

# Greater Manchester Shared Services (GMSS)

## Compliments, concerns and complaints policy

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<b>Author:</b>	Mark Carroll, Head of Policy and Corporate Operations
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Copies of this document can be obtained from:

<b>Name:</b>	Corporate Services Office
<b>Address:</b>	Greater Manchester Shared Services Ellen House Waddington Street Oldham OL9 6EE
<b>Telephone:</b>	0161 212 4186

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## Introduction

1. The purpose of this document is to provide Greater Manchester Shared Services (GMSS) with a framework for handling compliments, concerns and complaints in line with applicable legislation.
2. The policy describes how GMSS manages, responds to and learns from the feedback it receives about its services.
3. The policy includes the fundamental requirements of good complaints and concerns handling used by GMSS to deliver arrangements in an easily accessible, equitable, sensitive and open manner.
4. This policy is based on the principles of [The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#). As a shared service, GMSS is not explicitly included in the regulations but in the interests of best practice the GMSS Senior Management has made the decision to manage complaints as far as practicably possible in line with the regulations. Any guidance about the applicability of the regulations can be sought from the Parliamentary and Health Service Ombudsman (PHSO).
5. This policy also takes account of the principles laid out in:
  - [Putting Patients First](#)
  - The [NHS England Business Plan](#) for 2013/14 – 2015/16
  - The [NHS Constitution](#)
  - The Parliamentary and Health Service Ombudsman's ["My expectations for raising concerns and complaints"](#).

## Background

6. GMSS is committed to high quality commissioning support for all as a core principal of our vision and purpose. This includes the provision for any user of the organisation, their family, carers, or members of the public, with the opportunity to seek advice, raise concerns or make a complaint, about any of the services it commissions, or policies and procedures it has developed and implemented.
7. GMSS recognise that staff work very hard to get it right first time. However, there may be occasions when people will be dissatisfied with the service received, or decisions made, and wish to make a complaint or raise a concern. Likewise, there may be occasions when people have received a positive experience of a service they have accessed and wish to praise those responsible.
8. GMSS will endeavour to respond as quickly and effectively as possible to resolve complaints and respond to enquiries, and to use the information to improve the quality of services.
9. This policy and its applicable processes incorporate the Parliamentary and Health Service Ombudsman's [Principles of Good Complaints Handling \(2009\)](#):

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

10. The policy and its applicable processes are also informed by the NHS Constitution.

GMSS recognises that complainants have the right to:

- Have their complaint acknowledged and properly investigated
- Discuss the manner in which the complaint is to be handled and know the period in which the complaint response will be sent
- To be kept informed of the progress and to know the outcome including an explanation of the conclusions and confirmation that any action needed has been taken on
- Take a complaint about data protection breaches to the independent Parliamentary and Health Service Ombudsman if not satisfied with the way the NHS has dealt with the complaint
- Make a claim for judicial review if they think they have been directly affected by an unlawful act or decision of an NHS body; and
- Receive compensation where appropriate.

11. The policy and its applicable processes are also informed by the Parliamentary and Health Service Ombudsman's "My expectations for raising concerns and complaints". This sets out a vision of what looks good from the user perspective when raising concerns and complaints about health and social care services. The vision is based on five headings that describe the typical complainant's journey:

- Considering a complaint
- Making a complaint
- Staying informed
- Receiving outcomes
- Reflecting on the experience

12. By adopting this vision, GMSS share the Parliamentary and Health Service Ombudsman's aim for all service users to be able to say 'I felt confident to speak up and making my complaint was simple. I felt listened to and understood. I felt that my complaint made a difference'. A copy of the vision's framework can be found at Appendix 2.

13. The policy is also informed by:

- Principles of openness, transparency and candour throughout the system
- Complainants raising concerns about their care are entitled to have the matter dealt with as a complaint, unless they do not wish it
- Prompt and thorough processing
- Sensitive and accurate communication
- Effective and implemented learning

- Comments or complaints amounting to an adverse or serious untoward incident should trigger an investigation
- The importance of narrative as well as numbers contained within the data

## **Policy statement**

14. GMSS will treat feedback seriously and ensure that concerns, complaints and issues raised are properly investigated in an unbiased, non-judgmental, transparent, timely and appropriate manner. The outcome of any investigation, along with any resulting actions will be explained to the complainant in the form of an investigation response letter.

