

POLICY FOR THE REPORTING AND MANAGEMENT OF PATIENT COMPLAINTS

May 2014

Authorship:	Liz Vickerstaff RGN RMN BSc Pennie Furneaux, Policy & Assurance Manager
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The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as ‘uncontrolled’ and as such may not necessarily contain the latest updates and amendments.

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POLICY AMENDMENTS

Amendments to the Policy will be issued from time to time. A new amendment history will be issued with each change.

New Version Number	Issued by	Nature of Amendment	Approved by & Date	Date on Intranet
1.1	Pennie Furneaux, Policy & Assurance Manager	Review and update		

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1. Introduction

The Vale of York Clinical Commissioning Group (VoY CCG) is committed to working in partnership with patients, the public and other key stakeholders for the improvement of health across the local community.

The purpose of this document is to provide staff with a framework for the Vale of York Clinical Commissioning Group complaints policy in meeting the requirements of The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

The policy describes how Vale of York Clinical Commissioning Group manages, responds to and learns from complaints made about its services and the way in which they are commissioned.

The policy includes the fundamental requirements of good complaints and concerns handling used by Vale of York Clinical Commissioning Group to deliver arrangements in an easily accessible, equitable, sensitive and open manner. It also takes account of the principles laid out in Putting Patients First: The NHS England Business Plan for 2013/14 – 2015/16 and the NHS Constitution.

Vale of York Clinical Commissioning Group is committed to high quality care 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.

Vale of York Clinical Commissioning Group recognises 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.

Vale of York Clinical Commissioning Group 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 patient services.

The complaints system incorporates the Parliamentary and Health Service Ombudsman 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

The policy is informed by the NHS Constitution that includes a number of recommendations relating to patient rights. Patients have the right to:

- Have their complaint acknowledged and properly investigated

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- 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 the patient thinks that they have been directly affected by an unlawful act or decision of an NHS body; and
- Receive compensation if the patient has been harmed by medical negligence

The policy is also informed by:

- Principles of openness, transparency and candour throughout the system
- Patients 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

2. Being Open with Patients and Relatives

Vale of York Clinical Commissioning Group is committed to improving communication with patients and carers. When things go wrong, it is essential that the relevant parties are kept fully informed and feel supported. The being open process underpins the local resolution stage of the complaints process.

Being open involves:

- Apologising and explaining what happened to patients and or their carers
- Conducting a thorough investigation into the complaint and reassuring patients and/or their carers that lessons will be learned to prevent reoccurrence
- Providing support for the patient, relative or carer to cope with the physical and psychological consequences of what happened and ensures communication is open, honest, and occurs as soon as possible after a complaint is received.

Vale of York Clinical Commissioning Group will also ensure that the actions taken as a result of complaints are published annually in our annual report.

This policy will be placed on the CCG internet and will be shared with staff.

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3. Policy Statement

Vale of York Clinical Commissioning Group will treat complaints seriously and ensure that complaints, concerns and issues raised by patients, relatives and carers 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 by the investigating organisation.

The main aims of the policy are:

- To provide easily accessible clear and easy to understand procedures for managing complaints
- To provide a consistent approach to the management and investigation of complaints
- 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 complaints process
- To identify the causes of complaints 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
- To assist in promoting an open, honest and transparent organisational culture
- To ensure that Vale of York Clinical Commissioning Group meets its legal obligations
- To act as a key tool in ensuring the good reputation of Vale of York Clinical Commissioning Group

4. Scope

This policy applies to the handling of complaints or concerns relating to primary care (GPs, dentists, pharmacists and optometrists), offender and military health services or a service directly commissioned by Vale of York Clinical Commissioning Group. For complaints about services other than those commissioned by Vale of York Clinical Commissioning Group, please refer to the complaints service of the relevant Commissioning Group or provider concerned.

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 Vale of York Clinical Commissioning Group. All staff have a responsibility to ensure that they are aware of the contents of this policy and have undertaken training as appropriate.

