

CORP 05

Complaints Policy

Policy applicable to:

NHS Guildford and Waverley CCG	✓
NHS North West Surrey CCG	✓
NHS Surrey Downs CCG	✓

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Approved by	Quality Committees
Name of originator/ author	Liz Patroe, Head of Engagement, Diversity & Inclusion
Owner (director)	Elaine Newton, Director of Communication's and Corporate Affairs
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If you would like this policy translated into another language or alternative format such as large print, Braille, audio or BSL, please contact us using the details (page 3).

Working together as the Surrey Heartlands Clinical Commissioning Groups

Guildford and Waverley CCG | North West Surrey CCG | Surrey Downs CCG

Version control sheet

Version	Review date	Name of reviewer	Notes
0.1	July 2018	Liz Patroe	Policies for the three Surrey Heartlands CCGs brought into one common policy
0.2	August 2018	Liz Patroe	Amendments from Patient Experience Coordinators incorporated
0.3	September 2018	Maria Bruce	Amendments from Continuing Healthcare Team incorporated to explain authority to act
0.4	October 2018	Elaine Newton	Amendments incorporated
0.5	October 2018	Joint Executive Team	Amendment to clarify the route for review, amendment, approval and sign-off of complaint responses for which the CCGs are responsible for investigating or coordinating
0.6	October 2018	Quality Committees	Wording amended regarding timescales (section 7.0)
1.0	October 2018	Liz Patroe	Final
1.1	February 2019	Liz Patroe	Updated text, telephone and contact details for complaints (page 19)
1.2 (1.3=formatted)	June 2019	Liz Patroe	Roles and responsibilities (page 14) and flow chart (page 28) amended to reflect new Director roles
1.4	November 2019	Governance Team	Executive Director titles clarified.

Contact details for alternative format

If you would like this policy translated into another language or alternative format such as large print, Braille, audio or BSL, please contact:

Patient Experience Team
NHS Guildford and Waverley CCG
Dominion House
Woodbridge Road
Guildford
GU1 4PU

Telephone: 01483 405450

Text: 07827 663749

Email: gwccg.complaints@nhs.net

Equality statement

The CCGs that cover the Surrey Heartlands Health & Care Partnership footprint aim to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. We take into account the Human Rights Act 1998 and promote equal opportunities for all. This document has been assessed to ensure that no employee receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the member of staff has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

We embrace the seven staff pledges in the NHS Constitution¹ that represent a commitment by the NHS to provide high-quality working environments for staff. This policy is consistent with these pledges.

See next page for an Equality Analysis of this policy.

¹ <https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england#staff-your-rights-and-nhs-pledges-to-you>

Equality Analysis

Equality analysis is a way of considering the effect on different groups protected from discrimination by the Equality Act, such as people of different ages. There are two reasons for this:

- to consider if there are any unintended consequences for some groups
- to consider if the policy will be fully effective for all target groups

Name of Policy: Complaints Policy	Policy Ref: SHCCGs-CORP05	Is this New? [<input checked="" type="checkbox"/>] Or Existing? [<input type="checkbox"/>] Brings together and updates complaints policies from three CCGs
Assessment conducted by: Liz Patroe, Head of Engagement, Diversity & Inclusion		Date of Analysis: 01/10/2018
Directorate: Communications & Corporate Affairs		Executive Director: Elaine Newton
<p>Who is intended to <u>abide by</u> this policy? Explain the aim of the policy as applied to this group.</p> <p>All staff in the CCG.</p> <p>The aim is to ensure that the CCG upholds all elements of NHS complaints legislation and best practice.</p>		
<p>Who is intended to <u>benefit from</u> this policy? Explain the aim of the policy as applied to this group.</p> <p>Complainants.</p> <p>Patients and carers within the three CCGs (when learning from complaints is applied).</p> <p>The aim is to ensure that people are able to make a complaint about NHS care and services to the CCGs; that their complaint is handled respectfully and efficiently and that learning takes place.</p>		
<p>1. Evidence considered. <i>What data or other information have you used to evaluate if this policy is likely to have a positive or an adverse impact upon protected groups when implemented?</i></p> <p>Joint Strategic Needs Assessment (available through Surrey-i)</p> <p>The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009</p>		
<p>2. Consultation. <i>Have you consulted people from protected groups? What were their views?</i></p> <p>Members of the Patient and Public Engagement Group/Forum/Network in each CCG were asked to review this policy and advise on any amendments to enable people in different protected groups to benefit from its use by the CCGs.</p> <p><i>Awaiting feedback to add to that below.</i></p>		
<p>3. Promoting equality. <i>Does this policy have a positive impact on equality? What evidence is there to support this? Could it do more?</i></p> <ul style="list-style-type: none"> • People can make a complaint via a range of different interfaces/channels. 		

- The process for handling complaints includes the option to discuss a complaint in person in accessible premises with relevant arrangements for interpreters and carers.
- Equality monitoring of those making complaints is carried out.
- People can make complaints on behalf of others, as long as written consent is acquired.

4. Identifying the adverse impact of policies

Identify any issues in the policy where equality characteristics require consideration for either those abiding by the policy or those the policy is aimed to benefit, based upon your research.

a) Age:

The CCGs accept complaints from parents and guardians of children and young people (0-16yrs) who may be unable to submit complaints themselves.

b) Disability:

The CCGs accept complaints from carers of children, young people and adults with learning disabilities who may be unable to submit complaints themselves.

c) Gender:

No issues identified.

d) Religion and Belief:

No issues identified.

e) Ethnic group:

No issues identified.

f) Gender reassignment:

No issues identified.

g) Sexual orientation:

No issues identified.

h) Maternity and pregnancy:

No issues identified.

i) Marriage and civil partnership:

No issues identified.

5. Monitoring How will you monitor the impact of the policy on protected groups?

Equality monitoring forms will be sent out to all complainants and reported on in annual report.

