



Complaints Policy

APPROVED BY: **Approved by Quality and Safety Committee**

EFFECTIVE FROM: **1 April 2020**

REVIEW DATE: **1 April 2021**

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

- Continuing Healthcare Policy
- Dignity at Work (Bullying and Harassment) Policy
- Freedom of Information Policy
- Incident Reporting Policy
- Individual Funding Requests Policy
- Individual Rights Requests Policy
- Information Governance Policy
- Managing Violence at Work Policy
- Records Management Policy
- Risk Management Strategy and Policy
- Serious Incident Assurance Policy



Version Control

Policy Category:	Patient and Public Involvement	
Relevant to:	All Staff (including temporary staff, contractors and seconded staff).	
Version History		
Version No.	Date	Changes Made:
0.1	June 2019	Initial SES version based on a comparison of all CCG current Complaints policies
0.2	June 2019	Review by Governance and Policy Officer
0.3	June 2019	Review by Complaints teams across the CCGs
0.4	June 2019	Review by Head of Governance and Business Planning
0.6	January 2020	Review by Director of Corporate Governance
0.7	March 2020	Amendment to habitual / vexatious complainants section of the policy
1.	March 2020	Approved by Sussex Quality and Safety Committee
1.1.	30/04/2020	Formatting review to reflect the new structure of the Sussex CCGs



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1. STAFF QUICK REFERENCE GUIDE.

- 1.1. The Sussex Clinical Commissioning Groups comprise the following CCGs:
- Brighton and Hove CCG
 - East Sussex CCG
 - West Sussex CCG
- 1.2. This policy has been created in order to ensure a consistent approach to complaints across the Sussex CCGs. This policy will be applied uniformly across the CCGs. It also sets out a material change to how complaints will be handled, including a more robust triage element and more active clinical ownership and engagement in reviewing a complaint.
- 1.3. This policy sets out the CCGs' approach to dealing with complaints within the CCGs. The process for managing and responding to complaints is outlined in [Appendix B](#). The Complaints Team must be notified whenever a complaint is received by a member of staff. Contact details are in [Appendix A](#).
- 1.4. The CCGs are committed to providing an accessible, equitable and effective means for people (and/or their representatives) to express their views about the services the CCGs provide, or is responsible for commissioning. If a person is unhappy about any matter reasonably connected with the exercise of the CCGs' functions they are entitled to:
- Make a complaint
 - Have it considered
 - Receive a response.
- 1.5. We aim to provide a complaints process which has easy access and is supportive and open, which results in a speedy, fair and, where possible, local resolution. Local resolution provides an opportunity for the complainant and the CCGs to achieve a prompt and fair resolution to the complaint and provides the opportunity to put things right for complainants as well as improving services as a result of feedback. Local resolution should be open, honest, fair, flexible and conciliatory.
- 1.6. The CCGs aim 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. Such information is invaluable as a means of identifying problems and issues and also areas of good practice and, therefore, can be used as a means of improving services. The CCGs recognise complaints as a valuable tool for improving the quality of health services.
- 1.7. Members of staff at the CCGs and the Complaints Team will work closely with complainants to find an early resolution to complaints and every opportunity must be taken to resolve complaints as close to the source as possible, through discussion and negotiation.



- 1.8. Local procedures (e.g. with Continuing Healthcare) must be conciliatory and must encourage communication on all sides. Where possible, complaints must be dealt with immediately, but where this is not possible, local resolution must be completed as soon as practicable. In many circumstances a resolution meeting may be a better outcome from the complainant than a formal letter and this should be actively considered when triaging complaints.
- 1.9. The Sussex CCGs are supported by a Commissioning Support Unit (CSU), which is part of the NHS, to process concerns and complaints. However, any investigation into concerns will be carried out by the CCGs or relevant provider organisation. Concerns about this process or requests for further information must be addressed to the complaints team, see [Appendix A](#).
- 1.10. Staff who commission third parties or contractors to work on behalf of the CCGs are responsible for ensuring that they follow this policy.
- 1.11. All CCG staff and appointed agents are responsible for cooperating with the development and implementation of this policy.

2. PURPOSE AND SCOPE OF THIS POLICY.

- 2.1. This policy outlines the principles to be followed during the process for handling complaints generated by patients, carers, and the general public. The process at [Appendix B](#): outlines the way in which the CCGs will work to resolve complaints
- 2.2. Enquiries about commissioning decisions that are of a general nature, e.g. from Members of Parliament, will be treated as an enquiry and handled **outside** this policy. This correspondence will be handled through a separate process and managed through the Chief Executive's office. See [Appendix D](#) for the Complaints process map.
- 2.3. All staff of the CCGs 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 CCGs' Complaints Policy. Staff who commission third parties or contractors to work on behalf of the CCGs are responsible for ensuring that they follow this policy.
- 2.4. The CCGs have a duty to ensure that information about the CCGs' complaints processes is available to patients and the public. See [section 9](#) below. Complaints are an important part of how the CCGs receive feedback on the services that they commission and they are an important learning and improvement tool. It is important therefore that staff prioritise responding to complaints and also prioritise improvement actions identified as part of responding to a complaint.



- 2.5. Any concerns or complaints about a dentist, pharmacist or optician that cannot be resolved locally with the practice manager must be referred to [NHS England](#) (contact details in [Appendix A](#)).
- 2.6. Complaints about a GP that are of a clinical nature will be referred to NHS England. However, if the complaint is about a commissioning issue (e.g. the suspension of a GP list or the closure of a practice) then the CCGs will investigate.
- 2.7. If a complaint has elements of safeguarding in it the two processes (complaint and safeguarding investigation) would run in tandem.
- 2.8. There are a small number of complaints that are excluded from this policy. These are detailed in [Appendix C](#).
- 2.9. Any future treatment will **not** be adversely affected by making a complaint.
- 2.10. This policy has been developed to ensure that the CCGs meets their obligation to patients, carers and the public by ensuring that all providers of care commissioned by the CCGs implement Being Open and the Duty of Candour when a patient safety incident occurs and harm is caused to a patient.
- 2.11. The Inquiry into the Mid Staffordshire NHS Foundation Trust Hospital ([The Francis Report](#), 2013) identified that the “system” did not put the patient first.
- 2.12. A statutory requirement to implement [Duty of Candour](#) was introduced in October 2014 and this forms part of [Care Quality Commission](#) (CQC) registration requirements. This applies to certain patient safety incidents that occur during care provided under the [NHS Standard Contract](#) and result in moderate harm, severe harm, or death ([NHS Improvement - Degree of Harm FAQs](#)).
- 2.13. It is recognised that a culture of openness is essential in improving patient safety and the quality of health care systems:
- Open and effective communication with patients should begin at the start of their care and continue throughout their time within the healthcare system
 - Being Open when things go wrong is key to the partnership between patients and those who provide their care
 - Discussing what happened promptly can decrease the trauma felt and help patients cope more effectively with any after-effects of a patient safety incident.

3. DEFINITION.

A complaint is defined as an expression of dissatisfaction (written or verbal) about a function, decision or service the CCGs have 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, and the behaviour of a member of staff.

4. SERIOUS COMPLAINTS

If an allegation or suspicion of any of the areas below is received regarding CCG functions, it should be reported immediately to the Accountable Officer and investigated as a complaint or referred to the appropriate agency (e.g. the Police if a possible criminal offence has been committed), Professional Regulatory bodies (e.g. where serious misconduct is alleged), or Safeguarding teams:

- Safeguarding issues
 - physical abuse
 - sexual abuse
 - financial abuse
 - neglect
 - psychological abuse
- Fraud.

If the fraud relates specifically to the CCGs it should be reported to NHS Counter Fraud Authority (<https://cfa.nhs.uk/>). All these complaints should also be reported to the Quality Team as a Serious Incident Requiring Investigation (SIRI), or if it relates to a provider, the provider should be informed and told to report it as a SIRI. The Complaints Team will liaise with the Quality and Safeguarding teams as needed.

5. NATIONAL AND LEGISLATIVE CONTEXT FOR THIS POLICY.

5.1. The CCGs' Complaints Policy is written in accordance with the [Local Authority Social Services and NHS Complaints \(England\) Regulations 2009](#).

5.2. It also takes account of the following guidance:

- [Listening, Responding, Improving – a guide to better customer care](#) - Department of Health
- [Assurance of Good Complaints Handling for Primary Care – A toolkit for commissioners](#) - NHS England
- [Assurance of Good Complaints Handling for Acute and Community Care – A toolkit for commissioners](#) - NHS England



- [Principles of Good Complaint Handling](#) - Parliamentary and Health Service Ombudsman
- [My Expectations for Raising Concerns and Complaints](#) published jointly by the Parliamentary and Health Service Ombudsman, Healthwatch England, and Local Government Ombudsman. This aims to align handling of concerns and complaints in the health and social care sectors.

5.3. **The role of the Parliamentary and Health Service Ombudsman (PHSO):**

- The [Ombudsman](#) is completely independent of the NHS and of government and derives its powers from the [Health Service Commissioners Act 1993](#)
- The role of the Ombudsman includes the scrutiny of clinical and non-clinical complaints against GPs, NHS Dentists, NHS Opticians, Pharmacists, NHS Trusts and commissioners
- The Ombudsman will normally only consider complaints once the local procedure has been exhausted. The Ombudsman is the final arbiter in the complaints process where it has not been possible to resolve concerns locally
- The CCGs provide every complainant with information regarding how to request a review by the Ombudsman and will co-operate fully with any investigation undertaken by the Ombudsman's officers. Contact details are included at [Appendix A](#).

6. **ROLES AND RESPONSIBILITIES.**

6.1. **Chief Executive Officer**

Under the [Local Authority Social Services and NHS Complaints \(England\) Regulations 2009](#), the CCGs' Chief Executive 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. The Chief Executive Officer has overall responsibility for ensuring that an effective complaints system is in place.

6.2. The **Chief Nursing Officer, Chief Medical Officer and Managing Directors** are responsible for ensuring that complaints that fall within their areas of responsibility and for signing off complaints under delegated authority from the Chief Executive.

6.3. The **Executive Director of Corporate Governance** is responsible for ensuring that the CCGs' legal duties in respect of complaints handling are adhered to and that there is an adequately resourced complaints team in place to support complaints handling.

6.4. A person designated as "**Complaints Officer**" or "**Complaints Manager**" will be responsible for managing the procedures for handling and considering



complaints in accordance with the regulations. This person may be an employee of the CCGs, CSU or an employee of an agency appointed by the CCGs to manage complaints.

- 6.5.** The **CCGs' Quality and Safety Committees** receive annual reports (with quarterly updates) on the number and nature of complaints in progress together with outcomes and learning of closed complaints.
- 6.6.** The **Safeguarding Teams** will liaise with the Complaints Team if a complaint contains an allegation or suspicion of any safeguarding issue.
- 6.7.** The **Quality Team** will liaise with the Complaints Team on any complaints that are reported as Serious Incident.
- 6.8.** **Executive Directors, Executive Managing Directors, Directors, Senior Managers and Managers** are responsible for:
- Ensuring that their staff comply with the CCGs' complaints policies and procedures within their areas of responsibility and prioritise responding to complaints as an improvement and learning tool for their teams
 - Implementing and monitoring any actions within their designated area that are part of the learning process that are the outcome of a complaint
 - Ensuring that staff undertake all relevant training
 - Ensuring staff compliance with this document.
- 6.9.** All **CCG Staff** whether permanent, temporary, contracted, or contractors are responsible for ensuring that they are aware of, and comply with, the requirements of this policy.

7. PERSONS WHO MAY MAKE COMPLAINTS TO THE CCGs.

7.1. What can people complain about?

Complaints can be made:

- About any NHS service provided by the CCGs or the commissioning of any service by the CCGs on behalf of the population served
- About provision of the services that the CCGs commission, either to the provider or the commissioner
- By someone who has received, is receiving, is affected by or likely to be affected by any service provided or commissioned by the CCGs as above, or a patient or person affected or likely to be affected by the actions, omissions or decisions of the CCGs.

1) CCG Commissioning decisions.

This covers all the decisions the CCGs make 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 CCGs took about an individual patient's care.

2) 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 CCGs Individual Review Panel or Continuing Healthcare Panel, a complaint can be made about the appeals panel process but not the decision. However, if the complaint investigation shows the process was flawed it may affect the decision. An outcome of the complaint may be to review the decision.

An appeal against a funding decision must go through the appropriate review and / or appeal process.

3) CCG Staff.

Any situation where a patient, carer, member of the public or organisation experiences poor service from a member of CCG staff would be considered a corporate complaint and dealt with by another route.

4) CCG Commissioned services

Unless the complainant specifically requests that the CCGs as commissioners investigate the complaint, it will be passed to the provider organisation (once consent has been gained) in order for them to investigate and respond. The CCGs will request that a copy of the response be sent to the CCGs for information, and for sharing internally for quality purposes. If the CCGs are 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 CCGs. 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.

5) Exclusions.

There are a small number of complaints that are excluded from this policy. These are detailed in [Appendix C](#).

7.2. Who can complain?

www.legislation.gov.uk/ukxi/2009/309/pdfs/ukxi_20090309_en.pdf the National Health Service (Complaints) Regulations 2009 provides information on:

- Definitions of relevant terms
- Arrangements for the handling and consideration of complaints



- Responsibility for complaints arrangements
- Persons who may make complaints
- Duty to handle complaints
- Complaints about the provision of health services
- Complaints not required to be dealt with
- Duty to co-operate
- Care standards complaints
- Social care provider complaints
- Time limit for making a complaint
- Procedure before investigation
- Investigation and response
- Form of communications
- Publicity
- Monitoring
- Annual reports.

8. CONFIDENTIALITY.

- 8.1.** All CCG staff must be aware of their legal and ethical duty to protect the confidentiality of personal information. The legal requirements are set out in [Data Protection legislation](#) and the [Human Rights Act 1998](#). The [common law duty of confidentiality](#) must also be observed. The CCGs have a duty of care to protect staff confidentiality when investigating complaints. Ethical guidance is provided by the respective professional bodies.
- 8.2.** It may not be necessary to obtain the service user's express consent to the use of their personal information to investigate a complaint. However, if the CCGs need to share their details outside the CCGs and CSU Complaints Team (where relevant) it is good practice to explain to the service user that information from their health records may need to be disclosed to the people investigating the complaint, on a need-to-know basis for the purposes of investigating.
- 8.3.** If the complainant objects to this, it must be explained to them that this could compromise the investigation and their hopes of a satisfactory outcome to the complaint. The complainant's wishes must always be respected, unless there is an overriding public interest in continuing with the matter. However, depending on the nature of the complaint, it may be possible to provide a generic response which eliminates the need to reveal the patient's personal details.
- 8.4.** 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 that information



which is relevant to the complaint must be considered for disclosure and then only to those within the CCGs (or their agents as specified in [section 1](#) above) who have a demonstrable need to know in connection with the complaint investigation.

