Complaints Procedure:

Document Control:

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1. Introduction:

1.1 Policy statement:

The purpose of this document is to ensure all staff at Wootton Medical Centre (WMC) understand that all patients have a right to have their complaint acknowledged and investigated properly. WMC takes complaints seriously and ensures that they are investigated in an unbiased, transparent, non-judgemental and timely manner.

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

The policy is aligned to the mandatory requirements of:

- Local Authority Social Services and National Health Service Complaints (England) Regulations (2009)
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Regulation 16)

It is also aligned to, and should be read in conjunction with, both the CQC GP Mythbuster 103 – Complaints Management and the General Medical Council (GMC) ethical guidance.

The General Medical Council (GMC) ethical guidance states a 'good' doctor will:

- Make the patients your first concern
- Take prompt action if you think the patient is being compromised
- Establish and maintain good relationships with patients
- Be honest and open and act with integrity
- Listen to, and respond to, patients' concerns and preferences

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

In accordance with Regulation 16, all staff at WMC must fully understand the complaints process and complete e-learning on the Practice Index Hub.

Additionally, the BMA has recently released guidance titled: Responding to concerns: a guide for doctors who manage staff. This is guidance on professional requirements, how to respond and how to act on a concern

1.2 Status:

This document applies to all employees of WMC and other individuals performing functions in relation to the organisation such as agency workers, locums and contractors.

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time.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

2. Guidance:

2.1 Legislation:

Every NHS facility has a complaints procedure; this permits a patient (or their nominated representative) to submit a complaint either to the NHS organisation, or the organisation that has been commissioned by the NHS to provide a service.

WMC adopts a patient-focused approach to complaint handling in accordance with the National Health Service England Complaints Policy (2021) whilst also conforming to guidance detailed in:

- Good Practice Standards for NHS Complaints Handling 2013
- Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling 2009
- My Expectations 2014
- The NHS Constitution
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 16
- The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009

2.2 Responsible Persons:

At WMC, the responsible persons are the GP Partners. They are responsible for ensuring compliance with the complaints regulations and making sure action is taken because of the complaint.

2.3 Complaints Manager:

At WMC, the complaints manager is the Practice Manager. They are responsible for managing all complaints procedures and must be readily identifiable to service users.

2.4 Definition of a complaint versus a concern:

For the purposes of this policy, the NHS E Complaints Policy defines that a complaint is an expression of dissatisfaction about an act, omission or decision, either verbal or written, and whether justified or not which requires a response.

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

It is the responsibility of the complaints manager to consider whether the complaint is informal and therefore early resolution of an issue may be possible. If the complaints manager believes an issue can be resolved quickly then WMC will aim to do this in around 15 working days and, with the agreement of the enquirer, we will categorise this as a concern and not a complaint.

However, if the enquirer is clear that they wish to make a formal complaint then the practice will follow this complaints policy in full.

2.5 Complaints procedure statement:

WMC has prominently displayed notices in the waiting room detailing the complaints process. In addition, the process is included on the practice website, and a complaints leaflet is also available from Reception.

The information provided is written in conjunction with this policy and refers to the legislation detailed in Section 2.1.

2.6 Public Service Ombudsman (PSO):

The Public Service Ombudsman's role is to make final decisions on complaints that have not been resolved locally by the NHS in England. The Ombudsman looks at complaints where someone believes there has been injustice or hardship because an organisation has not acted properly or has given a poor service and not put things right.

The Ombudsman can recommend that organisations provide explanations, apologies and financial remedies to service users and that they take action to improve services.

2.7 Complainant options:

The complainant, or their representative, can complain about any aspect of care or treatment they have received at WMC to the practice via the complaint's manager or directly to NHS England (NHSE).

If direct to NHSE they can be contacted on:

- Telephone: 03003 112233
- Email: england.contactus@nhs.net
- Post: NHS England, PO Box 16738, REDDITCH B97 9PT

