

CONCERNS AND COMPLAINTS POLICY

1.0 POLICY

- 1.1 This document is the policy of Livingstone House for dealing with complaints. It is Livingstone House's intention to capture the spirit of the NHS Complaints Regulations 2004 by creating and using an open, fair, flexible and conciliatory approach to complaints, viewing them as opportunities to address concerns rather than as criticisms that need to be defended.
- 1.2 This policy places an emphasis on resolving complaints as quickly as possible. An immediate informal response by a front line member of staff is the preferred option.
- 1.3 This policy should be read in conjunction with the Disciplinary Policy and the Violence and Aggression towards Staff policy.

2.0 RESPONSIBILITIES

- 2.1 **Board of Trustees** are accountable for the implementation and operation of this Complaints Policy.
- 2.2 **Home Manager** has day to day responsibility for the management of complaints.
- 2.3 **All Staff** have a responsibility to appraise themselves of content of the complaints policy and procedure. All members of staff have a duty to work within the standards and guidelines as specified in the policy and procedure. All staff will review their practice as a result of any complaint raised or received.

3.0 SCOPE

- 3.1 This policy and procedure is open to complainants who are Service Users or those who are complaining on behalf of a Service User, or any person who is affected by, or likely to be affected by the action, omission or decision of Livingstone House which is the subject of the complaint.
- 3.2 This policy should not be used by staff to complain about the conduct, harassment or capability of other staff members.

4.0 WHAT IS A COMPLAINT?

- 4.1 A complaint is an oral or written expression of dissatisfaction to any person connected with service or services supplied by Livingstone House. Dissatisfaction may concern any aspect of the service e.g.
 - Medical care
 - Communication
 - Behaviour and Attitude

The list is not exhaustive.

- 4.2 Staff grievances should not be reported through the complaint procedures. Separate mechanisms exist under the Livingstone House Grievance Policy.

5.0 WHO CAN COMPLAIN?

- 5.1 Complainants will generally be :

- Service Users
- Former Service Users or Visitors
- Someone acting on behalf of an existing or former Service User, with their consent.
- Any appropriate person in respect of a Service User who has died (e/g/ next of kin or their agent)
- Contractors
- Partnership Organisations.

5.2 WHO TO COMPLAIN TO?

- 5.2.1 A complaint can be made to any member of Livingstone House staff. In practice this will usually mean front line staff that have direct contact with Service Users but complaints can also be made to:

- Chairman of the Board of Trustees
- Home Director

- 5.2.2 It is the responsibility of all Livingstone House staff, however, to attempt to resolve a complaint at the point of contact, and this is recognised as how most complaints are handled. Should the complainant not be satisfied, or make it clear they wish a more formal response, then staff should seek help.

5.3 GETTING HELP TO COMPLAIN

- 5.3.1 Staff should advise complainants of the help and advice, concerning their rights in making a complaint, which is available from the Home Manager. Staff should provide a complainant with Livingstone House's complaints leaflet.

- 5.3.2 Staff will also help complainants to obtain such advice and help that the complainant feels is appropriate.

5.4 LEGAL CASES AND POTENTIAL LITIGATION

- 5.4.1 It should not necessarily be assumed that a complainant who has used a solicitor to lodge a complaint has decided to take formal action. However, the Board of Trustees should be notified of any such complaint.

- 5.4.2 Where there is a prima facie case of clinical error, the person dealing with the complaint should immediately notify the Chairman of the Board of Trustees who will seek advice from Livingstone House's Legal Assessor.
- 5.4.3 In all prima facie cases of clinical error, there should be a full and fair investigation regardless of whether the complainant has indicated that they propose to start legal proceedings.
- 5.4.4 If formal legal action has been instigated or the complainant has stated orally or in writing that it is his attention to instigate legal action the complaints procedure will be brought to an end with the complainant being appropriately advised in writing.

5.5 VEXATIOUS COMPLAINTS

- 5.5.1 It is Livingstone House's intention to capture the spirit of complaints legislation by creating and using an open, fair flexible and conciliatory approach to all complaints, viewing them as opportunities to address concerns rather than as criticisms which need to be defended. However, it is recognised that in a minority of cases complainants become vexatious in their pursuit of a complain and that this in turn has a detrimental effect on staff and services.
- 5.5.2 A vexatious complainant may include a complainant whose behaviour displays one or more of the following criteria :
- 5.5.2.1 A complainant who has been personally abusive or aggressive towards staff dealing with the complaint.
- 5.5.2.2 A complainant who is unwilling to accept documented evidence of treatment given as being factual, e.g. drug charts, nursing records.
- 5.5.2.3 A complainant who insists that he/she has not had an adequate response, in spite of a large volume of correspondence specifically answering their questions.
- 5.5.2.4 A complainant who focuses on a small matter which is out of all proportion to its significance, and keeps returning to this at meetings.
- 5.5.2.5 A complainant who constantly raises new concerns, which did not appear in the original complaint in an apparent attempt to keep the correspondence going.
- 5.5.2.6 A complainant who is often a relative (carer/friend) complaining on behalf of a patient who has confirmed that they do not have a personal complaint against Livingstone House.