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1. Introduction

- 1.1. The three CCGs in Surrey Heartlands, which are covered by this policy, receive a wide range of correspondence from patients, carers, representatives, advocates, professionals and MPs about services that they commission and about their own commissioning intentions and priorities. This correspondence includes complaints, compliments and enquiries as well as freedom of information and subject access requests.
- 1.2. Such feedback plays a vital role in identifying what's working well and what isn't and can highlight potential service problems and risks. This feedback then enables us to work with our providers, to improve the quality of the healthcare we buy for patients.
- 1.3. This policy details the CCGs' procedures for handling complaints, compliments, concerns and comments.
- 1.4. This policy has been formulated to ensure the CCGs respond to complaints to a satisfactory standard, respectfully and efficiently, and comply with the requirements contained within The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009², referred to as the Complaints Regulations 2009, and in a clarification note issued in 2014.
- 1.5. The objectives of this policy are:
 - To provide a fair complaints procedure which is clear, accessible and easy to use for anyone wishing to make a complaint
 - To ensure that everyone can access the complaints process; that they are treated fairly and without discrimination and that information will be provided in a format that meets people's needs
 - To publicise the existence of the complaints procedure so that people know how to contact the CCGs to make a complaint
 - To make sure everyone at the CCGs knows what to do if a complaint (verbal or written) is received
 - To clarify the process for handling complaints that require clinical review
 - To make sure all complaints are investigated fairly and in a timely way
 - To make sure that complaints are, wherever possible, resolved and that confidence in the service is restored
 - To gather information which helps the CCGs to adopt a continuous improvement and learning approach

² http://www.legislation.gov.uk/ukxi/2009/309/pdfs/ukxi_20090309_en.pdf

2. Legislative Framework/ Principles of Good Complaints Handling

- 2.1. The Complaints Regulations 2009 set out the responsibilities of NHS organisations when handling complaints. As a responsible body, the CCG must make arrangements (“arrangements for dealing with complaints”) in accordance with these Regulations for the handling and consideration of complaints.
- 2.2. The arrangements for dealing with complaints must be such as to ensure that:
- Complaints are dealt with efficiently;
 - Complaints are properly investigated;
 - Complainants are treated with respect and courtesy;
 - Complainants receive, so far as is reasonably practical:
 - Assistance to enable them to understand the procedure in relation to complaints; or
 - Advice on where they may obtain such assistance;
 - Complainants receive a timely and appropriate response;
 - Complainants are told the outcome of the investigation of their complaint; and
 - Action is taken if necessary in the light of the outcome of a complaint.
- 2.3. This policy aims to ensure these regulations are fully implemented by the CCGs.
- 2.4. The CCGs’ complaints approach is structured around the Parliamentary and Health Service Ombudsman’s [Principles of Good Complaints Handling 2009](#).
- Getting it right
 - Being customer focused
 - Being open and accountable
 - Acting fairly and proportionately
 - Putting things right
 - Seeking continuous improvement
- 2.5. This policy also takes into consideration ‘Putting Patients First and Foremost: the initial government response to the Francis Report 2013’ (section 2.53 to 2.55 – Complaints).
- 2.6. There is no legislation that applies to the handling of compliments and enquiries. However, the same principles of efficiency, equity and respect apply to the handling of these forms of correspondence. The principles of the 4Cs are adopted as described by the Department of Health. These are:
- **Complaint** – A complaint is an expression of dissatisfaction about a service for which a response must be provided.
 - **Comment** – A comment can be a remark or observation that does not require a formal response but still requires an appropriate response.

- **Concern** – A concern can be an issue that can be dealt with as an informal enquiry with the relevant service provider.
- **Compliment** – An expression of gratitude as a result of services provided to a service user, relative, carer or member of the public.

3. Scope

3.1. Included in the policy:

- 3.1.1. This policy covers complaints, compliments, concerns and comments that have been received either first hand or through a third party e.g. carer, advocate, relative, Member of Parliament, regarding:
- The operation, commissioning intentions, organisation or relationships of the CCGs
 - Services commissioned by the CCGs as a lead or co-commissioner and thereby provided by a different organisation (see section 6.1)
 - Services hosted by the CCGs (see section 6.2)

3.2. Exceptions to the policy:

- 3.2.1. This policy does not cover:
- Freedom of information requests made under the Freedom of Information Act 2000;
 - Subject access requests made under the Data Protection Act 1998;
 - A complaint:
 - that has already been investigated by the provider of the service;
 - made by another primary care body, NHS body, private or independent provider or local authority about any matter relating to arrangements made by Guildford and Waverley CCG, North West Surrey CCG or Surrey Downs CCG with that provider;
 - made by an employee about any matter relating to his/her contract of employment;
 - made orally and which is resolved to the complainant's satisfaction not later than the next working day after the day on which the complaint was made;
 - being or has been investigated by the Parliamentary and Health Service Ombudsman;
 - relating to any scheme established under section 10 (superannuation of persons engaged in health services, etc.) or section 24 (compensation for loss of office, etc.) of the Superannuation Act 1972(c), or to the administration of those schemes;

- Allegation or suspicions covering any of the areas below (in which case, the relevant policies should be followed):
 - Physical abuse;
 - Sexual abuse;
 - Financial misconduct;
 - Criminal offence;
 - Safeguarding.
- Where a complaint leads to the identification of a Serious Incident (SI), the CCGs' Serious Incident Policy shall be followed. A response will still be provided for the complaint; however an investigation will also take place into the SI. The complainant has the right to be involved in this investigation and the results shared with them.

4. Definitions

- 4.1. A policy is a document that sets out the expectations of the organisations in respect of the area covered by that policy. It applies to all relevant staff, compliance with which is legally binding on all staff as part of their contract of employment.
- 4.2. A complaint is an expression of dissatisfaction about a service for which a response must be provided.
- 4.3. A comment can be a remark or observation that does not require a formal response but still requires an appropriate response.
- 4.4. A concern can be an issue that can be dealt with as an informal enquiry with the relevant service provider.
- 4.5. A compliment is an expression of gratitude as a result of services provided to a service user, relative, carer or member of the public.

