

# Agreement for the Joint Handling of Health and Social Care Complaints

Version 2: 29/06/2023

## Checklist for Agreement

### Summary

This document has been produced to establish a framework for the joint handling of complaints that cover both health and social care. This document replaces "Agreement for the joint handling of health and social care complaints version 1".

### Aim of Policy

- The protocol establishes a framework for the joint handling of complaints that cover both health and social care to meet the expectations of the 2009 regulatory framework.
- The protocol also covers the expectations of The Children Act 1989 Representations Procedure (England) Regulations 2006 which concerns complaints where there is a service to a child.
- Dealing with a wide range of health and social care organisations can be confusing for people. Therefore, the agreement aims to address these issues by bringing together the various organisations in Calderdale and West Yorkshire to provide a unified, responsive, and effective service for complainants.

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### Version Control

Date	Author	Version	Comment
25/05/2023	Toni Kershaw	1	Draft Policy
29/06/2023	Toni Kershaw	2	Final Policy

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## Organisation and Contacts

Organisation	Complaints contact	Contact details
Calderdale Council Children's Social Care Services	Richard Noble	T: <a href="tel:01422392279">01422392279</a> E: <a href="mailto:complaintsandcompliments@calderdale.gov.uk">complaintsandcompliments@calderdale.gov.uk</a>
Calderdale Council Adult services		
NHS West Yorkshire Integrated Care Board	Janet Smart	T: <a href="tel:01422307400">01422 307400</a> (Switchboard) E: <a href="mailto:janet.smart2@nhs.net">janet.smart2@nhs.net</a> <a href="mailto:Wyicb-cal.complaints@nhs.net">Wyicb-cal.complaints@nhs.net</a> (team email)
WY Health Heath & Care Partnership		

# 1 Introduction

As a matter of good practice all NHS and Local Authority organisations in Calderdale will be expected to participate in these arrangements.

The relevant sharing of information has always been essential and will continue to be made available on a 'need to know' basis in accordance with this protocol bearing in mind that an individual's right of confidentiality is protected by the Data Protection Act 2018, the Human Rights Act 1998 and the common law duty of confidence.

The fundamental principle rooted in both ethical and legal requirements is that the use of information is supported by informed consent. Therefore, when sharing information with another agency the service user's/patient's consent must be sought to progress the issues involved. Written consent is preferable but verbal consent can be accepted if followed up and confirmed in writing (Appendix 3)

If consent is withheld a single agency approach should be adopted and the complainant informed accordingly.

# 2 Purpose

The protocol establishes a framework for the joint handling of complaints that cover both health and social care to meet the expectations of the 2009 regulatory framework.

The protocol also covers the expectations of The Children Act 1989 Representations Procedure (England) Regulations 2006 which concerns complaints where there is a service to a child.

Dealing with a wide range of health and social care organisations can be confusing for people. Therefore, the agreement aims to address these issues by bringing together the various organisations in Calderdale and West Yorkshire to provide a unified, responsive, and effective service for complainants.

The complaints regulations place a duty to co-operate upon health and social care agencies regarding the investigation of joint complaints. Key features include having arrangements that are clearly focused on outcomes and that adopt a person-centred approach to complaints handling. Where this concerns a service to a child, the child's needs should remain paramount. Where a complaint about a service to a child comes from a parent all agencies will see the child as the primary customer and seek to understand their wishes and feelings.

Each case must be dealt with according to its individual nature and the complainant's expected outcome (where appropriate). The emphasis is firmly placed on effective results and swift local resolution.

A significant aspect of joint working is the need for regular and effective communication between complaints professionals and complainants to ensure agreed complaint plans and a single coordinated response.

To achieve different organisations' requirements, it is also necessary to monitor that agreed timescales are met and that complainants are kept well informed should there be reasons why investigations are delayed.

This process will also provide a single consistent and agreed contact point for complainants and will enhance partnership working.

Complaints will be viewed as a mechanism to identify service improvements for health and social care delivery leading to:

- Opportunities to identify and share organisational learning.
- Collaborative working between complaints professionals to identify problems and solutions.
- Reciprocal co-operation in relation to the need to interview staff within participating agencies.
- Health and social care professionals developing expertise in joint problem solving.
- A common approach to developing collective knowledge of user experiences of services.

