

Complaints Policy

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Change History

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0.2	Draft	14/10/2014	B Fasham	Updates following comments received by SMT and FLAG
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1.0	Approved	27/11/2014	B Fasham	Approved by Chief Officer
1.1	Approved	24/08/2015	B Fasham	Updated flow chart to include feedback
1.2	Review	08/09/2017	H Reeves	Additional flow chart as appendix 3
1.3	Review	03/10/2017	V Medhurst	Minor amendments
1.4	Review	16.10.2017	H Reeves	Addition of information retention guidance.
0.2	Approved	20.10.2017	H Reeves	Approved by Chief Officer

Introduction

1. The purpose of this document is to provide a framework for managing complaints in accordance with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (the Regulations).
2. This policy complies with guidance from NHS England Guide to good handling of complaints for CCGs. It also takes account of the principles laid out in the Parliamentary and Health Service Ombudsman Principles of Good Complaints Handling (2009) and the NHS Constitution.

3. The policy sets out the way in which complaints are to be managed. It emphasises the importance of prompt resolution wherever possible. The policy also sets out the timeframes for responding to complaints, individuals' roles in the process and the reporting structure for complaints information.

Policy Statement

4. NHS Lewisham CCG is committed to ensuring that complaints, concerns and issues raised by patients, relatives and carers are acknowledged, responded to and that the CCG learns from them to continually improve the services it provides.

Related Policies

Lewisham CCG Information Governance Policy

Scope

5. This policy applies to the handling of complaints or concerns relating to services directly commissioned by NHS Lewisham CCG. For complaints about services other than those commissioned by NHS Lewisham CCG, please refer to the complaints service of the provider concerned. Where the complaint is in part about care commissioned by NHS Lewisham CCG, NHS Lewisham CCG is willing to take on the coordinator role where possible to ensure a single response is coordinated to the patient.
6. 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 NHS Lewisham CCG.
7. All staff have a responsibility to ensure that they are aware of the contents of this policy and have undertaken training as appropriate.

Complaints that cannot be dealt with under this policy

8. The following complaints will not be dealt with under this policy:
 - A complaint made by a local authority, NHS body, primary care provider or independent provider
 - A complaint made by an employee about any matter relating to their employment¹
 - A complaint which is made orally and resolved to the complainant's satisfaction no later than the next working day
 - A complaint, the subject matter of which has previously been investigated under the 2009 Regulations or previous Regulations
 - A complaint which is being or has been investigated by the Ombudsman

¹ These complaints will be handled under Lewisham CCG's Grievance Policy.

- A complaint arising out of an NHS body's alleged failure to comply with a request for information under the Freedom of Information Act 2000²
- 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 schemes³

Who can make a complaint?

9. Any person who receives or has received services from or commissioned by NHS Lewisham CCG or any person who is affected, is likely to be affected, by the action, omission or decision of NHS Lewisham CCG.
10. 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 Integrated Governance, 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 been given the complainant's consent to act on their behalf
 - 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
11. Carers can make a complaint on behalf of the person they care for where the person is a child, has asked the carer to act on their behalf and the CCG is in receipt of a valid consent form, or if the complainant is not capable of making the complaint themselves. The CCG will pay due regard to the Mental Capacity Act (2005) in these circumstances.

² These complaints are handled by the Information Commissioner's Office.

³ These complaints are handled by the NHS Pensions Agency.