15. The main aims of the policy are:

- To provide easily accessible clear and easy to understand procedures for managing complaints and concerns
- To provide a consistent approach to the management and investigation of complaints and concerns
- To sympathetically respond to complaints and concerns in appropriate timeframes
- To provide opportunities for people to offer feedback on the quality of service provided
- To provide staff and complainants with support and guidance throughout the formal complaints process
- To identify the causes of complaints and concerns, and to take action to prevent recurrences
- To use 'lessons learnt' as a driver for change and improvement
- To ensure that the care of complainants is not adversely affected as a result of making a complaint or raising a concern
- To assist in promoting an open, honest and transparent organisational culture
- To ensure that GMSS meets its legal obligations
- To act as a key tool in ensuring the good reputation of GMSS

## **Scope**

16. This policy applies to the handling of compliments, concerns, complaints and MP letters relating to any service directly provided by GMSS or about its functions.

17. For compliments, concerns, complaints or MP letters about services other than those provided by GMSS, please refer to the complaints service of the provider / organisation concerned.

18. Concerns or complaints can be made by any person who is affected by, is likely to be affected by or is aware of, either through direct experience or observation, an action, omission or decision of GMSS.

19. All GMSS staff have a responsibility to ensure that they are aware of the contents of this policy and have undertaken training as appropriate.

## **Definition of a complaint**

20. A complaint is a verbal or written expression of concern or dissatisfaction about an act, omission or decision which requires a response and/or redress.

## **Complaints that cannot be dealt with under this policy**

21. The following complaints will not be dealt with under the NHS Complaints Regulations 2009:

- A complaint made by one NHS organisation about another NHS organisation
- A complaint made by an employee about any matter relating to their employment
- A complaint, the subject matter of which has previously been investigated under these or previous Regulations
- A complaint made by a primary care provider which relates to the exercise of its functions by an NHS body or to the contract or arrangements under which it provides primary care services
- A complaint which is made orally and resolved to the complainant's satisfaction no later than the next working day
- A complaint made by an independent provider, NHS Trust or an NHS Foundation Trust about any matter relating to an arrangement made by an NHS body with that independent provider or NHS foundation trust
- A complaint which is being or has been investigated by the Parliamentary and Health Service Ombudsman
- A complaint arising out of an NHS body's alleged failure to comply with a request for information under the Freedom of Information Act 2000
- A complaint which relates to any scheme established under Section 10 (superannuation of persons engaged in health services) or Section 24 (compensation for loss of office) of the Superannuation Act 1972 or to the administration of those schemes
- A complaint about a service that has been commissioned by an NHS organisation but has already been made directly to the organisation providing the service

22. In the event of a complaint where a person has stated that they intend to take legal action, consideration will be given as to whether the complaint can be investigated without prejudicing the outcome of any legal action.

## **Who can make a complaint or raise a concern?**

23. Any person, who is affected by, is likely to be affected by or is aware of an action, omission or decision of GMSS for the purposes of delivering health care to NHS users with appropriate consent.

24. A complaint or concern may be made by a person acting on behalf of a patient in any case where that person:

- is a child;

In the case of a child, the representative must be a parent, guardian or other adult person who has care of the child. Where the child is in the care of a local authority or a voluntary organisation, the representative must be a person authorised by the local authority or the voluntary organisation, and in the opinion of the Head of



Policy and Corporate Operations (with subject matter expert support as necessary), is making the complaint in the best interests of the child

- has died;  
In the case of a patient or person affected who has died, the representative must be a relative or other person, who had sufficient interest in their welfare, and is a suitable person to act as a representative
- has physical or mental incapacity;  
In the case of a person who is unable by reason of physical capacity, or lacks capacity within the meaning of the Mental Capacity Act 2005, to make the complaint themselves, the representative must be a relative or other person, who has sufficient interest in their welfare and is a suitable person to act as a representative
- Has given consent to a third party acting on their behalf;  
In the case of a third party pursuing a complaint or concern on behalf of the 'affected' person we will request the following information:
  - Name and address of the person making the complaint or concern;
  - Name and either date of birth or address of the affected person; and
  - Contact details of the affected person so that we can contact them for confirmation that they consent to the third party acting on their behalfThis will be documented in the case record and confirmation will be issued to both the person making the complaint and the affected person
- Or has delegated authority to do so; for example, in the form of Power of Attorney
- Is an MP acting on behalf of and by instruction from a constituent.

## **Carer's rights**

25. Carers can make a complaint or raise a concern on behalf of the person they care for where the person is a child, has asked the carer to act on their behalf, or is not capable of making the complaint themselves. The organisation has the discretion to decide whether the carer is suitable to act as a representative in the individual's best interests.

