.
  - clarity about the respective roles and responsibilities of agencies.
  - enhancement of inter-agency co-operation.

## **2. Why is a protocol necessary?**

- 2.1 One of the intentions of the complaint reforms which were implemented from April 2009 was to facilitate and to promote collaboration between health and social care organisations. This was to be assisted by the introduction of a common framework for the handling of complaints and single regulatory base.
- 2.2 In an environment where there is increasing collaboration between Social Care Services and parts of the NHS, as seen in jointly commissioned services, operational teams in which there are both NHS and local authority employees and the development of pooled budgets, it can sometimes be difficult to identify which agency is the most appropriate to respond to a given complaint.
- 2.3 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, strengthen the existing duty on social care services and NHS bodies to co-operate with each other in the management of complaints, which cut across the traditional organisational and service boundaries. Organisations on either side are under an obligation to work together to provide complainants with reliable information, clear responses and to meet required deadlines.
- 2.4 This protocol is intended to clarify responsibilities across the agencies and to set out a framework for interagency collaboration in the handling of complaints and to ensure:

- the provision of prompt responses to complainants, whose concerns may need to be addressed by more than one organisation.
- comprehensive and co-ordinated responses to complaints.
- a single consistent and agreed contact point for complainants.
- regular and effective liaison and communication between Complaints Managers and their teams.
- that learning points arising from complaints, covering more than one body, are identified and addressed by each agency and collectively as appropriate (see Section 7).

### **3. The Role of Complaint Teams**

3.1 For each signatory agency, the Complaint Team is responsible for co-ordinating whatever actions are required or implied by this protocol.

3.2 Foremost among these is to co-operate with other Complaint Teams, to agree who will take the lead role in cross-boundary complaints and in cases where complaints require a response from another signatory agency, than that which received it.

3.3 Complaints Teams should also liaise closely with their counterparts on action-planning the implementation of learning points arising from cross-boundary complaints.

3.4 In the unlikely event that Complaints Team are unable to reach agreement about any matter covered by this protocol, they should each refer the matter promptly to the relevant Directors/Senior Managers in their respective organisations for resolution.

### **4. Complaints which apply to both Social Care Services and to an NHS body or to multiple NHS organisation**

4.1 Within the regulatory framework, there is an emphasis on the co-ordinated handling of complaints. However, it will generally remain the case that each individual organisation will manage the investigation of the elements of any complaint which relate to the services it provides. Exceptions may arise in the case of organisations where services are jointly provided or those with pooled budgets under S31 of the Health Act 1999.

4.2 As soon as a complaint which relates to both Social Care Services and the NHS or regarding multiple NHS organisations is made, the Complaint Team of the organisation that received the complaint should acknowledge the complaint within three working days. The receiving organisation will ask the complainant how they would like their complaint to managed, offering the option of a joint response. They

will also seek consent to share the details of the complaint with the other organisations involved.

4.3 If the complainant consents, the Complaints Team of the organisation that received the complaint should pass the details on to the Complaint Team in the other organisation/s involved. It is expected that organisations engage in a strategic discussion about how they will work together to co-ordinate their response and how this will be provided to the complainant.

4.4 It is desirable, where possible, for a single composite response to be provided to the complainant, by the organisations involved in the complaint.

4.5 In each case, the Complaint Team will need to co-operate closely with the complainant as well as with each other to negotiate an agreement with regard to:

- the way in which the complaint will be managed, and which organisation is most appropriate to take the lead;
- the timescale within which a response to the complaint will be delivered.
- consider whether there is any alternative means to resolve the matter.
- how the parties will communicate with each other and with the complainant.

4.6 The lead organisation's Complaint Team must ensure that if there are any immediate issues that need addressing, to ensure patient safety, that this is communicated to the organisation/s involved without delay.

4.7 In circumstances where legal action is being taken or where the police are involved, it will be vital for the Complaint Teams to agree what further contacts need to be made and advice sought, especially if the suspension of the complaint is under consideration.

4.8 Similarly, the Complaint Teams need to agree formally, following due consultation, at which point the suspension will end.