12. If a complaint or concern is an allegation or suspicion of abuse for a person over the age of 18, for example sexual abuse, physical neglect or abuse, or financial abuse, it will immediately be forwarded to the Safeguarding Adults Team at the London Borough of Lewisham for an investigation to be undertaken following the appropriate safeguarding policies and procedures. NHS Lewisham CCG will review the complaint or concern in line with the Serious Incident policy to determine whether there is a requirement to contact the provider and request that they investigate the concerns as a Serious Incident. NHS Lewisham CCG will notify the complainant that their concerns will be managed via the safeguarding process.
13. If a complaint or concern is an allegation or suspicion of abuse for a person under the age of 18, for example sexual abuse, physical neglect or abuse, or financial abuse, it will immediately be forwarded to the Children's Safeguarding Team at the London Borough of Lewisham for an investigation to be undertaken following the appropriate child protection policies and procedures. NHS Lewisham CCG will review the complaint or concern in line with the Serious Incident Policy to determine whether there is a requirement to contact the provider and request that they investigate the concerns as a Serious Incident. NHS Lewisham CCG will notify the complainant that their concerns will be managed via the safeguarding process.
14. In a situation where a person discloses physical or sexual abuse, or criminal or financial misconduct, it will be reported using appropriate policies and procedures. NHS Lewisham CCG is bound under its duty in the Health and Social Care Act 2012 to report the disclosure even if the person does not want to make a complaint. NHS Lewisham CCG will notify the complainant that their concerns will be managed via the safeguarding process.
15. In case involving a vulnerable adults or children, including threat of self-harm and/or harm to others, all officers will implement effective safeguarding policies and practice, referring to the appropriate safeguarding board. NHS Lewisham CCG will notify the complainant that their concerns will be managed via the safeguarding process.
16. Any allegations of fraud or financial misconduct will be referred to the National Fraud Reporting line; details will NOT be taken by the complaints team.

How a complaint can be made

17. 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 known as local resolution. If the complainant has concerns relating to a service directly commissioned by NHS Lewisham CCG and where local resolution fails to achieve a satisfactory outcome, the complainant then has the right to raise a formal complaint with either the service provider or the commissioner of the service, NHS Lewisham CCG.

18. A complaint or concern can be received by mail, electronically or by telephone. Where the complaint is made by telephone a written record of the complaint will be made and provided to the complainant.

Timescales for complaints

19. Complaints can be made twelve months from the date on which the matter that is the subject of the complaint came to the notice of the complainant.

20. 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, NHS Lewisham CCG will still consider the complaint.

Confidentiality

21. Complaints will be handled in the strictest confidence. Care will be taken that information is only disclosed to those who have a demonstrable need to have access to it.

Consent

22. NHS Lewisham CCG will assume that when acquiring consent for the use and sharing of information, that the patient has made an informed decision and clearly understands the processing and potential sharing of their information.

23. Information will not be disclosed to third parties unless the complainant or appropriate authorised party who has provided the information has given consent to the disclosure of that information unless the complaint or concern is an allegation or suspicion of abuse (please see paragraphs 12 and 13).

24. However, it is recognised that there may be circumstances in which information disclosure is in the best interests for the patient, or the protection, safety or wellbeing of a child or vulnerable adult. In these circumstances information will be escalated as necessary in line with safeguarding policies and procedures, as outlined in sections 12,13 and 14 above.

Investigation and organisational response

25. 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 the following:

- An action plan for handling the complaint
- Timescales for responding
- The complainant's expectations and desired outcome
- Information in relation to the provider of independent advocacy services
- Consent for NHS Lewisham CCG to pass the complaint to the service provider (as appropriate)

- Consent for NHS Lewisham CCG to handle the response provided by the service provider

26. NHS Lewisham CCG will investigate a complaint in a manner appropriate to resolve it as speedily and efficiently as possible.

27. The complainant can expect that NHS Lewisham CCG will:

- Undertake to investigate the complaint
- Keep the complainant up to date on the progress of the investigation
- Provide a response that is written in plain English
- Provide assurance that the matter has been investigated and action has been taken to prevent a recurrence
- Inform the complainant of any actions that will be taking as a result of the complaint and of the lessons learnt
- Make a remedy where appropriate

28. Where the complaint involves more than one NHS or social care body, NHS Lewisham CCG will adhere to the duty to cooperate contained in the Regulations. 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.

29. Where NHS Lewisham CCG receives a complaint involving several bodies, permission will be sought from the complainant before sharing or forwarding a complaint to another body. Consent will be obtained to forward the complaint to any provider.

30. As soon as reasonably practicable after completing the investigation NHS Lewisham CCG will send a formal response in writing to the complainant which will be signed by the Chief Officer or delegated deputy. The response will include:

- An explanation of how the complaint has been considered
- Conclusions reached in relation to the complaint including any remedial action that the organisation considers to be appropriate
- Confirmation that NHS Lewisham CCG is satisfied any action has been or will be actioned
- Information on the next stages of the complaints procedure should the complainant wish to take matters including the complainant's right to take their complaint to the Parliamentary and Health Service Ombudsman (PHSO).

