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Derbyshire
NH


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Hardwick Clinical Commissioning Group

AGREEMENT FOR THE JOINT HANDLING OF HEALTH AND SOCIAL CARE COMPLAINTS

Agreement for the joint handling of health and social care complaints

Name / Title	Agreement for the joint handling of health and social care complaints		Working name/title of the policy/procedure
Summary	A protocol establishing a framework for the joint handling of complaints that cover both health and social care in order to meet the expectations of the 2009 regulatory framework.		Brief summary of main themes
Sponsor	Derbyshire Complaints Managers Group		Name and job title of person taking through approval and signing off
Author(s)	Derby City Council Derbyshire County Council Derby Hospitals NHS Foundation Trust Derbyshire Community Health Services NHS Trust Derbyshire Healthcare NHS Foundation Trust Derbyshire Health United East Midlands Ambulance Service Stockport NHS Foundation Trust		Job titles of those involved in producing the document
Name of policy being replaced	Agreement for the joint handling of health and social care complaints	Version No of previous policy: 5.0	Name and version number of the previous policy this replaces (If applicable)

Reason for document production:	To establish a framework for the joint handling of complaints that cover both health and social care.
Commissioning Individual or Group:	Derbyshire Complaints Managers Group

Version	Approved	Revision date	Summary of changes
1.0	June 2008	April 2010	Amendments due to new regulations April 2009 and change in staff members
2.0		October 2010	Amendments to update contacts
3.0		March 2011	Amendments to include Derbyshire Health United and Glossop
4.0		April 2011	Amendments to organisations and contacts
5.0		January 2013	Content reviewed
6.0		October 2013	Content updated

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Issue No:	Version 5

Agreement for the joint handling of Health and Social Care complaints

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Organisations and Contacts

Organisation	Complaints contact	Tele no. & email
Chesterfield Royal Hospital Foundation Trust	Julie Lyons	julie.lyons3@nhs.net 01246 512640
DCC Children's Services DCC Adult Services	Christine Gibbs Bernard Fenton	christine.gibbs@derby.gov.uk 01332 711223 Bernard.fenton@derby.gov.uk 01332 643 758
Derbyshire County Council Adult Services	David Gurney Jenny Hudson Kate Bedford	David.gurney@derbyshire.gov.uk 01629 532059 Jenny.hudson@derbyshire.gov.uk 01629 531716 kate.bedford@derbyshire.gov.uk 01629 532236
Derbyshire Community Health Services NHS Trust	Lee Allen	Lee.allen@dchs.nhs.uk 01773 525119
Derbyshire Health United	Sonia Burns Jane Wall	sonia.burns@nhs.net jane.wall@nhs.net 0300 1000 407
Derby Hospitals NHS Foundation Trust	Marie Mignott	Marie.mignott@nhs.net 01332 785156
Derbyshire Healthcare NHS Foundation Trust	Anne Reilly	anne.reilly@derbyshcft.nhs.uk 01332 623700 ext 3469 01332 623751
East Midlands Ambulance Service	Clare Wade – PALS Ruth Riches – Formal complaints and Serious Incidents	Clare.wade@emas.nhs.uk 0781 2261255 Ruth.riches@emas.nhs.uk 07909 001261
NHS Southern Derbyshire CCG NHS North Derbyshire CCG NHS Hardwick CCG NHS Erewash CCG	Lisa Butler	Lisabutler1@.nhs.net 01332 868736
Stockport Foundation Trust	Cath Marsland Patient & Customer Services team	pcs@stockport.nhs.uk 0161 419 4315
NHS England (Notts & Derbyshire complaints lead)	Hilary Cole	

1 Introduction

Prior to the implementation of the Local Authority Social Services and National Health Service Complaints Regulations 2009 (April 2009) and Amendment Regulations (July 2009), a joint protocol has existed between health and social care for a period of approximately 2 years.

As a matter of good practice all NHS and Local Authority organisations in Derbyshire County and Derby City will be expected to participate in these arrangements.

The relevant sharing of information has always been essential and will continue to be made available on a 'need to know' basis in accordance with the 'General Protocol for Information Sharing Between Health and Social Care Agencies in Derbyshire, (Derbyshire Partnership Forum) bearing in mind that an individual's right of confidentiality is protected by the Data Protection Act 1998, the Human Rights Act 1998 and the common law duty of confidence.

The fundamental principle rooted in both ethical and legal requirements is that the use of information is supported by informed consent. Therefore when sharing information with another agency the service user's/patient's consent must be sought in order to progress the issues involved. Written consent is preferable but verbal consent can be accepted if followed up and confirmed in writing (Appendix 3)

If consent is withheld a single agency approach should be adopted and the complainant informed accordingly.