5. Complaints That Cannot be Dealt With Under This Policy

The following complaints will not be dealt with under the NHS Complaints

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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 arrangements made by an NHS body with that independent provider or NHS Foundation trust
- A complaint which is being or has been investigated by the 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

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

6. Definition of a Complaint or Concern

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

7. Who Can Make a Complaint?

Any person, who is affected by, is likely to be affected by or is aware of an action, omission or decision of Vale of York Clinical Commissioning Group, or a service commissioned by Vale of York Clinical Commissioning Group for the purposes of delivering health care to NHS users, with appropriate consent.

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

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opinion of the Senior Customer Contact Centre Manager, 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 on behalf of the 'affected' person we will request the following information:
 - Name and address of the person making the complaint;
 - 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 behalf. This will be documented in the complaint file 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.

8. Carer's Rights

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, or is not Vale of York Clinical Commissioning Group 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.

If the Chief Clinical Officer or their delegated officer 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.

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.

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 does not want to make a complaint.

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In case involving a 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 the appropriate safeguarding board.

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 on their Website: <https://www.reportnhsfraud.nhs.uk/>

9. How to Make a Complaint

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. If the complainant has concerns relating to primary care (GPs, dentists, pharmacists or optometrists), offender and military health services or a service directly commissioned by Vale of York Clinical Commissioning Group 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, Vale of York Clinical Commissioning Group. Should you need to contact Vale of York Clinical Commissioning Group, contact details are at the end of this policy.

A complaint or concern can be received by white mail (e.g. letters), electronically or by telephone.

10. Timescales for Complaints

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.

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, Vale of York Clinical Commissioning Group may decide to still consider the complaint, for example, longer periods of complaint timescales may apply to specific clinical areas.

11. Confidentiality

Complaints will be handled in the strictest confidence in accordance with the Vale of York Clinical Commissioning Group Confidentiality Policy, and should be kept separately from patient medical records. Care will be taken that information is only disclosed to those who have a demonstrable need to have access to it.

Suitable arrangements must be in place for the handling of patient identifiable data, to meet compliance with the Data Protection Act 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.

Confidentiality will be maintained in such a way that only managers and staff who are leading the investigation know the contents of the case.

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Anyone disclosing information to others who are not directly involved in the case should be dealt with under disciplinary procedures.

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 noncompliance.

12. Consent

There is an expectation that when capturing 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. Staff must also understand the expectations of confidentiality that the information is provided under.

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. See Section 17 for arrangements regarding MPs acting on behalf of constituents.

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 escalate as necessary in line with safeguarding policies and procedures.

13. Investigation and Organisational Response

Vale of York Clinical Commissioning Group will investigate a complaint in a manner appropriate to resolve it as efficiently as possible, proportionate to the seriousness of the complaint.

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 in their geographical area e.g. the Independent Complaints Advocacy Service or VoiceAbility
- Consent for Vale of York Clinical Commissioning Group to pass the complaint to the service provider (as appropriate)
- Consent for Vale of York Clinical Commissioning Group staff to handle the response provided by the service provider

The complainant can expect that:

- They will be kept up to date

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- Their complaint will be investigated and, where appropriate, they will receive an explanation based on facts
- Assurance that the matter has been investigated and action has been taken to prevent a recurrence
- To be informed of any learning
- A remedy will be made where appropriate

On receipt of the investigation report a response to the complaint will be prepared and the Case officer will include information on the next stages of the complaints procedure should the complainant wish to take matters further.

Where the complaint involves more than one NHS or social care body, Vale of York Clinical Commissioning Group will adhere to the duty to cooperate contained in the 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.

Where Vale of York Clinical Commissioning Group 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.

As soon as it is reasonably possible after completing the investigation, and within the timescale agreed with the complainant, Vale of York Clinical Commissioning Group will send a formal response in writing to the complainant which will be signed by the Chief Accountable Officer or delegated deputy.

The response will include:

- An explanation of how the complaint has been considered
- An apology
- An explanation based on facts
- Whether the complaint in full or in part is upheld
- 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, we will respond to people about any lessons learnt

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.

If the complainant does not accept the offer to discuss the complaint, the Case Officer will determine the response period and notify the complainant in writing.

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14. Impact Analysis

Equality

In developing this policy an equalities impact analysis has been undertaken. As a result of performing the analysis, this policy does not appear to have any adverse effects on people who share Protected Characteristics and no further actions are recommended at this stage. VoY CCG is committed to ensuring that patients whose first language is not English receive the information they need and are able to communicate appropriately with healthcare professionals. All information in relation to the complaints process is available in alternative languages and formats upon request.

