

# **COMPLAINTS, CONCERNS, COMMENTS AND COMPLIMENTS POLICY**

*Compliance with all CCG policies, procedures, protocols, guidelines, guidance and standards is a condition of employment. Breach of policy may result in disciplinary action.*

## Version Control

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*NHS Coastal West Sussex Clinical Commissioning Group is the clinical commissioning group covering Adur, Arun, ARCH (Association of Regis and Chichester) Chanctonbury and Cissbury (Worthing) Localities*

*An Equality impact assessment has been carried out to ensure that this policy is non-discriminatory*

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## **1. INTRODUCTION**

This policy sets out the process for handling complaints, concerns, comments and compliments generated by patients, relatives, carers and the general public, in the Clinical Commissioning Group (CCG). It also details the process for handling MP correspondence. All CCG staff are responsible for co-operating with the development and implementation of this 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 this Policy. It also has implications for providers of services to the CCG, all of which have a responsibility to have a complaints policy in place in line with national requirements.

## **2. SCOPE OF POLICY**

The Clinical Commissioning Group (CCG) is committed to the principles of equality and diversity and will strive to eliminate unlawful discrimination in all its forms. We will strive towards demonstrating fairness and equal opportunities for users of services, carers, the wider community and our staff.

The CCG is responsible for commissioning health services on behalf of the population of NHS Coastal West Sussex CCG from local acute hospitals, mental health providers, community providers, the independent sector and independent contractors. This policy sets out how the CCG will manage these relationships in the context of complaints, concerns, comments and compliments.

## **3. DEFINITIONS**

The words “patient” and “service user” and “client” are used interchangeably to describe all those people for whom we commission services.

This policy applies to any correspondence, be it written or verbal, including electronic, which is providing feedback that can be considered a complaint, concern, comment or compliment. This correspondence may be received from a patient or user of a service, their representative, or a member of the community who is otherwise in contact with, or affected by, the services mentioned in that correspondence. It also includes correspondence from MPs.

The aspects of this policy relating to the management of complaints is in line with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

This policy primarily sets out the framework and the process that the CCG will follow when dealing with a complaint. The policy will also provide additional details for service users who may wish to seek further advice from the Parliamentary and Health Service Ombudsman (PHSO), or who are providing other feedback such as a concern, comment or compliment.

## **4. PURPOSE**

The CCG is committed to providing an accessible, equitable and effective means for patients (and/or their representative) to express their views about the services it provides or services it is responsible for commissioning. If a person is unhappy about any matter of the CCG functions they are entitled to make a complaint, have it considered and receive a response (acknowledgment within 3 working days of receipt by Corporate Correspondence and Complaints Manager). The CCG aims to provide a complaints process which has easy access, is supportive and open, and which 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 attempt a prompt and fair outcome to the complaint, which provides the opportunity to put things right for complainants as well as improving services.

Where feedback other than a complaint is being provided, the CCG will acknowledge this and record details of that feedback to help inform the CCG of the wider experiences of the public, be they positive or negative, in respect of the services it is providing or is responsible for commissioning. Reports will be available to specific teams within the CCG so as to provide a means of monitoring the quality and experience of the services they are providing.

## **5. AIMS**

The complaints procedure aims to:

- Be well publicised and easy to access
- Be simple to understand and use
- Be fair and impartial, and be seen to be so
- Allow complaints to be dealt with promptly and as close to the point where they arise as possible
- Provide answers or explanations quickly and within established time limits
- Ensure that rights to confidentiality and privacy are respected
- Ensure all complaints will be dealt with in an honest, open, confident and sensitive way
- Guarantee that no complaint will form any part of a medical record and complainants will not be discriminated against in any way as a result of making a complaint
- Provide a thorough and effective mechanism for resolving complaints and also investigating matters of concern
- Enable lessons learnt to be used to improve the quality of services and to have action plans in place
- Be regularly reviewed and amended if found to be lacking in any respect
- Be consistent with national guidance.

The procedure for handling concerns, comments and compliments aims to:

- Ensure that all feedback contributes to the CCG's monitoring of services in order to improve and maintain the quality of its functions, commissioning decisions and other services;

- Assist the CCG in identifying or anticipating weaknesses before a complaint is received, or a more serious failing occurs;
- Provide confidence to the public that its feedback is taken seriously and contributes to the development and quality of services.

## **6. ROLES AND RESPONSIBILITIES**

The Accountable Officer of the CCG is responsible for ensuring compliance with the arrangements made under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (“The 2009 Regulations”) and for ensuring that action is taken if necessary, depending on the outcome of a complaint.

The CCG’s Corporate Correspondence and Complaints Manager is responsible for managing the procedures for handling and considering complaints, in accordance with the arrangements made under The 2009 Regulations and this policy.

The CCG’s Corporate Correspondence & Corporate Correspondence and Complaints Manager is the single point of contact for both patients who wish to provide comments or compliments, or who have concerns that require advice, assistance or information to resolve. The aim of this role is to provide a speedy resolution to a problem and/or ensure feedback is recorded and learned from. All correspondence will be assessed on receipt and a decision will be taken as to the best route for resolution and response.

CCG staff that receive a telephone call, email or letter directly, which is to be handled under this policy, should be familiar with, and follow, the guidance in appendix A in order to ensure it is appropriately notified to the Corporate Correspondence and Corporate Correspondence and Complaints Manager.

## **7. WHAT IS A COMPLAINT?**

A complaint will usually relate to either a concern or dissatisfaction about a service that the CCG commissions. Commissioned services are those that are planned and paid for by the CCG but provided by other organisations such as hospitals and community care providers.

Complaints may be raised covering issues including:

- Something which is against the choice or wishes of a patient
- The way treatment, a service or care has been provided to a patient
- Alleged discrimination against a patient
- How a service has been managed
- Lack of a particular service
- The attitude or other behaviour of staff.

It may not always be clear from the initial contact what the complaint being made is actually about; and/or a patient’s expectations and demands may appear unreasonable or unrealistic. However, the CCG must accept any matter submitted as a complaint, unless it is ineligible under The 2009 Regulations (e.g. out of

jurisdiction, out of time, or has previously been responded to and local resolution has been exhausted). The Corporate Correspondence and Complaints Manager will assess if the complaint is eligible, obtain any necessary consent and clarify the points for investigation before approaching the relevant team or service with a request for investigation.

## **8. WHO CAN COMPLAIN?**

Patients or their nominated representative, e.g. family member, friend, MP or other agency who has been given consent to act on behalf of the patient/service user can raise a complaint or concern.

In cases where the CCG seeks written consent, the response time will be agreed with the complainant and will also take into account the date of receipt of that consent.

Complaints can be made by a suitable representative of a deceased patient, a child, or any patient who is unable by reason of physical or mental incapacity (or any other incapacity) to make the complaint themselves.

In the case of a patient who has died or who lacks capacity, their representative must be a relative or other person who, in the opinion of the Corporate Correspondence and Complaints Manager, had or has 'sufficient interest' in their welfare and is a suitable person to act as their representative. Evidence to support their position may be requested.

In the case of a patient who lacks physical capacity to make a complaint, verbal consent will be sought and documented.

If a patient who lacks mental capacity has a legally appointed representative through the Court of Protection or an Enduring Power of Attorney, the Corporate Correspondence and Complaints Manager may request proof of this status.

In the case of a child, a suitable representative would normally be a parent, guardian or other adult person who has care of the child, or one who is authorised by the Local Authority/voluntary organisation in the case of children in care. Where a child is considered competent they will be able to engage directly with the complaints process (usually aged over 12 years). If their parent/guardian has raised the complaint, consent of the child (where they are competent) should be sought and the offer made to copy them into correspondence and involve them in the process.

Assistance will be given to complainants in accessing the complaints procedure. This includes providing an appropriate and acceptable response to complainants who are unable to read English or who have sight or hearing difficulties. For details of advocacy services see section 25.

Complainants will be invited to advise if there is anything the CCG can do to help communicate more easily, in the acknowledgement letter, so that any particular requirements for a different format or language can be considered.

Options for alternative formats may include:

- A verbal recording on a portable secure disc of correspondence issued
- Written responses in large font (point 16 or higher)
- Written responses printed with greater contrast (font weight and/or coloured text or paper)
- Written responses provided in “easy read” English.

For further guidance go to: <https://www.gov.uk/government/publications/inclusive-communication/accessible-communication-formats>

## **9. TIME LIMITS FOR COMPLAINTS**

There is a time limit for the acceptance of complaints for investigation of 12 months after the date of the incident that caused the complaint, or 12 months from the date on which the matter came to the attention of the complainant. However, the time limit should not be presented as an obstacle to the investigation of the complaint.

The time limit can, and should be waived, if it is still practical and possible to investigate the complaint (the records still exist and the individuals concerned are still available to be questioned) and the complainant can demonstrate reasonable cause for delay in making the complaint. It will be the decision of the Corporate Correspondence and Complaints Manager if the time limit can be set aside.

## **10. SERIOUS COMPLAINTS**

If an allegation or suspicion of any of the areas below is received regarding CCG functions it should immediately be reported 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 a serious misconduct is alleged), or Local Authority’s Safeguarding leads:

- Safeguarding issues
- Physical abuse
- Sexual abuse
- Financial abuse
- Neglect
- Psychological abuse
- Fraud.

If it relates specifically to the CCG it should be reported to NHS Protect ([www.nhsprotect.nhs.uk](http://www.nhsprotect.nhs.uk)). It 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 Corporate Correspondence and Complaints Manager will liaise with the Quality and Safeguarding team as needed.

## **11. COMPLAINTS THAT CANNOT BE DEALT WITH UNDER THIS POLICY**

The following complaints will not be dealt with under the NHS Complaints Regulations 2009:

- A complaint made by a local authority, NHS body, Primary care provider or independent provider
- A complaint made by an employee of a local authority or NHS body about any matter relating to their employment
- A complaint which is made orally and is resolved to the complainant's satisfaction within 24 hours
- A complaint which has previously been made and resolved to the same complainant and where local resolution has been exhausted
- A complaint which is, or has been, investigated by a Health Service Commissioner under the Health Care Complaints Act 1993
- A complaint arising out of the alleged failure by CCG to comply with a request for information under the Freedom of Information Act 2000.

## **12. EQUALITY IMPACT ASSESSMENT**

This is a legal requirement under the Race Relations (amendment) Act 2000, the Disability Discrimination Act 2005 and the Equality Act 2006 (see Appendix D).

## **13. COMPLAINTS AGAINST PROVIDERS OF HEALTH CARE SERVICES**

The CCG has contracts in place with a range of providers. Under the 2009 Regulations a patient can choose to approach either the provider or CCG to make a complaint, but not both. Each contracted provider has its own complaints procedure based on the NHS procedure for complaints.

If a complaint received by the CCG concerns a provider of contracted services, the Corporate Correspondence and Corporate Correspondence and Complaints Manager, in discussion with the complainant, will decide who the most appropriate body is to handle the complaint. In most cases it is anticipated that providers will handle any complaints which concern their services. However, in some cases this may not be appropriate and the Corporate Correspondence and Corporate Correspondence and Complaints Manager will contact both the patient and the relevant organisation to explain what action will be taken and who will be managing the complaint.

Where a complaint is made about multiple providers, the CCG will work to reach an agreement on how the investigation and response will be co-ordinated. Where agreement is made for another organisation to provide the response to the complainant, the CCG will seek to obtain consent to receive a copy of that response for its records.

## **14. COMPLAINTS SHARED WITH THE LOCAL AUTHORITY**

Where a complaint includes issues that relate to the local authority, the Corporate Correspondence and Corporate Correspondence and Complaints Manager will liaise

with their counterpart to work together to ensure a full investigation takes place and that a single response which answers all concerns is provided to the complainant.

