

G4 North Yorkshire Hospice Care Complaints Policy

Summary	Policy outlining how NYHC respond to complaints.
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Additional NYHC staff who have contributed	
Scrutiny group(s) who have seen this document	
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Document Control

Date	Version	Action	Amendments
April 2022	2	Reviewed	Minor changes

1 Introduction

1.1 Policy scope

This policy covers all work and services carried out by North Yorkshire Hospice Care (NYHC), a registered charity in England and Wales (518905). All staff and volunteers (where appropriate) operating its family of services, including Herriot Hospice Homecare, Just 'B', Saint Michael's Hospice and Talking Spaces, must therefore comply with the contents below. Throughout this document North Yorkshire Hospice Care and its family of services are referred to as 'we' 'us' 'our' for clarity and consistency.

1.2 Purpose of organisation

The purpose of our services is wide ranging, from end of life services to bereavement support and counselling.

2. Policy Introduction

We welcome feedback, positive or negative, about your experience of our services as this helps us to improve and better meet the needs of the communities we serve.

We need to know if you or someone you care about has not received a good service. Please be assured that raising a concern or complaint will not affect any care or treatment in any way.

If you are unhappy with the service you have received from us, you have the right to make a complaint, have it investigated and receive a response.

This document outlines our commitment to dealing with complaints about the services we provide. It also provides information about how we manage, respond to, and learn from complaints that are made.

In doing so, this policy meets the requirements of the Local Authority Social Services and National Health Service Complaints [England] Regulations (2009), conforms to the NHS

Constitution (where applicable), reflects the recommendations from the Francis report (2013), meets the requirements of the Fundraising Regulator and Charity Commission, and supports your rights as a consumer.

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

The key issues taken into consideration when formulating this policy are that a complainant needs to:

- Know how to complain
- Feel confident that their complaint will be dealt with seriously
- Understand that their concerns will be investigated, and they will be informed of the findings of that investigation.
- Trust that we will learn from complaints, feedback and praise and apply those lessons whilst also learning from and sharing best practice.

3. Aims

We are committed to high quality service for all as a core principle of our vision and purpose. We will ensure that patients and their representatives and supporters can seek advice, provide feedback, or make a complaint.

When dealing with complaints we aim to adhere to our value principles and follow, where applicable, the 'Good Practice Standards for NHS Complaints Handling' (Sept 2013) outlined by the Patients Association, which state that good practice means:

- Openness and Transparency - well publicised, accessible information and processes, which are understood by all those involved in a complaint
- Evidence based complainant led investigations and responses. This will include providing a consistent approach to the management and investigation of complaints
- A Logical and rational approach
- Sympathetically responding to complaints and concerns in appropriate timeframes
- Providing opportunities for people to offer feedback on the quality of service provided
- Providing complainants with support and guidance throughout the complaints process
- Providing a level of detail appropriate to the seriousness of the complaint
- Identifying the causes of complaints and taking action to prevent recurrences
- Effective and implemented learning - using 'lessons learnt' as a driver for change and improvement
- Ensure that the care of complainants is not adversely affected as a result of making a complaint
- Ensure that we meets our legal obligations
- Act as a key tool in ensuring our good reputation

We support the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling (2009), My Expectations (2014) and the NHS Constitution which includes a number of patient rights relating to complaints. In summary, these include patients' rights to:

- Have their complaint acknowledged and properly investigated
- Discuss the way the complaint is to be handled and know the period in which the complaint response is likely to 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
- Take a complaint about data protection breaches to the independent Information Commissioners Office (ICO) if not satisfied with the way the organisation has dealt with this

4. Definition of a complaint or concern

A complaint or concern is an expression of dissatisfaction about an act, omission or decision by us, either verbal or written, and whether justified or not, which requires a response.

5. Scope

If your complaint relates to a funding decision around your care, or another commissioning or contracting matter that is not within our remit to investigate, we will refer you to the complaints policy of the right organisation to help you further.

6. 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 patient, client or donor in any case where that person:

1. Is a child; (an individual who has not attained the age of 18). In the case of a child, we 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.
2. Has died; in the case of a person who has died, the complainant must be the personal representative of the deceased. We need 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.
3. 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, we need to

be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is made.

4. 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, except in cases of death where the executor, or legal next of kin, or a child where the person with parental responsibility will be able to pursue a complaint, we will request the following information:

- a) Name and address of the person making the complaint
- b) 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 person affected. If by the 40th working day consent has not been received the complaint should be closed and categorised as a concern

Other persons who may be able to raise a complaint are those with delegated legal authority to act on their behalf, for example in the form of a registered Power of Attorney, an MP, acting on behalf of and by instruction from a constituent or under order of the law such as police request.

If we are of the opinion that a representative does or did not have sufficient interest in the person's welfare, or is not acting in their best interest, we will notify that person in writing.

7. Complaints that cannot be dealt with under this policy

The following complaints will not be dealt with under the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009):

- A complaint made by any NHS organisation or private or independent provider or responsible body
- A complaint made by an employee about any matter relating to their employment
- A complaint made by a volunteer about any matter relating to their volunteering
- A complaint, the subject matter of which has previously been investigated under current or previous regulations
- A complaint which is made orally and resolved to the complainant's satisfaction no later than the next working day
- 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

8. How to complain

Information about giving feedback or making a complaint can be found on our website.

A complaint can be made:

By telephone: 01423 878184 (The Chief Executive's Office)

By email: The Chief Executive's Office – tcollins@saintmichaelsospice.org

By post: The Chief Executive's Office – Saint Michael's, Herriot Hospice and Just 'B', Crimble House, Hornbeam Park Avenue, Harrogate, HG2 8QL

If the Chief Executive is on leave, we will direct the complaint to the Deputy CEOs. We will endeavour to make the necessary reasonable adjustments in order to receive, investigate and respond to any complaint. For people whose first language is not English, we have access to translation and interpreting services. We can also accept and respond to complaints in alternative formats such as braille.

9. Timescales for making a complaint

A complaint should be made within 12 months from the date it occurred or when it came to your attention. In some cases, if there is good reason why you could not complain sooner and it is still possible to investigate your complaint effectively and fairly, it may be possible to waive the time limit.

10. Our complaint process

First stage

Any member of staff receiving notification of a complaint must record the details and inform the Chief Executive's Office within one working day via email and verbally. Any letters or emails relating to the complaint should be included. This is helpful for accurate investigation and clarity of understanding and should be encouraged, if appropriate.

All complaints will be acknowledged no later than three days after the day the complaint is received (the acknowledgement will usually be in writing but can be verbal in some circumstances although this should be the exception rather than the norm).

The Chief Executive's Office upon receiving the complaint at this first stage must as part of their acknowledgement:

- Agree a time frame within which an initial investigation into their complaint will be made
- Offer the complainant the opportunity to discuss the handling of the complaint and the expectations and desired outcome if unclear
- If the complaint has been made verbally, the complainant should be given a copy of their verbal statement which is considered the formal complaint, and asked to confirm that it represents the issues they wish to raise
- Provide information in relation to the provider of independent advocacy services in their geographical area and this policy for reference
- Provide a named person who is a central point of contact during the process

The Chief Executive's Office will then decide who the best person is to conduct a full and thorough investigation of the complaint. This includes speaking to all parties involved, and will produce a full report using the complaint reporting form as necessary. This is likely to be, but not always a senior member in the team to which the complaint relates. A response will be made to the person making the complaint.

All people working or volunteering for the organisation must co-operate fully with any further investigation that may be carried out. Failure to do so could result in disciplinary action.

Second Stage

If after completion of the first stage the person presenting the complaint has not been satisfied by the response they should inform the Chief Executive.

Either the Chief Executive or a delegated senior member of staff will send an acknowledgement within two working days, investigate the matter fully and provide a full written response within 20 working days of receiving the communication, unless otherwise agreed. Where appropriate a meeting should be arranged with the complainant to discuss the complaint in depth. If after this stage the complainant is not satisfied they are able to write an appeal to the Chair of Trustees.

Third Stage

By email: The Chair's Office

Lesley Bers – lbers@saintmichaelsospice.org

Colin Tweedie – ctweedie@saintmichaelsospice.org

By post: The Chair's Office – Saint Michael's, Herriot Hospice and Just 'B', Crimple House, Hornbeam Park Avenue, Harrogate, HG2 8QL

The Chair of the Board of Trustees will review the process and documents from the first and second stages along with the information from the person making the complaint, involving other Trustees as necessary. A full response will be made within 17 days from receipt of the appeal.

If the complainant is still unsatisfied please refer to section 14.

At every stage of this procedure 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), the complainant (and advocate if relevant) should receive an update every 10 working days thereafter the target has been surpassed. This could be by telephone, email or letter but the format should be agreed with the complainant
- To receive a quality response with assurance that action has been taken to prevent a recurrence
- Informed of any learning
- Our response to a complainant will be, wherever possible, by their preferred method of communication (email correspondence will only be responded to by email when the complainant has expressly requested this as their method of communication and security measures will be implemented in line with office policy to protect personal information sent via email).

At the conclusion of each stage of the complaints procedure a response to the complaint will be prepared which will include information about the next stages of the complaints procedure should the complainant wish to take matters further.

The response will include:

- An explanation of how the complaint has been considered
- An apology if appropriate
- An explanation based on facts
- Whether the complaint is upheld either fully or in part
- 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 taken
- Where possible, we will respond to people about any lessons learnt

If at any time during the complaint process the complainant or their representative or advocate decides they would like to withdraw the complaint, this request can be made either verbally or in writing. The withdrawal of a complaint will be acknowledged in writing

11. Confidentiality

Complaints will be handled in the strictest of confidence in accordance with our Confidentiality Policy, and will be kept separately from patient medical records or supporter records, where relevant. Notes will however be made on these files that a complaint is ongoing or complete. Care will be taken that information about the detail of the complaint is only disclosed to those who have a demonstrable need to have access to it.

Suitable arrangements are in place for the handling of patient identifiable data to meet the compliance of 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 sets out a number of general principles that health and social care organisations should use when reviewing its use of patient or client information.

The designated Caldicott Guardians are responsible for ensuring that confidentiality is maintained.

Confidentiality will be maintained in such a way that only managers and staff who are leading the investigation know the contents of the case. Anyone disclosing information to others who are not directly involved in this may be dealt with under disciplinary procedures.

12. Consent

Where appropriate we may require access to medical records or other personal information in order to deal with the matter. This information will be collected, processed and stored in line with our information notices.

There is an expectation that staff clearly explain uses and sharing of personal information when people are using our services so they can make an informed decision and clearly understand the processing and potential sharing of their information. Staff must also understand the expectations of confidentiality relating to the information provided.

Where the complaint involves a service that we are commissioned or contracted to provide by the NHS or social Care we will adhere to the duty to cooperate contained in the legislation.

Where complaints involve more than one body, discussions will take place between the bodies concerned about who is the most appropriate body to take the lead in coordinating the complaint and communicating with the complainant.

Information may be used for other purposes such as monitoring processes and improving service quality. Wherever possible, only anonymous information will be used. If identifiable data is needed for other purposes, then consent will be requested from the person who the information relates to.

In some circumstances we may also disclose personal information to relevant parties where there is a legal duty or power to do so. For example if information leads us to believe that a child or vulnerable adult is at risk of harm or if a court order requires us

to do so. In such circumstances, consent may not be sought prior to disclosing the information.

Should you have any concerns about how your information is to be used, please discuss this with us.

13. Advocacy Services

Since April 2013, individual local authorities have a statutory duty to commission independent advocacy services to provide support for people making, or thinking of making, a complaint about their care or treatment.