8.5. Third party information must not be disclosed to the complainant unless the person who provided the information has expressly consented to the disclosure.

8.6. Disclosure of information provided by a third party outside the CCGs 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. **Third party**, is defined in relation to personal data, as meaning any person other than:

- (a) The data subject
- (b) The data controller
- or**
- (c) Any data processor or other person authorised to process data for the data controller or processor.

9. PUBLICITY

9.1. The CCGs will ensure that the complaints process is well publicised locally and will make information available to the public on its arrangements for dealing with complaints and how further information can be obtained.

9.2. This means that complainants must 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 format to ensure they are not required to share it with others just to get it explained, wherever possible.

9.3. Information must also be made available about services and what to expect, the various stages involved in the complaints process and response targets. Independent support and advice must be available. Clear lines of communication are required to ensure complainants know who to communicate with during the lifetime of their complaint. The provision of information will improve attitudes and communication by staff as well as support and advice for complainants.

9.4. Information must:

- Be visible, accessible and easily understood
- Conform to the [Accessible Information Standard](#) that the CCGs have



implemented

- 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.

9.5. It must be clear that future treatment will **not** be adversely affected by making a complaint.

10. TRAINING.

10.1. Relevant staff must 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.

10.2. Staff have a responsibility to highlight training needs to their Line Managers. Line Managers, in turn, have a responsibility to ensure that training needs are met to enable the individual to function effectively in their role and the CCGs have a responsibility to create an environment where learning can take place.

10.3. It is essential that staff recognise that their initial response can be crucial in establishing the confidence of the complainant.

11. ENSURING HUMAN RIGHTS, EQUITY AND FAIRNESS FOR COMPLAINANTS.

11.1. Making a complaint does not mean that a patient, carer, member of the public or staff member will receive less care or that things will be made difficult for them within any aspect of the NHS.

11.2. 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 must prejudice their human rights.

11.3. For people who need language or signed interpreting or other forms of communication, this can be arranged. The CCGs' Equality and Diversity Policy, along with all CCG policies, is assessed for its impact on any patients, carers, members of the public, communities and staff affected by discrimination under the nine equalities strands set out in the section on [Equality](#) below.



12. HABITUAL COMPLAINANTS

It is recognised that barriers to communication and understanding from language barriers, learning disabilities, people with memory loss or dementia etc. may be contributing factors to complainants appearing to be habitual complainants.

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 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.

Please refer to [Appendix E](#): Procedure for Identifying and Managing Habitual Complainants for full details and guidance.

13. COMMUNICATION WITH STAKEHOLDERS.

This policy was considered by senior managers and heads of departments with responsibility for investigation of complaints. The policy will be available on the staff Intranet and on CCG websites.

14. EQUALITY IMPACT ASSESSMENT.

- 14.1.** In applying this policy, the CCGs will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.
- 14.2.** This policy has been reviewed and assessed as having a positive overall impact as it recognises the protected characteristics and provides various mechanisms to ensure equal access to the complaints process.

15. MONITORING COMPLIANCE AND EFFECTIVENESS AND REVIEW.

- 15.1. Compliance with this policy will be informed by the complaints process and will be monitored through the complaints reporting systems. All complaints will be recorded on either the CCG's or CSU's database and complaint files maintained in line with the [NHS Records Management Code of Practice for Health and Social Care 2016](#).
- 15.2. Any formal action relating to staff non-compliance with this policy will be handled through the relevant disciplinary procedures.
- 15.3. How the CCGs respond to complaints will be reported to CCGs' Quality Committees on a periodic bases and at least twice a year. This reporting should cover, as a minimum, the number of complaints made, the subject matter of those complaints, key performance indicators covering our responses, and the learning and actions taken in response to complaints received.
- 15.4. This policy will be reviewed annually, or sooner if required. Where review is necessary due to legislative change, this will happen immediately.

16. REFERENCES.

Legislation.

Accessible Information Standard. www.england.nhs.uk/ourwork/accessibleinfo/

Data Protection legislation. www.gov.uk/data-protection/

Equality Act 2010. www.legislation.gov.uk/ukpga/2010/15
www.equalityhumanrights.com/en/equality-act/equality-act-faqs

Freedom of Information Act 2000. www.legislation.gov.uk/ukpga/2000/36/contents

Health Service Commissioners Act 1993. www.legislation.gov.uk/ukpga/1993/46/contents

Human Rights Act 1998. www.legislation.gov.uk/ukpga/1998/42/contents

Mental Capacity Act 2005. www.legislation.gov.uk/ukpga/2005/9/contents
www.nhs.uk/conditions/social-care-and-support/mental-capacity/

Mental Health Act 1983. www.legislation.gov.uk/ukpga/1983/20/contents
www.nhs.uk/NHSEngland/AboutNHSservices/mental-health-services-explained/Pages/TheMentalHealthAct.aspx

Mental Health Act 2007. www.legislation.gov.uk/ukpga/2007/12/contents

National Health Service (Complaints) Regulations 2009.
www.legislation.gov.uk/uksi/2009/309/pdfs/uksi_20090309_en.pdf

NHS England.

Assurance of Good Complaints Handling for Primary Care – a toolkit for commissioners.
www.england.nhs.uk/resources/resources-for-ccgs/#complaints

Assurance of Good Complaints Handling for Acute and Community Care – A toolkit for commissioners. www.england.nhs.uk/resources/resources-for-ccgs/#complaints

Complaints cases subject to litigation, inquests and other serious investigations – renewed clarification of position
assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/314769/Complaints_litigation_clarification_note_March_2014.pdf

NHS Improvement. Learning from patient safety incidents.
improvement.nhs.uk/resources/learning-from-patient-safety-incidents/

Other Documents.

Caldicott principles. www.igt.hscic.gov.uk/Caldicott2Principles.aspx

Citizens Advice Bureau. www.citizensadvice.org.uk/

The Common Law Duty of Confidentiality.
www.health-ni.gov.uk/articles/common-law-duty-confidentiality

Department of Health - Listening, Responding, Improving – a guide to better customer care
webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/dh_095408

Independent Mental Health Advocacy
www.seap.org.uk/services/independent-mental-health-advocacy/about-independent-mental-health-advocacy.html

SEAP Advocacy. www.seap.org.uk/

Sussex Complaints Protocol for NHS Trusts, NHS Clinical Commissioning Groups and Social Services Departments: Joint working on complaints
www.westsussex.gov.uk/media/3788/pan_sussex_joint_working_on_complaints.pdf

Ombudsman. (Links may need to be copied and pasted into your Internet browser).

Parliamentary and Health Service Ombudsman (PHSO). www.ombudsman.org.uk/



Principles for Remedy. www.ombudsman.org.uk/about-us/our-principles/principles-remedy

Principles of Good Complaint Handling.
www.ombudsman.org.uk/about-us/our-principles/principles-good-complaint-handling

My Expectations for Raising Concerns and Complaints. Published jointly by the Parliamentary and Health Service Ombudsman, Healthwatch England, and Local Government Ombudsman.
www.ombudsman.org.uk/publications/my-expectations-raising-concerns-and-complaints

Appendix A: Contact Details.

1. The Sussex CCGs

i. Brighton and Hove CCG, East Sussex CCG and West Sussex CCG

NHS South, Central and West Commissioning Support Unit.

The Commissioning Support Unit, which is part of the NHS, supports the CCG with the process of concerns and complaints. However, any investigation into concerns will be carried out by the CCG. Concerns about this process or requests for further information must be addressed to the complaints team using the contact details below. If staff have any queries or require advice regarding this policy they must contact the Complaints team who will be able to provide advice and support.

Anybody wishing to initiate a formal complaint can do so either orally or in writing (including by telephone or email to the CCG). Any complaints received in the CCG will be forwarded on to the CSU Complaints Team.

The CSU contact is: scwcsu.palscomplaints@nhs.net

2. NHS England

Any concerns or complaints about a GP, dentist, pharmacist or optician that cannot be resolved locally with the practice manager must be referred to NHS England.

Complaints about a GP that are of a clinical nature will be referred to NHS England as above. However, if the complaint is about a commissioning issue then the CCGs will investigate.

England.contactus@nhs.net **Phone:** 0300 311 2233

NHS England Customer Contact Centre
PO Box 16738
Redditch
B97 9PT

3. The Parliamentary and Health Service Ombudsman (PHSO).

Further information on the role and work of the Ombudsman is available from:

www.ombudsman.org.uk **Phone:** 0345 015 4033

The Parliamentary and Health Service Ombudsman
Millbank Tower
Millbank
London. SW1P 4QP

4. The Independent Health Complaints Advocacy Service (IHCAS).

The Independent Health Complaints Advocacy is a free, independent, confidential advocacy service that can help individuals to make a complaint about any aspect of their NHS care or treatment. This includes treatment in a private hospital or care home that is funded by the NHS.

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. Complainants may also receive support from specialist advocacy services or from the [Citizens Advice Bureau](#).

i. East Sussex

SEAP Advocacy is able to offer support through their self-help pack or through working with an Advocate. Contact details for SEAP Advocacy are:

SEAP Hastings
Upper Ground Floor Aquila House
Breeds Place
Hastings
East Sussex. TN34 3UY

www.seap.org.uk/

info@seap.org.uk

Phone: 0330 440 9000

ii. Brighton and Hove

Impetus is a local charity that seeks to help people who feel lonely or socially isolated because of age, disability or poor mental or physical health. Their mission is to connect people to reduce social isolation and improve health and wellbeing.

Impetus
65-67 Western Road
Hove
BN3 2JQ

www.bh-impetus.org/

info@bh-impetus.org

Phone: 01273 229002 - Independent Health Complaints

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. Healthwatch is independent of the NHS and the City Council.

www.healthwatchbrightonandhove.co.uk
enquiry@healthwatchbrightonandhove.co.uk

Phone: 01273 234041

iii. **West Sussex**

Healthwatch has been set up to give people a powerful voice locally and nationally. At a local level, Healthwatch West Sussex is there to help people who live in the county get the best out of their local health and social care services - whether it's improving them today or helping to shape them for tomorrow. Healthwatch West Sussex Independent Health complaints Advocacy Service

Billingshurst Centre
Roman Way
Billingshurst
West Sussex. RH14 9QW

www.healthwatchwestsussex.co.uk/
www.healthwatchwestsussex.co.uk/?s=advocacy
ihcas@healthwatchwestsussex.co.uk

Phone: 0300 021 0122

5. **Independent Mental Health Advocacy (IMHA)**

Access to an IMHA is a statutory right for people detained under most sections of the [Mental Health Act](#), subject to Guardianship or on a community treatment order (CTO). IMHAs are independent of mental health services and can help people get their opinions heard and make sure they know their rights under the law.

Patients should be informed of their right to access an IMHA. This is the responsibility of the person who is in charge of their care at the time.

i. **East Sussex**

www.seap.org.uk/services/independent-mental-health-advocacy/about-independent-mental-health-advocacy.html

SEAP Hastings
Upper Ground Floor Aquila House
Breeds Place
Hastings
East Sussex. TN34 3UY

www.seap.org.uk/

info@seap.org.uk

Phone: 0330 440 9000

ii. **Brighton and Hove and West Sussex**

Mind in Brighton and Hove works to promote good mental health in the city and across Sussex. It seeks to empower people to lead a full life as part of their local community. www.mindcharity.co.uk/services/services-in-brighton-and-hove/advocacy/independent-mental-health-advocacy-service-imha/

www.mindcharity.co.uk/

info@mindcharity.co.uk

Phone: 01273 66 69 50

Appendix B: Guidance and Process for Complaints and Compliments.

This section contains guidance and further information about the CCGs' Complaints process.

Section A: Guidance.

1. [General principles in complaints handling.](#)
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Section B: Process.

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Section A: Guidance.

1. General principles in complaints handling.

In general, the CCGs, their staff and agents will ensure the following:

- 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 are resolved quickly through an immediate response, or an offer of a resolution meeting, or through subsequent investigation and conciliation by the procedure termed "local resolution", i.e. the process by which the CCG aims to ensure that they have undertaken all possible steps to resolve a complaint



- In line with the CCGs' open, positive, non-punitive culture, constructive criticism is actively encouraged. These principles do not, however, negate the right of the CCGs 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
- Patients are reassured that making a complaint in no way affects their eligibility for, or the nature of, current or future treatment. This is achieved through the complete separation of complaint documentation from the patient's medical records. However, with complaints that are about Continuing Healthcare, the complaint and response are saved on the patient's CHC record as it may directly impact the care being provided
- In the interests of safety and quality, any lessons learnt through the complaints process will be identified, communicated widely and relevant changes brought into practice.

In 2009 the Parliamentary and Health Service Ombudsman published revised [Principles for Remedy](#), setting out six principles that represent best practice when dealing with injustice or hardship due to maladministration or service failure. The six principles 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.

The CCGs are fully committed to the Principles of Remedy and in putting things right when they have gone wrong. Therefore, when members of the public raise matters that the CCGs have got wrong, the CCGs commit to:

- Inviting the complainant to have a say in how the case is handled and how things are to be put right
- Providing an honest and open response to all the concerns
- Providing a thorough and detailed explanation concerning events leading up to the complaint
- Providing an apology where things have gone wrong
- Providing an explanation to the complainant concerning what the organisation will learn from this experience, with the reassurance that other patients will have a better outcome as a consequence
- Where possible, contracting to provide care or treatment to reinstate the patient to the point at which the complaint was made
- Changing procedures to prevent similar situations occurring again in the future.



2. **Duty to co-operate.**

Where the CCGs are 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 and in responding to the complaint. This duty to co-operate is laid out in the [Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#)

In particular, agreement must be reached on which organisation will take the lead which must be communicated to the complainant. The lead organisation must then be provided with all the relevant information needed to respond. This is detailed in the [Sussex Complaints Protocol for NHS Trusts, NHS Clinical Commissioning Groups and Social Services Departments: Joint working on complaints](#)

3. **Time limit for making a complaint.**

Complaints must be made within **twelve months** after the date on which the matter which is the subject of the complaint occurred, or within twelve months of it coming to the notice of the complainant.

The time limit will **not** apply if the Complaints Team 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.

4. **Reports.**

The Complaints Officer will prepare annual reports and provide updates every three months which will:

- Specify the number of complaints received
- Specify the number of complaints referred to the Parliamentary and Health Service [Ombudsman](#)
- Summarise the subject matter of complaints
- List any matter(s) of general importance arising out of those complaints or the way in which they were handled
- Specify any matter(s) where remedial action or service improvement has taken place as a result of the complaints
- Show trends across the year
- Prevent, where possible, the recurrence of complaints of a similar type through the sharing of learning.