Every complainant is dealt with as an individual and spoken with to agree their preferred outcome and how we will maintain contact. Adjustments are made on an individual basis.

We seek views of complainants at the end of the process for their input on whether the complaints process was followed to their satisfaction. An equality and diversity monitoring form accompanies the survey which is completed voluntarily.

A copy of the completed Equality Impact Analysis can be found at Appendix 3.

Sustainability

The Sustainability Impact Assessment identifies two positive impacts in relation to this policy or the CCG's sustainability themes. These relate to teleconferencing and electronic documentation and meeting management. See Appendix 4

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Bribery Act 2010

The Bribery Act is particularly relevant to this policy. Under the Bribery Act it is a criminal offence to:

- Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and
- Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.

These offences can be committed directly or by and through a third person and other related policies and documentation (as detailed on the CCG intranet) when considering whether to offer or accept gifts and hospitality and/or other incentives.

Anyone with concerns or reasonably held suspicions about potentially fraudulent activity or practice should refer to the Local Anti-Fraud and Corruption Policy and contact the Local Counter Fraud Specialist

There are no requirements to the provisions of the Bribery Act 2010 within this policy. See Appendix 5

15. Roles, Responsibilities and Duties

Chief Clinical Officer

Responsibilities:

- Overall accountability for ensuring that the Vale of York Clinical Commissioning Group
-

Complaints Policy meets the statutory requirements as set out in the regulations

- Responsible for approving and signing complaints response letters. Regulation 4 (2) allows the functions of the responsible officer to be performed by any person authorised by Vale of York Clinical Commissioning Group to act on the responsible officer's behalf. For primary care complaints, Vale of York Clinical Commissioning Group has delegated responsibility in place for signing of complaints.

North Yorkshire and Humber Clinical Support Unit

Complaints management is handled by the North Yorkshire and Humber Clinical Support Unit, (NYHCSU), on behalf of the Vale of York Clinical Commissioning Group. NYHCSU responsibilities:

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- Oversees Vale of York Clinical Commissioning Group arrangements for complaints handling
- Ensures information from complaints is reported into appropriate clinical quality and risk committees and forums to enable organisational review and learning
- Facilitation of the resolution of complaints and concerns
- Recording details of the complaint on a database, the outcome, and any learning from the complaint
- Provision of response for particular issues requiring specialist knowledge
- Consider emerging themes and learning from the complaints reporting mechanism and identify service improvements as a result of complaints and concerns being raised
- Support the CCG through analysis of complaints information to assist organisational learning and to inform local service commissioning

VoY CCG will delegate authority to other organisations where there are contractual and governance arrangements in place with a clear line of accountability from the delegate back to the CCG, to investigate and manage complaints, with the requirement to report to CCG as per contractual arrangements. Delegated authority is formally agreed for The Director of the Partnership Commissioning Unit. Delegated organisations will implement systems for ensuring that all investigations into complaints are tracked and monitored and target dates for responses are met. (Appendix 1)

Investigating managers will be responsible for the management of the complaints investigation and response in line with the VoY CCG Complaints Procedure.

All staff are responsible for being aware of their obligations with regard to complaints as outlined in the VoY CCG complaints procedure.

16. Implementation

VoY CCG has documented a framework for staff to utilise when managing complaints. This procedure includes the management of complaints received by VoY CCG with regard to its commissioning functions and those regarding independent contractors.

VoY CCG has adopted the approach outlined in the DH Regulations which aims to resolve the issue at the most local level

17. Referrals to the Parliamentary and Health Service Ombudsman

If a complainant remains dissatisfied with the handling of the complaint by Vale of York Clinical Commissioning Group, they can ask the Parliamentary and Health Service Ombudsman (PHSO) to review the case.

The PHSO may investigate a complaint where, for example:

- A complainant is not satisfied with the result of the investigation undertaken by Vale of York Clinical Commissioning Group
- The complainant is not happy with the response from Vale of York Clinical Commissioning Group and does not feel that their concerns have been resolved

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- Vale of York Clinical Commissioning Group has decided not to investigate a complaint on the grounds that it was not made within the required time limit

Vale of York Clinical Commissioning Group will provide information on how to contact the PHSO when issuing the formal written response.