## **Advocacy and representatives**

26. Independent Complaints Advocacy (ICA) is an independent support service which can provide support and advice to the complainant when making a formal complaint. They are able to liaise and accompany complainants to meetings and provide guidance through every step of the complaints process, free of charge.

27. Use of complaints advocacy should be encouraged and it is promoted with all complaints to aid their successful resolution.

28. Complainants are advised of complaints advocacy services in their area.

29. Contact details for ICA can be found in Appendix 8.

30. If the Head of Policy and Corporate Operations (or equivalent officer in GMSS) is of the opinion that a representative does or did not have sufficient interest in the person's welfare, is not acting in their best interests or is unsuitable to act as a representative, they will notify that person in writing stating the reasons.

## **Safeguarding**

31. If a complaint or concern is an allegation or suspicion of abuse, for example sexual abuse, physical neglect or abuse, or financial abuse, it should immediately be investigated following appropriate safeguarding or serious incident policies and procedures.
32. In a situation where a person discloses physical or sexual abuse, or criminal or financial misconduct, it must be reported using appropriate policies and procedures, even if the person affected does not want to make a complaint.
33. In cases involving vulnerable adults or children, including threat of self-harm and/or harm to others, all officers should implement effective safeguarding policies and practice, referring to GMSS safeguarding lead.

## **Fraud**

34. Any allegations of fraud or financial misconduct should be referred to the National Fraud Reporting line; details should NOT be taken by the complaints team. Full details of the methods for reporting are contained on their website:

<https://www.reportnhsfraud.nhs.uk/>

## **Persistent and unreasonable complainants**

35. Guidance for dealing with unreasonable and persistent complainants can be found in Appendix 6.

## **How to make a complaint**

36. Where it is appropriate, complaints and concerns can be resolved on the spot or quickly by front line staff or the service provider. This is called local resolution.
37. GMSS is committed to resolving concerns or complaints at the earliest possible opportunity. With the agreement of the complainant, concerns and complaints may be resolved informally.
38. The Head of Policy and Corporate Operations will be responsible for managing informal resolution of complaints.
39. If an issue is resolved informally, the complainant will be advised usually by telephone or email, but at times in writing, of the outcome of their concern and a record made.
40. If, for whatever reason, a patient is unhappy with their informal resolution, they have the right to make a complaint.
41. A complaint or concern can be received by white mail (e.g. letters), electronically or by telephone. All contacts will be documented, a case file opened and a unique ID number provided.

42. If the complaint or concern can be resolved quickly by informal resolution then the case will be closed. A case record will be completed.
43. A process map describing the steps taken to resolve concerns in these different ways are shown in Appendix 4.

## **Confidentiality**

44. Complaints and concerns will be handled in the strictest confidence in accordance with GMSS Confidentiality Policy. Care will be taken that information is only disclosed to those who have a demonstrable need to have access to it.
45. Suitable arrangements must be in place for the handling of patient identifiable data, to meet compliance with the [Data Protection Act 1998](#) and other legal obligations such as the [Human Rights Act 1998](#) and the common law duty of confidentiality. The [Caldicott Report](#) set out a number of general principles that health and social care organisations should use when reviewing its use of patient or client information.
46. Confidentiality will be maintained in such a way that only managers and staff who are leading the investigation know the contents of the case. Anyone disclosing information to others who are not directly involved in the case should be dealt with under disciplinary procedures.
47. Arrangements should be backed up by clear information-sharing protocols, defining how information will be shared and for what purpose, the process and contractual arrangements in place, what each party will do to ensure compliance with protocols and legal obligations, and the penalties for non-compliance.

## **Timescales for complaints**

48. A complaint must be made not later than twelve months after:
- the date on which the matter which is the subject of the complaint occurred; or
  - if later, the date on which the matter which is the subject of the complaint came to the notice of the complainant
49. If there are good reasons for not having made the complaint within the above time frame and, if it is still possible to investigate the complaint effectively and fairly, the Head of Policy and Corporate Operations may decide to still consider the complaint; for example, longer periods of complaint timescales may apply to specific clinical areas.
50. Consideration will always be given to complainant's individual circumstances, particularly caring commitments and bereavement.

## **Consent**

51. In many cases it will be necessary for consent to be provided before an investigation can take place. This is to allow access to confidential and sometimes sensitive information in order to provide a response to the issues raised.

52. If the concern or complaint has been raised by someone other than the person affected by the issues at hand, the affected person will usually be required to provide their consent (written or verbal depending on how the case is to be progressed) confirming the customer's authority to do so.
53. Delay in the provision of consent, when requested, may delay the progress of the investigation.

