

Compliments, Complaints and Concerns Policy & Procedure



**With you.
For you.**

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1. Introduction

This document sets our approach to dealing with complaints about the services provided by West Lancashire Clinical Commissioning Group (WLCCG) and the services we commission. It provides a framework for how we will handle, respond to and learn from complaints and how this will influence future commissioning of services.

We will meet the legal requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. We will act in accordance with the NHS Constitution and in line with the Francis Report (2013) and Clywd Hart Review (2013), and we will be guided by best practice. We also use the Parliamentary Health Service Ombudsman's user led vision document entitled 'My expectations for raising concerns and comments'.

Midlands and Lancashire Commissioning Support Unit (MLCSU) manage complaints on our behalf and also offer a Patient Advice and Liaison Service (PALS). This offer includes all MP correspondence. We are committed to working with MLCSU to provide the best service for patients, their families, carers and representatives.

2. Aims

WLCCG is committed to high quality patient care for all our local residents. This includes encouraging a culture that seeks and uses people's experiences of care to improve commissioned services. We are accountable to local residents for our commissioning decisions and will use the valuable insight from patients and their representatives to improve services.

We will take all complaints seriously and make sure they are properly investigated and responded to in an unbiased, non-judgmental, appropriate and timely way. We aim to deal with all complaints fairly for both the complainant and complained about. Where we can resolve complaints quickly and informally we will do so.

Our work will be underpinned by the NHS Constitution including the 'Duty of Candour' and the 'Compassion in Practice' 6Cs. There are also a range of documents and publications that will guide how we manage complaints and concerns which are set out in the Appendix 1: References and Further Reading.

3. Scope of the Policy

A compliment, concern or complaint may be raised under this policy and procedure by:

- Anyone who is receiving, or has received NHS treatment or services, which are provided or commissioned by WLCCG
- A relative or friend on behalf of the patient, if they have been given permission
- Anyone who is affected by or likely to be affected by the action, omission or decision of WLCCG.

A complaint should be made within 12 months of:

- The date of the event that led to the complaint took place or

- The date it came to the attention of the complainant

Where a complaint is received after the time limit we will decide whether to investigate. This will be based on the reason the complaint was not made sooner and whether it can still be fairly investigated.

Although WLCCG delegates the management of the complaint process to MLCSU it will remain our duty to ensure that providers co-operate to ensure the complaint is handled in a timely and user centered way.

Some types of complaints fall outside the scope of this policy and procedure. They include:

- Complaints about privately funded healthcare.
- If a complaint is also part of an ongoing police investigation or legal action it will be discussed with the relevant police authority or legal advisor and only continue as a complaint if it does not compromise the police or legal action
- A matter that has already been investigated under the complaint regulations
- Matters which are being or have been investigated by the Parliamentary and Health Service Ombudsman
- A matter arising out of an alleged failure to comply with a data subject request under the General Data Protection Regulations (GDPR).
- A matter arising out of an alleged failure to comply with a request for information under the Freedom of Information Act 2000.
- Concerns raised under the Public Interest Disclosure Act 1998. These concerns are addressed within the Raising a Concern (whistle blowing) Policy available on the WLCCG website.
- ‘Service to service’ complaints where a health organisation or local authority makes a complaint about another health organisation or local authority
- Complaints by staff working in WL CCGs about employment or contractual matters. These are addressed within WLCCG’s Grievance Policy, available on the WLCCG website intranet.

In these circumstances, MLCSU Customer Care Team will write to the complainant and explain the reasons for not dealing with the complaint and how any issues can be addressed.

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 also apply to GPs, dentists, pharmacists, optometrists and prison healthcare providers. However, these service areas are commissioned by NHS England so any complaint for these services will be their responsibility and are outside the scope of this policy (see link to NHS Complaint guidance in appendix 1).

The purpose of this policy is not to apportion blame amongst staff, but to investigate complaints aiming to give both a satisfactory outcome for the complainant, to learn any lessons and make improvements. If however, a complaint identifies information which indicates a need for Disciplinary action this will be managed separately under WLCCG’s Disciplinary Policy and Procedures.

4. Definition of Terms and Glossary

- A **complaint** is an expression of dissatisfaction that requires a formal response. It is usually a problem which has not yet been resolved, or which concerns past treatment. It can be made face to face or over the telephone (verbal complaints) or by letter and e-mail (written complaints).

- A **concern** is a problem which can be dealt with more quickly and informally. This is usually by the end of the working day after it is received.
- Other issues may not be classed as a 'concern' or 'complaint' and therefore could fall outside of this policy. WLCCG becomes aware of issues through a number of ways such as public events, My View, Twitter etc. These are handled in house by WLCCG.
- **Local Resolution** is the investigation and resolution of complaints under the first stage of the NHS complaints procedure. It includes everything we do locally, before a complaint is considered by an Ombudsman.
- A **Serious Incident (SI)** is an event in health care where the potential for learning is so great, or the consequences to patients, families and carers, staff or organisations are so significant, that they warrant using additional resources to mount a comprehensive response. Serious incidents can extend beyond incidents which affect patients directly and include incidents which may indirectly impact patient safety or an organisation's ability to deliver ongoing healthcare.
- The **Ombudsman** refers to the Parliamentary and Health Service Ombudsman (PHSO) who are the second stage of the NHS complaints procedure. If WLCCG cannot resolve a complaint, the option to approach the Ombudsman for a review. The Ombudsman will assess if WLCCG has acted fairly in the complaint investigation and if the response has adequately addressed the complaint.
- Local **advocacy** services are available to act on a patient's behalf throughout the complaint process including dealing with the Ombudsman.
- The **Local Authority Social Services and National Health Service Complaints (England) Regulations 2009** is the legislation which provides the framework for managing complaints in the NHS.
- **Datix** is the CSU's risk management system which is used for the recording and reporting of incidents, complaints, PALS, claims and organisational risks.

5. Principles of Handling Comments and Complaints

We are responsible for ensuring that complaints are considered in accordance with the law and this policy. There are several documents and publications that give us helpful guidance in how to deal with complaints and concerns.

The Parliamentary and Health Service Ombudsman (PHSO) 2009 guidance sets out '**Principles of Good Administration, Principles of Good Complaints Handling and Principles for Remedy.**' These three sets of principles outline the approach to be taken by public bodies when delivering good administration and customer service, and how to respond when things go wrong. They underpin the Ombudsman's assessment of performance, their vision of good complaint handling and their approach to put things right.

The same six themes which apply to each of the three principle documents are:

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

These documents also provide some specific rights for patients. These include:

- To have their complaint acknowledged and properly investigated.
- To discuss how the complaint will be handled and when they can expect a reply.
- To be kept informed of the progress and promptly told the outcome.
- To have access to further redress through the PHSO, the Information Commissioners Office or legal channels including Judicial Review.

The PHSO also issued '**My Expectations for Raising Concerns and Complaints**' which articulates a user led vision for raising complaints and concerns based around a series of 'I' statements across the life cycle of a complaint. For example, when someone is considering making a complaint they should be able to say 'I felt confident to speak up' and they would know they had a right to complain, they knew how to complain, they could receive support to complain and their future care would be unaffected. A summary of the 'I' statements is below.

Stage of Complaint	I Statement
Considering a complaint	I feel confident to speak up
Making a complaint	I felt that making my complaint was simple
Staying informed	I felt listened to and understood
Receiving outcomes	I felt my complaint made a difference
Reflecting on the experience	I would feel confident making a complaint in the future

The '**Good Practice Standards for NHS Complaints Handling**' were published by the Patients Association in September 2013. The standards can be summarised as:

- Openness and transparency, including well publicised and accessible information that is understood by all parties to the complaint.
- A consistent approach, centered on evidence based and complainant led investigations and responses.
- A logical and rational approach.
- Provide opportunities to give feedback on the complaints service
- Offer support and guidance throughout the complaint process
- Provide a level of detail which is proportionate to the complaint
- Identify the cause of the complaint and take action to prevent recurrence
- Using lessons learned to make changes and improvements
- Ensure that ongoing care is not affected by having complained.

WLCCG complaints system will enable patients and the public to readily make their own views known, without fear of discrimination and will form part of an integrated process for reporting and handling incidents that ensures that lessons learned are widely disseminated.