The Corporate Correspondence and Complaints Manager will obtain consent from the complainant to share the details of the complaint with the local authority. If the complainant does not consent then the Corporate Correspondence and Complaints Manager will advise on which parts of the complaint the CCG can respond to and which parts will need to be dealt with separately by the local authority. Further details can be found in the 'Flowchart for the Handling of Multi-Agency Complaints' (Appendix B).

## **15. PROCEDURE BEFORE INVESTIGATION**

A complaint may be made verbally, electronically or in writing. If the complaint is made verbally and is not resolved by the end of the next working day then a written copy of the complaint must be made and a copy provided to the complainant.

Complaints must be acknowledged within three working days after the day on which they are received. The acknowledgement may be made verbally or in writing by the Corporate Correspondence and Complaints Manager or their team member. If made verbally then it is best practice to follow this up in writing. 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 Corporate Correspondence and Complaints Manager must determine the response period and notify the complainant in writing confirming the issues that are going to be investigated, the manner in which the complaint is to be handled and the likely timescales for the investigation and response.

## **16. INVESTIGATION**

The Corporate Correspondence and Complaints Manager will arrange for the complaint to be investigated in the most appropriate manner to resolve it speedily and efficiently. The purpose of investigation is not only "resolution" but also to establish the facts, to learn, to detect poor practice and to improve services. The investigation into a complaint must:

- Be undertaken by a suitable person and the Corporate Correspondence and Complaints Manager should ensure an appropriate level of investigation
- Be conducted in a manner that is supportive to all those involved, without bias and in an impartial and objective manner
- Not be adversarial and must uphold the principles of fairness and Consistency
- Apply a risk assessment to all complaints to allow serious complaints, such as those involving unsafe practice, to be identified
- Follow the methods set out in the National Patient Safety Agency (NPSA) principles of root cause analysis, accessible via:

<http://www.nrls.npsa.nhs.uk/resources/collections/root-cause-analysis/>

Note, from 1 April 2016, the NPSA became part of NHS Improvement – see

<https://improvement.nhs.uk>

- During the investigation the Corporate Correspondence and Complaints Manager will keep the all those involved including the complainant informed as far as reasonably practicable, as to the progress of the investigation and will be the single point of contact for anyone seeking an update on the status of a Complaint.

## 17. RESPONSE

As soon as reasonably practicable after completing the investigation, the Corporate Correspondence and Complaints Manager will oversee the preparation of a written response, ensuring this is quality assured and submitted for sign off by the CCG's Accountable Officer or their nominated responsible person without undue delay. Sign off should usually be achieved within 48 hours of a response being submitted to the Accountable Officer for sign off.

It is good practice for letters to be as conciliatory as possible and include apologies as appropriate.

The response will follow a standard layout whereby each issue is addressed in turn by:

- Presenting a summary the issue from the complainant's point of view
- Detailing the evidence and sources consulted in order to investigate the issue fully and fairly
- Presenting findings for each issue clearly and concisely
- Providing a conclusion, and stating clearly whether the issue is "upheld", "Partially upheld" or "not upheld"; unless it is ineligible, in which case the reason for this will be given, e.g. out of time or out of jurisdiction
- Explaining the outcome and whether any remedial action or learning points arise from the investigation of that issue
- Offering an apology where the issue is upheld and shortcomings or failings have been found.

Once each issue is addressed, the response will conclude by:

- Providing the complainant with details of who they can contact should they wish to obtain any clarifications on the content of the response
- Advising the complainant to consider whether there is anything further the CCG can do to resolve their concerns if the written response does not satisfactorily bring the matter to a conclusion
- Explaining that it is the complainant's right to take their complaint to the Health Service Ombudsman if they remain dissatisfied with the outcome of local resolution and they feel there is nothing further the CCG can do at Local Resolution.

The response should be clear, accurate, balanced, simple and easy to understand.

It should avoid technical terms, but where these must be used to describe a situation, events or condition, an explanation of the term should be provided.

All statements, letters, phone calls and actions taken in an investigation must be documented and kept in the complaint file in chronological order.

A complete complaint file is required should the complaint be referred to the Parliamentary and Health Service Ombudsman and its contents may be made available to the complainant or patient via a Subject Access Request.

Complaints files are required to be kept for 10 years.

Where further local resolution is to be attempted, it may be appropriate to conduct a meeting or provide a further response, arrange mediation, or take another action.

A meeting may be offered within the initial response if any of the following apply:

- It is a complex cases and it would help to present the response in person
- Serious harm or the death of a patient has occurred
- The complainant's first language is not English and the response may need to be present in person to aid understanding (perhaps with an advocate / translator present as support)
- Where the complainant has a learning disability or mental health illness (or other capacity challenges) and they would benefit from this.

## **18. CONCLUDING LOCAL RESOLUTION AND LEARNING LESSONS**

The CCG should offer every opportunity to exhaust local resolution. Once the final response has been signed and issued, the Corporate Correspondence and Complaints Manager, on behalf of the Accountable Officer, should liaise with relevant managers and staff to ensure that all necessary follow-up action has been taken and then close the complaint file down.

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 systems or practice that has resulted from their complaint.

All correspondence and evidence relating to the investigation should be retained in line with the NHS Code of Practice Records Retention and Disposal Schedule. The Corporate Correspondence and Complaints Manager should ensure that a complete record is kept of the handling and consideration of each complaint. 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.

Complaints records will be held securely and electronically for 10 years.

## **19. IF THE COMPLAINANT IS DISSATISFIED WITH THE FINAL RESPONSE**

The final response should invite the complainant to let the CCG know if they have any outstanding concerns. In such cases, consideration should be given to arranging further action which might resolve the complaint, including offering a meeting with the Corporate Correspondence and Complaints Manager. A response should be sent to the complainant confirming the outcome of any further action and advising them of the independent review process.

If the complainant subsequently remains dissatisfied, they may request the Health Service Ombudsman to review their complaint.

## **20. RISK MANAGEMENT**

In instances where the complaint or concern identifies that there may be a risk to the patient or other people's safety, then this will be considered in light of the arrangements the CCG has in place. This will include consideration of:

- Claims Management Procedures
- Safeguarding Adults and Children arrangements
- Equality and Diversity Strategy
- HR framework and policies
- Crime.