Support to residents of Harrogate and Rural District and Hambleton and Richmondshire is available from the Independent Complaints Advocacy service which is free to complainants. The service is provided by:

Cloverleaf Advocacy

North Yorkshire NHS Complaints Advocacy Service

Tower Court, Oakdale Road, Clifton Moor, York YO20 4XL

Email: helpwithnhscomplaintsnorthyorks@cloverleaf-advocacy.co.uk

Phone: 0300 012 4212

Website:

<http://www.helpwithnhscomplaintsnorthyorks.org/> Or

via Healthwatch [click here](#).

Please note these services are only available for NHS care related complaints.

14. Exceptions to the Policy

There may be circumstances in which information disclosure is in the best interests of the patient, or for the protection, safety or wellbeing of a child or vulnerable adult. In these circumstances, a complaint will be escalated as necessary in line with safeguarding policies and procedures. Any allegations of fraud or financial misconduct will also be forwarded to the appropriate authority.

15. Referrals for external complaint review

We aim to ensure that all complaints are handled well and that appropriate action is taken to resolve a concern. We will do everything that we feel is appropriate in order to try and resolve matters to your satisfaction.

If, however, you remain unhappy after your complaint has been addressed, you can ask a number of organisations to review your complaint.

For health and patient care related complaints: the Parliamentary and Health Service Ombudsman (PHSO). You should do this within twelve months from the date on which the subject matter of the complaint occurred.

For charitable fundraising related complaints: The Fundraising Regulator

For governance issues: The Charity Commission

For retail matters; Trading Standards

For matters relating to CQC registered clinical services provided by Harrogate and District Hospice Care Ltd; Care Quality Commission

16. Record Keeping

Keeping clear and accurate records of complaints is important and these should be retained for a period of ten years. A link to the full records management policy can be found below.

<F:\Policies Procedures and Forms\Saint Michaels Policies\General>

17. Monitoring and Reporting

We will demonstrate how we use feedback to learn and improve. In our annual accounts we will detail:

- Number of complaints received
- Number 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 we have been advised that have been referred on
- Praise and other feedback and how that information has been shared

The Chief Executive's Office will monitor performance which will be reviewed by the Leadership Team on a two monthly basis. Trustees will further review performance on a quarterly basis.

18. Safeguarding

Safeguarding is a key element of complaints management and review. It may be necessary to identify if any of the following elements are evident in the information/complaint:

- Safeguarding concerns of the person, including their ability to manage with daily living
- Safeguarding concerns regarding the adequacy of care/support being provided to the person

- Safeguarding concerns regarding the behaviour of a professional to a patient or carer
- Safeguarding concerns regarding the behaviour of the person/complainant to professional staff

All complaints staff must have at least Level 2 training in safeguarding to enable them to identify the key safeguarding concerns. All complaint handlers require DBS checks as part of their recruitment process.

19. Safeguarding Patients/Complainants

Our Safeguarding Policy identifies the key elements of safeguarding to support those using our services. Complaints staff should be aware of the Safeguarding Policy and use the policy where appropriate.

20. Quality Assurance

We will monitor both the effectiveness of the complaints process, and how complaint information is being used to improve services and delivery of care. Specifically, the Chief Executive's Office will work with Education and Training to provide a system to:

- Disseminate learning from complaints across the relevant parts of the organisation
- Include the use of complaints procedures as a measure of performance and quality
- Use complaints information to contribute to practice development, commissioning and service planning

21. Equality Impact Assessment

An initial assessment of the potential impact of the policy in relation to the protected characteristics of the Equality Act 2010 has been carried out. The intention of the equality impact assessment is to eliminate unlawful discrimination, advance equality of opportunity and foster good relations as stated in the Equality Act. We have given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited in under the Equality Act 2010) and those who do not share it.

22. Compliance and Review

Compliance with the policy and procedures laid down in this document will be monitored by the Chief Executive's Office and audited periodically. The Chief Executive is responsible for the monitoring, revision and updating of this document. This policy will be kept under review in light of operational experience and national guidance.