5. The Principles of Remedy

The CCG will adopt the following principles of remedy in responding to its complaints:

5.1. Getting it right

- Act in accordance with the law and with regard for the rights of those concerned.
- Act in accordance with the public body's policy and guidance (published or internal).
- Take proper account of established good practice.
- Provide effective services, using appropriately trained and competent staff.
- Take reasonable decisions, based on all relevant considerations.

- Ensure information governance procedures are observed at all times to maintain patient confidentiality.

5.2. Being customer focused

- Ensure people can access services easily.
- Inform customers what they can expect and what the CCG expects of them.
- Keep to its commitments, including any published service standards.
- Deal with people helpfully, promptly and sensitively, bearing in mind their individual circumstances.
- Respond to customers' needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

5.3. Being open and accountable

- Be open and clear about policies and procedures and ensuring that information and any advice provided, is clear, accurate and complete.
- State the criteria for decision making and giving reasons for decisions.
- Handle information properly and appropriately.
- Keep proper and appropriate records.
- Take responsibility for actions.

5.4. Acting fairly and proportionately

- Treat people impartially, with respect and courtesy.
- Treat people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Deal with people and issues objectively and consistently.
- Ensure that decisions and actions are proportionate, appropriate and fair.

5.5. Putting things right

- Acknowledge mistakes and apologising where appropriate.
- Put mistakes right quickly and effectively.
- Provide clear and timely information on how and when to appeal or complain.
- Operate an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

5.6. Seeking continuous improvement

- Review policies and procedures regularly to ensure they are effective.
- Ask for feedback and use it to improve services and performance.
- Ensure that the CCG learns lessons from complaints and uses these to improve services and performance.

6. Roles and Responsibilities

6.1. Joint Accountable Officer

- The Joint Accountable Officer is designated as the responsible person, in line with section 4 (1) (a) of the Complaints Regulations 2009. This person is responsible for ensuring compliance with the arrangements made under these Regulations, and in particular ensuring that action is taken if necessary in the light of the outcome of a complaint.
- This person is also responsible for ensuring that there is a designated staff member who is responsible for managing the procedures for handling and considering complaints, compliments, concerns and comments. This responsible person must be accessible to the public and to staff.

6.2. Managing Directors (aka ICP Directors) are responsible for:

- Delegating the investigation into a complaint and the drafting of a response regarding local ICP commissioning arrangements to a relevant Deputy or Associate Director.
- Approving and signing off responses to these complaints.

6.3. Executive Directors (aka ICS Directors) are responsible for:

- Delegating the investigation into a complaint and the drafting of a response regarding complaints that relate to responsibilities to a relevant Deputy or Associate Director.
- Approving and signing off responses to these complaints.

6.4. Deputy Directors and Associate Directors

- Deputy and Associate Directors are responsible for investigating complaints where these have been delegated to them by a Director.
- They are also responsible for drafting a response to the complaint.

6.5. Head of Engagement, Diversity & Inclusion

- The Head of Engagement, Diversity & Inclusion is designated as the Complaints Manager, in line with section 4 (1) (b) of the Complaints Regulations 2009.
- This person is responsible for:
 - Managing the procedures for handling and considering complaints, compliments, concerns and comments contained within this policy.
 - Ensuring business continuity during periods of absence so as not to impact on performance of the CCGs against the procedures in this policy.
 - Producing the annual complaints report for the Governing Bodies and a mid-year complaints report for the Quality Committees

- These reports will include the following:
 - the subject matter of complaints that the responsible body received;
 - any matters of general importance arising out of those complaints, or the way in which the complaints were handled;
 - any matters where action has been or is to be taken to improve services as a consequence of those complaints;
- Completing the K041a quarterly complaints data request by the deadline requested by the Health & Social Care Information Centre;
- Providing training and support to staff in handling complaints and investigations;
- Approving draft responses developed by the Patient Experience Team before they are forwarded to the relevant CCG's Managing Director (aka ICP Director) for final approval;
- Responding to and monitoring the implementation of any recommendations made by the Parliamentary and Health Services Ombudsman (PHSO);
- Ensuring that information regarding how to complain is up to date and easily accessible to members of the CCGs' combined population via the CCGs' respective websites and that this information can be sent in hard copy on request.

6.6. Patient Experience Coordinators

- The Patient Experience Coordinators are responsible for assisting the Complaints Manager in fulfilling the above responsibilities. There is one Patient Experience Coordinator based in each CCG.
- The Patient Experience Coordinators are responsible for:
 - Determining whether a form of correspondence regarding services or commissioning is a formal complaint, an enquiry (concern), a compliment or a comment, in liaison with the Complaints Manager where necessary;
 - Logging all complaints and enquiries on a common Complaints Log;
 - Handling the response to enquiries, compliments and concerns promptly and as relevant, in liaison with relevant personnel;
 - Acknowledging formal complaints in writing within 3 working days of receipt by the CCG;
 - Redirecting complaints to responsible organisations for investigation, allowing time for complainants the option to consent or refuse to consent, in line with the CCGs' Fair Processing Notice;
 - Redirecting complaints regarding NHS Continuing Healthcare and Funded Nursing Care to the dedicated Continuing Healthcare

Relationship Manager for handling according to the procedures in this policy;

- Liaising with other agencies involved in multi-agency complaints;
- Ensuring that complaint handling timescales are communicated to all parties;
- Ensuring that complaints files are accurate, complete and archived according the CCGs' record management policy once closed;
- Drafting responses to complaints that have been handled by the CCGs, except those regarding Continuing Healthcare, for approval by the Managing Director (aka ICP Director) of the relevant CCG following review by the responsible manager and the Complaints Manager;
- Sending all approved responses to complainants in the format requested by the complainant, ensuring that complainants are able to access the response;
- Producing data reports on complaints and enquiries for inclusion in reports to the Governing Bodies and the Quality Committees.

6.7. Continuing Healthcare Relationship Manager

6.7.1. This is a role dedicated to handling complaints, concerns, comments and compliments solely regarding NHS Continuing Healthcare (CHC) and Funded Nursing Care. Complaints regarding these hosted services fall within the scope of the CCGs to investigate and respond to.

6.7.2. The CHC Relationship Manager is responsible for handling complaints according to the procedures in this policy. This includes:

- Drafting a response to the complainant following investigation by the CHC Team.
- Sending this to the Managing Director (aka ICP Director) of the CCG that hosts the CHC team for approval.
- Sending the approved and signed response to the PEC who closes the complaint by sending this to the complainant.

6.8. **All Staff** are responsible for:

- Treating all complaints and enquiries/concerns that they receive with due regard;
- Not discriminating against a patient or their representative making a complaint or raising a concern;
- Treating complainants and/or their representatives fairly;
- Forwarding complaints they receive by email or letter to the Patient Experience Coordinators within one working day of it being received using the CCG-specific email address;

- Completing all fields in the '[Record of Verbal Complaint](#)' form for those complaints received face-to-face or over the telephone and emailing that to the Patient Experience Coordinators within one working day of receiving it;
- Informing their line manager of any complaints they receive, either verbal or written;
- Liaising with the Patient Experience Coordinators and/or the Complaints Manager to determine the best course of action for any complaint or enquiry they receive;
- Assisting in or leading investigations and resolutions of complaints, on request by the Patient Experience Coordinators, in liaison with line managers, meeting the requirements detailed above in section 5.4;
- Attending and/or contributing to meetings that enable complaints to be resolved fully and transparently;
- Updating the Patient Experience Coordinators regularly on progress made to resolve aspects of the complaint directed to them for investigating;
- Keeping accurate, dated and legible records of all meetings relating to the resolution of a complaint;
- Providing a draft response on request from the Patient Experience Coordinators, addressing all points raised by the complainant in the order in which they were raised in the initial complaint communication;
- Working towards resolution of complaints within 25 working days or notifying the Patient Experience Coordinators if resolution within 25 working days is unlikely to be achieved;
- Learning from complaints that the CCG receives and ensuring that actions are taken to improve issues raised in complaints;
- Sharing information with patients and carers regarding the complaints process;
- Adhering to this policy.

7. Procedure

7.1. Complaints about commissioned services

- 7.1.1. Under the Complaints Regulations 2009 a patient can choose to approach either the provider or the commissioner of a service to make a complaint. However they are unable to approach both. Each provider has its own complaints procedure.
- 7.1.2. If a complaint received by the CCG concerns a provider of contracted services, the Patient Experience Coordinators will discuss with the complainant the most appropriate body to handle the complaint. In most cases it is anticipated that providers will handle any complaints that concern their services. However, in

some cases this may not be appropriate and the CCGs' Patient Experience Coordinators will undertake the handling of the complaint.

- 7.1.3. All complaints regarding commissioned services that are received by the Patient Experience Coordinators will be logged and acknowledged within three working days. Complainants will be informed that their complaint needs to be redirected to the relevant provider and that three working days will be given for the complainant to exercise their choice as to whether to consent or withhold consent to their complaint and personal data being shared (see section 6.4).
- 7.1.4. Sometimes a complaint about a commissioned service requires the CCGs to collaborate with the relevant provider(s) to seek a complete resolution to the issues raised by the complainant. To enable this to happen, the Patient Experience Coordinators will share the complaint with the relevant commissioning manager.
- 7.1.5. The provider will be asked to acknowledge receipt of the complaint from the CCG and to carry out a full investigation according to their own complaints procedures. The provider will also be asked to send a response direct to the complainant and share a copy of this response with the CCG.
- 7.1.6. The Patient Experience Coordinators will seek assurance from the provider that any learning or actions resulting from the complaint have been implemented.

7.2. Complaints about hosted services

- 7.2.1. Guildford and Waverley CCG hosts the following services on behalf of all Surrey CCGs:
 - Safeguarding children and adults service
 - Complex children's service
- 7.2.2. Surrey Downs CCG hosts the following services on behalf of all Surrey CCGs:
 - NHS Funded Healthcare team (NHS Continuing Healthcare and NHS-funded Nursing Care)
 - Pharmaceutical Commissioning team
 - Individual Funding Request team
- 7.2.3. Both CCGs are responsible for the coordination of complaints on behalf of the above teams across Surrey unless the complaint is about a provider commissioned by the CCG to deliver the service.
- 7.2.4. Complaints about these services will be managed under the same definitions and timescales as complaints related to commissioning i.e. under this single policy.

7.3. Timescales for complaints

- 7.3.1. Complaints should be made at the earliest opportunity (usually within 12 months). However, it is recognised that there can be circumstances in which a

complainant could not reasonably be expected to know about the incident or have had appropriate reasons for not complaining within this time period.

7.3.2. Therefore, if a complaint is made more than 12 months after the incident in question, the CCG will consider the complaint if there is good reason for the delay and if it is still possible to carry out an investigation effectively and fairly.

7.3.3. A complainant has 12 months from raising the complaint in which to apply to the Parliamentary and Health Service Ombudsman for a review, although all possible endeavours to resolve the complaint locally will be made.

7.4. Recording complaints

7.4.1. Complaints can be received a number of ways: over the phone, in person, by letter, via direct email, via SMS text, via email to the CCGs different 'Contact Us' email addresses or via the Contact Us pages on the CCGs' websites.

	GWCCG	NWS CCG	SD CCG
Email	gwccg.complaints@nhs.net	nwsccg.complaints@nhs.net	sdccg.feedback@nhs.net
Tel	01483 405427	01372 232450	01372 201685
SMS	07827 663749	07880 091328	07747 476511
Post	Dominion House Woodbridge Road Guildford Surrey GU1 4PU	58 Church Street Weybridge Surrey KT13 8DP	Surrey Downs CCG Cedar Court Guildford Road Leatherhead Surrey KT22 9AE

7.4.2. Complaints received over the telephone or in person should be recorded using the Record of Verbal Complaint template.