When informed that a complainant has approached the PHSO, Vale of York Clinical Commissioning Group will cooperate fully with the PHSO and provide all information that has been requested in relation with the complaint investigation. The relevant director will be informed that a request for investigation has been made so that the staff involved can be informed.

Vale of York Clinical Commissioning Group can also refer a complaint to the Parliamentary Health Service Ombudsman for a final decision.

18. Record Retention

Keeping clear and accurate records of complaints is important. Complaints records should be retained for a period of ten years.

19. Monitoring and Reporting

Vale of York Clinical Commissioning Group will demonstrate positive use and feedback of complaints to learn and improve by monitoring both the effectiveness of the complaints process, and how complaints information is being used to improve services and delivery of care.

All information from patient complaints is collated and recorded onto a management database from which anonymised reports are produced for internal and external reporting. The Quality and Finance Committee will routinely receive these reports in order to triangulate patient feedback with other insight gathered by VoY CCG, such as incidents, comments, compliments and user feedback.

Complaints information will be proactively considered as part of all service re-design projects to ensure patient feedback is routinely used to improve services and inform commissioning intentions.

The CCG will:

- 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.

An annual report will be produced for the Vale of York Clinical Commissioning Group Governing Body, which will detail:

- numbers of complaints received

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- 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 Vale of York Clinical Commissioning Group has been advised are being considered or referred to the Parliamentary and Health Service Ombudsman

All documentation relating to the investigation will be stored securely in the case file. 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.

Distribution and Training

Vale of York Clinical Commissioning Group will monitor that all staff and the general public are aware of the complaints policy and procedures via Vale of York Clinical Commissioning Group internet site. A global notice will be sent to officers to notify release of this document and a link to this policy will be provided from the Policy Directorate intranet site. Notification of this document will be included in the all staff email bulletin and staff briefings.

All staff dealing with complaints will be given training for implementation of this policy. A training needs analysis will be undertaken within the CCG to identify staff affected by this document. Based on the findings of that analysis appropriate training will be provided to staff as required.

A number of supports are available for staff, including:

- Line manager
- Directorate manager
- Peer support
- Occupational health
- Professional bodies

Persistent and unreasonable complainants

Detailed guidance on the management of persistent and unreasonable complainants is set out in Appendix 2.

Organisational Performance Targets

VoY CCG will:

- Acknowledge all complaints within 3 working days verbally or in writing.
- Negotiate with complainant:
 - The manner in which the complaint is to be handled
 - The period in which the investigation of the complaint is likely to

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be completed

- Provide a full written response to the complainant documenting if the complaint has been upheld/not upheld within the time period agreed with the complainant.

Where the response cannot be provided within the timeframe above this will be discussed with the complainant. Agreement for an extension to the timescale must be obtained from the complainant and the relevant extended period to be confirmed in writing.

POLICY REVIEW

This policy will be reviewed on an annual basis. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation/guidance, as instructed by the senior manager responsible for this policy.

20. Associated documents

Data Protection Technical Guidance Note: Disclosures to Members of Parliament carrying out constituency casework.

Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002. S.I.2002 No. 2905

NHS Constitution updated March 2013

Vale of York Clinical Commissioning Group Confidentiality Policy

Vale of York Clinical Commissioning Group Data Protection Policy

Vale of York Clinical Commissioning Group Incident Management Policy

Vale of York Clinical Commissioning Group Safeguarding Policy

Vale of York Clinical Commissioning Group Whistleblowing policy

Vale of York Clinical Commissioning Group Risk Management Strategy

The Vale of York Clinical Commissioning Group Business Plan for 2013/14 – 2015/16

21. References

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

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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>

NHS England Complaints Policy: <http://www.england.nhs.uk/wp-content/uploads/2013/11/Interim-complaints-policy.pdf>

22. Contact Details

Patient Commissioning Complaints

Telephone: 01904 555870

Email: valeofyork.contactus@nhs.net

Address: NHS Vale of York Clinical Commissioning Group, West Offices, Station Rise, York.
YO1 6GA