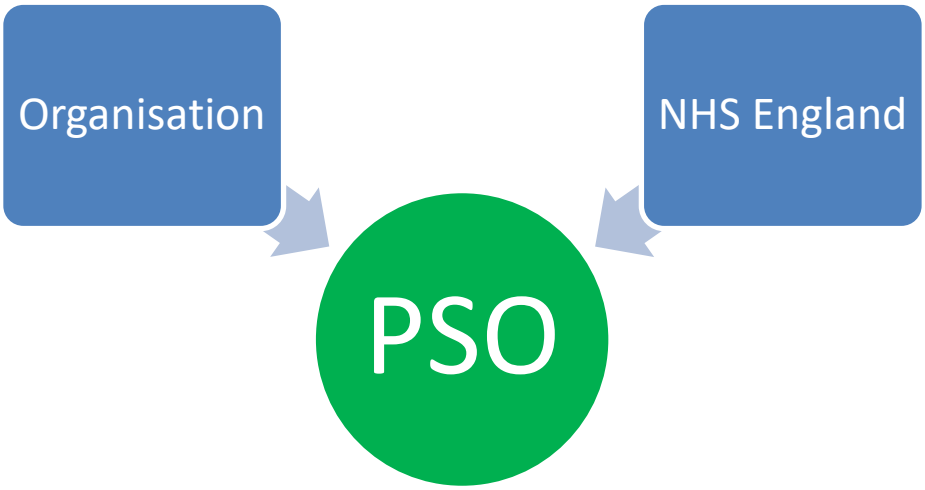
Note: Patients can talk to NHS England in British Sign Language (BSL) via a video call to a BSL interpreter. Currently this needs to be booked although this will eventually be available via an App or through the NHSE website.

Patients may be unaware of how to complain to the NHS. Should any complainant be unaware, the guidance here has been provided by NHSE.

Complaints are not escalated to NHSE following the practice's response. A complaint is made to either the practice or NHSE at Stage 1.

If dissatisfied with the response from NHSE to the practice, then the complainant may wish to escalate their complaint to the PSO. This process is as detailed within the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009) where it states that there should be two stages of dealing with complaints.

See below image that further explains the route of any complaint:



Stage 1 - The complainant may make a complaint to either the organisation or to NHS England. This is classed as a local resolution

Stage 2 - If dissatisfied with the initial Stage 1 response, the complainant may then escalate this to the PSO

Patients, or a person acting on their behalf, can complain to either the practice or NHSE but not both. Note, NHSE cannot investigate if a practice responded.

The complainant should be provided with a copy of the practice leaflet at Appendix A detailing the complaints process and they should be advised of the two-stage process.

2.8 Timescale:

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

If, however, there are good reasons for a complaint not being made within the timescale detailed above, consideration may be afforded to investigating the complaint if it is still feasible to investigate the complaint *effectively* and *fairly.* Should any doubt arise, further guidance should be sought from NHSE by the Practice Manager or representative.

2.9 Responding to a concern:

Should the complaints manager become aware that a patient, or the patient's representative, wishes to discuss a concern, then this is deemed to be less formal and should be responded to as detailed below.

Points that should be considered are that:

- Should the patient be on the premises, then there will need to be a degree of interaction sooner than if it was a telephone call or email
- All facts need to be ascertained prior to any conversation
- Should the person be angry, contacting them too soon may inflame the situation further if they did not receive the outcome that they desired
- Consider any potential precedence that may be established, and will any future concern be expected to always be dealt with immediately should any response be given too soon
- Time management always needs to be considered
- Many of the concerns raised are not a true complaint, simply a point to note or a concern and this will still be investigated, and an answer ordinarily given within 10 working days. In doing this and with agreement with the enquirer, this would not need to be logged as a complaint as it can be dealt with as a concern

Whilst each concern will warrant its own response, generally at WMC the outcome will always be to ensure that the best response is always provided.

2.10 Responding to a complaint:

The complainant has a right to be regularly updated regarding the progress of their complaint. The operations manager will provide an initial response to acknowledge any complaint within three working days after the complaint is received.

All complaints are to be added to the complaints log in accordance with Section 2.28. WMC will aim to acknowledge the complaint within 3 working days, and a written response within 40 working days. The complaint must be investigated thoroughly, and that the complainant should be kept up to date with the progress of their complaint

Within the current NHS Complaints Policy that dictates its responses, i.e., not a practice response, the following is advised:

If NHS England has not provided a response within six months, we will write to the complainant to explain the reasons for the delay and outline when they can expect to receive the response. At the same time, we will notify the complainant of their right to approach the PSO without waiting for local resolution to be completed.

The MDU provides advises in its document titled How to respond to a complaint that a response or decision should be made within six months with regular updates during the investigation. If it extends beyond this time then the complainant must be advised.