### 3 Complaints Management

The representatives from each organisation signing up to this protocol are responsible for ensuring:

- the co-ordination of whatever actions are required
- co-operation with other complaints managers and agreement as to who will take the lead role in joint complaints
- that there is a designated person to whom any requests for collaboration can be addressed when they are absent

### 4 Process

When a complaint is received that raises issues about health and social care, consent will be sought to discuss the investigation with the relevant agency, if this is not apparent from the outset. Having obtained consent, the recipient will contact the relevant complaints professional to agree the lead organisation and coordinator of the investigation.

The Department of Health suggests that the following issues should be taken into account when determining which organisation will take the lead role in a cross-agency complaint:

- which organisation manages integrated services
- which organisation has the most serious complaints about it
- whether a large number of the issues in the complaint relate to one organisation compared with the other organisation(s)
- which organisation originally received the complaint (if the seriousness and number of complaints are about the same for each one)
- whether the complainant has a clear preference for which organisation takes the lead

Once the factors determining which organisation takes the lead are agreed, it is that complaints professional who will contact the complainant to discuss their concerns, agree how the complaint will be handled and confirm the issues to be addressed. It is also necessary to explain the implications of a joint complaint and advise who will co-ordinate the response.

If consent is withheld a single agency approach may need to be adopted and the complainant informed accordingly, as this may restrict the extent of the investigation.

Clinical and/or additional professional expertise can be drawn upon at any point in the process as necessary.

Possible options for handling complaints within the parameters of this agreement include:

- Individual consideration by each agency with an agreed single response to the complainant by the lead organisation
- Joint arrangements for the investigation followed by an agreed single response.
- Consideration of conciliation/mediation at relevant stages of the process.
- Where appropriate consideration of a joint meeting with the option of this being recorded

Complaints responses must be agreed by all agencies prior to being issued to the complainant by the lead organisation. Local arrangements may differ in relation to the release of investigative reports alongside complaints responses and this should be negotiated by the relevant complaints staff and not assumed.

Complaints that are more complex may signify the need for a revised timescale. Therefore, the coordinating complaints professional must issue a jointly agreed interim response detailing the reasons for any delay, the progress made to date and a revised timescale for issuing the final reply.

In circumstances where joint complaints are subject to an independent review (Parliamentary and Health Service Ombudsman/Local Government Ombudsman); the outcomes will also be shared to inform working practices.

This agreement is an overarching protocol and therefore it does not require the detail of any local arrangements that may exist between organisations.

## 5 Learning from Joint Complaints

Following on from complaints investigations, it is essential that action plans are prepared to demonstrate learning and organisational improvement where appropriate. These should be shared across the organisations concerned. West Yorkshire Complaints leads will meet at least twice yearly to review joint complaints.

## 6 Points of Clarity

Complaints about NHS services from within West Yorkshire Prisons will be investigated under the NHS complaints processes and are therefore covered by this agreement.

Should the complainant indicate that they will be taking legal action all parties to this agreement reserves the right to withdraw both from the joint investigation, with an explanation being sent to the complainant.

Should the complaint indicate concerns about the health, safety or welfare of a child or adult the matter will be referred to the appropriate safeguarding procedure immediately.

## Appendix 1: Joint complaints handling flowchart

1. Complaint received. Consent sought to discuss joint organisation complaint if not provided at outset.
2. Once consent obtained, receiving agency contacts corresponding complaints professional to agree lead organisation and co-ordinator of the complaint. The options for handling within the parameters of the protocol should be taken into account including the negotiation of timescales.
3. Lead complaints professional contacts complainant to discuss complaint, agree handling and confirm issues to be addressed. Explains implication of joint organisation complaint and who will co-ordinate the response.
4. If consent withheld a single agency approach may need to be adopted. Complainant informed that this may restrict the extent of investigation.
5. Clinical or additional professional expertise obtained as necessary.
6. Joint response agreed by both agencies prior to being issued.
7. Co-ordinating complaints professional issues jointly agreed interim response if final reply is delayed due to the complexities involved.