## **Investigation and response**

54. The Head of Policy and Corporate Operations, on behalf of GMSS, will investigate a complaint in a manner that is appropriate to resolve it as efficiently as possible and is proportionate to the seriousness of the matters raised.
55. All concerns, complaints and MP letters will be risk assessed on receipt using the risk grading matrix found in Appendix 5. All cases that are risk assessed as amber or red will be notified to the GMSS Senior Management Team (SMT) immediately.
56. All complaints will be acknowledged no later than three working days after the day the complaint is received (either by telephone, email or letter) and an offer will be made, as appropriate, to discuss with the complainant:
- An action plan for handling the complaint
  - Any additional information that may be required
  - Timescales for responding
  - The complainant's expectations and desired outcome
  - Information in relation to the provider of independent advocacy services in their geographical area e.g. the Independent Complaints Advocacy
  - Consent
57. If the complainant does not accept the offer to discuss the complaint, the Head of Policy and Corporate Operations will determine the response period and notify the complainant in writing.
58. The complainant can expect that:
- They will be kept up to date
  - Their complaint will be investigated and, where appropriate, they will receive an explanation based on facts
  - To be assured that the matters they have raised have been investigated and action taken, where relevant, to prevent a recurrence
  - To be informed of any learning
  - A remedy will be made where appropriate
59. On receipt of the investigation report, a response to the complaint will be prepared and the Head of Policy and Corporate Operations will include information on the next stages of the complaints procedure, should the complainant be unhappy with the investigation findings and wish to take matters further.
60. Where the complaint involves more than one NHS or social care body, the Head of Policy and Corporate Operations will adhere to the duty to cooperate as contained in the national legislation. Where complaints involve more than one body, discussions will take

place about the most appropriate body to take the lead in coordinating the complaint and communicating with the complainant.

61. Where the Head of Policy and Corporate Operations receives a complaint involving several bodies, permission will be sought from the complainant before sharing or forwarding a complaint to another body. Consent will need to be obtained to forward the complaint to any provider.
62. As soon as it is reasonably possible on completion of the investigation, and within the timescale agreed with the complainant, the Head of Policy and Corporate Operations (or delegated deputy) will draft a formal written response to the complainant. The response will include:
- An explanation of how the complaint has been considered
  - An explanation based on facts
  - Whether the complaint in full or in part is upheld
  - An apology (where it has been identified that there were failings in the service provided)
  - The conclusions reached in relation to the complaint, including any remedial action that the organisation considers to be appropriate
  - Confirmation that the organisation is satisfied any action has been or will be actioned
  - Where possible, an explanation will be given as to any lessons learnt
  - Contact details for the Investigating Officer and an invitation to contact the Officer should the complainant have any questions for clarification they wish to discuss
  - An explanation of the available options should the complainant be unhappy with the response
63. A key consideration is to make arrangements flexible; treating each case according to its individual nature with a focus on satisfactory outcomes, organisational learning and those lessons should lead to service improvement.

## **Roles and responsibilities**

64. The National Health Service Complaints Regulations 2009 includes statutory responsibilities for senior management.
65. Managing Director responsibilities:
- Overall accountability for ensuring that the Complaints Policy meets the statutory requirements as set out in the regulations
  - Responsible for approving and signing complaint response letters. Regulation 4 (2) allows the functions of the responsible officer to be performed by any person authorised to act on the responsible officer's behalf.
66. Head of Policy and Corporate Operations responsibilities:
- Oversees arrangements for complaints handling
  - Management of the procedures for handling complaints and concerns and for consideration of complaints made under the regulations.

- Ensure information from complaints is reported into appropriate clinical quality and risk committees and forums to enable organisational review and learning

67. Head of Service responsibilities:

- Facilitation of the investigation and resolution of complaints and concerns
- Recording details of the complaint on a database, the outcome, and any learning from the complaint

68. Subject matter experts\* responsibilities:

- Provision of a response for particular issues requiring specialist knowledge

\*Subject Matter Experts are jointly identified by GMSS as having specific knowledge or expertise relating to the matters raised in a complaint.

## **Referrals to the Parliamentary and Health Service Ombudsman**

69. If a complainant is dissatisfied with the handling of their complaint and does not wish to allow further local resolution of their complaint by GMSS, they can ask the [Parliamentary and Health Service Ombudsman \(PHSO\)](#) to review the case.

70. The PHSO may investigate a complaint where, for example:

- A complainant is not satisfied with the result of the investigation undertaken
- The complainant is not happy with the response and does not feel that their concerns have been resolved
- GMSS has decided not to investigate a complaint on the grounds that it was not made within the required time limit

71. The Head of Policy and Corporate Operations will provide information to complainants about how to contact the PHSO when issuing the formal written response.