CQC GP Mythbuster 103 states the following:

- The tone of a response needs to be professional, measured and sympathetic
- Patient confidentiality should be considered, and timescales agreed
- Verbal complaints (not resolved in 24 hours) should be written up by the provider. They should share this with the complainant to agree content
- Practices cannot insist that complainants 'put their complaints in writing'

2.11 Verbal complaints:

If a patient wishes to complain verbally and if the patient is content for the person dealing with the complaint to deal with this matter and if appropriate to do so, then complaints should be managed at this level. After this conversation, the patient may suggest that no further action is needed. If this should be the case, then the matter can be deemed to be closed, although the complaints manager should still be informed as this needs to be added to the complaints log in accordance with Section 2.28.

All verbal complaints are initially dealt with by the Operations manager to the Practice Manager or Reception Supervisor.

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

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

Staff are reminded that when internally escalating any complaint initially to the PA to the Practice Manager or Reception Supervisor then a full explanation of the events leading to the complaint is to be given to allow any appropriate response.

Note a verbal complaint may simply be a concern. Should this be a less formal concern and, in agreement with the enquirer, then the process at Section 2.9 should be followed.

2.12 Written complaints:

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

When a complaint is received then the response is to be as per Section 2.10.

2.13 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 in any case where that person:

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

- Has died - in the case of a person who has died, the complainant must be the personal representative of the deceased. This practice will require to be satisfied that the complainant is the personal representative.

  Where appropriate, the practice may request evidence to substantiate the complainant's claim to have a right to the information.

- Has physical or mental incapacity - in the case of a person who is unable by reason of physical capacity or lacks capacity within the meaning of the Mental Capacity Act 2005 to make the complaint themselves, the practice needs to be

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

- Has given consent to a third party acting on their behalf - in the case of a third party pursuing a complaint on behalf of the person affected the organisation will request the following information:

  - Name and address of the person making the complaint
  - Name and either date of birth or address of the affected person
  - Contact details of the affected person so that they can be contacted for confirmation that they consent to the third party acting on their behalf

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

- Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs

- Is an MP, acting on behalf of and by instruction from a constituent

Should the complaints manager believe a representative does or did not have sufficient interest in the person's welfare, or is not acting in their best interests, they will discuss the matter with either the defence union or NHS Resolution to confirm prior to notifying the complainant in writing of any decision.

2.14 Complaints advocates

Details of how patients can complain and how to find independent NHS complaints advocates are detailed within the organisation leaflet at Annex D.
Additionally, the patient should be advised that the local Healthwatch [insert details] can help to find an independent NHS complaints advocacy services in the area.
Independent advocacy services include:

- POhWER – a charity that helps people to be involved in decisions being made about their care. POhWER's support centre can be contacted via 0300 456 2370

- Advocacy People – gives advocacy support. Call 0330 440 9000 for advice or text 80800 start messages with PEOPLE

- Age UK – may have advocates in the area. Visit their website or call 0800 055 6112

- Local councils can offer support in helping the complainant to find an advocacy service.

2.15 Investigating complaints:

WMC will ensure that complaints are investigated effectively and in accordance with extant legislation and guidance.

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

1) The complainant has a single point of contact in the practice and is placed at the centre of the process. The nature of their complaint and the outcome they are seeking are established at the outset.

2) The complaint undergoes initial assessment, and any necessary immediate action is taken. A lead investigator is identified.

3) Investigations are thorough, where appropriate obtain independent evidence and opinion, and are carried out in accordance with local procedures, national guidance and within legal frameworks.

4) The investigator reviews, organises and evaluates the investigative findings.

5) The judgement reached by the decision maker is transparent, reasonable and based on the evidence available.

6) The complaint documentation is accurate and complete. The investigation is formally recorded with the level of detail appropriate to the nature and seriousness of the complaint.

7) Both the complainant and those complained about are responded to adequately.

8) The investigation of the complaint is complete, impartial and fair.

9) The complainant should receive a full response or decision within six months following the initial complaint being made. If the complaint is still being investigated, then this would be deemed to be a reasonable explanation for a delay.

2.16 Conflicts of interest:

The complaints manager and / or investigating clinician must consider and declare whether there are any circumstances by which a reasonable person would consider that their ability to apply judgement or act as a clinical reviewer could be impaired or influenced by another interest that they may hold.

The NHS England Complaints Policy indicates this includes, but is not limited to, having a close association with the complained about, having trained or appraised the complained about and/or being in a financial arrangement with them previously or currently.

Should such circumstances arise, the organisation should seek to appoint another member of the practice as the responsible person with appropriate complaint management experience.

2.17 Final formal response to a complaint:

A final response should only be issued to the complainant upon completion of the investigation; a formal written response will be sent to the complainant and will include the following as per NHS Resolution (see extract):

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

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

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

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

2.18 Confidentiality in relation to complaints:

Any complaint is investigated with the utmost confidence, and all associated documentation will be held separately from the complainant's medical records.

Complaint confidentiality will be maintained, ensuring only managers and staff who are involved in the investigation know the particulars of the complaint.

219 Persistent & unreasonable complaints:

The management of persistent and unreasonable complaints at WMC is achieved by following the guidance detailed at Appendix 3 of the 2021 NHS England Complaints Policy.

2.20 Complaints citing legal action:

Should any complaint be received and the content states that legal action has been sought then, prior to any response, consideration should be given to contacting the defence union for guidance.

1) It is strongly suggested that should any organisation receive a complaint that highlights that legal action has been taken then they should be cautious.

2) By doing nothing with any complaint of this type, this could affect the outcome of a CQC assessment and / or the relationship with your CCG/NHS E area teams. As the response from NHSE states, you must deal with a complaint that cites legal action against you as you would for any other complaint.

3) Should any complainant cite legal action that refers to an incident after 1 April 2019, contact NHS Resolution and they will assist under the Clinical Negligence Scheme for General Practice (CNSGP). Refer to the NHS Resolution Guidance for general practice document here.

4) It is strongly suggested that organisations make a record of everything involving the complaint.

2.21 multi-agency complaints:

The Local Authority Social Services and NHS Complaints (England) Regulations 2009 state that practices have a duty to co-operate in multi-agency complaints.

If a complaint is about more than one health or social care organisation, there should be a single co-ordinated response. Complaints managers from each organisation will need to determine which the lead organisation will be, and the lead organisation will then be responsible for co-ordinating the complaint, agreeing timescales with the complainant.

If a complaint becomes multi-agency, the practice should seek the complainant's consent to ask for a joint response. The final response should include this.

A complaint can be made to the provider / commissioner but not both.

2.22 Complaints involving locum:

WMC will ensure that all locum staff, be it GPs, nurses or administrative staff, are aware of both the complaints process and that they will be expected to partake in any subsequent investigation, even if they have left the practice (keeping in mind the 12-month time frame to complain).

Locum staff must receive assurance that they will be treated equally and that there is no difference between locum staff, salaried staff or partners.

2.23 Significant events:

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

It is advised that the complainant, their carers and / or family are involved in the SE process. This helps to demonstrate to the complainant that the issue is being taken seriously and investigated by WMC. NHSE see too many instances where complainants are not involved in the SE process.

Further information on the significant event process can be sought from the Significant Event & Incident Policy.

2.24 Fitness to practise:

When a complaint is raised, consideration may need to be given to whether the complaint merits a fitness to practise referral. Advice may need to be sought from the relevant governing body such as the GMC, NMC, HCPC etc.

At WMC, the Senior GP Partner will be responsible for firstly discussing the complaint with the clinician involved and then seeking guidance from the relevant governing body where applicable.

2.25 Staff rights to escalate to PSO:

It should be noted that any staff who are being complained about can also take the case to the PSO. An example may be that if they are not satisfied with a response given on their behalf by a commissioning body.

It should be noted that independent doctors are unable to use the PSO as they have no legal requirement to have an appeals mechanism. It is good practice to provide independent adjudication on complaints, therefore using a service such as Independent Sector Complaints Adjudication Service (ISCAS) should be considered.

2.26 Logging & retaining complaints:

WMC will need to log their complaints and retain as per the Records Retention Schedule.

All evidence of complaints is compiled within the KO14b Complaints Log Toolkit.

Evidence required includes:

- Logging, updating and tracking for trends and considerations
- Details of all dates of acknowledgement, holding and final response letters and the timely completion of all correspondence relating to the complaint
- Compliance with the complaints in the categories that are required to complete the annual KO14b submission to NHS Digital

This data is submitted by the Practice Manager to NHSE within the KO14b complaints report annually and then published by NHS Digital. Any reporting period covers the period from 1st April until 31st March.

3. Use of complaints as part of the revalidation process:

3.1 Outlined processes:

As part of the revalidation process, GPs must declare and reflect on any formal complaints about them in tandem with any complaints received outside of formal complaint procedures at their appraisal for revalidation. These complaints may provide useful learning.

The Royal College of General Practitioners (RCGP) has produced appraisal guidance for this purpose.

Nurses may also wish to use information about complaints as part of their NMC revalidation. This feedback can contribute towards submissions about organisation related feedback, and it can also be part of a written reflective account. Likewise, pharmacists and other healthcare professionals may wish to consider using complaints and their management as part of their revalidation process.

The General Pharmaceutical Council (GPhC) revalidation process can be sought here and information relating to the Healthcare Professionals Council (HCPC) revalidation process can be found here.

4. CQC regulatory complaint assessment during inspection:

4.1 Overview:

The CQC will inspect the organisation to ensure it is safe, effective, responsive, caring and well-led under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Regulation 16).

When assessing complaints management, the CQC will seek to be satisfied of the following, as directed within the GP Mythbuster 103 – Complaints management:

- People who use the service know how to make a complaint or raise concerns
- People feel comfortable, confident and are encouraged to make a complaint and speak up
- The complaints process is easy to use. People are given help and support where necessary
- The complaints process involves all parties named or involved in the complaint. They have an opportunity to be involved in the response
- The provider uses accessible information or support if they need to raise concerns
- The complaints are handled effectively, including:
  - Ensuring openness and transparency
  - Confidentiality
  - Regular updates for the complainant
  - A timely response and explanation of the outcome
  - A formal record

- Systems and processes protect people from discrimination, harassment or disadvantage

- Complaints are logged and monitored to assess trends and shared with the wider team. They are used to learn and drive continuous improvement. Trends are used to highlight where changes or improvements may be needed.

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

The CQC will also expect all staff to fully understand the complaints process as detailed at Section 1.1.

5. Further information:

Further relevant information is available within both:

- The Data Protection Act 2018
- The General Data Protection Regulation Public Interest Disclosure Act 1998

6. Summary:

The care and treatment delivered by WMC are done so with due diligence and in accordance with current guidelines. However, it is acknowledged that sometimes things can go wrong.

By having an effective complaints process in place, this practice can investigate and resolve complaints in a timely manner, achieving the desired outcome for service users whilst also identifying lessons learned and ultimately improving service delivery.

Appendix A – Complaints Leaflet:

Complaints Process:

Wootton Medical Centre (WMC) aims to provide the highest possible quality of care for our patients. We are monitored by the Care Quality Commission and work with the local Clinical Commissioning Group to provide and improve health care for our patients.

If you have a complaint about the service you have received, please let us know. The practice operates a complaints procedure as part of the NHS system for dealing with complaints, which meets national criteria.

If you make a complaint, it is practice policy to ensure you are not discriminated against, or subjected to any negative effect on your care, treatment or support.

Talk to us:

Every patient has the right to make a complaint about the treatment or care they have received at WMC.

We understand that we may not always get everything right and, by telling us about the problem you have encountered, we will be able to improve our services and patient experience.

Who to talk to:

Most complaints can be resolved at a local level. Please speak to a member of staff if you have a complaint; our staff are trained to handle complaints in the first instance. Alternatively, you can ask to speak with the Reception Supervisor or the Operations Manager.

You can also write a letter of complaint or send an email for the attention of the Practice Manager:

- Wootton Medical Centre, 36-38 High Street, Wootton, Northampton NN4 6LW
- Telephone: 01604 709922
- Email: wootton.medicalcentre@nhs.net

If for any reason you do not want to speak to a member of our staff or your complaint relates to another NHS provider, you can request that NHS England investigates your complaint. They will contact us on your behalf:

- NHS England, PO Box 16738, Redditch B97 9PT
- Email: england.contactus@nhs.net

Time frames for complaints:

The time constraint on bringing a complaint is 12 months from the occurrence giving rise to the complaint, or 12 months from the time you become aware of the matter about which you wish to complain.

Our aim is to provide an acknowledgement to a complaint within 3 working days and a written response within 40 working days. Should there be a delay, we will provide regular updates regarding the investigation.

Investigating complaints:

WMC will investigate all complaints effectively and in conjunction with existing legislation and guidance.

Confidentiality:

WMC will ensure that all complaints are investigated with the utmost confidentiality and that any documents are held separately from the patient's healthcare record.

Third party complaints:

WMC allows a third party to make a complaint on behalf of a patient. The patient must provide written consent for them to do so.

Final response:

WMC will issue a final formal response to all complainants which will provide full details of the outcome of the complaint.

Further action:

If you are dissatisfied with the outcome of your complaint from either NHS England or WMC then you can escalate your complaint to:

- Public Service Ombudsman (PSO), Milbank Tower, Milbank, London SW1P 4QP
- Telephone: 0345 015 4033
- Website: www.ombudsman.org.uk