



**Nottingham and  
Nottinghamshire**  
Integrated Care Board

# **Complaints and Enquiries Policy**

**July 2024 - July 2027**

<b>CONTROL RECORD</b>	
<b>Title</b>	Complaints and Enquiries Policy
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<b>Author</b>	Patient Experience Manager
<b>Sponsor</b>	Director of Nursing
<b>Team</b>	Patient Experience / Complaints Team
<b>Amendments</b>	<p>Updates to ensure policy fully aligns with the expectations of the NHS Complaints Regulations (2009) and the PHSO NHS Complaint Standards (2022), to include:</p> <ul style="list-style-type: none"> <li>• Removal of point 27.2 under Section 27 'Staff Training and Support', as this is duplicated at Section 8 (point 8.1.3).</li> <li>• Revision of point 12.3 (Section 12 'Reporting and Learning') to reflect how the ICB implement any actions arising from a complaint.</li> <li>• Removal of BSOL under point 7.3 (Section 7) amended to Nottingham and Nottinghamshire ICB.</li> <li>• Inclusion of the link for the revised Complaints Leaflet at Section 9 (point 9.8).</li> <li>• Inclusion of information that treatment and care will not be compromised by making a complaint under Section 11 (point 11.4).</li> <li>• Inclusion of the Caldicott Principles under Section 30 (point 30.9).</li> <li>• Inclusion in Appendix 2 'Relevant Legislation and Guidance' of the Data Protection Act 2018 and UK General Data Protection Regulation (UK GDPR) 2016 updated 2020.</li> <li>• Accessibility checks throughout policy have been updated.</li> </ul>
<b>Purpose</b>	To set out how the ICB will handle complaints and enquiries in compliance with statutory requirements ensuring that all individuals are aware of their responsibilities.
<b>Superseded Documents</b>	Complaints and Enquiries Policy v2.1

<b>Audience</b>	All employees of the Integrated Care Board Nottingham and Nottinghamshire (including all individuals working within the ICB in a temporary capacity, including agency staff, seconded staff, students and trainees, and any self-employed consultants or other individuals working for the ICB under contract for services), individuals appointed to the Integrated Care Board and its committees, all member GP practices (single-handed practitioners, practice partners, or their equivalent; or where the practice is a company, each Director), community dentists, community pharmacies and community optometrists and any other individual directly involved with responding to complaints and concerns from patients and members of the public.
<b>Consulted with</b>	None
<b>Equality Impact Assessment</b>	EIA has been reviewed (see section 31)
<b>Approving Body</b>	Quality and People Committee
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<p><b>This is a controlled document and whilst this policy may be printed, the electronic version available on the ICB's document management system is the only true copy. As a controlled document, this document should not be saved onto local or network drives.</b></p>	

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## **1. Introduction**

- 1.1 This policy applies to NHS Nottingham and Nottinghamshire Integrated Care Board (ICB); hereafter referred to as 'the ICB'.
- 1.2 The purpose of this document is to provide a framework for managing complaints in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI/2009/309 & SI/2009/1768).
- 1.3 The ICB commissions health services for its local resident population and is committed to ensuring stakeholders, patients and the public are involved in shaping the services that are commissioned.
- 1.4 The ICB recognise that complaints and enquiries are valuable sources of information from people about the quality of NHS services it commissions. The ICB are committed to providing an accessible, equitable and effective means for people to express their experience of using the services that the ICB provide or is responsible for commissioning.
- 1.5 Complaints, enquiries and compliments help the ICB gain an insight into the standards of care and experiences of people using the services commissioned. The insight helps the ICB to continually improve the quality of services and to take action to prevent similar problems occurring in the future.
- 1.6 The ICB take all complaints and enquiries seriously and will aim to facilitate a resolution whenever possible at local level by front-line staff and their managers.
- 1.7 The ICB aim to ensure that patients, relatives, carers and all other users of local health services have their complaints and enquiries dealt with sympathetically, promptly, confidentially, impartially and with courtesy.
- 1.8 The Patient Experience Team will provide all the necessary activities to enable the ICB to meet its statutory duties and obligations as set out in The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

## **2. Purpose**

- 2.1. The purpose of this policy is to:
  - Ensure that patients, relatives, carers and all other users of local health services have their complaints and enquiries dealt with in confidence and impartiality, with courtesy in a timely and appropriate manner.
  - Inform ICB staff of the policy and procedure in relation to complaints and enquiries and their role within the procedure.

### 3. Scope

- 3.1 This policy applies to all patient complaints and enquiries relating to the ICB corporate services and decisions as well as services commissioned and contracted by, or on behalf of, the ICB.
- 3.2 From 1 July 2023, the ICB holds statutory responsibility for complaints handling for Primary Care services; this includes GPs, Pharmacy, Optometry and Dentistry (PODs), which was previously the responsibility of NHS England.
- 3.3 These complaints are now managed by the East Midlands hub, hosted by the ICB, who will carry out complaint investigations on behalf of the ICB. The ICB holds overall responsibility for complaints with sign off by the Chief Executive (see Appendix I: Primary Care Complaints Handling Flowchart and Appendix J: Primary Care Complaints Management Process).
- 3.4 This policy applies to all employees of the ICB and those that act in the capacity of employees.

### 4. Definitions

Term	Definition
<b>Complaint</b>	An expression of dissatisfaction which requires an investigation and response. An expression of dissatisfaction will be considered to be a complaint and handled in compliance with the complaint's regulations when: <ul style="list-style-type: none"><li>• The complainant expresses their dissatisfaction in terms of a complaint; and/or</li><li>• The complainant requires action to remedy their dissatisfaction but not one of an immediate healthcare need.</li></ul>
<b>Enquiry</b>	An expression of a request for information, support or assistance. Timely solutions to enquiries will be sought including liaison with staff, managers and other relevant organisations where appropriate.

### 5. Roles and Responsibilities

Roles	Responsibilities
<b>Chief Executive</b>	Has overall responsibility for complaints handling within the ICB and for signing off individual complaints.
<b>Director of Nursing</b>	Has responsibility to ensure compliance with the regulations and that any necessary action is taken following the outcome of complaints.

Roles	Responsibilities
<b>Patient Experience Manager</b>	<p>Is responsible for managing the complaints and enquiries procedures and will:</p> <ul style="list-style-type: none"> <li>• Provide the organisation with the advice and leadership on complaints and enquiries issues.</li> <li>• Highlight any concerns regarding organisational compliance with the complaints policy.</li> <li>• Update the organisation as to changes in complaints and enquiries processes.</li> <li>• Maintain a database of all complaints and enquiries.</li> <li>• Develop clear information for patients, the public and staff regarding the complaint and enquiries processes.</li> <li>• Support the Patient Experience Complaints Officer in recognising any complaints which require any immediate action to safeguarding.</li> <li>• Ensure consent, confidentiality and Caldicott principles are adhered to.</li> <li>• Ensure that the complaints and enquiries procedures are compliant with Mental Capacity Act 2005 guidance.</li> <li>• Ensure that the complaints and enquiries procedures are compliant with the duties under the Equality Act 2010.</li> <li>• Report and provide relevant information to NHS England, the Care Quality Commission and the Parliamentary and Health Service Ombudsman.</li> <li>• Review and evaluate compliance with the procedures.</li> <li>• Be responsible for providing quarterly reports on patient experience including complaints and enquiries.</li> <li>• Provide an annual report which enables the ICB to understand the issues raised by and the improvements made from complaints and enquiries.</li> <li>• Liaise with the Communications Team to highlight any risk of media attention.</li> <li>• Provide training on complaints and enquiries to staff and providers of commissioned services.</li> </ul>
<b>Patient Experience Complaints Officer</b>	<p>Is responsible for the day-to-day operation of the complaints procedures:</p> <ul style="list-style-type: none"> <li>• Assist and support patients and members of the public who wish to make a complaint.</li> <li>• Accurately record complaints on the Patient Experience database in line with the ICB Records Management Policy.</li> </ul>



Roles	Responsibilities
	<ul style="list-style-type: none"> <li>• Agree the complaint details with the complainant.</li> <li>• Seek consent where required.</li> <li>• Agree complaints handling with the complainant.</li> <li>• Liaise with complainants, advocates, staff and providers of commissioned services to achieve resolution of complaints and concerns.</li> <li>• Arrange meetings, mediation or other complaints handling methods agreed with the complainant.</li> <li>• Investigate complaints and ensure that each complaint is considered fully.</li> <li>• Investigate and write complaint responses.</li> <li>• Ensure agreed timescales are met.</li> <li>• Undertake post-resolution complainant satisfaction surveys.</li> </ul>
<b>Patient Experience Enquiries Officer</b>	<p>Is responsible for the day-to-day operation of the enquiries and concerns procedures and provides support to the Patient Experience Manager and Patient Experience Complaints Officer.</p> <ul style="list-style-type: none"> <li>• Assist and support patients and members of the public who wish to raise an enquiry or compliment about a commissioned or NHS Service.</li> <li>• Seek the appropriate consent where required.</li> <li>• Liaise with providers and commissioned services to obtain information to aid the resolution of enquiries or compliments.</li> <li>• Act in a timely way and ensure that the patient or member of the public is informed about any delays.</li> <li>• Accurately record enquiries and compliments on the Patient Experience database in line with the ICB Records Management Policy.</li> </ul>
<b>All Employees of the ICB</b>	<p>All employees of the ICB should ensure that they are aware of how patients and members of the public can raise complaints, enquiries and compliments with the Patient Experience Team. All employees should ensure that they can signpost to the service and are aware of the complaints policy.</p> <ul style="list-style-type: none"> <li>• When requested employees should provide relevant, full and timely information about any service they are involved in commissioning or providing for the complaint investigation.</li> <li>• All employees should work in accordance with a Communication Management Plan when required, to ensure the effectiveness of the plan.</li> </ul>

## **6. Training**

6.1 It is expected that all staff carrying out complaint investigations or being involved in the complaints process have up to date training in:

- The internal ICB complaints handling processes;
- A working knowledge of the National Health Service Complaints (England) Regulations 2009;
- Database management (of the current ICB complaints database);
- An awareness and application of record keeping best practice; and
- An awareness and application of Information Governance best practice.

## **7. Principles**

7.1 The ICB recognises that most patients receiving NHS health care do not wish to complain about their care, therefore when a complaint or enquiry is received it is significant. All complaints and enquiries will be listened to and treated seriously. The ICB will make no distinction between complaints and enquiries received by telephone, email or letter.

7.2 The ICB will have regard to its duty to eliminate discrimination, to advance equality of opportunity and to foster good relations between different people when responding to complaints and enquiries.

7.3 Providers of NHS services commissioned by the ICB will be supported to resolve complaints and enquiries themselves unless either the complainant chooses to complain to the ICB or the ICB decide to investigate the complaint.

7.4 The ICB will co-operate with other NHS organisations and local authorities in the handling of joint complaints to provide a seamless complaints process for the complainant.

7.5 When patients and members of the public make a complaint, the ICB will:

7.5.1 Treat all complainants with respect and courtesy.

7.5.2 Invite the complainant to discuss the complaint handling.

7.5.3 Consider all aspects of the complaint in a timely manner using the most appropriate method.

7.5.4 Without delay notify the relevant Safeguarding Lead(s) of any potential safeguarding risks identified arising from the complaint.

7.5.5 Provide an honest and open response including a detailed explanation of events covered by the complaint.

7.5.6 Where possible, put things right and apologise if something has gone wrong.

- 7.5.7 Consider all available forms of redress for complaints which are upheld including financial redress where appropriate (see the financial redress procedure at Appendix D).
- 7.5.8 Identify and disseminate learning from the complaint.
- 7.6 When patients and members of the public raise an enquiry, the ICB will:
  - 7.6.1 Treat all persons bringing an enquiry with respect and courtesy.
  - 7.6.2 Without delay notify the relevant Safeguarding Lead(s) of any potential safeguarding risks identified arising from the concern.
  - 7.6.3 Liaise with staff, managers and, where appropriate, other organisations, to negotiate timely solutions.
  - 7.6.4 Provide information in a balanced, impartial way to the person bringing the concern.
  - 7.6.5 Identify and disseminate learning from the enquiry.
- 7.7 Where a person complains on someone else's behalf, the ICB will obtain explicit, informed consent of the patient, or where that is not possible, will satisfy itself that the complainant is acting in the best interests of the patient before accepting the complaint for investigation.
  - 7.7.1 Where a person brings an enquiry about another person's treatment and care then that enquiry will be addressed in general terms only.
  - 7.7.2 The ICB will ensure that no-one is discriminated against or treated badly, and that patient care is not compromised as a result of making a complaint or raising an enquiry through its commissioning and contracting processes.
- 7.8 The ICB encourages the use of advocacy to support patients and members of the public making complaints. All complainants will be provided with details of the organisation providing independent advocacy for NHS complaints when their complaint is acknowledged.
- 7.9 All complaints and enquiries information will be confidential to the patient, the complainant, the person raising the complaint or enquiry, the ICB and providers of services commissioned by the ICB where appropriate.

## **8. What is Not Covered by this Policy**

- 8.1 The following are not covered by the NHS complaints procedure:
  - 8.1.1 Complaints that have already been investigated under the 2009 NHS Complaints Regulations by the ICB or a Provider, unless there are significant reasons to do so.

- 8.1.2 Complaints which are under investigation by the Parliamentary and Health Service Ombudsman.
  - 8.1.3 Complaints about HR issues e.g. complaints from professionals about the behaviour or action of other professionals.
  - 8.1.4 Staff complaints about employment issues.
  - 8.1.5 Complaints about privately funded health care.
  - 8.1.6 Allegations of a criminal nature, including allegations of fraud.
  - 8.1.7 Complaints which are subject to an ongoing police investigation or legal action, where a complaints investigation could compromise the police investigation or legal action.
  - 8.1.8 Complaints about an alleged failure to comply with a request for information under the Freedom of Information Act 2000.
  - 8.1.9 Complaints about an Information Governance issue or alleged failure to comply with a data subject access request under the Data Protection Act 2018.
- 8.2 Where the ICB has decided not to investigate a complaint because it falls within one of the categories specified above, the ICB will write to the complainant to explain the decision and give reasons.
- 8.3 Complaints regarding decisions about continuing healthcare funding and children's continuing care funding will be considered under the NHS Midlands and East NHS Continuing Healthcare Local Dispute Resolution Procedure. Complaints about any other aspects of the children's continuing care assessment and decision-making process and the continuing healthcare assessment and decision-making process will be considered in accordance with this policy.

## **9. Who Can Make a Complaint**

- 9.1 A patient, or any person affected by, or likely to be affected by, the action, omission or decision of the ICB and providers of services commissioned by the ICB.
- 9.2 Someone acting on behalf of a person specified in paragraph 9.1 with that person's consent.
- 9.3 A child (under 18) who is considered competent to make their own decisions under the Gillick competency and Fraser guidelines.<sup>1</sup>
- 9.4 A parent, carer or guardian on behalf of a child, either with that child's consent if the child is considered competent to make their own decisions under the

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<sup>1</sup> "Parental right yields to the child's right to make his own decisions when he reaches a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision." Lord Scarman, Gillick case 1985

Gillick competency and Fraser guidelines, or without consent where the child is not considered competent.

- 9.5 A person complaining on behalf of someone who lacks capacity to make their own decisions (within the meaning of the Mental Capacity Act 2005) or on behalf of someone who has died, where the ICB considers that the complainant is acting in the best interests of the patient.
- 9.6 A person who holds a lasting power of attorney for a person, where the power includes health and welfare matters and is registered with the Court of Protection.
- 9.7 If the ICB decides not to accept a complaint because the complainant does not fall within any of categories specified above, the ICB will write to the complainant to explain the decision and give reasons.
- 9.8 On the Patient Experience and Complaints page on the ICB website, there is a leaflet for patients with more information about making a complaint - <https://notts.icb.nhs.uk/wp-content/uploads/sites/2/2022/04/ICB-complaints-leaflet-1.pdf>

## **10. Time Limits for Making a Complaint**

- 10.1 The time limit for making a complaint is 12 months from the date of the incident giving rise to the complaint or the date that the complainant became aware of the incident giving rise to the complaint.
- 10.2 Where a complaint is made after the 12 months' time limit, then the ICB may use their discretion to accept the complaint if the complainant had good reason for not complaining earlier and it is possible to investigate the complaint fairly and effectively despite the delay.

## **11. Support for Complainants**

- 11.1 Complainants will be offered information about how to access independent advocacy support when making a complaint and, where appropriate, specialist advocacy services.
- 11.2 The ICB will support complainants with information and communications needs to enable them to make a complaint in line with the scope of the NHS Accessible Information Standard 2017.
- 11.3 The ICB will aim to communicate with complainants in their preferred medium whenever possible, this could be by telephone, by email, by letter or in person through appointments arranged in advance.
- 11.4 Making a complaint is one way that helps organisations to learn lessons from their mistakes and to prevent them happening to anyone else. The ICB is committed that a complainant's care and treatment with NHS services will not be compromised as a result of making a complaint.

- 11.5 Should the ICB be made aware that a patient's care and treatment has been compromised in a negative manner, as a result of making a complaint, the ICB will discuss this with the relevant provider and take any necessary actions.

## **12. Reporting and Learning**

- 12.1 The ICB is committed to learning from complaints and patient feedback and where appropriate making service changes. The ICB welcomes complaints as opportunities to maximise learning and service development and improvement.
- 12.2 All complainants will be asked to provide demographic information about themselves to identify whether there may be any indication of discrimination on the basis of the protected characteristics of the complainant, the nature or the cause of the complaint.
- 12.3 In some instances the resolution of a complaint may lead to actions to implement change. Where appropriate, the complainant should also be advised of any changes or progression to service delivery as a result of the complaint and actions taken. This can be done directly to the complainant or via another method such as within a report or on the ICB website page which highlights service improvements. Anonymised complaint responses are sent to the ICB commissioning/contracting teams and the ICB quality team for their learning and action as required. Complaints are also discussed at provider quality and contract meetings. Where appropriate, the ICB will share relevant comms via the ICB website, public engagement, reviewing and revising existing policies and procedures and providing education, training or communications to ICB staff. Where necessary, triangulation of data relating to complaints is shared with ICB teams to inform service benefit reviews, procurement of services, EQIA etc.
- 12.4 Satisfaction surveys will be sent to complainants with the response to the complaint and information obtained being included in the annual report.
- 12.5 Reports including patient experience data and lessons learnt will be provided to the relevant ICB's committees. KO41 Reports will be provided to NHS England annually and other bodies on request.
- 12.6 An Annual Report compiling information on complaints and enquiries received will be submitted to the ICB through the appropriate governance mechanism.

## **13. Complaints Procedure (see Appendix A for Complaints Process Flowchart)**

- 13.1 The ICB is committed to providing all patients, carers, family members and members of the public with the opportunity to make a complaint, seek advice or raise enquiries about any of the services it provides or commissions.

- 13.2 It is essential that all complaints are received positively, investigated thoroughly and promptly; and responded to in an open and empathetic manner. Action should be taken where appropriate, to prevent a recurrence of the circumstances leading to the complaint.
- 13.3 The complaints procedure has two stages:
- Local resolution – with the option to have a review if dissatisfied with the initial response.
  - Independent review by the Parliamentary and Health Service Ombudsman.
- 13.4 At the local resolution stage, complaints about the ICB will be considered by the Patient Experience Team with appropriate clinical advice as necessary.
- 13.5 Where a complaint is received by the ICB about a commissioned service, the Patient Experience Team will ask the complainant which NHS organisation they wish to handle the complaint and either pass the complaint to the Provider (with the complainant's consent) or consider the complaint at the local resolution stage.
- 13.6 Where a commissioned service fails to co-operate with, or causes significant delay to, the ICB investigation, the Patient Experience Manager will escalate the matter to the appropriate manager for resolution.
- 13.7 Independent review is carried out by the Parliamentary and Health Service Ombudsman. Once all reasonable steps have been taken to resolve the complaint at the local resolution stage, the Patient Experience Team will inform the complainant that local resolution has been completed and advise them of their right to complain to the Parliamentary and Health Service Ombudsman.
- 13.8 Receiving complaints - complaints can be received:
- Verbally on the telephone.
  - In writing.
  - By email.
  - Via the ICB website.
  - In person by advanced appointment.
  - A complaint can be received anonymously. Anonymous complaints can be investigated in line with this policy and the outcome used for service or ICB learning.
  - If another team receives a complaint directly, they should seek permission from the complainant to pass that complaint on to the Patient Experience Team.
- 13.9 The receipt of all complaints will be acknowledged in writing within three working days. At the time of acknowledgment, the complainant will be

provided with the contact details of the Patient Experience Team and will be advised of their right to access independent advocacy support.

- 13.10 Verbal complaints will be recorded by the Patient Experience Complaints Officer on to a complaint form and sent to the complainant with a consent form, for the complainant to sign and return.
- 13.11 Consent (which must be explicit and informed) will be obtained before the complaint is accepted for investigation through the completion of a consent form.
- 13.12 Consent must be obtained from the person the complaint issue concerns or, if the complaint is being made on behalf of someone else, that person must have been given the consent to act on behalf of the person the complaint issue concerns.
- 13.13 Delays in providing consent will have an impact on investigation timescales.
- 13.14 The investigation time period starts when consent is received.
- 13.15 The complaints process is not the appropriate channel for any action required to meet immediate health care needs. The issue can be taken forward as a concern or enquiry; the complaint can still be made after the enquiry is completed as long as it is logged within 12 months of the complaint issue happening as per the complaint regulations.
- 13.16 The relevant healthcare professional(s) will be notified of any immediate risks identified to the health and safety of the patient or others arising from a complaint without delay.
- 13.17 The relevant Safeguarding Lead(s) will be notified of any potential safeguarding risks identified arising from the complaint without delay.
- 13.18 Complaints will be assessed for the likelihood of media attention through liaison with the Communications Team.
- 13.19 All complaints received will be recorded on the Patient Experience database in line with the ICB Records Management Policy.

## **14. Local Resolution**

- 14.1 A discussion will take place with the complainant at the start of the investigation about the handling of their complaint. The Patient Experience Complaints Officer will establish and agree with the complainant the exact nature of the complaint and establish any questions or outcomes that the complainant wishes to be addressed.
- 14.2 The Patient Experience Complaints Officer will:
  - For commissioned services, identify which NHS organisation will investigate the complaint.



- Where complaints span more than one NHS service, identify which organisation will take the lead on investigating and responding to the complaint.
- Determine the most appropriate complaints handling outcome (this could be a meeting, mediation or investigation either by the Patient Experience Team, another manager or an independent clinician).
- Through discussion with the complainant, should identify any support the complainant may require, including providing details of any advocacy services.
- Establish the timescale for providing the complainant with a response to their complaint. Ensure the complainant is informed of the progress of their complaint if there is to be a delay to the original timescale.
- How the organisation handling the complaint will respond to the complainant.

14.3 Under the complaint regulation legislation, there are no fixed and specified response timescales for formal complaints. However, the regulations do state that, where possible, complaints should be responded to within six months.

- Response and resolution timescales will be as timely as possible and set based on an agreement between the investigating officer and the provider and will often be individual to the nature and complexity of each complaint.
- **Where possible, the ICB will aim to provide a response to a complaint within either 25, 40 or 65 working days.** The response timescale is dependent on the complexity of the complaint. Where a complaint is taking longer than anticipated to investigate, an extension can be made and the complainant should be advised of this.

14.4 Where the complainant has requested a meeting to discuss the outcome of their complaint, the Patient Experience Team will arrange the meeting with the complainant (and their supporter or advocate) and the appropriate manager and/or clinical advisor.

## 15. The Complaint Investigation

15.1 Complaints will be investigated by the Patient Experience Complaints Officer. This will involve liaising with teams within other services and organisations; this could be an appropriate manager or commissioner within the ICB, independent clinicians or Providers and other Complaints and PALS teams across the NHS locally.

15.2 The Patient Experience Complaints Officer should provide anyone investigating the complaint with:

- A copy of any consent obtained.

- A clear indication of the points to be addressed by the complaint investigation and response.
- A copy of the original complaint.
- Details of any time frames with the aim of clearly negotiating a time frame for when the Patient Experience Complaints Officer can expect to receive the information from the Investigator.

## **16. The Complaint Response (See Appendix B for the Secondary Complaint Response Process Flowchart)**

- 16.1 The outcome of the investigation and any actions agreed will be reported to the complainant in writing, signed by the Chief Executive or, in their absence, by their deputy. The response will cover all aspects of the complaint, offer appropriate redress, and advise the complainant of their right to make a complaint to the Parliamentary and Health Service Ombudsman.
- 16.2 If the complainant is not satisfied with the response, or indicates on receipt of the response, that they have points that they require clarification, then the Patient Experience Complaints Officer will:
- Agree and identify the points within the original response that are to be clarified with the complainant.
  - Contact the investigator of the complaint and request that they provide additional clarification.
  - Draft the secondary response.
  - There are no set response time frames for a secondary response. However, the response should be within a reasonable time determined by the Patient Experience Complaints Officer based on the circumstances of the individual secondary investigation.
- 16.3 The points for clarification cannot constitute a new complaint and must not raise issues not already addressed within the initial complaint.
- 16.4 If the Patient Experience Manager considers that all reasonable steps have been taken to resolve the complaint in the original response, then the complainant will be informed that local resolution has been completed and they will be advised to contact the Parliamentary and Health Service Ombudsman.

## **17. Unreasonable Contact Process**

- 17.1 In a minority of cases, a person may pursue their complaint or enquiry in a way that is considered to be unreasonable. They may be unreasonably persistent in their contacts with the ICB or behave in a way that is considered to be unacceptable. This behaviour can impede the investigation of their

complaint or enquiry (or complaints or enquiries by others) and can have a significant impact on resources. The behaviour can take place whilst the complaint is being investigated or once the complaint investigation has finished.

- 17.2 The ICB aims to investigate and respond to contacts about complaints and enquiries in a way that is open, fair and proportionate. This policy sets out how the organisation will manage and respond to unreasonable behaviour from people. This policy helps all staff to understand clearly what is expected of them, what options for action are available and who can authorise these actions. It is also intended to be shared with complainants when the policy is applied.
- 17.3 The ICB does not expect its staff to tolerate any form of behaviour from people that could be considered abusive, offensive, or threatening, or that becomes so frequent it makes it more difficult for staff to complete their work or help other people. The ICB will act under this process to manage this type of behaviour, and this applies to all contact with the ICB including the use of social media.
- 17.4 This process covers behaviour from people that is considered by the ICB to be unreasonable, which may include one or two isolated incidents, as well as persistently unreasonable behaviour, which is usually a build-up of incidents or behaviour over a longer period.
- 17.5 Some people have justified complaints or enquiries but may not pursue them in an appropriate way. Others may pursue complaints or enquiries which appear to have no substance, or which have already been investigated and determined. Their contacts with the ICB may be amicable, but still place heavy demands on staff time, or they may be emotionally charged and distressing for all involved.
- 17.6 A person may be deemed to be unreasonable if they display behaviour such as:
  - Refusing to co-operate with the complaints and enquiries process (not accepting the limitations of the process or response deadlines).
  - Refusing to accept that certain issues are not within the scope of the complaints and enquiries process.
  - Insisting on the complaint or enquiry being dealt with in ways which are incompatible with the complaints and enquiries process, policy, and good practice.
  - Changing the basis of the complaint or enquiry as the investigation proceeds.
  - Introducing trivial or irrelevant information at a later stage of the investigation.

- Raising many detailed but unimportant questions and insisting they are all answered (this can include information about Local Authority services policy and procedure which is not necessary, hypothetical, and rhetorical questions, sarcasm and questions that ask for an opinion).
- Adopting a 'scatter gun' approach, pursuing parallel complaints on the same issue with various organisations.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous ICB staff or detailed letters every few days and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations that the complainant insists makes these 'new' complaints.
- Refusing to accept the decision and/or repeatedly arguing points with no new evidence.
- Making unjustified complaints about staff who are trying to deal with the issues and seeking to have them replaced.
- Refusing to specify the grounds of the complaint, despite offers of help.
- Unreasonably persistent contact would be defined as several emails per day being received from the complainant, multiple interactions on a social media site per day, multiple daily telephone calls, telephone calls demanding a response immediately or discussing issues already raised by the complainant more than 10 minutes or frequently attending a service in person without need or appointment.
- Submitting a complaint that is unreasonable.

17.7 Before implementing this policy, reflections should be made, and it should be ensured that any actions taken are proportionate to the nature and frequency of the person's current contact. The implementation of the policy will be for the duration of the investigation or concern and enquiry handling. It does not prevent the person from making new unrelated complaints or enquiries about NHS services in the future.

17.8 There must be accurate recorded evidence to demonstrate why the ICB considers the person to be acting or communicating in an unreasonable manner. This should include a timeline of contacts, the date of contacts and what method. It should also be demonstrated that the complainant has been communicated with by the Patient Experience Team in line with the complaints policy.

17.9 The Patient Experience database should be kept up to date detailing all contacts from the person.

17.10 Before the implementation of the unreasonable contact process, if the Patient Experience Manager considers a person's behaviour to be unreasonable or inappropriate when interacting with the Patient Experience Team, they should write to the person advising them that their interaction with the team has been

inappropriate and ask them to modify their behaviour going forward, and that if they do not the policy would have to be applied.

17.11 The implementation of the unreasonable contact process be individual to the person and the specific circumstances. The ICB will usually only take action to restrict a person's contact with the ICB entirely after it has been considered whether there are any other adjustments that could be made to prevent unreasonable behaviour from occurring. Any restrictions imposed will be appropriate and proportionate.

It can mean that the following adjustments/preventions are applied:

- Communication by telephone is restricted either partially or totally.
- Communication is by email or letter only going forward.
- The person is no longer able to discuss the ongoing complaint or enquiry in person with the Patient Experience Team.
- A Single Point of Contact (SPOC) is nominated for the person; this going forward will be the only contact within the team for the duration of the complaint or enquiry. It may be that contact with the SPOC is also partially restricted to one method or frequency.
- If, despite any adjustments the ICB has made, the person continues to behave in a way which is unreasonable, the decision may be made to end contact with the person.

17.12 Where the person does not modify their interactions after the request to do so from the Patient Experience Team, action will be taken, including deciding whether to restrict the person's contact with the ICB. This decision will usually be taken by the Patient Experience Manager in conjunction with the Assistant Director for Nursing and Quality and the Deputy Chief Nurse for Oversight and Strategy and Director of Quality, if necessary.

17.13 The Patient Experience Manager will then write to the person advising them that the policy is to be applied, using the wording below:

“I am writing to advise you that, as a result of your recent interactions with the Patient Experience Team, and your reluctance to modify the way you interact with us, we have no choice but to implement our unreasonable contact process.

The duration of the application of this policy will be [the person writing the letter should write the duration here]

If you should wish to appeal this decision, please contact us in writing with your reasons for appeal by email to [nnicb-nn.patientexperience@nhs.net](mailto:nnicb-nn.patientexperience@nhs.net).”

17.14 If the decision is made to implement the unreasonable contact process, it is important that all stakeholders are made aware. A Communication Management Plan should be put in place please (see Appendices G and H).

- 17.15 If an appeal is received, this will be reviewed by the Assistant Director for Nursing and Quality. A decision will be made whether to maintain the decision to apply the policy or to revoke it. The person will be notified with the decision in writing within five working days. The policy will remain in place for the duration of any appeal decision making.
- 17.16 There will be occasions where the ICB decides that a person's behaviour is so extreme that it threatens the immediate safety and welfare of their staff or others. In these instances, the ICB will consider stopping all contact immediately, reporting what has happened to the police or taking legal action. In such cases, the ICB may not warn the person before this is done.

## **18. Communication Management Plan**

- 18.1 The key to effectively managing communication with a person who is demonstrating unreasonable behaviour or persistent contact is consistency.
- 18.2 A Communication Management Plan (CMP) provides information to all key stakeholders, on why the unreasonable contact process has been implemented and gives an instruction about how they should or should not communicate with the person going forward.
- 18.3 A CMP should be put in place whenever the unreasonable contact process is implemented.
- 18.4 In order for the unreasonable contact process to be effective, the CMP Guidance for Colleagues document (Appendix H) should be sent to all key stakeholder colleagues at the time of the implementation of the unreasonable contact process.
- 18.5 It is important that key stakeholder colleagues work to the instructions in the CMP Guidance for Colleagues document. There is a risk to the organisation if staff members operate outside of the CMP Guidance even if the intention is to support the patient. The organisation could be considered to be operating outside of relevant policy and procedure and could come under criticism. Working within the CMP Guidance protects the patient, staff and the organisation. It is important that the Patient Experience Team manage the contact with the person through the CMP because:
- The Patient Experience Team has skills and experience in handling contacts of this nature.
  - All communication and contact with the complainant is accurately recorded on the complaints database.
  - Any relevant and appropriate safeguarding referrals can be made and recorded.
  - There is a consistency of message to the complainant around communication.

- The ongoing complaints investigation is not compromised because other staff providing the complainant with information directly will do this.
- It ensures that the ICB Complaints Policy is adhered to.
- It means that the CMP remains effective (if the contact has been restricted to email for example a call may derail this).

## **19. Complaints about Commissioned Services**

- 19.1 Complainants have the choice to complain about services commissioned by the ICB either to the Provider directly or to the ICB.
- 19.2 Where a complaint is received about a commissioned service, the Patient Experience Team will ask the complainant which organisation they wish to investigate their complaint. If the complainant wishes the Provider to investigate, then the complaint details will be recorded and passed to the Provider with the complainant's consent, which need not be in writing, but must be explicit and informed and will be recorded by the Patient Experience Team. Otherwise the ICB will investigate and respond to the complaint and provide a copy of the response to the Provider.
- 19.3 Where a Provider has investigated a complaint under the NHS complaints regulations, the ICB will not re-investigate unless the Patient Experience Manager has been informed by the commissioner that they consider, and it is agreed, that:
- The investigation by the commissioned service Provider does not meet the requirements for complaints handling under the complaints regulations and further investigation is required.
  - The complaint is graded as high risk (see Appendix C for the Complaints Risk Matrix) and further investigation is required.
- 19.4 When that is the case, this must be communicated to the Patient Experience Manager in writing from the commissioner and stored on file.
- 19.5 There may be other circumstances in which the ICB will re-investigate complaints under different procedures, e.g., where the complaint raises issues of performance or safeguarding.
- 19.6 The ICB will consider any action on a case-by-case basis as appropriate.

## **20. Joint Complaints with Other Organisations**

- 20.1 The ICB has a duty to co-operate with other NHS bodies and local authorities in the handling of joint complaints. The ICB also recognises that, where complaints involve a number of services, the complainant wants assurance that all departments and/or organisations have worked together to ensure that any changes are made in a consistent and sustainable way.

- 20.2 The Patient Experience Team will co-operate with other NHS bodies and local authorities on joint complaint handling to establish lead agency arrangements and joint complaint responses.
- 20.3 A 'Protocol for the Joint Handling of Health and Social Care Complaints' has been agreed with health and social care agencies in Nottingham and Nottinghamshire and is attached as Appendix E.

## **21. Complaint Reporting**

- 21.1 Complaint reporting will be done monthly and/or quarterly based on ICB requirements.
- 21.2 KO41 reporting will be done annually and sent to NHS England.
- 21.3 Complaint reporting will be done to support commissioners and by providing data to be used for Equality Impact Assessments (EQIA) when required.
- 21.4 Complaint reporting will detail trends and themes and acknowledgment timescales in line with the NHS Complaint Regulations.

## **22. Raising an Enquiry**

- 22.1 The Patient Experience Team is the first contact for the public, patients or carers when they want to make an enquiry about a ICB commissioned service. This also includes enquiries from elected representatives (Members of Parliament and Local Authority Councillors).
- 22.2 The Patient Experience Team liaise on behalf of an enquirer with internal ICB departments to find the information needed to respond to an enquiry.
- 22.3 The enquirer should not liaise directly with departments within the ICB; all communication should be through the Patient Experience Team.
- 22.4 Enquiries can be raised directly with the team:
- Verbally on the telephone.
  - In writing.
  - By email.
  - Via the ICB's website.
  - Via a pre-arranged appointment or via an advocate.
- 22.5 Support is available on request for people making an enquiry, including access to interpreting services and leaflets about the service are also available on request in other languages and formats.
- 22.6 The ICB aims to resolve enquiries in an appropriate and timely manner. The time needed to resolve an enquiry will be decided on a case-by-case basis depending on the nature of the enquiry.



- 22.7 Some enquiries can be complex in nature and will therefore take more time to resolve. **In these instances, an initial 10 working daytime frame should be applied and, if more time is needed to resolve the enquiry, the enquirer should be informed.**
- 22.8 If the enquiry raised is complex in nature or involves multiple services and/or organisations it may take longer to resolve; in this instance, the person raising the enquiry will be kept updated on the progress as appropriate until it is resolved.
- 22.9 If the enquiry would be better handled by another organisation, the enquirer will either be directed to the other organisation or the Patient Experience Team will contact the other organisation with the consent of the person raising the enquiry.
- 22.10 Any potential performance or safeguarding issues arising from the enquiry will be referred to the relevant Commissioning Manager, Quality Manager and/or Safeguarding Lead. The Patient Experience Manager and the Patient Experience Complaints Officer should also be notified.
- 22.11 All enquiries received will be recorded on the Patient Experience database.
- 22.12 In the instance that an enquirer requests information about the current location or base of a ICB staff member or their specific contact details, the Patient Experience Enquiries Officer should not provide these details until they have checked with the staff member directly that this is appropriate. The Patient Experience Team acts as the liaison between departments and all communication should be co-ordinated by them as per point 22.2 and 22.3.
- 22.13 In a minority of cases, a person may pursue their concern or enquiry in a way that is considered unreasonable. They may be unreasonably persistent in their contacts with the ICB or behaves in a way that is considered unacceptable. This behaviour can impede the investigation into their concern or enquiry and can have a significant impact on resources. This behaviour can take place during the process of resolving a concern or answering an enquiry or once the process has finished. In those instances, the unreasonable contact process should apply (Section 17 of this policy).

## **23. Enquiries about an Information Governance Issue**

- 23.1 If the Patient Experience Team receive an enquiry about a data handling or information governance issue, the process in Appendix F should be followed.

## **24. Enquiries about Commissioning Decisions**

- 24.1 A enquiry about a commissioning decision can be defined as a person formally challenging the organisation's decision to stop providing a service or medication. This is usually because of a national or local directive and follows local engagement or consultation.

- 24.2 Enquiries about a commissioning decision should be responded to in writing and provide information from the commissioning team about the decision making for the service or medication.

## **25. Member of Parliament (MP) Enquiries**

- 25.1 Any Members of Parliament (MP) enquires received by the ICB will be dealt with in line with the ICB's MP enquiries procedure.

## **26. Communication, Monitoring and Review**

- 26.1 This policy document should be read and adhered to by all staff working in or supporting the ICB Patient Experience Team.
- 26.2 All ICB staff should be familiar with, and aware of, the policy to be able to redirect any complaints or enquiries if they receive any contact directly as a result of their role. Managers should highlight this policy to staff during their induction period.
- 26.3 The policy will be approved by the Quality and People Committee on a three yearly basis unless legislative changes occur sooner.
- 26.4 Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role, should contact the document author or Patient Experience Team at [nnicb-nn.patientexperience@nhs.net](mailto:nnicb-nn.patientexperience@nhs.net).

## **27. Staff Training and Support**

- 27.1 Members of the Patient Experience Team will be available to offer help and provide advice on the complaints process and how to investigate and respond to complaints for any member of staff.

## **28. Equality and Diversity Statement**

- 28.1 NHS Nottingham and Nottinghamshire ICB pays due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation as a commissioner and provider of services, as well as an employer.
- 28.2 The ICB is committed to ensuring that the way we provide services to the public and the experiences of our staff does not discriminate against any individuals or groups on the basis of their age, disability, gender identity (trans, non-binary), marriage or civil partnership status, pregnancy or maternity, race, religion or belief, gender or sexual orientation.
- 28.3 We are committed to ensuring that our activities also consider the disadvantages that some people in its diverse population experience when

accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum seekers, people who are homeless, workers in stigmatised occupations, people who are geographically isolated, gypsies, Roma and travellers.

- 28.4 As an employer, the ICB is committed to promoting equality of opportunity in recruitment, training, and career progression and to valuing and increasing diversity within its workforce.
- 28.5 To help ensure that these commitments are embedded in its day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

## **29. Interaction with Other Policies**

29.1 This policy is written to conform with current regulations and guidance and should be read in conjunction with other local policy documents and regional/national documents:

- Records Management Policy.
- Data Protection Act (2018) and General Data Protection Regulation (GDPR 2018).
- Health and Social Care (Community Health and Standards) Act (2003).
- Local Authority Social Services and National Health Service Complaints (England) Regulations (2009) (SI/2009/309 & SI/2009/1768).

## **30. References and Principles**

30.1 This policy has been developed using the following references and principles:

- The Local Authority Social Services and National Health Service Complaints (England) Regulations (2009) (SI/2009/309 & SI/2009/1768).
- The Health and Social Care (Community Health and Standards) Act (2003).

30.2 The ICB privacy notice:

“We are committed to protecting your privacy and will only process personal information in accordance with GDPR/data protection law, the Human Rights Act 1998 and the Common Law Duty of Confidence.

The ICB is Data Controller under the terms of data protection law and are legally responsible for ensuring that all personal information that is processed i.e.. held, obtained, recorded, used or shared about individuals is done in compliance with the six Data Protection Principles.

All data controllers must notify the Information Commissioner’s Office of all personal information processing activities. Our registration details can be

found on the public register of Data Controllers: Information Commissioner's Office public register of Data Controllers.

All information that we hold about individuals will be held securely and confidentially.

We use administrative and technical controls to do this. All of our staff, contractors and committee members receive appropriate and on-going training to ensure they are aware of their personal responsibilities and have contractual obligations to uphold confidentiality, enforceable through disciplinary procedures. We will only use the minimum and proportionate amount of personal information necessary.

Where possible, we will use information that does not directly identify individuals but when it becomes necessary for us to know or use personal information a person, we will only do this when we have either a legal basis or have that person's consent. We use strict controls to ensure that only authorised staff is able to see information that identifies you.

Only a limited number of authorised staff has access to information that identifies individuals, where it is appropriate to their role, and is strictly on a need-to-know basis".

### 30.3 The Patients Association Good Practice Standards for NHS Complaints Handling (2015):

- The complainant has a single point of contact in the organisation and is placed at the centre of the process. The nature of their complaint and the outcome they are seeking is established at the outset.
- The complaint undergoes initial assessment, and any necessary immediate action is taken. A lead investigator is identified.
- Investigations are thorough and, where appropriate, obtain independent evidence and opinion is obtained and investigations are carried out in accordance with local procedures, national guidance and within legal frameworks.
- The investigator will review, organise and evaluate the investigative findings.
- The judgement reached by the decision maker is transparent, reasonable and based on the evidence available.
- The complaint documentation is accurate and complete. The investigation is formally recorded, the level of detail appropriate to the nature and seriousness of the complaint.
- Both the complainant and those complained about are responded to adequately.
- The investigation of the complaint is complete, impartial and fair.

- The organisation records, analyses and reports complaints information throughout the organisation and to external audiences.
- Learning lessons from complaints occurs throughout the organisation.
- Governance arrangements regarding complaints handling are robust.
- Individuals assigned to play a part in a complaint investigation have the necessary competencies.

30.4 'My expectations for raising concerns and complaints' by the Parliamentary and Health Service Ombudsman, NHS England and Healthwatch England (2014) particularly the 'I Statements':

- "I felt confident to speak up".
- "I felt that making my complaint was simple".
- "I felt listened to and understood".
- "I felt that my complaint made a difference".
- "I would feel confident making a complaint in the future".

30.5 NHS England's Guide to Good Handling of Complaints for ICBs (2015) particularly that:

- "It is important to keep the patient/complainant at the centre of the response and that a single response is co-ordinated".

30.6 The NHS Constitution (2015) particularly the following rights and pledges:

"You have the right to have any complaint you make about NHS services acknowledged within three working days and to have it properly investigated.

You have the right to discuss the manner in which the complaint is to be handled, and to know the period within which the investigation is likely to be completed and the response sent.

You have the right to be kept informed of progress and to know the outcome of any investigation into your complaint, including an explanation of the conclusions and confirmation that any action needed in consequence of the complaint has been taken or is proposed to be taken.

You have the right to take your complaint to the independent [Parliamentary and Health Service Ombudsman](#) if you are not satisfied with the way your complaint has been dealt with by the NHS".

30.7 The Equality Act (2010), the Public Sector Equality Duty of the Act requires public bodies to have due regard to the following aims:

- To eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.

- To advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
- To foster good relations between people who share a relevant protected characteristic and those who do not (which involves tackling prejudice and promoting understanding).

Protected characteristics as defined by the Act are age, disability, gender identity (trans, non-binary), marriage or civil partnership status, pregnancy or maternity, race, religion or belief, gender or sexual orientation.

#### 30.8 The NHS Equality Delivery System Toolkit outcome 2.4:

“People’s complaints about services are handled respectfully and efficiently”.

#### 30.9 The Caldicott Principles:

- Justify the purpose(s) for using confidential information.
- Use confidential information only when it is necessary.
- Use the minimum necessary confidential information.
- Access to confidential information should be on a strict need-to-know basis.
- Everyone with access to confidential information should be aware of their responsibilities.
- Comply with the law.
- The duty to share information for individual care is as important as the duty to protect patient confidentiality.
- Inform patients and service users about how their confidential information is used.

[The Caldicott Principles - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[Eight Caldicott Principles 08.12.20.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

#### 30.10 The Mental Capacity Act (2005) Statutory Principles:

- A person must be assumed to have capacity unless it is established that they lack capacity.
- A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success.
- A person is not to be treated as unable to make a decision merely because they make an unwise decision.
- An act done or decision made, under this Act, for, or on behalf of a person who lacks capacity, must be done, or made, in their best interests.

- Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

30.11 The Parliamentary and Health Service Ombudsman (PHSO) Principles in NHS Complaint Handling (2014).

### 31. Equality Impact Assessment

<b>Overall Impact on: Equality, Inclusion and Human Rights</b>	<p style="text-align: center;"><b>Neutral</b></p>
<b>Title of Project, Policy, Procedure, or Service Change</b>	Complaints and Enquiries Policy
<b>Date Completed</b>	July 2023
<b>EIA Responsible Person</b> Include name, job role and email address. This is usually the Project Lead.	Patient Experience Manager – <a href="mailto:Fiona.brett@nhs.net">Fiona.brett@nhs.net</a>
<b>EIA Group</b> Include the name and position of all members of the EIA Group.	<ol style="list-style-type: none"> <li>1. Fiona Brett, Patient Experience Manager</li> <li>2. Sally Dore, Assistant Director of Quality and Personalised Care</li> </ol>
<b>Wider Consultation Undertaken</b> Outside of the project team, state who has been consulted around the EIA.	<ol style="list-style-type: none"> <li>1. None</li> </ol>
<b>Summary of Evidence</b> Provide an overview of any evidence (both internal and external) that you utilised to formulate the EIA. E.g., other policies, Acts, patient feedback, etc.	<ol style="list-style-type: none"> <li>1. Equality Act 2010</li> <li>2. Human Rights Act 1998</li> <li>3. Mental Capacity Act 2005</li> <li>4. Accessible Information Standard, NHS England</li> <li>5. Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 16</li> <li>6. Principles to Good Complaint Handling, Parliamentary and Health Service Ombudsman.</li> </ol>



	What are the actual, expected or potential positive impacts of the policy, process, strategy or service change?	What are the actual, expected or potential negative impacts of the policy, process, strategy or service change?	What actions have been taken to address the actual or potential positive and negative impacts of the policy, process, strategy or service change?	Impact Score
<b>Age</b>	There are no actual or expected positive impacts on the characteristic of Age.	There are no actual or expected negative impacts on the characteristic of Age.	A leaflet is available at paragraph 9.8 of the policy advising the public (all ages) how to make a complaint. Contact details are available by phone, email and post.	3 - Neutral
<b>Disability<sup>1</sup></b> (Including: mental, physical, learning, intellectual and neurodivergent)	There are no actual or expected positive impacts on the characteristic of Disability.	There are no actual or expected negative impacts on the characteristic of Disability.	A leaflet is available at paragraph 9.8 of the policy advising the public how to make a complaint. Contact details are available by phone, email and post.	3 - Neutral
<b>Gender<sup>2</sup></b> (Including: trans*, nonbinary and gender reassignment)	There are no actual or expected positive impacts on the characteristic of Gender.	There are no actual or expected negative impacts on the characteristic of Gender.	None.	3 - Neutral

<b>Marriage and Civil Partnership</b>	There are no actual or expected positive impacts on the characteristic of Marriage and Civil Partnership.	There are no actual or expected negative impacts on the characteristic of Marriage and Civil Partnership.	None.	3 - Neutral
<b>Pregnancy and Maternity Status</b>	There are no actual or expected positive impacts on the Pregnancy and Maternity Status characteristic.	There are no actual or expected negative impacts on the Pregnancy and Maternity Status characteristic.	None.	3 - Neutral
<b>Race<sup>3</sup></b>	There are no actual or expected positive impacts on the characteristic of Race.	There are no actual or expected negative impacts on the characteristic of Race.	All ICB policies state that they are available in different format and languages – this is for the Communications Team to arrange. The complaints leaflet states that it is available in different formats and languages if needed.	3 - Neutral
<b>Religion and Belief<sup>4</sup></b>	There are no actual or expected positive impacts on the characteristic of Religion or Belief.	There are no actual or expected negative impacts on the characteristic of Religion or Belief.	None.	3 - Neutral
<b>Sex<sup>5</sup></b>	There are no actual or expected positive impacts on the characteristic of Sex.	There are no actual or expected negative impacts on the characteristic of Sex.	None.	3 - Neutral

<b>Sexual Orientation<sup>6</sup></b>	There are no actual or expected positive impacts on the characteristic of Sexual Orientation.	There are no actual or expected negative impacts on the characteristic of Sexual Orientation.	None.	3 - Neutral
<b>Human Rights<sup>7</sup></b>	There are no actual or expected positive impacts on the characteristic of Human Rights.	There are no actual or expected negative impacts on the characteristic of Human Rights.	None.	3 - Neutral
<b>Community Cohesion and Social Inclusion<sup>8</sup></b> (Including: personalised care)	There are no actual or expected positive impacts on the characteristic of Community Cohesion and Social Inclusion.	There are no actual or expected negative impacts on the characteristic of Community Cohesion and Social Inclusion.	None.	3 - Neutral
<b>Safeguarding<sup>9</sup></b> (Including: adults, children, LAC and adults at risk or who lack capacity)	There are no actual or expected positive impacts on the characteristic of Safeguarding.	There are no actual or expected negative impacts on the characteristic of Safeguarding.	<ol style="list-style-type: none"> <li>1. The Policy and associated Appendices and guidance have been reviewed to incorporate specific sections around Gillick Competence.</li> <li>2. Paragraph 7.6.2 states that the Safeguarding Lead should be contacted where there is an issue of safeguarding or where a risk of harm or to life is identified.</li> </ol>	3 - Neutral

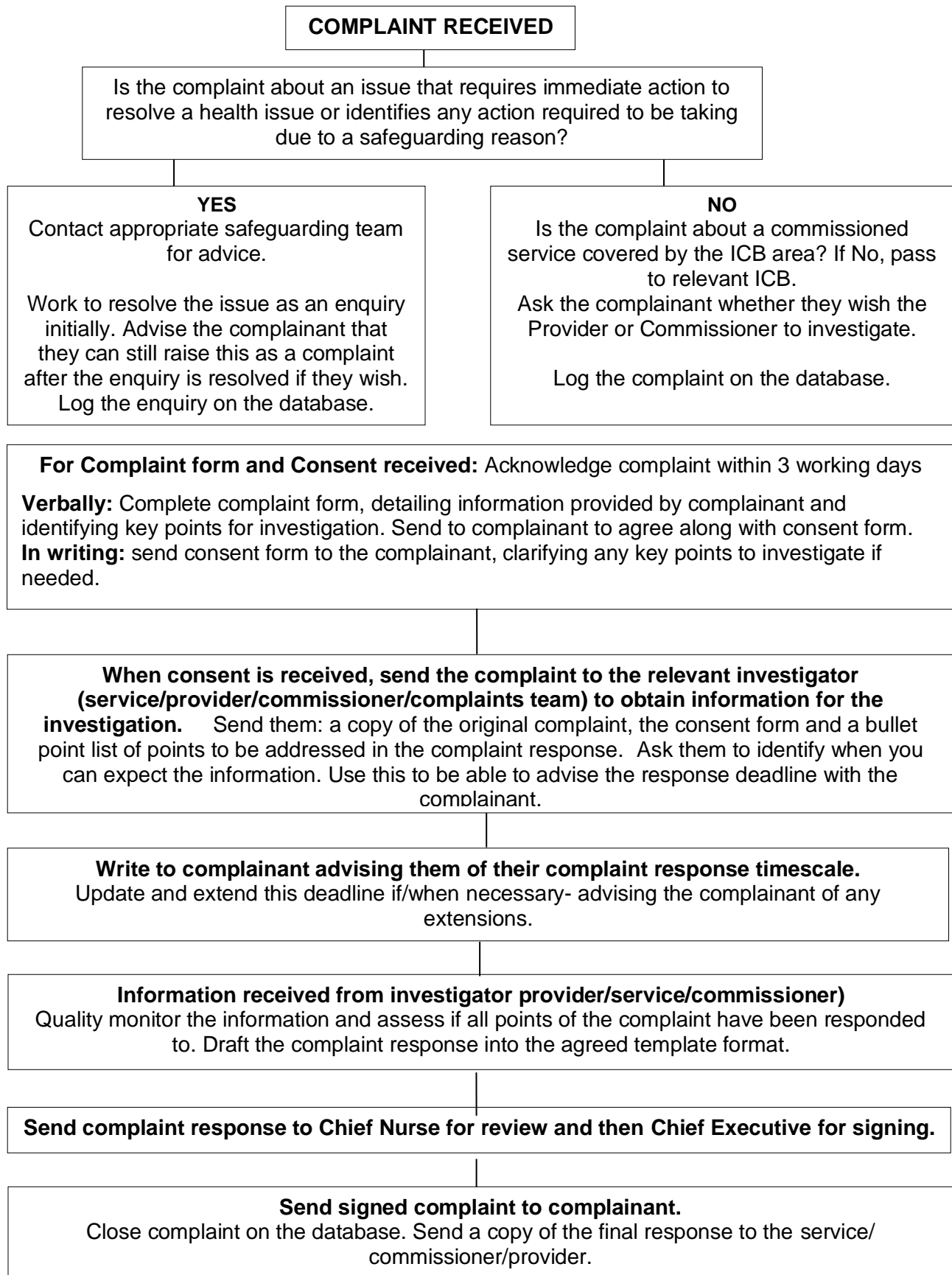
<b>Other Groups at Risk<sup>10</sup></b> of Stigmatisation, Discrimination or Disadvantage	There are no actual or expected positive impacts on 'Other Groups at Risk'.	There are no actual or expected negative impacts on 'Other Groups at Risk'.	<ol style="list-style-type: none"> <li>1. On the Patient Experience Team's pages of the ICB's Website, there is information about complaints advocacy service and how to contact the service.</li> <li>2. A leaflet is available at paragraph 9.8 of the policy advising the public how to make a complaint. Contact details are available by phone, email and post.</li> <li>3. The Patient Experience Team will deal with each case individually as it arises.</li> </ol>	3 - Neutral
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Positive Impact	Neutral Impact	Undetermined Impact	Negative Impact
52 to 46	45 to 33	32 to 20	19 to 13

## Additional Equality Impact Assessment Supporting Information

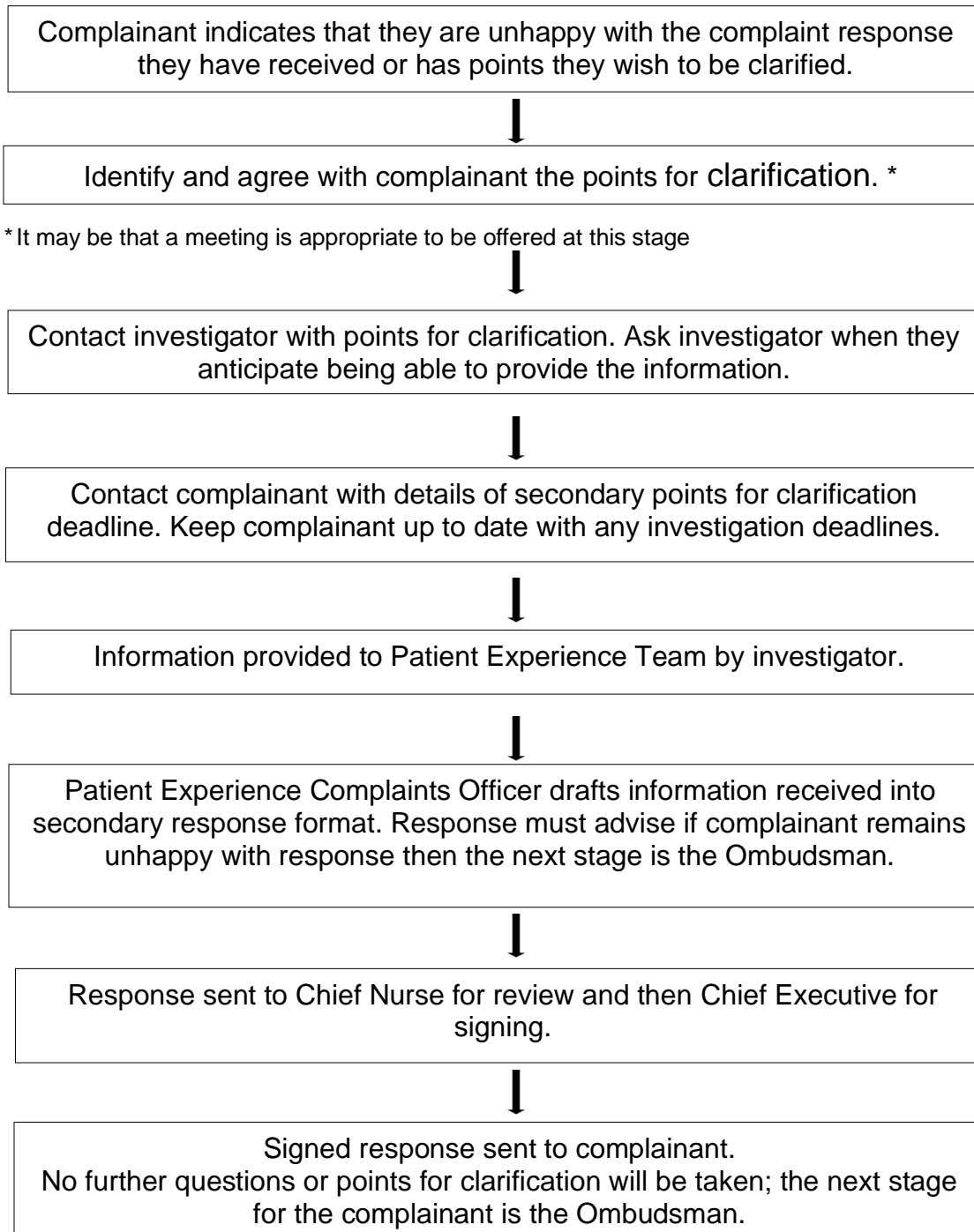
1. **Disability** refers to anyone who has: "...a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities..." (Equality Act 2010 definition). This includes, but is not limited to mental health conditions, learning disabilities, intellectual disabilities, neurodivergent conditions (such as dyslexia, dyspraxia and dyscalculia), autism, many physical conditions (including HIV, AIDS and cancer), and communication difficulties (including d/Deaf and blind people).
2. **Gender**, in terms of a Protected Characteristic within the Equality Act 2010 refers to: "A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex."
3. **Race**, in terms of a Protected Characteristic within the Equality Act 2010 refer to: A person's colour, nationality, or ethnic or national origins. This also includes people whose first spoken language isn't English, and or those who have a limited understanding of written and spoken English due to English not being their first language.
4. **Religion and Belief**, in terms of a Protected Characteristic within the Equality Act 2010 refers to: Religion means any religion and a reference to religion includes a reference to a lack of religion. Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.
5. **Sex**, in terms of a Protected Characteristic within the Equality Act 2010 refers to: A reference to a person who has a particular protected characteristic is a reference to a man or to a woman.
6. **Sexual Orientation**, in terms of a Protected Characteristic within the Equality Act 2010 refers to: Sexual orientation means a person's sexual orientation towards persons of the same sex, persons of the opposite sex or persons of either sex.
7. The **Human Rights Act 1998** sets out the fundamental areas that everyone and every organisation must adhere to. In relation to health and care, the most commonly applicable of the Articles within the Human Rights Act 1998 include: Article 2 Right to Life, Article 5 Right to Liberty and Security, Article 8 Right to Respect of Private and Family Life, and Article 9 Freedom of Thought, Conscience and Religion.
8. **Community Cohesion** is having a shared sense of belonging for all groups in society. It relies on criteria such as: the presence of a shared vision, inclusion of those with diverse backgrounds, equal opportunity, and supportive relationships between individuals. **Social Inclusion** is defined as the process of improving the terms of participation in society, particularly for people who are disadvantaged, through enhancing opportunities, access to resources, voice and respect for rights (United Nations definition). For the EQIA process, we should note any positive or negative impacts on certain groups being excluded or not included within a community or societal area. For example, people who are homeless, those from different socioeconomic groups, people of colour or those from certain age groups.
9. **Safeguarding** means: "...protecting a citizen's health, wellbeing and human rights; enabling them to live free from harm, abuse and neglect. It is an integral part of providing high-quality health care. Safeguarding children, young people and adults is a collective responsibility." (NHS England definition). Those most in need of protection are children, looked after children, and adults at risk (such as those receiving care, those under a DoLS or LPS Order, and those with a mental, intellectual or physical disability). In addition to the 10 types of abuse set out in the Health and Care Act 2022, this section of the EQIA should also consider PREVENT, radicalisation and counterterrorism.
10. **Other Groups** refers to anyone else that could be positively or negatively impacted by the policy, process, strategy or service change. This could include, but is not limited to: carers, refugees and asylum seekers, people who are homeless, gypsy, Roma and traveller communities, people living with an addiction (e.g., alcohol, drugs or gambling), people experiencing social or economic deprivation, and people in stigmatised occupations (e.g., sex workers).

## Appendix A: Complaints Process Flowchart



## Appendix B: Secondary Complaint Response Process Flowchart

To be used when the complainant is unhappy with their response or has points for clarification after receiving their response. No new issues can be investigated at this point.



## Appendix C: Complaints Risk Matrix

(Risk rating may change through the investigation)

IMPACT \ LIKELIHOOD	Rare	Unlikely	Possible	Likely	Almost Certain
	Isolated or 'one-off' – slight or vague connection to service provision	Rare – unusual but may have happened before	Happens from time to time – not frequently or regularly	Will probably occur several times a year	Recurring and frequent, predictable)
Insignificant	Low	Low	Low	Low	Medium
Minor	Low	Low	Low	Moderate	Moderate
Moderate	Low	Low	Moderate	Moderate	High
Significant	Moderate	Medium	Moderate	High	High
Major	Medium	High	High	High	High

A risk assessment is done on an individual basis for any complaint received.

The below may be useful to assist with risk rating, however each case must be considered on its own merit.

RISK LEVEL	
<b>Low</b>	Simple, non-complex issues about commissioning policy or commissioning decisions.
<b>Moderate</b>	Several issues which may be moderately complex or may involve more than one provider. Commissioning decisions and decommissioning of services.
<b>High</b>	Very complex issues often involving more than one organisation, subject matter may include a serious aspect such as a safeguarding issue or a death.



## Appendix D: Redress Procedure

### 1. Introduction

- 1.1 When dealing with complaints, the ICB's main purpose is to remedy the situation as soon as possible and, wherever possible, ensure the individual is satisfied with the response and feels that they have been fairly treated.
- 1.2 In all cases where a complaint has been upheld, the ICB will consider all appropriate forms of redress, regardless of what the complainant has asked for as a specific form of redress.
- 1.3 The redress offered will be proportionate to the service failing and suitable for the complaint and designed, where possible, to put the complainant back in the position they would have been, had the failings in the service not occurred.
- 1.4 In most cases an apology or explanation will be sufficient.
- 1.5 However, where no other form of redress is proportionate and suitable, the ICB will consider an offer or recommendation of financial redress.
- 1.6 Where the ICB is handling a complaint about a commissioned service, then the ICB will either provide appropriate redress on behalf of the service or, where appropriate, recommend that the service provides redress directly to the complainant, e.g., when financial redress is recommended.

### 2. Background

- 2.1 The Parliamentary and Health Service Ombudsman's '*Principles for Remedy*' states that all appropriate remedies should be considered for complaints that have been upheld and these include financial remedies.
- 2.2 The NHS Finance Manual provides guidance for NHS bodies on 'special payments', including ex-gratia payments. This guidance enables an NHS body to make such ex-gratia payments, generally where the complainant has incurred financial loss following the actions or omissions of the relevant NHS body. However, it also makes provision for payments where there has been no financial loss but clarifies that such payments should only be made in exceptional circumstances.

### **3. Forms of Redress**

3.1 When a complaint is received the complainant will be asked what form of redress they seek.

3.2 There is no set list of form of redress, but redress could include:

- Apology.
- Explanation.
- Acknowledgement that something has gone wrong.
- Remedial action such as changing a decision, revising a procedure or training for staff.

### **4. Financial Redress**

4.1 Financial redress will be offered to the complainant where:

- A complaint has been upheld, and
- There has been maladministration by the ICB or a Provider providing services commissioned by the ICB, and
- The maladministration has directly caused injustice to the complainant or their carer, and
- No other form of redress is proportionate or suitable.

4.2 Maladministration includes, for example, neglect or unjustified delay in service provision, failure to follow policies, providing inaccurate or misleading advice, bias or unfair discrimination.

4.3 Not all maladministration causes injustice; the complainant may not have suffered any disadvantage or if the complainant has been disadvantaged, this may not be as a direct consequence of the ICB (or a commissioned service) failure.

4.4 For financial redress to be considered it must be clear, on balance, that the injustice occurred because of the ICB (or a commissioned service) actions or non-actions.

4.5 Financial redress will be considered in cases where the patient and/or carer has suffered direct or indirect financial loss as a direct result of maladministration by the ICB (or a commissioned service).

## **5. Calculating financial redress**

- 5.1 Where the financial loss is quantifiable, the offer of payment will be calculated based on how much the complainant has lost and/or any additional costs the complainant has incurred.
- 5.2 When the loss is not quantifiable, to calculate an appropriate amount, to offer the following factors will be taken into account:
- 5.2.1 The effects of the complainant's own actions: for example, not attending an appointment.
- 5.2.2 Quantifiable loss: costs that would not have been necessary but for the ICB maladministration, e.g.,
- a patient paying for treatment from elsewhere because of an error on the part of the service provider. This will need to be assessed with care, on the basis that it was reasonable for the complainant to incur costs and they were a consequence of the maladministration.
  - loss of possessions. In such cases the individual should be reimbursed for a reasonable replacement value.
- 5.2.3 Loss of value, e.g., damage to possessions.
- 5.2.4 Lost opportunity, e.g., the complainant may have been deprived of the right to appeal against a funding decision because they were not told of that right.
- 5.2.5 Distress, e.g., stress, anxiety, inconvenience, frustration, worry and uncertainty. The amount will need to take account of all the circumstances including the severity of the distress, the length of time involved, the vulnerability of the individual and the number of people affected.
- 5.2.6 Professional fees. It may sometimes be appropriate to recognise the nature of the complainant's difficulty was such that expenditure on professional fees in pursuing the dispute was justified, e.g., paying an advocate, because one had not been offered by the ICB. However, this will need to be assessed with care. The ICB will need to be satisfied that it was reasonable for the complainant to incur these costs and that it was a consequence of maladministration. It may sometimes be appropriate to reimburse only part of the expenditure, from the point when the professional advice became appropriate.
- 5.2.7 Time and trouble in pursuing the complaint. This should only be paid when the time and trouble in pursuing the complaint are more than the minor costs that would routinely be expected. It is not the same as distress caused by the ICB actions. In assessing whether payment is appropriate, relevant factors to consider could include the passage of time in resolving the matter, the effort required from the complainant, the degree of inadequacy of the ICB

responses, the vulnerability of the individual and whether there has been any element of wilful action of the ICB as opposed to poor administration.

5.3 Where interest is applicable, the ICB will apply the rate of interest used by the courts.

## **6. Complaints Redress Panel**

6.1 All recommendations for financial redress will be considered by a Complaints Redress Panel to ensure consistency and equality in the level of payments made for non-quantifiable loss.

6.2 The Panel will include at least three people from the following:

- A representative of the Quality Team.
- A Director or their representative.
- Quality Lead or Clinical Lead.
- An independent member of the Integrated Care Board.

6.3 The Panel will take account of factors outlined in Section 5 above, any other known cases within the ICB or NHS England and any relevant Ombudsman cases.

6.4 The Panel will decide on the amount of financial redress to be offered or recommended to resolve the complaint.

## **7. Making an offer of financial remedy**

7.1 When an offer of financial redress is made it will include the words '*without prejudice*' at the top of the first page. Any offer will be made without prejudice and as a goodwill gesture 'in full and final settlement' of the complaint. This means that, if the offer is accepted, the matter is effectively closed. Confirmation of acceptance of the offer should be obtained in writing before payment is made.

7.2 All offers of financial redress will be made on a time limited basis of three months and will then expire. This will be made explicit in the letter of offer or another format appropriate to the complainant's communication needs.

## **8. Monitoring and authorisation of payments**

8.1 All financial redress paid will be recorded on the complaint log. All payments will be made using an appropriate cost code for the directorate where the maladministration occurred and authorised by the relevant Director.

8.2 The Patient Experience Manager will be responsible for maintaining the information on the level of financial redress paid and details will be included in quarterly reports.

The record will detail the reason why financial redress has been paid and how the amount has been assessed.

## 9. Commissioned Services

- 9.1 Services commissioned by the ICB are also governed by the principles of redress in relation to NHS care and should have a policy in place, or adopt the ICB policy, on payment of financial redress.
- 9.2 Where a commissioned service fails to pay financial redress as recommended by the ICB, then the commissioner will withhold the amount from any payments due to the service.

## 10. Joint Liability

- 10.1 Where maladministration involves more than one organisation, agreement should be reached as to how the financial redress will be divided. This takes into account the proportionate level of failure by each organisation involved.

## 11. Examples of Appropriate Financial Redress

- 11.1 The amounts have been based on the following national guidance and precedence:
- Local Government Ombudsman’s report Remedies, Guidance on Good Practice 6. (LGO report, February 2017))
  - Parliamentary and Health Service Ombudsman, Remedy in the NHS – Summaries of Recent Cases. (PHSO website April 2017)
- 11.2 The following amounts are for guidance only and each case should be considered on a case-by-case basis.

<b>CIRCUMSTANCES</b>	<b>AMOUNT</b>
Moderate time and trouble	£50 - £100
Considerable time and trouble	Up to £250
Moderate distress	£100 - £250
Considerable distress	Up to £500
Moderate pain and discomfort	£100 - £500
Considerable pain and discomfort	Up to £2,500

## **Appendix E:**

### **A Protocol for the Joint Handling of Health and Social Care Complaints**

#### **1. Introduction**

- 1.1 This joint protocol provides guidance to reflect the Local Authority Social Services and National Health Service Complaints Regulations 2009 (April 2009) and Amendment Regulations (July 2009). The protocol establishes a framework for the joint handling of complaints that cover both health and social care to meet the expectations of the 2009 regulatory framework.
- 1.2 Dealing with a wide range of health and social care organisations can be confusing for people. Therefore, the agreement aims to address these issues by bringing together the various organisations in Nottingham and Nottinghamshire to provide a unified, responsive and effective service for complainants.
- 1.3 The complaints regulations place a duty to co-operate upon health and social care agencies regarding the investigation of joint complaints. Key features include having arrangements that are clearly focused on outcomes and that adopt a person-centred approach to complaints handling.

