

Patient Advice & Liaison Service (PALS) and Complaints Policy

MECCG Policy Reference:

MECCG007

Target Audience	All staff and service providers
Brief Description (max 50 words)	This policy sets out ways in which Mid Essex Clinical Commissioning Group (MECCG) encourages feedback and responds to comments, concerns and complaints and compliments that are received in respect of its activities and actions including those provided by other organisations that it commissions.
Action Required	Once the policy has been approved it will be made available to all staff via the Intranet.

Document Information

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Accountable Executive	Director of Nursing and Quality
Responsible Post holder/Policy Owner	Clinical Quality Specialist
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Stakeholders engaged in development/review	Quality & Governance Committee

Amendment History

Version	Date	Reviewer Name(s)	Comments
2.1	April 2014	PALS and Complaints Team	Policy refresh with PALS charter and complaints proforma included
2.2	April 2016	Patient Experience Manager	Policy refresh with updated roles and titles
2.3	April 2019	Corporate Governance Support Officer	Approval dates amended to reflect 6 month extension approved by Board 28 March 19

This policy progresses the following Authorisation Domains and Equality Delivery System (tick all relevant boxes).

Clear and Credible Plan	Collaborative Arrangements	
Clinical Focus and Added Value	Engagement with Patients/Communities	
Commissioning processes	Leadership Capacity and Capability	
Equality Delivery System	NHS Constitution ref	

Glossary

Term	Definition
Accountable Executive	CCG Executive accountable for development, implementation and review of the policy
Policy Owner	Post holder responsible for the development, implementation and review of the policy

All employees are subject to Mid Essex CCG's Policies and Procedures. Breach of MECCG's Policies and Procedures, may result in formal action being taken, which can lead to dismissal.

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MID ESSEX CLINICAL COMMISSIONING GROUP

PALS & COMPLAINTS POLICY

1. Introduction

This document sets out ways in which Mid Essex Clinical Commissioning Group (MECCG) encourages feedback and responds to comments, concerns and complaints and compliments that are received in respect of its activities and actions including those provided by other organisations that it commissions.

2. Policy Framework

This policy aims to create a framework where complaints and concerns are seen as an opportunity to learn where services can be improved, rather than as criticisms that need to be defended (House of Commons 2014). The policy has been drawn up in line with, NHS Complaints in England (House of Commons 2014) Listening, Responding, Improving (DH 2009) and the National Patient Safety Guidance on Being Open (2005). It aims to capture the spirit of the legislation by creating an open, fair, flexible and conciliatory approach to all complaints or expressions of concern.

2.1. Regulations governing complaints for both health and social care services are set out in legislation: The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (Statutory Instrument 2009 No 309). This legislation created a single complaints system covering both health and adult social care services in England.

2.2. This policy aims to meet the principles of good complaints handling laid down by the Parliamentary and Health Service Ombudsman (PHSO) and contained within 'Principles for Remedy' (October 2007, amended February 2009), 'Principles of Good Complaints Handling' (November 2008, amended February 2009) and 'Principles of Good Administration' (March 2007, amended February 2009). This policy has also been written to meet the requirements of the NHS Constitution, both for patients and staff as well as supporting the CCG in meeting its obligations vice versa the Equality Act 2010.

2.3. Mid Essex Clinical Commissioning Group (MECCG) will ensure the complaints process is as widely publicised as possible so that people are aware how to make a formal complaint should they wish to do so.

2.4. All complaints will be risk assessed and dealt with in a flexible manner depending on the seriousness of the issues raised, the effect this has had on the patient or carer and whether any others may have suffered injustice or hardship as a result of the incident. All patients and carers who remain unhappy with the response provided by Mid Essex Clinical Commissioning Group will be advised of their right to pursue the matter further through the complaints procedure and to obtain support to enable them to do so.

2.5. The Patient Experience Team manages all comments, concerns, compliments and complaints received by Mid Essex Clinical Commissioning Group.

2.6. The Director of Nursing and Quality is authorised by the Accountable Officer to act on their behalf in all matters relating to complaints.

3. Policy Statement

This policy aims to provide:

- Ease of access for complainants by empowering all staff to receive and, where appropriate, respond to complaints;
- A rapid, open, fair, conciliatory approach to complaints which meets the needs of the complainant whilst being fair to staff;
- A 'one-stop shop' approach to complaints that relate to more than one organisation, with unified handling of complaints across health and social care boundaries where possible;
- A means of identifying and managing complainants who are persistent/habitual or vexatious;
- A high profile for good complaints handling – and responding within agreed timescales with in Mid Essex Clinical Commissioning Group
- A means of providing information to the Board, senior managers the Quality and Safety Committee so that learning can take place, policies can be changed, services can be improved and complainants can be reassured that their complaint has made a difference.

A simplified flow chart setting out how complaints and PALS will be handled by Mid Essex Clinical Commissioning Group can be found in Appendix 1.

4. Scope of this policy

4.1. This policy covers all complaints received by Mid Essex Clinical Commissioning Group relating to a policy, service or care it provides or commissions or that are received by another health or social care organisation which relate to a policy, service or funding provided by Mid Essex Clinical Commissioning Group .

4.2. Complaints may be received verbally over the telephone or during a face-to-face meeting, in writing, by fax or email.

4.3. Complaints by health organisations or local authorities against other health organisations or local authorities are not included in this policy.

