

# **NHS Nottingham North & East, NHS Nottingham West, and NHS Rushcliffe Clinical Commissioning Groups**

## **Complaints and Concerns Policy**

**Review Date: October 2018**

# Complaints and Concerns Policy

## Reader Information :

<b>Document Title</b>	Complaints and Concerns Policy
<b>Directorate</b>	Quality, Performance, Information and Governance
<b>Document purpose</b>	To detail the policy statement by which NHS Nottingham North & East CCG, NHS Nottingham West CCG, and NHS Rushcliffe CCG will manage complaints
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<b>Author</b>	Helen Horsfield, Complaints & Patient Experience Manager
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<b>Associated documents</b>	NHS Complaint Regulations 2009 Nottinghamshire Joint Protocol for the Management of Complaints 2016 CCG Risk Management Strategy and Policy NHS England Serious Incident Framework 2015 CCG Equality and Diversity Policy CCG Capability Policy and Procedure CCG Information Governance Policy
<b>Superseded documents</b>	Complaints and Concerns Policy & Procedure 2015
<b>Sponsoring Director</b>	Director of Nursing and Quality/Executive Nurse

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**Note: This policy is written on behalf of NHS Nottingham North & East Clinical Commissioning Group (CCG), NHS Nottingham West CCG and NHS Rushcliffe CCG collectively referred to within this document as “The CCG”.**

## **1. Introduction**

The CCG recognises that suggestions and complaints provide valuable insights into services. Every person’s experience counts. Therefore we will use this valuable intelligence about the services we provide and commission to ensure that quality, patient focussed services are at the heart of our work.

In order to achieve this there are three steps to our procedure:

1. Listening
2. Responding
3. Improving

We will place equal emphasise on each of the three steps. We are aware that unless we listen, our response will not address the key issues raised by the complainants and valuable opportunities to improve will be lost. Complaints and the outcome of the investigation will form part of our continuous quality improvement process.

In response to feedback from complainants and the changes to the NHS structures, we have revised our complaints policy to ensure improvements in our process. This policy sets out The CCGs Governing Body requirements alongside its entire staff and commissioned services.

## **2. Scope**

This policy has been developed to provide clear guidance on the handling of complaints. The policy relates to The CCG and is for service users and carers or users of services commissioned by The CCG.

There are a number of exclusions to this policy and these can be found in Section 12.

## **3. Definition of a Complaint**

A complaint is an expression of dissatisfaction, about any aspect of the services The CCG commissions, which requires an investigation and response. Such expressions of dissatisfaction may be made in a variety of ways: verbal, face to face, by telephone or in writing (letter or email). Sometimes it is difficult to determine whether feedback is a complaint. If the person raising the issue states that their concern is a complaint, it will be treated as such.

#### **4. Policy Statement**

The CCG staff will ensure that complaints are viewed in a positive way and used to identify any areas for service improvement. Communication with complainants will be open, fair and conciliatory.

All complainants will be treated courteously and sympathetically. An apology will be given in recognition of the concern caused by the complainant as well as for any shortfall in services experienced.

We will work with health and social care colleagues to ensure that, when possible and agreed by all parties, the person making the complaint receives a single response which addresses all the issues raised and clearly sets out changes planned or made.

Where changes are planned we will agree a timeframe by which we will update the complainant on the changes made.

#### **5. Equality Impact Assessment**

A key principle of this policy is to ensure that all complainants will be treated equally, and will not be discriminated against.

An initial assessment of the potential impact of the policy in relation to the protected characteristics of the Equality Act 2010 has been carried out. The intention of the equality impact assessment is to eliminate unlawful discrimination, advance equality of opportunity and foster good relations as stated in the Equality Act.

The assessment includes the protected characteristics of race, disability, gender, sexual orientation, age, religious or other belief, marriage and civil partnership, gender reassignment, pregnancy and maternity as well as to promote positive practice and value the diversity of individuals and communities.

At this stage, no adverse impacts have been identified that arise specifically from the policy.

#### **6. What Complainants Can Expect from our Complaints Process**

Our policy has been developed to ensure that a consistent approach is undertaken with all complaints irrelevant of the issues raised. When a complaint is made the complainant can expect:

- An acknowledgement by letter, phone call or email within three working days
- Their complaint to be handled in line with the principles of confidentiality
- The member of staff dealing with the complaint to understand the complaints procedures and consideration will be given to safeguarding concerns in line with the CCGs Safeguarding Policy

- An explanation of options relevant to the content of the complaint in order to ensure resolution which will take into account the complainant's views, wishes and signposting to the relevant agency if required e.g. Local Authority
- The timescales for completing the investigation and providing a written response
- Information about advocacy services
- To be kept informed of the reasons for any delay in the investigation
- To receive a written explanation of how the complaint has been resolved and what appropriate action has been taken. This will also include information on their right to take the matter to the Parliamentary and Health Service Ombudsman's (PHSO)
- The CCG to uphold the rights set out in the NHS Constitution
- To receive information on where additional support can be accessed
- The offer of a conciliation meeting where there are difficult issues to be resolved
- A single response letter, where the content of the complaint covers both health and social care issues and/or a number of different NHS organisations

## **7. Responsibilities and Accountabilities**

In order to fulfil our responsibilities The CCG Governing Body has nominated the following personnel to deliver the policy.

### **Chief Officer**

Responsible for reviewing and signing Final Response Letters

### **Director of Nursing and Quality**

Responsible for strategic overview of complaints handling within The CCG

### **Head of Quality, Patient Safety and Experience**

Responsible for ensuring the implementation and delivery of the complaints process.

### **Complaints & Patient Experience Manager**

Operational responsibility for the case management of each complaint in line with the NHS Complaints Regulations 2009.

### **All CCG Staff**

Responsibility for responding to a complaint in a positive manner and complying with the policy and procedure on complaints handling.

Responsibility for identifying and referring complaints to the Complaints Department in a timely manner

## **8. The CCG Policy and Principles are to:**

- Publicise the complaints procedure
- Implement a process to deliver the six principles of good complaints handling:

1. Getting it right
2. Being customer focused
3. Being open and accountable
4. Acting fairly and proportionately
5. Putting things right
6. Seeking continuous improvement

- Ensure complaints are dealt with efficiently and that investigations are appropriate to enable a response to the complainant and to identify areas for improvement
- Ensure that all complaints that have been made within 12 months of an incident are dealt with under NHS Complaints Regulations 2009 and the Nottinghamshire Joint Protocol for the Management of Complaints 2016
- Ensure a robust procedure is in place in organisations that The CCG commission services from. We will require the organisation to keep us informed at all stages of the investigation if there is a significant concern relating to patient safety and the relevant actions taken
- Implement a system for grading complaints
- Implement a reporting process which enables the Governing Body to understand the issues raised and the improvements made from complaints
- Produce an annual report on complaints in line with current legislation
- Ensure collection and collation of Equality and Diversity data in line with local and national requirements.
- Maintain a record of each complaint in line with current legislation
- To complete the annual KO41 return as required.

## **9. Audit**

We will undertake an annual audit of complainants' satisfaction with our handling of complaints and ensure that lessons learned from this are used to review this policy and associated procedure.

## **10. Service User and Carer Involvement**

We will provide a summary of findings from investigations and lessons learned at all Patient Groups and CCG websites in order to share lessons and identify wider learning from the complaints process by public and user scrutiny and involvement.

## **11. Listening Events**

The CCG will work with Healthwatch and other stakeholders to organise and attend Listening Events.

Information from Listening Events will be shared with quality and contracting colleagues to inform commissioning decisions whilst supporting monitoring and performance activities.

## 12. Complaints Not Covered By This Policy

The Complaints Policy applies to complaints made by or on behalf of Service Users and Carers.

The policy does not apply to:

- Complaints about decisions made about eligibility for NHS Continuing Health Care (CHC) funding. An Independent Case Review Panel appointed by NHS England is available for this process and applicants have the right to complain direct to the Health Service Ombudsman if they remain dissatisfied
- Complaints and grievances by members of staff relating to their contract of employment. Employees should raise such issues with their Line Manager or with the Director of Workforce and Corporate Services in accordance with The CCG Collective Grievance and Disputes Procedure
- Complaints by practitioners that relate either to the exercise of The CCGs functions or to the contract or arrangement under which the practitioner provides primary care services
- Complaints about primary care contractors will be dealt with by NHS England, however, CCGs will receive details of GP complaints to support quality monitoring in primary care.
- Non-NHS services
- Complaints about the non-disclosure of information requested under the Freedom of Information Act 2000 or the failure to comply with a Data Subject Access request made under the Data Protection Act 1998. Applicants have the right to request an internal review if they are not satisfied with the outcome of their Freedom of Information request. If the complainant is not satisfied with the outcome of the internal review, the complainant can contact the Information Commissioners Office to investigate further
- Complaints which are subject to an on-going police investigation or legal action, where a complaints investigation could compromise the police investigation or legal action
- Allegations of a criminal nature, including allegations of fraud
- Complaints that have already been investigated and the complainant has already received a written response
- Complaints that are already in investigation
- Complaints that are already in progress or have been investigated by the Parliamentary and Health Service Ombudsman's (PHSO)

## 13. The CCG Procedure for formal complaints

### Listening

- Complaint received in writing
- Complaint recorded, risk assessed and graded (see Appendix 2)
- Contact with complainant attempted to acknowledge receipt and gain more detail
- Acknowledgement letter sent to complainant (within 3 working days) with details of advocacy service and appropriate consent form
- Agree with complainant points to be answered and complainant's desired outcomes



- Timescale for complex investigations agreed between the CCG, provider and complainant
- Timescale (30-60) working days dependent upon the complexity of the complaint

## **Responding**

- Investigation commences on receipt of consent form (if applicable)
- Each case will be investigated and managed by the Complaints Manager based on where the complaint or the majority of a complaint, involving more than one organisation, came from in terms of the area in Nottinghamshire. At any stage in the investigation safeguarding concerns are identified these will be escalated in line with the CCGs Safeguarding Policy.
- This stage may continue for a while and may include phone calls/ interviews/ note reviews/ obtaining witness statements and a response from the provider.
- When all the information has been collated the Final Response Letter can be prepared. This should be within the timescale agreed at the beginning of the process.
- If the timescale is likely to be breached then the complainant must be kept informed and the reasons for the delay.
- Response Letter signed by Chief Officer or Deputy.

## **Resolution Meetings**

- Complainants may be offered a local resolution meeting at any point during the complaints process
- A complaints conciliation meeting will be considered when investigations and response letters have failed to resolve the complainant's questions and concerns.

## **Improving**

- We will support providers to learn from complaints handling
- Specific actions that need to be taken to prevent a reoccurrence will be identified and monitored
- The findings and outcomes of complaints will be monitored by the Quality teams within the commissioner and provider organisations
- Complaints that identify potential underperformance concerns will be reported to the Underperformance Manager of the appropriate Professional Body.

## **Closure of Complaints**

- Each Response Letter will identify a date by which the complainant should get in touch with the complaints team to notify them if they are not satisfied their complaint has been addressed fully; otherwise the case will be closed.
- Each Response Letter will provide information about how to contact the Ombudsman if unhappy with the outcome of the complaint investigation and handling by the CCG.
- On closure of the case, the case review documentation will be completed and the databases will be updated to ensure accurate and full records are maintained.

## 14. The CCG Procedure for informal and verbal complaints

The CCG will work to the following process upon the receipt of an informal or verbal complaint. Informal complaints are usually made verbally, via the website/email or face-to-face. The CCG will clarify whether the complainant wishes to complain formally or informally. The complainant may be advised to submit a formal complaint (i.e complex complaint requiring an in-depth investigation).

When a complaint is deemed to be informal, the CCG will aim to resolve the complaint within 1-5 working days.