These reports must be available to any person on request and will also be available in the Annual Reports on the CCGs' websites. The CSU will produce weekly reports so that the CCGs have full knowledge of the current status of every open complaint.

5. **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 must 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.

6. 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 the complaints procedure.

7. Staff support.

CCG staff who are complained against are entitled to be supported both professionally and personally through the 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 a complaint, they must 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, the Occupational Health Service or Employee Assistance Programme Counselling in Confidence (CiC). See staff Intranet for full contact details.

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

8. Complaints reported in the news media.

Complaints to the CCGs will be dealt with on a confidential basis (for the complainant and complained against) at all times. The policy of the CCGs is for staff and appointed agents 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 CCGs' communications staff or appointed agents.

Complaints handling must remain separate, although the links between the communications staff and the appointed agent's complaints personnel will be strong. The fact that complainants may have gone to the media locally or nationally does not absolve the CCGs from their responsibility to maintain confidentiality.

9. 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 must be advised).

Appealing to the Parliamentary and Health Service Ombudsman and seeking a legal remedy are other options. The Ombudsman may conclude that the CCGs must reimburse costs. If a legal route is pursued, the CCG Claims Policy will be followed.

10. Legal action during or following a complaint.

Investigation of a complaint must not cease if the complainant states an intention to take legal action or indicates that formal legal action has been initiated. The CCGs must continue to try to resolve the complaint quickly unless there are compelling reasons not to do so. (See the [Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#) and the [clarification note](#) issued by NHS England).

Complaints can also 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

Exceptional circumstances for putting a complaint on hold may include formal requests to do so by the police, a coroner or a judge or if the complainant has requested that investigation be delayed.

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

11. 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 CCGs have agreed policies setting out its stance on such incidents:

- Dignity at Work (Bullying and Harassment) Policy
- Managing Violence at Work Policy
- A Procedure for identifying and managing habitual complainants and vexatious individuals.

The CCGs will support the involvement of the police where cases ultimately become threatening, abusive or violent.

Section B: Process for Complaints and Compliments.

1. Timescales and triaging of complaints

- 1.1. A complaint may be made orally, electronically or in writing. Complaints must be acknowledged in writing within three working days after the day on which they are received. If factors beyond the control of the CCGs make acknowledgement in writing impossible within this timescale, it may acknowledge the complaint verbally, or issue an interim acknowledgement of receipt to the complainant which sets out next steps. **This is a statutory requirement.**
- 1.2. The acknowledgement must contain an offer to discuss with the complainant the manner in which the complaint is to be handled and the likely timescales for the investigation and response. If the offer of a discussion is not accepted, the Complaints Officer must determine the response period and notify the complainant in writing.
- 1.3. On receipt of the complaint, the Complaints Officer will arrange for the complaint to be triaged so that it can be dealt with in a manner appropriate to resolve it speedily and efficiently. The triage of a complaint will consider the seriousness of the complaint and, after considering the subject matter, the appropriate executive oversight for the complaint investigation and its eventual sign off.
- 1.4. Complaints will be triaged as follows:
 - 1.4.1. **Routine** – these are complaints that relate to matters that are relatively un-serious or simple and/or matters that have would be relatively easy to respond to (either because the response is straightforward, or the matters have been responded to in other similar complaints)
 - 1.4.2. **Complex** - these are complaints which are more complex and might typically involve the need to liaise with other providers for a response or require a more detailed investigation
 - 1.4.3. **Serious** – these are complaints which are very complex, might require a detailed investigation, a follow/up repeat complaint, and/or might involve matters of serious reputational impact for the CCGs or broader NHS.
- 1.5. The triaging of the complaint will determine the target timescale for a response. Consideration will also be given to the subject matter of the complaint as this will determine who oversees the investigation and which executive eventually signs off the response. The table below sets out target timescales for responding to complaints and which executive would sign off the response:

Seriousness of complaint	Routine	Complex	Serious
Target timescale for response	10 working days	30 working days	40 working days
Patient experience or care quality issue	Chief Nursing Officer	Chief Nursing Officer	Chief Executive Officer
Clinical issue	Chief Medical Officer	Chief Medical Officer	Chief Executive Officer
Commissioning issue	Managing Director	Managing Director	Chief Executive Officer

1.6. Whilst the table above sets our target response times, all CCG complaints must be responded to by the appropriate executive within a timescale that has been agreed with the complainant. Furthermore, once an investigation is underway the complainant is to be kept informed with regular progress updates. **Please note:** if the complaint is deemed to be a Serious Incident then the Quality Team must be notified and different timescales will need to be agreed to allow for a Serious Incident investigation.

2. Verbal complaints / concerns.

- 2.1.** Verbal complaints and concerns can usually be resolved simply and effectively through a common sense approach and provision of fact. Verbal complaints and concerns can be acknowledged by the member of staff receiving them by telephone or face-to-face.
- 2.2.** If the matter can be resolved to the complainant's satisfaction not later than the next working day after the day on which the complaint was made, a verbal response can be given.
- 2.3.** Always check to see if the complainant is happy with this form of response. This would be treated as an enquiry and agreement reached with the enquirer regarding the appropriate course of action to resolve their concern. All PALS enquiries are logged and volume information on these is provided to the CCGs in the form of weekly and quarterly reports.

3. Written complaints.

- 3.1.** Immediately on receipt of a written complaint, the receiving member of staff must contact the appointed Complaints Team to discuss the incident in further detail. If it is agreed that the letter is a complaint, it must be emailed to the Complaints Team. The Complaints Officer will be responsible for acknowledging the complaint within agreed timescales and initialising investigation.
- 3.2.** The member of staff in receipt of the complaint must not enter into any correspondence with the complainant until advice is received from the Complaints team.



4. Investigations.

- 4.1.** As set out above, on receipt of the complaint, the Complaints Officer will arrange for the complaint to be triaged to determine the seriousness of the complaint and the subject matter. Once that triage has taken place the Complaints Officer will work with the relevant executive (see table above) to determine how the complaint is investigated in a manner appropriate to resolve it speedily and efficiently.
- 4.2.** The purpose of investigation is not only “resolution” but also to:
 - Establish the facts.
 - Learn.
 - Detect poor practice where this is the case.
 - Improve services.
- 4.3.** If the issue raised is not a complaint but a safeguarding issue then it is not dealt with under this policy. The policy Managing Safeguarding Allegations against staff should be used. However, it is possible that a complaint may have elements of safeguarding in it. In this case, the two processes would run in tandem.
- 4.4.** If the issue raised is also a Serious Incident then the Quality Team must be notified.
- 4.5.** Investigations must be conducted in a manner that is supportive to all those involved, without bias and in an impartial and objective manner.
- 4.6.** Any member of staff who is asked to provide information relating to a complaint must provide the investigating manager or the Complaints Team with information that must include, where appropriate:
 - What happened and if something went wrong, why?
 - Staff statements.
 - Notes of meetings and telephone conversations.
 - Evidence of actions taken as a result of the complaint (change of procedures, training, etc.)
- 4.7.** The investigation must not be adversarial and must uphold the principles of fairness and consistency. The investigation process is best described as listening, learning and improving.
- 4.8.** Investigators must be able to seek advice from the Complaints Officer wherever necessary about the conduct or findings of the investigation.
- 4.9.** Whoever undertakes the investigation must seek to understand the nature of the complaint and identify any issues which may affect the investigation.
- 4.10.** Complaints must be approached with an open mind, being fair to all parties. The complainant, and those identified as the subject of a complaint, must 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 must be kept informed of progress throughout.