4.4. This policy does not cover complaints from staff about employment, contractual or pension issues. Please refer to the staff webpage inclusive of all HR policies, http://www.midessexccg.nhs.uk/document-library/cat_view/1-key-documents/36-policies

4.5. This policy does not include complaints for the following:

- That have already been investigated under the current or previous complaints regulations;
- Which are being or have been investigated by a Local Commissioner under the Local Government Act 1974, or the Health Service Commissioner under the 1993 Act;

- Arising from the alleged failure to comply with a data subject request under the Data Protection Act 1998;
- Arising from an alleged failure by an English local authority or NHS body to comply with a request for information under the Freedom of Information Act 2000.

However, all feedback on issues mentioned under 3.5 may provide opportunities for organisational learning and service improvement and will be captured through the reporting process where relevant.

4.6. This policy does include complaints where disciplinary action is being considered or taken against a member of staff, provided due regard is given to good practice around restrictions in providing confidential or personal information to the complainant. Although the complaints handling arrangements operate alongside the disciplinary arrangements, the two processes will remain separate.

4.7. This policy does cover complaints where legal action is being taken or the police are involved, provided that it can be established that progressing the complaint will not prejudice subsequent legal or judicial action.

4.8. This policy does include complaints which appear 'out of time' (see section 8.4.) where the investigation and response is possible and appropriate. Staff should contact the Complaints Manager for advice in these cases.

5. Who this policy applies to

5.1. This policy applies to all staff employed by Mid Essex Clinical Commissioning Group

5.2. Complainants will generally be current or former users of services that are commissioned by Mid Essex Clinical Commissioning Group.

5.3. A complaint may be made by a service user, carer, close family members or any person affected by or likely to be affected by the action, omission, or decision of Mid Essex Clinical Commissioning Group.

5.4. A complaint can be made by an MP acting on behalf of their constituent without providing explicit consent from the constituent as implicit consent is presumed. However, Mid Essex Clinical Commissioning Group would like to encourage MPs to obtain explicit consent as constituents are not always fully aware of the nature of the information that may be shared.

Mid Essex Clinical Commissioning Group intend to provide MPs with copies of their consent form to facilitate this approach. Where it is necessary for Mid Essex Clinical Commissioning Group to share the complaint with another organisation or independent contractor, explicit consent will be obtained from the constituent.

A statement on how MP complaints will be handled can be found in Appendix 2.

5.5. Someone acting on behalf of another person may make a complaint on behalf of that person, where that person is unable to make the complaint themselves or has asked the person to make the complaint on their behalf. In all such cases formal

written consent will be required from the complainant or proof that someone has the legal right to make a complaint on behalf of that person, such as power of attorney.

5.6. Someone wishing to make a complaint about a healthcare related matter has the choice of making a complaint to either the organisation providing the service or to the organisation that commissioned that service, or to both. In cases where the latter course of action is chosen, Mid Essex Clinical Commissioning Group will retain an overview of the handling of the complaint by the provider and may, in some circumstances, handle the complaint itself directly. This applies to all Mid Essex Clinical Commissioning Group commissioned services, including those provided by independent contractors

All independent contractors are required by regulations to set up and run in-house or surgery based complaints procedures, which comply with minimum national criteria.

6. Definitions used in this policy

6.1. The Local Authority Social Services and NHS Complaints (England) Regulations 2009 make it clear that a complaint can be made under the health and social care complaints procedure relating to any matter reasonably connected with the exercise of the functions of an NHS body or the exercise of social services functions by a Local Authority. This deliberately allows for complaints about a very wide range of issues relating either to the provision of services or the commissioning or policy decisions of an NHS organisation.

- a. The NHS Executive has suggested that one definition of a complaint is '*An expression of dissatisfaction that requires a response*'. This is a wide definition and it is not intended that every minor concern should warrant a full-scale complaints investigation. The spirit of the complaints procedure is that front line staff are empowered to resolve minor comments and problems immediately and informally or to offer the assistance of the Patient Experience Team. Mid Essex Clinical Commissioning Group will therefore seek to distinguish between requests for assistance in resolving a perceived problem and an actual complaint. This is in keeping with the spirit of seeing patient feedback as an opportunity to improve.
- b. Whenever there is a specific statement of intent on the part of the caller/correspondent that they wish their concerns to be dealt with as a complaint, they will be treated as such.
- c. Any caller/correspondent who is dissatisfied with an immediate response to a matter which has been dealt with informally and not as a complaint will be advised of their right to pursue the matter further through the complaints procedure.

6.2. Complainants (and/or anyone acting on their behalf) may be deemed to be habitual, persistent or vexatious where contact within the last 12 months shows that they meet **at least** two of the following criteria:

- a. Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.

- b. Seek to prolong contact by changing the substance of a complaint or continually raising new issues and questions whilst the complaint is being addressed. (Care must be taken not to discard new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints).
- c. Are unwilling to accept documented evidence of treatment given as being factual e.g. drug records, GP records, nursing notes.
- d. Deny receipt of an adequate response despite evidence of correspondence specifically answering their questions.
- e. Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- f. Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of Patient Experience Team and, where appropriate, independent advocacy, to help them specify their concerns, and/or where the concerns identified are not within the remit of Mid Essex Clinical Commissioning Group
- g. Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. However, what is considered 'trivial' is a subjective judgement and great care will be used when applying this criterion, particularly towards people who may have mental health issues.
- h. Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Mid Essex Clinical Commissioning Group Patient Experience Team placing unreasonable demands on staff. A contact may be in person, by telephone, letter, E-mail or fax. Care will be taken in determining 'excessive contacts' as this is a subjective judgement.
- i. Display unreasonable demands or expectations and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).
- j. Have threatened or used actual physical violence towards staff or their families or associates at any time - this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication.
- k. Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (Staff will recognise that some complainants may be mentally ill and some will act out of character at times of stress, anxiety or distress and will make reasonable allowances for this.) Staff will document all incidents of harassment in line with the Zero Tolerance Procedures, completing an incident form.