72. When informed that a complainant has approached the PHSO, GMSS will cooperate fully with the PHSO and provide all information that has been requested to support their external review. The Senior Management Team will be immediately informed of all complaints that are escalated to the PHSO so that the staff involved can be informed.

73. The Head of Policy and Corporate Operations, on behalf of GMSS, can also refer a complainant to the Parliamentary Health Service Ombudsman if the complainant continues to remain unhappy and it is felt that everything possible has been done to resolve their concerns locally. Decisions of this nature will be made by the Head of Policy and Corporate Operations in agreement with the Managing Director.

## **Record keeping**

74. Keeping clear and accurate records of complaints is important and these should be retained in line with GMSS retentions policy and for a minimum period of ten years.

## **Monitoring and reporting**

75. The Head of Policy and Corporate Operations will demonstrate how feedback is used to learn and improve the functions provided by GMSS and the services it provides.

76. Quarterly updates and annual reports will be produced for GMSS, which will detail as a minimum:

- numbers of complaints received
- numbers of complaints received considered to be based on solid evidence or good reasons (complaints upheld)
- issues and key themes that the complaints have raised
- lessons learnt
- actions taken, or being taken, to improve services as a result of the complaints made
- number of cases that are being considered or referred to the Parliamentary and Health Service Ombudsman

## **Supporting staff**

77. All documentation relating to the investigation will be stored securely in Datix. Members of staff named in the complaint (personally or by role) should be informed of the complaint, and fully supported by their relevant line manager. The investigation should be comprehensive, fair and timely, and should not apportion blame. A range of sources of support are available for staff, including:

- Line Manager
- Head of Service
- Peer support
- Occupational health
- Professional bodies
- First Assist

## **Distribution and training**

78. GMSS will ensure that all staff and the general public are aware of the complaints policy and procedures as well as the different ways in which to raise concerns, complaints and compliments.

79. All GMSS staff will be made aware of this policy.

## **Quality Assurance**

80. The Head of Policy and Corporate Operations will monitor both the effectiveness of this policy, and how concerns, complaints and issues raised in MP letters are used to improve services and delivery of care. Specifically, the Head of Policy and Corporate Operations will provide a system to:

- Disseminate learning from complaints across the relevant parts of the organisation
- Include the use of complaints procedures as a measure of performance and quality

- Use complaints information to contribute to practice development, commissioning and service planning

## **Equality Impact Assessment**

81. An initial assessment of the potential impact of the policy in relation to the protected characteristics of the Equality Act 2010 has been carried out. The intention of the equality impact assessment is to eliminate unlawful discrimination, advance equality of opportunity and foster good relations as stated in the Equality Act.
82. The assessment includes the protected characteristics of race, disability, gender, sexual orientation, age, religious or other belief, marriage and civil partnership, gender reassignment and pregnancy and maternity) as well as to promote positive practice and value the diversity of individuals and communities.
83. At this stage, no adverse impacts have been identified that arise specifically from the policy. However, further information will be sought during wider consultation with patients and the public.

## **Compliance and review**

84. Compliance with the policy and procedures laid down in this document will be monitored by the Head of Policy and Corporate Operations together with independent reviews by both internal and external audit on a periodic basis.
85. The Head of Policy and Corporate Operations is responsible for the monitoring, revision and updating of this document. This policy will be kept under review in light of operational experience and national guidance. The next review will take place one year from issue.



## Appendix 1 – Definitions

Being Open	Is a process of acknowledgment, apologising and explaining when things go wrong in any healthcare environment. Conducting a thorough investigation into incidents and reassuring service users, their families and carers that lessons learned will help prevent the incident recurring. Providing support for those involved to cope with the physical and psychological consequences of what happened. It is important to note that saying sorry is not an admission of liability and is the right thing to do
Compliment	Praise for a service or care provided / commissioned
Concern	An indication that something may go wrong if a system, process or action is not changed
Complaint	Where someone expresses an explicit dissatisfaction in relation to their experiences of the healthcare system
ICA	Independent Complaints Advocacy
Stakeholders	A person, group, professional body or organisation with an interest in the service being provided, for example, members of the public including service users, GPs, Dentists, Opticians, Pharmacists and the Local Authority
Investigating Officer	The person assigned to investigate a complaint or concern
Receiving Organisation	The Organisation that first receives the complaint
The Regulations	Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

