

# Complaints, Compliments, Patient Advice & Liaison Service (PALS) Policy

Listening, Responding, Improving

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# 1. Introduction

- 1.1 NHS Cheshire and Merseyside Integrated Care Board (ICB) recognises the importance of listening, responding, and improving, because of concerns raised by patients and service users. The information obtained from complaints and compliments is used to help improve and develop services, whilst recognising and acknowledging good practice. Patients and service users are encouraged to express complaints, concerns, and views, both positive and negative, about the treatment and services they receive, in the knowledge that:
- They will be taken seriously.
  - They will receive a speedy and effective response by a member of staff who is appropriately qualified and trained to respond.
  - Appropriate action will be taken.
  - Lessons will be learned and disseminated to staff accordingly.
  - There will be no adverse effects on their care or that of their families.
- 1.2 This policy sets out the process for complaints management and the standards that complainants and service users can expect. It also explains how complaints will be reviewed, monitored and how lessons learned will be implemented and improve services as a result. The policy aims to provide a fair and effective procedure for the management of complaints and ensure that complainants not only feel fully engaged in the process but are actively involved in matters which relate to the care they have received and in the on-going complaints learning cycle.
- 1.3 Ensuring good practice in the handling of complaints is one way in which the ICB can help to improve quality for their patients. Monitoring trends and patterns in complaints and concerns highlighted by patients about commissioned services, facilitates early detection of systemic problems. The learning from complaints helps the ICB and our commissioned providers to continually improve the services they provide. Complaints are essential in identifying the users' perspective of the services provided and can act as an early indicator of a system issue, or a quality and safety issue which may be putting patients at risk. Appropriate trend analysis and triangulation of other factors such as reported incidents and patient experience surveys, combined with complaints, concerns and enquiries provide a valuable and powerful insight into health care areas which may require improvements to be made.
- 1.4 We also welcome insight into patient experiences which have been well received and may be seen as good practice or exceptional. This informs the ICB of clinical or operational practice which can be shared with other areas of the healthcare community, to drive up quality of care.

- 1.5 The ICB monitors public involvement activity across partner organisations - primarily via contract and quality schedules which ensure statutory duties are met. We also work closely with partner organisations on joint patient and public involvement work, including formal public consultations.

## 2. Purpose and Principles

- 2.1 This policy sets out the framework that the ICB will follow when addressing concerns, feedback, or complaints about ICB commissioned services.
- 2.2 The policy incorporates the requirements of the [The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#) (hereon 'the regulations') and the rights of patients and service users set out in [The NHS Constitution for England](#).
- 2.3 The policy will ensure that the complaints service provided by the ICB, observes NHS England's [Assurance of Good Complaints Handling for Acute and Community Care - A toolkit for Commissioners](#) , [Assurance of Good Complaints Handling for Primary Care - A toolkit for Commissioners](#) and applies the Parliamentary Health Service Ombudsman (PPHSO) [Principles of Good Complaints Handling](#) by:
- **Getting it right** – by ensuring compliance with the law, statutory powers and duties, and the ICB's own policies and procedures; acting reasonably and fairly in making decisions; commissioning quality and effective services through competent, trained staff, and where things go wrong handling and investigating complaints well and taking steps to remedy any injustice and hardship suffered and avoid any recurrence.
  - **Be customer focused** – by commissioning accessible services; providing clear and understandable information about services and customers' entitlements; doing what we say or if we can't explain why; behaving helpfully; being sensitive to individual needs and flexible in response to circumstances, coordinating with other public authorities and providers; and promptly identifying and acknowledging failures or poor service and apologising.
  - **Being open and accountable** – by handling information as openly as the law allows while respecting the privacy of personal and confidential information; providing clear, accurate, complete, relevant, and timely information and advice; being open and truthful about the reasons for its decisions and actions; maintaining reliable and useable records; and taking responsibility for the actions of its staff and others acting on its behalf.
  - **Acting fairly and proportionately** – by listening to its customers; treating people equally, impartially, fairly and consistently; managing conflicts of interest appropriately to avoid prejudicing decisions or actions; ensuring any penalties or remedies applied are fair, reasonable and proportionate in handling complaints. Ensuring that complainants are not discriminated against

in relation to any ongoing services and that staff as well as customers are treated fairly in the process.

- **Putting things right** – when mistakes happen by acknowledging them, apologising, explaining what went wrong, and putting things right quickly and effectively. Where possible, putting things back to the position they would have been in if nothing had gone wrong.
- **Seeking continuous improvement** – by reviewing policies and procedures regularly; seeking and using feedback to improve delivery and performance; capturing and reviewing the lessons learned from complaints to develop services; and reporting on complaints handling performance and its outcomes.

- 2.4 The regulations, NHS England guidance and PPHSO principles all place emphasis on putting the patient at the heart of the handling of their complaint to ensure an inclusive investigative process which is conducted fairly and effectively and is outcomes driven.
- 2.5 The ICB embraces the PPHSO, Local Government Ombudsman and Healthwatch vision for complaints handling entitled [My Expectations](#) .

### 3. NHS Cheshire and Merseyside Integrated Care Board Obligations and Responsibilities

- 3.1 The NHS complaints procedure provides for complaints to initially be managed at the source of the complaint. The ICB has a Patient Advice Complaint Team designated to manage complaints. Where a complainant remains dissatisfied with the outcome of the investigation, the ICB may attempt further local resolution by additional investigation (only where it is considered further information can be provided), or advise the complainant of their right to raise their complaint to the PHSO.

The responsibility of the ICB in handling complaints is to:

- Investigate complaints raised against the ICB itself and the services it provides or commissions.
  - Support and advise ICB staff and complainants as appropriate, in dealing with the issue raised.
  - Identify and address any issues, advising complainants of the actions being taken as part of the formal process and that the ICB and/or its commissioned providers learn any appropriate lessons.
- 3.2 The Chief Executive is the designated 'Responsible Person' for the purposes of ensuring compliance with the Local Authority Social Services and NHS (England) Complaints Regulations 2009. They are, therefore, responsible for ensuring there is an effective system for the management, investigation and resolution of

complaints/concerns and requests for advice within the organisation, and for ensuring that the ICB complies with the relevant regulations. In addition, they have responsibility for ensuring that the ICB utilises information relating to, and gathered from, complaints/concerns and requests for advice to improve services, to inform the commissioning process, and to assure itself that the services commissioned are safe and of the quality expected.

- 3.3 The Assistant Chief Executive has responsibility for preparing and keeping under review the arrangements for handling complaints, which includes the production of the Complaints Policy and approval of complaint responses on behalf of the Chief Executive.
- 3.4 Any changes to the policy require the approval of the ICB Quality and Performance Committee.
- 3.5 The Senior Patient Experience Manager is the lead for the day-to-day management of complaints.

## 4. What is a complaint?

- 4.1 One definition of a complaint is “*an expression of dissatisfaction that requires a response*”. Clearly this is an open definition, and it is not intended that every minor concern should warrant a full-scale complaints investigation. However, the ICB should always ask the person how they would like their concern dealt with, whether informally through the Patient Advice and Liaison Service (PALS), or formally using the complaints policy.
- 4.2 The spirit of this complaints policy is to have a user led system for raising concerns and complaints. The ICB wants to set out what good outcomes look like from the point of view of the person who has made a complaint.
- 4.3 All issues will be dealt with in a flexible manner, which is appropriate to their nature. Sometimes a complaint can be resolved quickly to the complainant’s satisfaction. Whenever there is a specific statement of intent on the part of the person that they wish their concerns to be dealt with as a complaint, they will be treated as such. Anybody who is dissatisfied with the initial response to a matter which has been dealt with as a problem-solving issue will be advised of their right to pursue the matter further with continued attempt at local resolution or with the PHSO.
- 4.4 The You and Your General Practice charter 2025 (YYGP) has been developed to help patients understand what to expect from their general practice and how they can get the best from their GP team. YYGP also enables patients to provide feedback or raise concerns with their GP Practice, Healthwatch or their local integrated care board (ICB). Further information can be viewed <https://www.cheshireandmerseyside.nhs.uk/contact/complaints/you-and-your-gp-charter/> .

## 5. Investigation and Time Limits for Response

- 5.1 Due to the complexity or seriousness of the subject matter, not every complaint can be resolved quickly. It can also be due to the complaint being about a service which the ICB commissions, and which the ICB does not have direct access to relevant information, clinical or procedural records, and the clinical/non-clinical staff involved. If the ICB cannot conclude the investigation and issue a final response within 6 months (unless we have agreed a longer timescale with the person raising the complaint within the first 6 months), the Patient Advice Complaint Team will write to the person to explain the reasons for the delay and the likely timescale for completion. This timescale may be subject to variation, dependent upon the complexity of the complaint investigation and if the focus of the complaint is within the direct provision of the ICB or concerns a third party (i.e., a commissioned provider).
- 5.2 Where the nature of the complaint relates to an ICB commissioned provider, the Patient Advice Complaint Team will discuss the points of concern with the most appropriate ICB Programme Team / Quality Lead. This will ensure that ICB commissioning managers are made fully aware of the concerns being received about the services which they have commissioned.
- 5.3 Upon receipt of patient consent, the Patient Advice Complaint Team shares the details of the complaint with the commissioned provider for an investigation to commence. Following receipt of the provider investigation response, the Patient Advice Complaint Team shares the outcomes and any lessons learned with the ICB Quality Team/ Programme Team, as part of the quality assurance process.
- 5.4 For complaints which relate to in-house ICB services (e.g., All Age Continuing Care), these will be investigated directly by the ICB service concerned and quality assured with the Director/Head of the service.
- 5.5 The response should include a full explanation of the issues and findings, details of any actions taken to prevent a recurrence of the incident and information about the ICB appeals process. Details regarding the rights of the complainant to further their case with the PHSO will also be included.
- 5.6 Where multiple commissioners of services are involved in a complaint, we will ensure there is agreement on which commissioning organisation leads the investigation.
- 5.7 Following investigation, all complaint responses are quality assured by the most appropriate ICB Director or Programme Lead and Assistant Chief Executive.



## 6. Exceptions

- 6.1 The following are excluded from the scope of this policy:
- complaints and grievances raised by members of ICB staff, relating to their contract of employment
  - Complaints by third party organisations about contracts arranged by the respective ICB under its commissioning arrangements.
  - Complaints which have previously been investigated under these or previous regulations and where no significant additional information is supplied.
  - A complaint that has already been raised directly with a service/organisation commissioned by the ICB. This includes complaints which are at the time, being investigated by the commissioned provider.
  - A complaint which is being or has been investigated by the PHSO
  - Investigations and enquiries arising out of an ICB's alleged failure to comply with a data subject access request under the General Data Protection Regulations and Data Protection Act 2018, or a request for information under the Freedom of Information Act 2000.
  - Complaints about privately funded health care treatment.
  - A case where an out of court settlement has previously been received.
  - An NHS Continuing Healthcare appeal.
  - Any allegations of fraud, bribery or financial misconduct raised via the complaints process will be forwarded on to the ICB Counter-Fraud Specialist for consideration.
- 6.2 Where a complaint (verbal or written) raises concerns, suspicions or allegations of abuse or neglect of children or adults, it will immediately be brought to the attention of the ICB's Executive Director of Nursing and Care / Deputy, who will then determine the most appropriate course of action, including:
- Whether the concerns should be reported through formal external safeguarding processes;
  - If Police involvement is necessary;
  - Communication of any referral made to the patient/family/NHS Trust, healthcare provider or staff as appropriate, and;
  - Next steps in terms of an investigation. This may require advice from multiple internal and external stakeholders.
- 6.3 In some cases safeguarding processes may take precedent over the complaints process. Where safeguarding processes are invoked and this impacts on the timing of the complaint response, re-negotiation regarding timescales may be necessary to allow for the completion of the safeguarding investigation first. In all cases an agreement will be reached with the individual parties involved as to what process will provide the material response, or what elements of the complaint can/will be answered outside of the safeguarding process.

## 7. How do I make a complaint to the ICB?

- 7.1 The ICB has a dedicated Patient Advice Complaint Team who will handle your complaint. If you would like to submit a formal complaint, then the service can be reached via the contact points on the ICB website at:  
<https://www.cheshireandmerseyside.nhs.uk/contact/complaints/>
- 7.2 Complaints can be received via post, email, or telephone. Verbal complaints can be transcribed (with the complainant's consent) as a record, by a member of our Patient Advice Complaint Team.
- 7.3 The record will then be sent to the complainant with an acknowledgement and an invitation to confirm that it is an accurate representation of the complaint. The complainant and/or their representative will be asked to review and return it to the Patient Advice Complaint Team. Upon receipt of the signed agreed statement, the Patient Advice Complaint Team will begin the investigation.

