

Shropshire, Telford and Wrekin

Protocol for the Handling of Multi-Agency Formal Organisational Complaints

Shropshire Council
Telford & Wrekin Council
Telford and Wrekin Clinical Commissioning Group
Shropshire Clinical Commissioning Group
Shropshire Community NHS Trust
Robert Jones and Agnes Hunt Orthopaedic Hospital NHS Trust
Shrewsbury and Telford Hospitals NHS Trust
South Staffordshire and Shropshire NHS Foundation Trust
Healthwatch Shropshire

January 2017

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; and
 - enhancement of inter-agency co-operation, in advance of the anticipated new regulatory framework.

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; and
- 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 the Complaints Manager

- 3.1 For each signatory agency, the designated Complaints Manager 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 Complaints Managers/Officers, 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 Managers/Officers should also liaise closely with their counterparts on action-planning the implementation of learning points arising from cross-boundary complaints.
- 3.4 Each Complaints Manager/Officer should clarify to whom in their agency any requests for collaboration under this protocol should be addressed when s/he is absent (through leave, illness etc).
- 3.5 In the unlikely event that Complaints Managers/Officers 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 agencies, for resolution.

4 Complaints which apply to both Social Care Services and to an NHS body, and to which both need to contribute part of the response

- 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 complaints (or part of the 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 is made, the Complaints Manager/Officer of the agency which received it should write to the complainant, within three working days, to acknowledge the complaint, to notify him/her of the cross-boundary issue and to ask

whether s/he wants the details of the complaint which relate to the other agency passed on to the other agency.

- 4.3 If the complainant consents, the Complaints Manager/Officer of the agency which received the complaint should pass the details on to the Complaints Manager/Officer in the other agency/agencies and engage in a strategic discussion about how the agencies 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 which arises, the Complaints Managers/Officers 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 handled and which organisation is most appropriate to take the lead;
 - the timescale within which a response to the complaint will be delivered;
 - the implementation of any alternative means to resolve the matter; and
 - how the parties will communicate with each other and with the complainant.
- 4.6 The lead organisation's Complaints Manager/Officer must ensure that a comprehensive risk assessment is undertaken, they grade the complaint and communicate with colleagues in all affected organisations.
- 4.7 In circumstances where legal action is being taken or where the police are involved with the matters which are also the subject of a complaint involving more than one organisation, it will be vital for the Complaints Managers/Officers 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 Complaints Managers/Officers need to agree formally, following due consultation, at which point the suspension will end.

5 Complaints about one agency which are addressed to another agency

- 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 s/he has a good relationship.
- 5.2 The Complaints Manager/Officer of the agency receiving such a complaint should contact the complainant within 3 working days and advise that the complaint has been addressed to the wrong agency and ask if s/he wants it to be sent to the other agency. Providing the complainant consents, the complaint should be sent to the other agency at once, and a written acknowledgement should be sent to the complainant.

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 agency. 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 his/her 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 him/her.
- 6.3 If the complainant withholds consent to the complaint being passed to the other agency, the Complaints Manager/Officer of the agency receiving the complaint will seek to engage with him/her to resolve any issues or concerns about remit and responsibility and offer any liaison which could contribute to the resolution of the matter of concern. The complainant should be reminded of his/her entitlement to contact the other agency direct. It should be stressed that the agency to which s/he sent the complaint has no legal remit to respond to it.
- 6.4 The only circumstances in which a complainant's lack of consent could be overridden would arise if the complaint included information which needed to be passed on in accordance with Safeguarding Children or Protection of Vulnerable Adults procedures. In such cases, the complainant would be entitled to a full written explanation as to the agency's Duty of Care and its obligation to pass on the information.
- 6.5 If a complaint is received about services provided by more than one organisation to a patient/service user who lacks capacity, it will be for the Complaints Managers/Officers together to establish that the person making the complaint has sufficient interest in the welfare of the patient/service user and that s/he is an appropriate person to act on their behalf.
- 6.6 Where one agency 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 agency. Providing that consent has been obtained, the agency 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 Complaints Managers/Officers 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 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, the Complaint Managers/Officers should collaborate in identifying the learning points which arise, both for the respective agencies individually and with regard to their future collaboration.
- 7.2 Joint action plans, with responsibilities ascribed and timescales set, should be recorded, along with details of how they should be monitored and of 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 Complaints Group will be held as, and when, appropriate in order 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

Document Details

This document was last updated on the 31 January 2017

STATEMENT OF CONSENT FOR THE DISCLOSURE OF PERSONAL RECORDS

(for completion and signature by the complainant)

To whom it may concern

I,(complainant) of
.....
.....

hereby give my consent to the disclosure of my personal records held by
..... (signatory agency) to
.....(signatory agency), to assist the
investigation of my complaint (reference.....) by.....
(Investigating Officer).

The reason for and the implications of this have been explained to me by
.....(Complaints Manager of the investigating agency).

Signed:

Dated: