Putting Things Right

Procedure on the Management of Concerns raised by patients and their representatives (Complaints)

N.B. Staff should be discouraged from printing this document. This is to avoid the risk of out of date printed versions of the document. The Intranet should be referred to for the current version of the document.

Status: Issue 1 Issue date:6 June 2012
Approved by: Quality and Patient Safety Committee Review by date: 6 June 2015
Owner: Putting Things Right Team ABHB/Corporate/0396A

CONTENTS

1 Introduction

The aim of Aneurin Bevan Health Board (ABHB) Putting Things Right Procedure for Handling Concerns (Complaints) is to give guidance on how concerns that are received as complaints should be investigated and responded to in order to facilitate resolution of issues at a local level promptly and fairly for both users of the service, their carers and staff, recognising the individual needs of complainants (e.g. language, support, disabilities, etc). This procedure should be used on conjunction with the ABHB Putting Things Right Policy and the Welsh Government's Putting Things Right – Guidance on Dealing with Concerns about the NHS from 1 April 2011.

2 Informal Concerns (Concerns that can be dealt with at the point of service delivery ("on the spot")

2.1 Some concerns will not be handled under the Putting Things Right regulations and these include concerns that can be dealt with not later than 48 hours after the concern has been raised, or when the person raises the concern has specifically requested that it should be dealt with informally. These will usually be issues that are relatively easy to address and those that can normally be dealt with 'on the spot' or in a short period of time.

2.2 Staff must ensure that the person raising the concern is happy with the outcome and if they are not they should be advised to raise a concern formally under the Putting Things Right regulations.

2.3 Verbal concerns that can be dealt as they arise (informally) should be recorded locally either on Datix Web, if accessible, or on a verbal concerns form available from http://howis.wales.nhs.uk/sitesplus/documents/866/PTR%20Recording%20a%20verbal%20concern%20form.doc

2.4 Informal concerns should be recorded on Datix.

2.5 Many concerns received from the public via the Health Board's Call Centre can be dealt with within 48 hours. These are logged by Call Centre staff and directed to the appropriate divisional or locality complaints co-ordinators. Persons raising the concern should receive a call back within 24 to 48 hours and wherever possible concerns should be dealt with as soon as possible. It

must be recognised that not all concerns coming through the Call Centre will be able to be dealt with quickly and for issues that cannot be resolved within this time, or if the person raising the concern specifically wishes it to be dealt with formally, these should be managed through the formal Putting Things Right process.

3 Formal Concerns (Procedure for the Handling of Concerns that cannot be dealt with 'on the spot' or within 24 to 48 hours)

3.1 Time limits for notification of a concern

3.1.1 A concern can be notified no later than 12 months from:

- The date on which the concern occurred, or
- If later,12 months from the date the person raising the concern realised they had a concern

3.1.2 To investigate a concern after the 12 month deadline, the Health Board must consider whether the person raising the concern had good reason not to notify the concern earlier and whether, given the time lapse, it is still possible to investigate the concern thoroughly and fairly.

3.2 Receipt of Concern

3.2.1 Concerns relating to the care or services received can be raised in the following ways:

- In writing by letter or using the Concerns Form available at http://www.wales.nhs.uk/sitesplus/documents/866/Raising%20a%20Concern%20Website%20Form%20%282%29.doc

- By email using the Putting Things Right website Puttingthingsright.ABHB@wales.nhs.uk

- Verbally (by telephone or in person) – a written record of concerns raised verbally must be made, a copy of which will be given to the person raising the concern. A template for recording verbal concerns is available at http://howis.wales.nhs.uk/sitesplus/documents/866/PTR%20Recording%20a%20verbal%20concern%20form.doc

3.3 Recording of Concerns

3.3.1 All concerns are recorded on Datix. This allows data from concerns to be analysed centrally and within Divisions and Localities. Concerns not received centrally should be forwarded to the Putting Things Right team or the Divisional Complaints Co-ordinator for appropriate action.

3.4 Grading of Concerns

3.4.1 All concerns will be graded on receipt in terms of severity, from 1(No Harm) to 5(Catastrophic Harm) in accordance with the All Wales Grading Framework (see Appendix A). This will determine the level of investigation required in dealing with the issue(s) raised.

3.4.2 The grading of a concern should be kept under review throughout the investigation in case the level of investigation needs to change. For example, the seriousness of a concern may only become evident once an investigation has commenced or has been completed. The grading of a concern may therefore be upgraded or downgraded by the Investigation Lead during the course of the investigation.

3.5 Serious Concerns (graded 4 or 5)

3.5.1 A serious concern (graded 4 or 5) which is raised as a complaint may already have been raised by staff as a serious incident and an investigation may already be underway.

3.5.2 The investigation into the incident (See Policy and Procedure – the Management of Serious Concerns) should continue to ensure that action is taken to reduce the risk of recurrence and improve patient safety.

3.5.3 The Putting Things Right concerns procedure should run in parallel with the serious incident/concerns investigation, and the person raising the concern must be kept informed, particularly of any delays to the final response.

3.5.4 Where a letter raising a concern is received and it becomes apparent that there has been a serious incident that the organisation was previously unaware of, an on-line incident form

should be submitted via Datix, and the Associate Director (Putting Things Right) should be made aware of the issue. The serious incident/concerns process will commence and again the person raising the concern will be informed that this is the case and of the likelihood that the 30 day target will not be achieved.

3.5.5 Responses to concerns linked with a serious incident will be based on the findings from the serious incident/concerns report and will use the same statements from the staff.

3.5.6 Where Primary Care Concerns raise potential serious incident/clinical governance issues, the Locality Clinical Director will be informed and a decision taken as to how to proceed. This will take place regardless of consent. Options include:

- Allowing the concerns process to run with a clinical governance review at the end;
- Implementing a Serious Incident Investigation;
- Taking immediate action in the interests of public protection

3.6 Acknowledgement of Concerns

3.6.1 All concerns should be acknowledged in writing or, by email if the concern has been received electronically, within 2 working days of receipt.

3.6.2 If the concern is not from the patient, but a third party, consent must be sought from the patient – please see Section 4 below regarding the issue of consent.

3.6.3 The template acknowledgement letter is available on Datix and includes:

- Name and telephone number of a named contact (usually the Investigation Lead) for use throughout the handling of the concern

- The offer of an opportunity to discuss with the named contact, either in a meeting or over the telephone, any specific needs and the way in which the investigation will be handled

- When a response from the Chief Executive is likely to be received

- The availability of advocacy and support, ie Community Health Council

- Information outlining that their clinical records will need to be accessed as part of the investigation

- A copy of the Putting Things Right leaflet

3.7 Withdrawal of concerns

3.7.1 A concern may be withdrawn at any time by the person who notified the concern. This can be made:

- In writing
- Electronically
- Verbally in person or by telephone

3.7.2 Even if a concern has been withdrawn, if it is felt that the investigation of the concern is still appropriate, the Health board can continue to investigate.

3.8 Concerns received from AM/MPs – Please refer to 4.2.6 and Appendix

3.9 Concerns Relating to Children

3.9.1 Children and young people are individuals and have their own views and opinions. Any child under the age of 16 is able to raise a concern on their own behalf regarding secondary care if they are judged to have sufficient competence and maturity to fully understand what is involved in bringing a concern. For concerns relating to Primary Care, children under 16 cannot ordinarily raise these about Primary Care Providers. A parent, guardian or advocate should raise the concern on the child's behalf.

3.9.2 Where a concern is notified by a child or young person, he or she must be reasonably supported and assisted to pursue their concern.

3.9.3 There may be a need for specialist advocacy to be offered to assist the child or young person and this should be arranged in accordance with the Welsh Government's 'Model for Delivery Advocacy Services to Children and Young People in Wales'. The

Advocacy Service, MEIC, can be contacted on www.meicymru.org or Freephone 080880 23456.

3.9.4 The investigation processes will be consistent with the principles of the Carlile Report (2002), with appropriate involvement of named advocates and others with nominated responsibility for children's health and welfare.

3.9.5 Apart from Independent Contractor concerns, concerns involving a child will, in all cases be copied to the Divisional/Locality Lead Nurse in the Family and Therapies Division for their additional consideration of any relevant child health issues.

3.9.6 In all instances where a child protection issue arises, staff involved should seek advice from the Health Board's Named Child Protection Professionals and the Assistant Nurse Director for Safeguarding.

3.9.7 The Putting Things Right Procedure for Handling Concerns (Complaints) should run independently of any child protection investigation. The concern should be investigated by the Investigation Lead; however advice should always be sought from the Health Board Named Child Protection Professionals.

3.9.8 Where the concern alleges child abuse or neglect by an employee, a multi-agency child protection referral must be made to the appropriate social services department (refer to the 'Health Board Allegations of Child Abuse Against Staff Policy) in line with the All Wales Child Protection Procedures and Health Board Child Protection policy and procedures.

3.9.9 In many cases, someone else (parent/carer/guardian) will raise a concern on behalf of a child. This does not remove the right of the child to take the concern forward themselves, with support. The Health Board should satisfy itself as to whether the child wishes to raise a concern themselves, with assistance or if they are happy for the person who raised the concern to represent them. If the child is not willing to allow the concern to be investigated then a decision will need to be taken about proceeding and specialist advice sought if appropriate. Again, particular regard needs to be given to safeguarding issues, and it may be necessary to proceed with an investigation even if a child appears unhappy to do so. The Health Board is under no

obligation to provide a response to the person who raised the concern in the first place.

3.10 Concerns raised by prisoners

3.10.1 Prisoners have access to the same quality and range of healthcare services as the general public. Where a prisoner raises a concern the Health Board must handle and investigate the concern in the same way as it does for anyone else. Prisoners will also have access to the advocacy services provided by the Aneurin Bevan Community Health Council

3.11 Concerns that have been referred to Coroner's Inquest

3.11.1 An investigation into a concern should continue regardless of the inquiries of the Coroner, whose role is to determine the cause of death. However, in cases where there is a serious incident and/or statements are being taken from staff for the inquest, the person raising the concern will be informed that the investigation may not comply with the 30 day target.

3.11.2 Relatives concerned at the cause of death may be advised to contact the Coroner.

3.11.3 It may be possible for the Health Board to issue a formal response to the concern independent of the inquest. This is especially important if the Coroner's inquest is delayed for a period of several months. However, where statements are being taken from the staff for an inquest, the concerns investigation should be based on these statements.

3.11.4 The Investigation Lead should discuss the case with the Legal Service Managers and the Putting Things Right Manager (Complaints) to determine the most appropriate action who will also need to review the final response prior to signature by the Chief Executive

3.12 Concerns in respect of patients who lack capacity or who are vulnerable adults

3.12.1 All concerns must be treated seriously, including those expressed by patients who lack capacity or who are vulnerable adults. All such concerns should be processed with due reference to the Mental Capacity Act.

3.12.2 In such instances, and where doubts exist about the reasonableness of the concern, discussion should take place with a relative, friend or other advocate, and with medical and nursing

staff, and a decision made about whether the concern should be formally investigated.

3.12.3 Extreme care must be taken not to overlook a real and serious underlying concern, which may be masked by the patient's disability or incapacity.

3.12.4 Investigation Leads must remain alert to any possibility of vulnerable adult abuse, and take immediate advice from relevant senior professional staff, or the Corporate Senior Nurse for the Protection of Vulnerable Adults (POVA), in any case of doubt.

3.12.5 Where it is deemed appropriate for the issues raised in the concern to be dealt with via the Protection of Vulnerable Adults Policy, the person raising the concern should be informed and the necessary steps taken.

3.13 Concerns from Solicitors / Intention to litigate /Requests for Compensation

3.13.1 People have a right to convey their concern through a solicitor. Provided that the solicitor has not served a formal letter of proceedings (AN ACTUAL LETTER OF CLAIM), the Putting Things Right process should proceed as normal.

3.13.2 The Legal Services Manager should be notified immediately of any concern which has the potential to be considered under Redress or develop into a legal claim over £25,000.

3.13.3 If and when formal legal proceedings are instigated, the Putting Things Right procedure is brought to an end with the person raising the concern being appropriately advised in writing. If legal action is later dropped or fails, the concern can be investigated outside of the Putting Things Right Procedure.

3.13.4 Where the Health Board accepts, in the absence of legal proceedings, that there is a qualifying liability in tort, then the Redress process as outlined in Section 8 below must be considered.

3.14 Concerns containing allegations against staff

3.14.1 Where concerns raised contain allegations against a staff member, they should receive a copy of the correspondence at the beginning of the investigation.

3.14.2 They should be given full opportunity to comment upon the concerns raised against them.

3.14.3 The Health Board is committed to providing support and advice for the member of staff during the investigation process, as appropriate.

3.14.4 Any staff member identified personally in the response letter should have a chance to see the draft letter before issue.

3.14.5 Copies of final response letters will be sent to the relevant Divisional/Locality Director who will ensure that identified staff receive a copy.

3.15 Concerns from people with a disability

3.15.1 In line with the Disability Discrimination Act, the Health Board must make reasonable adjustments to ensure that the concerns process is accessible to service users who have a disability.

3.16 People Acting Beyond Reasonable Limits

3.16.1 All concerns should be investigated thoroughly with local resolution being the main aim. All people raising a concern should be dealt with fairly, honestly, consistently and appropriately, including those whose actions could be considered unacceptable.

3.16.2 The behaviour of a person raising a concern will not be viewed as unacceptable just because it is forceful or determined. The Health Board believes that all people who raise concerns have a right to be heard, understood and respected. However, it is also considered that Health Board staff and independent practitioners should have the same rights.

3.16.3 A small number of people can either take up a disproportionate amount of time in dealing with their concern or be abusive or threaten violence towards the staff dealing with their concern. These complainants will be deemed habitual or vexatious.

3.16.4 Habitual or vexatious people typically:

- Persist in pursuing a concern where the Health Board's procedure has been fully and properly implemented and exhausted.

- Seek to prolong contact by changing the substance of a concern or continually raise new issues and questions whilst the concern is being addressed.

- Are unwilling to accept documented evidence of treatment given as being factual e.g. drug records, GP records, nursing notes.

- Deny receipt of adequate response despite evidence of correspondence specifically answering their questions.

- Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed. Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what a 'trivial' matter is can be subjective and careful judgement must be used in applying this criterion).

- Have, in the course of addressing a registered concern, had an excessive number of contacts with concerns staff and make unreasonable demands on them.

- In contravention of the Data Protection Act, are known to have recorded face to face meetings and/or telephone conversations without the prior knowledge and consent of the other parties involved.

- Have threatened or used actual physical violence towards staff or their families or associates at any time. Where this has happened, personal contact with the person raising the concern and their representative should be stopped and, thereafter, the concern will only be pursued through written communication.

- Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their concern or their families or associates. (Staff must recognise that people raising concerns may sometimes act out

of character at times of stress, anxiety or distress and should make reasonable allowances for this).

3.16.5 As a last resort and only after all reasonable measures have been taken to try to resolve concerns following the Health Board's concerns procedure, complainants meeting the above criteria will be deemed habitual and/or vexatious.

3.16.6 Support and advice should be readily available for staff and independent contractors when a complainant's actions go beyond acceptable limits. A minimum of 2 staff should be present when interviewing complainants who may be aggressive or abusive, to ensure safety and security, and to ensure that evidence is properly recorded. Staff should not be expected to tolerate rude, aggressive and threatening behaviour over the telephone and they should inform the complainant that if their unacceptable behaviour continues they will terminate the phone call.

3.16.7 Staff should be advised to contact their manager or a member of the Putting Things Right team where they believe a person's behaviour is unacceptably challenging. Any such case should be discussed between the Investigation Lead and the Putting Things Right Manager (Complaints) with reference to the Health Board's Violence and Aggression to Staff Policy

3.16.8 Provided that any legitimate cause for concern has been appropriately investigated and dealt with, and there is documentary evidence of the person's habitual or vexatious behaviour, the Putting Things Right Manager (Complaints) has the authority to stand down the investigation process.

3.16.9 Where an investigation is still on-going the Chief Executive should write to the person raising the concern setting parameters for a code of behaviour and the lines of communication.

3.16.10 Where the investigation is complete, a letter will be sent from the Chief Executive to inform them that correspondence is at an end.

3.16.11 It is recognised that persons persistently raising concerns should be protected by ensuring that they receive a response to all genuine grievances.

3.16.12 Once a person has been determined as habitual or vexatious, this status may be withdrawn at a later date if, for example, they

subsequently demonstrate a more reasonable approach or if they submit a further separate concern for which normal Putting Things Right procedures would be appropriate.

3.17 Concerns and Disciplinary Procedure

3.17.1 The Health Board Putting Things Right Policy and Procedures and Disciplinary Procedures have different purposes. The Putting Things Right Policy and Procedure carries no authority to identify or take remedial action in respect of individual staff

3.17.2 If an investigation into a concern indicates the need for a disciplinary investigation, the Investigation Lead must discuss these issues with the staff member's line manager.

3.17.3 A decision to initiate a Disciplinary Investigation rests with the relevant line manager with advice from the relevant professional Head of Service.

3.17.4 If a disciplinary investigation begins before the investigation has been completed, consideration will need to be given to how far the investigation under the Health Board's Putting Things Right Policy and Procedure can continue and whether other investigations can run along side it.

3.17.5 The person raising the concern should be informed in general terms of disciplinary sanctions imposed on any staff member. A judgement will need to be made between reassuring the complainant that the matter they raised has been taken seriously and dealt with satisfactorily, while protecting the confidentiality of the staff member.

4 Consent to Investigate Concerns

In the majority of cases, the investigation of a concern requires access to medical records and so the issue of consent will need to be considered. The following provides information on when consent is required.

4.1 Consent where a patient raises a concern themselves about the treatment/service they have received.

4.1.1 For concerns raised about Health Board services, there is no need to expressly seek the patient's consent to investigate their concern as they can be deemed to have given implied consent. However, the patient should be informed in the acknowledgement letter that their medical records may need to be examined so that they have the opportunity to indicate if they do not want their health records accessed.
NB: For concerns of a non clinical nature, the possibility of access to medical records should be removed from acknowledgement letter.

4.1.2 In the event that the patient is not happy for their records to be accessed, then the Health Board must decide on whether the issue raised is of sufficient seriousness to merit an investigation without access to the medical records and the organisation should determine whether it would be in the interests of the Health Board to continue to look into the matter. If not, there will be no investigation of the concern. This decision must be recorded before closing the matter.

4.1.3 For concerns received by the Health Board about services provided by Independent Contractors. If it is deemed appropriate that the Independent Contractor should respond to the concern, written/explicit consent must be gained from the patient to enable the Health Board to pass their concerns to the Independent Contractor. This is to ensure that the patient is aware of the way that their concern will be handled (i.e. the Independent Contractor will be given the opportunity to investigate and respond directly) and to allow the Health Board to receive a copy of the final response. See Section 5.3 and 5.4 for more detailed information on concerns regarding primary care providers

4.2 Consent where a third party raises a concern on behalf of a patient

4.2.1 A representative may raise a concern on behalf of a patient or service user but this should be with the patient's explicit knowledge and written consent, unless the person raising the concern is entitled to act for the patient legally (eg has Lasting Power of Attorney).

4.2.2 Consent will not be required from the patient where the patient lacks capacity, as defined by the Mental Capacity Act, to act on their own behalf. However, consent for the investigation should always be obtained from the patient if they are an adult and have capacity.

4.2.3 Where the patient lacks capacity, consent should be obtained from the next of kin/legal representative, if they are not the person raising the concern.

4.2.4 In the interests of patient confidentiality and in accordance with Caldicott rules, it is appropriate for the Health Board to request confirmation of the patient's authorisation that the person raising the concern may act on their behalf and receive an explanation of their clinical care which would otherwise be protected personal information.

4.2.5 Where the Aneurin Bevan Community Health Council acts on behalf of the patient or the person raising the concern, consent will be provided. Correspondence relating to the concern will be sent to the person raising the concern with copies of all correspondence being sent to the appropriate Complaints Advocate at the Community Health Council. (See Appendix D for information on the role of Aneurin Bevan Community Health Council).

4.2.6 A Member of Parliament (MP) or an Assembly Member (AM) can raise a concern on behalf of a constituent. Please refer to Appendix C for more detailed information. Explicit consent does not need to be given where a patient has raised a concern with their elected representative but any response should only include any information specific to the concern and only if it is necessary in order to respond to the concern (SI2002, No2905). Where it is necessary to give detailed personal clinical information in order to respond to the concern, consideration should be given to seek explicit consent from the patient. Consent should always be sought from the patient if the AM/MP has received a concern from a third party.

4.2.7 If it is not possible to obtain written consent for whatever reason, the Health Board must consider whether the issue in question is of sufficient seriousness to merit an investigation without access

to the medical records. This decision must be recorded before closing the matter.

4.3 Consent when the patient has died

4.3.1 Investigation into a concern can proceed where a patient has died. If the person raising the concern is not the patient's personal representative (a patient's personal representative is a person who would have a claim arising out of the patient's death) then consent to investigate the concern must be obtained from the appropriate person(s). The personal representative is normally the named next of kin, but this is not always the case.

4.3.2 If the personal representative refuses to give consent, this is not necessarily a reason for refusing to investigate a legitimate concern, but it will be necessary to respond in general terms without divulging personal or clinical details. In the case of a deceased patient, those who do not have consent from the personal representative do not have rights under the Putting Things Right regulations.

4.4 Consent for concerns raised on behalf of a child or person who lacks capacity

4.4.1 It is acceptable for people to raise concerns on behalf of a child or someone who lacks mental capacity. In these instances, consent to access medical records is not required, but if the patient is a child, the Health Board needs to consider whether it is reasonable for another person to represent the child, or if they are able to take forward the concern themselves, with support if necessary. The key issue is the involvement of the child in the handling of the matter. Please refer to Section 3.8 above for more information relating to concerns raised in relation to children

5 Procedure for Investigating Concerns

5.1 Investigating concerns about Health Board Services and Staff

5.1.1 Most concerns are likely to be about services provided solely by the Health Board and the following procedure applies. The procedure for dealing with concerns that also involve other

organisations or primary care providers is outlined in 5.2 to 5.4 below.

5.1.2 Following receipt and grading of a concern, an Investigation Lead will be allocated in the Division or Locality. The Investigation Lead may not necessarily undertake the investigation but will have responsibility of overseeing the process and, if necessary, will appoint an Investigation Officer who will be the named contact for the person raising the concern throughout the investigation.

5.1.3 In no circumstances should the Investigation Lead or Investigation Officer be the subject of the concern or directly involved in the incident

5.1.4 It is important that the Investigator(s) are appropriately selected according to their knowledge and experience and the nature of the concern.

5.1.5 Where the concern notified includes an allegation that harm has or may have been caused the following must be considered:

- <u>The likelihood of any qualifying liability arising</u>

  A qualifying liability is defined within the Regulations as a liability in tort owed in respect of or consequent upon, personal injury or loss arising out of or in connection with a breach of a duty of care owed to any person in connection with the diagnosis of illness or in the care or treatment of a patient. Therefore the three questions to ask to establish whether there is a qualifying liability are:

  i) Is there a duty of care owed to the person?
  ii) If so, has that duty of care been breached?
  iii) If the duty of care has been breached, has the breach caused or materially contributed to the harm i.e. causation.

- <u>The duty to consider Redress</u>

  Redress may consist of any one or a combination of the following:

  i) an apology

ii) an explanation
iii) a report on the action that has or will be taken to reduce the risk of such events occurring in the future
iv) financial compensation where appropriate
v) remedial treatment.

5.1.6 See Sections 8 and 9 for further information regarding concerns where there is or may be a qualifying liability and where Redress will need to be considered.

5.1.7 It is essential that the investigation addresses the concerns and underlying causes of the issue. Therefore, on receipt of the concern, the Investigation Lead (or the Investigating Officer) should, where possible, telephone the person raising the concern to seek a clear understanding of the nature of the concern and the expectations of the person raising the concern, to offer a meeting and to confirm that the investigation is underway and to explain the investigation process. If the person raising the concern has engaged with an advocate then they should be kept informed of any decision made about how the concern will be handled.

5.1.8 On occasions, a meeting alone may be sufficient to resolve a concern. If the offer of a meeting is accepted and is able to resolve the concern, no further investigation is required. However, the meeting must be followed up by a full written response based on the discussions and should include confirmation that the concern is now resolved. If any follow-up actions were agreed then the person who raised the concern must be told when they can expect to receive information about the outcome of these actions. If a meeting is agreed, the person raising the concern should always be informed of their right to be accompanied by a relative/friend/ advocate and/or a representative of the Aneurin Bevan Community Health Council.

5.1.9 An apology, where this is appropriate, should be conveyed at the earliest opportunity, and recorded on the Datix file. This may be by telephone and should not await the formal response letter.

5.1.10 The level of investigation should be proportionate to the severity of the concern notified and will be determined by the initial assessment of the concern and the grading allocated to it. A variety of investigative tools is available on Putting Things Right website.

5.1.11 For concerns graded 1-2, the investigation should be completed within 20 days. For concerns of a more serious or complex nature, where possible the investigation should be undertaken within 30 days.

5.1.12 The number of people participating in an investigation is dependent on the severity and complexity of the concern. For a low grade concern (grade 1 or 2) it will normally be sufficient for one person to undertake the investigation, whereas a higher grade concern (grades 3 to 5) may require a multidisciplinary team approach supported by the Putting Things Right team.

5.1.13 The grading of a concern should be kept under review throughout the investigation in case the level of investigation needs to change. For example, the seriousness of a concern may only become evident once an investigation has commenced or has been completed. The grading of a concern may therefore be upgraded or downgraded by the Investigation Lead/Officer during the course of the investigation. At the end of the investigation the Investigation Lead should confirm the final grading to be recorded on Datix.

5.1.14 The Investigation Lead will ensure that any staff who are the subject of the concern receive a copy of the concern raised, and that any investigative interview is carried out impartially and fairly with due consideration of the potentially stressful nature of such interviews.

5.1.15 Consideration must be given to the level and type of support required by members of staff who are involved in matters raised in the concern

5.1.16 The Investigation Lead/Officer will interview relevant staff as necessary, and record key points from the discussion. Relevant written records and documentation will be used in the investigation to confirm and expand on the information obtained from staff.

5.1.17 The Investigation Lead/Officer should consider whether independent clinical or other advice will need to be sought in order to address the concern.

5.1.18 The person who raised the concern should be kept updated in a timely manner about progress of the investigation in a format that meets any needs that have already been identified.

5.1.19 All contacts with the person raising the concern should be noted and recorded on the Datix file with date and time.

5.1.20 During the investigation, consideration should be given to inviting the persons raising the concern to attend meetings with staff. Timing should be carefully considered (eg it can do more harm for clinical staff to meet a patient too early; nor should things be left so long that the person raising the concern feels they have been forgotten about).

5.1.21 Where appropriate, the resolution of the concern through mediation or alternative dispute resolution should be considered. The Aneurin Bevan Community Health Council is able to offer a mediation service.

5.1.22 If the investigation has identified that there is no qualifying liability, then a final response (under Regulation 24) will be issued. For concerns graded 1-2, this should be achieved within 20 days wherever possible. For concerns of a more serious or complex nature, then this should be within 30 days. (see Section 6 for further information about Regulation 24 final response).

5.1.23 If the investigation has identified that there is or may be a qualifying liability in tort worth less than £25,000, then an interim report (under Regulation 26) must be issued within 30 days. (see Section 7 for further information about Regulation 26 interim response).

5.1.24 If a final response, or in cases where there may be or is a qualifying liability, an interim report cannot be sent within 30 days, the person raising the concern must be notified of the delay.

5.1.25 As soon this is known, and before the agreed timescale has passed, the Investigation Lead must arrange, via the Divisional/Locality Complaints Co-ordinator, to issue a holding letter to the person raising the concern and, if appropriate, their advocate, explaining the delay and suggesting a revised timescale.

5.1.26 The Investigation Lead will ensure that a file is kept confirming the details of the investigation and identifying everyone who has been interviewed or has assisted in the investigation. All correspondence relating to the investigation, e.g. written statements, emails, action plans, etc should be included in the file. It should be noted that this file will be disclosed in the event of a concern progressing to litigation.

5.1.27 At the end of the investigation, the Investigation Lead will ensure that a copy of the file containing details of the investigation process is sent to the Divisional/Locality Complaints Co-ordinator to incorporate with the main file and scanned onto the Datix file. NB: This file is also disclosable.

5.2 Investigating concerns which involve more than one organisation

5.2.1 There will be situations where services provided by more than one organisation form part of the concerns raised. In practice it is likely that the person has only raised the concern with one organisation, however it is possible that they might have raised the concern with both. This must be checked carefully to ensure that there is no duplication of effort of the part of any organisation.

5.2.2 If the concern is received by Aneurin Bevan Health Board and it seems clear that the matters also involve another organisation, then the division/locality involved must, within 2 working days of receipt of the concern:

- Inform the person raising the concern that another organisation is or may be involved in their concern;
- Seek consent from the person raising the concern to contact and notify the other organisation that they are involved in the concern raised.

5.2.3 Once consent has been received, the second organisation must be informed within 2 working days of receiving consent, that a concern has been received. All organisations involved with the concern should then co-operate to agree:

- Which of the organisations will act as the lead in co-ordinating and investigating the concern;

- Who will directly communicate with the person raising the concern and keep them updated

- A joint response to the concern, issued by the lead organisation;

- The sharing of information relevant to the concern, subject to consent which should be obtained at the outset;

- Appropriate representation of the organisations at any relevant meetings.

5.3 Investigating concerns raised with Aneurin Bevan Health Board by a patient or their representative about services provided by a primary care provider

5.3.1 Under Putting Things Right it is possible for people to raise concerns with Health Boards about the services provided by primary care providers.

5.3.2 When the Health Board receives a concern relating to care provided by a primary care provider, the correspondence should be forwarded to the Locality Complaints Lead or Locality Director who must first be decide whether it is more appropriate for the concern to be investigated by the Health Board, or whether the primary care provider should do so.

5.3.3 Before making this decision, the Locality Complaints Lead must, within 2 working days, contact the person raising the concern to:

- Ask whether the concern has already been raised with the primary care provider and whether they have had a respons

- Seek consent for details of the concern to be sent to the primary care provider.

5.3.4 If the concern has already been dealt with by the primary care provider and a response issued, then the Health Board must not investigate it again. The person should be advised of this and be reminded of their right to take the matter to the Public Services Ombudsman for Wales.

5.3.5 If the concern has not been investigated by the primary care provider and it is considered that this is a concern that would be

appropriate for the Health Board to investigate, consent must be obtained from the person raising the concern to allow the Health Board to send details of the concern to the primary care provider.

5.3.6 If consent is not received from the person raising the concern, the Health Board cannot investigate the concern.

5.3.7 The only exception to this is if the Health Board is of the opinion that an issue is so serious that it would merit an investigation anyway, without direct involvement of the primary care provider, or the consent of the individual patient.

5.3.8 In terms of deciding whether it is appropriate for either the Health Board or the primary care provider to investigate the concern this will depend entirely on the issue raised. Whilst the Health Board can look at the matters regarding GP care, the Health Board cannot provide any comments on the clinical care. The Health Board may provide factual information to the person raising the concern but no comments are to be made on the clinical care. The Health Board is not allowed to make any determination about the liability in tort of a primary care provider. If such matters are alleged by the patient or arise during the investigation, then the primary care provider will be advised to involve their medical defence organisation. The patient will need to be advised that the Health Board cannot become involved in those aspects of any concern about a primary care provider.

It may be in the interests of the Health Board to look into the care provided by the primary care provider but this investigation should not be included in the response if the concern is one about clinical care.

5.3.9 Where the concern relates to both the Health Board and the primary care provider, apart from issues relating to clinical care provided by the primary care provider, it would be appropriate for the Health Board to handle the entire concern.

5.3.10 The Health Board should make the decision on who should investigate the concern within 5 working days and inform the patient or his or her representative and the primary care provider who is the subject of the concern. Reasons for the decision reached must be provided.

5.3.11 If it is decided that the Health Board should investigate the concern, then the person who raised the concerns and the primary care provider will be notified. An investigation will be carried in line with the process set out in Section 5.1 above.

5.3.12 Primary care providers are under an obligation to co-operate with investigations undertaken by the Health Board.

5.3.13 If it is decided that the primary care provider is best placed to investigate the concern, the Health Board must let the person and the primary care provider know of the decision and why this has been made.

5.3.14 If the person raising the concern is unhappy with the above decision, then they must be informed of their right to take their concern to the Public Services Ombudsman for Wales.

5.3.15 The primary care provider must manage the concern in line with the investigation of concerns as outlined above.

5.3.16 Where it is decided that the primary care provider should respond to the concerns raised, the Locality Complaints Lead will facilitate this process and will:

- Provide a point of contact for the person raising the concern;
- Acknowledge the concern and obtain the necessary consent;
- Once consent is received, write to the Practitioner or practice concerned asking them to investigate and respond to the concern within 20 or 30 working days, dependent on seriousness of issue raised;
- Monitor the provision of a response to the person raising the concern;
- Provide advice and guidance to primary care staff on the NHS Putting Things Right guidance on request;
- Offer to facilitate a meeting between the parties in an effort to resolve the concern;

- Record and monitor primary care concerns activity and prepare primary care concerns reports for the Assistant Director, Putting Things Right, and the Locality Director;

- Assist and advise individuals who do not wish to raise a concern directly with their practice.

5.3.17 The Health Board should request a copy of the primary care provider's response to the concern raised.

5.3.18 If the person raising the concern is unwilling or unable to deal directly with a primary care provider then the Health Board can assist by providing an independent person to mediate between the person raising the concern and the practice. Typically this will involve the Aneurin Bevan Community Health Council.

5.4 Investigating concerns raised with Aneurin Bevan Health Board by a Primary Care Provide

5.4.1 Under the Putting Things Right regulations a primary care provider can request that the Health Board investigates a concern that they have been notified of.

5.4.2 When a primary care provider asks the Health Board to investigate a concern about services provided by them, within 2 working days the Health Board must

- check with the primary care provider that the person who has raised the concern consents to the Health Board considering their concern;

- establish whether the concern has been considered by the primary care provider and whether a response has already been issued.

5.4.3 If the person who raised the concern is unwilling to consent to the Health Board considering the concern, or if the primary care provider has already provided a response, then the Health Board cannot investigate the concern and must let the primary care provider know.

5.4.4 If the person who notified the concern is content for the Health Board to consider the concern, and they have not already received a response from the primary care provider, then the Health Board has 5 working days to make the decision about who

should investigate the concern and the process described in 5.4.10 to 5.4.18 above will apply.

6 Final Response - where it has been identified there is no qualifying liability (Regulation 24)

6.1 Where it has been identified during the course of an investigation that no qualifying liability exists then a final response needs to be issued under Regulation 24.

An efficient response can restore confidence in the system and prevent the person raising the concern taking their concern any further. Regulation 24 states that final responses should be issued within 30 working days, but wherever possible Investigation Leads should aim for a 20 day response.

6.2 The Investigation Lead will either compile or approve the draft response which should include:

- an apology where appropriate;
- a summary of what the concern was about;
- an explanation of how the concern was investigated;
- copies of any relevant medical records, where appropriate;
- an explanation of any actions taken;
- an offer to discuss the response to the concern or any further issues with the Investigation Lead or staff involved;
- where appropriate, the offer of a meeting should be given.
- details of the person's right to raise their concern with the Public Services Ombudsman for Wales.

6.3 If the final response has not been able to be prepared within the agreed timescale, an apology and reason for the delay should be provided in the response.

6.4 The letter will be written in language that the person raising the concern will easily understand, avoiding medical or technical jargon. When such information needs to be included in the response a simpler explanation will also be given as to its meaning. Where there may be difficulties in understanding the response, the Health Board will make every effort to provide the appropriate support.

6.5 Where necessary, people raising concerns should be given the opportunity to receive their response in an appropriately

accessible format, e.g. Braille, large print, electronically or on audio cassette.

6.6 In respect of a concern that alleges that harm has or may have been caused and this has been found not to be the case, the letter must also contain an explicit explanation of the reasons why there is no qualifying liability.

6.7 The response must be agreed both with the relevant senior professionals involved in the investigation and the Divisional/Locality Director before it is sent to the Putting Things Right Manager (Complaints), before being sent for signature by the Chief Executive. As a matter of good practice, it must also be shared with any staff involved in investigating the concern.

6.8 Following approval by the Divisional/Locality Director, the draft response letter and a copy of the original concern will be forwarded to the Chief Executive, via the Putting Things Right Manager (Complaints), for signature.

6.9 The signed Chief Executive's letter is scanned onto Datix and the divisional/locality complaints co-ordinator will, on behalf of the Divisional/Locality Director, ensure that copies are distributed to staff directly involved in the investigation, and where appropriate to the Aneurin Bevan Community Health Council and/or AM/MP.

6.10 The final response from the Chief Executive theoretically closes the Putting Things Right process; however, further correspondence may be received when the person raising the concern does not feel that all the issues in the original correspondence have been addressed. Every effort will be made to address these further issues satisfactory at a local level including, where appropriate, the setting up of a meeting between the person raising the concern and relevant staff where this has not yet happened. Notes should be taken at meetings and these will be shared with the person raising the concern.

6.11 Further letters received from the person raising the concern and dissatisfied with their final response will be acknowledged within 2 days.

6.12 Any outstanding issues will need to be investigated and a response prepared, which will also be signed by the Chief

Executive, within a further 20 day or, if this is not possible, 30 day timescale.

7 Interim Report - where it has been identified there is or may be a qualifying liability valued at less than £25,000 (Regulation 26)

7.1 If at the end of an investigation it is established that there is a possibility of a qualifying liability or that there is a qualifying liability i.e.

- that we owe the person raising a concern a duty of care,
- that duty has or may have been breached and
- that it is possible that but for the negligence the patient would not have suffered harm,

the matter needs to be identified to the Concerns Manager and/or Serious Concerns Manager in order for it to be considered by the Health Board's Redress Panel. (See Appendix E for Flow Chart on when there is a possibility of a qualifying liability). A draft interim response needs to be prepared and a SBAR form need to be completed (see Appendix F for a copy of the SBAR form)

7.2 Under the regulations an interim report needs to be issued within 30 working days of first receipt of a concern from the person or their representative. It will be the responsibility of the Legal Services Manager to finalise the draft interim response. Divisions should, where possible, allow time to take the concern to the Redress Panel.

7.3 The interim report must include:

- a summary of the nature and substance of the issues contained in the concern;
- A description of the investigation undertaken so far;
- A description of why in the opinion of the Health Board there is or may be a qualifying liability;
- A copy of any relevant medical records;
- An explanation of how to access legal advice without charge;
- An explanation of advocacy and support services which may be of assistance;
- An explanation of the process for considering liability and Redress;
- Confirmation that the full investigation report will be made available to the person seeking Redress;
- Details of the right of the person to take their concern to the Public Services Ombudsman for Wales;
- An offer of an opportunity to discuss the contents of the interim report with the Investigation Lead and/or staff involved.

7.4 The interim report should be signed off by the Divisional/Locality Director.

7.5 If it is not possible to issue the interim report within 30 working days of first receipt of a concern, the person raising the concern must be informed of the reason for the delay and the interim report should be sent within 6 months of first receipt of the concern.

7.6 If, in exceptional circumstances, the interim report cannot be issued within 6 months, then the person raising the concern must be informed of the reason for the delay and given an expected date for receipt of the interim report.

8 Redress and Redress Panel

8.1 As mentioned in paragraphs 5.1.23 and 7.1 above where during the course of an investigation it is identified that there is a possibility of a qualifying liability, then the matter must be presented to the Health Board's Redress Panel.

A SBAR form and a draft interim response must be completed and forwarded to the Concerns Manager and/or Serious Concerns

Manager one week before presentation to the Redress Panel and an appropriate representative from the Division chosen to present the case to the Panel.

It is the duty of the Redress Panel to confirm whether there is a breach of duty and whether that breach caused or materially contributed to harm suffered by the patient. If a qualifying liability is proven it is the duty of the Panel to consider whether Redress should be offered and which form of Redress is appropriate (see paragraph 5.2 for types of Redress which can be offered). Financial compensation is not necessarily an appropriate form of redress.

Redress cannot be offered where there is no qualifying liability in tort nor can it be offered if the matter is or has been subject to civil proceedings.

Redress under the regulations does not extend to primary care providers or independent providers.

8.2 Where the Panel determines there is no qualifying liability

If the Panel determines that there is no qualifying liability the Division will be notified and a response under Regulation 24 will be issued identifying the reasons why no qualifying liability exists.

8.3 Where it is not possible for the Panel to confirm breach of duty

In some instances it may not be possible to determine whether there has been a breach of duty and further investigation will be needed. In most instances the matter will be returned to the appropriate division/directorate for further investigation. However, there may be occasions when it will be considered appropriate for an independent expert opinion to be sought. This will be commissioned by the Legal Services Manager with the appropriate Investigation Lead informing the person raising the concern of the delay in their response. It may be possible at this point to issue a letter to them giving the results of the investigation to date whilst explaining the need for further

investigation. This response is not deemed to be a response under regulation 24 or regulation 26.

Once further investigations have been completed the matter will be re-presented to the Panel with an updated draft response and SBAR form. The Panel will then consider whether it is now possible to confirm breach of duty and/or qualifying liability.

8.4 Where it is not possible for the Panel to confirm causation

The Panel may be able to confirm that a breach of duty has occurred but is not able to determine whether there is causation. In these instances the Legal Services Manager will take over the conduct of the file. It will be the responsibility of the Legal Services Manager to finalise the draft interim response (see paragraph 7.2).

The Panel may also determine whether an independent expert should be consulted to determine causation. The choice of independent expert is to be instructed jointly by the person raising the concern and the Health Board. If the person raising the concern also accepts the offer of free legal advice then their legal adviser should also be allowed input to the instruction of the expert.

Once causation has been investigated and identified, the matter will be returned to the Redress Panel to confirm causation.

8.5 Where breach of duty and causation has been confirmed by the Panel

Following confirmation of the above by the Panel, the Legal Services Managers will have conduct of the file. If no response under Regulation 26 has been issued, it is the responsibility of the Legal Services Manager to finalise the draft response and ensure it is issued.

It is possible that based on the causation investigations that a qualifying liability will not be proven in this instance a response under Regulation 33 will be drafted by the Legal Services Managers (see paragraph 8.7 for contents and time scale)

The Legal Services Managers will then need to undertake appropriate investigations in order to be ascertain quantum if the Panel deem it appropriate to make an offer of financial compensation. Again it may be necessary to seek an independent expert opinion on the patient's condition and prognosis and, if this is the case, the instruction of such an expert will be made jointly with the patient and/or their legal adviser if the offer of free legal advice has been taken up.

8.6 Quantum

Damages that may be payable under the Regulations should not exceed £25,000 (i.e. general damages plus special damages plus any repayments of benefits payable to the Department of Works and Pensions arising from the breach of duty of care i.e. CRU). If it is known that financial compensation would exceed £25,000 then the Redress regulations should not be engaged.

Legal Services Managers should, in line with the Health Board's Procedure for Handling Legal Claims, always seek advice from the Health Board's legal advisors if the assessment of quantum is likely to be in excess of £10,000.

Awards for general damages (i.e. for pain, suffering and loss of amenity) will be made in line with the national tariff. For further advice regarding the make up of quantum and assessment please see Appendix H of the 'Procedure for Handling Legal Claims.'

Once quantum has been assessed approval for the making of such an offer should follow the lines of delegated authority as set out in Appendix 1 of the Policy for the Management of Clinical Negligence and Personal Injury Litigation.

Evidence of the assessment of quantum and the investigation should be provided to the patient's legal adviser if the offer of free legal advice has been accepted.

8.7 Regulation 33 Response

Once the position on causation has been finalised and a decision made as to whether an offer of Redress will be made in the form of financial compensation, treatment or combination of both, or if liability could not be established (see paragraph above) then a response under Regulation 33 needs to be issued to the person

raising the concern or their representative within 12 months of the first receipt of the concern.

There may be instances where a decision may not be possible to be made within this time frame. If this is the case then the reason for the delay and the expected date for the decision should be explained in writing to the person raising the concern.

The response will contain the investigation report required under Regulation 31 which outlines the findings of the investigation. The report should contain copies of any independent expert advice used to determine whether or not there is a liability; statement by the Health Board confirming whether there is a liability and the rationale for that decision.

The response also needs to include the offer of free legal advice

The person raising the concern or their representative must be advised that they have 6 months to respond to the offer of Redress or to the decision not to make an offer.

If they are unable to do so they must contact the Health Board and provide an explanation for the delay in responding. The time limit for response to the decision can then be extended to 9 months. If however no response is received within 9 months the limitation period will restart and the Redress arrangements will no longer apply.

The offer to accept Redress will be made by formal agreement. By accepting the offer of Redress the person or their representative must sign a waiver to any right to take the same concern for which they have accepted Redress to Court.

There may be instances where a proposed Redress settlement will require approval by a Court e.g. for a person under 18 or where a person lacks mental capacity. In these instances the Health Board will pay all reasonable legal costs to obtain the approval of the Court.

8.8 Suspension of Limitation Period

Under Civil Procedure Rules, the period in which a person can bring a claim is three years from the date of treatment or incident or within three years of the date of knowledge that

something may be wrong. This is known as the date of limitation.

Under the Regulations and whilst the issue in question is the subject of consideration of Redress, the limitation period/date is suspended. This applies from the date on which the concern was first received by the Health Board and continues until an offer of Redress has been made or refused. This is to ensure that person is disadvantaged or prevented from bringing legal action should they be unhappy with the outcome of the Redress investigation.

As mentioned in 8.7 above the person and/or legal representatives have up to 9 months in which to accept an offer of financial compensation from the date of the offer. After nine months the limitation clock will start to run again. The same will apply if the offer of Redress is refused or where it has been decided not to make an offer of Redress.

In cases where Court approval for the settlement is needed, the limitation period is suspended until a settlement is reached which receives the approval of the court.

9 Training

Please refer to Section 12 of the Policy for Putting Things Right, The Management of Concerns (Complaints, Claims and Patient Safety Incidents)

10 Management and Storage of Concerns Files

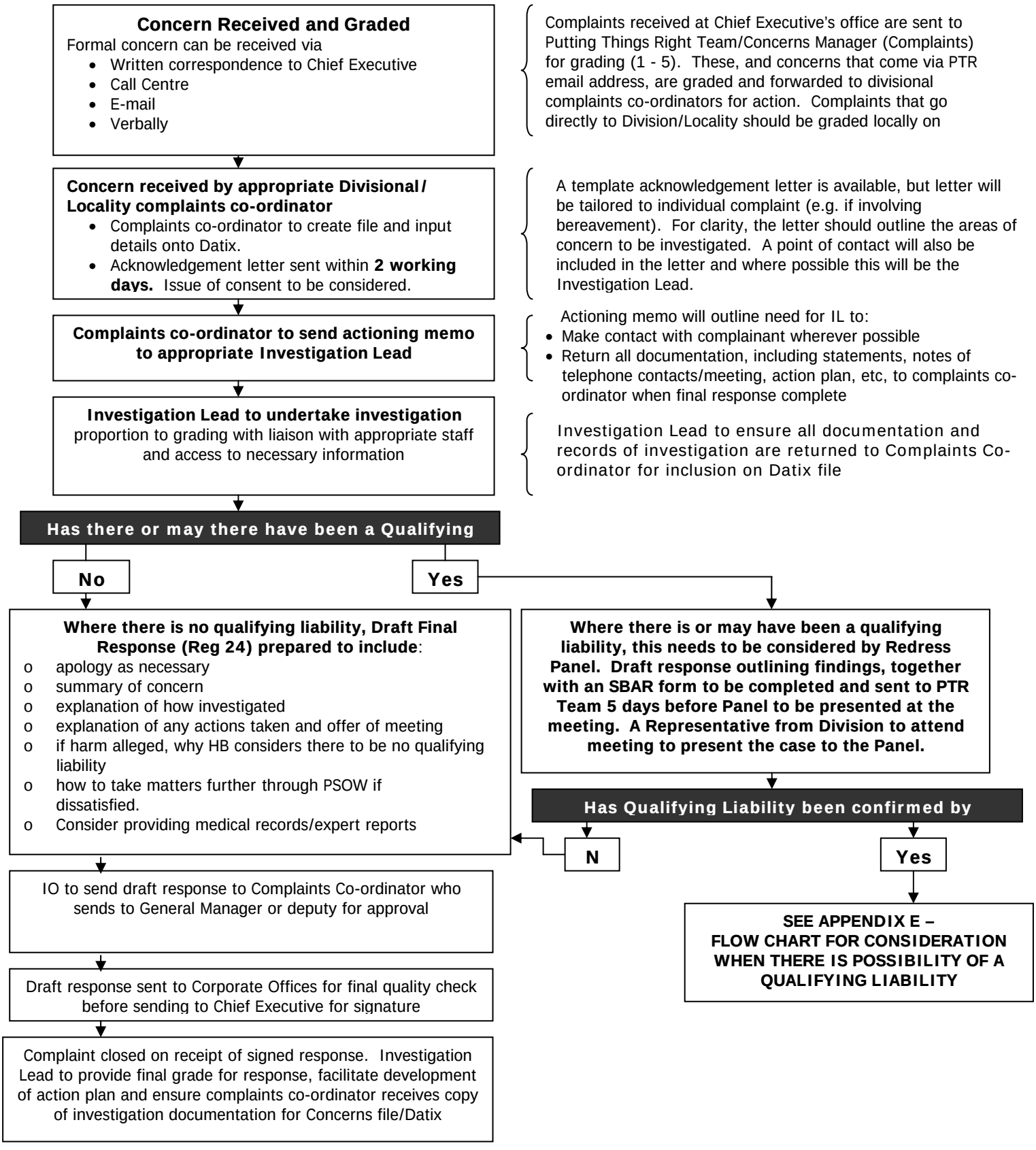
Please refer to Section 13 of the Policy for Putting Things Right, The Management of Concerns (Complaints, Claims and Patient Safety Incidents)

Grade	Examples of concerns	Potential for qualifying liability / Redress
1 No Harm	a) Concerns which normally involve issues that can be easily/speedily addressed, with no harm having arisen (eg outpatient appointment delayed, but no consequences in terms of health, difficulty in car parking, etc) but have impacted on a positive patient experience	Highly unlikely
2 Low Harm	a) Concerns regarding care and treatment which span a number of different aspects/specialties b) Increase in length of stay by 1 – 3 days c) Patient fall – requiring minor treatment d) Requiring time off work – 3 days e) Concern involves a single failure to meet internal standards but with minor implications for patient safety f) Return for minor treatment, eg requiring local anaesthetic	Unlikely
3 Moderate Harm	a) Clinical / process issues that have resulted in avoidable, semi permanent injury or impairment of health or damage that requires intervention b) Additional interventions required or treatment / appointments needed to be cancelled c) Readmission or return to surgery, eg requiring general anaesthetic d) Necessity for transfer to another centre for treatment / care e) Increase in length of stay by 4 – 15 days f) RIDDOR reportable incident (moderate harm) g) Requiring time off work 4 – 14 days h) Concerns that outline more than one failure to meet internal standards i) Moderate patient safety implication j) Concerns that involve more than one organization	Possible in some cases

Grade	Examples of concerns	Potential for qualifying liability / Redress
4 Severe Harm	a) Clinical process issues that have resulted in avoidable, semi permanent harm or impairment of health or damage leading to incapacity or disability b) Additional interventions required or treatment needed to be cancelled c) Unexpected readmission or unplanned return to surgery d) Increase in length of stay by >15 days e) Necessity for transfer to another centre for treatment / care f) Requiring time off work >14 days g) A concern outlining non compliance with national standards with significant risk to patient safety h) RIDDOR reportable incident (significant harm)	Likely in many cases
5 Catastrophic Harm	a) Concern leading to unexpected death, multiple harm or irreversible health effects b) Concern outlining gross failure to meet national standards c) Normally clinical/process issues that have resulted in avoidable, irrecoverable injury or impairment of health, having a lifelong adverse effect on lifestyle, quality of life, physical and mental well being. d) Clinical or process issues that have resulted in avoidable loss of life e) RIDDOR reportable incident (catastrophic harm)	Very likely

APPENDIX B

FLOW CHART SHOWING PUTTING THINGS RIGHT LOCAL RESOLUTION PROCESS FOR CONCERNS RECEIVED ABOUT ABHB SERVICES



Putting Things Right and the Management of AM/MP letters

1. Concerns raised by AM/MPs on behalf of constituents are managed by the Head of Corporate Governance at ABHB Headquarters.

2. All AM/MP concerns are recorded on Datix at HQ and where the concern is graded as 1 or 2 (eg non-clinical matters, waiting times, services delivered) the AM/MP letter is sent from HQ to the appropriate Division/Locality for a draft response to the AM/MP.

3. The response to the AM/MP will be signed by the Chief Executive and sent within 10 working days.

4. Concerns raised by AM/MPs relating to care and treatment which require a detailed investigation and access to medical records (ie those graded 3-5), will be investigated under the Putting Things Right Procedure for Handling Concerns (Complaints) and the AM/MP will be informed of this and that the person concerned will be contacted. The process set out in Section 5 for investigating these concerns will apply.

5. When concerns raised by AM/MPs are investigated in line with the Putting Things Right Procedure for Handling Concerns (Complaints), communication will commence with the person raising the concern. An acknowledgement letter and the final response will be sent to the person raising the concern. A copy of the final response may also be sent to the AM/MP where appropriate, or a copy of the letter can be enclosed to the person raising the concern for them to provide to the AM/MP if they wish.

6. By contacting the AM/MP themselves, it is reasonable to recognise that implicit consent has been given by the patient.

7. Regulation SI2002, no 2905, provides for 'additional circumstances' in which personal data can be processed by elected representatives without the need for explicit consent.

8. However, where the constituent is not the patient, consent must be sought from the patient, particularly in cases where their clinical information needs to be reviewed or released in order to respond

Putting Things Right and the Management of AM/MP letters

AM/MP Concern/Query sent to Health Board via:

- Written correspondence to Chief Executive
- E-mail
- By phone
- Via a locality /divisional office

Corporate staff at Mamhilad to receive AM/MP letters

- Concern/query registered on the datix – ***(check to be undertaken as to whether concern already in the system to avoid duplication of complaints file)***
- Review of the concern by the Board secretary
- Grading of the concern in line with Putting Things Right grading criteria (grading criteria attached)

Grade 1&2

For Query/Concern Graded 1 & 2 (managed by Corporate Team at HQ in Mamhilad)

- Copy of AM/MP letter sent to appropriate Division/Locality for comments and draft response
- Draft response returned to Corporate Team at Mamhilad for quality check before CE signature
- Response sent to AM/MP **within 10 days**
- All documents to be filed on Datix

Grade 3-5

For Query/Concern Graded 3 – 5 (managed via Putting Things Right formal concerns process)

- Corporate Team at HQ Mamhilad to acknowledge AM/MP letter explaining that issue will be dealt with under PTR process and further correspondence will be with person raising the concern. A copy of the response will be sent to AM/MP. *
- Copy of AM/MP letter sent to Putting Things Right Team
- Concern assessed and passed to appropriate Division/Locality for action
- Division/Locality to send acknowledgement letter to person raising the concern. Acknowledgement letter to outline that medical records may need to be accessed and that a copy of final response will be sent to AM/MP unless specifically requested not to.
- Concern investigated in Division/Locality and final response drafted and approved
- Draft response sent to Putting Things Right Team for final quality check.
- Draft response sent to Chief Executive for signature.
- Copy of letter sent to AM/MP. If person raising concern specifically requests us not to, then a 2nd copy of the letter can be provided to enable them to share it with the AM/MP themselves.

ROLE OF THE ANEURIN BEVAN COMMUNITY HEALTH COUNCIL

Aneurin Bevan Community Health Council is the statutory independent health "watchdog" responsible for representing the interests of users of NHS services and the general public across Gwent. Their role is to scrutinise the planning and delivery of local healthcare on behalf of, and in partnership with, local people and to work with the NHS to improve services.

As part of their role, the Aneurin Bevan Community Health Council provides a free and independent advocacy service. They are able to help patients or their representatives in raising a concern under the relevant NHS procedures about any aspect of health service care including hospitals, GPs, dentists, opticians, pharmacists and all other services.

The advocate will offer advice and support if a patient wishes to raise a concern against the NHS.

Their aims are:

- To enable patients, carers and relatives to access information about their concerns and to offer advice on the options available.
- To give advice and information as well as support to patients to put forward their concerns to the organisation for investigation.
- To support patients or their representative to resolve issues and concerns regarding their care and/or treatment.

The range of services will include:

- Giving advice
- undertaking necessary research
- Writing letters
- Providing support at meetings

The level of support will depend on individual's needs.

The Aneurin Bevan Health Council also offers a free independent mediation and facilitation service for concerns where such assistance may be necessary in order to resolve concerns.

FLOW CHART FOR CONSIDERATION WHEN THERE IS POSSIBILITY OF A QUALIFYING LIABILITY

Redress Panel

Presented by:

Division: **Date:**

Concern Ref:
What Happened:
Key Issues:
Learning & Action Taken to date:
Redress Panel is asked to: 1. Consider breach of duty and causation. 2. Consider what form of Redress to offer.