## 8. Advocacy

- 8.1 The ICB supports the use of independent help within the complaint procedure and any complainant wishing to access independent advocacy will be provided with information on how to obtain one. The Independent NHS Complaints Advocacy Services across Cheshire and Merseyside can be contacted using the contact details  
<https://www.cheshireandmerseyside.nhs.uk/contact/complaints/independent-complaints-advocacy-service/>

## 9. Who Can Complain?

- 9.1 In general terms, a complaint can be made by:
- Anyone who is receiving, or has received, NHS treatment or services commissioned or provided by the ICB.
  - Anyone who is affected by or likely to be affected by an action, omission, or decision of the ICB.
- 9.2 If a person is unable to make a complaint, then someone can act on their behalf. A representative may make a complaint on behalf of an eligible person who is not able to make the complaint themselves. This includes where the person:
- Is deceased.
  - Is unable by reason of physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005.

- Has requested the representative to act on his or her behalf and provided written consent.
- Is a child \*.

**\*Note**

A person with parental responsibility can make a complaint on behalf of a child if you judge that the child does not have sufficient understanding of what is involved. You do not need the child's consent in these circumstances (or the consent of the other parent/guardian).

It is good practice, if you can, to explain the process to the child in a way that they can understand. This includes telling them that information from their health records may need to be shared with the people looking into the complaint.

If the child has sufficient maturity and understanding they can either, make the complaint themselves or consent to a representative making the complaint on their behalf.

Gillick competency applies mainly to medical advice, but it is also used by practitioners in other settings. Medical professionals need to consider Gillick competency if a young person under the age of 16 wishes to raise a complaint without their parents' or carers' consent or, in some cases, knowledge.

**9.3 Where the representative makes a complaint on behalf of a child, the ICB:**

- Must not consider the complaint unless it is satisfied that there are reasonable grounds for the complaint being made by the representative instead of the child: and
- If it is not satisfied, must notify the representative in writing, and state the reason for its decision.

**9.4 Deciding who can complain can often be a complex issue. In the event of any uncertainty, then contact should be made with the Patient Advice Complaint Team for clarification and advice.**

**9.5 Normally a complaint should be made within twelve months from the date the incident occurred, or within twelve months of the date of discovering the problem. There is discretion for the Patient Advice Complaint Team to extend this time limit where it would be unreasonable in the circumstances of a particular case for the complaint to have been made earlier, and where it is still possible to investigate the facts of the case effectively. Where it is decided not to investigate, the complainant will have the opportunity to approach the PHSO.**

## 10. Consent

- 10.1 In order for a complaint to be taken further, the ICB requires consent from the patient, or a person authorised to act on their behalf. The reason for this request is to comply with the General Data Protection Regulation 2018 (GDPR) and Data Protection Act 2018, together with NHS patient confidentiality guidelines. The main purposes of these Acts and guidance are to respect and protect the individual's rights and ensure that any information about the person concerned is not disclosed without their consent.
- 10.2 Care will be always taken throughout the complaints process to ensure that any information disclosed about the patient is confined to that which is relevant to the investigation of the complaint, and only disclosed to those people who have a demonstrable need to know it for the purpose of investigating the complaint. The investigation will begin when written consent is received either from the patient or designated third party.
- 10.3 To allow the ICB to investigate a complaint, in most cases personal information of the patient will be required. ICBs have statutory duties (Section 6 of the Local Authority Social Services and National Health Service Complaints [England] Regulations (2009) (under section 113 "Complaints about Healthcare" of the Health and Social Care (Community Health and Standards) Act 2003) which allow the processing of personal data in relation to complaints.

The ICB will generally collect/receive information when members of the public, their representatives, or Members of Parliament, contact us with concerns or enquiries. To enable us to process a complaint, the ICB will collect the relevant information at the point of contact to enable the team to provide a sufficient response to the request.