## **5 Complaints about one organisation which are addressed to another organisation**

5.1 On occasions a complaint which is concerned in its entirety with Social Care Services is sent to an NHS body, or vice versa. This may be due to lack of understanding about which body is responsible for which service, or because the complainant chooses to entrust the information to a professional person with whom they have a good relationship.

5.2 The Complaint Team of the organisation receiving such a complaint should contact the complainant within 3 working days and advise that the complaint has been addressed to the wrong organisation. They should then ask for permission to send

the complaint to the correct organisation. Once permission is obtained, the complaint should be sent to the other organisation without delay. A written acknowledgement should be sent to the complainant confirming that this has been done.

## **6 Complainant's consent to the sharing of information between agencies**

6.1 Nothing in this protocol removes the obligation to ensure that information relating to individual service users and patients is protected in line with the requirements of the Data Protection Act, Caldicott principles and the confidentiality policies of each signatory organisation. It is for this reason that the complainant's consent must always be sought before information relating to the complaint is passed between agencies. Moreover, the complainant is entitled to a full explanation of why their consent is being sought.

6.2 Consent to the passing on or sharing of information under this protocol should be obtained, in writing, wherever possible. Where this is not possible, the complainant's verbal consent should be recorded and logged, and written confirmation sent promptly to them.

6.3 If the complainant withholds consent to the complaint being passed to the other organisation, the Complaint Team of the organisation receiving the complaint should discuss this with the complainant. They should be made aware of the limitations that this will place on the organisation being able to carry out an investigation. The complainant should be advised of the contact details for the Complaint Team at the organisation concerned should they wish to raise their concerns directly. It should be stressed that the organisation to which they sent the complaint will be unable to respond in these circumstances.

6.4 In a situation where a person discloses physical / sexual or financial misconduct it must be reported even if the complainant does not want to make a formal complaint. In these instances the appropriate organisational policy should be applied e.g. Safeguarding Adults Policy, Safeguarding Children Policy, Serious Incident Policy, Primary Financial Policies and the Fraud and Corruption Policy. Confidentiality will be maintained in such a way that only managers and staff who are leading the investigation know the content of the case.

6.5 If a complaint is received about services provided by more than one organisation about a service user who lacks capacity, it is expected that Complaint Teams work together to establish that the person making the complaint has sufficient interest in the welfare of the service user. It should be determined that the person raising the complaint is an appropriate person to act on the service user's behalf.

6.6 Where one organisation undertakes a formal investigation of a complaint arising from a service which is provided jointly or in collaboration with another, the complainant's written consent must be obtained before the investigation is given access to case records held by the other organisation. Providing that consent has been obtained, the organisation holding the records should make them available to the investigation.

6.6 A form is attached to this protocol as Appendix 1, which records the consent of complainants for their case records to be disclosed for the purpose of complaints investigations.

6.7 Close co-operation between Complaint Teams will be crucial in ensuring that confidential case-file information is shared appropriately, and that the necessary safeguards are put in place. Information exchanged under this protocol must be used solely for the purpose for which it was obtained.

## **7 Learning Outcomes**

7.1 It is important that organisations involved in a complaint collaborate in identifying the learning points which arise. At the point at which the complaint affecting more than one organisation is concluded to the complainant's satisfaction, or at which all procedural steps have been exhausted, learning points should be documented and respective organisations should ensure that any actions are taken forward.

7.2 Joint action plans, with responsibilities ascribed and timescales set, should be recorded, along with details of how they should be monitored. This should include how the complainant will be kept informed of developments.

7.3 In many cases, the action plan will be based on the recommendations of the person who investigated the complaint. Especially where there has been a formal investigative process.

## **8 The Future of the Protocol**

8.1 This protocol will be kept under review and will evolve by means of agreed amendments, in reflection of any future changes in the statutory or regulatory framework.

8.2 It is intended that the implementation of the protocol will be in the interest of providing an effective complaints service for patients and service users.

8.3 Meetings of a Joint Complaint Group will be held as, and when, appropriate to share learning and seek to monitor the effectiveness of action taken to implement the Joint Complaints Protocol.