6.3. The term complainant includes anyone acting on behalf of a complainant or who contacts Mid Essex Clinical Commissioning Group about a complaint.

7. Roles and responsibilities

7.1. The Accountable Officer has overall responsibility for complaints handling issues, as stated in Section 4 of the Local Authority Social Services and NHS Complaints (England) Regulations 2009. The Accountable Officer, or the Director of Nursing and Quality, will decide whether a complainant meets the definition of a vexatious, persistent or habitual complainant. (See section 5.4)

7.2. The Accountable Officer, or their nominated deputy in their absence, will review and agree response letters. The Accountable Officer relies on, senior managers and the Patient Experience Team to ensure investigation reports and responses are accurate, timely, fair and comprehensive.

7.3. The Patient Experience Manager or their nominated deputy in their absence, is, under Section 4 of the Local Authority Social Services and NHS Complaints (England) Regulations 2009, responsible for managing the procedures for handling and considering complaints.

7.4. The Patient Experience Team will maintain an up-to-date database of all concerns and complaints and provide annual complaints data for the Mid Essex Locality.

7.5. The Patient Experience Team is responsible for maintaining a record of all action plans and changes in practice resulting from complaints and obtaining progress reports on actions at regular intervals.

7.6. The Patient Experience Team is responsible for providing information to the Parliamentary and Health Services Ombudsman and ensuring actions arising from investigations are monitored, delivered and reported to the Quality and Governance Committee and learning shared with our Providers.

7.7. The Patient Experience Team is responsible for providing the Quality and Governance Committee with quarterly reports about the number and type of concerns and complaints made about Mid Essex Clinical Commissioning Group or any other matters reasonably connected with the exercise of their functions.

7.8. The Patient Experience Team is responsible for ensuring the service is widely advertised to patients and the public, staff and independent contractors and is accessible, particularly to people with communication difficulties such as learning difficulties or people who cannot read, write or speak English.

7.9 All staff will be encouraged to offer and advertise the availability of interpreters and the Independent Complaints Advocacy Service (ICAS) where appropriate.

7.10. The Patient Experience Team is responsible for co-ordinating any complaints relating to Mid Essex Clinical Commissioning Group and other NHS Trusts, independent contractors or services and, where appropriate, providing a single integrated complaint response. In such cases the Patient Experience Team will liaise

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with other complaints manager/s and agree who will take the lead in co-ordinating investigations and sending out the final response.

7.11. Mid Essex Clinical Commissioning Group are responsible for any immediate response to a complaint relating to their area of responsibility. Should a complaint be resolved in one working day, they will ensure a record of the issue and actions taken is provided to the Patient Experience Team. If the complaint cannot be resolved in one working day, they will inform a member of the Patient Experience Team and, where relevant, help identify an investigating officer who is independent of the events leading to the complaint.

7.12. Mid Essex Clinical Commissioning Group managers will ensure that any member of staff who is the subject of a complaint relating to their area of responsibility, and any subsequent investigation, is informed and offered appropriate, timely support including, where appropriate, referral to Occupational Health Services.

7.13. Where a formal investigation is required, managers will ensure that the investigation is completed within the agreed timescale on an individual basis, and sent to the Patient Experience Team for record keeping. Managers are responsible for writing draft complaint responses and ensuring these are in plain English and address all the concerns raised as well as offering an apology where warranted. They are also responsible for attending meetings with the complainant, when requested, and for any action plans drawn up as a result of the complaint.

7.14. Mid Essex Clinical Commissioning Group are responsible for implementation of any action plan arising from a complaint relating to their area of responsibility and for providing a progress report on the action plan when requested.

7.15. Managers are responsible for delivering and reporting on any recommendations arising from an Ombudsman's report relating to their area of responsibility and reporting progress to the Patient Experience Team on request.

7.16. Mid Essex Clinical Commissioning Group staff who are appointed to the role of an investigating officer are required to investigate the subject of the complaint and provide a fair, accurate, comprehensive report of their investigation in plain English within the agreed timescale.

7.17. All staff working for Mid Essex Clinical Commissioning Group who come into contact with patients and the public is responsible for knowing how to contact the Patient Experience Team, and for responding to expressions of dissatisfaction about a policy, service or commissioning decision by Mid Essex Clinical Commissioning Group.

8. Publicity

Leaflets about the service will be sent to relevant stakeholders including:

- Patient experience teams working for NHS Trusts in Mid Essex Locality.
- Members of Parliament whose constituencies lie within NHS Mid Essex Clinical Commissioning Group
- Relevant Healthwatch organisations.

- The local Independent Complaints Advocacy Service (ICAS) provider. Local volunteer agencies operating in the Mid Essex Clinical Commissioning Group locality with a direct interest in health and social care

8.1. Easy Read words and pictures PALS and complaints leaflets will be sent to the Learning Disability leads both electronically and in hard copy where requested, so they can be provided to their clients and will also be made available for downloading from the Mid Essex Clinical Commissioning Group website.

8.2. The PALS and Complaints Plain English leaflet will include contact information in the top six languages spoken in Mid Essex Clinical Commissioning Group area and will include a statement about how to obtain a copy of the leaflet in other languages and formats.

