

Registered Office: Lower Barn Lower Henwick Farm, Turnpike Road, Thatcham, Berkshire, England, RG18 3AP
 Director(s): Rosemary Piercy
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Complaints Policy (Cont.)

Complaints Policy

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1. Introduction

1.1. POLICY STATEMENT

The purpose of this document is to ensure that all staff are aware of the complaints procedure within Total Health West Berks, affording clients or their representatives the opportunity to make a complaint about the care or treatment they have received by Total Health West Berks.

1.2. STATUS

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time. For the avoidance of doubt, it does not form part of your contract of employment.

1.3. KLOE

The Care Quality Commission would expect any organisation to have a policy to support this process and this should be used as evidence of compliance against CQC Key Lines of Enquiry (KLOE).¹

Specifically, Total Health West Berks will need to answer the CQC key questions on “Safe”, “Responsive” and “Well-Led”.

The following is the CQC definition of Safe:

‘By safe, we mean people are protected from abuse and avoidable harm. *Abuse can be physical, sexual, mental or psychological, financial, neglect, institutional or discriminatory abuse’.*

CQC KLOE S6	Are lessons learned and improvements made when things go wrong?
S6.1	Do staff understand their responsibilities to raise concerns, to record safety incidents, concerns and near misses, and to report them internally and externally, where appropriate?
S6.2	What are the arrangements for reviewing and investigating safety and safeguarding incidents and events when things go wrong? Are all relevant staff, services, partner organisations and people who use services involved in reviews and investigations?
S6.3	How are lessons learned and themes identified and is action taken as a result of investigations when things go wrong?
S6.4	How well is the learning from lessons shared to make sure that action is taken to improve safety? Do staff participate in and learn from reviews and investigations by other services and organisations?
S6.5	How effective are the arrangements to respond to relevant external safety alerts, recalls, inquiries, investigations or reviews?

The following is the CQC definition of Responsive:



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'By responsive, we mean that services meet people's needs'.

CQC KLOE R4	How are people's concerns and complaints listened and responded to and used to improve the quality of care?
R4.1	How well do people who use the service know how to make a complaint or raise concerns and how comfortable do they feel doing so in their own way? How are people encouraged to make a complaint, and how confident are they to speak up?
R4.2	How easy is it for people to use the complaints process or raise a concern? Are people treated compassionately and given help and support, by using accessible information or protection measures, if they need to make a complaint?
R4.3	How effectively are complaints handled, including ensuring openness and transparency, confidentiality, regular updates for the complainant, a timely response and explanation of the outcome, and a formal record?
R4.4	How are people who raise concerns or complaints protected from discrimination, harassment or disadvantage?
R4.5	To what extent are concerns and complaints used as an opportunity to learn and drive continuous improvement?

The following is the CQC definition of Well-Led:

'By well-led, we mean that the leadership, management and governance of the organisation assures the delivery of high-quality and person-centred care, supports learning and innovation and promotes an open and fair culture'.

CQC KLOE W3	Is there a culture of high-quality, sustainable care?
E3.5	Does the culture encourage openness and honesty at all levels within the organisation, including with people who use services, in response to incidents? Do leaders and staff understand the importance of staff being able to raise concerns without fear of retribution and is appropriate learning and action taken as a result of concerns raised?
CQC KLOE W7	Are the people who use services, the public, staff and external partners engaged and involved to support high-quality sustainable services?

W7.1	Are people’s views and experiences gathered and acted on to shape and improve the services and culture? Does this include people in a range of equality groups?
W7.5	Is there transparency and openness with all stakeholders about performance?



1.4. TRAINING AND SUPPORT

Total Health West Berks will provide guidance and support to help those to whom it applies to understand their rights and responsibilities under this policy. Additional support will be provided to managers and supervisors to enable them to deal more effectively with matters arising from this policy.