## Appendix 2 – My expectations for raising concerns and complaints

### A user-led vision for raising concerns and complaints

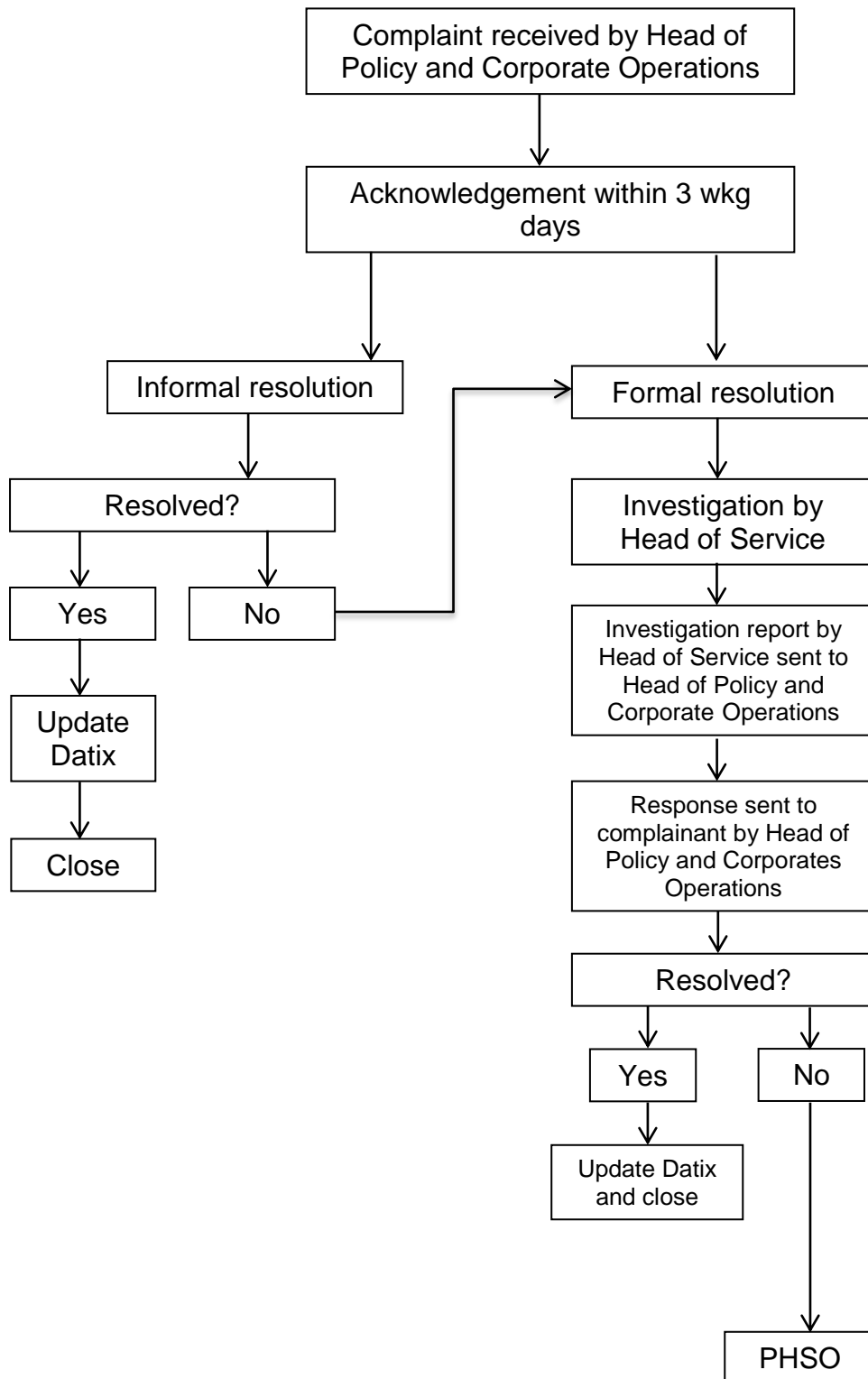


## **Appendix 3 – Parliamentary and Health Service Ombudsman’s Principles of Good Complaint Handling**

<http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-complaint-handling-full>

1. Getting it right
2. Being Customer Focused
3. Being Open and Accountable
4. Acting fairly and proportionately
5. Putting things right
6. Seeking continuous improvement

## Appendix 4 – Process flow chart



## Appendix 5 – Risk Grading Matrix

Complaint Grading Matrix						
		Consequences				
		Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Likelihood of Recurrence	Rare (1)	1	2	3	4	5
	Unlikely (2)	2	4	6	8	10
	Possible (3)	3	6	9	12	15
	Likely (4)	4	8	12	16	20
	Almost certain (5)	5	10	15	20	25