Information which may be sought in relation to investigating a complaint include the following categories of personal data:

- Patient's name
- Patient's address
- Patient's contact number
- GP Surgery
- Patient's NHS number
- Patient's date of birth
- Representative details (if applicable)
- Representative address (if applicable)
- The nature of the complaint
- Physical or mental health details (special category data)
- Racial and ethnic origin (special category data)
- Sexual orientation (special category data)

## 11. Handling Complaints

- 11.1 All complaints received are logged and acknowledged within three working days of

receipt. The Patient Advice Complaint Team may need to contact the complainant prior to an investigation to discuss how the complaint will be handled; clarify what the complaint is; what outcome the complainant expects; and the timescales involved (if the above matters are not clear in the complaint being raised).

- 11.2 Our intention is that complaints are dealt with flexibly; with the aim of achieving the desired outcome if that is possible, as early as possible.

## 12. Local Resolution

- 12.1 Should a complainant remain dissatisfied following receipt of the ICB response, consideration of further investigation/response will be given by the ICB. Where the ICB considers local resolution has been exhausted (e.g. all matters have been investigated and responded to in full), details of the PHSO will be provided to the complainant.
- 12.2 The complainant should clearly state the nature of the dissatisfaction with the ICB response and what outcome is being sought. This gives the ICB an opportunity to consider the further points made by the complainant with the aim of achieving local resolution. Where appropriate, a different ICB investigating officer (from the original investigation) may carry out a re-investigation of all or part of the case, and/or seek assistance from a Director/Associate Director who was independent from the original investigation. The investigating officer will consider the robustness of the first investigation and if any points raised by the complainant have not been addressed. Where this is the case, the investigating officer may confirm to the Director/Associate Director that a partial or full re-investigation is necessary.
- 12.3 In cases where the investigating officer requires a second opinion, they may approach the appropriate Director/Associate Director for their view. Following investigation, should the investigating officer, Director/Associate Director uphold the original response, a letter with the outcome of this review will be sent to the Assistant Chief Executive / Chief Executive for approval.

## 13. Learning from Complaints

- 13.1 The aim of a complaint investigation is to try to understand what went wrong and what actions, if any, should be taken as a result. Lessons learned from complaints are discussed by the ICB at a senior management level. The purpose of the discussion is to use the information to:
- Ensure any common themes are visible to the ICB.
  - Make informed decisions about where service improvements can be made.

- Monitor progress against any action plans.
- Reduce the risk of a similar patient experience being repeated.

13.2 The learning from complaints is provided via a regular report to the ICB Quality and Performance Committee, the minutes of which are disseminated to local place quality leads.

## 14. Service Improvements and Clinical Governance

14.1 ICB Programme Lead Managers should use the issues raised in individual complaints to explore and, where appropriate, initiate service improvements.

14.2 If information from complaints and/or evidence from other sources, including that provided by other staff, indicates that patients could be at risk; escalation should take place to pertinent Associate Directors of Quality and Safety Improvement, Place Directors, and Executive Director of Nursing and Care/ Deputy Director of Nursing and Care for guidance as to the most appropriate action to be taken.

## 15. Parliamentary Health Service Ombudsman

15.1 If the complainant remains dissatisfied following the ICB's attempts at local resolution, the complainant can ask the PHSO to investigate their case. The PHSO is completely independent of both the NHS and the Government. The PHSO can investigate complaints about how the complaints procedure is working. The PHSO is not obliged to investigate every complaint that is put to them and will not normally accept a case, which has not first been through the local NHS complaints procedure and exhausted attempts of local resolution. The PHSO can be contacted at:

Website: <https://www.ombudsman.org.uk/>

Tel: 0356 015 4033

15.2 Upon request from the PHSO, the ICB will:

- Ensure the Ombudsman is sent copies of the complaint investigation file within the timescale set by the Ombudsman.
- Liaise with the offices of the Ombudsman to provide additional information as requested.
- Report any complaint which has been accepted by the Ombudsman, to the ICB's Quality and Performance Committee. Assurance and information will be provided to the ICB's Quality and Performance Committee of any required actions as directed by the PHSO.