## **21. SUPPORT FOR STAFF**

Members of staff named in the complaint, either personally or by role, should be informed of the complaint by their manager. Staff should be fully supported by their line manager and consulted during the investigation. The investigation should be full, fair and timely, and should not apportion blame.

The management style and culture within the organisation will promote positive attitudes towards dealing with complaints.

The decision on whether disciplinary action is called for is a decision for the line manager in consultation with Human Resources, in accordance with the normal disciplinary procedure. This must be kept separate from the complaints procedure. The complainant is entitled to know no more than that "Disciplinary Processes are being used" – not the details of which staff are involved or the outcomes of this.

## **22. COMPLAINANT MEETINGS**

Should a complainant wish to meet with the Corporate Correspondence and Complaints Manager to discuss the content of their complaint, this will be arranged. The complainant may wish to meet with representatives of the CCG to discuss their concerns as part of the investigation process and, if so, this will be discussed when the complaint plan is drafted at the beginning of the process.

All meetings will be recorded either by a recording device or by a written record. The consent of all parties must be obtained before use of a recording device. A copy of

the written record will be sent to all those involved to confirm the accuracy before being documented in the complaints file.

### **23. IMPROVING SERVICES**

Following the conclusion of a complaint, all actions will be clearly documented, acted upon and monitored.

If an action has been identified during the complaints investigation, the Corporate Correspondence and Complaints Manager will log the details of the action to be taken on the complaints database and share these with the investigation leads involved. The investigation leads will demonstrate how feedback is used to learn and to improve services by reporting back to the CCG's Corporate Correspondence and Complaints Manager who will record this on the Complaints database.

### **24. LEARNING FROM EXPERIENCE**

The Corporate Correspondence and Complaints Manager will report the number and nature of complaints and outcomes received on a quarterly basis in anticipation of 6 monthly reporting being required for Board and Committee meetings. Service improvement informed by the Complaints process will also be reported.

An annual report will be produced, based on the Quarterly Reports.

Learning and Outcomes may be reported to individual teams on request.

### **25. COMPLAINTS ADVOCACY SERVICE**

The service formerly known as "ICAS" (Independent Health Complaints Advocacy Service) is now provided by Healthwatch in West Sussex, and offers an independent service to advise complainants about making a complaint concerning NHS services.

If patients need help to make a complaint, the Advocacy Service offers advice and support to people wishing to make a formal complaint. This can include help with letter-writing and attending meetings; and, if the complainant is unable to visit their offices, ICAS can visit the complainant in their home or in another place where they feel comfortable.

ICAS is independent of the NHS and is free. Details will be provided to members of the public at the point of acknowledging their complaint.

### **26. LEGAL ADVICE AND PROCEDURES FOR COMPLAINTS INVOLVING LITIGATION**

Legal Advice on particular aspects of a complaint should be sought if there is the possibility of litigation ensuing. If a complainant explicitly indicates in writing an intention to take legal action, the Corporate Correspondence and Complaints Manager will negotiate with the complainant how this can be taken forward. A complainant's intention to take legal action should not preclude the complaint from being further handled, unless there are compelling legal reasons not to do so or the

complainant requests the complaint be put on hold. The CCG has access to legal advice via the Finance Team.

## **27. FINANCIAL REDRESS**

There may be occasions when, having investigated the complaint, the Investigating Officer/Corporate Correspondence and Complaints Manager believes that there are grounds for making an ex-gratia payment (without accepting liability). An apology and gesture of goodwill may avoid subsequent litigation and offer the opportunity to deal with certain circumstances in a fair and responsible manner.

Financial redress may be considered where there has been:

- Direct or indirect financial loss
- Loss of opportunity
- Inconvenience
- Distress
- Any combination of these.

It is recommended that, before any financial redress is offered in respect of a complaint involving a member of staff, that member of staff should be involved in the discussions when the subject of financial redress is raised, to ensure that he/she does not feel compromised by the decision to make a payment. Any ex-gratia payments should be made having regard to the CCG's financial policies.

## **28. UNREASONABLE/HABITUAL COMPLAINANTS**

The CCG is committed to treating all complaints equitably and recognises that it is the right of every individual to pursue a complaint. The CCG therefore endeavours to resolve all complaints to the complainant's satisfaction.

However, on occasions, staff may consider that a complaint is habitual in nature, i.e. the complaint raises the same or similar issues repeatedly, despite having received full responses to all the issues they have raised. Habitual complaints are often symptomatic of an illness and the complaints procedure may not be the most appropriate means of dealing with the issues involved.

The CCG's guidance on 'Habitual Complainants' should be referred to in such cases (Appendix C). This describes how in the event of persistent or abusive communication with the CCG, a communication or behavioural agreement may be put in place, whereby the complainant is required to communicate within certain boundaries.

This order may include restrictions over the point of contact in the CCG, the mode of contact, the frequency of contact or require the use of an advocate to act as an intermediary. It should be applicable for a specified time only and recorded on file.

Where there is no outstanding complaint to answer, it may be advised that further correspondence will be read and held on file, but not acknowledged or responded to.

In the event of an initial challenging or abusive telephone call, the caller should be informed when their language or tone or comments are unacceptable and given an opportunity to amend their behaviour. If they fail to make adjustments to speak more reasonably as requested, the staff member may advise that the call will be terminated. If a call is ended in this way, and the caller's details are available, a written letter should be issued to explain why the call was terminated, and to request that any future communication be moderated in response to this request.

A log should be made of any such telephone calls on the complaint file.

## **29. SECOND AND FINAL STAGE (INDEPENDENT REVIEW) OF NHS COMPLAINTS PROCEDURE**

If a complainant is dissatisfied with the outcome of their complaint at the conclusion of the local resolution stage they have the right to ask the Health Service Ombudsman to independently review their complaint. Information is provided to complainants in the final response letter. Details are also available on the CCG web site. The CCG will co-operate with the Ombudsman in any relevant independent review. For joint cases across health and social care, the Local Government Ombudsman may also be involved.