### Listening

- Complaint received - verbally/ face to face/via website/email
- Dynamic risk assessment takes place
- Discussion with complainant to gain more detail
- Decision about informal or formal process reached, timescales and advocacy services
- Consent requested to proceed with investigation
- Complaint recorded and graded

### Responding 1-5 working days

- Service contacted with full details of the complaint, consent and timescale
- Service User and Carer informed of the findings and agreement reached with regards to the next steps (ie. Formal complaint or Local Resolution meeting)
- Outcome fed back to provider
- Complaints database updated

### Resolution Meetings

- Complainants may be offered a Local Resolution meeting at any stage of the above process

### Improving

- The aim is always to agree actions, where applicable and reasonable, to demonstrate learning and undertake service improvements;
- The CCG will maintain a log of agreed actions which will be escalated to the Clinical Commissioning Group's Quality & Risk Committee.

## Closure

- The complaint documentation will be reviewed and completed and the database updated to ensure accurate and full records are maintained.

## 15. Quality Monitoring

### Audits

- We will undertake an annual audit of complaints satisfaction and ensure lessons learnt from this are used to review this policy.
- We will participate in a yearly peer review of a number of complaints by other complaints teams

### Quarterly Reports

- We will produce quarterly reports to ensure that lessons learnt and actions required are monitored via the Quality and Risk Committee and Governing Body.

## 16. Support for Service Users and Carers

The CCG may support the complainant with drafting a letter if they feel that the complainant needs support in preparing correspondence. The letter will not be sent to the provider unless the complainant agrees the content.

### PALS

- If clients have concerns or need advice which does not constitute a complaint they can contact PALS which is a confidential service established to:-
  - Advise and support service users and carers, families and carers
  - Provide information on NHS Services
  - Listen to concerns suggestions or queries
  - Resolve problems quickly on behalf of the enquirer.
- The PALS service does not handle complaints but acts as a contact point to enable independent guidance for service users and carers and can offer to direct them to the appropriate organisation or member of staff best placed to deal with the concern raised. PALS will inform the organisation of the outcome of all contacts to facilitate the improvement of services.  
Their telephone number is 0800 028 3693 (Option 2)  
Their emails address is [pet@nottinghamnortheastccg.nhs.uk](mailto:pet@nottinghamnortheastccg.nhs.uk)

## POhWER

- POhWER provide a national independent complaint advocacy service whose main aim is to assist people who may want to complaint against the NHS and to ensure that lessons are learnt from these experiences and fed back to the service. Information regarding POhWER is provided to complainants within the acknowledgement letter.

Their telephone number is 0300 020 0093

Their emails address is pohwer@pohwer.net

## 17. Unreasonably Persistent Complaints

- Unreasonably persistent complainants are often difficult to investigate, time-consuming and the complaints difficult to conclude. It is important to have a consistent approach for identifying and establishing an unreasonably persistent complainant and for handling the complaint. The following criteria are offered as guidance for establishing a vexatious complaint:
  - the complainant has been personally abusive or aggressive towards staff/practitioner who is dealing with the complaint
  - is unwilling to accept documented evidence as being factual
  - insists that they have not had an adequate response to their complaint despite the large volume of correspondence which has specifically addressed their complaints
  - complainant constantly raises new issues which did not appear in the original correspondence in order to keep the complaint going
  - complaint/story changes as time goes on
  - makes persistent, nuisance calls to staff (telephone, emails or face to face)

If, having followed the Complaints Procedure any of the above come to light, then the complainant will be deemed to be unreasonably persistent and should be escalated to senior management.

An Incident Reporting Form should be completed by any staff member who is subject to aggressive/abusive behaviour and after discussion with their relevant line manager, if deemed appropriate, the matter escalated to the security management service for advice/future management.

Having established a complainant is unreasonably persistent and every effort has been made to respond in good faith, the Chief Officer and Chairman will write to the complainant, stating that:

- A full response has been given to all the issues raised in the complaint
- The Organisation has tried to resolve the complaint and there is nothing further that can be done. Therefore the correspondence will end.
- Advise the complainant they have the right to take their complaint to the PHSO.
- The complainant may be advised to communicate in writing only to the following address:-

Complaints Manager  
Freepost RTHU-JLJL-LGLT  
Patient Experience Team  
South Nottinghamshire CCG's  
Civic Centre  
Arnot Hill Park  
Arnold  
NOTTINGHAM  
NG5 6LU

## **18. Related Policies**

There are a number of policies and procedures which may be useful to read in conjunction with this policy:

- NHS Complaints Regulations 2009
- Nottinghamshire Joint Protocol for the Management of Complaints 2016
- NHS England Guide to Good Complaints Handling 2013
- CCG Equality and Diversity Policy
- CCG Voicing Your Concerns (Whistleblowing) Policy
- CCG Risk Management Strategy and Policy
- NHS England Serious Incident Framework 2015
- CCG Capability Policy and Procedure
- CCG Information Governance Policy
- CCG Being Open Policy
- CCG Safeguarding Policy

## APPENDIX A

### Guidance for handling unreasonably persistent complainants

#### 1. Introduction

The management of unreasonably persistent complainants can be challenging. The difficulty in handling such complaints can place a strain on time and resources and cause undue stress for staff, who may need support in difficult situations. NHS staff are trained to respond with patience and sympathy to the needs of all complainants, but there are times when there is nothing further which can reasonably be done to assist them or to rectify a real or perceived problem. It is also recognised that persistent complainants should be protected by ensuring that they receive a response to all genuine grievances. Therefore, in determining arrangements for handling such complaints, staff are presented with the following key considerations:

- To ensure that the complaints procedure has been correctly implemented as far as possible and that no material element of a complaint is overlooked or inadequately addressed.
- To appreciate that even unreasonably persistent complainants may have grievances which contain some genuine substance.
- To ensure an equitable approach.
- To be able to identify the stage at which a complainant has become habitual and or unreasonably persistent

#### 2. Purpose of this Guidance

All complaints handled by The CCG are processed in accordance with NHS complaints procedures. During this process, The CCG staff inevitably have contact with a small number of complainants who absorb a disproportionate amount of NHS resources in dealing with their complaints. The aim of this policy is to identify situations where the complainant might be considered to be habitual and to suggest ways of responding to these situations which are fair both to staff and complainant.

It is emphasised that this policy should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the NHS complaints procedures, for example through local resolution, conciliation, or involvement of independent advocacy as appropriate.

Judgement and discretion must be used in applying the criteria to identify an unreasonably persistent complainant and in deciding the action to be taken in specific cases.

This policy should only be implemented in relation to a specific complainant, following careful consideration by, and with the authorisation of, the Responsible Person of The CCG.

### 3. Definition of a Unreasonably Persistent Complainant (Vexatious)

Complainants (and/or anyone acting on their behalf) may be deemed to be unreasonably persistent where previous or current contact with them shows that they meet at least TWO of the following criteria:

- Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
- Seek to prolong contact by changing the substance of a complaint or continually raising new issues and questions while the complaint is being addressed. (Care must be taken not to discard new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints.)
- Are unwilling to accept documented evidence of treatment given as being factual, e.g. drug records, GP records, nursing notes.
- Deny receipt of an adequate response despite evidence of correspondence specifically answering their questions.
- Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of The CCG staff and, where appropriate, independent advocacy, to help them specify their concerns, and/or where the concerns identified are not within the remit of The CCG to investigate.
- Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. (It is recognised that determining a 'trivial' matter can be subjective, so careful judgement must be used in applying this criteria.)
- Have, in the course of addressing a registered complaint, had an excessive number of contacts with staff in The CCG, placing unreasonable demands on staff. (A contact may be in person or by telephone, letter, E-mail or fax. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case).
- Are known to have recorded meetings or conversations [face to face, or telephone] without the prior knowledge and consent of the other parties involved.

- Display unreasonable demands or expectations and fail to accept that these may be unreasonable, for example, insisting on responses to complaints or enquiries being provided more urgently than is reasonable or is normal practice.
- Have threatened or used actual physical violence towards staff or their families or associates at any time – this will, in itself, cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, be addressed only through written communication.
- All such incidents should be documented in line with the Zero Tolerance Campaign.
- Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint. Staff must recognise that complainants may sometimes act out of character due to stress, anxiety or distress, and should make reasonable allowances for this. Staff should document all incidents of harassment in line with the Zero Tolerance Campaign.