8.3. The PALS and Complaints leaflets, posters and information are sent to stakeholders and published on websites and in Annual Reports

8.4. A PALS query or complaint can be raised by anyone who receives or has received services commissioned by the CCG. A person who is affected, or likely to be affected, by an action, omission or decision of the CCG. A third party e.g. MP, family member, friend, carer, but only with consent from the person who the issue concerns. Where the patient is unable to consent it may be necessary to obtain relevant legal documentation such as a power of attorney before the issue can be investigated.

9. The Complaints Policy

It is recognised that a number of people using the word 'complaint' do not wish to make a formal complaint, but they do require a swift and effective resolution of their issues.

9.1. It is the responsibility of all staff who receives a complaint to attempt to resolve it at the point of contact and this is how many complaints are handled. In most cases, it is still essential that consent is obtained from the patient for the purposes of sharing clinical information with a third party.

9.2. Where the complainant accepts the response as being satisfactory and appropriate, and where that response is communicated within the next working day, there will be no requirement for further action. If the complainant is not satisfied with the response, they will be advised that they may make a formal complaint.

9.3. It is important that all PALS concerns resolved informally within one working day are reported to and logged by the Patient Experience Team on the Risk Management database, Datix, so that learning can take place.

9.4. Complaints regulations state that an NHS or social care complaint must be made within 12 months from the date on which a matter occurred, or the matter came to the notice of the complainant. However, there is discretion to extend this time limit where it would be unreasonable in the circumstances of a particular case for the complaint to have been made earlier and where it is still possible to properly investigate the facts of the case. An example of this may be where a complainant

has been too unwell or upset to raise their complaint sooner. Front-line staff receiving a complaint which appears 'out of time', should contact the Patient Experience Team for advice, who will make the decision as to whether 'out of time' complaints should be accepted and investigated.

9.5. All staff will advise complainants of the support available to them in making their complaint. Staff should advise complainants, at the earliest appropriate opportunity, of the PALS and Complaints Policy and the support offered by the Independent Complaints Advocacy Service (ICAS) in all the processes of the NHS Complaints Procedure.

9.6. Any unresolved concern or formal complaint will be passed to the Patient Experience Team and logged onto Datix. All complaints will be formally acknowledged within three working days of its receipt.

9.7. All complaints received by the Patient Experience Team will first be risk rated using the risk matrix set out below:

PALS and Complaints Risk Matrix

Grading	Examples	Timescales
<p>On the spot intervention (PALS)</p>	<p>Concerns about access to treatment or healthcare services</p> <p>Concerns about all aspects of clinical treatment received</p> <p>Concerns regarding commissioning policies/decisions</p> <p>Requests for information</p> <p>Signposting to other services</p>	<p>Acknowledgement within 24hrs</p> <p>Final response either same day or within three working days</p>
<p>Complaint – minor</p> <p>Relates either to an unsatisfactory service or experience not directly related to clinical care or to a single resolvable issue relating to care with minimal impact and</p> <p>Minimal risk to the provision of care or the service.</p>	<p>Complaints about:</p> <ul style="list-style-type: none"> • Manner and attitude. • Delayed or cancelled appointments • Cleanliness 	<p>Acknowledgement within 3 working days.</p> <p>Final response within 10 working days</p> <p>☐</p>
<p>Complaint – moderate</p> <p>Relates to a service or experience which appears to be below reasonable Expectation in several ways, but not causing lasting problems. There may be some potential for litigation. Includes clinical care issues.</p>	<p>Complaints about:</p> <ul style="list-style-type: none"> • Alleged prescribing errors • Event resulting in moderate harm • Failure to meet care needs • Complaint affecting a vulnerable adult 	<p>Acknowledgement within 3 working days.</p> <p>Final response within 25* working days.</p>
<p>Complaint – major</p> <p>Raises significant issues regarding standards, quality of care and safeguarding or clear evidence of denial of rights. Evidence of quality assurance or risk management issues. High probability of litigation and adverse local publicity.</p>	<p>Complaints about:</p> <ul style="list-style-type: none"> • Issues listed under Moderate, but where there are multiple issues, where serious harm is caused or where joint investigations with other NHS or Social Care Trusts are required. 	<p>Acknowledgement within 3 working days.</p> <p>Final response within 40* working days.</p>

<p>Complaint – catastrophic</p> <p>Serious issues which may cause long-term damage, including grossly substandard care or professional misconduct. High risk of litigation or adverse national publicity.</p>	<ul style="list-style-type: none"> • Events resulting in serious harm or death. • Criminal offence (e.g. assault) <p>Abuse or neglect.</p>	<p>Acknowledgement within 3 working days.</p> <p>Final response within 40* working days</p>
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*These are suggested response timescales for consideration during negotiation with complainants

9.8. All complaints that are rated moderate or above, using the risk matrix shown under section 9.7, require a formal investigation due to their potential gravity or complexity and include those that:

- Allege staff misconduct or clinical negligence;
- Raise concerns about adult or child safeguarding;
- Are historic in nature relating to multiple events over a long period of time;
- Are multi-agency complaints requiring investigation by other organisations e.g. Social Services, Hospital Trust
- A complaint that could significantly adversely affect the reputation of Mid Essex Clinical Commissioning Group.
- Could lead to legal proceedings

9.9. Occasionally complaints give rise for concern about the immediate welfare or safety of the complainant or another person connected to the complainant. Contacts of this nature will be immediately prioritised for same day action and the complainant will be contacted and advised to contact their GP and/or NHS 111 for advice. Alternatively the Director of Nursing and Quality will be asked for advice as to immediate next steps.

9.10. Sometimes complainants state they are going to commit or feel like committing suicide. Suicidal callers will be encouraged to seek help from their GP or (if they already have one) their mental health team. They can also be advised to go to A&E as they can access mental health help there. NHS 111 can advise over the phone. Details of The Samaritans can also be given. It may sometimes be apparent that the threat is not being made seriously; even if this is the case, the matter should be fully recorded on Datix.

9.11. If staff are concerned about a caller, they will speak to a senior manager in the Quality Team who will consider informing relevant professionals either so that the matter is recorded for the future or in order to obtain immediate help for the patient. In particular, it may be appropriate to inform the caller's GP practice. If possible, the patient's agreement to this course of action should be obtained. However there may be cases where the patient is not willing to authorize any contact but staff assess that the situation is so serious that they do need to contact a third party. Before contacting anyone outside the Quality Team it must be remembered that breaking the patient's confidentiality in this way is only justified when there is perceived to be a danger to the patient or someone else. In these cases, staff MUST consult the

Caldicott Guardian or in their absence the Director of Nursing and Quality MECCG. Any action taken without the patient's express permission must be considered very carefully and be in proportion to the assessed risk to the caller. All such cases should be recorded with full details of all contacts and action taken.

9.12. The Patient Experience Team will allocate a lead member of staff or case manager to all complaints listed under section 8.7, who will contact the complainant prior to investigation to negotiate the complaints case management plan. The complainant will be advised in the initial contact that support can be provided to them by the Independent Complaints Advocacy Service (ICAS), along with contact details.

9.13. A written copy of any oral complaint and the complaints case management plan will be sent to the complainant with an acknowledgement and an invitation to sign and return it. The complainant will be informed that if it is not signed within 10 working days it will be assumed that the statement is an accurate representation of their complaint and the plan has been accepted as agreed.

9.14. For clinical complaints concerning primary care commissioned services, the Patient Experience Team will liaise with relevant managers and clinicians for advice on the initiation of an investigation into a clinical complaint and who to appoint as an investigator. For example, the investigation could be undertaken by Mid Essex Clinical Commissioning Group or primary care manager, a GP Practice, external/independent investigator or a member of the Patient Experience Team. Whatever is decided, the investigator will provide the Patient Experience Team with the results of the investigation within an agreed time limit. Nb. The majority of General Primary Care Services are commissioned by NHS England.

9.15. A response will be drafted following the investigation and the Patient Experience Team will send electronic copies of the draft final response to the relevant Senior Manager for approval of the response recording the outcome on Datix.

9.16. Once the senior manager has approved the response it will be sent to the Accountable Officer for approval. Final letters for consideration will be accompanied by the original complaint letter(s) and relevant documents such as the investigation report. If a complaint is not released for Accountable Officer signature by a senior manager or their nominated deputy after 3 working days, the Patient Experience Team will escalate the case to the Director of Nursing and Quality. If the case is still held up, after another 5 working days, the Patient Experience Team will escalate the case to either the Director of Nursing and Quality or Accountable Officer.

9.17. If it is not possible to respond to the complainant within the agreed timescale, the complainant will be contacted at the agreed review date to agree a new response time, which normally should not exceed twenty working days from the date of that conversation/confirmation letter or as per risk matrix or agreed timescales.

9.18. Responses will be written in plain English, free of jargon, and wherever possible, include an apology. All responses will contain a clear statement as to which aspects of the complaint have been upheld, or not, with an explanation as to what took place. Details will be given of what actions have been, or will be, taken to

prevent a recurrence of the incident. Information about the Parliamentary and Health Services Ombudsman and the NHS Independent Complaints Advocacy Service will also be given. All responses will include the contact details of a named person who will discuss the complaint and the response letter with the complainant, if required.

9.19. A meeting can be offered as part of the resolution process. The Patient Experience Team can also arrange dispute resolution to aid this process, including the possible use of a Lay Conciliator/Mediator. Interpreting will be offered for any meeting where this would aid communication and complainants will be informed that they are welcome to bring a friend and/or advocate (not a legal representative) to any meeting if they wish.

9.20. The Patient Experience Team will refer any relevant claims issues to the Risk Manager to forewarn the claims process where there is an explicitly stated intention to take legal action.

9.21. Where a complainant indicates they will be contacting the media as a result of their complaint/issue or where the Patient Experience Team feels there is a potential significant reputational risk relating to the complaint, the communications team will be informed of the complaint/issue within 2 working days.

9.22. Some complaints give cause for concern about individual practitioner performance, and the quality and safety of services they provide. The Patient Experience Team will seek guidance from the Director of Nursing and Quality or Accountable Officer about such cases and will report these cases to the Performance Team in who in turn may refer such complaints to the NHS England Performance Team for Primary Care Services.

9.23. Where a complaint is being investigated and it becomes apparent that an investigation under the Mid Essex Clinical Commissioning Group, Disciplinary Policy is required, a decision will be reached as to whether any further action under the complaints process can proceed. This flexibility in permitting the complaints and disciplinary processes to operate simultaneously, in certain circumstances, is designed to ensure that the potential implications for patient safety and organisational learning are investigated as quickly as possible, to allow urgent action to be taken to prevent similar incidents arising.

9.24. However, if Mid Essex Clinical Commissioning Group does proceed with the two investigations simultaneously, the following rules will apply:

- Separate investigating managers;
- On-going liaison between the two investigating managers to ensure a co-ordinated and systematic approach, sharing of information where appropriate and the agreement of key findings;
- Agreement of how the outcomes of disciplinary proceedings will be communicated to the complainant.

9.25. If the decision is made to defer the complaints process pending completion of the disciplinary proceedings, then the following will apply:

- Any issues falling outside the scope of the disciplinary proceedings may be investigated under the complaints process provided that they do not impact upon the disciplinary investigation;
- The Patient Experience Team will be responsible for keeping the complainant informed as to the likely timescale for the completion of the disciplinary proceedings.

9.26. At the conclusion of the disciplinary proceedings, the Patient Experience Team will write to the complainant explaining:

- That the matter has been investigated;
- That the allegation has or has not been proven;
- Where an allegation has been proven, details can be given about any review of procedures or additional training to staff which is being undertaken as a result;
- Where disciplinary action has been taken against an individual, a statement can be made that appropriate actions have been taken, without the exact nature of that action being disclosed.

9.27. Any information collected in the complaints investigation can be used in the disciplinary procedure, but the two procedures must be kept separate and the right of the staff member to confidentiality must be respected at all times.

9.28. Complaints received about other NHS services will be directed to the relevant Trust or provider service complaints manager/s for investigation and response.

9.29. Complainants that meet the definition of habitual, persistent or vexatious, as deemed by the Accountable Officer (see section 6.4), will be sent a formal letter or email setting out the ways in which the complainant can use the PALS and complaints service, behaviour that is and is not acceptable and how to communicate with the Patient Experience Team.

This letter or email will also inform the complainant that Mid Essex Clinical Commissioning Group may invoke the habitual, persistent and vexatious complaints policy if the behaviour or contact does not improve and provide an explanation for why the policy is sometimes used so the complainant can understand that there are limited resources to help complainants and habitual, persistent and vexatious complaints take valuable time away from helping other people whilst adding nothing to resolving the complainants issue/s.

This communication will act as a first warning. If the complainant continues with the same behaviour, a second letter or email will be sent informing the complainant that the persistent, habitual and vexatious complaints policy will in future be followed in relation to all contact they may have with staff of Mid Essex Clinical Commissioning Group

This letter should also cover some or all of the following issues:

- The Accountable Officer has responded fully to the points raised;
- The Accountable Officer and the Patient Experience Team /other teams have tried to resolve the complaint;

- There is nothing more that can be added so all correspondence is now completed;
- Future letters/emails/contact about the same issue/s will be acknowledged but not answered;
- Legal action may be considered if the behaviour continues;
- If a new issue or complaint arises the Patient Experience Team will be happy to assist;
- This policy will be followed for no longer than six months.

If the Patient Experience Team are at all concerned that the complainant will not be able to understand the first or second letters/emails a follow up phone call will be made by the Patient Experience Team or Director of Nursing and Quality and a meeting will be offered to provide a verbal explanation.

9.30. The Patient Experience Team will treat information about both clients and staff in strict confidence. The confidentiality principle helps to create an environment in which Complainants feel able to speak freely and staff are protected. The Caldicott Principles will be followed and any information collected and recorded by the service will be covered by the Data Protection Act. A Safe Haven Fax number will be used for patient identifiable data (01245 398710). All staff will adhere to information governance policies and must have up-to-date training in Information Governance.

There may be circumstances in which Mid Essex Clinical Commissioning Group consider a breach of confidentiality may be required. Such breaches will occur in very limited circumstances and any decision taken will be documented to provide the rationale for doing so including the reasonable steps that have been taken to seek consent.

Such situations may include:

- where there is a risk danger to the client or others e.g. prevention or detection of serious crime or other justified serious risk, and:
- Where not to do so would be breaking the law.
- If a member of the Patient Experience Team considers a breach of confidentiality might be appropriate, they will seek advice from the following staff and in addition may also seek legal advice:
- The Patient Experience Team / Director of Nursing and Quality and MECCG.
- The Information Governance Manager
- The Caldicott Guardian

10. Learning from complaints

10.1. Every opportunity will be taken by Mid Essex Clinical Commissioning Group to learn from complaints and to use the insight and experience of complainants to resolve the complaint or issue and ensure it does not reoccur. Where possible and practicable complainants will be offered the chance to review and contribute to problem solving arising from their complaint and commenting on changes made as a result. Reports to the Quality Governance Committee and the Board will highlight actions taken to share learning with staff.

10.2. Mid Essex Clinical Commissioning Group will aim to use complaints, appropriately anonymised, as an aid to staff learning and for service redesign and improvement.

10.3. All complaints and concerns will be recorded on Datix. These records will be used to track complaints and ensure complainants only need to “tell their story” once. This will ensure that whatever member of the Patient Experience Team is contacted by a complainant or member of staff, she/he knows the details of their complaint and can update them as to the current situation.

10.4. All complaints and concerns made to Mid Essex Clinical Commissioning Group will be reported quarterly to the Quality and Governance Committee. These reports will include details of all complaints referred to the Parliamentary and Health Services Ombudsman. Trends will be highlighted wherever possible and learning will be discussed where relevant.

10.5. Reports will be provided on a quarterly basis to Mid Essex Clinical Commissioning Group Board as well as the monthly report for the Quality Dashboard. Additionally more robust data capture will ensure that information pertaining to the protected characteristics (see section 12.6 – these are defined under the Equality Act 2010) which will be collated and shared with the Equality and Diversity Sub-Committee to monitor trends and actions instigated by the CCG.

10.6. Mid Essex Clinical Commissioning Group Board will publish annual complaints reports in line with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

11. Training

11.1. Staff working within Mid Essex Clinical Commissioning Group Board will be provided with training and information about the complaints policy at an induction and a copy of the PALS and Complaints leaflet. Staff dealing with a significant number of complaints, will be offered face-to-face training on the complaints process should they feel it would benefit their work.

12. Dissemination and implementation

12.1. This policy will be disseminated annually to all staff working in Mid Essex Clinical Commissioning Group via electronic link. Independent contractors will also be provided with a copy of this policy annually using established communication channels.

12.2. Staff will be informed of the existence of the policy and provided with a PALS and Complaints leaflet at their induction.

12.3. All staff will have access to the latest PALS and Complaints policy which will be stored in the policy section of the intranet and also in a bespoke PALS and Complaints section of the intranet, with the PALS and complaints plain English patient leaflet and Easy Read patient leaflet. This will enable all staff to provide basic signposting and advice to local residents.

13. Monitoring

13.1. This policy will be monitored via quarterly reports to the Quality and Governance Committee where any gaps or issues arising from implementation of the policy will be reported.

13.2. Patient and carer feedback and satisfaction with the Mid Essex Clinical Commissioning Group complaints process will be sought, reported annually to the Quality and Governance Committee and used when reviewing this policy.

13.3. Any Parliamentary and Health Service Ombudsman (PHSO) reports which require Mid Essex Clinical Commissioning Group to undertake further investigations or changes to the way a complaint has been handled will be reported to the Quality Governance Committee and will be reviewed to determine, if amendments to this policy are required as a result.

13.4. The Patient Experience Team will monitor service satisfaction by sending a "feedback Questionnaire" to at least 10 people per quarter who contact the service. The form will collect information about satisfaction with the PALS/Complaints service and the responses will be reported to the Quality and Governance Committee annually.

13.5. Any under-representation of, vulnerable, groups shown by monitoring information will be considered and discussed by Quality and Governance Committee and the Equality and Diversity Sub Committee ensure mitigating action is initiated to better promote this service to identify groups.

13.6. Mid Essex Clinical Commissioning Group is committed to eliminating individual and institutional discrimination, harassment and victimisation on the grounds of all the protected characteristics, that is for Race, Sex, Disability, Sexual Orientation, Religion or Belief, Gender Reassignment, Age, Marriage and Civil Partnership and Pregnancy and Maternity.

Valuing diversity is a key organisational principle and equality of opportunity and outcome for everyone is promoted. Mid Essex Clinical Commissioning Group is building a culture that encourages dialogue and involves a diverse range of staff and service users in evaluating and planning services.

14. Review

This policy will be reviewed two yearly (or sooner if guidance changes) as part of the Mid Essex Clinical Commissioning Group PALS and Complaints Team report.

15. References

- House of Commons (2014) More Complaints Please! Public Administration Select Committee (PASC).
- House of Commons Library (2013) NHS complaints procedures in England.
- NHS Constitution (2013) The Handbook to the NHS Constitution
- Clwyd, A. and Hart, T. (2013) A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture
- Department of Health (2009) Listening, Responding, Improving
- National Patient Safety Agency (2005) Being Open

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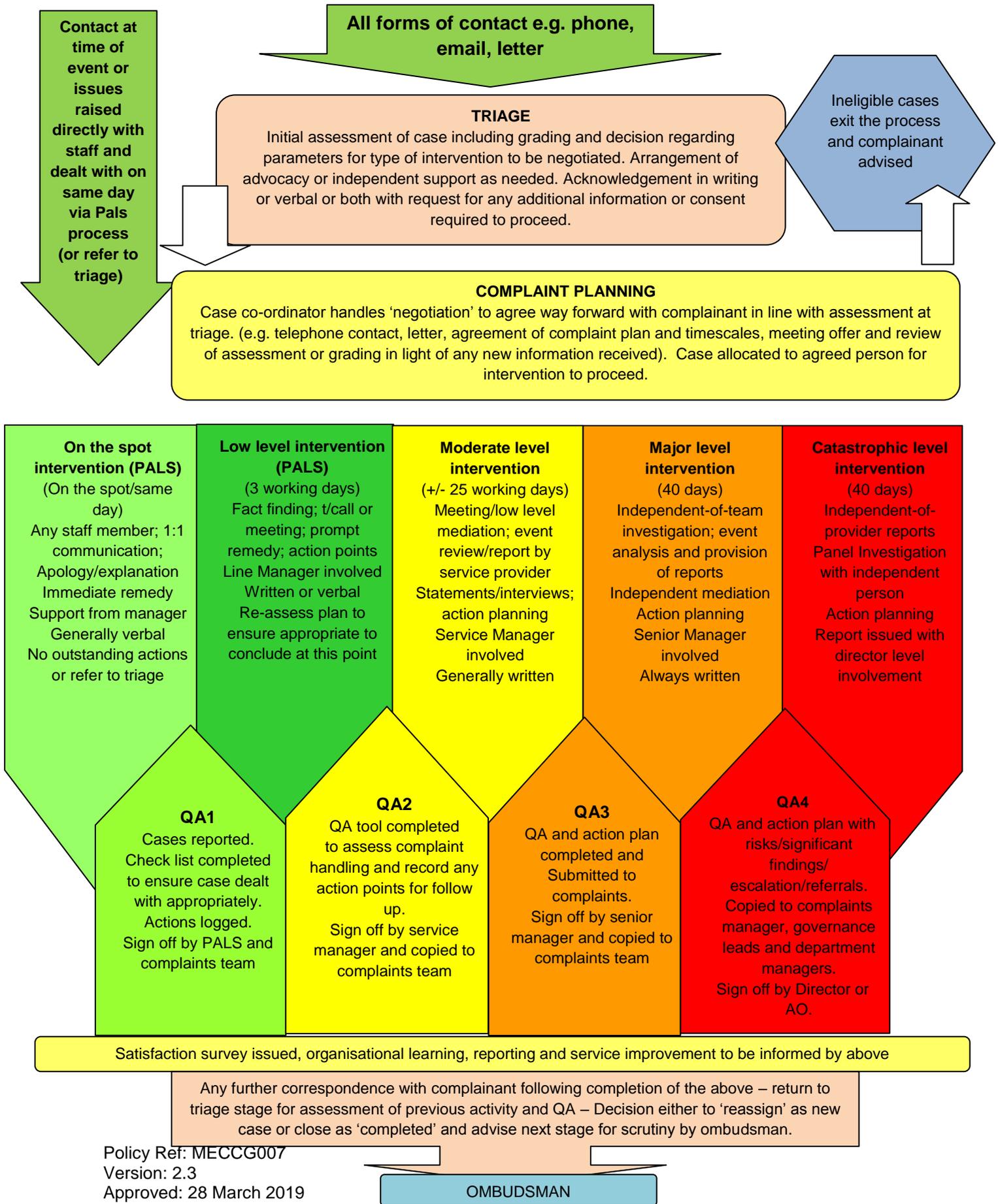
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- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (Statutory Instrument No 309).
- Principles for Remedy (October 2007, amended February 2009)
- Principles of Good Complaints Handling (November 2008, amended February 2009)
- Principles of Good Administration (March 2007, amended February 2009)
- Parliamentary and Health Services Ombudsman
- Equality Act 2010