## **30. CONCERNS, COMMENTS, COMPLIMENTS & MP Letters**

This policy also covers the handling and management of other forms of feedback, including concerns, comments and compliments and may be considered similar to the PALS (Patient Advice and Liaison) service offered in some NHS organisations.

The Complaints database referred to within this policy will be adaptable for use as a central point for the recording and monitoring of this other feedback and may be used for generating additional reports for the CCG. The Corporate Correspondence and Complaints Manager will oversee the process for this feedback and is the first point of contact for staff receiving feedback to ensure it is recorded and responded to effectively.

In instances where feedback identifies that there may be an immediate risk to the patient or other people's safety, then this will need to be considered for onward referral to a more appropriate team. See sections 10 and 20 in this document, if the concern is suggesting any of the following:

- Safeguarding issues
- Physical abuse
- Sexual abuse
- Financial abuse
- Neglect
- Psychological abuse
- Fraud.

### **30.1 What is a concern and how is it handled?**

A concern is usually a single, straightforward issue or question, distinguishable from a complaint due to the amount of time needed to provide a response (i.e. by the end of the next working day). The Concerns process can be used in order to respect a person's wish NOT to utilise the Complaints process and to provide them with prompt advice and information, including signposting to other services. It is a mechanism for the public to raise concerns that may have immediate negative consequences if not addressed. A concern will require a response, but this can be verbal or written, including via email. It does not require sign off by an Accountable Officer.

A concern may be raised verbally or in writing, including via email or the website. No statutory timeframes apply to concerns, but they should be acknowledged as soon as possible, usually on the day of receipt by a telephone call or email if this is possible, and immediate efforts made to provide a prompt outcome.

At the point of acknowledgement, the Corporate Correspondence and Complaints Manager will discuss what steps can be taken to provide a satisfactory outcome and agree the next steps. It will also be discussed at this time whether the concern should in fact be handled within the complaints process.

Where a concern cannot be resolved by the end of the next working day, or proves to be more complicated than initially thought, it should be considered for transfer to the complaints process. This will be arranged by the Corporate Correspondence and Complaints Manager in discussion with the person raising the concerns, so as to manage their expectations and alleviate any concerns about using the complaints process.

Concerns will be logged in a similar way to complaints, but categorised to ensure they do not feature in complaint reports. If a concern is logged and later handled as a complaint, the two files will be electronically linked to evidence this history.

A concern may be deemed concluded on provision of a telephone call, email or letter from the Corporate Correspondence and Complaints Manager to the person raising the concern which provides the information being sought to resolve the concern.

A record should be kept of all telephone calls and emails, as well as letters to form an electronic Concern file.

In rare instances, additional time (beyond the end of the next working day) may be granted to continue handling a concern without moving it over to the complaints process. A Concern should always aim to be closed within 5 working days of receipt.

Where a concern is later received as a complaint, the original response given will be reviewed and if there is nothing further to add, a duplicate response explaining what was previously advised, will be issued following sign off by an Accountable Officer. It will be stated clearly that the response is being issued under The 2009 Regulations.

Enquiries and concerns that are raised directly with teams within the CCG and not passed on to be handled by the Corporate Correspondence and Corporate Correspondence and Complaints Manager and team, are not covered by this policy.

### **30.2 Comments and Compliments**

Comments and compliments cover positive, negative and neutral feedback, provided freely to the CCG, via its website, email, letter or telephone call by members of the public. It should not require a response, other than an acknowledgement to thank the person for taking the time to contact the CCG with their views, where contact details are supplied.

Comments and Compliments may be anonymously submitted. For the purposes of this policy they do not include feedback received by the CCG as the result of proactive engagement activities, such as surveys or workshops. It does not include compliments made by and about colleagues within the same organisation.

Staff receiving a comment or compliment should forward details to the Corporate Correspondence and Complaints Manager to record. This is most easily done via email to: [CWSCCG.Comments@nhs.net](mailto:CWSCCG.Comments@nhs.net). Feedback about teams in the CCG received by the Corporate Correspondence and Complaints Manager will be shared with the manager/s of that team to disseminate.

If the staff member receiving the comment or compliment wishes to acknowledge receipt this should include mention that the feedback will be centrally recorded for monitoring purposes, and the person thanked for taking the time to comment. Acknowledgements will usually be via the same mode of communication that the person used to contact the CCG.

Comments and Compliments will be logged in a similar way to complaints, but categorised to ensure they do not feature in complaints reports.

### **30.3 MP Letters**

Correspondence from MPs is logged and handled in much the same way as Comments and Concerns, unless the MP is acting as an advocate for a complainant and the correspondence therefore relates to a particular patient's care, treatment or experience, in which case it is handled as a Complaint.

Written responses to MPs are also signed off by the Accountable Officer and where possible this is done within 20 working days.

## **31. MONITORING AND GOVERNANCE**

An electronic complaints database has been procured and will be managed by the Corporate Correspondence and Complaints Manager and be available for inspection by NHS England and the Care Quality Commission. Complaints will be handled in the strictest of confidence in accordance with the CWSCCG Confidentiality Policy, and will be kept separately from patient medical records.

A Privacy Impact Assessment has been undertaken on 11 January 2017 in relation to the secure electronic database and the complaints process. This will be reviewed as a minimum annually.

All complaints and related correspondence will be stored within the secure electronic database used by the team. Standard Operating Procedures are in place to protect confidentiality and ensure compliance with the Data Protection Act and other legal obligations such as the Human Rights Act 1998 and the common law duty of confidentiality. These include ensuring:

- A legal basis for information sharing
- Strict role-based system access and management.
- Specific staff training- All CCG staff have signed confidentiality contracts and undergo annual Information Governance training.
- System audit
- Records management audit.

All records will be held and processed in accordance with the Records Management Code of Practice for Health and Social Care 2016 and CCG Policy.

The CCG will undertake an annual system access and complaints records management audit and a review of the standard operating procedures. A report of the findings will be presented the CCG's Governing Body with any actions / recommendation noted.

