

Complaints Policy

APPROVED BY: Quality and Governance Committees May 2018

EFFECTIVE FROM: May 2018

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

- Being Open and Duty of Candour Policy and Procedure
 - Continuing Healthcare Policy
 - Data Protection Policy
 - Dignity at Work (Bullying and Harassment) Policy
 - Freedom of Information Policy
 - Incident Reporting Policy
 - Individual Funding Requests Policy
 - Information Governance Policy
 - Information Security Policy
 - Managing Allegations against staff who work with Adults
 - Managing Allegations against staff who work with Children
 - Managing Violence at Work Policy
 - Records Management Policy
 - Risk Management Policy
 - Risk Management Strategy
 - Safeguarding Adults Policy
 - Safeguarding Children Policy
 - Serious Incident Assurance Policy
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- Procedure for Identifying and Managing Habitual Complainants or Vexatious Individuals (see [Appendix E](#)).

Version Control

Policy Category:		Patient and Public Involvement
Relevant to:		All Staff (including temporary staff, contractors and seconded staff).
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1. STAFF QUICK REFERENCE GUIDE.

- 1.1.** Eastbourne, Hailsham and Seaford Clinical Commissioning Group (CCG) and Hastings and Rother CCG have a joint staff structure. This policy covers both organisations and they are referred to jointly as “the CCG”.
- 1.2.** This policy outlines the principles of dealing with complaints within the CCG. The process for managing and responding to complaints is outlined in [Appendix B](#). The Complaints team at our Commissioning Support Unit must be notified whenever a complaint is received by a member of staff. Contact details are in [Appendix A](#).
- 1.3.** The CCG is committed to providing an accessible, equitable and effective means for people (and/or their representatives) to express their views about the services the CCG provides, or is responsible for commissioning. If a person is unhappy about any matter reasonably connected with the exercise of the CCG’s functions they are entitled to:
 - Make a complaint.
 - Have it considered.
 - Receive a response.
- 1.4.** 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 CCG 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.
- 1.5.** The CCG aims to promote a culture which fosters openness and transparency for the benefit of all stakeholders, including staff, and in which all forms of feedback are listened to and acted upon. 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 CCG recognises complaints as a valuable tool for improving the quality of health services.
- 1.6.** Members of staff at the CCG and its agents 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.
- 1.7.** Local procedures 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.
- 1.8.** The CCG uses a Commissioning Support Unit, which is part of the NHS, to process concerns and complaints. However, any investigation into concerns will be carried out by the CCG or relevant provider organisation. Concerns about this process or requests for further information must be addressed to the complaints team, see [Appendix A](#).
- 1.9.** Senior Managers are responsible for the dissemination of procedural documents and the destruction of hard copy versions in their areas when revised documents are distributed.

- 1.10. Staff who commission third parties or contractors to work on behalf of the CCG 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 adhered to during the process for handling complaints generated by patients, carers, and the general public. The procedure at [Appendix B](#) outlines the way in which the CCG will work to resolve complaints.
- 2.2. All staff of the CCG and its agents are responsible for co-operating with the development and implementation of the Complaints Policy as part of their normal duties and responsibilities. Temporary and Agency staff, Contractors and Subcontractors will be expected to comply with the requirements of the CCG's Complaints Policy.
- 2.3. The CCG has a duty to ensure that information about the CCG's complaints processes is available to patients and the public. See [section 13](#) below.
- 2.4. 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](#) (contact details in [Appendix A](#)).
- 2.5. If the issue raised is not a complaint but a safeguarding issue then it is not dealt with under this policy. The separate policies Managing Allegations against people who work with Children or Managing Allegations against people who work with Adults should be used. These are available on the staff Intranet at: [www.eastbournehailshamandseafordccg.nhs.uk/intranet-search/?q=allegations](http://www.eastbournehailshamandseafordccg.nhs.uk/intranet/search/?q=allegations)
- 2.6. These policies deal with how allegations or concerns about abuse against employees are managed within the CCG. This includes allegations made against staff in their personal lives.
- 2.7. Compliance with the Managing Allegations policies and procedures will help to ensure that allegations against staff who work with adults or children are dealt with quickly, consistently and with a thorough and fair process.
- 2.8. The Managing Allegations policies take account of:
- [NHS Commissioning Board \(2015\) Safeguarding Vulnerable People in the NHS](#)
 - [Sussex Local Safeguarding Children Board \(LSCB\) Procedures](#)
 - [Sussex Safeguarding Adults Policy and Procedures](#)
 - [Working Together to Safeguard Children](#) – statutory guidance.
 - [The Care Act 2014](#)
 - [The Children Act 2004](#)
 - [The Children Act 1989](#)

3. DEFINITION OF A COMPLAINT.

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

4. GENERAL PRINCIPLES IN COMPLAINTS HANDLING.

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

- 4.1.** Complaints are investigated in an open and efficient way within the shortest possible timescale.
- 4.2.** Confidentiality is maintained at all times.
- 4.3.** As many complaints as possible are resolved quickly through an immediate response 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.
- 4.4.** The principles of “fair blame” are followed. In line with the CCG's open, positive, non-punitive culture, constructive criticism is actively encouraged. These principles do not, however, negate the right of the CCG to pursue disciplinary or legal action against individuals where malicious, criminal, repeated or gross misconduct is involved.
- 4.5.** Complaints management and investigation processes follow the principles of Root Cause Analysis. Further information on Root Cause Analysis can be found in the CCG's Incident Reporting Policy available on the staff Intranet at: www.eastbournehailshamandseafordccg.nhs.uk/intranet/intranet-search/?q=incident+reporting
- 4.6.** 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.
- 4.7.** 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.
- 4.8.** The CCG process for dealing with Complaints and Compliments is at [Appendix B](#).

5. NATIONAL AND LEGISLATIVE CONTEXT FOR THIS POLICY.

- 5.1.** The CCG 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.

6. RESPONSIBILITY FOR COMPLAINTS ARRANGEMENTS.

- 6.1.** Under the [Local Authority Social Services and NHS Complaints \(England\) Regulations 2009](#), the CCG's Chief 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.
- 6.2.** 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 CCG or an employee of an agency appointed by the CCG to manage complaints.

7. PERSONS WHO MAY MAKE COMPLAINTS TO THE CCG.

7.1. What can people complain about?

Complaints can be made:

- About any NHS service provided by the CCG or the commissioning of any service by the CCG on behalf of the population served.
- About provision of the services that the CCG commissions, 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 CCG as above, or a patient or person affected or likely to be affected by the actions, omissions or decisions of the CCG.

1) CCG Commissioning decisions.

This covers all the decisions the CCG makes about where and how it will purchase health and social care services from NHS, private / independent and community and voluntary sector providers. Complaints could be about a wide ranging decision taken on behalf of the whole population or as specific as a decision the CCG took about an individual patient's care.

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 CCG Individual Review Panel or Continuing Health Care Panel, a complaint can be made about the appeals panel process but not the decision. An appeal against a funding decision must go through the appropriate appeal process.

3) CCG Staff.

This covers any situation where a patient, carer, member of the public or organisation experiences poor service from a member of CCG staff.

4) 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?

- 1) A person who wishes to raise a complaint is known as a “complainant”. A complaint can be made by someone who has received, is receiving, is affected by or likely to be affected by any service provided or commissioned by the CCG as above, or a patient or person affected or likely to be affected by the actions, omissions or decisions of the CCG.
- 2) Carers and other representatives of NHS patients are able to raise a complaint as long as they can demonstrate they have the permission of the person concerned or the legal status to do so. A Member of Parliament or other elected representative, such as a County Councillor, may not require the written consent of their constituent in order to make a complaint or enquiry on their behalf. In exceptional circumstances, the patient must be informed regarding the disclosure of information to their MP. See [Data Protection \(Processing of Sensitive Personal Data\) \(Elected Representatives\) Order 2002](#).

Other representatives include:

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

8. DUTY TO CO-OPERATE.

- 8.1.** Where the CCG is considering a complaint which is also about another one or more health or social care providers, all parties must co-operate in the handling of and in responding to the complaint.
- 8.2.** 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 Protocol for Joint Working in [Appendix D](#).

9. TIME LIMIT FOR MAKING A COMPLAINT.

- 9.1.** 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.
- 9.2.** The time limit will not apply if the Complaints Officer 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.

10. REPORTS.

- 10.1.** 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 Health Service Commissioner ([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.
- 10.2.** These reports must be available to any person on request and will also be available in the Annual Reports on the CCG websites:
www.hastingsandrotherccg.nhs.uk/
www.eastbournehailshamandseafordccg.nhs.uk/

11. CONFIDENTIALITY.

- 11.1.** All CCG staff must be aware of their legal and ethical duty to protect the confidentiality of patient information. The legal requirements are set out in the

[Data Protection Act 1998](#) and the [Human Rights Act 1998](#). The [common law duty of confidentiality](#) must also be observed. Ethical guidance is provided by the respective professional bodies.

- 11.2.** It is not necessary to obtain the service user's express consent to the use of their personal information to investigate a complaint. However, it will be if you need to store their details outside the CCG and CSU Complaints Team. Even so, 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, but only if they have a demonstrable need to know and for the purposes of investigating.
- 11.3.** 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.
- 11.4.** 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 CCG (or its agents as specified in [section 1](#) above) who have a demonstrable need to know in connection with the complaint investigation.
- 11.5.** Third party information must not be disclosed to the complainant unless the person who provided the information has expressly consented to the disclosure. Disclosure of information provided by a third party outside the CCG also requires the express consent of the third party. If the third party objects, then it can only be disclosed where there is an overriding public interest in doing so. **Third party**, is defined in the [Data Protection Act 1998](#) 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.

12. MEDIATION.

Mediation is a voluntary process available to both the complainant and those named in the complaint. Further information is in the Complaints process at [Appendix B](#).

13. PUBLICITY.

- 13.1.** The CCG will ensure that the complaints process is well publicised locally and it must make information available to the public on its arrangements for dealing with complaints and how further information can be obtained.

13.2. 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.

13.3. 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.

13.4. Information must:

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

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

14. TRAINING.

14.1. 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.

14.2. Staff have a responsibility to highlight training needs to their Line Managers.

14.3. 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 CCG has a responsibility to create an environment where learning can take place.

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

15. THE ROLE OF THE HEALTH SERVICE OMBUDSMAN.

15.1. The Ombudsman is completely independent of the NHS and of government and derives its powers from the [Health Service Commissioners Act 1993](#).

- 15.2.** The role of the [Health Service Commissioner \(Ombudsman\)](#) includes the scrutiny of clinical and non- clinical complaints against GPs, NHS Dentists, NHS Opticians, Pharmacists, NHS Trusts and commissioners.
- 15.3.** 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.
- 15.4.** The CCG provides 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](#).

16. COMPLAINTS REGARDING CCG CONTRACTORS.

- 16.1.** 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.
- 16.2.** 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.

17. STAFF SUPPORT.

- 17.1.** 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.
- 17.2.** 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.
- 17.3.** 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).
- 17.4.** See the [Key Staff Contacts](#) page on the staff Intranet for contact details.
- 17.5.** The member of staff being complained about may also seek support from their trade union or professional body representative where appropriate.

18. GETTING REDRESS AND REMEDY WHEN A COMPLAINT IS UPHELD.

18.1. 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).

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

18.3. 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.*

- Quickly acknowledging and putting right cases of maladministration or poor service that have led to injustice or hardship.
- Considering all relevant factors when deciding the appropriate remedy, ensuring fairness for the complainant and, where appropriate, for others who have suffered injustice or hardship as a result of the same maladministration or poor service.

2) *Being customer focused.*

- Apologising for and explaining the maladministration or poor service.
- Understanding and managing people's expectations and needs.
- Dealing with people professionally and sensitively.
- Providing remedies that take account of people's individual circumstances.

3) *Being open and accountable.*

- Being open and clear about how public bodies decide remedies.
- Operating a proper system of accountability and delegation in providing remedies.
- Keeping a clear record of what public bodies have decided on remedies and why.

4) *Acting fairly and proportionately.*

- Offering remedies that are fair and proportionate to the complainant's injustice or hardship.
- Providing remedies to others who have suffered injustice or hardship as a result.
- Treating people without bias, unlawful discrimination or prejudice.

5) *Putting things right.*

- If possible, returning the complainant and, where appropriate, others who have suffered similar injustice or hardship, to the position they would have been in if the maladministration or poor service had not occurred. If that is not possible, compensating the complainant and such others appropriately.
- Considering fully and seriously all forms of remedy (such as an apology, an explanation, remedial action, or financial compensation).
- Providing the appropriate remedy in each case.

6) *Seeking continuous improvement.*

- Using the lessons learned from complaints to ensure that the maladministration or poor service is not repeated.
- Recording and using information on the outcome of complaints to improve services.

18.4. The CCG is 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 CCG has got wrong, the CCG commits 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.

18.5. 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.

19. LEGAL ACTION DURING OR FOLLOWING A COMPLAINT.

19.1. 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 CCG must continue to try to resolve the complaint quickly unless there are compelling reasons not to do so.

19.2. 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.

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

20. DEALING WITH ABUSE AND ASSAULT OF CCG STAFF AS A RESULT OF A COMPLAINT.

- 20.1.** Abuse and assault of staff is not acceptable under any circumstances. The CCG has 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 (see [Appendix E](#)).
- 20.2.** The CCG will support the involvement of the police where cases ultimately become threatening, abusive or violent.

21. COMPLAINTS REPORTED IN THE NEWS MEDIA.

- 21.1.** Complaints to the CCG will be dealt with on a confidential basis (for the complainant and complained against) at all times. The policy of the CCG is for staff and appointed agents not to discuss complaints with any outside party and particularly not the media.
- 21.2.** However, some complaints may come to the attention of the media through the actions of complainants, or unconnected third parties. Responses to any approaches from the media will be managed by the CCG communications staff or appointed agents.
- 21.3.** 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 CCG from its responsibility to maintain confidentiality

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

- 22.1.** 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.
- 22.2.** Under various International, European and UK laws, the nine protected characteristics of equalities legislation will apply and everyone can expect to be treated fairly and equally regardless of their:
- Age.
 - Disability.
 - Gender.
 - Gender reassignment.
 - Marriage and civil partnership.
 - Pregnancy and maternity.
 - Race.

- Religion or belief.
- Sexual orientation.

22.3. 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.

22.4. For people who need language or signed interpreting or other forms of communication, this can be arranged. The CCG 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 above.

23. 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 www.eastbournehailshamandseafordccg.nhs.uk/ and www.hastingsandrotherccg.nhs.uk/.

24. EQUALITY IMPACT ASSESSMENT.

24.1. In applying this policy, the CCG 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, gender, 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.

24.2. 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.

25. MONITORING COMPLIANCE AND EFFECTIVENESS AND REVIEW.

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

25.2. Any formal action relating to staff non-compliance with this policy will be handled through the relevant disciplinary procedures.

25.3. This policy will be reviewed annually, or sooner if required. Where review is necessary due to legislative change, this will happen immediately.

26. REFERENCES.

Legislation.

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

Data Protection Act 1998. www.gov.uk/data-protection/the-data-protection-act

Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002
www.legislation.gov.uk/ukxi/2002/2905/pdfs/ukxi_20022905_en.pdf

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

Local Authority Social Services and NHS Complaints (England) Regulations 2009
www.legislation.gov.uk/ukxi/2009/309/contents/made

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/ukxi/2009/309/pdfs/ukxi_20090309_en.pdf

NHS England.

NHS England. www.england.nhs.uk/

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

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

National Patient Safety Agency. www.npsa.nhs.uk/pleaseask/experience/complaint/

Other Documents.

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

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

The Common Law Duty of Confidence.

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

Patient Advice and Liaison Service (PALS).

www.nhs.uk/chq/pages/1082.aspx?CategoryID=68

SEAP Advocacy. www.seap.org.uk/

Ombudsman.

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

Health Service Commissioner (Ombudsman). 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. NHS South, Central and West Commissioning Support Unit.

The CCG uses a Commissioning Support Unit, which is part of the NHS, to process 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.

A person wishing to initiate a formal complaint can do so either orally or in writing (including by telephone or email to the CCG). The Complaints Officer must be notified immediately on receipt of a complaint via to the CCG:

Eastbourne Hailsham and Seaford CCG:
EHSCCGenquiries@nhs.net **Phone:** 01273 485300

Hastings and Rother CCG:
HRCCGenquiries@nhs.net **Phone:** 01424 735600

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

The Complaints Team
Eastbourne Hailsham and Seaford CCG
Hastings and Rother CCG
36-38 Friars Walk
Lewes
East Sussex. BN7 2PB

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:

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

3. The Health Service Ombudsman.

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

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

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

4. SEAP

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

Email: info@seap.org.uk

Website: www.seap.org.uk/

Phone: 0330 440 9000

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.

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

Appendix B: Process for Complaints and Compliments.

1. Timescales.

- 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 CCG make acknowledgement in writing impossible within this timescale, it may acknowledge the complaint verbally. 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.** All CCG complaints must be responded to by the Chief Officer within a timescale that has been agreed with the complainant.

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.
- 2.2.** Verbal complaints and concerns can be acknowledged by the member of staff receiving them by telephone or face to face.
- 2.3.** 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.
- 2.4.** Always check to see if the complainant is happy with this form of response. This would be treated as a PALS ([Patient Advice and Liaison Service](#)) enquiry and agreement reached with the enquirer regarding the appropriate course of action to resolve their concern. All PALS enquiries are logged in Datix and volume information on these is provided to the CCG 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.
- 3.2.** 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.
- 3.3.** 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.** On receipt of the complaint, the Complaints Officer will arrange for the complaint to be 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 separate policies [Managing Allegations against people who work with Children](#) or [Managing Allegations against people who work with Adults](#) should be used.
- 4.4.** Investigations must be conducted in a manner that is supportive to all those involved, without bias and in an impartial and objective manner.
- 4.5.** 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.)
- 4.6.** 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.
- 4.7.** Investigators must be able to seek advice from the Complaints Officer wherever necessary about the conduct or findings of the investigation.
- 4.8.** Whoever undertakes the investigation must seek to understand the nature of the complaint and identify any issues which may affect the investigation.
- 4.9.** 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.
- 4.10.** Where the complaint requires clinical assessment, for example where it relates to clinical care, advice will be sought from the CCG who will nominate an appropriate clinical lead.
- 4.11.** The Complaints Officer will initially ensure that the complaint is made within the appropriate time limits (see [section 1](#) of this Appendix above) and 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.

- 4.12.** The Complaints Officer will send an acknowledgement letter within three working days of the receipt of the complaint. This letter must offer the complainant information about the Independent Complaints Advocacy Service provided by [SEAP Advocacy](#). The Complaints Officer will identify the appropriate senior manager who will be responsible for conducting an investigation into the issues raised within the complaint.
- 4.13.** 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.
- 4.14.** 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.
- 4.15.** There are a number of options available to assist in the resolution of complaints. These 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.
- 4.16.** 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.
- 4.17.** 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.
- 4.18.** Any actions that the CCG is planning to take, or has taken, as a result of the complaint, must also be included in the response.
- 4.19.** 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 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.** The principles of the Being Open and Duty of Candour Policy can be followed to ensure there is a culture of openness to improve patient safety. This Policy can be found on the staff intranet at:
www.eastbournehailshamandseafordccg.nhs.uk/intranet/intranet-search/?q=candour
- 5.4.** 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.
- 5.5.** Complainants have a right to support and must be encouraged to bring a relative or friend to meetings.
- 5.6.** Where meetings do take place they must be recorded and that record shared with the complainant for comment.
- 5.7.** On completion of the investigation, a written response will be sent, signed by the Chief Officer, although the Chief Officer may delegate responsibility for responding to a complaint to a senior person.
- 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. (See [Appendix H: Lessons Learnt](#)).
- 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. (See [Appendix G](#)).
- 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 Ombudsman if they remain dissatisfied with the outcome of the complaints procedure.

6. Concluding Local Resolution.

- 6.1.** The CCG 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, on behalf of the Chief Officer, must 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. (See [Appendix H: Lessons Learnt](#)).
- 6.5.** All correspondence and evidence relating to the investigation must be retained. 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.

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 CCG sent its response within the timescales.
 - Equality and diversity monitoring.
 - Complaints referred to Ombudsman.
- 9.2.** Scrutiny is provided by quarterly update reports to the Quality and Governance 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 and the Governing Bodies.

- 9.4. All complaints will be recorded on the CCG's database and complaint files maintained for a period of not less than eight years.

10. The Independent Complaints Advocacy Service provided by SEAP Advocacy.

- 10.1. The Independent Health Complaints Advocacy provided by [SEAP](http://seap.org.uk) 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.
- 10.2. 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

Email: info@seap.org.uk
Website: www.seap.org.uk/
Phone: 0330 440 9000

- 10.3. Under the [Mental Capacity Act 2005](http://www.legislation.gov.uk/ukpga/2005/5/section/1/section-1), 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](http://www.imha.org.uk)) can be allocated through SEAP. Complainants may also receive support from specialist advocacy services or from the [Citizens Advice Bureau](http://www.citizensadvice.org.uk).

11. Withdrawal of a Complaint.

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

12. Complaining whilst Appealing against a CCG Decision.

- 12.1. The CCG has processes for patients / representatives to request that a review and appeals panel be formed to consider cases of dissatisfaction with a commissioning or funding decision made by the Individual Funding Review Panel and to consider requests for Continuing Healthcare Funding.
- 12.2. 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.

13. Mediation.

- 13.1. 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.

- 13.2.** The CCG or its agents must have access to suitably trained, competent and accredited mediators where this assistance is requested.
- 13.3.** Mediation is a process of examining and reviewing a complaint with the help of an independent person.
- 13.4.** 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.
- 13.5.** 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.
- 13.6.** Using mediation does not affect the right of a complainant to pursue their complaint if they are not satisfied.
- 13.7.** 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:

1. A complaint relating to a service commissioned by NHS England which must be approached directly. This includes GP, dentist, pharmacist or optician complaints.
2. A complaint made by an NHS body, independent provider or local authority about any matter relating to arrangements made by the CCG with that provider.
3. A complaint that is a safeguarding issue. The separate policies [Managing Allegations against people who work with Children](#) or [Managing Allegations against people who work with Adults](#) should be used.
4. A complaint made by an employee about any matter relating to their contract of employment.
5. A complaint which has previously been investigated and closed under these or previous regulations.
6. A complaint which is being, or has been, investigated by the Health Service Commissioner (Ombudsman).
7. The CCG has a separate process 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.

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.

8. A complaint arising out of the alleged failure to comply with a data subject request under the [Data Protection Act 1998](#) or a request for information under the [Freedom of Information Act 2000](#). In such circumstances this would be dealt with as a corporate complaint by the Complaints Manager and investigated in line with the CCG's [Data Protection Policy](#) or the [Freedom of Information Policy](#) as appropriate.

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

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

Appendix D: Sussex Complaints Protocol for NHS Trusts, CCGs and Social Services Departments.

Joint Working on Complaints Protocol.

1. Purpose.

- 1.1. Dealing with a wide range of health and social care organisations can be confusing for people. This protocol aims to address this, by bringing together the various organisations to provide a unified, responsive and effective service for complainants.
- 1.2. This protocol provides a framework for collaboration in handling complaints, to ensure that:
 - A single consistent and agreed contact point for complainants.
 - Regular and effective liaison and communication between Complaints Officers and complainants.
 - Learning points arising from complaints covering more than one body are identified and addressed by each organisation.

2. The role of the Complaints Officer.

- 2.1. The designated Complaints Officer in each organisation that signs up to this protocol is responsible for:
 - Co-ordinating whatever actions are required.
 - Co-operating with other managers and agreeing who will take the lead role in joint complaints.
 - Ensuring that there is someone else to whom any requests for collaboration can be addressed when they are absent.
- 2.2. If Complaints Officers are unable to reach agreement about any matter covered by this protocol, they must refer to directors / senior managers in their organisation for resolution.

3. Which is the lead organisation?

- 3.1. When determining which organisation will take the lead role in a joint complaint, take into account:
 - Which organisation manages integrated services.
 - Which organisation has the most serious complaints about it.
 - Whether a large number of the issues in the complaint relate to one organisation compared with other organisation(s).
 - Which organisation originally received the complaint (if the seriousness and number of complaints are about the same for each one).
 - Whether the complainant has a clear preference for which organisation takes the lead.
 - The impact on the organisations' governance arrangements.

4. Process.

The complainant must receive one single, co-ordinated response, within achievable and agreed timescales. Complaints Officers will need to co-operate closely, in agreement with the complainant.

5. Complaints about one organisation that are addressed to another organisation.

5.1. On occasions, a complaint that is concerned in its entirety with adult social services is sent to an NHS body, or vice versa. The Complaints Officer of the organisation receiving such a complaint must:

- Contact the complainant within three working days.
- Advise them that the complaint has been addressed to the wrong organisation.
- Ask if they want it to be forwarded to the other organisation on their behalf.

5.2. Provided that the complainant agrees, the complaint is sent to the other organisation immediately, and a written acknowledgement is sent to the complainant, detailing where / to whom the letter has been sent, including contact details.

6. Complainant's consent about sharing information between organisations.

6.1. By law, all organisations have to ensure that information relating to individual service users and patients is protected, in line with the requirements of the [Data Protection Act](#), [Caldicott principles](#) and the confidentiality policies of each signatory organisation.

6.2. The complainant and the service user / patient (if different from the complainant) must give their consent before information relating to the complaint is passed between organisations. Wherever possible this must be recorded and logged.

6.3. The complainant is entitled to a full explanation of why their consent is being sought.

6.4. If the complainant does not agree to the complaint being passed to the other organisation, the Complaints Officer of the receiving organisation must:

- Seek to resolve any issues or concerns with the complainant about remit and responsibility.
- Offer any liaison that could contribute to resolving the matter.
- Remind the complainant of their entitlement to contact the other organisation direct.

6.5. The only circumstances under which a complainant's lack of consent can be overridden is if the complaint includes information that needs to be passed on in accordance with Safeguarding Children or Protection of Vulnerable Adults procedures or other service users safety issues. In such cases, the complainant is entitled to a full written explanation about the organisation's Duty of Care and its obligation to pass on the information. Safeguarding issues are not dealt with under this policy. The separate policies [Managing Allegations against people who work with Children](#) or [Managing Allegations against people who work with Adults](#) should be used.

6.6. Close co-operation between Complaints Officers is crucial to ensure confidential case file information is shared appropriately, and that the necessary safeguards are put in place. Information exchanged under this protocol can be used only for the purpose for which it was obtained.

7. Risk assessment.

7.1. Each organisation must ensure that:

- A comprehensive assessment is undertaken.
- They communicate with colleagues in all affected organisations via the complaints services.

7.2. The CCG undertakes a risk assessment on receipt of a new complaint in line with [National Patient Safety Agency](#) (NPSA) guidance. This is recorded in Datix.

7.3. The individual professional remains accountable within their relevant organisation for the risk assessment information that is disclosed.

8. Learning from complaints.

8.1. It is vital to identify communication, procedural operational or strategic issues within and across each organisation. It may also be necessary to share information with other organisations when serious concerns are raised about a health or social care worker.

8.2. Organisations can achieve this using questionnaires to complainants and satisfaction surveys that reflect action taken and improvements in practice following complaints investigations, spanning all organisations.

8.3. All complaints services must communicate regularly between organisations and share lessons learnt. These must include any findings and recommendations that have inter-organisational impact.

Appendix E: Procedure for Identifying and Managing Habitual Complainants or Vexatious Individuals.

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 and the Communication and Engagement Strategy. 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 CCG appreciates 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 by, and with the authorisation of, the Chief Officer.

3. **Definition of a Habitual Complainant or Vexatious Individual.**

Complainants (and/or those acting on their behalf) may be deemed to be habitual or vexatious 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 CCG has 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, 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 fax. 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 CCG's 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 provide the Chief Officer with 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 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 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 CCG is 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 CCG.
- 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 CCG has 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 CCG reserves the right to pass habitual complainers or vexatious individuals (and/or anyone acting on their behalf) to the CCG 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 CCG 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 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.

Appendix F: Habitual / Vexatious Complaints Template letter.

Ref: XXXXX

Private and Confidential

Date:

Dear XXXXXX

The CCG is in receipt of your letter of complaint dated *<insert date>*. The contents of the complaint are found to be broadly similar to the complaint(s) previously received, to which the CCG responded on *<insert date>*.

The “Local Authority Social Services and National Health Service Complaints (England) Regulations 2009” Section 8, states that a complaint can only be investigated once. Therefore a complaint, the subject matter of which has already been investigated, should not be reinvestigated.

I must therefore inform you that the CCG has taken the decision not to investigate and provide a response to your recent letter of complaint. I must also advise you that further complaints of the same nature may, in future, be considered under the CCG’s Procedure for Identifying and Managing Habitual Complainants or Vexatious Individuals. Correspondance will be read and filed, but will not be acknowledged or responded to.

For more information please see [Appendix C: Complaints Not Included Within the Policy](#) on page 28 of the CCG’s Complaints Policy and [Appendix E: Procedure for Identifying and Managing Habitual Complainants or Vexatious Individuals](#) on page 32 of the CCG’s Complaints Policy, which is included with this letter.

I understand this may not be the response you would wish. However, every aspect of your complaint has been thoroughly investigated by the service providers and I have no further information to add. If you remain unhappy with any aspect of this response, you have the right to take your complaint to the Parliamentary and Health Service Ombudsman. The Ombudsman is independent of the Government and the NHS, their service is confidential and free of charge. The Ombudsman is the final arbiter in the complaints process where it has not been possible to resolve concerns locally.

Contact details are: www.ombudsman.org.uk/making-complaint or 0345 015 4033. Alternatively, you may contact the Ombudsman by writing to: The Parliamentary and Health Service Ombudsman, Millbank Tower, Millbank, London SW1P 4QP.

Yours sincerely

XXXXX

Ref: Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. www.legislation.gov.uk/uksi/2009/309/regulation/8/made

Enc: Complaints Policy

Appendix G: Guidance for Investigating Managers drafting responses to complaints.

This guidance has been put together to help staff responsible for drafting complaint responses. It outlines the CCG commitment to ensuring that complainants receive appropriate, timely and constructive responses which addresses their concerns and provides information on options for further action.

Remember although the response is your responsibility, your Line Manager and the Complaints team at the CSU will be happy to help with drafting responses which will be sent under the signature of the Chief Officer. See [Appendix A](#) for contact details.

1. Think of the positive value of complaints:

- They are a measure of quality (or lack of it).
- They are a catalyst for change.
- They aid future planning.
- They reflect the opinions and views of our service users.
- They project the image of the organisation.
- They can be an early warning sign.

2. Steps to a good response:

- Read the complaint and identify the key issues.
- Address each issue as identified by the complainant.
- Think of the complainant and not yourself.
- Give explanations.
- Avoid using technical language or being verbose.
- Apologise if necessary.
- Imagine you are speaking to someone.
- Outline action taken to prevent the event occurring again.
- Write as much as possible in the active not passive tense, e.g. “we will send a report to your doctor” rather than “a report will be sent to your doctor”.
- Leave the complainant feeling that they have been taken seriously and their concerns have been listened to and acknowledged.
- Avoid being patronising or too defensive.
- Remain impartial.
- Avoid making assumptions.
- Treat each complaint individually.
- Ensure all the facts are correct.

3. How to ensure the tone of your response is right:

- If the tone of your complaint response is showing a negative view of complaints then it may be better to allow someone else to read it to see if they pick up a negative tone. (This practice is recommended for all final responses).
- Take time to do a personal check where you step out of your role and put yourself in the shoes of the complainant to see if you have satisfactorily answered the complaint. If you were the complaint would you be satisfied with the response?

- It is the responsibility of the Investigating Manager to ensure final responses cover all points raised by the complainant as far as possible, and identify where, if any, changes have been made as a result of the complaint. If there is a reason why a specific issue cannot be addressed this must be stated.

4. Remember to:

- Address the reader directly.
- Keep sentences short and simple.
- Explain abbreviations.
- Avoid jargon.

5. What can leave the complainant dissatisfied?

- Not addressing or answering key points.
- Not acknowledging feelings / perceptions.
- Responses which are too technical, patronising or defensive.
- Responses with a chronology of care not relevant to the concerns raised.
- Factually inaccuracies or silly mistakes.
- Trying to impress by using complex language to “show off”.
- No details of appropriate changes / improvements given.

6. Useful Phrases.

For those staff new to drafting responses the following phrases may prove helpful:

Thank you for your letter dated, in which you raised concerns over....

I have now had the opportunity to investigate the issues with the assistance of [name], [title] and hope this letter will clarify the points you have raised.

Your concerns have been investigated by.....[include name and title], who would like to apologise for the delay in responding to your concerns. This was due to.....

Thank you for your letter dated regarding the I am sorry that it became necessary for you to write and I apologise for the delays and misunderstandings you have experienced. I have now had the opportunity to investigate these issues with the assistance of [name], [title] and hope this letter will clarify the points you have raised.

I have now had the opportunity to investigate the issue and hope this letter clarifies the points raised. Firstly, I would like to apologise for the distress this incident has caused you.

I would like to assure you that your concerns have been raised with the staff involved in..... and have been fully investigated.

I was sorry to hear that you were unhappy with....

I am sorry to hear you foundto be upsetting as this was not the intention. The normal practice is.....I am sorry that in this instance this did not occur

I apologise for the additional anxiety this caused.

I am sorry that this was not made clear to you.

Please accept my sincere apologies for any upset or distress that was caused to you [if the complaint is not justified, change to upset or distress you felt]

I would like to apologise if [staff member] appeared rude at any time during the conversation with you. They would like to assure you that this was not their intention.

In conclusion, the Clinical Commissioning Group will be taking the following action in relation to the issues you have raised.

7. Draft format for complaint response.

Date:

Address:

Dear xxxxx

Thank you for letter dated xxxxx in which you raised concerns regarding / about, xxxxx. I am sorry to hear of your experience but appreciate you bringing the concerns to my attention. I have now had the opportunity to investigate your complaint fully, with the assistance of xxxxx, and hope that I can clarify matters for you. But first may I apologise for the difficulties you have experienced.

7.1. Points to consider when responding to complaints:

- Have you started the letter by offering an apology if appropriate?
- Has any named person had the opportunity to comment on the response?
- Have you offered the complainant reassurances that the complaint has been fully investigated?
- Is the response evidence based?
- Is the tone of the response appropriate?
- Has everything been covered?
- Have lessons been identified and follow-up action explained?
- Has a meeting been offered if appropriate?

7.2. You must end your letter by adding:

I hope I have addressed all your concerns fully but I appreciate that you may have further questions or comments and I would be happy to reply to these. If you would like to discuss this matter further please do not hesitate to contact our Complaints team at the address above. *(The Complaints team will ensure relevant information regarding the right to request review by the Parliamentary and Health Service Ombudsman is included.)*

Yours sincerely Xxxxxx
Chief Officer

7.3. A **copy of the final response will be shared with all staff and service managers involved.**

8. Compliments.

We love to get these! Compliments are generally less forthcoming so please forward details of any you receive to the complaints team. Contact details are in [Appendix A](#).

Appendix H: Lessons Learnt Pro Forma.

Responsible organisation:	
Outline of Incident or Complaint:	
Complaint ID:	
Details of lessons learnt and subsequent changes made as a result:	
Dates changes effective from (if appropriate):	
How has the lesson and changes been disseminated? (please attach relevant documents if appropriate):	
How will these changes be evaluated for effectiveness?	
When will the changes be evaluated?	

Contact details:	
Name:	
Job title:	
Telephone:	
Date:	

Appendix I: Process Map for Initial Complaints.