### Consequence Definitions

Grade	Consequence examples	Example of seriousness of complaint	Impact on staff/organisation	Potential for litigation
5 – Catastrophic	Death	When failures in the system or mistakes contribute to or have caused permanent harm, and / or where there have been deliberate acts of negligence	National adverse publicity	Litigation expected
4 – Major	Permanent injury	When failures in the system or mistakes contribute to or have caused significant injury or poor clinical outcome	Service closure	Litigation expected
3 – Moderate	Semi-permanent damage	When failures in the system or mistakes contribute to an infection, fall, poor standard of care or communication	Needs careful PR management	Litigation highly probable but not certain
2 – Minor	Short-term injury / damage	When failures in the system or mistakes contribute to, or have caused temporary discomfort / frustration / inconvenience	Minimal risk to organisation	Litigation possible
1 – Insignificant	No injury or adverse outcome	When mistakes or failures in the system are corrected before they have any impact on the patient	No risk at all to organisation	Litigation risk remote

### Likelihood Definitions

Likelihood Rating	Description
5 – Almost certain	This type of event is more likely to occur than not on a daily basis
4 – Likely	This type of event will occur on a weekly basis in most circumstances
3 – Possible	This type of event has a reasonable chance of occurring on a monthly basis
2 – Unlikely	Unlikely that this type of event will occur more than once a year
1 – Rare	Cannot believe that an event of this type will occur in the foreseeable future

## **Appendix 6 – Guidance for dealing with persistent and unreasonable complainants**

### **Introduction**

1. This guidance covers all contacts, enquiries and complainants. It is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint within the GMSS Complaints Policy. Persistent complainants may have genuine issues and it is therefore important to ensure that this process is fair and the complainant's interests have been taken into consideration.

### **Purpose of guidance**

2. To assist Officers to identify when a person is persistent or unreasonable, setting out the action to be taken.

### **Definition of persistent and unreasonable complainants**

3. There is no one single feature of unreasonable behaviour. Examples of unreasonable behaviour may include those who:
  - Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted
  - Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff, and where appropriate, the relevant independent advocacy services (ICA) could assist to help them specify their complaint
  - Withhold their consent for the complaint to be investigated or for key staff to be contacted for the purposes of investigating the complaint.
  - Continually make unreasonable or excessive demands in terms of process and fail to accept that these may be unreasonable e.g. insist on responses to complaints being provided more urgently than is reasonable or is recognised practice
  - Continue to focus on a 'trivial' matter to an extent that it is out of proportion to its significance. It is recognised that defining 'trivial' is subjective and careful judgment must be applied and recorded
  - Change the substance of a complaint or seek to prolong contact by continually raising further issues in relation to the original complaint. Care must be taken not to discard new issues that are significantly different from the original issue. Each issue of concern may need to be addressed separately
  - Consume a disproportionate amount of time and resources
  - Threaten or use actual physical violence towards staff
  - Have harassed or been personally abusive or verbally aggressive on more than one occasion (this may include written abuse e.g. emails)
  - Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual
  - Make excessive telephone calls or send excessive numbers of emails or letters to staff

## **Actions prior to designating a complainant as unreasonable or persistent**

4. It is important to ensure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of considerations to bear in mind when considering imposing restrictions upon a complainant.

These may include:

- Ensuring the complainant's case is being, or has been dealt with appropriately, and that reasonable actions will follow, or have followed, the final response
- Confidence that the complainant has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent
- Checking that new or significant concerns are not being raised, that require consideration as a separate case
- Applying criteria with care, fairness and due consideration for the client's circumstances – bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss or significant/sudden changes to the complainant's lifestyle, quality of life or life expectancy
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour, and the impact upon staff
- Ensuring that the complainant has been advised of the existence of the policy and has been warned about, and given a chance to amend their behaviour

5. Consideration should be also given as to whether any further action can be taken prior to designating the complainant unreasonable or persistent.

This might include:

- Allocating a new Case Officer
- Raising the issue with a Director with no previous involvement, in order to give an independent view
- Where no meeting with staff has been held, consider offering this at a local level as a means to dispel misunderstandings (only appropriate where risks have been assessed)
- Where multiple departments are being contacted by the complainant, consider a strategy to agree a cross-departmental approach
- Consider whether the assistance of an advocate may be helpful
- Consider the use of ground rules for continuing contact with the complainant.