Retention

31. Information received by LCCG in relation to PALs enquiries or formal complaints will be securely stored, following the Information Governance policy on confidential data and will

be kept for 10 years, as per the Records Management Code of Practice for Health and Social Care 2016 information retention schedule.

Responsibilities

32. Chief Officer

- Overall accountability for ensuring that the NHS Lewisham CCG Complaints Policy meets the statutory requirements as set out in the Regulations
- Responsible for approving and signing complaints response letters.

33. Corporate Director

- Responsible for ensuring NHS Lewisham CCG applies the principles of this policy and that there are suitable resources to support its implementation

34. Associate Director of Integrated Governance

- Responsible for managing the procedures for handling and considering complaints in accordance with the Regulations and local policy
- Ensure that where a complaint may need to be escalated as a Serious Incident that the complaint is shared with the Associate Director of Quality.
- Ensure information from complaints is reported into appropriate clinical quality and risk committees and forums to enable organisational review and learning

35. Corporate Services Administrative Manager

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

36. Directors

- Responsible for investigating and resolving complaints about commissioned services in line with the NHS Lewisham CCG Complaints Policy and process.

37. Employees

- It is the responsibility of all employees to familiarise themselves with this policy and comply with the provisions set out in it.

38. Governing Body

- Consider emerging themes and learning from the complaints reporting mechanism and identify service improvements as a result of complaints and concerns being raised.

Referrals to the Parliamentary and Health Service Ombudsman (PHSO)

39. If a complainant remains dissatisfied with the handling of the complaint by NHS Lewisham CCG they can ask the PHSO to review the case.

40. When informed that a complainant has approached the PHSO, NHS Lewisham CCG will cooperate fully with the PHSO and provide all information that has been requested in relation to the complaint investigation.

Implementation Plan

41. NHS Lewisham CCG will ensure that all employees are aware of the existence of this policy. The following will be undertaken to ensure awareness:

- Annual reminder of the existence and importance of the policy via internal communication methods
- Publication on the NHS Lewisham CCG website and intranet site

Monitoring Compliance and Effectiveness of the Policy

42. An annual report will be produced for the Integrated Governance Committee which will include:

- 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 which NHS Lewisham CCG has been advised are being considered or referred to the PHSO
- Equality impact data

43. Quarterly reports will be produced for SMT.

Unreasonable complainants

44. Detailed guidance on the management of persistent and unreasonable complaints is set out in Appendix 1

Definition of terms

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

46. Working day means any day except a Saturday, a Sunday and a bank holiday.

Appendix 1 - Guidance for dealing with unreasonable complainants

1. Introduction

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 NHS Lewisham CCG 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.

2. Purpose of guidance

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

3. Definition of unreasonable complainants

There is no one single feature of unreasonable behaviour. Examples of 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
- 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

4. Actions prior to designating a complainant as unreasonable

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
- 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 behavior. 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 behavior, 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 behavior

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

- 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

5. Process for managing unreasonable behaviour

Where a complainant has been identified as unreasonable, the decision to declare them as such is made by the Head of Integrated Governance. The Head of Integrated Governance 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

All appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation.

If the declared complainant raises any new issues then they should be dealt with in the usual way.

Review of the persistent status should take place at six monthly intervals.