Continuing Healthcare Complaints

Email: VOYCCG.PatientRelations@nhs.net

Phone: 0800 068 8000

Address: Patient Relations, Unit 1, Triune Court, Monks Cross North, YO31 9GZNHS

NHS England is the commissioner of primary care services (GP Practice, dentist, community pharmacy or optician). If you have a complaint about these services, please contact NHS England at the address below:

Tel: 0300 311 22 33

Email: england.contactus@nhs.net

In writing: NHS England, PO Box 16738, Redditch, B97 9PT

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APPENDIX 1: Scheme of Delegation

Governance arrangements for delegation of complaints to other organisations: NHS Vale of York CCG CO delegates authority to:

Partnerships Commissioning Unit (PCU) Director for the following areas

- Continuing Health Care Complaints
- Mental Health and Childrens commissioning.

The PCU must consult with SR CCG as the employing organization and with the CCG wherein the complaint relates to, and the PCU consults with the specified CCG, prior to a final response being sent in relation to any complaint

- NHS Harrogate and Rural District CCG
- NHS Hambleton, Richmondshire and Whitby CCG
- NHS Vale of York CCG
- NHS Scarborough, Whitby and Ryedale CCG

Final letters must be sent out in the name of the PCU Director and the specified CCG, on CCG letterheaded documentation.

PCU will provide effective process for monitoring, management and reporting of complaints, including annual report of complaints to the above listed CCGs. This process can be in partnership with CSU organization which provides monthly patient relations reports, as per contract between above listed CCGs and NYHCSU.

NYHCSU provides complaints management service for complaints made by patients, families and carers, or the general public to the above named CCGs and PCU, but has no delegated authority to act on behalf of CCGs.

NYHCSU can be delegated to lead on a complaints investigation by VoY CCG and where appropriate a specified CCG, and present the investigations findings and recommendations to the CCG(s).

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APPENDIX 2: Guidance for dealing with persistent and 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 Vale of York Clinical Commissioning Group 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 persistent or unreasonable, setting out the action to be taken.

3. Definition of persistent and 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 e.g. Independent Advocacy Service (ICAS) or VoiceAbility could assist to help them specify their 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

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4. Actions prior to designating a complainant as unreasonable or persistent

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
- 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
- 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

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- 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"

5. Process for managing unreasonable or persistent behaviour

Where a complainant has been identified as unreasonable or persistent, the decision to declare them as such is made jointly by the Senior Contact Centre Manager and the Director of Corporate Development. The Senior Contact Centre Manager 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 that may include the use of emergency services in some circumstances. In these circumstances, carry out a review of the case at the first opportunity after the event.

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7. Record keeping

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.

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APPENDIX 3: Equality Impact Analysis

1. Equality Impact Analysis									
Policy / Project / Function:	Complaints Policy								
Date of Analysis:	11 February 2014								
This Equality Impact Analysis was completed by: (Name and Department)	Liz Vickerstaff RGN RMN Quality Lead Quality and Outcomes Team NYHCSU								
What are the aims and intended effects of this policy, project or function ?	Reporting and Management of Serious Incidents in NHS commissioned services for the population of NHS VoY CCG								
Please list any other policies that are related to or referred to as part of this analysis?									
Who does the policy, project or function affect ?	<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Employees</td> <td style="text-align: right;">x <input type="checkbox"/></td> </tr> <tr> <td>Service Users</td> <td style="text-align: right;">x <input type="checkbox"/></td> </tr> <tr> <td>Members of the Public</td> <td style="text-align: right;">x <input type="checkbox"/></td> </tr> <tr> <td>Other (List Below)</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> </table>	Employees	x <input type="checkbox"/>	Service Users	x <input type="checkbox"/>	Members of the Public	x <input type="checkbox"/>	Other (List Below)	<input type="checkbox"/>
Employees	x <input type="checkbox"/>								
Service Users	x <input type="checkbox"/>								
Members of the Public	x <input type="checkbox"/>								
Other (List Below)	<input type="checkbox"/>								
Please Tick ✓									

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2. Equality Impact Analysis: Screening