- 5.6 When faced with a vexatious complainant the following steps should be taken:

- 5.6.1 **Caution: Before taking any action to address a vexatious complainant it is important that the complaint has been investigated fully as even a**

vexatious complainant may have a complaint which contains some substance.

5.7 TIME LIMITS FOR MAKING A COMPLAINT

5.7.1 A complaint should be made as soon as possible after the action giving rise to it to enable a full investigation whilst all the facts regarding the complaint are still readily available.

5.7.2 The time limit for making a complaint will be :

- Within six months of the event giving rise to it; or
- If the complainant was not immediately aware that there was cause for complaint, within six months of the complainant becoming aware of the case for complaint.

5.7.3 There is a 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 investigate the facts of the case. Therefore all complaints made out of the above time limits will be referred to the Board of Trustees.

5.8 COMPLAINTS AND STAFF DISCIPLINE

5.8.1 Where a complaint is being investigated and it becomes apparent that an investigation under Livingstone House Policy on Discipline will be required any further action under the complaints procedure should cease.

5.8.2 The manager, designated to investigate the complaint, if in the course of the investigation discovers information that has disciplinary implications, e.g. potential misconduct or allegations of abuse, should immediately consult the Board of Trustees. It will be the decision of the Home Director and Board of Trustees whether or not to investigate under the Disciplinary Policy. If it is agreed to investigate under the Disciplinary policy, Livingstone House's complaints procedure is halted. Where an investigation involves the Police and/or Coroners Court, this also will halt the complaints process.

5.8.3 The Investigating Manager must then ensure that the complainant is kept informed in writing of any decision to discontinue a complaint investigation stating the reason for the decision. A report on the investigation up to the time it was discontinued should also be provided.

5.8.4 Once this decision has been made the complaints procedure can only investigate those aspects of the complaint which do not impact on the investigation under the Disciplinary Policy or other outside investigation, e.g. Police, Coroners Court.

5.8.5 If or when permission is granted to recommence the complaints procedure, the investigating officer will be responsible for continuing the complaints investigation and keeping the complainant informed of its progress by :

- Explaining that the matter has been investigate,
- That the allegation has or has not been proven to Livingstone House's satisfaction.
- 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 member of staff, a statement can be made that appropriate action has been taken, without the exact nature of that action being disclosed.

5.8.6 When a disciplinary warning or other action is imposed on an individual member of staff as a result of a complaint, the Investigating Officer is responsible for informing the individual concerned of what information is to be provided to the complainant. Although the individual may express concern that this amounts to a breach of confidentiality, it can be stated that information passed on in line with the above guidance does not breach confidentiality and is the minimum necessary to maintain public confidence in the service.

5.8.7 The Home Director will be responsible for commissioning any investigation under the Disciplinary Policy.

5.8.8 Any information collected in the complaints procedures can be used in Disciplinary Procedures, but the two procedures must remain separate, and confidentiality maintained at all times.

5.9 LOCAL RESOLUTION – STAGE 1

5.9.1 A complainant can approach either the staff directly involved with the action giving rise to the complaint, or the manager responsible for that area or the Home Manager.

5.9.2 Once it has been determined that the complainant wishes their complaint to be entered into Livingstone House's Complaints Procedure, they should be directed to contact the Home Manager.

5.9.3 The complaint may be communicated to the Home Manager either verbally or written.

5.9.4 The Home Manager should ensure that verbal complaints are documented and are agreed by the complainant before proceeding.

5.9.5 The Home Manager documents the complaint and then :

- Reads back the content and gains verbal agreement from the complainant that the essence of the complaint has been captured and
- With the acknowledgement letter, sends a copy to their address for confirmation, inviting then to sign and return it,

- 5.9.6 The Investigating Officer ensures as far as it is reasonably possible, that the process described in clause 5.9.5 is completed.
- 5.9.7 The process then continues as for a received written complaint.
- 5.9.8 Having determined the nature of the complaint, the Investigating Officer should be determined and proceed to investigating the complaint.
- 5.9.9 The complaint should be registered and documented with a case tracker.
- 5.9.10 The Investigating Officer should acknowledge receipt of the letter within 2 working days of receipt. Provide a copy of the complaint and acknowledgement letter to any person identified in it as the subject of the complaint.
- 5.9.11 The Investigating Officer should be aware of the reporting date (within 15 working days) to allow for review of report and preparation of the draft letter of reply to any person identified in it as the subject of the complaint.