#### **2. Purpose**

- 2.1 Each complaint should be dealt with according to its individual nature and the complainant's expected outcome (where appropriate). The emphasis is firmly placed on satisfactory results and swift local resolution.
- 2.2 A significant aspect of joint working is the need for regular and effective communication between complaints professionals and complainants to ensure agreed complaint plans, a thorough investigation and a single co-ordinated response.
- 2.3 In order to achieve different organisations' requirements it is also necessary to monitor that performance targets are met and that complainants are kept well informed should there be reasons why investigations are delayed.
- 2.4 This process will also provide a single consistent and agreed contact point for complainants and will enhance partnership working.

### **3. Complaints Management**

3.1 The Complaints Lead in each organisation signing up to this protocol is responsible for ensuring:

- The co-ordination of whatever actions are required.
- Co-operation with other Complaints Leads and agreement as to who will take the lead role in joint complaints.
- That there is a designated person to whom any requests for collaboration can be addressed when they are absent.

3.2 Joint complaints will also be viewed as a mechanism to identify learning points and improve health and social care delivery, leading to:

- Collaborative working between complaints professionals to identify issues and make recommendations.
- Co-operation in relation to the need to contact staff within participating agencies (joint investigation).
- Facilitate joint working leading to enhanced outcomes for.

### **4. Deciding which organisation should take the lead**

4.1 The Department of Health suggests that the following issues should be considered when determining which organisation will take the lead role in a multi-agency complaint:

- Whether the complainant has a clear preference for which organisation takes lead.
- The organisation receiving the complaint determines the lead based on factors of risk, sensitivity and the number of issues relating to each organisation.

### **5. Process**

5.1 When a complaint is received by one health or social care organisation about another health or social care organisation then verbal consent from the complainant will be sufficient to pass the complaint from the recipient organisation to the other organisation.

5.2 When a complaint is received that raises issues about more than one health or social care organisation, consent will be sought to discuss the investigation with the other relevant organisation(s) if this is not apparent from the outset. Having obtained

consent the recipient will contact the relevant complaints manager to agree the lead organisation and co-ordinator of the investigation.

- 5.3 The lead complaints manager will contact the complainant to discuss their concerns, agree how the complaint will be handled, confirm the issues to be addressed and the anticipated timescale.
- 5.4 If consent is withheld a single agency approach may need to be adopted and the complainant informed accordingly, as this may restrict the extent of the investigation.
- 5.5 Clinical and/or additional professional expertise can be drawn upon at any point in the process as necessary.
- 5.6 Possible options for the joint handling of complaints include:
  - Joint arrangements for the investigation followed by an agreed single response. The investigation may be in the form of each organisation undertaking their own investigation and providing their draft response to the lead organisation (or) the lead organisation undertaking the complete investigation.
  - Individual consideration by each agency with an agreed single response to the complainant by the lead organisation.
  - In exceptional circumstances it may be agreed that each organisation will respond to the complainant independently.
  - Consideration of conciliation/mediation at relevant stages of the process.
- 5.7 If adapted complaints responses should be agreed by all agencies prior to being issued to the complainant by the lead organisation. Local arrangements may differ in relation to the release of investigation reports alongside complaints responses and this should be negotiated by the relevant complaints staff. The lead organisation will provide a copy of the final response to all other involved organisations.
- 5.8 Complaints that are more complex may need additional investigation time. Therefore, the lead complaints manager should up-date the complainant detailing the reasons for any delay, the progress made to date and a revised timescale for issuing the final response.
- 5.9 Following the complaints investigation, it is each organisation's responsibility to identify and implement any learning from the complaint.
- 5.10 In circumstances where joint complaints are subject to an independent review (Parliamentary and Health Service Ombudsman/Local Government Ombudsman) the lead organisation will inform the other organisations about the Ombudsman's interest



in the complaint and the outcomes of the Ombudsman's assessment (or) investigation will be shared to inform working practices.

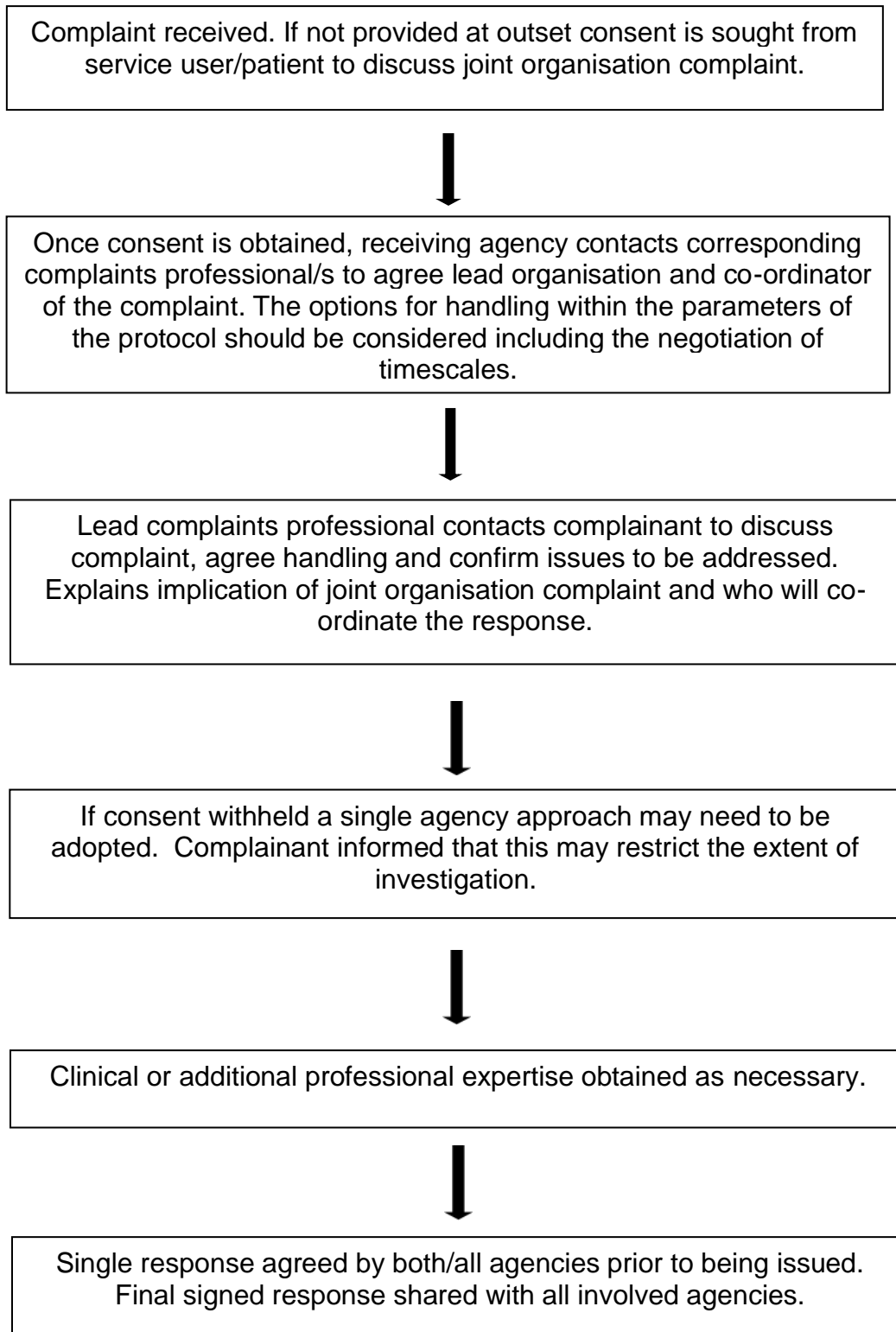
## **6. Health and Social Care Complaints Forum (Nottingham and Nottinghamshire)**

- 6.1 Quarterly meetings were previously held for complaints managers in health and social care to discuss current issues, promote good complaints handling and share learning. The format of the Forum is being revisited to ensure that the meeting remains fit for purpose.

## **7. NHS Organisations participating in this Agreement**

- 7.1 This forum is open to all ICB, NHS National Bodies and complaints managers from commissioned services and providers.

**JOINT COMPLAINTS HANDLING FLOWCHART**



## RELEVANT LEGISLATION & GUIDANCE

### **Local Authority Social Services and National Health Service Complaints Regulations 2009 (April 2009) and Amendment Regulations (July 2009)**

A major reform in the way health and social care organisations manage complaints resulting in a single complaints system covering all health and social care services in England.

### **Health and Social Care Act 2008**

The Government's response to the report of the Joint Committee on Human Rights. Contains significant measures to modernise and integrate health and social care.

### **Principle for Remedy, The Parliamentary and Health Service Ombudsman (2009)**

Provides the PHSO views on the principles that should guide remedy for injustice or hardship because of maladministration or poor service.

### **The NHS Constitution DoH 2009**

All NHS bodies, private and third-sector providers supplying NHS services in England are required by law to take account of the Constitution in their decisions and actions.

As well as capturing the purpose, principles and values of the NHS, the Constitution brings together a number of rights, pledges and responsibilities for staff and patients alike.

### **Health and Social Care (Standards and Community) Act 2003**

Provides a statutory basis for NHS and Adult Social Care complaints.

### **Data Protection Act 2018**

Governs the protection and use of person identifiable information (personal data). The Act does not apply to personal information relating to the deceased.

### **UK General Data Protection Regulation (UK GDPR) 2016 updated 2020**

The UK General Data Protection Regulation (UK GDPR) took effect on 31 January 2020. It sets out the key principles, rights and obligations for the processing of personal data and sits alongside the Data Protection Act 2018, applies to UK businesses and organisations, and governs the fair and proper use of personal information.

[UK GDPR guidance and resources | ICO](#)

### **The Human Rights Act 1998**

Article 8.1 provides that "everyone has the right to respect for his private and family life, his home and his correspondence".

Article 8.2 provides “there shall be no interference by a public authority with the exercise of this right except as in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well-being of the country for the prevention of crime and disorder, for the protection of health or morals, or for the protection of the rights and freedoms of others”.

**The Freedom of Information Act 2000**

The Act creates rights of access to information (rights of access to personal information remain under the Data Protection Act 1998) and revises and strengthens the Public Records Act 1958 & 1967 by reinforcing records management standards of practice.

**The General Protocol for Information Sharing Between Health and Social Care agencies in Nottingham and Nottinghamshire**

Includes the aforementioned legislation and additionally makes reference to the Computer Misuse Act 1990, Consent and Principles of the Caldicott Report 1997.

## Appendix F:

### Information Governance Procedure

- An enquirer raises an issue with the Patient Experience Team about a data or information sharing issue.
- If the issue has been raised as part of a complaint, the Patient Experience Team will contact the Information Governance Team for information to incorporate into the complaint response.
- If the issue has not been raised as part of a complaint, the Patient Experience Team will advise the enquirer that the Information Governance Team should take the issue forward and will then pass on the contact details for the Information Governance team.
- If the enquirer wishes, the Patient Experience Team will forward the enquiry onto the Information Governance team on the enquirer's behalf and ask the Information Governance Team to contact the enquirer directly.

## Appendix G: Communication Management Plan (CMP) Form

Use this form to set out the management approach for handling the implementation of the unreasonable contact process.

1. Complaint reference: \_\_\_\_\_

2. Complainant name: \_\_\_\_\_

3. Complainant contact details – (Telephone, Email, Address)

\_\_\_\_\_

### 4. What is the nature of the complaint?

Commissioning issue  Access to service  Other (please specify)

Manner and Attitude  Treatment and Care

Complaint deadline / /

What service is the complaint about?