WLCCG and MLCSU will promote equality of access to making a complaint and will ensure that people from minority and disadvantaged communities are given full and equal access to the complaints and concerns process. We acknowledge that it may be difficult for some people to express their concerns and WLCCG and MLCSU will encourage people to voice their opinions where appropriate. The PALS service will be an important point of contact, or referral, to facilitate this.

The handling of complaints must operate to the principles of the Mental Capacity Act 2005, Care Act 2014, Accessible Information Standard 2015 and the Data Protection Act 1998 update for GDPR. Confidential patient information will never be disclosed to a third party unless the patient has given their consent to do so. WLCCG and MLCSU will assume a person has capacity to make their own decisions, and support them to do so. If we assess that a person cannot give consent to investigate a complaint themselves we will seek evidence that the person complaining on the patient's behalf has the authority to pursue the complaint.

6. Roles and Responsibilities

WLCCG will undertake a number of roles in relation to the management, resolution and investigation of complaints. These roles are:

- The thorough investigation of complaints received by WLCCG.
- To co-operate fully with other NHS and Social Care bodies to co-ordinate complaint investigations;
- To monitor WLCCG's commissioned providers' adherence to the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- To request and use information about complaints provided by healthcare providers commissioned by WLCCG.
- WLCCG, when monitoring the quality of services commissioned.
- To use information gained through complaints investigation, to inform the commissioning process, to ensure that the services commissioned meet the expectation and needs of the local population.

The CCG Governing Body, Senior Patient Experience Manager, CCG staff, Quality team, Quality and Safety Committee and MLCSU customer care team are all integral to contributing to patient experience in various ways. The below points set out the responsibilities of each of these.

6.1 Governing Body

WLCCG Governing Body will take a lead role in ensuring that the complaints are handled effectively, and that services are improved as a result of the lessons learned. The Governing Body will receive a copy of the Annual Complaints Report which will be distributed in accordance with Regulation 18 of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

6.2 Accountable Officer

The Accountable Officer of WLCCG has the ultimate responsibility to ensure that there is an effective process for the management, investigation and resolution of complaints and for ensuring that WLCCG complies with the regulations. The Accountable Officer will sign all complaints responses relating to WLCCG, except where there is any potential delay in doing so due to availability. On such occasions, a suitable deputy will sign the letter.

6.3 Quality & Safety Committee

The Quality & Safety Committee is responsible for the monitoring of the complaints process within WLCCG. The Committee is responsible for identifying any areas of concern with the process of managing complaints or the issues raised through complaints or their investigation, by WLCCG or commissioned providers. The Committee will take actions to raise the concerns identified with the

appropriate lead officer to ensure that action is taken to resolve concerns identified. Information will be fed into the Governing Body through its consideration of complaints reports described below, including trends, themes and improvement actions.

The Committee will receive reports containing the following:

- The numbers of complaints received and investigation outcomes (Complaints, PALS and MP letters report, template in Appendix 3).
- Trends in the issues raised by complainants, following analysis of complaints received by WLCCG and those received by main commissioned providers through the quarterly Patient Experience Group (PEG) report.
- Actions taken/ lessons learnt as a result of complaints investigation for complaints received by WLCCG and those received by main commissioned providers (Customer Care and Sector Highlight Reports).
- Information about the time taken to respond to complaints by WLCCG and main commissioned providers (Customer Care and Sector Highlight Reports).
- Ombudsman investigations – monitoring of action plans.

6.4 Senior Patient Experience Manager

The Senior Patient Experience Manager has responsibility for overseeing all complaints and PALS activity, working closely with the outsourced MLCSU team. The manager will ensure appropriate reporting and accountability to the Quality & Safety Committee and Governing Body with respect to complaints, and will act as the designated officer to monitor the process and ensure that WLCCG identifies and works with providers to learn the lessons highlighted through complaints. This post is a new single point of contact recruited to in winter 2019.

6.5 MLCSU Customer Care Team

The complaints process is managed by MLCSU Customer Care Team (CCT) on behalf of WLCCG. The CCT will ensure that the system works effectively and efficiently and that deadlines are met. The team is responsible for ensuring investigations are completed, drafting a response to the complainant and keeping a log of lessons learned. The CCT will ensure that reports described under the section 'monitoring and lessons learnt' are sent to WLCCG so they satisfy timescales defined by WLCCG.

The Customer Care Team structure will be clearly defined and recognised by WLCCG and members of the public, including identification of a Customer Care Manager. Cover arrangements must be in place for periods of absence from work. The service will be accessible to the public and to all staff for advice and support. WLCSU will also provide a PALS service to act as an accessible guide and information point about health services, as well as working to resolve informal concerns about commissioning decisions and commissioned services.

6.6 WLCCG Staff

All staff must be aware of the correct procedure to follow should anyone wish to raise a concern or make a complaint. Staff will be supported by a simple process outlined in the next section. If someone wishes to make a formal complaint but is unable or unwilling to put it in writing, the person to whom the complaint is made must contact the CCT and provide contact details for the complainant

so that a member of the team can contact the complainant directly. In addition, staff must provide information reasonably required of them by the CCT during the course of a complaint investigation. All complaints or concerns must be viewed in the context of safeguarding adults/children and in the implementation of the Mental Capacity Act 2005.

7. The Compliments/ Complaints/ Concerns Procedure

7.1 Process for raising compliments/ complaints/ concerns

Contact (compliment/ complaint/ concern/ query) may be made directly to MLCSU CCT or via a member of the CCG staff. The public/WLCCG staff can contact the customer care team using the contact details below. Once the contact is received by MLCSU, the customer care team will follow the detailed process laid out in the MLCSU Processes, the most up to date versions of which are available by contacting the team. The CCG is committed to the right to complain approach, and as such includes these details on their website and at all public events, forums with patients. The CCG published a new complaints leaflet in October 2019 which will be distributed to all GP practices and other patient accessible areas such as urgent treatment centre waiting rooms. This is to ensure patients and carers understand how to process a complaint.

A full copy of the leaflet is available via our website, and printed copies are available on request:

<http://www.westlancashireccg.nhs.uk/how-we-involve-you/compliments-and-complaints/>

Customer Care Team
Jubilee House
Lancashire Business Park
Centurion Way
Leyland
PR26 6TR

Freephone: 0800 032 24 24

Email: MLCSU.customercarelancashire@nhs.net

Written complaints

Most written complaints will come directly to the chief officer either through the post or email. However, a written complaint may be directed in the first instance to another member of staff or to a member of the Governing Body or Clinical Executive Committee.

All complaints received by WLCCG should be forwarded to MLCSU CCT immediately (contact details above) in order that it may be acknowledged within 3 working days of receipt and the appropriate action taken.

Multi Agency Complaints

Where a complaint involves more than one NHS provider, or one or more other public bodies, there should be full co-operation in seeking to resolve the concerns through each body's local procedures, adhering to their own Duty to Cooperate.

A single coordinated approach and single response should be sent to the complainant. The CCG Senior Patient Experience Manager/MLCSU will facilitate this by working with other organisations to identify a lead organisation to facilitate and coordinate a response. All parties will meet their duty to cooperate to allow a full and timely response to reach a complainant.

Where a complaint is received which is solely concerned with another body outside of WLCCG or commissioned services, the CCT will, with the consent of the complainant in line with General Data Protection Regulation (GDPR), ensure that it is passed on immediately.

Complaints about CCG staff

In cases where complaints are received about a particular member(s) of staff, those individuals relating to the complaint will not be directly involved in any investigation. Similarly, staff need to consider any existing conflicts of interest and who it most appropriate to investigate.

7.2 Process following receipt of complaint

Each phase of the complaint and the associated actions and responsibilities are in the table below.

Complaint Phase	Action	Responsibility
Assessment	<ul style="list-style-type: none"> Complaint forwarded to CSU Complaint within scope, acknowledged and logged Consider early and informal resolution – by the end of the next working day 	CCG CSU CSU
Complaints Summary	<ul style="list-style-type: none"> Personal contact to agree 'heads of complaint' and desired outcomes Explanation of process and timescales Consent sought 	CSU CSU CSU
Investigation	<ul style="list-style-type: none"> Sent for investigation with agreed timescale Complaint investigated Investigation findings received and accepted 	CSU Investigator CSU
Response	<ul style="list-style-type: none"> Response drafted and sent to CCG CCG clinical and quality review, accept, sign, send to complainant with a copy to CSU 	CSU CCG
Improvements and Lessons Learned	<ul style="list-style-type: none"> Individual actions to resolve complaint Wider service improvements 	Shared Shared

Authorisation

WLCCG has a formal sign off procedure in place to ensure operational and clinical sign off of all complaints and MP correspondence.

All correspondence receives final authorisation by the Accountable Officer. Before the sign off process reaches this stage, both the Chief Nurse and Head of Communication and Engagement give full authorisation to ensure quality standards are maintained. There is a deputised sign off arrangement in place for their absence i.e. Nursing and Clinical Quality Lead and Communication and Engagement Manager.

The Senior Patient Experience Manager will work closely with the MLCSU team and other service leads within the CCG to ensure there is full satisfaction with the content before every correspondence goes for authorisation. The Senior Patient Experience Manager will be satisfied with the response before it goes

through sign off process and will also be responsible for ensuring sign off of all correspondence.

Informal resolution

During the initial assessment phase of the complaint's procedure consideration may be made to resolve the complaint informally.

With permission of the complainant, a written account of any complaint that is satisfactorily concluded at this level must be reported to the CSU CCT and logged.

If the complainant is not satisfied they must be given the opportunity to progress their complaint and offered advice and assistance on how this should be done. At this point the complaint becomes a formal complaint.

Serious complaints (risk identified as high or extreme) should be immediately notified to the Accountable Officer and Chief Nurse within WLCCG.

Investigation

If it is necessary, independent opinion on clinical comments given will be sought. The team will ensure that all of the points raised by the complainant are covered in the investigation report. Where a complaint primarily relates to one service, but involves issues relating to others, the team will need to discuss the complaint with the relevant professionals and include all relevant information in a single coordinated response.

There will be occasions when a previously agreed deadline cannot be met. If it is evident that there will be a delay, the CCT will contact the complainant and explain to them the reasons for the delay and discuss an extension in timescale with the complainant. The CCT will escalate to the Senior Patient Experience Manager all complaints that exceed 40 days handling time where an investigation response has been expected and is not forthcoming.

The CCT will request an investigation report in user friendly, Plain English language which provides an honest, clear and constructive response to all the issues raised together with a lessons identified/learned and service improvements log.

Complaints Response

Once the CCT receives the Investigation Report they will produce a draft response letter. The sign off procedure will be followed to confirm that WLCCG is satisfied. All written responses will invite the complainant to contact the CCT if they remain unhappy with/ wish to challenge the response.

Further actions to resolve complaint

If the complainant does make contact with the team, known as stage 2 (stage 2 is PHSO – I would amend) of a complaint, the team will review the original complaint to ensure all elements of the complaint have been answered. If there are identified gaps in the complaint response, a further investigation must be undertaken. The complainant will be offered a meeting with a senior representative of WLCCG, if this has not already taken place. Complainants have the right to be accompanied by a friend, relative or mediation may also be offered if appropriate.

Once this review has been completed the complaint response will be ratified to address identified gaps and share learning this is known as a Final Response. This response must be robust and withstand scrutiny as this stage of the complaint may exhaust local resolution. The written response letter will also advise the person of their right to take their complaint to the PHSO and include their contact

details. The PHSO will only pick up a case once local resolution has been concluded.

Information Governance

All complaint files will be retained for a minimum of ten years. Archived files will be stored separately and securely for each CCG. To preserve confidentiality complaint files will be held in a locked cabinet at MLCSU. Data held electronically on the DATIX database will be password protected and access restricted.

Monitoring and Lessons identified/learned

The MLCSU will produce a quarterly report of all new contacts received and those closed in month by provider, type and if linked to a protected characteristic. Handling timescales and lessons identified/learned are also monitored within this report. The template for this report can be found in the Appendices. This report will be reviewed by WLCCG's Senior Patient Experience Manager alongside other quality indicators and a summary included within the quarterly Patient Experience Report ensuring the triangulation of themes are highlighted to the Quality & Safety Committee. The Patient Experience Report will also include a summary of the CCG's lessons identified action plan. A brief overview of this report will be included within WLCCG's Integrated Business Report.

8. Sharing information

There will be occasions when we need to share a complainant's information with a third party provider or organisation, in order to carry out a full investigation. Similarly, there may be occasions when an external organisation needs to share information with WLCCG in order to discuss and/or learn from a patient's experiences. In these circumstances we will ask for written explicit consent and adhere to the principles set out within the General Data Protection Regulation (GDPR).

9. Patient Advice and Liaison

The Customer Care Team offer important support for both staff and patients in promptly resolving concerns and enquiries. CCT Staff will make initial contact with an enquirer within one working day of the receipt of the enquiry and will give a response as soon as possible. The target to resolve a PALS enquiry is by the end of the next working day. Where this is not possible an enquirer has the option to wait for informal resolution or request the concern is handled as a formal complaint.

Wherever possible, PALS will aim to answer enquiries directly. However, in some cases this will involve referral to a person or service more appropriate or responsible for answering or resolving the enquiry. Appropriate consent to such a referral will be required and in such referral cases PALS will offer the option to contact the team for support should the referral party be unable to satisfactorily resolve the matter.

PALS will respond to both general and individual matters. Enquiries may be made personally or on behalf of someone, but PALS will not discuss issues specific to an individual without their consent.

PALS is a confidential service and will not disclose personal information without appropriate consent of the person involved, unless it relates to an actual or potential criminal offence or to a matter of child protection.

If an enquirer states that they intend to harm themselves or there are safeguarding concerns, PALS may speak to service staff either already or potentially involved in that person's care. If the enquiry

relates to a specific incident PALS may need to discuss this with relevant staff, but will only contact those people who need to be involved.

10. Negligence Claims

The complaints procedure should not cease where the complainant is taking legal advice. However, where legal action is commenced by the complainant then MLCSU and/or WL CCG will seek advice from its solicitors to consider whether handling the issues raised as a complaint concurrent with the legal process will prejudice any legal case. The organisations in question will follow the legal advice.

11. Coroner's Cases

The fact that a death has been referred to the Coroner's office does not mean that all investigations into a complaint need to be suspended. It is important to initiate proper investigations regardless of the Coroner's enquiries, and, where necessary, to extend these investigations if the Coroner so requests. A copy of the final report following completion of the complaints investigation will be forwarded to the Coroner for information.

12. NHS Resolution

If the CCT identifies a complaint which meets the NHS Resolution referral criteria, this will be raised with the CCG who will then report the complaint to the NHS Resolution.

13. Process for managing persistent and/or unreasonable behavior from complainants

The CCG follow NHS England's Complaints Policy around managing persistent complainants, and/or unreasonable behavior:

<https://www.england.nhs.uk/wp-content/uploads/2016/07/nhse-complaints-policy-june-2017.pdf>

If CCG staff have concerns over a complainant they have liaised with, they are advised to escalate it immediately to their line manager and hand over all contact to the Customer Care Team at MLCSU.

reasonable to refuse to accept or respond to communications about a complaint until it is clear that all practical possibilities of resolution have been exhausted.

Complainants regarded as unreasonably persistent or vexatious should be pursued in accordance with the procedure laid out in Appendix 4: Guidance for dealing with habitually demanding or vexatious complainants and/or habitually demanding or vexatious behavior.

14. Serious Incidents (SIs) and Complaints

The procedure for investigating SIs is separate from the complaints procedure and is managed in accordance with the WLCCGs Serious Incidents Policy & Procedure. If during the course of investigating an SI, a complaint is also received, the incident procedure will normally take precedence in terms of the investigation. If a complaint investigation reveals the need to take action under the SI procedure the incident procedure will normally take precedence in terms of investigation.

In these circumstances the complainant will be notified of the SI investigation and will be kept updated on the progress by the CCT. The issues raised in a complaint will not always be exactly the

same as those investigated under the SI procedure and a separate and full response to the complaint will be required.

15. Safeguarding of Vulnerable Adults and Children and Complaints

All staff will adhere to the NHS WL CCG safeguarding children and vulnerable adult's policy, which incorporates standards for safeguarding and Mental Capacity Act. If at any point in the complaints reporting/investigation process a member of WLCCG staff or the CCT suspect that an adult or child is at risk of harm or neglect, they should follow the Lancashire Safeguarding Adult/ Children Procedures and report concerns to a line manager and WLCCG safeguarding lead.

16. Measuring Complainant Satisfaction with the Complaints and PALS Service

We've had one of these for a while now. A process is being developed by MLCSU to understand the experience and satisfaction of people using the complaints and PALS service. This will establish if the process of managing their complaint or concern was positive or not and to suggest areas that they think could be improved.

References and Further Reading

General Data Protection Regulation (GDPR)

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/>

Listening, Responding, Improving – A Guide to Better Customer Care; Department of Health, February 2009

NHS Complaints Guidance (updated 2015)

<https://www.gov.uk/government/publications/the-nhs-constitution-for-england/how-do-i-give-feedback-or-make-a-complaint-about-an-nhs-service>

Principles of Good Administration, Principles of Good Complaint Handling and Principles for Remedy; PHSO, February 2009

<http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples>

The Local Authority Social Services & NHS Complaints (England) Regulations (Amended) 2009; Department of Health, April 2009

<http://www.legislation.gov.uk/ukxi/2009/309/contents/made>

Results of the Peer Review Panels; Patients Association & Mid Staffordshire NHS Foundation Trust, Various

<http://patients-association.com/>

NHS Constitution; Department of Health, March 2013

<https://www.gov.uk/government/publications/the-nhs-constitution-for-england>

Guide to good handling of complaints for CCGs; NHS England, May 2013. Available here

<http://www.england.nhs.uk/wp-content/uploads/2012/03/20130513-Good-complaints-handling-for-CCGs-FINAL-version-for-publication.pdf>

My expectations for raising concerns and complaints.

http://www.ombudsman.org.uk/data/assets/pdf_file/0007/28816/Vision_report.pdf

A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture. Final report
Right Honourable Ann Clwyd MP and Professor Tricia Hart

https://www.gov.uk/.../file/255615/NHS_complaints_accessible.pdf

Francis Inquiry into Mid Staffordshire Hospital Recommendations

<http://francisresponse.dh.gov.uk/>

NHS England 6Cs of Nursing www.england.nhs.uk/tag/6cs Cabinet Office. (2006) Equality Act 2006. London. HMSO. Cabinet Office. (2005) Mental Capacity Act 2005. London. HMSO Cabinet Office. (2000) Freedom of Information Act 2000. London. HMSO Cabinet Office. (1998) Access to Health Records Act. London. HMSO. Cabinet Office. (1998) Data Protection Act 1998. London. HMSO. Department of Health. (2008) Records Management: NHS Code of Practice. London: DH. NHS Litigation Authority.(2014) Guidance on Duty of Candor for Organisations Registered with CQC Care Act 2014: www.legislation.gov.uk/ukpga/2014/23/contents/enacted

All NHS West Lancashire CCG policy and procedure documentation can be accessed:
[http://www.westlancashireccg.nhs.uk/resources/policies-and-procedures/Lancashire County Council Safeguarding adults website](http://www.westlancashireccg.nhs.uk/resources/policies-and-procedures/Lancashire%20County%20Council%20Safeguarding%20adults%20website)
<http://www.lancashire.gov.uk/corporate/web/?siteid=3552&pageid=10775>

Accessible Information Standard 2015

<https://www.england.nhs.uk/ourwork/patients/accessibleinfo/>

Lancashire Safeguarding Children Board

<http://www.lancshiresafeguarding.org.uk>

<https://www.england.nhs.uk/ourwork/patients/accessibleinfo/> for information relating to the Accessible Information Standard.

Risk Assessing the Complaint

By correctly assessing the seriousness of a complaint about a service, the right course of action can be taken. The complaint will be risk assessed at the point at which it is entered onto the DATIX system, which is the electronic data base for all Complaints. The system will calculate the level of risk by looking at the seriousness of the complaint and the likelihood of recurrence. The risk assessment of a complaint will be undertaken again when investigation reports are received and clinical review has been undertaken.

Step one: deciding how serious the issue is

Seriousness	Description
Negligible	Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care.
Minor	Unsatisfactory service or experience related to care, usually a single resolvable issue. Minimal impact and relative minimal risk to the provision of care or the service. No real risk of litigation.
Medium	Service or experience below reasonable expectations in several ways, but not causing lasting problems. Has potential to impact on service provision. Some potential for litigation.
High	Significant issues regarding standards, quality of care and safeguarding of or denial of rights. Complaints with clear quality assurance or risk management issues that may cause lasting problems for the organisation, and so require investigation. Possibility of litigation and adverse local publicity.
Extreme	Serious issues that may cause long-term damage, such as grossly substandard care, professional misconduct or death. Will require immediate and in-depth investigation. May involve serious safety issues. A high probability of litigation and strong possibility of adverse national publicity.

Step two: deciding how likely the issue is to recur

Likelihood	Description
Rare	Isolated or 'one off' – slight or vague connection to service provision
Unlikely	Rare – unusual but may have happened before
Possible	Happens from time to time – not frequently or regularly
Likely	Will probably occur several times a year
Almost certain	Recurring and frequent, predictable

Step three: categorise the risk

Seriousness	Likelihood of recurrence				
	Rare	Unlikely	Possible	Likely	Almost Certain
Negligible	Low	Moderate	High	Extreme	
Minor					
Medium					
High					
Extreme					

West Lancashire Clinical Commissioning Group (WL CCG)
Quarterly Customer Care Report – Quarter XXX

1.1 Summary

There have been three new contacts received by MLCSU on behalf of West Lancashire CCG in December:

- a complaint about diagnosis and treatment at a Walk in Centre
- an MP letter relating to a prolonged wait for patient transport from hospital
- an MP letter relating to appointments being cancelled and changed by the pain management service at SOHT
- No PALs enquiries or compliments were received during this month

One complaint was closed during December 2015. This complaint breached the 40 day target for resolution by 43 days. This was because of delays in the provider responding to the complaints team. The complainant was kept updated about the delays.

2.1 Report Detail

2.2 New contacts logged in December

ID	First Received	Contact Type	Description	Service	Domain of patient experience	Relates to Protected Characteristic (indicate) *
Eg 13011	26/12/2016	MP letter	Details logged for contact	Southport & Ormskirk NHS Trust/ Audiology service	Better information/ more choice	n/a

* Age; Disability; Sex; Gender Reassignment; Sexual Orientation; Race; Religion and Belief; Pregnancy/Maternity

2.3 Contacts closed in December

ID	Reason if not resolved within 6 month limit	Contact Type	Description	Learning outcome
Eg 13011		MP letter	Details logged for contact	

3 Contacts recorded per quarter

	2014/15 Q2	2014/15 Q3	2014/15 Q4	2015/16 Q1	2015/16 Q2	Change from Q1 2015/16 to Q2 2015/16	Change from Q2 2014/15 to Q2 2015/16
PALS	72	62	118	92	66	-26	-6
Complaint	18	20	16	14	25	+11	+7
MP Letter	21	13	10	10	11	+1	-10
Compliments	1	3	2	3	3	0	+2

4 All complaints (include those from PALs and MPs) reported in year, by Service and Domain of complaint

Service/ Domain	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	YTD	Total	2014/5	2013/4
Continuing healthcare														2		
Better information, more choice					1								1			
Safe, high quality coordinated care			1										1			
Mental Health Services														1		
Continuity of Care					1								1			
ETC																

Produced by

Equality Impact and Risk Assessment Stage 2 for Policies

Title of Policy / Strategy:

West Lancashire CCG – Complaints and Issues Policy and
Procedure - Review



Equality & Inclusion Team, Corporate Affairs

For enquiries, support or further information contact

Email: equality.inclusion@nhs.net

EQUALITY IMPACT AND RISK ASSESSMENT STAGE 2

ALL SECTIONS MUST BE COMPLETED

Guidance is provided in appendix 3

SECTION 1 – DETAILS OF POLICY

Organisation: West Lancashire CCG

Policy Assessment Lead and Contact Details: Meg Pugh – Head of Communications and Engagement – meg.pugh@nhs.net

Directorate/Team: Quality

Responsible Director / CCG Board Member for the assessment: Claire Heneghan – Chief Nurse

Policy implementation Date: TBA

Who is involved in undertaking this assessment?

Meg Pugh – Head of Communications and Engagement

MLCSU Equality and Inclusion Team

Date of commencing the assessment: 9th October 2019

Date for completing the assessment:

EQUALITY IMPACT ASSESSMENT

Section 1

Please tick which group(s) this policy will or may impact upon?	Yes	No	Indirectly
Patients, Service Users	Y		
Carers or Family	Y		
General Public	Y		
Staff	Y		
Partner Organisations	Y		

How was the need for the policy identified? (is it part of a workstream / strategy?)

The existing Complaints and Issues Policy and Procedure was identified as being out of date. As the policy was produced in 2012 and was last reviewed in 2016, there have been a

number of updates made to the policy to provide procedural clarification and updates related to national documentation and significant changes to local procedure.

What are the aims and objectives of the policy?

The Complaints and Concerns Policy and Procedure sets out our approach to dealing with complaints about the services provided by West Lancashire Clinical Commissioning Group (the CCG) and the services we commission. It provides a framework for how we handle, respond to and learn from complaints and how this will influence future commissioning of services.

This policy embraces diversity, dignity and inclusion in line with statutory requirements and human rights guidance. The CCG recognizes, acknowledges and value differences across all people. Every person will be treated with respect, courtesy and with consideration for their individual backgrounds. The CCG will ensure that everyone is treated fairly and conveys equality of opportunity in service delivery and employment practice. Practically, this means that WLCCGs will anticipate and take steps to meet individual needs. This will include making reasonable adjustments to processes and communications to help ensure their accessibility for all.

What evidence have you considered as part of the Equality Impact Assessment?

- **All research evidence base references including NICE guidance and publication– please give full reference**
- **Bring over comments from Stage 1 and prior learning (please append any documents to support this)**
- Updated Complaints and Issues Policy and Procedure
- General Data Protection Regulation (GDPR): <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/>
- Listening, Responding, Improving – A Guide to Better Customer Care; Department of Health, February 2009.
- NHS Complaints Guidance (updated 2015) <https://www.gov.uk/government/publications/the-nhs-constitution-for-england/how-do-i-give-feedback-or-make-a-complaint-about-an-nhs-service>
- Principles of Good Administration, Principles of Good Complaint Handling and Principles for Remedy; PHSO, February 2009: <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples>
- The Local Authority Social Services & NHS Complaints (England) Regulations (Amended) 2009; Department of Health, April 2009. <http://www.legislation.gov.uk/uksi/2009/309/contents/made>
- Results of the Peer Review Panels; Patients Association & Mid Staffordshire NHS Foundation Trust, Various. <http://patients-association.com/>

- NHS Constitution; Department of Health, March 2013.
<https://www.gov.uk/government/publications/the-nhs-constitution-for-england>
- Guide to good handling of complaints for CCGs; NHS England, May 2013.
Available here: <http://www.england.nhs.uk/wp-content/uploads/2012/03/20130513-Good-complaints-handling-for-CCGs-FINAL-version-for-publication.pdf>
- My expectations for raising concerns and complaints:
http://www.ombudsman.org.uk/data/assets/pdf_file/0007/28816/Vision_report.pdf
- A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture. Final report Right Honourable Ann Clwyd MP and Professor Tricia Hart
https://www.gov.uk/.../file/255615/NHS_complaints_accessible.pdf
- Francis Inquiry into Mid Staffordshire Hospital Recommendations
<http://francisresponse.dh.gov.uk/>
- NHS England 6Cs of Nursing
www.england.nhs.uk/tag/6cs
- Cabinet Office. (2006) Equality Act 2006. London. HMSO.
- Cabinet Office. (2005) Mental Capacity Act 2005. London. HMSO
- Cabinet Office. (2000) Freedom of Information Act 2000. London. HMSO
- Cabinet Office. (1998) Access to Health Records Act. London. HMSO.
- Cabinet Office. (1998) Data Protection Act 1998. London. HMSO.
- Department of Health. (2008) Records Management: NHS Code of Practice. London: DH.
- NHS Litigation Authority.(2014) Guidance on Duty of Candor for Organisations Registered with CQC Care Act 2014: www.legislation.gov.uk/ukpga/2014/23/contents/enacted
- All NHS West Lancashire CCG policy and procedure documentation can be accessed: <http://www.westlancashireccg.nhs.uk/resources/policies-and-procedures/> Lancashire County Council Safeguarding adults website: <http://www3.lancashire.gov.uk/corporate/web/?siteid=3552&pageid=10775>
- Accessible Information Standard 2015:

<https://www.england.nhs.uk/ourwork/patients/accessibleinfo/>

- Lancashire Safeguarding Children Board: <http://www.lancshiresafeguarding.org.uk>
- <https://www.england.nhs.uk/ourwork/patients/accessibleinfo/> for information relating to the Accessible Information Standard.

Are there any identified health inequalities relating to this decision? If so, please summarise these:

N/A

SECTION 2

In this section you will need to consider:

What activities you currently do that help you to comply with the Public-Sector Equality Duty (three aims).

Will your policy affect your ability to meet the Public-Sector Equality Duty?

How you will mitigate any adverse impact?

- Eliminate, unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not;
- Foster good relations between people who share a protected characteristic and those who do not.

Please answer 'Yes' or 'No' and explain your answer	Yes	No
<p>Does the policy provide an opportunity to eliminate discrimination, harassment and victimisation?</p> <p>What do we mean?</p> <p>Unlawful discrimination takes place when people are treated 'less favourably' as a result of having a protected characteristic.</p> <p>Harassment is unwanted conduct (including a wide range of behaviours) because of or connected to a protected characteristic.</p> <p>Victimisation is where one-person subjects another to a detriment because</p>	Y	

they have acted to protect someone under the act. (e.g. bullied for reporting discrimination / harassment for a work colleague with a protected characteristic)		
<p>Explanation:</p> <p>All staff will adhere to the NHS West Lancashire CCG safeguarding children and vulnerable adult's policy, which incorporates standards for Safeguarding and the Mental Capacity Act. If at any point in the complaints reporting /investigation process, a member of the CCG staff of the CCT suspect that an adult or child is at risk of harm or neglect, they should follow the Lancashire Safeguarding Adults/Children Procedures and report concerns to a line manager and the CCG Safeguarding Lead.</p>		
Please answer 'Yes' or 'No' and explain your answer	Yes	No
<p>Does the policy provide an opportunity to advance equality of opportunity between people who share a protected group and those who don't share it?</p> <p>What do we mean?</p> <p>Equality of opportunity is about making sure that people are treated fairly and given equal access to opportunities and resources. Promoting is about:</p> <ul style="list-style-type: none"> • Encouraging people/services to make specific arrangements • Take action to widen participation • Marketing services effectively • Remove or minimize disadvantages • Take steps to meet different needs <p>Securing special resources for those who may need them</p>	Y	
<p>Explanation:</p> <p>From Section 2 of the policy: Our work will be underpinned by the NHS Constitution including the 'Duty of Candour' and the 'Compassion in Practice' 6Cs.</p> <p>From Section 5: The 'Good Practice Standards for NHS Complaints Handling' published by the Patients' Association in September 2013. The standards can be summarised as:</p> <ul style="list-style-type: none"> • Openness and transparency, including well publicised and accessible information that is understood by all parties to the complaint. • A consistent approach, centered on evidence based and complainant led investigations and responses. • A logical and rational approach. • Provide opportunities to give feedback on the complaints service 		

<ul style="list-style-type: none"> • Offer support and guidance throughout the complainant process • Provide a level of detail which is proportionate to the complaint • Identify the cause of the complaint and take action to prevent recurrence • Using lessons learned to make changes and improvements • Ensure that ongoing care is not affected by having complained. 		
Please answer 'Yes' or 'No' and explain your answer	Yes	No
<p>Does the policy provide an opportunity to Foster Good Relations between people who share a protected characteristic and those who don't share it?</p> <p>What do we mean?</p> <p>Foster Good Relations between people: This is about bringing people from different backgrounds together by trying to create a cohesive and inclusive environment for all. This often includes tackling prejudice and promoting understanding of difference.</p> <ul style="list-style-type: none"> • Tackle prejudice • Promote understanding • Could the policy create any issues for Community cohesion (will it impact certain communities compared to others and how this be managed?) 	Y	
<p>Explanation:</p> <p>See above</p>		
Please answer 'Yes' or 'No' and explain your answer	Yes	No
<p>Has engagement/involvement or consultation been carried out with people who will be affected by the policy?</p>	Y	

Explanation:		
WLCCG and MLCSU staff were consulted during the production of this policy		
Please answer 'Yes' or 'No' and explain your answer		
	Yes	No
Has the engagement/involvement or consultation highlighted any inequalities?		N
Explanation:		
Please answer 'Yes' or 'No' and explain your answer		
	Yes	No
Have you added an Equality Statement to the Policy? Example statement: Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have given regard to the need to <ul style="list-style-type: none"> eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it; and reduce inequalities between patients in access to, and outcomes from healthcare services and to ensure services are provided in an integrated way where this might reduce health inequalities make reasonable adjustments when necessary 	Y	

Explanation:

Equality statement included in Introduction to policy.

SECTION 3

Does the 'policy' have the potential to:

- Have a positive impact (benefit) on any of the equality groups?
- Have a negative impact / exclude / discriminate against any person or equality groups?
- Have a neutral / potential indirect effect on any equality groups?
- Explain how this was identified? Evidence/Consultation?
- Who is most likely to be affected by the proposal and how (think about barriers, access, effects, outcomes etc.)


Guidance document available on Equality Groups and their issues. This document may help and support your thinking around barriers for the equality groups.

Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Age	Y		

Explanation:

In addition to '**Good Practice Standards for NHS Complaints Handling**' quoted above; from Section 7.2: The CCT will request an investigation report in a user friendly language which provides an honest, clear and constructive response to all the issues raised together with a lessons learned and service improvements log. The response to the complaint will include an explanation of how the complaint has been considered, the conclusions reached on the basis of facts and evidence, and an explanation of any actions that WLCCG intends to take as a consequence.

Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Disability	Y		

<p>Explanation:</p> <p>As above. Additionally, a CSU query relating to SEND highlighted the requirements for changes to be made to the CSU Customer Care Report to ensure complaints from protected groups are monitored.</p> <p> Complaints evidence for 2016 SEND Inspec</p> <p>Any communication to patients will consider the requirements of the Accessible Information Standard to ensure that complainants receive the information they require in a format that they are able to fully understand.</p>			
Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Sexual Orientation	Y		
<p>Explanation:</p> <p>As above</p>			
Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Gender Reassignment	Y		
<p>Explanation:</p> <p>As above</p>			

Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Sex (Gender)	Y		
Explanation: As above			
Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Race	Y		
Explanation: As above			
Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Religion or Belief	Y		
Explanation: As above			
Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Pregnancy and	Y		

Maternity			
Explanation: As above			
Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Marriage and Civil Partnership			Y
Explanation: Only applicable in work/employment related context.			
Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Carers	Y		
Explanation: As above			
Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Deprived	Y		

Communities			
Explanation: As above			
Equality Group / Protected Group	Positive effect	Negative effect	Neutral or indirect effect
Vulnerable Groups e.g. Asylum Seekers, Homeless, Sex Workers, Military Veterans, Rural communities	Y		
Explanation: As above			
<p align="center">SECTION 4: EQUALITY IMPACT AND RISK ASSESSMENT CHECKLIST</p> Please use the checklist in Appendix 2 to ensure and reflect that you have included all the relevant information			
<p align="center">SECTION 5: HUMAN RIGHTS ASSESSMENT</p> How does this policy affect the rights of patients set out in the NHS Constitution or their Human Rights?			
If the Stage 1 Equality Impact and Risk Assessment highlighted that you are required to complete a full Human Rights Assessment, please request and complete a Stage 2 Human Right Assessment from the Equality and Inclusion Team.			

SECTION 6: RISK ASSESSMENT

See guidance and table of risks in appendix 3 section 6 for step by step guidance for this section

RISK MATRIX

Consequence level	Risk level				
	RARE 1	UNLIKELY 2	POSSIBLE 3	LIKELY 4	VERY LIKELY 5
1.Negligible	1	2	3	4	5
2.Minor	2	4	6	8	10
3.Moderate	3	6	9	12	15
4.Major	4	8	12	16	20
5.Catastrophic	5	10	15	20	25

Consequence Score:
Likelihood Score:
Risk score = consequence x likelihood

Enter risk score here for identified risks


Example: risk of not consulting patients leading to legal challenge: Consequence score of 5 and Likelihood score of 4 20

Any comments / records of different risk scores over time (e.g. reason for any change in scores over time): 2

Important: If you have a risk score of 9 and above you should escalate to the organisations risk management procedures.

EQUALITY IMPACT AND RISK ASSESSMENT AND ACTION PLAN

Risk identified	Actions required to reduce / eliminate the negative impact	Resources required *(see guidance below)	Who will lead on the action?	Target date
None identified				

<p>'Resources required' is asking for a summary of the costs that are needed to implement the changes to mitigate the negative impacts identified</p>				
<p>SECTION 7 – EQUALITY DELIVERY SYSTEM 2 (EDS2)</p>				
<p>Please go to Appendix 1 of the EIRA and tick the box appropriate EDS2 outcome(s) which this policy relates to. This will support your organisation with evidence for the Equality and Inclusion annual equality progress plan and provide supporting evidence for the annual Equality Delivery System 2 Grading</p>				
<p>SECTION 8 – ONGOING MONITORING AND REVIEW OF EQUALITY IMPACT RISK ASSESSMENT AND ACTION PLAN</p>				
<p>Please describe briefly, how the equality action plans will be monitored through internal governance processes?</p>				
<p>Date of the next review of the Equality Impact Risk Assessment section and action plan?</p> <p>To coincide with next review of policy.</p>				
<p>SECTION 9</p> <p>FINAL SECTION</p>				
<p>Date completed: 9th October 2019</p>				
<p>Date received for quality check: 9th October 2018</p>				
<p>Signature of person completing the assessment:</p>				
<p>Date reviewed by Equality and Inclusion Team: 9th October</p>				
<p>Signature and Date quality check completed by Equality and Inclusion Team:</p> <p> Travis Peters – MLCSU Equality and Inclusion Business Partner</p>				
<p>Date signed off by CCG / CSU Committee:</p>				

This is the end of the Equality Impact and Risk Assessment process: By now you should be able to clearly demonstrate and evidence your thinking and decision(s).

Save this document for your own records, once this is signed off by your organisation you should published on your website.

- For those organisations using U Assure upload this evidence to the assessment process started
- For those organisations not using U Assure - Send this document and copies of your completed Stage 2 Human Rights Screening document to the Equality & Inclusion Team equality.inclusion@nhs.net

Appendix 1: Equality Delivery System 2:

APPENDIX 1: The Goals and Outcomes of the Equality Delivery System			Tick box(s) below
Objective	Narrative	Outcome	
1. Better health outcomes	The NHS should achieve improvements in patient health, public health and patient safety for all, based on comprehensive evidence of needs and results	1.1 Services are commissioned, procured, designed and delivered to meet the health needs of local communities	
		1.2 Individual people's health needs are assessed and met in appropriate and effective ways	x
		1.3 Transitions from one service to another, for people on care pathways, are made smoothly with everyone well-informed	
		1.4 When people use NHS services their safety is prioritised and they are free from mistakes, mistreatment and abuse	x
		1.5 Screening, vaccination and other health promotion services reach and benefit all local communities	
2. Improved patient access and experience	The NHS should improve accessibility and information, and deliver the right services that are targeted, useful, useable and used in order to improve patient experience	2.1 People, carers and communities can readily access hospital, community health or primary care services and should not be denied access on unreasonable grounds	x
		2.2 People are informed and supported to be as involved as they wish to be in decisions about their care	x
		2.3 People report positive experiences of the NHS	x
		2.4 People's complaints about services are handled respectfully and efficiently	x
3. A representative and supported workforce	The NHS should increase the diversity and quality of the working	3.1 Fair NHS recruitment and selection processes lead to a more representative workforce at all levels	
		3.2 The NHS is committed to equal pay for work of equal value and expects employers to	

	lives of the paid and non-paid workforce, supporting all staff to better respond to patients' and communities' needs	use equal pay audits to help fulfil their legal obligations	
		3.3 Training and development opportunities are taken up and positively evaluated by all staff	
		3.4 When at work, staff are free from abuse, harassment, bullying and violence from any source	x
		3.5 Flexible working options are available to all staff consistent with the needs of the service and the way people lead their lives	
		3.6 Staff report positive experiences of their membership of the workforce	
4. Inclusive leadership	NHS organisations should ensure that equality is everyone's business, and everyone is expected to take an active part, supported by the work of specialist equality leaders and champions	4.1 Boards and senior leaders routinely demonstrate their commitment to promoting equality within and beyond their organisations	x
		4.2 Papers that come before the Board and other major Committees identify equality-related impacts including risks, and say how these risks are managed	x
		4.3 Middle managers and other line managers support their staff to work in culturally competent ways within a work environment free from discrimination	x

Appendix 2: Checklist for ensuring you have considered public sector equality duty and included all relevant information as part of the EIRA.

Equality Impact and Risk Assessment Checklist	
Scope	Yes/No
Have I made the reader aware of the full scope of the proposal and do I understand the current situation and what changes may occur?	Y
Legal	

Have I made the reader aware of our organisations legal duties with regard to Equality & Diversity and are they documented?	Y
Has the relevance of these duties pertaining to this item been outlined explicitly and documented?	Y
Have I explained how in this area we currently meet our Public Sector Equality Duties and how any change may affect this?	Y
Information	
Have I seen sufficient research and consultation to consider the issues for equality groups? (this may be national and local; demographic, numbers of users, numbers affected, community needs, comparative costs etc)	Y
Have I carried out specific consultation with affected groups prior to a final decision being made?	Y
Has consultation been carried out over a reasonable period of time i.e. no less than six weeks leading up to this item?	Y
Have I provided evidence that a range of options or alternatives have been explored?	Y
Impact	
Do I understand the positive and negative impact this decision may have on all equality groups?	Y
Am I confident that we have done all we can to mitigate or at least minimise negative impact for all equality groups?	Y
Am I confident that where applicable we considered treating disabled people more favourably in order to avoid negative impact (Disability Equality Duty)?	Y
Am I confident that where applicable we allowed an exception to permit different treatment (i.e. a criteria or condition) to support positive action	Y
Have I considered the balance between; proposals that have a moderate impact on a large number of people against any severe impact on a smaller group.	Y
*Wider Budgetary Impact (where applicable)	
Within the wider context of budgetary decisions did I consider whether an alternative would have less direct impact on equality groups?	N/A
Within the wider context of budgetary decisions did I consider whether particular groups would be unduly affected by cumulative effects/impact?	N/A

Transparency of decisions	
Will there be an accurate dated record of the considerations and decisions made and what arrangements have been made to publish them?	Y
Due regard	
Did I consider all of the above before I made a recommendation/decision?	Y

APPENDIX 3

Guidance for Equality Impact and Risk Assessment Stage 2 for Policies

Section 1: Details:

You need to enter details about the proposal. This can be copied from stage 1 or from service specification / business case.

Section 2: Equality Impact Assessment:

Complete background questions.

Will your policy affect your ability to meet the Public Sector Equality Duty?

How you will mitigate any adverse impact?

- Eliminate, unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not;
- Foster good relations between people who share a protected characteristic and those who do not.

Section 3: Impact section:

As you complete this section think about if the 'policy' have the potential to:

- Have a positive impact (benefit) on any of the equality groups?
- Have a negative impact / exclude / discriminate against any person or equality groups?
- Explain how this was identified? Evidence/Consultation?

- Who is most likely to be affected by the proposal and how (think about barriers, access, effects, outcomes etc.)

Section 4: Checklist for EIRA:

Look at the checklist to ensure you have considered relevant equality issues

Section 5: Human Rights:

NHS organisations must ensure that none of their services, policies, strategies or procedures infringes on the human rights of patients or staff. You should analyse your document using the questions provided to determine the impact on human rights. Using human rights principles of fairness, respect, equality, dignity and autonomy as flags or areas to consider is often useful in identifying whether human rights are a concern. This section also directly links to Safeguarding evidence.

You can access a useful briefing on human rights and the NHS Constitution by following the links below:

http://www.nhsemployers.org/Aboutus/Publications/Documents/NHSE_briefing69_180110.pdf
<https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england>

Section 6: Equality Risk Assessment:

Context:

Risk management is the recognition and effective management of all threats and opportunities that may have an impact on a project or your organisations reputation, its ability to deliver its statutory responsibilities and the achievement of its objectives and values.

The EI&RA is a risk assessment relating to the risks directly associated with equality issues for policy development or policy review.

Interpretation within the risk matrix needs to be qualified as consequence of risk could be interpreted differently. For example, the risk could be a consequence for the policy or relating to your organisation. In some cases, the risk could imply a consequence for both policy and the organisation.

Risk can be seen in a number of ways, ethical, financial and legal. All can have consequences to the reputation of your organisation and impact on the effective delivery of services.

The risk assessment table within this guidance shows a range of different risks (matched against consequence) that policy development / review may exhibit. Without acknowledging risks and mitigating against them the project could lead to a formal complaint or legal challenge – Judicial review. Judicial review is a type of court proceeding in which a judge reviews the lawfulness of a decision or action made by a public body.

How to do the risk assessment:

This can be used for policies that:

- are under review
- being developed
- proposed for withdrawal

To generate a risk score:

1. The Risk Assessment Table of example risks shows a range of example risks relating to Policy Development / Policy Review to help navigate you through deciding the potential consequence. These can be applied at developmental stage or review stage.
2. The purpose of the risk assessment is to generate a risk score for the worst case risk/consequence from the policy being implemented without change. The table of example risks helps see a range of different scenarios. It is not exhaustive and gives a general guide to help you assess the consequence level for concerns.
3. Once you have identified an adverse risk you can find its corresponding consequence score. (For example – if the policy would directly discriminate – we can give this a Risk Level Consequence Score of 5 as this is likely to lead to a legal challenge.)
4. Once you have your Risk Level Consequence Score, think about the likelihood of this happening. Use the likelihood descriptors (table 1) to find best fit score. (For example, in its current state you may judge this will be 'possible' with a corresponding score of 3)
5. Work out the risk score by using the following – Consequence score x Likelihood. (e.g. 5x3=15)
6. Use the risk matrix table to find where this scores sits on the table. Our example score of 15 is rag rated as a red score.
7. The action plan / future actions will be needed to reduce the risk to an acceptable level or the organisation will need to make the decision to tolerate the level of risk if it is to remain red/amber. In either case **any amber and red ragged risks need to be escalated** to the designated person who oversees the risk register within the organisation.
8. You can use this process for each risk identified. Therefore each identified risk will have a separate risk score.
9. You may need to revisit risk assessment score if you gather additional information on existing controls to reduce potential risk. Once a risk is identified, decision makers may clarify how this can be reduced and lead to a revised risk score. This can be recorded with a note stating it is a revised score following amendments to the policy. **All risks** identified need to be discussed with decision makers / project lead and the person designed as Risk Manager for the organisation.

Table 1: Likelihood

Likelihood	Likelihood descriptors and score				
Descriptor	Rare: 1	Unlikely: 2	Possible: 3	Likely: 4	Very Likely: 5
Frequency / How likely is it to happen?	This probably will never happen/recur	Do not expect it to happen/recur, but it is possible it may do so	Might happen or recur occasionally	Will probably happen/recur, but is not a persisting issue or circumstance	Very likely to happen/recur; possibly frequently
	Not expected to occur for years	Expected to occur annually	Expected to occur monthly	Expected to occur weekly	Expected to occur daily
Probability	<1%	1.5%	6-20%	21-50%	>50%
	Will only occur in exceptional circumstances	Unlikely to occur	Reasonable chance of occurring	Likely to occur	More likely to occur than not occur

EQUALITY RISK ASSESSMENT – table of example risks relating to policy development

Use the following possible scenarios to identify any possible risk for the policy / Clinical Commissioning Group if the project is implemented without amendment. All risks should be monitored for trends and provided to the project author when the project is due to be reviewed.

Areas for risk	Risk Levels – Consequence Score				
	Negligible 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
Unlawful discrimination, victimisation and harassment	<p>There is no evidence of factors relating to unlawful discrimination, victimisation and harassment. No negative impact on people with protected characteristics.</p> <p>Policy is well documented for factors relating to meeting needs of people with protected characteristics.</p>	<p>Evidence of potential factor that could cause indirect discrimination and potentially impact negatively on people with protected characteristics being treated unfavourably.</p> <p>Policy has some documented factors to meet needs of people with protected characteristics.</p> <p>Without mitigating potential risk there could be risk of formal complaint or legal challenge through Judicial review and bad publicity.</p>	<p>Evidence of repeated factors / concern that could cause discrimination and impact negatively on people with protected characteristics.</p> <p>Policy has very few documented factors relating to addressing unlawful discrimination. Needs of people with protected characteristics not fully understood.</p> <p>Without mitigating potential risk there could be risk of formal complaint or legal challenge through Judicial review. This could give rise to bad publicity and rise for financial loss.</p>	<p>Evidence of ongoing concern that policy may cause direct discrimination or indirect discrimination that may result in less favourable treatment of people with protected characteristics.</p> <p>Policy has evidence of factors leading to discrimination or there is insufficient information to demonstrate the needs of people with protected characteristics are understood.</p> <p>High risk of formal complaint and legal challenge through Judicial review. This could give rise to bad publicity and lack of confidence as well as financial loss.</p>	<p>Evidence that policy will cause direct discrimination (less favourable treatment 'because of' a protected characteristic).</p> <p>Direct discrimination is totally unacceptable unless unfavourable treatment is due to age.</p> <p>Policy has evidence of causing direct discrimination or there is no information to demonstrate understanding of the needs equality groups.</p> <p>High risk of formal complaint and legal challenge through Judicial review. This could give rise to bad publicity and lack of confidence and financial loss.</p>
Promoting Equality of Opportunity	<p>Evidence of people being treated fairly, given equal access to opportunities and access.</p> <p>Staff and patient groups are widely consulted and involved in</p>	<p>There is some documented evidence of how policy meets the differing needs of people with protected characteristics. Some consultation and involvement of people with</p>	<p>There is little evidence of people being treated fairly. There is very little consultation or involvement from people in decision making.</p> <p>Policy identifies low number of areas where</p>	<p>Evidence that people will not be treated fairly and given opportunities to access services. No mitigating actions in place to address concerns.</p> <p>Policy makes very little and inadequate reference to</p>	<p>Gross failure to treat people fairly and give them access to services. No regard given to equality groups. No mitigating actions.</p> <p>Policy contains no reference to addressing the needs of different</p>

	<p>decision making. Equality and inclusion are given high level of importance.</p> <p>Policy fully identifies relevant actions that demonstrate CCG is considering the differing needs of equality groups and their views are fully embedded into decision making processes.</p>	<p>decision making.</p> <p>Policy identifies some areas of how different needs of protected groups can be met. Some participation of groups in decision making processes.</p> <p>Without mitigating potential risk there could be risk of formal complaint or legal challenge through Judicial review. This could give rise to bad publicity.</p>	<p>different needs of people with protected characteristics will be met.</p> <p>Without mitigating potential risk there could be risk of formal complaint or legal challenge through Judicial review.</p> <p>This could give rise to bad publicity and financial loss.</p>	<p>removing or minimising disadvantage experienced by equality groups.</p> <p>High risk of formal complaint and legal challenge through Judicial review.</p> <p>This could give rise to bad publicity and lack of confidence and financial loss.</p>	<p>equality groups.</p> <p>No groups have been involved in consultation or decision making processes.</p> <p>High risk of formal complaint and legal challenge through Judicial review.</p> <p>This could give rise to bad publicity and lack of confidence and financial loss.</p>
<p>Foster Good Relations Between People</p>	<p>The policy demonstrates inclusive service meeting different needs and promoting understanding of the needs of different equality groups.</p>	<p>The policy has some evidence of demonstrating that it is inclusive and meeting different needs and promoting understanding of different equality groups. Potential for complaint if all needs of protected groups will not be met. This could give rise to bad publicity.</p>	<p>Policy shows little evidence of inclusive practice and little evidence for promoting understanding of different equality groups.</p> <p>Potential for complaint or legal challenge. This could give rise to bad publicity and financial loss.</p>	<p>Policy shows no evidence of inclusive practice and no evidence for promoting understanding of different equality groups.</p> <p>High risk of formal complaint and legal challenge through Judicial review. This could give rise to bad publicity and lack of confidence.</p>	<p>Policy shows gross failure to foster good relations between people.</p> <p>Understanding between different groups excluded and prejudice not tackled.</p> <p>High risk of formal complaint and legal challenge through Judicial review. This could give rise to bad publicity, lack of confidence and financial loss.</p>
<p>Human Rights Legislation</p>	<p>The policy fully acknowledges human rights legislation and there is no expected negative impact on the human rights for patients and staff. The service is underpinned by NHS Constitution.</p>	<p>The policy provides some acknowledgement to human rights. Service is underpinned by NHS Constitution.</p> <p>Any identified Human Right issues are addressed.</p> <p>Without addressing these, there is potential for formal complaint and bad publicity.</p>	<p>There is little acknowledgement of human rights and NHS Constitution. As a result the service could result in a breach of human rights. There is insufficient mitigation to address potential breaches and therefore giving rise to formal complaints or legal challenge through court. This could potentially lead to bad publicity and financial loss.</p>	<p>The policy will potentially result in degrading or inhuman treatment, limit a person's liberty, and interfere with a person's right to respect for private and family life.</p> <p>Policy shows very limited consideration of human rights legislation. Not underpinned by NHS Constitution.</p> <p>Open to formal complaint and legal challenge through court. This potentially leading to financial costs and mandatory order as</p>	<p>Policy will potentially result in a breach of human rights.</p> <p>There is gross failure to consider human rights legislation and not underpinned by NHS Constitution.</p> <p>Open to formal complaint and legal challenge through court. This could potentially lead to financial costs and mandatory order. Also leading to bad publicity.</p>

				well as bad publicity.	
Mitigating actions	Any concerns / identified areas of disadvantage are fully understood and fully mitigated with planned monitoring and review.	Most concerns and identified areas of disadvantage are mitigated against and there is some monitoring and review planned. Without addressing these, there is potential for formal complaint and bad publicity.	Some concerns and identified areas are mitigated. There is insufficient monitoring of concerns. This could lead to potential Freedom of Information (Fol) requests, formal complaints and legal challenge. This could lead to bad publicity and financial loss.	There are insufficient mitigating actions to address concerns / disadvantage. No planned review or monitoring of concerns. High risk of Fol, legal challenge through Judicial review. This could give rise to bad publicity, lack of confidence and financial loss.	No mitigating actions provided to address concerns / disadvantage. No review or monitoring planned. Without planned action policy poses unacceptable risk to patients / staff. High risk of Fol and legal challenge through Judicial review. This could give rise to bad publicity, lack of confidence and financial loss.

Section 7 Equality Delivery System 2

The policy may help provide evidence for goals and outcomes matched against the Equality Delivery System 2. Appendix 1 contains a table of outcomes that you can tick against if applicable to the proposal.

Section 8 Monitoring arrangements

No service, functions and policy remains fixed. The impacts that were anticipated through your analysis may not transpire to be a reality, and in some instances you may discover emerging impacts that you hadn't anticipated. Ensuring equality is embedded within our practice is an on-going process.

It is therefore wise to monitor the impacts that you have anticipated and to plan and document when the service, function and policy will be reviewed. It will not be necessary to repeat a full equality impact and risk assessment process at these review points, but these will be opportunities to test your anticipated impacts.

Where these prove not to have been accurate, this will allow you to focus your analysis on the emerging impacts and to propose alternative responses. Use a range of information to make an informed decision on if the proposal will have positive, negative or indirect effect on people with protected characteristics.

Section 9 Final section

Nearly at the end... complete this section and send to Equality and Inclusion Team for quality assurance check and then it is ready to send on to your CCG Committee for formal acceptance. This formal acceptance effectively demonstrates that the Governing Board accepts ownership for the accuracy and appropriateness of the document's contents.



Midlands and Lancashire
Commissioning Support Unit

The Equality and Inclusion Team are available to advise you and assist you in undertaking your equality impact and risk assessment.

For further support or advice, contact The Equality and Inclusion Team:
equality.inclusion@nhs.net