## **Regulations**

- The Local Authority Social Services Complaints (England) Regulations 2009
- Supporting Staff, Improving Services (Department of Health 2006)
- Data Protection Act 1998
- Human Rights Act 1998
- Health and Social Care Act 2008

**Appendix 1**

**Consent Form**

**Our Ref:**

**CONSENT FOR THE RELEASE OF CONFIDENTIAL INFORMATION**

**Patient Details**

|                           |  |
|---------------------------|--|
| <b>Name:</b>              |  |
| <b>Address:</b>           |  |
| <b>Postcode</b>           |  |
| <b>Date of Birth:</b>     |  |
| <b>NHS No* (if known)</b> |  |

I hereby authorise NHS Shropshire, Telford and Wrekin Integrated Care System (NHS STW ICS) to investigate my complaint as detailed to the Complaints Team.

I understand that this may involve sharing my complaint with organisations within the NHS STW ICS so that all the issues can be reviewed and responded to in accordance with the NHS complaints regulations. I understand that organisations within NHS STW ICS may require access to my medical/social care records for the purposes of reviewing the complaint where this is necessary to comply with the legal duty to investigate. I am aware that only those who require sight of the medical records during the investigation of the complaint will do so. I also understand that the response to my complaint may include specific details about my medical history, care and any relevant information held on my medical/social care records.

If there are any organisations that you would prefer information **not** to be share with, please put a cross next to that organisation below.

|   |  |
|---|--|
| NHS Shropshire, Telford and Wrekin Integrated Care Board        |  |
| The Shrewsbury and Telford Hospital NHS Trust                   |  |
| Shropshire Community Health NHS Trust                           |  |
| Midlands Partnership NHS Foundation Trust                       |  |
| The Robert Jones and Agnes Hunt NHS Foundation Trust            |  |
| Shropshire Council  |  |
| Telford and Wrekin Council                                      |  |
| West Midlands Ambulance Service University NHS Foundation Trust |  |
| Other (Please Specify)  |  |

I understand that I may withdraw my consent for access to my medical records at any time but that if I do so this may prevent full investigation of my complaint. I have been advised that further information about my rights in relation to my information and how NHS STW ICS looks after it can be found in the privacy notice on NHS STW ICS websites and can also be provided in alternative format if requested.



**FOR 3<sup>rd</sup> PARTY ONLY**

**Only complete this section if you would like to give NHS STW ICS permission to liaise with someone else on your behalf (e.g., carer, family member, advocate, friend)**

I hereby authorise NHS STW ICS to investigate the complaint made by the person detailed below. I consent for them to manage this complaint on my behalf and for NHS STW ICS to provide them with a written response to my complaint.

|                 |  |
|-----------------|--|
| <b>Name:</b>    |  |
| <b>Address:</b> |  |
| <b>Postcode</b> |  |

**Communication Needs**

It is important that NHS STW ICS communicates in a way that best suits individual's needs; please help us to do this, by answering the questions below.

|   |   |
|---|---|
| 1. Do you have any communication needs?   | Yes – Go to question 2<br>No – Go to question 3 |
| 2. If you have answered "Yes" to the above question please specify:<br><br>What your communication needs are e.g., hearing impairment, sight impairment, learning disability, etc.?<br><br>Please confirm what adjustments can be made by NHS STW ICS to meet your communication needs e.g., large text, via email/telephone, easy read, etc. |   |
| 3. If you have answered "No" to question 1, please confirm what your preferred method of contact would be e.g., telephone, email, letter.   |   |

|   |          |
|---|----------|
| I am happy for a version of my complaint to be used for staff training purposes or as a patient story. Specific patient details will not be shared for these purposes unless permission has first been obtained to do this. | Yes / No |
|---|----------|

|  |  |
|--|--|
| When reviewing services in the local area NHS STW ICS regularly seeks feedback on local services. If you would like to receive invites to events that take place or to be involved in future surveys about local services, please tick here. |  |
|--|--|

Signed

Dated: