

# Complaints Policy



*Better Health For Our City*

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## Purpose and scope of this policy

This NHS Brighton and Hove Clinical Commissioning Group (CCG) policy is designed to outline the principles to be adhered to during the process for handling complaints generated by patients, relatives, carers, and the general public. The policy also outlines the way in which we will work to resolve complaints.

All staff of the CCG and its agents are responsible for co-operating with the development and implementation of the Complaints Policy as part of their normal duties and responsibilities. Temporary and Agency staff, Contractors and Subcontractors will be expected to comply with the requirements of the CCG's Complaints Policy. It also has implications for primary care contractors (i.e. GPs, dentists, pharmacists and optometrists), other NHS Trusts, independent providers and social care, all of which have a responsibility to have a complaints policy in place in line with national requirements.

The CCG has a duty to ensure that information about the CCG's complaints processes are available to patients and the public.

## Policy statement

The CCG is committed to providing an accessible, equitable and effective means for people (and/or their representatives) to express their views about the services the CCG provides or is responsible for commissioning. If a person is unhappy about any matter reasonably connected with the CCG's functions they are entitled to make a complaint, have it considered, and receive a response from the CCG. We aim to provide a complaints process which is easy to access and supportive and open. This results in a speedy, fair and, where possible, local resolution. The purpose of local resolution is to provide an opportunity for the complainant and the CCG to achieve a prompt and fair resolution to the complaint and to provide the opportunity to put things right for complainants as well as improving services as a result of feedback.

The CCG aims to promote a culture which fosters openness and transparency for the benefit of all stakeholders, including staff, and in which all forms of feedback are listened to and acted upon. It is recognised that such information is invaluable as a means of identifying problems and issues and also areas of good practice and, as such, can be used as a means of improving services. The CCG recognises complaints as being a valuable tool for improving the quality of health services.

Members of staff at the CCG and its agents will work closely with complainants to find an early resolution to complaints and every opportunity should be taken to resolve complaints as close to the source as possible, through discussion and negotiation. Local procedures should be conciliatory and should encourage communication on all sides. Where possible, complaints should be dealt with immediately but where this is not possible, local resolution should be completed as soon as practicable.

This policy should be read in conjunction with the following policies:

- Being Open and Duty of Candour Policy
- Risk Management Strategy

- Incident and SUI Reporting Policy
- Information Governance Policy
- Information Security Policy
- Records Management Policy
- Data Protection Policy
- Policy for Identifying and Managing Habitual Complainants or Vexatious Individuals

### **Definition of a complaint**

A complaint is defined as an expression of dissatisfaction (written or verbal) about a function, decision or service the CCG has provided, commissioned or purchased from another organisation which requires a response. Examples of complaints include concerns about the quality of service provided, incorrect adherence to procedures and good practice, the behaviour of a member of staff and the accuracy or appropriateness of clinical records.

### **Principles in complaints handling**

The CCG has adopted the Parliamentary and Health Service Ombudsman's (PHSO) six Principles for Remedy<sup>1</sup>, which are:

- 1) Getting it right
- 2) Being customer focused
- 3) Being open and accountable
- 4) Acting fairly and proportionately
- 5) Putting things right
- 6) Seeking continuous improvement

In general, the CCG, its staff and agents will ensure that:

- The CCG complaints processes are open and accessible, and processes adhere to the requirements of the Accessible Information Standard.
- Complaints are investigated in an open and efficient way within the shortest possible timescale
- Confidentiality is maintained at all times
- As many complaints as possible will be resolved quickly through an immediate response or through subsequent investigation and conciliation by the procedure of 'local resolution'. Local resolution is the process by which we will aim to ensure we

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<sup>1</sup> 'Principles for Remedy', the Parliamentary and Health Service Ombudsman. 10 February 2009. Available at: <https://www.ombudsman.org.uk/sites/default/files/page/Principles%20for%20Remedy.pdf>

have undertaken all possible steps to resolve a complaint. Local resolution should be open, honest, fair, flexible and conciliatory

- In the interests of safety and quality, any lessons learnt through the complaints process will be identified and changes will be brought into practice
- The principles of 'fair blame' and the principles and practise outlined in the "Being Open and Duty of Candour" policy are followed. In line with the CCG's open, positive, non-punitive culture, constructive criticism is actively encouraged. These principles do not, however, negate the right of the CCG to pursue disciplinary or legal action against individuals where malicious, criminal, repeated or gross misconduct is involved.
- Complaints management and investigation processes follow the principles of Root Cause Analysis.
- Where there are patient records within the CCG, for example, within the Continuing Healthcare Team, patient records are kept separate from any complaints records.

### **National and legislative context for this policy**

The CCG Complaints Policy is written in accordance with the National Health Service (Complaints) Regulations 2009<sup>2</sup> which follow the proposals for reform in the Department of Health's consultation document, "Making Experiences Count" published in February 2007<sup>3</sup>. It also takes account of guidance by the Department of Health contained within 'Listening, Responding, Improving – a guide to better customer care'<sup>4</sup> and the PHSO's 'Principles of Good Complaint Handling'<sup>5</sup>

### **Responsibility for complaints arrangements**

Under the regulations, the CCG's Chief Accountable Officer is designated as the 'responsible person' for ensuring compliance with the regulations and in particular for ensuring that any action is taken if necessary in the light of the outcome of the complaint.

A person designated as 'Complaints Manager' will be responsible for managing the procedures of handling and considering complaints in accordance with the regulations.

### **What can people complain about?**

Complaints can be made about any NHS service provided or commissioned by the CCG on behalf of the population served, including:

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<sup>2</sup> The National Health Service (Complaints) Regulations 2009. Available at [http://www.legislation.gov.uk/uksi/2009/309/pdfs/uksi\\_20090309\\_en.pdf](http://www.legislation.gov.uk/uksi/2009/309/pdfs/uksi_20090309_en.pdf)

<sup>3</sup> 'Making Experiences Count. The proposed new arrangements for handling health and social care complaints. Response to consultation' Department of Health, 07 February 2008 Available at:

[http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH\\_082715](http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_082715)

<sup>4</sup> Listening, Responding, Improving – a guide to better customer care. Available at

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyandGuidance/DH\\_095408](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyandGuidance/DH_095408)

<sup>5</sup> The Ombudsman's 'Principles of Good Complaint Handling'. Available at

<https://www.ombudsman.org.uk/sites/default/files/page/0188-Principles-of-Good-Complaint-Handling-bookletweb.pdf>

- CCG Commissioning decisions – this covers all the decisions the CCG makes about where and how it will purchase health and social care services from NHS, private/independent and community and voluntary sector providers. Complaints could be about a wide ranging decision taken on behalf of the whole population, or as specific as a decision the CCG took about an individual patient’s care.
- CCG Appeals process – this covers the process by which a patient or their representative can ask for an appeals panel to consider issues they have about a CCG commissioning or funding decision. In cases regarding funding requests to the CCG Individual Funding Request (IFR) Panel or Continuing Health Care (CHC) Panel, a complaint can be made about the appeals panel process but not the decision. An appeal against a funding decision must go through the appropriate appeal process.
- CCG Staff – this covers any situation where a patient, carer, member of the public or organisation experiences poor service from a member of the CCGs staff.
- CCG Commissioned services – unless the complainant specifically requests that the CCG as commissioner investigates the complaint, it will be passed to the provider organisation (once consent has been gained) in order for them to investigate and respond. The CCG will request that a copy of the response be sent to the CCG for information, and for sharing internally for quality purposes. If the CCG is overseeing the complaint as commissioner, the complaint should be forwarded, with consent, to the provider as soon as possible, and the provider instructed to respond to the CCG. The CCG commissioner and/or the Quality team will review the response from the provider before agreeing the CCG final response. Before responding it may be appropriate to obtain clinical or contractual advice.

### Who can complain?

A person who wishes to raise a complaint is known as a ‘complainant’. A complaint can be made by:

- Someone who has received or is receiving a service from the CCG
- A patient or person affected or likely to be affected by the actions, omissions or decisions of the CCG
- Carers and other representatives of NHS patients as long as they can demonstrate they have the permission of the person concerned or legal status to do so (A Member of Parliament or other elected representative such as a County Councillor may not require the written consent of his or her constituent in order to make a complaint or enquiry on their behalf, although in exceptional circumstances the patient should be informed regarding the disclosure of information to their MP<sup>6</sup>.)

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<sup>6</sup> <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN01936>

- A person raising a complaint on behalf of a child as long as they can demonstrate they have the legal responsibility to do so
- A person raising a complaint on behalf of a deceased person as long as they can demonstrate they have the legal responsibility to do so
- A person raising a complaint on behalf of a person who is unable to make the complaint themselves because of a physical incapacity or who lacks capacity within the meaning of the Mental Capacity Act 2005. Proof will need to be provided of this.

The CCG needs to be assured that the person claiming that they are representing (patient/child/deceased) is appropriate, or is acting in the best interests of the person on whose behalf they are complaining. If this assurance is not given, then this must be put in writing to that person and the complaint must not be considered further until such time when this assurance can be provided.

A person wishing to initiate a formal complaint can do so either verbally or in writing (including by telephone or email). Where the complaint is made to a staff member other than the Complaints team, this should be passed to the Complaints Officer immediately.

### **Complaints not included within this policy**

The following complaints are excluded from the scope of the arrangements described within this policy:

- A complaint relating to a service commissioned by NHS England
- A complaint made by an NHS body, independent provider or local authority about any matter relating to arrangements made by the CCG with that provider
- A complaint made by an employee about any matter relating to their contract of employment
- A complaint which has previously been investigated and closed under these or previous regulations
- A complaint which is being or has been investigated by the PHSO
- A complaint arising out of the CCG's alleged failure to comply with a data subject request under the Data Protection Act 1998 or a request for information under the Freedom of Information Act 2000. In such circumstances an internal review adhering to the complaints management process will be led by the complaints team in line with the Freedom of Information Policy.

The CCG must notify complainants in writing if it decides not to consider the complaint for any of the reasons outlined above and the reason for the decision.

Complaints not falling within the scope of this policy may be raised with the CCG through other means. Examples of these are staff grievances, disciplinary procedures and legal action etc. These are dealt with under separate policies.

## **Duty to cooperate**

Where the CCG is considering a complaint which is also about another one or more health or social care providers, all parties must co-operate in the handling of the complaint and responding to the complaint. In particular, agreement should be reached on which organisation will take the lead and communicate with the complainant; they then should be provided with all the relevant information needed to respond.

Where the CCG is considering a complaint which partly relates to services commissioned by NHS England, the CCG and NHS England will co-operate to assign lead responsibility as above.

## **Time limit for making a complaint**

Complaints must be made within twelve months of the event(s) concerned, or within twelve months of it coming to the attention of the complainant. The time limit will not apply if the Complaints Manager is satisfied that the complainant had good reason for not making the complaint within the time limit, and it is still possible to investigate the complaint effectively and fairly.

## **Procedure before investigation**

A complaint may be made orally, electronically or in writing. Where the complainant is a non-English speaker, or uses British Sign Language, appropriate interpreting support will be provided by the CCG. Additional communication support will be made available if needed.

Complaints should be acknowledged within three working days after the day on which they are received. If factors beyond the control of the CCG make acknowledgement in writing impossible within this timescale, it may acknowledge the complaint verbally initially. This is a statutory requirement. This letter must offer the complainant information about the Independent Complaints Advocacy Service (ICAS).

Where the complaint is taken verbally, a summary of the key issues will be sent to the complainant for agreement before the complaint is referred or passed on internally.

## **Obtaining Consent**

If the complaint requires the CCG to investigate circumstances to do with a patient's records, health or treatment, it may be necessary for the CCG to share details of the incident in question with other NHS organisations; in these circumstances the CCG will require a completed consent form from the patient before we can investigate the matter formally.

If the CCG do not receive the completed consent form the complainant will be reminded once further by their preferred method and if the CCG team still does not receive the form the complaint will close after 25 days.)

## Investigation

The Complaints Officer will arrange for the complaint to be investigated in a manner appropriate to resolve it speedily and efficiently, in line with CCG internal complaint handling guidance. The appropriate senior manager who will be responsible for conducting an investigation into the issues raised within the complaint will be identified at an early stage.

The purpose of investigation is not only “resolution” but also to establish the facts, to learn, to detect poor practice where this is the case, and to improve services.

Investigations should be conducted in a manner that is supportive to all those involved, without bias and in an impartial and objective manner.

The investigator should use a range of investigating techniques that are appropriate to the nature of the complaint, and the needs of the complainant, such as; interviews, root cause analysis, and document reviews, and to the needs of the complainant. Those responsible for investigation will be able to choose the method that they feel is the most appropriate to the circumstances.

The investigator should establish the facts relating to the complaint and assess the quality of the evidence. Depending on the subject matter and complexity of the investigation, the investigator may wish to call upon the services of others. There are a number of options available to assist in the resolution of complaints. These should be considered in line with the assessment of the complaint and also in collaboration with the complainant. This may include the involvement of:

- Senior managers/professionals at an early stage
- Mediators
- Independent advocates
- Independent experts
- Lay persons

The investigation must not be adversarial and must uphold the principles of fairness, consistency, and those in the Being Open and Duty of Candour Policy. The investigation process is best described as “listening, learning and improving”. Investigators should be able to seek advice from the Complaints Manager, wherever necessary, about the conduct or findings of the investigation. Whoever undertakes the investigation should seek to understand the nature of the complaint, and identify any issues that may affect the investigation.

Complaints must be approached with an open mind, being fair to all parties. The complainant and those identified as the subject of a complaint should be advised of the process, what will be investigated and what will not, those who will be involved, the roles they will play and the anticipated timescales. All those involved should be kept informed of progress throughout.

Where the complaint requires clinical assessment, for example where it relates to clinical care, advice will be sought from the CCG's relevant clinical lead.

The target for a full response to a complaint is 25 working days. If this timescale is not going to be met, the Complaints Officer will inform the complainant and agree an indicative response timescale with the complainant.

It may be appropriate to conduct a meeting in complex cases, these include; cases where there is serious harm/death of a patient, in cases where the timeline and care is particularly complex, in cases involving those whose first language is not English, or, for example; cases where the complainant has a learning disability or mental health illness.

Where a meeting is held, it is more likely to be successful if the complainant knows what to expect and can offer some suggestions towards resolution. Complainants have a right to choose whom they seek support from, and should be encouraged to bring a relative or friend to meetings. Where meetings do take place they should be minuted and that record of the meeting is to be shared with the complainant for comment.

## Responding

The senior manager will ensure that a response is sent back to the Complaints Officer within the internal timeframe set. Where the complaint involves clinical/professional issues, the draft response must be shared with the relevant clinician/professional to ensure that the response is factually accurate as well as ensuring that the relevant clinician/professional agrees with and supports the draft response.

The Complaints Officer will ask the relevant Head of Department, if they are not the respondent, to review the draft response, and it will be reviewed by the Complaints Manager before being passed to the Chief Accountable Officer, or their nominated deputy, for sign off.

The Complaints Officer should ensure that the complainant and anyone who is a subject of the complaint understand the findings of the investigation and the recommendations made, which includes producing the response in alternative formats, as required. .

The response should be clear, accurate, balanced, simple and easy to understand. It should avoid technical terms, but where these must be used, for example; to describe a situation, events or condition, an explanation of the term should be provided. The response should address all the issues raised by the complainant and should be written in a style of language that the complainant can easily understand. Where shortcomings have been identified, an apology should be made. Any action that the CCG is planning to take, or has taken as a result of the complaint, should also be included in the response.

The response letter should:

- offer an explanation of how the complaint has been considered

- address the concerns expressed by the complainant and show that each element has been fully and fairly investigated
- report the conclusion reached including any matters where it is considered remedial action is needed
- include an apology where things have gone wrong
- report the action taken or proposed to prevent recurrence
- indicate that a named member of staff is available to clarify any aspect of the letter
- advise them of the complainant's right to take their complaint to the PHSO if they remain dissatisfied with the outcome of the complaints procedure

Where there is a need for communication support, this should be taken account of in the response.

### **Concluding local resolution**

The CCG should offer every opportunity to resolve the complaint through local resolution. Once the final response has been signed and issued, the Complaints Officer, on behalf of the Chief Accountable Officer, should liaise with relevant managers and staff to ensure that all necessary follow-up action has been taken. Arrangements should be made for any outcomes to be monitored to ensure that they are actioned. Where possible, the complainant and those named in the complaint should be informed of any change in system or practice that has resulted from their complaint.

All correspondence and evidence relating to the investigation should be retained. The Complaints Officer should ensure that a complete record of the handling is kept digitally. Complaints records should be kept separate from health records, subject only to the need to record information which is strictly relevant to the complainant's on going health needs.

### **Learning from complaints**

Learning from complaints is used to improve service delivery and performance, as well as to capture and review lessons learned from complaints so that they contribute to developing services. All complaints will be examined for learning points, which will be clearly identified, together with any action taken as the result of a complaint (within reasonable timescales from the time of the complaint being dealt with).

### **Electronic communication**

Any communication with the complainant can be sent electronically, provided the complainant has consented in writing or electronically. In such cases, it will be sufficient to sign the documents by typing the authors name or produce it using an electronic signature.

### **Monitoring**

The Complaints Officer will be required to maintain a record of the following:

- Each complaint received

- The subject matter and outcome of each complaint
- All contact with the complainant
- The agreed response timescales, any agreed amendments to those timescales and whether the CCG sent its response within the timescales
- Equality and diversity monitoring
- Complaints which have been referred to local providers for handling by that provider
- Complaints referred to the PHSO
- Learning and actions resulting from the complaint, within a reasonable timescale from the complaint being made.

All complaints will be recorded on the CCG's database and complaint files maintained for a period of not less than 8 years from completion of action.

### **Annual report**

The Complaints Manager will prepare an annual report for each financial year which must:

- Specify the number of complaints received
- Summarise the subject matter of complaints
- Summarise the number of complaints resolved within the agreed timescale, and those breaching this timescale.
- Specify the number of complaints referred to the PHSO, and numbers of these upheld.
- Summarise any matter of general importance arising out of those complaints, or the way in which they were handled
- Specify any matters where remedial action or service improvement has taken place as a result of the complaints

This report will be approved by the Quality Assurance Committee (QAC) and should be available to any person on request and available on the CCG website.

### **Quarterly report**

Complaints will be reported to QAC quarterly. This will include details of:

- Number of complaints
- Trends of complaint categories
- Source of complaints
- Outcome of Complaints
- Breaches of timescale
- Learning Outcomes.

## Confidentiality

All CCG staff should be aware of their legal and ethical duty to protect the confidentiality of patient information. The legal requirements are set out in the Data Protection Act 1998 and the Human Rights Act 1998. The common law duty of confidence must also be observed. Ethical guidance is provided by the respective professional bodies.

It is not necessary to obtain the service user's express consent to the use of their personal information to investigate a complaint. Even so, it is good practice to explain to the service user that information from their health records may need to be disclosed to those investigating the complaint, however this is only if they have a demonstrable need to know and for the purposes of investigating. If the complainant objects to this, it should be explained to them that this could compromise the investigation and their hopes of a satisfactory outcome to the complaint. The complainant's wishes should always be respected, unless there is an overriding public interest in continuing with the matter.

The duty of confidence applies equally to third parties who have given information or who are referred to in the patient's records. Particular care must be taken where the patient's records contain information provided in confidence, by, or about, a third party who is not a health professional. Only information deemed relevant to the complaint should be discussed by those within the CCG who have a connection with the complaint investigation. Third party information must not be disclosed to the complainant unless the person who provided the information has expressly consented to the disclosure. Disclosure of information provided by a third party outside the CCG also requires the express consent of the third party. If the third party objects, then it can only be disclosed where there is an overriding public interest in doing so.

## Mediation

Mediation is a voluntary process available to both the complainant and those named in the complaint. Either party may request mediation but both must agree to the process being used. The CCG must have access to suitably trained, competent and accredited mediators where this assistance is requested.

Mediation is a process of examining and reviewing a complaint with the help of an independent person, and is particularly useful where the parties involved have seemingly intractable positions and will need to communicate further in the future. The mediator will assist all concerned to gain a better understanding of how the complaint has arisen and prevent the complaint being taken further. He/she will work to ensure that good communication takes place between both parties involved to enable them to resolve the issues.

All discussions and information provided during the process of mediation are confidential. This allows staff to be open about the events leading to the complaint so that both parties can hear and understand each other's point of view and ask questions. Using mediation does not affect the right of a complainant to pursue their complaint if they are not satisfied. The mediator should advise when mediation has ceased and whether a resolution was reached. No further details should be provided.

## Publicity

The CCG should ensure that the complaints process is well publicised locally and it must make information available to the public on its arrangements for dealing with complaints, and how further information can be obtained. This means that complainants should be made aware of:

- Their right to complain
- All possible options for pursuing a complaint, and the types of help available
- (including advocacy and interpreters)
- The support mechanisms that are in place
- Their right to receive information in a suitable and appropriate format.

Information about the various stages involved in the complaints process, response targets, independent support and advice should be available. Clear lines of communication are required to ensure complainants know who to communicate with during the lifetime of their complaint.

Information should:

- Be visible, accessible and easily understood
- Be available in other formats or languages as appropriate
- Be provided free of charge
- Outline the arrangements for handling complaints, how to contact complaints staff, the availability of support services, and what to do if the complainant remains dissatisfied with the outcome of the complaints process.

## Training

Relevant staff should be trained to deal with complaints as they occur. Appropriately trained staff will recognise the value of the complaints process and, as a result will welcome complaints as a source of learning. Staff have a responsibility to highlight training needs to their line managers. Line managers, in turn, have a responsibility to ensure needs are met to enable the individual to function effectively in their role. The CCG has a responsibility to create an environment where learning can take place. It is essential that staff recognise that their initial response can be crucial in establishing the confidence of the complainant.

## The role of the Parliamentary and Health Service Ombudsman (PHSO)

The PHSO is completely independent of both the NHS and the government, deriving its powers from the Health Service Commissioners Act 1993. The role of the PHSO includes the scrutiny of clinical and non-clinical complaints against GPs, NHS Dentists, NHS Opticians or Pharmacists, NHS Trusts and commissioners. The PHSO will normally only consider complaints once the local procedure has been exhausted. The PHSO is the final arbiter in the complaints process where it has not been possible to resolve concerns

locally. The CCG provides information regarding how to request a review by the PHSO and will co-operate fully with any investigation undertaken by the PHSO's officers. Further information on the role and work of the PHSO is available from:

The Parliamentary and Health Service Ombudsman  
Millbank Tower  
Millbank  
London, SW1P 4QP  
Tel: 0345 015 4033  
email: [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)  
website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

### **Healthwatch**

Healthwatch Brighton and Hove assists those with issues and concerns about local health and social care services to resolve problems quickly and informally. Healthwatch will also advise on and signpost to the NHS complaints process and the Independent Complaints Advocacy Service, where appropriate. Staff should consider referring to Healthwatch (with consent) where the issue is likely to be resolved through a speedy local resolution process. Healthwatch is independent of the NHS and the City Council.

Phone: 01273 23 40 41  
Email: [enquiry@healthwatchbrightonandhove.co.uk](mailto:enquiry@healthwatchbrightonandhove.co.uk)  
Website: <http://www.healthwatchbrightonandhove.co.uk>

### **Role of ICAS and other patient advocates**

ICAS (Independent Complaints Advocacy Service) has an important role in helping complainants at each stage of the process. The service is independent, free and confidential. The purpose of the service is to:

- Advise people on how to complain
- Support people through the formal complaints process
- Provide information on who to complain to
- Provide support with drafting complaints correspondence
- Provide representation or support at complaint meetings.

Under the Mental Capacity Act 2005, in the event that a patient lacks capacity, and does not have an appropriate nearest relative to act on their behalf, an IMHA (Independent Mental Health Advocate) can be allocated through the IMCA (Independent Mental Capacity Advocate) service. Complainants may also receive support from specialist advocacy services or from the Citizens Advice Bureau. ICAS can be contacted on:

Brighton and Hove Impetus (Independent Complaints Advocacy Service)  
Tel: 01273 229002.  
Email: [info@bh-icas.org](mailto:info@bh-icas.org)

## **Complaints regarding CCG contractors**

The CCG will ensure, via contractual agreement, that all NHS providers and any private providers with whom it has a Contract or Service Level Agreement have arrangements in place for handling complaints made about the services they provide which should follow the national statutory regulations.

CCG Managers responsible for commissioning and monitoring these services via contractual agreements will ensure these contractors report regularly on the number and nature of complaints being received.

## **Complaints and disciplinary procedures**

The Complaints procedure is concerned only with resolving complaints and not with investigating disciplinary matters. Whether disciplinary action is warranted is a separate matter for management that requires a separate process of investigation outside of the complaints procedure.

## **Staff support**

CCG staff that are being complained against are entitled to be supported both professionally and personally through the supervision process. In some circumstances staff may suffer stress or be adversely affected due to the difficult or stressful nature of a complaint. If a member of staff feels that they are being adversely affected as a result of dealing with such a complaint, they should inform their line manager as soon as possible in order to engage appropriate support. This support may be offered at local level through discussion with colleagues and line managers, or at a wider level, via complaints staff, Human Resources and the Occupational Health Department.

The member of staff being complained about may also seek support from their union representative where appropriate.

## **Getting redress and remedy when a complaint is upheld**

Redress and remedy following the upholding of a complaint will be appropriate and may include:

- An apology
- An explanation
- Remedial action
- Reassessment of a need
- Provision of a service
- Change of procedure to prevent recurrence (the complainant should be advised)
- Appealing to the PHSO and seeking a legal remedy are other options. The PHSO may conclude that the CCG should reimburse costs. The CCG will act on all such decisions. If a legal route is pursued, the CCG's Claims Policy will be followed

## **Legal action during or following a complaint**

If the complainant explicitly states an intention to take legal action or indicates that formal legal action has been initiated, the NHS complaints procedure should, normally, cease and the complainant and those complained against should be advised in writing. However, complaints can proceed if there are existing parallel investigations relating to the case such as disciplinary processes, police investigations or legal action not brought by the complainant, as long as it does not compromise or prejudice that other investigation.

If a complainant decides to take legal action after a complaint has been deemed to have reached resolution by the PHSO, they have a right to do so.

## **Withdrawal of a complaint**

If a complainant withdraws a complaint at any stage in the procedure, parties complained against should be informed immediately.

## **Dealing with abuse and assault of CCG staff as a result of a complaint**

Abuse and assault of staff is not acceptable under any circumstances. The CCG has agreed procedures setting out its stance on such incidents:

- Dignity in the Workplace Policy
- Policy for identifying and managing habitual or vexatious individual individuals

Ultimately the CCG will support the involvement of the police where cases become threatening, abusive or violent.

## **Complaining whilst appealing against a CCG decision**

The CCG has processes for patients/representatives to request that a review and appeals panel be formed to consider cases of dissatisfaction with a commissioning or funding decision made by the Individual Funding Review Panel and to consider requests for Continued Healthcare Funding. Whilst the person cannot raise a complaint about the decision of the relevant appeal panel they can complain about the appeals panel process. In certain cases it may be appropriate to delay investigation of a complaint until the process is complete.

## **Complaints reported in the news media**

Complaints to the CCG will be dealt with on a strictly confidential basis (for the complainant and complained against) at all times. The policy of the CCG is not to discuss complaints with any outside party and particularly not the media. However, some complaints may come to the attention of the media through the actions of complainants, or unconnected third parties. Responses to any approaches from the media will be managed by the CCG's communications staff or appointed agents. Complaints handling should remain separate although the links between the Communication Lead and the CCG complaints personnel will be strong. The fact that complainants may have gone to the media locally or nationally does not absolve the CCG from its responsibility to maintain confidentiality.

## **Ensuring human rights, equity and fairness for complainants**

Making a complaint does not mean that a patient, carer, member of the public or staff member will receive less care or that processes will be made difficult for them within any aspect of the NHS. Under various International, European and UK laws everyone can expect to be treated fairly and equally, regardless of their protected characteristics, as outlined under the Equality Act 2010.

Patients, carers, members of the public and staff members must also have their human rights respected at all times. No aspect of the handling of any complaint should prejudice their human rights.

For people who need language, signed interpreting or other forms of communication in order to access information about making a complaint, as well as assistance in making the complaint, this will be arranged.

The CCG has an Equal Opportunities Policy and along with all CCG policies this policy has been assessed for its impact on any patients, carers, members of the public, communities and staff affected by discrimination under the relevant equalities legislation.

## **Habitual complaints**

It is recognised that barriers to communication and understanding from language barriers, learning disabilities etc. may be contributing factors to complainants appearing to be vexatious. However, there are times where nothing further can reasonably be done to assist a caller or complainant to rectify a real or perceived problem. On rare occasions, complainants may repeatedly contact complaints officers, regarding the same issue, or become persistent in their calls. These may be classed as habitual or vexatious complainants. The difficulty in handling such callers can place a strain on time and resources, while also causing undue stress on staff that may need support in difficult situations. Staff are trained to respond in a professional and helpful manner to the needs of all callers and implementation of this policy would only occur in exceptional circumstances. The CCG has a policy for identifying and managing habitual or vexatious individuals.

## **Communication with stakeholders**

This policy was considered by representatives of Senior Managers and Heads of Departments with responsibility for investigation of complaints. The policy is available on the CCG's extranet and available publicly on the CCG website.

## **Equality Impact Assessment**

This policy was reviewed and assessed xxxxxxxx

## **Approval**

The Quality and Assurance Committee is responsible for approving this policy.

## **Ratification process**

The policy has undergone internal scrutiny through the Senior Management Team before being ratified by the Quality and Assurance Committee.

## **Review**

The Complaints Team is responsible for reviewing this policy. The review is scheduled for March 2019 or when legislation or DH guidance requires a review (whichever is the sooner).

## **Dissemination and implementation**

Senior Managers and Heads of Departments are responsible for the dissemination of procedural documents and the destruction of hard copy versions in their areas when revised documents are distributed.

All staff who commission third parties or contractors to work on behalf of the CCG are responsible for ensuring that third parties or contractors follow this policy.

All CCG staff are responsible for cooperating with the development and implementation of this policy.

## **Monitoring compliance and effectiveness**

Compliance with this policy will be inferred by the complaints process and will be monitored through the complaints reporting systems.

Any formal action relating to staff non-compliance with this policy will be handled through the CCGs' disciplinary procedures as indicated within procedural documents.

## **Related documents – available on request**

- 7) How the CCG deals with Complaints and Concerns – Patient Information Sheet
- 8) Responding to Complaints – Good Practice Guide
- 9) CCG Complaints Handling Process
- 10) Patient Consent Form
- 11) Complaint Process Evaluation and Equality and Diversity Monitoring
- 12) Habitual Complainants and Vexatious Individuals Policy

## Policy category

Relevant to  
(Staff Group):

All staff in Brighton & Hove CCG

## Version history

1	September 2016	Approved: Quality Assurance Committee
2	March 2017	Revised
3	March 2017	Approved: Senior Management Team
4	April 2017	Approved: Quality and Assurance Committee
5	March 2019	Next review