Any breaches of confidentiality will be managed in accordance with the CCG IG Incident Management Procedures.

The database will record information including:

- The complainant's and/or patient's personal details and contact information
- A summary of complaint
- The date of receipt and the date the complaint was acknowledged
- Details of the investigation undertaken
- Copies of all correspondence (including drafts)
- A log of all phone calls and emails
- The date the response was sent for sign off
- The date the response was sent to complainant
- Lessons learned and action taken to prevent recurrence.

Quarterly reports will be prepared and will form the basis for formal reports required for Governing Body or Committee meetings:

- the number of complaints received
- the subject matter of those complaints
- how they were handled including the outcome of the investigations
- any trends or themes identified
- lessons learnt as a result of a complaint or concern

- actions to be implemented
- any complaints where the recommendations of the Ombudsman were not acted upon, giving the reasons why if applicable.

The CCG Governing Body Assurance will monitor the complaints handling process and consider trends in both the number and type of complaints received. It will also scrutinise the follow up actions taken as the result of complaints.

A quarterly KO41a complaints report will also be submitted to NHS Digital, on or before its published deadlines, which are notified to the Corporate Correspondence and Complaints Manager. This will be limited to complaints handled about the CCG's directly provided services or commissioning decisions. It will exclude cases about other organisations, or re-opened cases to avoid duplication of reported complaints.

## **32. TRAINING**

All staff will be expected to have a working knowledge of the Complaints Procedure and will be familiarised with this policy as part of their induction.

It should be made clear to staff that all material relating to a complaint will be made available to all personnel involved in investigating the complaint and may be shared with the complainant or patient as a Subject Access Request. Case files may need to be shared with the Health Service Ombudsman or other external investigating organisations. Particular attention should be paid to the content and standard of electronic mail messages about complaints.

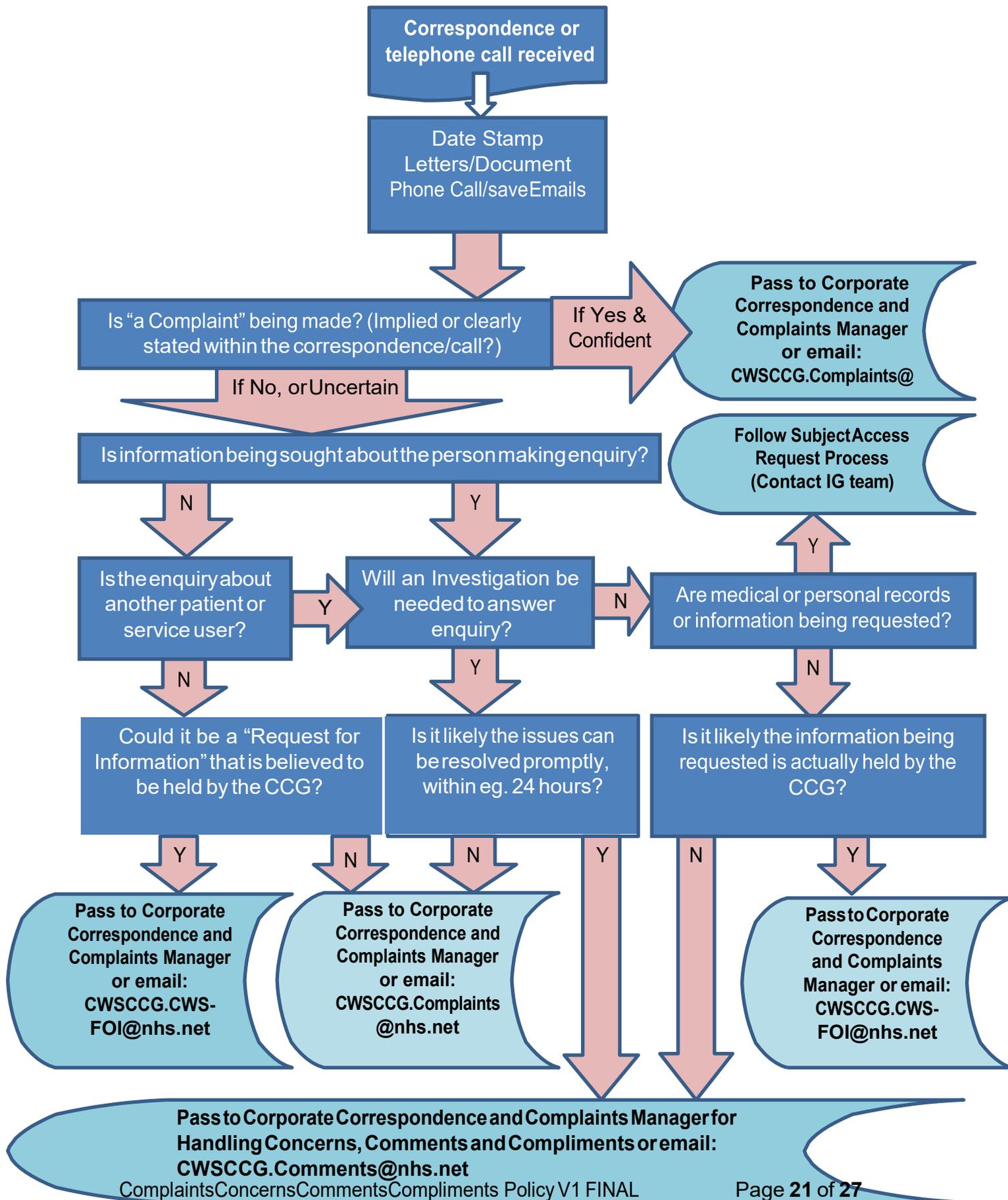
It is the responsibility of all line managers to ensure that the lessons learned from complaints are used as part of the continuing professional development for all staff. There should additionally be training available to staff to undertake Investigator's training so as to be able to provide the standard of investigation and investigation report required for complaint responses.

The CCG's complaints database is expected to be available to all staff in the CCG (subject to successful application and training) from early 2017. Training will be available from trained colleagues. The level of access granted will be determined by their role.