Appendix 1 - PALS and Complaints handling flow chart



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Appendix 2 - PROCEDURE FOR REPLYING TO MEMBERS OF PARLIMENT'S CORRESPONDENCE

The following procedure should be followed when dealing with correspondence from Members of Parliament (MPs).

1. Complaint and patient-related MP queries should only be processed by The PALS and Complaints Team, Directors or Lay Members.
2. All letters and emails should be copied to The PALS and Complaints Team office.
3. All letters and emails from MPs should be acknowledged within 3 working days.
4. Anyone other than The PALS and Complaints Team office, a Director or a lay member receiving any correspondence (letters or emails) from an MP must refer it to The PALS and Complaints Team office immediately to be processed.
5. Correspondence from MPs received by The PALS and Complaints Team will be scanned and copied out to the relevant Director or Service Manager as appropriate to draft a response, copying in the Communications and Media team for information.
6. The Director or Service Manager is responsible for leading or delegating work on the draft response.
7. MPs references must be placed at the top of the letter in the section "your reference".
8. The initials of the person drafting the response should be placed in "our reference" section.
9. A draft response should be prepared for the Accountable Officer, Director or Lay Member within 15 working days. If additional time is required to investigate the MP query, the Director, Service Manager or delegated representative should contact the MP and alert the revised timescale.
10. If a response has not been received within the agreed timeframe, the PALS and Complaints Team will send a reminder to the relevant Director or manager by email; to obtain a response no later than 2 working days after the response was due.
11. Replies to all MPs' correspondence should be sent within 25 working days from NHS Mid Essex Clinical Commissioning Group, and where possible sooner.
12. For Accountable Officer correspondence, the draft response should be emailed to the Executive Office, for signature by the Accountable Officer.
13. The PALS and Complaints Team, or the Executive Office where the subject matter is not patient-related, will send the final letter out, signed by the appropriate person.

14. PALS and Complaints Team will keep all the original documents on file or scanned copies, together with a copy of the final reply letter to the MP.

15. The Accountable Officer, Communications and other relevant departments should be sent a copy of the final reply letter for their records.

Appendix 3 – PALS Charter

PALS CHARTER

The **Patient Advice and Liaison Service (PALS)** is an easy to access service enabling people to obtain information / advice or raise concerns about healthcare in their local area.

Contact **PALS** for advice or assistance and we will:

- Listen empathetically and understand your needs
- Treat you with courtesy and politeness
- Advise you of the options available to resolve your concerns
- Signpost you to the relevant organisation if we cannot assist you
- Obtain your consent before contacting other organisations or accessing your medical records
- If you are a relative/carer/friend of the person concerned then we will need to obtain consent from that person where possible before we can look into the concerns raised
- Ensure that we keep you advised of actions that we will take on your behalf and update you accordingly
- Treat every person equally regardless of their sex, marital status, race, colour, creed, religion, physical disability, mental health, learning difficulty , age or sexual orientation
- Ask if you were happy with the service that you received from PALS and for feedback on how we can improve our service

By telephone to the PALS Line on 01245 459459

By email to meccg.patientexperience@nhs.net

By letter addressed to:

PALS and Complaints
Mid Essex Clinical Commission Group
Wren House
Hedgerows Business Park
Colchester Road
Chelmsford
CM2 5PF

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Appendix 4. - Complaint Proforma

Complaints Proforma			
Date received:		Complaint Reference:	
Patient Name:		Hospital No:	
Date of Birth:		Complainant name if different to patient:	
Provider Service:		Division:	
Directorate:		Speciality:	
Formal:		Consent required:	
Lead Investigator:			
Cc:			
Date of response		Revised date if applicable	
Notes: Completed by:			
<p>Acknowledge & Investigate please</p>			

Person Nominated to perform investigation and liaise with named parties below:			
Concerns Raised	Evidence/Statement/report required from:	Date requested	Date Received
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
Additional Notes:			