2 Purpose

The protocol establishes a framework for the joint handling of complaints that cover both health and social care in order to meet the expectations of the 2009 regulatory framework.

The protocol also covers the expectations of The Children Act 1989 Representations Procedure (England) Regulations 2006 which concerns complaints where there is a service to a child.

Dealing with a wide range of health and social care organisations can be confusing for people. Therefore the agreement aims to address these issues by bringing together the various organisations in Derby and Derbyshire to provide a unified, responsive and effective service for complainants.

The complaints regulations place a duty to co-operate upon health and social care agencies regarding the investigation of joint complaints. Key features include having arrangements that are clearly focused on outcomes and that adopt a person-centred approach to complaints handling. Where this concerns a service to a child the child's needs should remain paramount. Where a complaint about a service to a child comes from a parent all agencies will see the child as the primary customer and seek to understand their wishes and feelings.

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Each case has to be dealt with according to its individual nature and the complainant's expected outcome (where appropriate). The emphasis is firmly placed on effective results and swift local resolution.

A significant aspect of joint working is the need for regular and effective communication between complaints professionals and complainants to ensure agreed complaint plans and a single co-ordinated response.

In order to achieve different organisations' requirements it is also necessary to monitor that agreed timescales are met and that complainants are kept well informed should there be reasons why investigations are delayed.

This process will also provide a single consistent and agreed contact point for complainants and will enhance partnership working.

Complaints will be viewed as a mechanism to identify service improvements for health and social care delivery leading to:

- Opportunities to identify and share organisational learning
- Collaborative working between complaints professionals to identify problems and solutions
- Reciprocal co-operation in relation to the need to interview staff within participating agencies
- Health and social care professionals developing expertise in joint problem solving
- A common approach to developing collective knowledge of user experiences of services

3 Complaints Management

The complaints managers in each organisation signing up to this protocol are responsible for ensuring:

- the co-ordination of whatever actions are required
- co-operation with other complaints managers and agreement as to who will take the lead role in joint complaints
- that there is a designated person to whom any requests for collaboration can be addressed when they are absent

4 Process

When a complaint is received that raises issues about health and social care, consent will be sought to discuss the investigation with the relevant agency if this is not apparent from the outset. Having obtained consent the recipient will contact the relevant complaints professional to agree the lead organisation and co-ordinator of the investigation.

The Department of Health suggests that the following issues should be taken into account when determining which organisation will take the lead role in a cross-agency complaint:

- which organisation manages integrated services

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- which organisation has the most serious complaints about it
- whether a large number of the issues in the complaint relate to one organisation compared with the other organisation(s)
- which organisation originally received the complaint (if the seriousness and number of complaints are about the same for each one)
- whether the complainant has a clear preference for which organisation takes the lead

Once the factors determining which organisation takes the lead are agreed, it is that complaints professional who will contact the complainant to discuss their concerns, agree how the complaint will be handled and confirm the issues to be addressed. It is also necessary to explain the implications of a joint complaint and advise who will co-ordinate the response.

If consent is withheld a single agency approach may need to be adopted and the complainant informed accordingly, as this may restrict the extent of the investigation.

Clinical and/or additional professional expertise can be drawn upon at any point in the process as necessary.

Possible options for handling complaints within the parameters of this agreement include:

- Individual consideration by each agency with an agreed single response to the complainant by the lead organisation
- Joint arrangements for the investigation followed by an agreed single response.
- Consideration of conciliation/mediation at relevant stages of the process.
- Where appropriate consideration of a joint meeting with the option of this being recorded

Complaints responses must be agreed by all agencies prior to being issued to the complainant by the lead organisation. Local arrangements may differ in relation to the release of investigative reports alongside complaints responses and this should be negotiated by the relevant complaints staff and not assumed.

Complaints that are more complex may signify the need for a revised time-scale. Therefore the co-ordinating complaints professional must issue a jointly agreed interim response detailing the reasons for any delay, the progress made to date and a revised timescale for issuing the final reply.

In circumstances where joint complaints are subject to an independent review (Parliamentary and Health Service Ombudsman/Local Government Ombudsman); the outcomes will also be shared to inform working practices.

This agreement is an overarching protocol and therefore it does not require the detail of any local arrangements that may exist between organisations. However there are such arrangements in place, for example the agreement between city adult social care services, and local mental health services when complaints are received about integrated teams.

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5 Learning from Joint Complaints

Following on from complaints investigations, it is essential that action plans are prepared to demonstrate learning and organisational improvement where appropriate. These should be shared across the organisations concerned. Derbyshire Complaints leads will meet at least twice yearly to review joint complaints.