## **33. REVIEW**

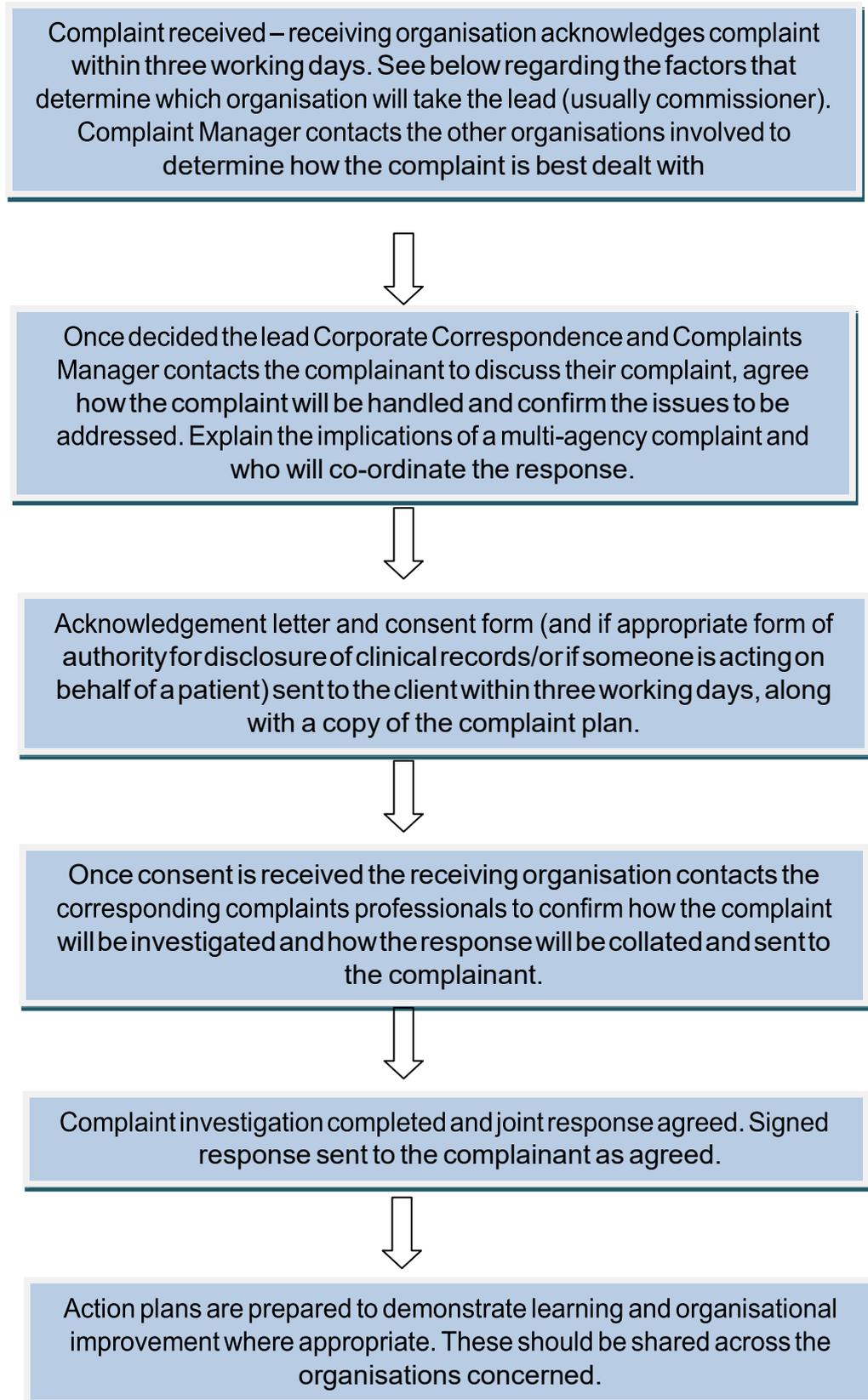
This policy will be reviewed every two years or sooner in the event of organisational changes or amendments to the regulations governing the handling of complaints.

**Appendix A-Initial Assessment of Correspondence/Telephone Call Received**



## Appendix B: Handling Multi-Agency Complaints

### Flowchart for the Handling of Multi-Agency Complaints



## **PROTOCOL FOR HANDLING OF MULTI-AGENCY COMPLAINTS**

This is required to reduce confusion for service users and patients about how complaints will be dealt with, and by whom. It provides clarity about the respective roles and responsibilities of organisations and enhances inter-organisation co-operation.

For successful inter-organisation complaints there needs to be a single consistent and agreed contact point for complainants and regular and effective liaison and communication between Corporate Correspondence and Complaints Managers. Learning points arising from complaints covering more than one body need to be identified and addressed by each organisation.

The following factors should be taken into account when determining which organisation will take the lead role with any inter-organisational complaint:

1. The organisation that has the most serious complaints relating to it
2. If a disproportionate number of the issues in the complaint relate to one organisation compared to the other organisation(s)
3. The organisation that originally receives the complaint (should the seriousness and number of complaints prove roughly equivalent)
4. If the complainant has a clear preference for which organisation takes the lead.

It is the responsibility of the lead organisation to ensure that an assessment is undertaken in order to determine the seriousness/urgency of the complaint. This assessment will require communication with personnel in all affected organisations. Contact should be made via the relevant complaints service.

The complainant's consent must always be sought before information relating to the complaint is passed between organisations. The complainant is entitled to a full explanation of why his/her consent is being sought.

Consent to the passing on or sharing of information should be obtained, in writing, wherever possible. Where this is not possible, the complainant's verbal consent should be recorded and logged.

## **Appendix C: Managing Unreasonable Complainants**

### **PROTOCOL FOR MANAGING UNREASONABLE COMPLAINANTS**

#### **1.0 Introduction**

- 1.1 This protocol is necessary for managing the very small minority of complainants who are unreasonable in their expectations of the NHS complaints procedure. This policy should only be considered when all other avenues have been exhausted and then always in line with the NHS Complaints Procedure. All possible assistance will be employed, including Advocacy Services before the policy is invoked.