	Could this policy have a positive impact on...		Could this policy have a negative impact on...		Is there any evidence which already exists from previous (e.g. from previous engagement) to evidence this impact
	Yes	No	Yes	No	
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sexual Orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Disabled People	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Where complainants may require support to make a complaint, this service is offered as part of the policy and process
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Transgender People	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Pregnancy and Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Marital Status	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Religion and Belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Reasoning	<p>Complaints are managed in line with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and NHS Litigation Authority Risk Management Standards.</p> <p>The benefits of receiving and managing complaints is to support the complainant in reaching satisfaction and to enable the organisation to benefit from wider learning which can be shared across one or many organisations</p> <p>As a result of performing this analysis, the policy, project or function does not appear to have any adverse effects on people who share Protected Characteristics and no further actions are recommended at this stage.</p> <p>NHS VoY CCG promotes a culture of Equality and Diversity within its organisation and actively monitors themes arising from incidents for any potential discriminatory activity.</p>				

If there is no positive or negative impact on any of the Nine Protected Characteristics go to Section 7

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3. Equality Impact Analysis: Local Profile Data	
Local Profile/Demography of the Groups affected (population figures)	
General	
Age	
Race	
Sex	
Gender reassignment	
Disability	23,225 persons where day-to-day activities limited a lot
Sexual Orientation	
Religion, faith and belief	
Marriage and civil partnership	
Pregnancy and maternity	

1. Equality Impact Analysis: Equality Data Available	
<p>Is any Equality Data available relating to the use or implementation of this policy, project or function?</p> <p>Equality data is internal or external information that may indicate how the activity being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as ‘<i>Equality Groups</i>’.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <ol style="list-style-type: none"> 1. Application success rates <i>Equality Groups</i> 2. Complaints by <i>Equality Groups</i> 3. Service usage and withdrawal of services by <i>Equality Groups</i> 4. Grievances or decisions upheld and dismissed by <i>Equality Groups</i> 5. <i>Previous EIAs</i> 	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Where you have answered yes, please incorporate this data when performing the <i>Equality Impact Assessment Test</i> (the next section of this document).</p>
<p>List any Consultation e.g. with employees, service users, Unions or members of the public that has taken place in the development or implementation of this policy, project or function</p>	
<p>Promoting Inclusivity How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation</p>	

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4. Equality Impact Analysis: Assessment Test

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
Gender (Men and Women)	X			
Race (All Racial Groups)	X			
Disability (Mental and Physical)			x	Some complainants, as a result of disability may require support to make a complaint. Advocacy services are offered as part of the policy and process, and records held to ensure audit demonstrates equity of access
Religion or Belief				
Sexual Orientation (Heterosexual, Homosexual and Bisexual)				
What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by <i>The Equality Act 2010</i> ?				
Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
Pregnancy and Maternity				
Transgender				
Marital Status				
Age				

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5. Action Planning				
As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse outcomes identified on employees, service users or other people who share characteristics protected by <i>The Equality Act 2010</i>				
Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:
Some complainants, as a result of disability may require support to make a complaint. Advocacy services are offered as part of the policy and process, and records held to ensure audit demonstrates equity of access	Provide staff training, to ensure staff recognize where a complainant requires support from advocacy services			

6. Equality Impact Analysis Findings				
Analysis Rating:	<input type="checkbox"/> Red	<input type="checkbox"/> Red/Amber	<input type="checkbox"/> Amber	<input checked="" type="checkbox"/> xGreen

	Actions	Wording for Policy / Project / Function
Red Stop and remove the policy	<p>Remove the policy</p> <p>Complete the action plan above to identify the areas of discrimination and the work or actions which needs to be carried out to minimise the risk of discrimination.</p>	<p>No wording needed as policy is being removed</p>

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		Actions	Wording for Policy / Project / Function
Red Amber Continue the policy	As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i> . However, a genuine determining reason may exist that could legitimise or justify the use of this policy and further professional advice should be taken.	<p>The policy can be published with the EIA</p> <ul style="list-style-type: none"> List the justification of the discrimination and source the evidence (i.e. clinical need as advised by NICE). Consider if there are any potential actions which would reduce the risk of discrimination. Another EIA must be completed if the policy is changed, reviewed or if further discrimination is identified at a later date. 	<p>As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i>. However, a genuine determining reason exists which justifies the use of this policy and further professional advice.</p> <p><i>[Insert what the discrimination is and the justification of the discrimination plus any actions which could help what reduce the risk]</i></p>