7.4.3. Correspondence i.e. emails, letters, record of verbal complaint must be forwarded via email to the above email addresses according to which CCG received the complaint. Letters should be date stamped and scanned in for emailing.

7.4.4. The Patient Experience Coordinators will enter the specified details on to a Complaint Log spreadsheet and save all correspondence to a unique identified folder.

7.5. Acknowledging complaints

7.5.1. Complaints will be acknowledged in writing within three working days of receipt, explaining how the CCGs will handle the complaint e.g. redirect to a provider; redirect to a hosted service such as Continuing Healthcare or investigate directly.

- 7.5.2. The acknowledgement will indicate when the CCGs aim to respond, which is within 25 working days of receiving³ the complaint.
- 7.5.3. The acknowledgement must contain an offer to discuss with the complainant the manner in which the complaint is to be handled and the likely timescales for the investigation and response.

7.6. Consent to share personal information

- 7.6.1. For the CCGs to comply with their legal obligation to handle complaints according to the Complaints Regulations, it may be necessary to share personal data.
- 7.6.2. The three CCGs in Surrey Heartlands adhere to the same [Fair Processing Notice](#), updated in May 2018 and published on each CCG's website⁴. This allows each CCG to share personal data with each other and with other CCGs in Surrey outside of Surrey Heartlands without written consent to enable a complaint to be handled.
- Staff must ensure information is only shared on a need to know basis
- 7.6.3. A supplement to this Fair Processing Notice enables the three CCGs to share personal data with NHS providers and Surrey County Council without written consent to ensure they meet their legal obligations in relation to complaints.
- 7.6.4. A complainant will therefore be informed via the acknowledgment letter that the receiving CCG will share their personal data with the relevant provider(s) or commissioner(s) to enable their complaint to be duly investigated unless the complainant contacts the CCG via phone, email, SMS text or post within three working days of them receiving the acknowledgement letter.

7.7. Lasting power of attorney to act on behalf of another person

- 7.7.1. When a person makes a complaint on behalf of a third party – the patient – it is necessary to establish whether or not confidential information can be shared with the complainant.
- 7.7.2. A lasting power of attorney (LPA) is a legal document that allows a person (the 'donor') to appoint one or more people (known as 'attorneys') to help them make decisions or to make decisions on their behalf. Only people aged 18 or over who have mental capacity (the ability to make their own decisions) can make a LPA.
- 7.7.3. There are two types of LPA: health and welfare LPA and property and financial affairs LPA. The health and welfare LPA gives an attorney the power to make decisions about things such as medical care, moving into a care home, daily routines and life-sustaining treatments.
- 7.7.4. For complaints where there is a query around the level of detail that can be shared with the complainant (in regard to regulations around patient confidentiality and establishing authority to act), an interim letter will be sent to

³ When complaints are emailed to the CCG outside of normal working hours, the date of receipt is the date that the CCG opens the email and not the date that it is received into an Inbox.

⁴ Please see '*How we use your information*' on each website for details

the complainant during the investigation period. This should be sent following acknowledgement, requesting further information.

7.8. Investigation

- 7.8.1. If it is determined that a complaint needs to be investigated by the CCGs e.g. it is related to a commissioning issue or a hosted service, the Patient Experience Coordinators will redirect the complaint to the relevant senior manager to investigate the issues raised and draft a response to the complainant (and is referred to as the *'investigating officer'*).
- 7.8.2. The purpose of an investigation is not only "resolution" but also to learn, to detect poor practice and to improve services/service provision.
- 7.8.3. A comprehensive investigation, which may include a root cause analysis for complex issues, should be undertaken by senior members of staff. The amount of time spent on a complaint investigation should be proportionate to its seriousness. Investigations should be thorough, with statements and information being obtained as necessary in order to identify the circumstances of the complaint, why it happened, what could have been done to prevent it, and what actions, if any, are needed to prevent a similar complaint being made. This process should endeavour to support a culture of learning and continuous improvement.
- 7.8.4. Upon completion of the investigation, the investigating officer will prepare a draft response addressing all points raised in the complaint. The response should be written in plain English and be succinct, jargon-free, conciliatory in tone, and clear on all clinical and other issues. This will then be passed to the Patient Experience Coordinator for review.
- 7.8.5. The investigating officer assumes first line of contact with the complainant whenever possible.
- 7.8.6. The investigating officer will advise the complainant and the Patient Experience Coordinator of any delays or issues that mean the deadline for responding fully and completely to a complaint will not be met.
- 7.8.7. If it becomes apparent during the course of the investigation that a meeting with the complainant would be beneficial, the Patient Experience Coordinator must be involved in arranging and facilitating the meeting. All meetings will be minuted. A copy of the written record will be sent to all those involved to confirm the accuracy before being saved in the complaints file.
- 7.8.8. The Patient Experience Coordinator will maintain a complete record of all letters, emails, statements, phone calls and actions on the Complaints Log spreadsheet and in the designated complaints folder.

7.9. Response

- 7.9.1. The CCG aims to respond to all complaints relating to its own commissioning responsibilities within a maximum period of 25 working days. The aim is to resolve complaints as soon as reasonably possible.

- 7.9.2. However, it is recognised that some investigations can be complex and can take longer than this period of time. In this case, the Patient Experience Coordinator will ensure that the complainant is kept informed of progress.
- 7.9.3. The Patient Experience Coordinator will advise the Managing Director (aka ICP Director) of any outstanding, overdue or delayed responses.
- 7.9.4. When the investigation is complete, including any meetings, the investigating officer will draft a response and pass this to their line manager for review.
- 7.9.5. A response letter should:
- Be clear, accurate, balanced, simple and easy to understand.
 - Explain how the complaint has been considered;
 - Address the concerns expressed by the complainant and show that each element has been fully and fairly investigated;
 - Provide confirmation as to whether each element of the complaint has been partially or fully upheld;
 - Report the conclusion reached including any matters for which it is considered remedial action is needed;
 - Include an apology where things have gone wrong;
 - Provide assurance that measures have been put in place to prevent a similar incident in the future;
 - Indicate that a named member of staff is available to clarify any aspect of the letter;
 - Advise of the complainant's right to take their complaint to the Parliamentary and Health Service Ombudsman if they remain dissatisfied with the outcome.
- 7.9.6. The Patient Experience Coordinators can assist in the drafting of response letters, working with investigating officers, to ensure the above points are covered. The Complaints Manager maintains oversight of responses.
- 7.9.7. Draft response letters should be sent by the investigating officer following review by the relevant Executive or Associate Director to the Patient Experience Coordinator to proceed through the approval process.
- 7.9.8. The Managing Director (aka ICP Director) in each CCG is responsible for approving and signing off all response letters. The Clinical Chair can provide this function when the Managing Director (aka ICP Director) is on leave.
- 7.9.9. Complainants will be asked to complete an equality monitoring questionnaire and a complaints satisfaction survey using an electronic link. These will in addition be sent as paper copies with the response along with a FREEPOST envelope for returning to the Patient Experience Coordinator.