#### **2.0 Definition of an Unreasonable Complainant**

- 2.1 Complainants (and/or anyone acting on their behalf) may be deemed to be unreasonable where previous or current contact with them shows that they meet two or more of the following criteria:

Where complainants:

- Persist in pursuing a complaint where Stage 1 of the NHS Complaints Procedure (Local Resolution) has been fully and properly implemented and exhausted and the complainant is unwilling to move to the next stage and refer their complaint to the Parliamentary and Health Service Ombudsman (PHSO).
- Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. Care must be taken not to discard new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints; consideration should be given to agencies that may assist the complainant with making their complaint.
- Are unwilling to accept documented evidence of treatment given as being factual, e.g. drug records, General Practitioner manual or computer records, or nursing records, or deny receipt of an adequate response in spite of correspondence specifically answering their questions, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of staff and, where appropriate, those of ICAS or other agencies to help them specify their concerns, and/or where the concerns identified are not within the remit of the CCG to investigate.
- Focus on a trivial matter to an extent, which is out of proportion to its significance, and continue to focus on this point. (It is recognised that determining what is a 'trivial' matter can be subjective and careful judgement must be used in applying this criterion).

- Have threatened or used actual physical violence towards staff or their families or associates at any time - this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will thereafter only be pursued through written communication. Local incident reporting mechanisms must be used to report such events.
- Have in the course of addressing a registered complaint, had an excessive number of contacts with the CCG placing unreasonable demands on staff. (A contact may be in person or by telephone, letter or, e-mail. Discretion must be used in determining the precise number of “excessive contacts” applicable under this section, using judgement based on the specific circumstances of each individual case).
- Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this. They should document all incidents of harassment).
- Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of the other parties involved. (The tape recording of a telephone conversation without consent may amount to a criminal offence contrary to Section 1 of the Regulation of Investigatory Powers 2000).
- Display unreasonable demands or patient/complainant expectations and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).

### **3.0 Options for Dealing with Habitual or Unreasonable Complainants**

**3.1** Where a complainant has been identified as habitual or unreasonable in accordance with the above criteria, the Accountable Officer (or appropriate deputies in their absence) will determine what action to take. The Accountable Officer (or deputy) will implement such action and will notify complainants in writing of the reasons why they have been classified as habitual or unreasonable complainants and the action to be taken. This notification may be copied for the information of others already involved in the complaint, e.g. clinical practitioners, Conciliator, ICAS, Member of Parliament. A record must be kept for future references of the reasons why a complainant has been classified as habitual or unreasonable.

**3.2** The Accountable Officer (or deputies) may decide to deal with a complainant in one or more of the following ways:

- i. Try to resolve matters, before invoking this policy, by drawing up a signed “agreement” with the complainant which sets out a code of behaviour for the parties involved if the CCG is to continue processing the complaint. If these terms were contravened consideration would then be given to implementing other action as indicated in this section.
- ii. Once it is clear that a complainant meets any one of the criteria above, it may be appropriate to inform them in writing that they may be

classified as habitual or unreasonable complainants, copy this policy to them, and advise them to take account of the criteria in any further dealings with the CCG. In some cases it may be appropriate, at this point, to suggest that complainants seek advice in processing their complaint, e.g. through the ICAS.

- iii. Decline contact with the complainant either in person, by telephone, by letter, by e-mail or any combination of these, provided that one form of contact is maintained or alternatively to restrict contact to liaison through a third party. (If staff are to withdraw from a telephone conversation with a complainant it may be helpful for them to have an agreed statement available to be used at such times).
- iv. Notify the complainant in writing that the Accountable Officer has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that the correspondence is at an end and that further letters received will be acknowledged but not answered.
- v. Temporarily suspend all contact with the complainant or investigations of a complaint whilst seeking guidance from the Head of Communication and Engagement or other relevant agencies.

#### **4.0 Withdrawing Habitual or Unreasonable Status**

**4.1** Once complainants have been determined as habitual or unreasonable there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach;

or

If they submit a further complaint for which normal procedures would appear appropriate. Staff should previously have used discretion in recommending habitual or unreasonable status at the outset and discretion should similarly be used in recommending that this status be withdrawn when appropriate. Where this appears to be the case, discussion will be held with the Accountable Officer (or deputies). Subject to their approval, normal contact with the complainant and application of NHS complaints procedures will then be resumed.

## Appendix D: Equality Impact Assessment

### Complaint, Concern, Comment and Compliment Policy

Question	Answer
1. What are the main aims and objectives?	To provide an effective mechanism for resolving complaints and concerns and to enable lessons learned to be used to improve services; to ensure all feedback is recorded and contributes to the CCGs monitoring of commissioning decisions and service delivery
2. Who will be affected by it?	Staff, service users, general public
3. What are the existing performance indicators/measures for this?	A feedback form has been developed and will be issued with formal responses.
4. What information do you already have on the equality impact of this policy, strategy, proposal, function or service?	An equality and diversity form has been devised and is issued with complaint acknowledgment letters.
5. Are there demographic changes or trends locally to be considered?	Multinational and racial community; high proportion of elderly people
6. What other information do you need?	N/A

### Step 2 – Assessing the impact

Question			Answer
	Yes	No	
			Provide evidence
1. Could the policy, strategy, proposal, function, or service discriminate unlawfully against any group?		No	There is a clear pathway and protocol which is accessible to all groups and staff
2. Can any group benefit or be excluded from the service?		No	A variety of mechanisms for communicating are available to meet the needs of the public; information on advocacy services are included to support people to make their complaint.
3. Can any group be denied fair and equal access to or treatment as a result of this?		No	This policy demonstrates protocols for equality of access
4. Can this actively promote good relations with and between different groups?	Yes		Patient and Public involvement events will have representative present to promote policy
5. Have you carried out any consultation internally and externally with relevant individual groups?	Yes		CCG Clinical Governance Committee
6. Have you used a variety of methods of consultation/involvement?		No	