Equality Impact Findings (continued):			
		Actions	Wording for Policy / Project / Function
Amber Adjust the Policy	As a result of performing the analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.	<p>The policy can be published with the EIA</p> <ul style="list-style-type: none"> The policy can still be published but the Action Plan must be monitored to ensure that work is being carried out to remove or reduce the discrimination. Any changes identified and made to the service/policy/ strategy etc. should be included in the policy. Another EIA must be completed if the policy is changed, reviewed or if further discrimination is identified at a later date. 	<p>As a result of performing the analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.</p> <p><i>[Insert what the discrimination is and what work will be carried out to reduce/eliminate the risk]</i></p>

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		Actions	Wording for Policy / Project / Function
Green No major change	As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.	The policy can be published with the EIA Another EIA must be completed if the policy is changed, reviewed or if any discrimination is identified at a later date	As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.

Brief Summary/Further comments	
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Approved By		
Job Title:	Name:	Date:

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APPENDIX 4: Sustainability Impact Assessment

Staff preparing a policy, Governing Body (or Sub-Committee) report, service development plan or project are required to complete a Sustainability Impact Assessment (SIA). The purpose of this SIA is to record any positive or negative impacts that this is likely to have on sustainability.

Title of the document		NHS VOY CCG Complaints Policy		
What is the main purpose of the document		Management of Complaints and Patient Feedback		
Date completed		14 February 2014		
Completed by		Liz Vickerstaff		
Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown = ? Not applicable = n/a	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
Travel	Will it provide / improve / promote alternatives to car based transport? Will it support more efficient use of cars (car sharing, low emission vehicles, environmentally friendly fuels and technologies)? Will it reduce 'care miles' (telecare, care closer) to home? Will it promote active travel (cycling, walking)? Will it improve access to opportunities and facilities for all groups?	1	Use of teleconference facilities for meetings	
Procurement	Will it specify social, economic and environmental outcomes to be accounted for in procurement and delivery? Will it stimulate innovation among providers of services related to the delivery of the organisations'	0		

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	<p>social, economic and environmental objectives? Will it promote ethical purchasing of goods or services? Will it promote greater efficiency of resource use? Will it obtain maximum value from pharmaceuticals and technologies (medicines management, prescribing, and supply chain)? Will it support local or regional supply chains? Will it promote access to local services (care closer to home)? Will it make current activities more efficient or alter service delivery models</p>			
Facilities Management	<p>Will it reduce the amount of waste produced or increase the amount of waste recycled? Will it reduce water consumption?</p>	1	All documentation processed electronically, and meetings conducted using “e” technology.	
Workforce	<p>Will it provide employment opportunities for local people? Will it promote or support equal employment opportunities? Will it promote healthy working lives (including health and safety at work, work-life/home-life balance and family friendly policies)? Will it offer employment opportunities to disadvantaged groups?</p>	0		
Community Engagement	<p>Will it promote health and sustainable development? Have you sought the views of our communities in relation to the impact on sustainable development for this activity?</p>	0		
Buildings	<p>Will it improve the resource efficiency of new or refurbished buildings (water, energy, density, use of existing buildings, designing for a longer lifespan)? Will it increase safety and security in new buildings and developments? Will it reduce greenhouse gas emissions from</p>	0		

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	transport (choice of mode of transport, reducing need to travel)? Will it provide sympathetic and appropriate landscaping around new development? Will it improve access to the built environment?			
Adaptation to Climate Change	Will it support the plan for the likely effects of climate change (e.g. identifying vulnerable groups; contingency planning for flood, heat wave and other weather extremes)?	0		
Models of Care	Will it minimise 'care miles' making better use of new technologies such as telecare and telehealth, delivering care in settings closer to people's homes? Will it promote prevention and self-management? Will it provide evidence-based, personalised care that achieves the best possible outcomes with the resources available? Will it deliver integrated care, that co-ordinate different elements of care more effectively and remove duplication and redundancy from care pathways?	1	Feedback, concerns and complaints may result in improvements to care models and pathways.	