2. Scope

2.1. WHO IT APPLIES TO

This document applies to all who work at Total Health West Berks and other individuals performing functions in relation to Total Health West Berks.

2.2. WHY AND HOW IT APPLIES TO THEM

All staff at Total Health West Berks are to be fully conversant with this policy and are to understand that all clients have a right to have their complaint acknowledged and investigated properly. Total Health West Berks takes complaints seriously and ensures that they are investigated in an unbiased, transparent, non judgemental, and timely manner.

We will maintain communication with the complainant (or their representative) throughout, ensuring they know the complaint is being taken seriously.

Total Health West Berks aims to design and implement policies and procedures that meet the diverse needs of our service and workforce, ensuring that none are placed at a disadvantage over others, in accordance with the [Equality Act 2010](#). Consideration has been given to the impact this policy might have with regard to the individual protected characteristics of those to whom it applies.

3. Guidance

3.1. LEGISLATION

Every organisation should have a complaints procedure. This permits a client (or their nominated representative) to submit a complaint to the organisation.

Because Total Health West Berks works within a social care setting we have decided to adopt a client focused approach to complaint handling in accordance with the [National Health Service England Complaints Policy \(2017\)](#) whilst also conforming to guidance detailed in:

- [My Expectations 2014](#)
- [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014: Regulation 16](#) • [The Local Authority Social Services and National Health Services Complaints \(England\) Regulations 2009](#)

3.2. DEFINITION OF A COMPLAINT

A complaint or concern is an expression of dissatisfaction about an act, omission or decision of Total Health West Berks, either verbal or written, and whether justified or not, which requires a response.¹

There is no difference between a “formal” and an “informal” complaint. Both are expressions of

dissatisfaction.

3.3.COMPLAINTS PROCEDURE PROMULGATION

Total Health West Berks has copies of this document at all client sites and the process will be included on Total Health West Berks's website.

¹ [NHS\(E\) Complaints Policy 2017](#)



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The information provided is written in conjunction with this policy and refers to the legislation detailed in 3.1.

3.4.RESPONSIBLE PERSON

At Total Health West Berks, the Responsible Person is the Registered Manager. They are responsible for ensuring compliance with the complaints regulations and making sure action is taken as a result of the complaint.

3.5.COMPLAINTS MANAGER

At Total Health West Berks, the Complaints Manager is the Registered Manager. They are responsible for managing all complaints procedures and must be readily identifiable to service users. The responsible person and complaints manager can be the same person.²

3.6.THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN (LGO)

The Ombudsman's role is to make final decisions on complaints that have not been resolved locally in health care settings. The Ombudsman looks at complaints where someone believes there has been injustice or hardship because an organisation has not acted properly or has given a poor service and not put things right. The Ombudsman can recommend that organisations provide explanations, apologies, and financial remedies to service users and that they take action to improve services.

3.7.COMPLAINANT OPTIONS

The complainant, or their representative, can complain about any aspect of care or treatment they received at this organisation to the complaints manager.

If the complaint is made against the complaints manager, then it is escalated to the responsible person; if it is made against the responsible person then the complaint can be escalated to an independent body such as the LGO.

3.8.TIMESCALE

The time constraint on bringing a complaint is 12 months from the occurrence giving rise to the complaint or 12 months from the time that the complainant becomes aware of the matter about which they wish to complain.

If, however, there are good reasons for complaints not being made within the timescale detailed above, consideration may be afforded to investigating the complaint if it is still feasible to investigate the complaint *effectively and fairly*.

3.9.RESPONDING TO A CONCERN

Should the complaints manager become aware that a client, or the client's representative, wishes to discuss a concern, there is no 'hard and fast' rule as to timescales to discuss the matter with them.

Points that should be considered are that:

- should the client be on the premises, then there will need to be a degree of interaction sooner than if it

was a telephone call or email,

- many of the concerns raised are not a true complaint, simply a point to note or a 'grumble'. Although there is no official guidance on this matter, by discussing the concern with the complainant soonest, there is a potential that this could reduce any escalation to a more formalised complaint, • all facts need to be ascertained prior to any conversation,

² [A Guide to Effective Complaints Resolution England](#)



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- should an angry complainant be contacted too soon, this may inflame the situation further if they not receive the outcome that they desire,
- consider any potential precedence that may be established and will any future concern be expected to always be dealt with immediately should any response be given too soon, and
- time management always needs to be considered.

Whilst each concern will warrant its own response, generally at Total Health West Berks our procedure is to ensure that the best response is always provided.

3.10. RESPONSE TIMES

The complainant has a right to be regularly updated regarding the progress of their complaint. The complaints manager at Total Health West Berks will provide an initial response to acknowledge any complaint within three working days after the complaint is received. It should be noted that three working days is the maximum permitted under the NHSE Complaints Policy whose guidance Total Health West Berks is trying to follow.

All complaints are to be added to the complaints log in accordance with [section 3.22](#).

The NHSE policy (2017) states that the complainant can expect that:

- they will be kept up to date with the progress of their complaint,
- if a case has passed the 40 working day target (or the timescale agreed with the complainant if different), thereafter they (and their advocate if relevant) should receive an update every 10 working days after the target date has been surpassed. This could be by telephone, email or letter but the format should be agreed with the complainant,
- they can expect to receive a quality response with assurance that action has been taken to prevent a recurrence, and
- they will be informed of any learning outcomes.

The complaints manager will advise the complaints procedure to the complainant or their representative. In many cases, a prompt response and, if the complaint is upheld, an explanation and an apology will suffice and will prevent the complaint from escalating (an apology does not constitute an admission of organisational weakness).

3.11. ROUTE OF A COMPLAINT

Clients can opt to complain either verbally or in writing. No matter what the cause of the complaint, all staff are to offer empathy when entering into discussions with the complainant. In accordance with Regulation 16³, all staff at Total Health West Berks must fully understand the complaints process.

The complainant should be advised that the process is a two-stage process as detailed below.

Stage 1

The complainant may make a complaint to Total Health West Berks.

Stage 2

If not content with either response following a full investigation, the complainant may then escalate this to the Local Government Ombudsman (LGO).

³ [Heath & Social Care Act 2008 Regulation 16](#)



3.12. VERBAL COMPLAINTS

If a client wishes to complain verbally and if the client is content for the person dealing with the complaint to deal with this matter and if appropriate to do so, then complaints should be managed at this level. After this conversation, the client may suggest that no further action is needed. If this should be the case, then the matter can be deemed to be closed, although the complaints manager should still be informed as this needs to be added to the complaints log in accordance with [section 3.22](#).

This local resolution is the quickest method of resolving a complaint and will negate the requirement for the complaint to proceed through the formal complaint process.

An acknowledgement of the verbal complaint will suffice and therefore the complaints manager does not need to subsequently respond in writing, although the verbal complaint must be recorded in the complaints log. This will enable any trends to be identified and improvements to services made if applicable. The complaints manager should record notes of the discussion (for reference only) which may be used when discussing complaints at meetings.

If the matter demands immediate attention, the complaints manager should be contacted who may then offer the client an appointment or may offer to see the complainant at this stage.

Staff are reminded that when internally escalating any complaint to the complaint's manager then a full explanation of the events leading to the complaint is to be given to allow any appropriate response.

3.13. WRITTEN COMPLAINTS

Whilst this is not the preferred option due to the timescales involved in compiling a letter of complaint and any subsequent response for both the client and the complaints manager, an alternative option can be offered for any complaint to be forwarded by letter or email to the complaints manager.

When a complaint is received then the response is to be as per [section 3.9](#).

3.14. WHO CAN MAKE A COMPLAINT?

A complaint may be made by the person who is affected by the action or it may be made by a person acting on behalf of a client in any case where that person:

- Is a child (an individual who has not attained the age of 18). In the case of a child, this organisation must be satisfied that there are reasonable grounds for the complaint being made by a representative of the child and furthermore that the representative is making the complaint in the best interests of the child.
- Has died. In the case of a person who has died, the complainant must be the personal representative of

the deceased. Total Health West Berks will require to be satisfied that the complainant is the personal representative. Where appropriate we may request evidence to substantiate the complainant's claim to have a right to the information.

- 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, this organisation needs to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is made.
- 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 person affected 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 .



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The above information will be documented in the file pertaining to this complaint and confirmation will be issued to both the person making the complaint and the person affected.

- Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs.
- Is an MP, acting on behalf of and by instruction from a constituent.

3.15. COMPLAINTS ADVOCATES

Details of how clients can complain and also how to find independent complaints advocates are shown below. Additionally, the client should be advised that the local Healthwatch can help to find an independent complaints advocacy services in the area.

Independent advocacy services include:

- POhWER – a charity that helps people to be involved in decisions being made about their care. POhWER's support centre can be contacted via 0300 456 2370
- SeAp Advocacy – gives advocacy support. Call 0330 440 9000 for advice or text SEAP to 80800 • Age UK – may have advocates in the area. Visit their website or call 0800 055 6112 • Local councils can offer support in helping the complainant to find an advocacy service. Visit <https://www.gov.uk/find-your-local-council>

3.16. INVESTIGATING COMPLAINTS

Total Health West Berks will ensure that complaints are investigated effectively and in accordance with extant legislation and guidance.

This organisation will adhere to the following standards when addressing complaints:

- the complainant has a single point of contact in Total Health West Berks and is placed at the centre of the process. The nature of their complaint and the outcome they are seeking are established at the outset,
- the complaint undergoes initial assessment and any necessary immediate action is taken. A lead investigator is identified,
- investigations are thorough, where appropriate obtain independent evidence and opinion, and are carried out in accordance with local procedures, national guidance and within legal frameworks,
- the

investigator reviews, organises and evaluates the investigative findings,

- the judgement reached by the decision maker is transparent, reasonable, and based on the evidence available,
 - the complaint documentation is accurate and complete. The investigation is formally recorded with the level of detail appropriate to the nature and seriousness of the complaint,
 - both the complainant and those complained about are responded to adequately, •
- the investigation of the complaint is complete, impartial, and fair, and
- the complainant should receive a full response or decision within six months following the initial complaint being made. If the complaint is still being investigated, then this would be deemed to be a reasonable explanation for a delay.

3.17. FINAL FORMAL RESPONSE TO A COMPLAINT

Upon completion of the investigation, a formal written response will be sent to the complainant and will include the following as per NHS Resolution (see extract)⁴:

- be professional, well thought out and sympathetic,
- deal fully with all the complainant's complaints,
- include a factual chronology of events which sets out and describes every relevant consultation or telephone contact, referring to the clinical notes as required,

⁴<https://resolution.nhs.uk>



- set out what details are based on memory, contemporaneous notes or normal practice, • explain any medical terminology in a way in which the complainant will understand, • contain an apology, offer of treatment or other redress if something has gone wrong, • the response should also highlight what Total Health West Berks has done, or intends to do, to remedy the concerns identified to ensure that the problem does not happen again, and
- the response should inform the complainant that they may complain to the Local Government (LGO) if they remain dissatisfied.

Consideration must be given to the fact that the response is likely to be read by the complainant's family and possibly legal advisers.

A full explanation and apology may assist in avoiding a claim. However, if a client subsequently brings a claim for compensation, the complaint file is likely to be used in those proceedings so it is important that any response to a complaint is clear and well explained and can be supported by evidence.

The full and final response should ordinarily be completed within six months, although should it be likely that this will go beyond this timescale, the complaints manager will contact the complainant to update and give a projected completion timescale.

A template example of the final response letter can be found at [Annex E](#).

3.18. CONFIDENTIALITY IN RELATION TO COMPLAINTS

Any complaint is investigated with the utmost confidence and all associated documentation will be held

separately from the complainant's care records. Complaint confidentiality will be maintained, ensuring only managers and staff who are involved in the investigation know the particulars of the complaint.

3.19. COMPLAINTS CITING LEGAL ACTION

Should any complaint be received and the content states that legal action has been sought then, prior to any response, consideration should be given to obtaining independent legal advice.

3.20. COMPLAINTS INVOLVING EXTERNAL STAFF

Should a complaint be received about a member of another organisation's staff, then this is to be brought to the attention of the complaints manager at the earliest opportunity. The complaints manager will then liaise with the other organisation's manager.

3.21. MULTI-AGENCY COMPLAINTS

Should a complaint be received that references other organisations, the complaint is to be investigated in collaboration with all the organisations that are involved. Complaints managers from each organisation will need to determine which the lead organisation will be and the lead organisation will then be responsible for coordinating the complaint.

3.22. COMPLAINTS INVOLVING TEMPORARY STAFF

Total Health West Berks will ensure that all temporary staff are aware of both the complaints process and that they will be expected to partake in any subsequent investigation, even if they have left Total Health West Berks (keeping in mind the 12-month time frame to complain).

Temporary staff must receive assurance that they will be treated equally and that there is no difference between temporary or employed staff.



3.23. SIGNIFICANT EVENTS

When a complaint is raised, it may prompt other considerations, such as a significant event (SE). SEs are an excellent way to determine the root cause of an event and Total Health West Berks can benefit from the learning outcomes as a result of the SE.

It is advised that the complainant, their carers and/or family are involved in the SE process. This helps to demonstrate to the complainant that the issue is being taken seriously and investigated by Total Health West Berks.

3.24. LOGGING AND RETAINING COMPLAINTS

Total Health West Berks will need to log their complaints and retain as per the Records Retention Schedule.

Evidence required includes:

- logging, updating, and tracking for trends and considerations, and
- details of all dates of acknowledgement, holding and final response letters and the timely completion of all correspondence relating to the complaint.

3.25. CQC EXPECTATIONS

When the CQC inspect an organisation, the inspection team will seek assurance that:⁸

- People who use the service know how to make a complaint or raise concerns.

- People feel comfortable, confident and are encouraged to make a complaint and speak up.
- The complaints process is easy to use. People are given help and support where necessary.
- The complaints process involves all parties named or involved in the complaint and they have an opportunity to be involved in the response.

- The provider uses accessible information or support if they need to raise concerns

The complaints are handled effectively including:

- ensuring openness and transparency,
- confidentiality,
- regular updates for the complainant ,
- a timely response and explanation of the outcome, and
- a formal record

- Systems and processes protect people from discrimination, harassment or disadvantage
- Complaints are logged and monitored to assess trends and shared with the wider team. They are used to learn and drive continuous improvement. Trends are used to highlight where changes or improvements may be needed.

CQC will also expect all staff to fully understand the complaints process at Total Health West Berks.

4. Summary

The care and treatment delivered by Total Health West Berks is done so with due diligence and in accordance with current guidelines. However, it is acknowledged that sometimes things can go wrong. By having an effective complaints process in place, Total Health West Berks can investigate and resolve complaints in a timely manner, achieving the desired outcome for service users, whilst also identifying lessons learned and ultimately improving service delivery.



ANNEX A – CLIENT COMPLAINT FORM.

