



## **Patient Advice and Complaints Team information for Healthwatch Swindon Patient Participation Group Forum – 7 February 2020**

### **INTRODUCTION**

South, Central and West (SCW) is responsible for the provision of Patient Advice and Liaison Service (PALS) and NHS Complaints management services on behalf of a number of NHS Clinical Commissioning Groups (CCG), who in turn commission health services from local acute hospitals, mental health providers, community providers, the independent sector, and independent contractors.

### **DEFINITION**

#### **1) What is a complaint?**

An expression of dissatisfaction that requires an investigation with the commissioner and, or service provider which necessitates a formal response.

#### **2) Where do I complain?**

Under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, a service user can choose to complain to the commissioner or the provider, but not to both organisations about the same matter.

A complaint about any services commissioned by NHS Swindon CCG should be directed to the Executive Director of Nursing and Quality, or to the SCW Patient Advice and Complaints Team (PACT). Tel no: 0300 200 8844 | Email: [scwcsu.palscomplaints@nhs.net](mailto:scwcsu.palscomplaints@nhs.net) | post: Patient Advice and Complaints Team, Priory Road Medical Centre, Priory Road, Swindon, SN3 2EZ

#### **3) Who can complain?**

A service user, patient, carer, or member of the public can make a complaint about the services received by a commissioned provider, or a decision made about their care.

A service user, or patient can nominate an advocate to act on their behalf. Alternatively, an advocate may make a complaint regarding someone who has died,

a child, someone who is unable to make the complaint themselves because of physical incapacity, or the lack of capacity within the meaning of the Mental Capacity Act 2005.

Where a service user, or patient nominates an advocate, written consent must be sought from the individual before proceeding with the complaint. This may be supported by legal documentation in the form of a Lasting Power of Attorney, Court of Protection Deputy, Legal Guardian, Executor of the Will, or a person mentioned in the Grant of Probate.

In line with the General Data Protection Regulation the PACT will issue a consent form to be signed by the patient or parent (of a child under the age of 16 years), or where an individual is acting on the authority of another, a signature with a copy of the appropriate document must be submitted.

#### **4) What are the time limits for complaints?**

A complaint should not be made later than 12 months after the date on which the matter occurred or, the date on which the individual became aware of the matter. (This time limit may be waived if the individual had good reason for not making the complaint within the time limit, and it is still possible to investigate the complaint effectively and fairly).

#### **5) Complaints that cannot be dealt with under the NHS Complaints Regulations 2009**

- A complaint made by a local authority, NHS body, primary care provider or independent provider;
- A complaint made by an employee of a local authority, NHS body, about any matter relating to employment;
- A complaint which is made orally and is resolved to the complainant's satisfaction within one working day;
- A complaint which has previously been made and resolved, and where local resolution has been exhausted;
- A complaint which is, or has been, investigated by the Parliamentary and Health Service Ombudsman; or
- A complaint arising out of the alleged failure by the CCG, or provider to comply with a request for information under the Freedom of Information Act 2000.

## **6) Where do I go for further redress if I am not satisfied with the outcome of my complaint?**

The NHS Complaints procedure is a two stage process:

**Stage 1** – Complaint is made to either the commissioner or the provider.

The complaint is acknowledged within 3-working days, and a timescale for response set. (some organisations set a standard 25-working days, but this is negotiable with the complainant. In complex cases the timescale will be longer to allow for a full investigation).

The organisation(s) endeavours to conduct a robust investigation and response. On conclusion of a complaint, any tangible learning outcomes or service improvements will be shared with the service user within their response.

**Stage 2** – Referral to the Parliamentary and Health Service Ombudsman (PHSO)

If the service user remains dissatisfied and the complaints process has been exhausted, then the complaint can be referred to the PHSO for an independent review.

### **REGULATIONS**

The regulations which underpin the NHS Complaints process:

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
- The Parliamentary and Health Service Ombudsman Principles of Good Administration, Principles of Good Complaints Handling, Principles of Remedy 2009
- The NHS Constitution 2009
- The Data Protection Act 1998 (The General Data Protection Regulation 2018)
- The Equality Act 2010
- The Mental Capacity Act 2005
- The Department of Health Records Management Code of Practice 2016

**A quick guide to what PALS and Complaints offer:**

<b>PALS</b>	<b>COMPLAINTS</b>
PALS provides advice, information, problem solving	Patient Advice and Complaints Team facilitate a formal investigation when a concern is raised.
Usually a quick resolution – no set procedure	Set procedure, governed by timescales
Informal process: <ul style="list-style-type: none"> <li>- PALS staff discuss the different ways to resolve concern</li> <li>- PALS staff liaise with the service provider to reach a solution</li> </ul>	Formal process of investigation: <ul style="list-style-type: none"> <li>- Agree complaint plan</li> <li>- Agree timescales</li> <li>- Investigation by Service Manager/Investigating Officer</li> <li>- Meeting to discuss concerns/outcomes if wanted</li> <li>- Usually written response unless agreed otherwise</li> <li>- Letter signed off by Chief Executive Officer/Executive Director of Nursing &amp; Quality</li> </ul>
If PALS cannot resolve your concern you can still use the NHS complaint process	If you are not happy with the outcome of the complaint investigation you can take your complaint to the Parliamentary and Health Service Ombudsman for an independent review.