## 16. Duty of Candour

- 16.1 The ICB has a responsibility to investigate if a complaint includes reference to a breach of Duty of Candour or where there is evidence in a complaint response to suggest that the provider has not acted in an open and honest manner.
- 16.2 The NHS Constitution sets out a series of rights and pledges for both staff and patients. It is integral for creating a positive and caring culture within the NHS and one which patients, carers and their families can expect openness and transparency when things go wrong. The NHS Standard Contract (used when commissioning NHS funded healthcare services) includes a specific requirement relating to the Duty of Candour. This 'Duty' applies to all patient safety incidents which result in moderate harm, severe harm or death. This builds upon the National Patient Safety Agency's principles (prior to its closure) of 'Being Open' but making it a contractual requirement for provider organisations to be open and honest with patients, families and carers when a patient safety incident occurs. The Duty of Candour also requires organisations to support staff at all levels and to encourage even greater honesty when incidents occur which result in moderate harm, severe harm or death. A breach of the Duty of Candour will, therefore, be regarded as a failure to disclose when something has gone wrong.
- 16.3 Any member of the public, Healthwatch or whistle-blower informing the ICB of a potential or actual breach of Duty of Candour by a provider, can expect a full investigation. Once notified of a breach, the ICB will investigate to establish if the circumstances do constitute a breach of the contractual requirements.
- 16.4 The ICB has a responsibility to investigate if a complaint includes reference to a breach of Duty of Candour or where there is evidence in a complaints response to suggest that the provider has not acted in an open and honest manner.

## 17. Persistent, Habitual or Vexatious Behaviour

- 17.1 All staff are actively encouraged to assist people in resolving concerns or complaints in accordance with the ICB's complaints procedure. The ICB acknowledges that some complainants will often be frustrated and aggrieved. It is therefore important to consider the merits of any case as opposed to the person's attitude. However, the ICB also has a duty to ensure the safety and welfare of staff.
- 17.2 The ICB recognises that it is important to distinguish between people who make a number of genuine complaints or requests for information, and those whose persistence goes far beyond what is reasonable and/or which may have significant resource implications for the ICB. There are times when there is nothing further that can reasonably be done to help people achieve resolution of their complaint. Additionally, there are a small number of people where the frequency of their

contact with the ICB or their individual behaviour, hinders consideration of their own and/or other people's complaints or requests for information.

- 17.3 Handling persistent and unreasonable communications from members of the public places a strain on time and resources and can cause unacceptable stress for staff that may need support in difficult situations. NHS staff are trained to respond with patience and understanding to the needs of all service users but there are times when there is nothing further that can be reasonably done to assist them or to rectify a real or perceived problem.
- 17.4 ICB staff should always consider if contacts from a previous unreasonable/persistent individual are raising new points that should be addressed or investigated. New complaints/requests for information received will therefore be treated on their individual merits.
- 17.5 ICB staff should always consider whether there are any relevant equality considerations that may be linked to the persistency of the contacts made by individuals to the ICB. It is the responsibility of the ICB staff member reviewing each individual case to recognise that some individuals (for example, those with speech/hearing impairment, learning disability or other permanent or temporary cognitive impairment or service users for whom English is not their first language) may need the ICB to implement relevant adjustments to the process for the handling of their contact(s) to minimise communication issues and barriers.
- 17.6 Where staff feel that the contacts received are of a violent, aggressive, or abusive nature or where behaviour becomes so extreme that it threatens the immediate safety and welfare of others, including ICB staff, additional options will need to be considered. Staff, in the first instance, should seek immediate advice from their Manager and make an assessment of the risk. In these circumstances it should be noted that the Protection from Harassment Act 1997 and the Malicious Communications Act 1988 will take precedent over this policy with regards to the behaviour displayed by a member of the public contacting the ICB.
- 17.7 **Definitions**  
An individual may be deemed to be exhibiting persistent and/or unreasonable behaviours where current or previous contact with the ICB shows that they have met two or more (or are in serious breach of one) of the following criteria. However, once it is clear that a complainant meets any one of the criteria, it would be appropriate to inform them verbally and/or in writing that they are at risk of being classified as habitual/ unreasonably persistent and what the outcome of this would be.
- 17.8 Persistent and/or unreasonable behaviours criteria:
- Has harassed or been personally abusive or verbally aggressive on one or more occasion towards employees dealing with their complaint – directly or indirectly – of the ICB or their families/associates. If the nature of the harassment or aggressive behaviour is sufficiently serious, this could in itself be sufficient reason for classifying the complainant's behaviour as unreasonable. It must be recognised that complainants may sometimes act out of character at times of



stress, anxiety, bereavement or distress and reasonable allowances should be made for this.