Initial data capture form if the detail of the complaint cannot be directly entered

electronically. Section 1: Client details

Surname		Title	
Forename		Address	
Date of birth			
Telephone no.		Postcode	

SECTION 2: COMPLAINT DETAILS

Please give full details of the complaint below including dates, times, locations and names of any

organisation staff (if known). Continue on a separate page if required. This form can then be used to

--

SECTION 3: OUTCOME

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SECTION 4: SIGNATURE

Surname & initials		Title	
Signature		Date	

SECTION 5: ACTIONS

Passed to management Yes/No



ANNEX B – THIRD PARTY COMPLAINT FORM

SECTION 1: CLIENT DETAILS

Surname		Title	
Forename		Address	
Date of birth			
Telephone no.		Postcode	

SECTION 2: THIRD PARTY DETAILS

Surname		Title	
Forename		Address	

Date of birth			
Telephone no.		Postcode	

SECTION 3: DECLARATION

I hereby authorise the individual detailed in Section 2 to act on my behalf in making this complaint and to receive such information as may be considered relevant to the complaint. I understand that any information given about me is limited to that which is relevant to the subsequent investigation of the complaint and may only be disclosed to those people who have consented to act on my behalf.

SECTION 4: SIGNATURE

Surname & initials		Title	
Signature		Date	



ANNEX C – COMPLAINT HANDLING

DESKTOP AIDE-MEMOIRE

* It may be necessary to liaise with external third parties such as hospitals or consultants, in order to gather additional information or to formulate a joint response. Where this is the case, the client or their representative must be advised accordingly.

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ANNEX D – ACKNOWLEDGEMENT OF A COMPLAINT LETTER (EXAMPLE)

[Organisation]

[Address]

[Complainant's name]

[Complainant's address] [Date]

Reference [Enter]

Dear [name],

Acknowledgment of complaint

Thank you for your letter [dated] regarding your complaint. We are sorry that you have felt that the standard of service at Total Health West Berks warranted your complaint. Please be advised that, whilst complaints are infrequent, when received we will thoroughly investigate and will always manage these in line with our complaints policy. Our promise to you includes that we will:

- keep you [or your advocate] up to date with the progress of your complaint,
- should your case pass the 40 working day target [or enter alternative timescale if agreed], you [or your advocate] will receive an update every 10 working days after the target date has been surpassed. This will be by telephone, email or letter following agreement with you,
- you [or your advocate] can expect to receive a quality response, and
- should there be any learning outcome, you [or your advocate] will be provided with what actions have been taken to prevent any future recurrence.

We are aware that you would wish for a response as soon as possible and we will endeavour to conduct a full and thorough investigation in the shortest period possible.

Please find enclosed a copy of the complaints leaflet. This details what you should expect, a list of advocacy services should you need any support and what to do should you not be content with the findings of this complaint.

Yours sincerely,

[Signed]

[Name]

[Role]

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ANNEX E – FINAL RESPONSE TO A COMPLAINT LETTER (EXAMPLE)

[Organisation]

[Address]

[Complainant's name]

[Complainant's address]

[Date]

Reference [Enter]

Dear [name],

Final response to complaint

Further to my letter dated [enter], please see below the findings following a full investigation into your complaint dated [insert].

[Detail, although the response is to include the following as per section 3.14]

- a. Be professional, well thought out and sympathetic
- b. Deal fully with all the complainant's complaints
- c. Include a factual chronology of events which sets out and describes every relevant consultation or telephone contact, referring to the clinical notes as required
- d. Set out what details are based on memory, contemporaneous notes or normal practice
- e. Explain any medical terminology in a way in which the complainant will understand
- f. Contain an apology, offer of treatment or other redress if something has gone wrong. The response should also highlight what Total Health West Berks has done, or intends to do, to remedy the concerns identified to ensure that the problem does not happen again.

Please be advised that this is the final response. Should you remain dissatisfied with the findings of this investigation, then you may further complain to:

The Local Government and Social Care Ombudsman (LGO)

<https://www.lgo.org.uk/>

Complete the online complaints form at:

<https://complaints.lgo.org.uk/complaint-form/> or phone 0300 061 0614

Yours sincerely,

[Signed]

[Name]

[Role]