- 4.11. Where the complaint requires clinical assessment, for example where it relates to clinical care, advice will be sought from the CCGs who will nominate an appropriate clinical lead.
- 4.12. The Complaints Officer will initially ensure that the complaint is made within the appropriate time limits (see the section on [timescales](#) in this Appendix above) and is from a person entitled to make the complaint (see [section 7](#) of this Policy). The Complaints Officer will need to take the necessary action if one or both of these conditions have not been met in order that the complaint can be investigated.
- 4.13. The Complaints Officer will send an acknowledgement letter or email within three working days of the receipt of the complaint. This letter must offer the complainant information about the Independent Health Complaints Advocacy Service (IHCAS) and Healthwatch. The Complaints Officer will identify the appropriate senior manager or subject matter expert in the appropriate department who will be responsible for conducting an investigation into the issues raised within the complaint.
- 4.14. The investigator must use a range of investigating techniques that are appropriate to the nature of the complaint and to the needs of the complainant, such as interviews, root cause analysis, and document reviews. Those responsible for investigation will be able to choose the method that they feel is the most appropriate to the circumstances.
- 4.15. The investigator must 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.
- 4.16. There are a number of options available to assist in the resolution of complaints. A meeting with the complainant may be particularly relevant for complaints that relate to patient experience and this should always be considered as an effective way of resolving a complaint. These options must be considered in line with the assessment of the complaint and also in collaboration with the complainant and may include the involvement of:
 - Senior managers / professionals at an early stage
 - Mediators
 - Independent advocates
 - Independent experts
 - Lay persons.

- 4.17. The senior manager will ensure that a response is sent back to the Complaints Officer within the timeframe set. The draft response must address all the issues raised by the complainant, must be written in a style of language that the complainant can easily understand, with any medical terminology and abbreviations avoided or, where appropriate, clearly explained.
- 4.18. Where shortcomings have been identified, an apology must be made. In all instances, the response must be sympathetic to the complainant and focus on resolving the concerns.
- 4.19. Any actions that the CCGs are planning to take, or have taken, as a result of the complaint, must also be included in the response.
- 4.20. Where the complaint involves clinical / professional issues, the draft response must be shared with the relevant clinicians / professionals to ensure factual accuracy and to ensure that the clinicians / professionals agree with, and support, the draft response.
- 5. Final response.**
- 5.1. Where appropriate, alternative methods of responding to complaints must be considered; whether this is through an immediate response from front-line staff, a meeting or direct action by a senior person.
- 5.2. It may be appropriate to conduct a meeting in:
- Complex cases
 - Cases where there is serious harm / death of a patient
 - Cases involving those whose first language is not English
 - Cases where the complainant has a learning disability or mental health illness.
- 5.3. 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.
- 5.4. Complainants have a right to support and must be encouraged to bring a relative or friend to meetings.
- 5.5. Where meetings do take place they must be recorded and that record shared with the complainant for comment.
- 5.6. On completion of the investigation, a written response will be drafted. Where the complaint relates to a:
- **Commissioning** issue the final draft response should be approved by the relevant Executive Managing Director
 - **Clinical** issue the final draft response should be approved by the relevant Local Medical Director
 - **Quality or patient experience** issue the final draft response should be

approved by the relevant CCG quality lead.

- 5.7.** Once approved, final drafts will be signed by the Chief Nursing Officer, Chief Medical Officer, Managing Director, or the Chief Executive Officer, as appropriate.
- 5.8.** The Complaints Officer must ensure that the complainant and anyone who is a subject of the complaint understand the findings of the investigation and the recommendations made.
- 5.9.** The response must be clear, accurate, balanced, simple and easy to understand. It must avoid technical terms, but where these must be used to describe a situation, events or condition, an explanation of the term must be provided.
- 5.10.** The letter must:
- 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 of the complainant's right to take their complaint to the Parliamentary and Health Service Ombudsman if they remain dissatisfied with the outcome of the complaints procedure.

6. Concluding local resolution.

- 6.1.** The CCGs must offer every opportunity to resolve the complaint through local resolution.
- 6.2.** Once the final response has been signed and issued, the Complaints Officer will liaise with relevant local managers and staff to ensure that all necessary follow-up action has been taken.
- 6.3.** Arrangements must be made for any outcomes to be monitored to ensure that they are actioned.
- 6.4.** Where possible, the complainant and those named in the complaint must be informed of any change in system or practice that has resulted from their complaint.
- 6.5.** All correspondence and evidence relating to the investigation must be retained. [The NHS Records Management Code of Practice for Health and Social Care 2016](#) will be followed. The retention period for complaint records is 10 years.

6.6. The Complaints Officer must ensure that a complete record is kept of the handling and consideration of each complaint. Complaints records must 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.

7. Learning from complaints.

Learning from complaints is used to improve service delivery and performance and 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). These learning points, and any actions taken in response to them will be captured in regular reports for the Executive Management Team and for the CCGs' Quality Committees.

8. Electronic communication.

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

9. Monitoring.

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

- Each complaint received
- The subject matter and outcome of each complaint (including whether the complaint was upheld)
- The agreed response timescales, any agreed amendments to those timescales and whether the CCGs sent their response within the timescales
- Equality and diversity monitoring
- Complaints referred to Parliamentary and Health Service Ombudsman
- Learning and actions resulting from the complaint, within a reasonable timescale from the complaint being made.

9.2. Scrutiny is provided by quarterly update reports to the Quality and Safety Committees on the complaints process and the types of complaints being submitted.

9.3. In addition, each CCG produces and publishes an Annual Complaints Report, in line with national direction. These reports are reviewed by the committees before publishing.

10. Withdrawal of a complaint.

If a complainant withdraws a complaint at any stage in the procedure, parties complained about must be informed immediately. Records of withdrawn complaints are kept in line with the [NHS Records Management Code of Practice](#)

[for Health and Social Care 2016](#) i.e. for 10 years, unless the complainant exercises their right to be forgotten under GDPR.

11. Complaining whilst appealing against a CCG decision.

11.1. The CCGs have 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 Continuing Healthcare Funding.

11.2. 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. But if the complaint investigation shows the process was flawed it may affect the decision. An outcome of the complaint may be to review the decision.

12. Mediation.

12.1. 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.

12.2. The CCGs or the Complaints Team must have access to suitably trained, competent and accredited mediators where this assistance is requested.

12.3. 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.

12.4. The mediator will assist all concerned to a better understanding of how the complaint has arisen and prevent the complaint being taken further. They will work to ensure that good communication takes place between both parties involved to enable them to resolve the complaint.

12.5. 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.

12.6. Using mediation does not affect the right of a complainant to pursue their complaint if they are not satisfied.

12.7. The mediator must advise when mediation has ceased and whether a resolution was reached. No further details are provided.

Appendix C: Complaints Not Included Within the Policy.