7.10. Learning

- 7.10.1. The investigating officer will advise the Patient Experience Coordinator of any lessons learnt as a result of the complaint.
- 7.10.2. In cases where the complaint has been redirected to a different organisation, a copy of the response and related learning will be requested by the Complaints Team.
- 7.10.3. All learning is summarised in the six-monthly and annual Patient Experience reports to the Quality Committees and the Governing Bodies respectively.
- 7.10.4. This process is summarised in the flow chart in Appendix 1.

8. Confidentiality

- 8.1. All staff shall be aware of their legal and ethical duty to protect the confidentiality of patient information. The legal requirements are set out in the General Data Protection Regulations 2018 and the Human Rights Act 1998. The common law duty of confidence must also be observed.
- 8.2. Confidentiality should be maintained at all times. Particular care will be taken when a patient's records contain information provided in confidence by, or about, a third party. Only that information which is relevant to the complaint will be considered for disclosure and then only to those within the CCG who have a demonstrable need to know in connection with the complaint investigation.
- 8.3. The Patient Experience Coordinator in liaison with the Complaints Manager will be responsible for determining who should be in receipt of information and at what level. Information provided by a third party will not be disclosed to the complainant unless the person who provided the information has expressly consented to the disclosure. If the third party objects, then it can only be disclosed where there is an overriding public interest in doing so as determined by the Complaints Manager.

9. Clinical review

- 9.1. During the course of the investigation, a clinical need that cannot be met within the usual commissioning arrangements may arise.
- 9.2. In most cases, the Individual Funding Request policy - or in the case of mental health services referrals, the Out of Area Treatments (OATs) policy - applies and complainants should be advised in accordance with these policies.
- 9.3. When neither of these policies apply, an exceptional clinical review can be undertaken by the relevant CCG to determine whether exceptional circumstances apply. This review should be led by the Clinical Chair of the CCG and will involve clinical and contract leads relevant to the particular case. Each CCG retains the right to commission a service using a non-contracted activity arrangement should that be determined necessary following clinical review.

10. Risk management

- 10.1. Should a complaint give rise to concern regarding the safety or welfare of the complainant or the subject of the complaint then the following process must be followed by the person receiving the complaint:
- Receiver must not act unilaterally and must always seek expert advice.
 - Receiver should alert their line manager and send details to the Patient Experience Coordinator as described in section 6.4.
 - Expert advice will be requested from the appropriate lead for safeguarding (adult and/or children's lead).
 - Approval must be sought from the Executive Nurse for decisions and actions arising from this collective review, unless in an emergency where it is considered that the immediate welfare of the complainant or the subject of the complaint is at high risk.
- 10.2. This process should include consideration of the [Safeguarding Adults](#) and [Safeguarding Children and Young People](#) policies.

11. Reporting arrangements

- 11.1. Under the complaints regulations, the CCG must summarise in its annual report:
- The subject matter of complaints that the responsible body received;
 - Any matters of general importance arising out of those complaints, or the way in which the complaints were handled;
 - Any matters where action has been or is to be taken to improve services as a consequence of those complaints.
- 11.2. Patient Experience Reports will be submitted to the Quality Committees as agreed through the reporting schedule. An annual report will be submitted to the Governing Bodies.
- 11.3. Each CCG must individually complete the quarterly [Hospital and Community Health Services Complaints Collection \(K041a\)](#) only including data for complaints that relate to their commissioning responsibilities. The only exception here is complaints relating to hosted services (see section 6.2) which should be included by the relevant CCG.
- 11.4. Complaints that have been redirected to other organisations outside of the CCG e.g. providers, NHS England, are not included in this data set as these organisations include these in their own organisational K041a submissions.

12. Training and support for staff

- 12.1. Everyone employed by the CCGs has a role to play in identifying mistakes, putting them right and learning from them. All staff should know how to react and what to do if someone raises a concern or makes a complaint.

- 12.2. This policy and the procedures described herein will be highlighted to all new staff during their corporate induction.
- 12.3. All staff are encouraged to seek help and advice from the Patient Experience Coordinators and the Complaints Manager to enable them to adhere to this policy.

13. Independent health complaints advocacy service

- 13.1. Healthwatch Surrey provides this service for anyone needing support and advice to enable them to make a complaint. It is provided in partnership with Surrey Independent Living Council. Contact details are:
 - **Website:** www.surreyilc.org.uk
 - **Email:** nhsadvocacy@surreyilc.org.uk
 - **Phone:** 01483 310500 Open 9am to 5pm Monday to Friday (except Bank Holidays)
 - **Text:** 07704 265377