## Appendix 2: Relevant legislation and guidance

### Local Authority Social Services and National Health Service Complaints Regulations 2009 (April 2009) and Amendment Regulations (July 2009)

*Statutory Framework for the NHS Complaints Procedure. A major reform in the way health and social care organisations manage complaints resulting in a single complaints system covering all health and social care services in England.*

### Health and Social Care Act 2008

*The Government's response to the report of the Joint Committee on Human Rights. Contains significant measures to modernise and integrate health and social care.*

### The NHS Constitution DoH 2009

*All NHS bodies and private, and third-sector providers supplying NHS services in England are required by law to take account of the Constitution in their decisions and actions.*

*As well as capturing the purpose, principles and values of the NHS, the Constitution brings together a number of rights, pledges and responsibilities for staff and patients alike.*

### Health and Social Care (Standards and Community) Act 2003

*Provides a statutory basis for NHS and Adult Social Care complaints.*

### The Children Act 1989 Representations Procedure (England) Regulations 2006

*Provides a statutory basis for Children's Social Care Complaints.*

### General Data Protection Regulation 2018

*Governs the protection and use of person identifiable information (personal data). The regulation does not apply to personal information relating to the deceased.*

### The Human Rights Act 1998

*Article 8.1 provides that "everyone has the right to respect for his private and family life, his home and his correspondence."*

*Article 8.2 provides "there shall be no interference by a public authority with the exercise of this right except as in accordance with the law and it necessary in a democratic society in the interest of national security, public safety or the economic wellbeing of the country for the prevention of crime and disorder, for the protection of health or morals, or for the protection of the rights and freedoms' of others."*

### The Freedom of Information Act 2000

*The Act creates rights of access to information (rights of access to personal information remain under the Data Protection Act 1998) and revises and strengthens the Public Records Act 1958 and 1967 by reinforcing records management standards of practice.*

### The General Protocol for Information Sharing between Health and Social Care developed by the West Yorkshire Partnership Forum

*Includes the above legislation and additionally makes reference to the Consent and Principles of the Caldicott Report 1997.*

### Listening, Responding, Improving. A Guide to Better Customer Care, DoH 2009 Equality Act 2010

*is an Act of Parliament of the United Kingdom, and fulfills a manifesto commitment of the Labour Party in the 2005 General election.*

## Appendix 3: Statement of consent for the disclosure of personal records for joint organisation complaints

<b>For complaints raised by Service Users</b>
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Complainant/Service User's name: \_\_\_\_\_

Complainant/Service User's address: \_\_\_\_\_

\_\_\_\_\_

Telephone number: \_\_\_\_\_

**I hereby give my consent for the organisations listed below to share any relevant information in order to complete the investigation into my complaint.**

**I understand that this is likely to include disclosure of my personal records and those of the child for whom I have parental responsibility as necessary**

(Lead organisation) \_\_\_\_\_

(Organisation) \_\_\_\_\_

(Organisation) \_\_\_\_\_

**This will assist the investigation of my joint organisation complaint, which is being co-ordinated by:**

(Name of complaints manager) of (Organisation) \_\_\_\_\_

**The reason for, and the implications of, this have been explained to me by the above-named complaints manager**

**I understand that information exchanged as agreed by me must be used solely for the purpose for which it was obtained.**

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

***Once completed, please return this consent form in the freepost envelope provided.***



**STATEMENT OF CONSENT FOR THE DISCLOSURE OF PERSONAL RECORDS/INFORMATION WITH SOMEONE RAISING A COMPLAINT ON BEHALF OF THE PATIENT/SERVICE USER**

Complainant's name: \_\_\_\_\_

Complainant's address: \_\_\_\_\_

\_\_\_\_\_

Telephone number: \_\_\_\_\_

Relationship with patient/service user \_\_\_\_\_

Patient/Service User's name: \_\_\_\_\_

Patient/Service User's address: \_\_\_\_\_

**I hereby give my consent for the organisations listed below to share any relevant information in order to complete the investigation into my complaint with the person named above.**

**I understand that this is likely to include disclosure of my personal records.**

(Lead organisation) \_\_\_\_\_

(Organisation) \_\_\_\_\_

(Organisation) \_\_\_\_\_

**This will assist the investigation of my complaint, which is being coordinated by:**

(Name of complaints manager) of (Organisation) \_\_\_\_\_

**The reason for, and the implications of, this have been explained to me by the above-named complaints manager (see Information Sheet 1).**

**I understand that information exchanged as agreed by me must be used solely for the purpose for which it was obtained.**

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

***Once completed, please return this consent form in the freepost envelope provided.***