#### **4. Procedure for Dealing with Unreasonably Persistent Complainants**

- Check to see if the complainant meets sufficient criteria to be classified as an unreasonably persistent complainant.
- Where there is an ongoing investigation, the Responsible Person should write to the complainant, setting parameters for a code of behaviour and the lines of communication. If these terms are contravened, consideration will then be given to implementing other action.
- Where the investigation is complete, the Responsible Person should write a letter at an appropriate stage informing the complainant that:
  - The Responsible Person has responded fully to the points raised, and Has tried to resolve the complaint
  - There is nothing more that can be added, therefore the correspondence is now at an end. The Organisation may wish to state that future letters will be acknowledged but not answered.
  - In extreme cases, The CCG reserves the right to take legal action against the complainant.

#### **5. Withdrawing ‘the unreasonably persistent’ Status**

- Once complainants have been determined as ‘unreasonably persistent’, 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. Staff should previously have used discretion in recommending ‘unreasonably persistent status, and discretion should similarly be used in recommending that this status be withdrawn



## APPENDIX B

### COMPLAINT / PALS CONCERN CATEGORISATION MATRIX

#### Introduction

This matrix has been developed in line with the CCG Risk Management Strategy and Policy & CCG Incident Reporting Policy. The categorization of complaints and concerns relates to the level of risk that is presented at the outset. Risk levels may be escalated or de-escalated during the investigation process as more facts emerge.

Category	Description	Immediate Action Required	Initial Target for responses
<b>Catastrophic 5</b>	<p>Complaint/concern meets one or more of the following:</p> <ul style="list-style-type: none"> <li>• Results in serious injury, major permanent harm or death;</li> <li>• Involves the suspension of a member of staff for reasons associated with their clinical practice and/or Safeguarding.</li> <li>• Involves adverse impact upon delivery of service plans and/or serious breach of standards or quality of care;</li> <li>• Confirmed transmission of a serious infectious disease between staff and patient;</li> <li>• Involves fraud or suspected fraud</li> <li>• Caused major breach of patient confidentiality;</li> <li>• Has the potential to cause significant damage to the reputation of the Trust or a member of staff (media);</li> </ul>	<p>Inform the Director of Quality and Patient Safety.</p> <p>Inform Designated Nurse or safeguarding regarding a child.</p> <p>Inform NHS England as appropriate.</p> <p><b><u>Escalate to serious incident</u></b></p>	<p>3 working days for initial acknowledgement</p> <p>60 working days for final response letter</p>

<b>Major 4</b>	<p>Complaint/concern meets one or more of the following:</p> <ul style="list-style-type: none"> <li>• Complaints with clear quality assurance or risk management implications</li> <li>• Significant issues of standards, quality of care or denial of rights</li> <li>• Professional general misconduct causing non-permanent injury or illness</li> <li>• Possibility of litigation</li> <li>• Physical abuse/assault by staff.</li> <li>•</li> </ul>	<p>Inform the Director of Quality and Patient Safety</p>	<p>3 working days for initial acknowledgement</p> <p>45 working days for final response letter</p>
<b>Moderate 3</b>	<p>Complaint/concern meets one or more of the following:</p> <ul style="list-style-type: none"> <li>• Verbal abuse or discriminatory action by staff</li> <li>• Professional misconduct causing minor injury or illness</li> </ul>		<p>Initial contact within 3 working days</p> <p>35 working days for final response letter</p>
<b>Minor 2</b>	<p>Complaint/concern meets one or more of the following:</p> <ul style="list-style-type: none"> <li>• Inappropriate comments/unprofessional conduct by staff causing distress</li> <li>• Minimal impact and relative minimal risk to the provision of healthcare or the Trust.</li> <li>• Inappropriate clinical care causing distress</li> </ul>		<p>Initial contact within 3 working days</p> <p>35 working days for final response letter</p>
<b>Negligible 1</b>	<p>Complaint/concern meets one or more of the following:</p> <ul style="list-style-type: none"> <li>• No impact or risk to provision of healthcare:</li> </ul>		<p>Initial contact within 3 working days</p>

	<ul style="list-style-type: none"><li>• Unhappiness with staff attitude</li><li>• Unprofessional behavior with no consequences</li><li>• Called PALS line</li></ul>		35 working days for final response letter
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**APPENDIX C**

**Flow Chart for Formal Complaints received by The CCG**