Ground rules may include:

- Time limits on telephone conversations and contacts
- Restricting the number of calls that will be taken or agreeing a timetable for contacting the service
- Requiring contact to be made with a named member of staff and agreeing when this should be
- Requiring contact via a third party e.g. advocate
- Limiting the complainant to one mode of contact
- Informing the complainant of a reasonable timescale to respond to correspondence
- Informing the complainant that future correspondence will be read and placed on file, but not acknowledged

- Advising that the organisation does not deal with calls or correspondence that is abusive, threatening or contains allegations that lack substantive evidence. Request that the complainant provides an acceptable version of the correspondence or make contact with a third party to continue communication with the organisation
- Ask the complainant to enter into an agreement about their conduct
- Advise that irrelevant documentation will be returned in the first instance and (in extreme cases) in future may be destroyed
- Adopting a 'zero tolerance' policy. This could include a standard communication line, for example: "The NHS operates a zero tolerance policy, and safety of staff is paramount at all times. Staff have a right to care for others without fear of being attacked either physically or verbally"

### **Process for managing unreasonable or persistent behaviour**

6. Where a complainant has been identified as unreasonable or persistent, the decision to declare them as such is made jointly by the Head of Policy and Corporate Operations and the Managing Director of GMSS.
7. The Head of Policy and Corporate Operations will write to the complainant, informing them that either:
  - Their complaint is being investigated and a response will be prepared and issued as soon as possible within the timescales agreed
  - That repeated calls regarding the complaint in question are not acceptable and will be terminated, or;
  - Their complaint has been responded to as fully as possible and there is nothing to be added
  - That any further correspondence will not be acknowledged
8. All appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation.
9. If the declared complainant raises any new issues then they should be dealt with in the usual way.
10. Review of the persistent status should take place at six monthly intervals.

### **Urgent or extreme cases of unreasonable or persistent behaviour**

11. In urgent or extreme cases, immediate action may be taken to address unreasonable behaviour. Safeguarding and zero tolerance policies and procedures will be implemented and the case will be discussed with the appropriate Director to develop an action plan. This may include the use of emergency services in some circumstances. Where this happens, a review of the case will be undertaken at the first opportunity after the event.



**Record keeping**

12. Ensure that adequate records are kept of all contact with unreasonable and persistent complainants. Consideration should be given as to whether the organisation should take further action, such as reporting the matter to the police, taking legal action, or using the risk management or health and safety procedures to follow up such an event in respect of the impact upon staff.

## **Appendix 7 – Guide to good complaints handling**

<https://www.england.nhs.uk/wp-content/uploads/2015/11/ccc-toolkit-primary-care.pdf>

<https://www.england.nhs.uk/wp-content/uploads/2015/11/ccc-toolkit-acute.pdf>

## **Appendix 8 – Contact details**

### **Greater Manchester Shared Services (GMSS)**

GM Shared Services (hosted by NHS Oldham CCG)  
Ellen House  
Waddington Street  
Oldham  
OL9 6EE

Phone: 0161 212 4186

Email: [corporatesupport@nhs.net](mailto:corporatesupport@nhs.net)

### **Independent Complaints Advocacy**

Greater Manchester ICA  
c/o Gateway Conference Centre  
71 London Road  
Liverpool  
M3 8HY

Tel: 0808 801 0390

Email: [manchesterica@carersfederation.co.uk](mailto:manchesterica@carersfederation.co.uk)

### **Parliamentary and Health Service Ombudsman**

Millbank Tower  
Millbank  
London  
SW1P 4QP

Tel: 0345 015 4033

Email: [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)

## Appendix 9 – References

- NHS Constitution updated March 2013
- GMCSU Confidentiality Policy April 2013
- GMCSU Data Protection Policy April 2013
- GMCSU Incident Management Policy
- GMCSU Safeguarding Policy
- GMCSU Whistleblowing policy
- GMCSU Risk management strategy and risk management policy
- Putting Patients First: The NHS England Business Plan for 2013/14 – 2015/16
- Caldicott Report 1997
- Equality Act 2010
- Freedom of Information Act 2000
- Human Rights Act 1998
- Listening, Responding and Improving – A Guide to Better Customer Care (2009)  
<http://dh.gov.uk>
- Principles of good administration. Parliamentary and Health Service Ombudsman (2009)  
<http://www.ombudsman.org>
- Principles of good complaints handling. Parliamentary and Health Service Ombudsman (2008) <http://www.ombudsman.org>
- Principles for remedy. Parliamentary and Health Service Ombudsman (2007)  
<http://www.ombudsman.org>
- Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry
- Executive Summary February 2013
- Superannuation Act 1972
- The Data Protection Act 1998
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 <http://dh.gov.uk>