\_\_\_\_\_

5. Has the complainant expressed suicidal thoughts or tendencies? Y  N

If yes:

5.a Contact made with the Safeguarding Team - Y  [Insert Date]

5.b The complainant has been advised to contact their GP to seek help Y  [Insert Date]

6. Before implementing the unreasonable contact process complete the table below:

	Task	Date Completed
1	Has the complainant been notified in writing (by email/letter) requesting that they initially modify the way they interact with the team?	
2	Has evidence been collected in accordance with the policy to demonstrate that the implementation of the unreasonable contact process is necessary?	
3	Sign off for the implementation of the unreasonable contact process been agreed with the Assistant Director of Nursing and Quality or the Deputy Chief Nurse for Oversight and Strategy and Director of Quality or the Director of Nursing.	
4	Has the complainant been notified in writing that the decision has been made to implement the unreasonable contact process?	

	State date of implementation.	
5	Has the complainant been advised of the future communication method under the unreasonable contact process?	
6	If necessary, has the complainant been provided with a Single Point of Contact and been advised of their contact details?	
7	Have all stakeholder colleagues been briefed on the Communication Management Plan details?	

**7. Detail below the future communication method with the complainant:**

**8. Single Point of Contact details: Name, email and telephone number**

**If a review of the implementation of the policy is requested:**

**Date review request received:**

**Outcome of review:**

**(Save any review requests in complaint file on the database)**

**Sign off by appropriate staff member in accordance with the policy.**

**Name:**

**Title:**

**Date:**

## **Appendix H:**

### **Communication Management Plan (CMP) – Unreasonably Persistent Complainants - Guide for Colleagues**

The key to effectively managing an unreasonably persistent complainant is consistency.

The Patient Experience (PE) Team will always have a Communication Management Plan (CMP) for any unreasonably persistent complainant and are the single point of contact for all communication from the complainant. This is in line with the ICB Complaints Policy.

Key stakeholder colleagues for the complaint will be notified in advance to advise them that there is a CMP in place. This is to ensure that all staff are aware of how to act. The PE Team will also advise whether communication has been restricted to email.

#### **Managing organisational risk**

There is a risk to the organisation if staff members operate outside of the CMP even if the intention is to support the patient. The organisation is considered to be operating outside of relevant policy and procedure and could come under criticism. Working within the CMP protects the patient, the staff and the organisation.

When the Patient Experience Team manage the contact it means that:

- The team have skills and experience in handling contacts of this nature.
- All communication and contact with the complainant is accurately recorded on the complaints database.
- Any relevant and appropriate safeguarding referrals can be made and recorded.
- There is a consistency of message to the complainant around communication.
- The ongoing complaints investigation is not compromised because other staff providing the complainant with information directly will do this.
- It ensures that the ICB Complaints Policy is adhered to.
- It means that the CMP remains effective (if the contact has been restricted to email for example a call may derail this).

#### **What to do if you receive a contact from an unreasonable complainant:**

1. Put the call through to the Patient Experience Team on extension 39570. There is an answerphone facility if the team are on the phone and not able to take the call.
2. Do not advise the complainant that the team will call them back; this may be a contradiction to the CMP. Instead just state that you will transfer the call to the Patient Experience Team.



3. It is recommended that you do not engage in conversation with the complainant; however if this happens and they advise whilst on the phone that they are considering causing harm to themselves or others:
- Enquire whether they intend to carry that out, ask whether you need to make a referral to safeguarding.
  - All staff should be aware of safeguarding and know how to make a referral; this is covered in the mandatory training. Contact the Multi Agency Safeguarding Hub 0300 500 8090 (County) and 0300 131 0300 (City).
  - Advise the complainant that you are not a front-line service and that they should contact their GP for support.

**APPENDIX I:  
PRIMARY CARE COMPLAINTS HANDLING FLOWCHART**

Complaint received by the ICB from the complainant. Complainant's details are taken along with a summary of the complaint issues.



Complaint is logged on the PET database and emailed to the complaints team at the hub. Complaint is closed on the database.



Complaint is investigated by the hub team who will liaise directly with the complainant to gain appropriate consent and confirm complaint issues and terms of reference.



When investigation is completed, the hub will send draft response to the ICB nominee for quality assurance.



Following quality assurance, any amendments to the draft are made by the hub.



Draft response sent by the hub to Chief Executive for sign off. Signed response emailed to the hub for send out to the complainant. Copy sent to the PET for information.

## **Appendix J:**

### **Primary Care Complaints Management Process**

#### **1 Introduction**

- 1.1 From 1 July 2023, the ICB holds delegated responsibility for complaints handling for Primary Care services across Nottingham and Nottinghamshire (including Bassetlaw); this includes GPs, dentists, pharmacists and opticians and was previously the responsibility of NHS England.
- 1.2 These complaints will be managed by the East Midlands hub, hosted by the ICB, who will carry out complaint investigations on behalf of the ICB. The ICB will hold overall responsibility for the complaint with sign off by the Chief Executive. (See Appendix I for Primary Care Complaints Handling Flowchart).

#### **2 Local Resolution**

- 2.1 Any concerns / complaints will be initially received by the ICB's Patient Experience Team to undertake any local resolution in the first instance and only if this is unsuccessful will the complaint be referred into either the relevant primary care provider or referred to the hub to facilitate the complaints handling and investigation of the formal complaint.

#### **3 Formal complaints acknowledgement**

- 3.1 Where a complainant has specified the way in which they wish to be addressed, all communication from the acknowledgement stage onwards will follow that request, including the use of pronouns.
- 3.2 An acknowledgement to a complaint:
  - Must be within 3 working days;
  - Will be in writing unless in exceptional circumstances where it may be verbal (if made verbally it must be followed up in writing as soon as is possible);
  - Must include an offer to discuss the handling of the complaint;
  - Must include an offer to discuss the timeframe for responding to the complaint;
  - Should include a summary of what the complaint is about and, where unclear, offer to discuss the desired outcome;
  - When the complaint has been made verbally, it must include the written statement which has been recorded as the formal complaint;

- Must include information about local NHS Complaint Advocacy Services (and consideration be given to providing information about specialist advocacy services such as when the complaint may also be a serious incident or claim);
- Will address any issues of consent; and
- Must include the name and title of the complaints handler who will be the point of contact for the complainant throughout the complaints process.

## **4 Investigation**

- 4.1 An investigation into a complaint will usually involve the provider of care or service issuing a response to the hub. For clinical complaints, the complaints team will quality assure any response from a provider we commission by seeking a clinical review on a peer-to-peer basis (so for example a complaint about a GP will be reviewed by one of the independently appointed clinical reviewers who must also be a GP).
- 4.2 For complaints that raise contractual issues about the services the ICB commissions, we would similarly seek a response from the provider but would expect our commissioning colleagues who oversee the contract to comment on that response and provide expert contractual knowledge.
- 4.3 For complaints that raise issues purely about a decision taken by the ICB, we may not need to involve a provider of care directly. For such complaints we would expect senior leadership teams (for the relevant subject matter) to provide a suitable response based upon their expert knowledge.
- 4.4 In the event that our investigation is likely to take longer than the original timeframe identified at the acknowledgement stage, the complainant must be contacted to be advised of a new timeframe for responding and an explanation given as to the reason for the delay.
- 4.5 We will make sure that named providers being complained about are made aware of where they can access support should it be required.

## **5 Response**

- 5.1 There are two models of complaint response delivered across the ICB. These are:
- One letter of response which incorporates all elements of the investigation;
  - Two letters of response – one from Practice/Provider, one from the Chief Executive Officer (CEO) or Deputy.
- 5.2 Where a complaint is about a single provider (such as one dental practice) the ICB should send no more than two enclosures when responding. This could be the

covering response from the CEO alongside one response from the practice. The hub should not accept multiple responses from one practice.

- 5.3 In the event of a complaint about more than one provider/organisation, it may be necessary to include more than two enclosures.
- 5.4 A response to a complaint must:
- Include an explanation of how the complaint has been considered;
  - Provide information about who has been involved in the investigation;
  - Include a meaningful apology where it is due;
  - Refer to any records, documents or guidelines that have been considered;
  - Conclude and evidence how a decision was reached;
  - Tell the complainant what has been done to put things right where appropriate;
  - Signpost the complainant to next steps including details of the Parliamentary and Health Service Ombudsman (PHSO).
- 5.5 Before sharing a response with the complainant, consideration should be given to any response which may contain sensitive, unexpected and/or potentially harmful information or which may be delivered at a sensitive time (such as the anniversary of a death).
- 5.6 The hub must share a copy of its final response with the provider(s) complained about.
- 5.7 We aim to respond within 40 working days. If the ICB has not provided a response within six months, the hub will write to the complainant to explain the reasons for the delay and outline when they can expect to receive the response. At the same time, we will notify the complainant of their right to approach the PHSO without waiting for local resolution to be completed.

## **6 Confidentiality and consent**

- 6.1 The ICB has a legal duty to maintain the confidentiality of personal information. The ICB will not access or share information pertaining to complaints without following our standard operating procedure in relation to consent for complaints.
- 6.2 All personal data received is recorded and stored on a secure server with limited authorised access. Information is retained in accordance with the ICB's retention schedule and DHSC guidance.

## **7 Exceptions to the policy**

### **Fraud**

- 7.1 Any allegations of fraud or financial misconduct should be referred to the National Fraud Reporting Line at NHS Counter Fraud Authority. Full details of the methods for reporting are available at their website <https://cfa.nhs.uk/reportfraud>
- 7.2 NHS England and NHS Improvement staff as well as Primary Care Contractors should refer to the 'Tackling Fraud Bribery and Corruption Policy' The policy includes details of the organisational response to Counter Fraud and mechanisms to report or discuss concerns.

### **Safeguarding and patient safety**

- 7.3 There may be circumstances in which information disclosure is in the best interest of the patient, or the protection, safety or wellbeing of a child or adult at risk. In these circumstances, a complaint will be escalated as necessary in line with the Nottingham and Nottinghamshire ICB safeguarding policy and procedure.

### **The safety of complaints staff**

- 7.4 Most of the contact with complainants is via telephone, email or white mail. However, there may be either planned or unscheduled meetings face to face with complainants and appropriate measures need to be in place to support staff in the engagement.
- 7.5 Most complaints offices are not considered spaces appropriate for meeting complainants and have not been designed with suitable public meeting rooms. If a complainant makes an unscheduled visit to a complaint's office, it is important that upon being made aware of their arrival, a check should be made to see if any reasonable adjustments are recorded in order to provide the complainant with the best possible outcome when meeting. It would also be advisable to see if there is any information recorded about restricted communications/or any possible risks the complainant may pose. Depending on the information, it may be the case it is not advisable to enter into any meeting of an unscheduled nature and this should be explained to the visitor.
- 7.6 Whilst the complainant may wish to discuss a confidential matter, it is essential that based upon the knowledge of the complainant, the complaints staff make a considered decision about where they speak to the complainant. In these circumstances complaints staff should not meet the complainant alone and if possible should be accompanied by a colleague with clinical experience.
- 7.7 If the decision is taken to proceed with an unscheduled meeting, complaints staff should be accompanied by a colleague. Good practice would suggest that the

complaints staff advise other colleagues of where they are meeting with the complainant and to request that they check on them at regular points. A documented record of the discussion which takes place should be made by one of the staff in attendance.

- 7.8 Within the complaints process there is scope for a planned local resolution meeting. Complaints staff should be supported by a colleague with appropriate experience according to the nature of the complaint. A neutral and safe venue should be sought for such a meeting. Managers should be aware of the location and duration of the meeting. A colleague should be identified as a key point of contact and the complaints staff undertaking the engagement should contact this colleague prior to the start of the meeting and then again upon conclusion. Complaints staff should ideally check the suitability of the any suggested meeting space and an awareness of any security measures at the venue are recommended in advance of the meeting.

## **8 Persistent and unreasonable contact**

- 8.1 Detailed guidance on how we will manage persistent and unreasonable contact is set out at Section 17 of this policy.

## **9 Compliance and reporting**

- 9.1 The ICB will use a variety of ways to report and review compliance with the policy. These will include:
- The ICB will provide an annual complaints report via the organisation's broader annual report and accounts.