14. The Parliamentary & Health Services Ombudsman (PHSO)

- 14.1. If complainants remain dissatisfied following local handling they have the right to approach the PHSO to request a review. The PHSO is independent of the NHS.
- 14.2. The Ombudsman will only usually consider complaints that have been through the NHS complaints procedure.
- 14.3. Complaints should usually be referred to the PHSO within 12 months of the complainant raising the complaint. There is no appeal against a decision made by the PHSO, although a complainant is able to seek a legal remedy e.g. judicial review.
- 14.4. All telephone calls, emails and letters from the PHSO that a member of staff may receive should be forwarded without delay to the Complaints Team via the dedicated Complaints Inbox. The CCG endeavours to respond to all requests for information from the PHSO within 5 working days of receipt. A longer period of time may be required if data requests are particularly large; in this case, the Complaints Team will ensure that the PHSO is kept informed.
- 14.5. Responsibility for ensuring that recommendations arising from any investigation by the PHSO are implemented lies with the Executive Director of Communications and Corporate Affairs and relevant Investigating Manager(s). Contact details are:
 - **Website:** www.ombudsman.org.uk/make-a-complaint
 - **Email:** phso.enquiries@ombudsman.org.uk
 - **Phone:** 0345 015 4033 - Open from 8:30am - 5:30pm, Monday – Friday, charged at local rate

- **Sign Video:** If you use British Sign Language, visit www.ombudsman.org.uk/accessibility/signvideo-bsl-live
- Textphone (Minicom): 0300 061 4298
- Callback Service: 07624 813 005
- **Post:** The Parliamentary & Health Services Ombudsman, Millbank Tower, Millbank, London, SW1P 4QP

15. Unreasonable or unreasonably persistent behaviour

- 15.1. The CCGs recognise that it is the right of every individual to complain and are committed to treating all complainants equitably and seek to resolve all complaints to the complainant's satisfaction.
- 15.2. A complainant and/or anyone acting on their behalf may be deemed to be habitual or unreasonable in behaviour, for example where previous or current contact with them shows that the complainant has threatened or used actual physical violence towards staff or their families or associates at any time.
- 15.3. Other criteria that may constitute unreasonable or unreasonably persistent behaviour include:
 - Persistence in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
 - Changing the substance of a complaint or continually raising new issues or seeking to prolong contact by continually raising further concerns or questions while the complaint is being addressed. However, care must be taken not to discard any new issues which are significantly different from the original complaint – these might need to be addressed as separate complaints.
 - Unwillingness to accept documented evidence of treatment given as being factual e.g. drug records, clinical manual or computer records.
 - Denial of receipt of an adequate response despite correspondence specifically answering the questions.
 - Failure to clearly identify the precise issues the complainant wishes to have investigated, despite reasonable efforts of staff. Where appropriate Healthwatch Surrey would be approached to help the service user specify their concerns.
 - Continual focusing on a trivial matter where the extent of focus is out of proportion to its significance.
 - Having in the course of addressing a complaint had an excessive number of contacts with the NHS placing unreasonable demands on staff.
 - Harassment or personal abuse or verbal aggression on more than one occasion towards staff dealing with a complaint, or their families or associates.

- Recording meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.
 - Display of unreasonable demands or patient/complainant expectations and failure to accept that these may be unreasonable.
- 15.4. A decision to restrict access will only normally be taken after we have considered possible adjustments to our service which may help the complainant to avoid unreasonable behaviour. Such decisions will be taken by the Managing Director (aka ICP Director).
- 15.5. Any restrictions imposed will be appropriate and proportionate and may include:
- Requesting contact in a particular form, for example letters only
 - Requiring contact to take place with a named member of staff
 - Restricting telephone calls to specified days and times
 - Asking the complainant to enter into an agreement about their future conduct
 - Asking the complainant to contact us through an advocate
- 15.6. In all cases we will write (where possible) to tell the complainant why we believe their behaviour is unreasonable, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it.
- 15.7. Where a complainant continues to behave in a way which is unreasonable, despite any adjustments we have made, we may consider terminating contact with that complainant. Should this happen we will advise them of their right to contact the Parliamentary and Health Service Ombudsman.
- 15.8. Where the behaviour is so extreme that it threatens the immediate safety and welfare of staff or others we will consider other options, for example reporting the matter to police or taking legal action. In such cases we may not give the complainant prior warning of that action.
- 15.9. Staff should ensure that they document all contact with persistent and unreasonable complainants.

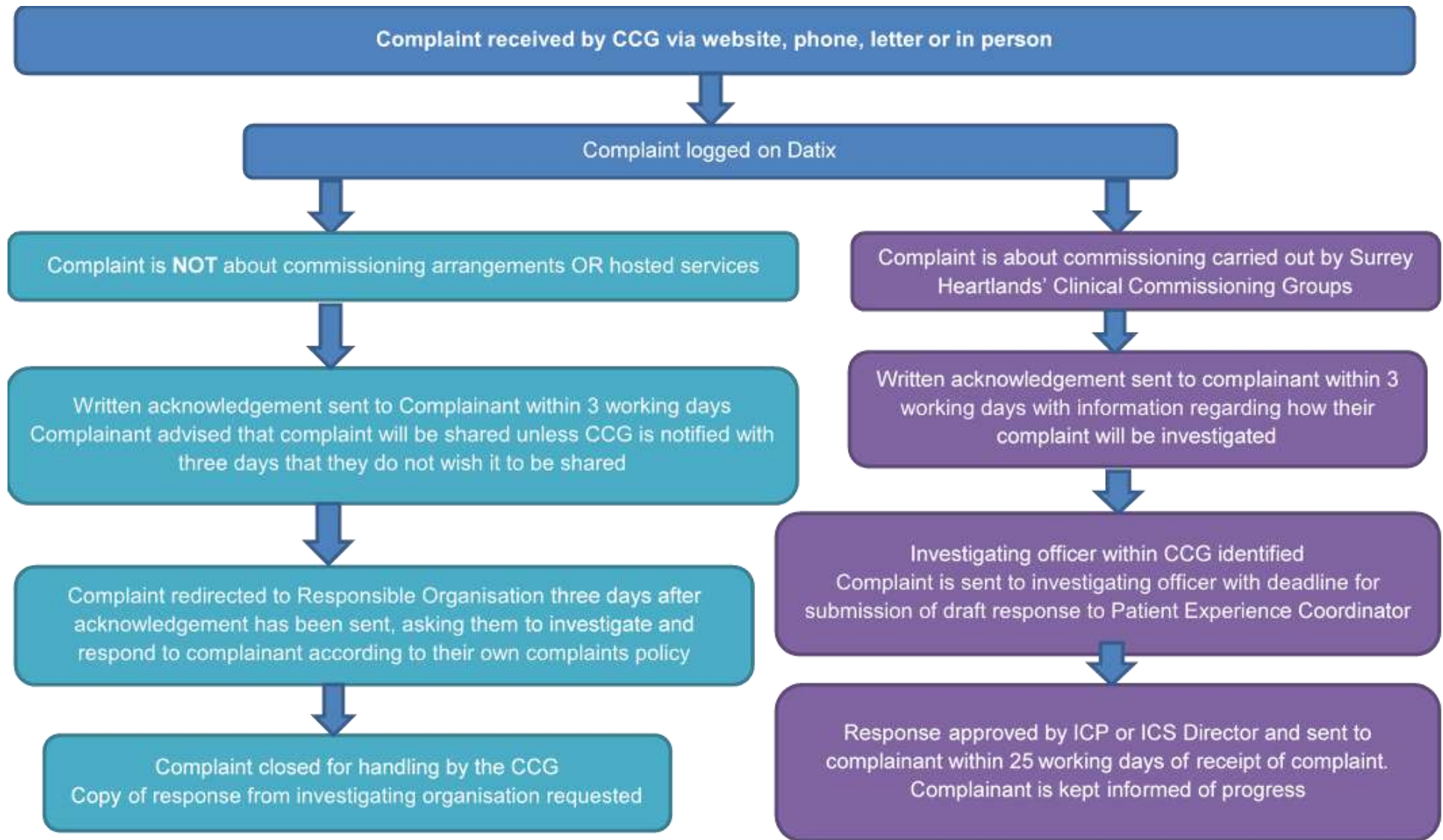
16. Legal advice and procedures for complaints involving litigation