The following complaints are excluded from the scope of the arrangements described within the Complaints Policy:

Complaint not included in this policy:	Correct route:
<p>1. A service commissioned by NHS England. This includes GP, dentist, pharmacist or optician complaints.</p>	<p>In the first instance, concerns or complaints about a dentist, pharmacist or optician should be resolved locally with the relevant practice manager.</p> <p>If the complainant is not satisfied then it can be escalated to the Parliamentary and Health Service Ombudsman</p>
<p>2. A complaint made by an NHS body, independent provider, a CCG member practice, or local authority about the CCGs or any matter relating to arrangements made by the CCGs with that provider.</p>	<p>In the first instance these matters should be logged, acknowledged, and managed by the Chief Executive's Office. The matter should then be referred to the relevant executive and a timescale for the response (which will be signed by the Chief Executive or another executive if delegated authority is given by the Chief Executive) should be agreed.</p>
<p>3. Safeguarding vulnerable adults or children</p>	<p>CCG policy on Managing Safeguarding Allegations against staff. This policy deals with how allegations or concerns about abuse made against employees are managed within the CCGs. This includes allegations made against staff in their personal lives.</p>
<p>4. A complaint which has previously been investigated and closed under these or previous regulations.</p>	<p>Refer to Parliamentary and Health Service Ombudsman</p>
<p>5. A complaint which is being, or has been, investigated by the Parliamentary and Health Service Ombudsman</p>	<p>Wait for outcome of the investigation by the Parliamentary and Health Service Ombudsman</p>
<p>6. Any matter relating to a CCG member of staff's contract of employment</p>	<p>CCG Human Resources policies on Individual Grievance, Disciplinary process, Dignity at Work (Bullying and Harassment), Performance and Capability, Absence Management or any other relevant HR policy</p>

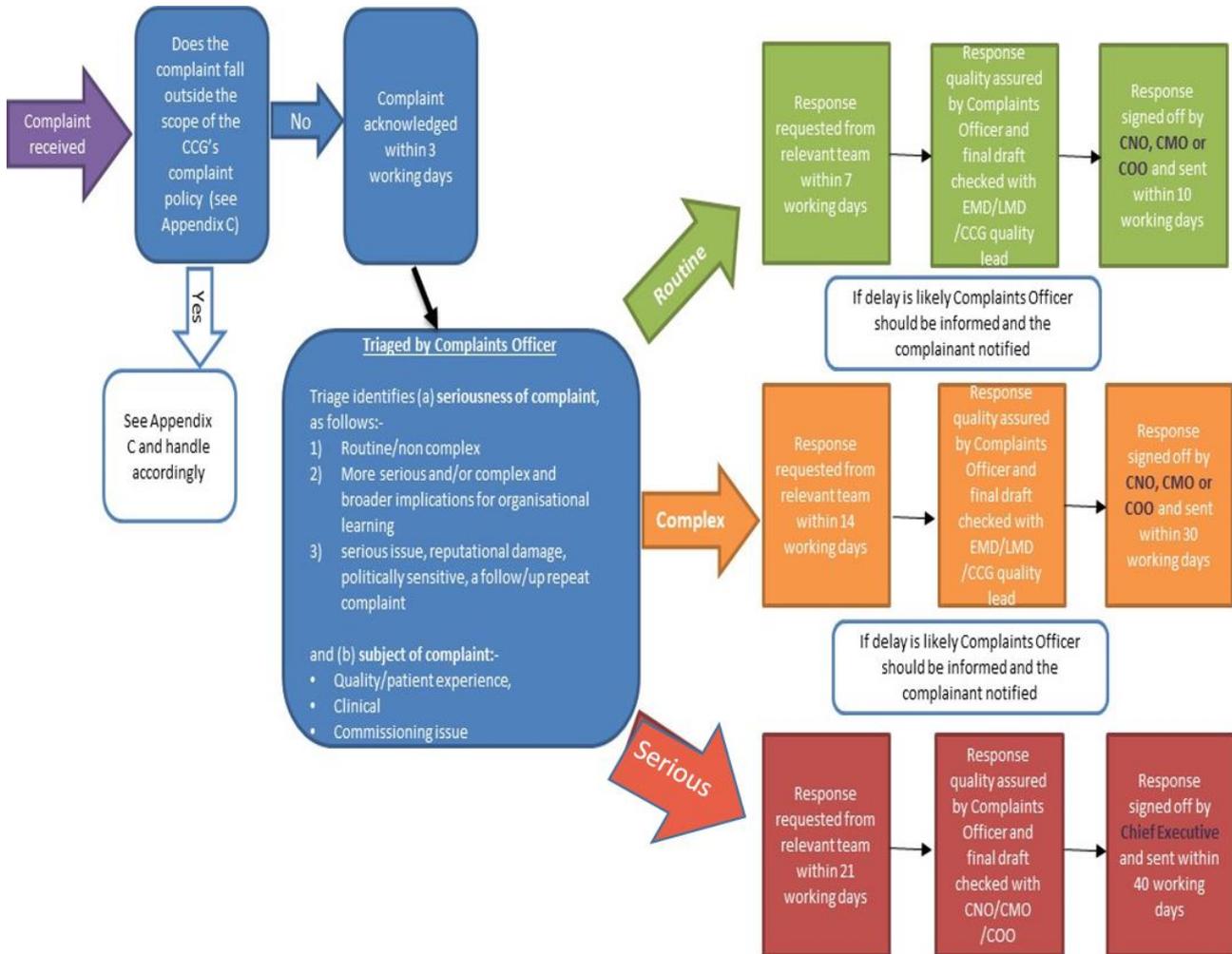


<p>7. Appeal against a CCG decision for Individual Funding Review (IFR) or Continuing Healthcare (CHC)</p>	<p>IFR policy or CHC policy</p> <p>However, the process of the appeal panel can be considered under this policy. It may be appropriate to delay investigation of a complaint until the process is complete</p>
<p>8. A complaint arising out of the alleged failure to comply with a data subject request under Data Protection legislation or a request for information under the Freedom of Information Act 2000.</p>	<p>In such circumstances this would be dealt with in line with the CCG Individual Rights Policy or the Freedom of Information Policy as appropriate as an internal review.</p>
<p>9. Correspondence from an MP</p>	<p>Responses to MP letters will initially be managed through the Chief Executive's Office. Letters which are essentially complaints (i.e. forwarding a complaint from a constituent) will then be investigated with a response coordinated through the Complaints Team and sent back to the Chief Executive's Office. Responses to other letters will be coordinated through the Chief Executive's office</p>

The CCGs will notify complainants in writing if it decides not to consider the complaint for any of these reasons and will give the reason for the decision.



Appendix D: Process Map for Initial Complaints.



Appendix E: Procedure for Identifying and Managing Habitual Complainants

1. Introduction

- 1.1. 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.
- 1.2. This procedure could disproportionately impact on people with significant mental health conditions. It could also disproportionately impact people with memory loss or dementia who may repeatedly raise the same issue.
- 1.3. Staff will be trained to respond with patience and understanding to the needs of all complainants and vexatious individuals.
- 1.4. However, there are times when there is nothing further which can reasonably be done to assist them or to rectify a real or perceived problem.
- 1.5. Implementation of this procedure would, therefore, only occur in exceptional circumstances.

2. Purpose of this Procedure

- 2.1. All Complaints from members of the public must be processed in accordance with the CCG Complaints Policy. During these processes, staff may have contact with a small number of people who absorb a disproportionate amount of resources in dealing with their issues.
- 2.2. The aim of this procedure is to identify situations where these people might be considered to be habitual or vexatious and to suggest ways of responding to these situations.
- 2.3. In determining arrangements for handling such people, staff must ensure that:
 - CCG policies have been correctly implemented so far as possible and no material element of a person's issues has been overlooked
 - The CCGs appreciate that even habitual complainers or vexatious individuals may have issues which contain some genuine substance
 - An equitable approach has been followed
 - All CCG staff must be able to identify the stage at which a person has become a habitual complainer or vexatious individual
 - All support needs have been met for complainants who may face barriers to communication or understanding as a result of their culture, language, a physical, sensory or learning disability or a mental health issue.