6. Urgent or extreme cases of unreasonable or persistent behaviour

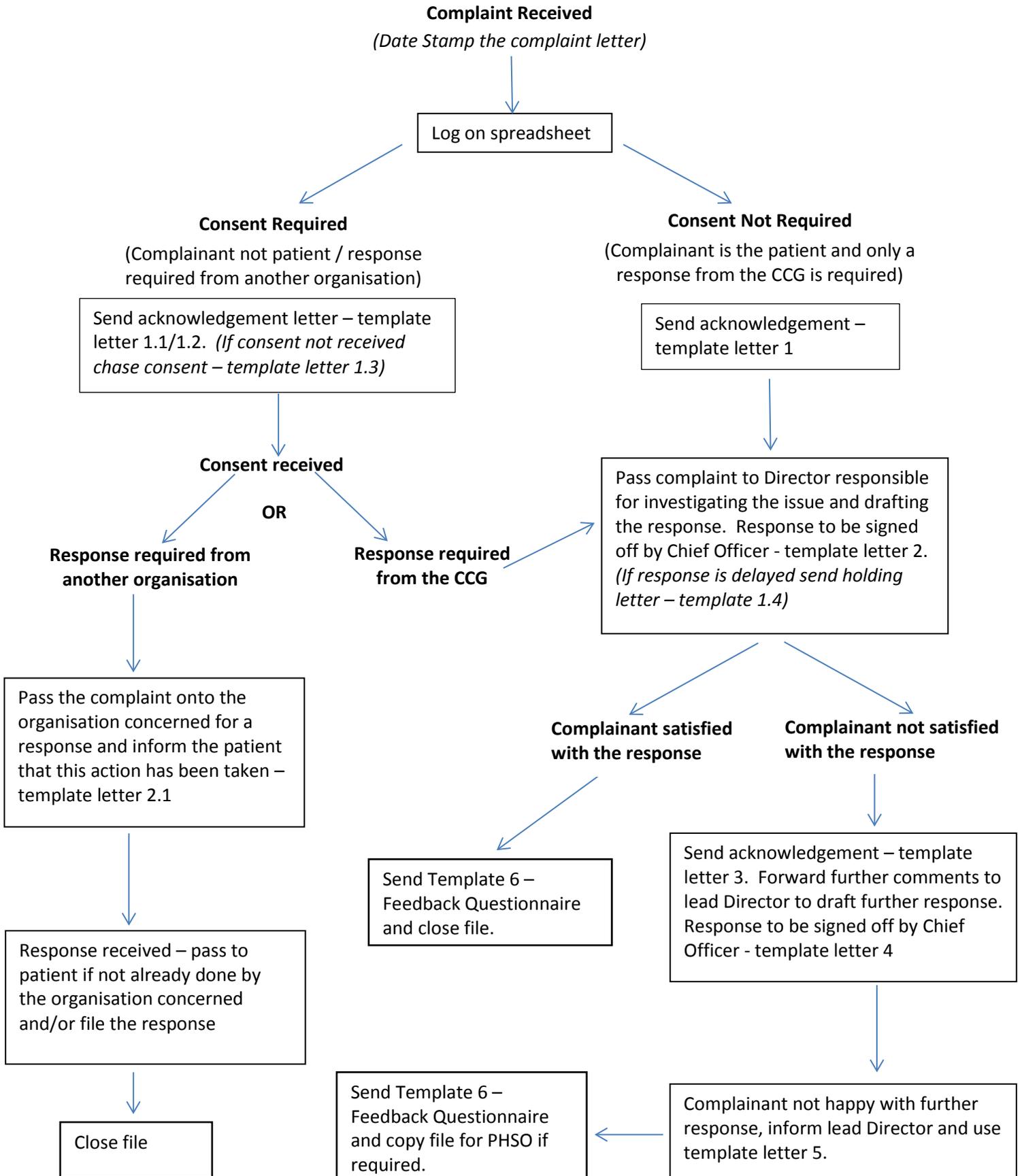
In urgent or extreme cases, adopt safeguarding and zero tolerance policies and procedures. Discuss the case with the appropriate Director to develop an action plan. In these circumstances, carry out a review of the case at the first opportunity after the event.

7. Record keeping

Ensure that adequate records are kept of all contact with unreasonable 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 2 – Lewisham CCG Complaints Process by PALS and Complaints Team



Appendix 3 – Lewisham CCG Complaints Process – Complaints received by staff members

Complaint Received by staff member at Lewisham CCG

Complaint received via telephone:
Inform the complainant that LCCG have a PALs and Complaints Team, who will happily investigate their concerns.
Take full contact details and inform them the team will be in touch within 3 working days.

Complaint received via email:
In the first instance please reply to the email, informing the complainant that you have passed their email onto the PALs and Complaints Team and that the team will be in touch within 3 working days.
Please pass the email and any relevant information to the team ASAP.

Complaint received via post:
Please pass the letter to the PALs and Complaints Team.
The team will take forward any acknowledgement and correspondence going forward.
If appropriate, the investigation and response will be shared with you.

Investigations managed by the LCCG PALs and Complaints Team