- 16.1. Legal advice on particular aspects of a complaint should be sought if there is the possibility of litigation ensuing. This could be indicated by the complainant in writing or verbally. The Complaints Manager will seek advice from the NHS Litigations Authority and/or from the CCG's solicitors as appropriate.

17. Bibliography

- [Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#).
<http://www.legislation.gov.uk/ukSI/2009/309/regulation/5/made>
- [The first step into the Complaints Maze](#), Healthwatch Surrey, December 2014
- http://www.healthwatchsurrey.co.uk/sites/default/files/healthwatch_complaints_maze_report_v3.pdf
- [Suffering in Silence](#), Healthwatch England, October 2014
- <http://www.healthwatch.co.uk/complaints/report>
- [Breaking down the barriers: Older people and complaints about health care](#), PHSO, December 2015
- <http://www.ombudsman.org.uk/reports-and-consultations/reports/health/breaking-down-the-barriers>

18. Appendix 1 – Complaints Handling Flow Chart



19. Appendix 3 – Record of verbal complaint

Your details (person who received the complaint)		
Your name		
Your role		
Date complaint received (dd/mm/yy)		
Complainant details		
First Name		
Surname		
Address		
Postcode		
Home telephone		
Mobile telephone		
Email address		
What is the complaint about? Please note down main issues and concerns.		
Is the complainant making a complaint on behalf of another person? Insert tick.	Yes	No
Name of subject of complaint		
Address including postcode		
Reference (complaints team)		

20. Appendix 4 - Procedural document checklist for approval

	Title of document being reviewed:	Yes/No/Unsure	Comments/Details
A	Is there a sponsoring director?	Yes	Executive Director of Communications and Corporate Affairs
1.	Title		
	Is the title clear and unambiguous?	Yes	Complaints Policy
	Is it clear whether the document is a guideline, policy, protocol or standard?	Yes	Policy
2.	Rationale		
	Are reasons for development of the document stated?	Yes	Section 1: Introduction
3.	Development Process		
	Do you feel a reasonable attempt has been made to ensure relevant expertise has been used?	Yes	
	Is there evidence of consultation with stakeholders and users?	Yes	Discussion with Patient and Public Engagement Groups in each CCG in September 2018
4.	Content		
	Is the objective of the document clear?	Yes	
	Is the target group clear and unambiguous?	Yes	
	Are the intended outcomes described?	Yes	
5.	Evidence Base		
	Is the type of evidence to support the document identified explicitly?	Yes	Legislation
	Are key references cited?	Yes	
6.	Approval		
	Does the document identify which committee/group will approve it?	Yes	Quality Committee
7.	Dissemination and Implementation		
	Is there an outline/plan to identify how the document will be disseminated and implemented amongst the target group? Please provide details.	Yes	Staff: CCG electronic briefings CCG Stand Up meetings

	Title of document being reviewed:	Yes/No/ Unsure	Comments/Details
			Lunch & Learn session Intranet Public: Publish on CCG website Inform PPE group/forum/network and PPG Chairs of revised policy
8.	Process for Monitoring Compliance		
	Have specific, measurable, achievable, realistic and time-specific standards been detailed to monitor compliance with the document?	Yes	Appendix
9.	Review Date		
	Is the review date identified?	Yes	September 2020
10.	Overall Responsibility for the Document		
	Is it clear who will be responsible for implementing and reviewing the documentation i.e. who is the document owner?	Yes	Head of Engagement, Diversity & Inclusion

21. Appendix 5 – Compliance & audit table

Criteria	Measurable	Frequency	Reporting to	Action Plan/ Monitoring
Responses to complainants within 25 working days	80%	Every 6 months	Quality Committees	Complaints log
Equality monitoring forms received from complainants	60%	Every 6 months	Quality Committees	Complaints log
Satisfaction surveys received from complainants	60%	Every 6 months	Quality Committees	Complaints log
Bounce back complaints following final response	0%	Every 6 months	Quality Committees	
Complaints (CCG responsibility) investigated by PHSO	0%	Annually	Quality Committees	Complaints log
Annual complaints report	100%	Annually	Governing Bodies	GBiC agenda and minutes