6.0 INVESTIGATION

- 6.1 The Investigating Officer with delegated responsibility must investigate the complaint to the extent necessary and in the manner which appears to him/her most appropriate to resolve it speedily and efficiently.
- 6.2 An Investigating Officer may request any person or body to produce such information and documents as he considers necessary to enable a complaint to be considered properly.
- 6.3 A request under paragraph 6.2 must be in writing, must specify what information is requested and state why it is relevant to the consideration of the complaint.
- 6.4 The Investigating Officer may not take a request under paragraph 6.2 for information which is confidential and relates to a living individual unless either
- The individual to whom the information relates has consented to its disclosure and use for the purposes of the investigation of the complaint; or
 - It can be supplied in a form from which the identity of the individual cannot be ascertained.
- 6.5 The Investigating Manager may :
- 6.5.1 Invite the complainant and any other person who he/she considers would be in a position to assist with the resolution of the complaint to be interviewed;

- 6.5.2 In any case where he/she thinks it would be appropriate to do so and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint; and
- 6.5.3 Take such advice as appears to him/her to be required.
- 6.5.4 Complete his/her investigation, and report to the Home Director where reasonably practicable within 20 working days.
- 6.5.5 The Investigating Officer must take such steps as are reasonably practicable to keep the complainant informed about the progress of the investigation.
- 6.6 **RESPONSE – COMPLETION OF LOCAL RESOLUTION – STAGE 1**
- 6.6.1 The Investigating Officer must prepare a written response to the complaint which summarises the nature and substance of the complaint, describes the investigation under section 6.0 – 6.5.5 and summarises its conclusion.
- 6.6.2 The response must be sent to the complainant within 20 working days beginning on the date on which the complaint was received or as soon as reasonably practicable.
- 6.7 **DISSATISFACTION WITH LOCAL RESOLUTION**
- 6.7.1 In any case where a complainant is not satisfied with the result of an investigation a complainant may request that the Commission for Social Care Inspection consider the complaint.
- 6.7.2 The request may be made either orally or in writing and must be made within 2 months of, or as soon as reasonably practical after, the date on which the response to Local Resolution has been received.
- 6.8 **COMPLAINTS TO THE COMMISSION FOR SOCIAL CARE INSPECTION – STAGE 2**
- 6.8.1 The process for complaints handled by the Commission for Social Care Inspection is displayed clearly on the reception area of Livingstone House.
- 6.8.2 Once informed, the Investigating Officer supports this stage of the complaints process by liaison with the Commission for Social Care Inspection.
- 6.8.3 The Investigating Manager should, on request, collate a case file containing :
- The chronology of the case
 - Copies of all correspondence
 - Copies of any relevant medical records
 - Notes from local resolution meetings
 - Any investigation documents
 - Relevant/related Livingstone House policies or procedures
 - Livingstone House views on the complaint

- The final response given to the complainant

6.8.4 The Home Manager should ensure that the report of a Commission for Social Care Inspection investigation, once received is available to Livingstone House staff responsible for any action plan requiring implementation.

6.9 COMMISSION FOR SOCIAL CARE INSPECTION

6.9.1 Following investigation, the Commission for Social Care Inspection will send their report to the Complainant.

7.0 DOCUMENTATION

7.1 Internal References

Disciplinary Policy and Procedure
Whistleblowing Procedure
Grievance Policy and Procedure
Bullying and Harassment Policy and Procedure

7.2 External References

Department of Health, (1999), **Health Service Circular 1999/53: for the record**, DOH, London.

Department of Health, (2003), **NHS Complaints Reform: making things right**, DOH, London.

Department of Health, (2003), **National Minimum Standards for Care Homes for Adults**, DOH, London.

Department of Health, (2004), **Reforming the social services complaints procedure: regulations and guidance, background and timing of reform**, www.dh.gov.uk/policyandguidance/organisationpolocu/complaintspoicy/fs/en

Drugscope and Alcohol Concern, (1999), **Quality in alcohol and drug services: organisational standards**, Drugscope/Alcohol Concern, London.

NHS Executive, (2004), **Practice based complaints procedures: guidance for general practices**, NHS Executive, London.

National Treatment Agency, (2005), **Developing Drug Service Policies : 7 ~ User Feedback and Complaints**, National Treatment Agency, London.