6 Points of Clarity

Complaints about Derby Local Authority staff working in Derbyshire Healthcare NHS Foundation Trust or in services commissioned and managed by a Derbyshire CCG will initially be investigated under the NHS complaints processes and are therefore covered by this agreement.

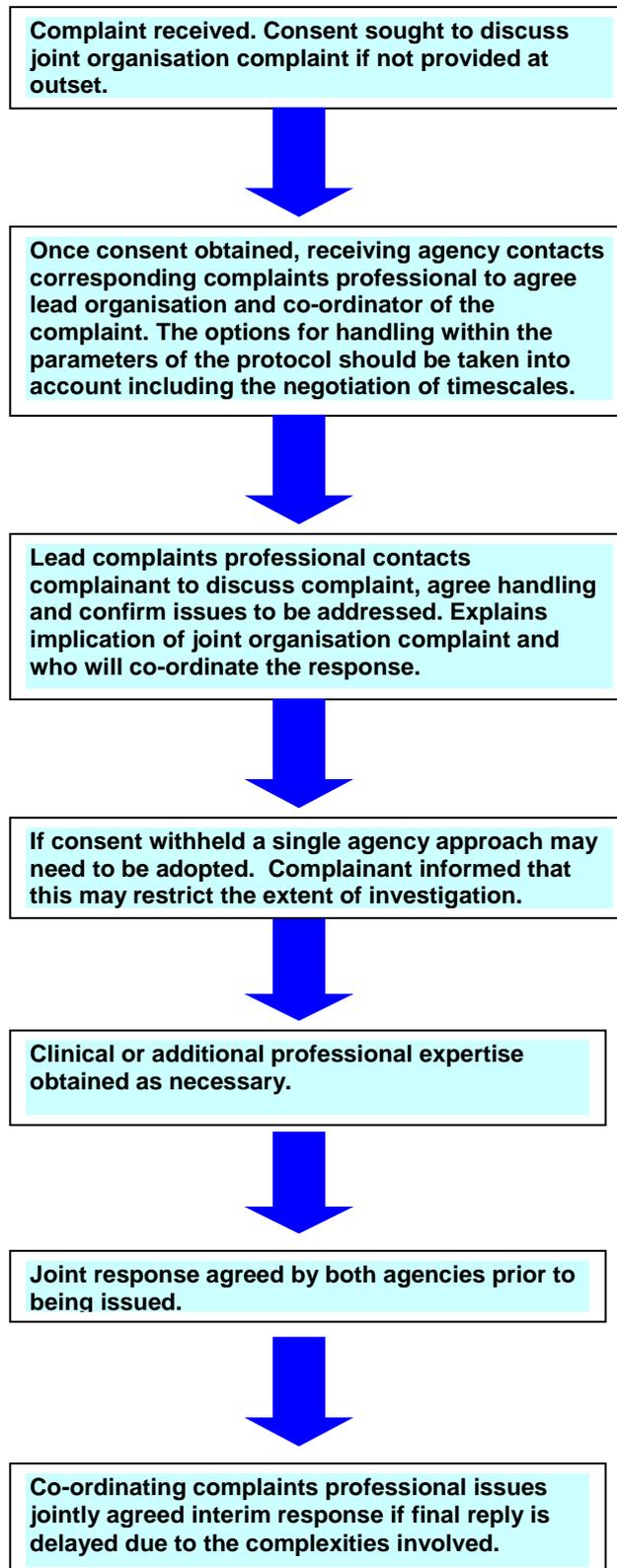
Complaints about NHS services from within Derbyshire Prisons will be investigated under the NHS complaints processes and are therefore covered by this agreement.

Should the complainant indicate that they will be taking legal action all parties to this agreement reserves the right to withdraw both from the joint investigation, with an explanation being sent to the complainant.

Should the complaint indicate concerns about the health, safety or welfare of a child or adult the matter will be referred to the appropriate safeguarding procedure immediately.

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Appendix 1: Joint complaints handling flowchart



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Appendix 2: Relevant legislation and guidance

Local Authority Social Services and National Health Service Complaints Regulations 2009 (April 2009) and Amendment Regulations (July 2009)

Statutory Framework for the NHS Complaints Procedure. A major reform in the way health and social care organisations manage complaints resulting in a single complaints system covering all health and social care services in England.

Health and Social Care Act 2008

The Government's response to the report of the Joint Committee on Human Rights. Contains significant measures to modernise and integrate health and social care.

The NHS Constitution DoH 2009

All NHS bodies and private, and third-sector providers supplying NHS services in England are required by law to take account of the Constitution in their decisions and actions. As well as capturing the purpose, principles and values of the NHS, the Constitution brings together a number of rights, pledges and responsibilities for staff and patients alike.