N.B. Judgment and discretion must be used in applying the criteria below to identify potential habitual complainers or vexatious individuals and in deciding what action must be taken in specific cases. The procedure that follows is only to be implemented following careful consideration.

3. Definition of a Habitual Complainant

Complainants (and/or those acting on their behalf) may be deemed to be habitual where previous or current contact with them shows that they meet **TWO OR MORE** of the following criteria:

- Persist in pursuing a complaint or issue when the CCG complaints procedure has been fully and properly implemented and exhausted or the CCGs have made all reasonable efforts to address the issue being raised
- Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions on receipt of a response. (Care must be taken not to dismiss new issues which are significantly different from the original complaint. These must be treated as separate complaints)
- Are unwilling to accept documented evidence of treatment given as being factual, e.g. drug records, manual or computer records, and nursing records
- Deny receipt of an adequate response in spite of correspondence specifically answering their questions
- Do not clearly identify the precise issues which they wish to be investigated / responded to, despite reasonable efforts of CCG staff and, where appropriate, the aid of advocacy services to help them specify their concerns
- Focus on a trivial matter to an extent that 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. Careful judgment must be used in applying this criterion)
- Have, in the course of the CCG addressing a registered complaint, placed unreasonable or excessive demands upon staff. Contact may be in person or by telephone, letter or email. Discretion must be used in determining the precise number of “excessive contacts” applicable under this section, using judgment based on the specific circumstances of each individual case
- Have harassed, threatened or used actual physical violence, been personally abusive or verbally aggressive on more than one occasion towards staff, their families or associates. This will cause personal contact with the complainant or individual and/or their representatives to be discontinued and any complaint will thereafter only be pursued through written communication. Staff must recognise that people may sometimes act out of character at times of stress, anxiety or distress and must make reasonable allowances for this. Similarly, behaviour may be perceived as unreasonable or aggressive as a result of a complainant or individual’s culture, language, physical, sensory or learning disability or mental health condition. Staff may check this with any clinicians treating the complainant / individual or advocates supporting them
- Reasonable and appropriate efforts must be taken to ensure that the communication needs of complainants or individuals are met so that they fully understand the complaints process and its outcomes. Staff must document all incidents of harassment using the CCGs’ incident reporting system
- Have significantly disrupted, overly dominated, been rude, vexatious or violent in meetings
- Have threatened to disrupt or be violent at a meeting.



N.B. It is important that staff that who deal with habitual complainants, or individuals whom they believe to be vexatious, must be able to provide evidence to this effect; e.g. notes of conversations, correspondence.

4. Options for Dealing with Habitual Complainants / Vexatious Individuals.

- 4.1. Where habitual complainers or vexatious individuals (and/or anyone acting on their behalf) have been identified as vexatious in accordance with the above criteria, the Chief Officer (in consultation with the member/s of staff involved) will determine what action to take.
- 4.2. Staff must be able to show clearly that all appropriate support has been offered to complainants to ensure they have full understanding of the complaints process and its outcomes, and that a lack of understanding is not the cause of vexatious or habitual complaints.
- 4.3. Where cases include an advocacy service, a representative of that organisation must be involved in determining the action.
- 4.4. The Chief Executive Officer will implement such action and will notify individuals / complainants in writing of the reasons that they have been classified as “habitual” or “vexatious” and the action to be taken.
- 4.5. This notification may be copied for the information of others already involved in the case e.g. carers, advocates, practitioners, conciliators, ICAS, Member of Parliament.
- 4.6. A record must be kept for future reference of the reasons why a person (and/or anyone acting on their behalf) has been classified as a habitual complainer or vexatious individual.
- 4.7. The Chief Executive Officer and member(s) of staff may decide to deal with complaints or issues in one or more of the following ways:
 - Try to resolve matters, before invoking this procedure, by drawing up a signed “agreement” with the person (and if appropriate involving the relevant advocate / clinician in a two-way agreement) which sets out a code of behaviour for the parties involved if the CCGs are to continue the complaints process with them. If these terms are contravened, consideration would then be given to implementing other action as indicated in this section
 - Once it is clear that person meets any two of the criteria in section 3 above, it may be appropriate to inform them (and/or anyone acting on their behalf), in writing that they may be classified as a habitual complainer or vexatious individual. This procedure must be copied to them, and they must be advised to take account of the criteria in any further dealings with the CCGs
 - Decline contact with the person either in person, by telephone, e-mail fax, letter or any combination of these, provided that one form of contact is



maintained. (If staff are to withdraw from a telephone conversation with the person the following statement may be used: "I'm sorry I am unable to deal with your call. I understand your issue is being dealt with by (name of staff member), and future contact with you will only be made in writing"

- Notify the person in writing that the CCGs have responded fully to their issues and has tried to resolve them but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The person must also be notified that the correspondence / contact is at an end and that further letters / contact received will be acknowledged but not answered.

4.8. Inform the person that in extreme circumstances the CCGs reserve the right to pass habitual complainers or vexatious individuals (and/or anyone acting on their behalf) to the CCGs' solicitors or, ultimately, to the police (and has done so in the past).

4.9. Temporarily suspend all contact with the complainant / individual and investigation of any complaint whilst seeking legal advice or guidance from relevant agencies.

4.10. Where the complainant or individual has a physical, sensory, learning or developmental disability or does not speak English, staff will need to ensure that any correspondence is sent in the appropriate formats and consider using interpreters where necessary.

5. Victims of Harassment

Where staff or other members of the public have been assaulted, verbally abused or harassed the CCGs will consider whether it is appropriate to report the facts to the police with a view to criminal prosecution.

6. Face-to-face Meetings with Habitual Complainers or Vexatious Individuals.

Where it is necessary to meet with a habitual complainer or vexatious individual staff must:

- Ensure that the individual's needs are addressed if they have a physical, sensory, learning or developmental disability or do not speak English
- Meet them with a colleague
- Meet them at the CCG headquarters and liaise with Facilities to arrange security
- Ensure that you have the contact details of a senior manager on call
- Meet in a room with glass frontage and ensure people can see into the room
- Arrange the room so that the complainant is furthest from the door and the staff are nearest to the door
- If necessary, leave the door open
- If the situation becomes verbally aggressive call the senior manager on call
- If the situation becomes violent call security and the Police.

7. Withdrawing Vexatious Status.

- 7.1. Once habitual complainants or vexatious individuals (and/or anyone acting on their behalf) have been identified as such, there needs to be a mechanism for withdrawing this status at a later date. If, for example, they subsequently demonstrate a more reasonable approach, or if they submit a further complaint for which the normal complaints procedures would appear appropriate.
- 7.2. As a general rule, vexatious status should be reviewed every 12 months.
- 7.3. Staff must have used discretion in recommending habitual complainant or vexatious individual status at the outset and discretion must similarly be used in recommending that this status be withdrawn when appropriate.
- 7.4. Where this appears to be the case, discussion will be held with the Chief Executive Officer. Subject to their approval, contact with the person and / or application of the CCG complaints procedures will then be resumed.
- 7.5. Following implementation of this procedure, a review will be carried out by the Complaints team with appropriate members of staff to ensure any learning from events can be taken forward.