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APPENDIX 5: Bribery Act 2010 Guidance and Bribery Prevention Checklist

Areas for action	Expected Action	Evidence of Compliance/Assurance
<p>1. Governance and Top Level Commitment</p>	<p>The Chief Executive should make a statement in support of the anti-bribery initiative and this should be published on the organisation’s website.</p> <p>The board of directors should take overall responsibility for the effective design, implementation and operation of the anti-bribery initiatives. The Board should ensure that senior management is aware of and accepts the initiatives and that it is embedded in the corporate culture.</p>	
<p>2. Due Diligence</p>	<p>This is a key element of good corporate governance and involves making an assessment of new business partners prior to engaging them in business. Due diligence procedures are in themselves a form of bribery risk assessment and also a means of mitigating that risk. It is recommended that at the outset of any business dealings, all new business partners should be made aware in writing of the organisation's anti-corruption and bribery policies and code of conduct.</p>	

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Areas for action	Expected Action	Evidence of Compliance/Assurance
3. Code of conduct	<p>The organisation should either have an anti-bribery code of conduct or a general code of conduct for staff with an anti-bribery and corruption element.</p> <p>The organisation should revise the Standards of Business Conduct Policy (or equivalent) and Declaration of Interests guidance (see point 4 below) to reflect the introduction of the Bribery Act.</p>	
4. Declaration of Interests/Hospitality	<p>The organisation should have in place a declaration of business interests/gifts and hospitality policy which clearly sets out acceptable limits and also a mechanism to monitor implementation.</p>	
5. Employee employment procedures	<p>Employees should go through the appropriate propriety checks e.g. CRB (Criminal Records Bureau) and/or a combination of other checks before they are employed to ascertain, as far as is reasonable, that they are likely to comply with the organisation's anti-bribery policies.</p>	
6. Detection procedures	<p>The organisation should ensure Internal Audit/Counter Fraud check projects, contracts, procurement processes and any other appropriate systems where there is a risk that acts of bribery could potentially occur.</p>	
7. Internal reporting procedures	<p>The organisation should have internal procedures for staff to report suspicious activities including bribery.</p>	

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Areas for action	Expected Action	Evidence of Compliance/Assurance
8. Investigation of Bribery allegations	The organisation should have procedures for staff to report suspicions of bribery to NHS Protect (previously NHS Counter Fraud and Security Management Service) and the organisation's Local Counter Fraud Specialist for investigation/referral to the appropriate authorities.	
9. Risk assessment	MoJ (Ministry of Justice) guidance states "...organisations should adopt a risk-based approach to managing bribery risks...[and] an initial assessment of risk across the organisation is therefore a necessary first step". The organisation should, on a regular basis, assess the risk of bribery and corruption in its business and assess whether its procedures and controls are adequate to minimise those risks.	
10. Record keeping	The organisation should keep reasonably detailed records of its anti-fraud and corruption initiatives, including training given, hospitality given and received and other relevant information.	
11. Internal review	The organisation should carry out an annual internal review of the anti-bribery and corruption programme.	
12. Independent assessment and certification	Proportionate to risks identified, the organisation should commission, at least every three years, an independent assessment and certification of its anti-bribery programme.	

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Areas for action	Expected Action	Evidence of Compliance/Assurance
13. Internal and External communications	<p>The organisation should publicise the NHS Fraud and Corruption Reporting Line (FCRL) and on-line fraud reporting facility.</p> <p>The organisation should publicise the Security Management role (theft and general security issues) and reporting arrangements.</p> <p>The organisation should work with its stakeholders in the public and private sector to help reduce bribery and corruption in the health industry.</p>	
14. Awareness and training	The organisation should provide appropriate anti-bribery and corruption awareness sessions and training on a regular basis to all relevant employees.	
15. Monitoring: <ul style="list-style-type: none"> • Overall Responsibility • Financial/Commercial Controls 	<ul style="list-style-type: none"> • A senior manager should be made responsible for ensuring that the organisation has a proportionate and adequate programme of anti-fraud, corruption and bribery initiatives. • The organisation should ensure that its financial controls minimise the risk of the organisation committing a corrupt act. • The organisation should ensure that its commercial controls minimise the risk of the organisation committing a corrupt act. These controls would include appropriate procurement and supply chain management, and the monitoring of contract execution. 	