Health and Social Care (Standards and Community) Act 2003

Provides a statutory basis for NHS and Adult Social Care complaints.

The Children Act 1989 Representations Procedure (England) Regulations 2006 (SI 2006 No 1738)

Provides a statutory basis for Children's Social Care Complaints

Data Protection Act 1998

Governs the protection and use of person identifiable information (personal data). The Act does not apply to personal information relating to the deceased

The Human Rights Act 1998

Article 8.1 provides that "everyone has the right to respect for his private and family life, his home and his correspondence."

Article 8.2 provides "there shall be no interference by a public authority with the exercise of this right except as in accordance with the law and it necessary in a democratic society in the interest of national security, public safety or the economic wellbeing of the country for the prevention of crime and disorder, for the protection of health or morals, or for the protection of the rights and freedoms' of others."

The Freedom of Information Act 2000

The Act creates rights of access to information (rights of access to personal information remain under the Data Protection Act 1998) and revises, and strengthens the Public Records Act 1958 and 1967 by reinforcing records management standards of practice.

The General Protocol for Information Sharing between Health and Social Care developed by the Derbyshire Partnership Forum

Includes the above legislation and additionally makes reference to the Consent and Principles of the Caldicott Report 1997.

Listening, Responding, Improving. A Guide to Better Customer Care, DoH 2009

Equality Act 2010

is an Act of Parliament of the United Kingdom, and fulfills a manifesto commitment of the Labour Party in the 2005 General election.

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Insert organisations own logo

Appendix 3: Statement of consent for the disclosure of personal records for joint organisation complaints

For complaints raised by Service Users

Complainant/Service User's name: _____

Complainant/Service User's address: _____

Telephone number: _____

I hereby give my consent for the organisations listed below to share any relevant information in order to complete the investigation into my complaint.

I understand that this is likely to include disclosure of my personal records and those of the child for whom I have parental responsibility as necessary

(Lead organisation) _____

(Organisation) _____

(Organisation) _____

This will assist the investigation of my joint organisation complaint, which is being co-ordinated by:

(Name of complaints manager) of (Organisation) _____

The reason for, and the implications of, this have been explained to me by the above-named complaints manager

I understand that information exchanged as agreed by me must be used solely for the purpose for which it was obtained.

Signed: _____

Date: _____

Once completed, please return this consent form in the freepost envelope provided.

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STATEMENT OF CONSENT FOR THE DISCLOSURE OF PERSONAL RECORDS/INFORMATION WITH SOMEONE RAISING A COMPLAINT ON BEHALF OF THE PATIENT/SERVICE USER

Complainant's name: _____

Complainant's address: _____

Telephone number: _____

Relationship with patient/service user _____

Patient/Service User's name: _____

Patient/Service User's address: _____

I hereby give my consent for the organisations listed below to share any relevant information in order to complete the investigation into my complaint with the person named above.

I understand that this is likely to include disclosure of my personal records.

(Lead organisation) _____

(Organisation) _____

(Organisation) _____

This will assist the investigation of my complaint, which is being co-ordinated by:

(Name of complaints manager) of (Organisation) _____

The reason for, and the implications of, this have been explained to me by the above-named complaints manager (see Information Sheet 1).

I understand that information exchanged as agreed by me must be used solely for the purpose for which it was obtained.

Signed: _____

Date: _____

Once completed, please return this consent form in the freepost envelope provided.

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Equality Impact Analysis (EIA) form for Agreement for the joint handling of health and social care complaints

To be completed and attached to any policy document when submitted to the appropriate committee for consideration and approval.

		Yes/No	Comments
1.	Does the document/guidance affect one group less or more favourably than another on the basis of:		
	• Race	No	
	• Ethnic origins (including gypsies and travellers)	No	
	• Nationality	No	
	• Gender (including gender reassignment)	No	
	• Culture	No	
	• Religion or belief	No	
	• Sexual orientation	No	
	• Age	No	
	• Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are there any valid exceptions, legal and/or justifiable?	No	
4.	Is the impact of the document/guidance likely to be negative?	No	
5.	If so, can the impact be avoided?		
6.	What alternative is there to achieving the document/guidance without the impact?		
7.	Can we reduce the impact by taking different action?		
Completed by: Anne Reilly		Date: 23 January 2013	

If you have identified a potential discriminatory impact of this policy document, please refer it to the Policy Sponsor together with any suggestions as to the action required to avoid/reduce this impact.

For advice in respect of answering the above questions, please contact the Assistant Director Engagement

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