- Has shown signs of bullying behaviour towards employees of the ICB. This is characterised as offensive, intimidating, malicious or insulting behaviour; an abuse or misuse of power through means intended to undermine, humiliate, or injure the recipient. Bullying or harassment may be obvious or insidious and is unwarranted and unwelcome to the individual.
- Persists in pursuing a complaint/appeal when the correct procedures have been fully and properly implemented and exhausted as per the ICBs Complaints Policy or when an investigation/appeal is still pending an outcome.
- Does not clearly identify the issue they wish to be investigated despite reasonable efforts and/or where concerns identified are not within the remit of the ICB to investigate.
- Has identified concerns outside the jurisdiction of the ICB and does not accept this when it is explained.
- Seeks to prolong contact by continually raising further concerns or the substance of the complaints/questions, making the same complaint repeatedly, perhaps with minor differences, after the complaint has been investigated. This would include where people insist that the minor differences constitute new complaints.
- Have an excessive number of contacts with the ICB placing unreasonable demands on staff. Contacts can include telephone, email, letter or in person.
- Insists that they have not had an adequate response in spite of a large volume of correspondence specifically addressing their concerns and confirmation from the ICB that the matter is considered closed.
- Denies receipt of a response, despite evidence of the ICB specifically answering their questions/concerns.
- Is unwilling to accept documented evidence that has been given as factual (e.g., clinical records) or denies receipt of an adequate response in spite of correspondence answering questions or does not accept facts can be difficult to verify when a long period of time has elapsed.
- Refuses to co-operate and complete necessary paperwork to enable the ICB to progress requests or complaints.
- Consumes a disproportionate amount of time and resource in trying to identify and respond to concerns.
- Continually focusses on a matter which is disproportionate to its significance (as this is subjective, careful judgment must be used).
- Electronically records meetings or conversations without the prior knowledge and

consent of the other parties involved. It may be necessary to explain to the member of the public that such behaviour is unacceptable and can, in some circumstances, be illegal.

- Displays unreasonable demands or expectations and fails to accept these may be unreasonable e.g., timeframes for responding to emails.
- Insists on their complaint being dealt with in ways that are incompatible with NHS procedure or good practice or are disproportionate to the complaint.
- Purports to act on behalf of a patient or multiple patients, who may not have a personal complaint, to raise their own issues.

Persistent and unreasonable behaviours include all methods of contact which may consist of (but is not limited to) written; email; telephone; social media or several methods of communication.

#### 17.9 **Organisation arrangements & staff responsibility**

There are several stages to managing persistent and unreasonable contacts: staff will need to work through the process and move to another stage if the situation continues.

17.10 Staff must also fully record any contacts from individuals that meet the criteria set out in section 17.8 . The issues should then be raised with their line manager and the Senior Patient Experience Manager, who will offer initial advice on use of this policy and appropriate action to take.

17.11 Where there is an imminent risk to the safety of any staff member, an incident report form should be completed (in line with ICB's Incident Reporting Procedure outlined within the ICBs Health and Safety Policy). In exceptional circumstances the ICB may need to consider other options, for example reporting the matter to the police or taking legal action. In these situations, it may also be necessary to take action without giving any prior warning to the member of public.

#### 17.12 **Process for managing persistent / unreasonable contacts**

The precise nature of the action the ICB take in relation to habitual or unreasonably persistent complainant should be appropriate and proportionate to the nature and frequency of the complainant's contacts with the ICB. Judgement and discretion must be used in applying this policy, application of the criteria and action to be taken in each case. The process for managing persistent/ unreasonable contacts will therefore only be used as a last resort and after all reasonable measures have been taken to try to resolve any issues, concerns raised.

The following stages should be followed when implementing this policy.

#### 17.13 **Stage 1 – Advise the service user.**

The member of staff receiving the contacts, or their Manager, should liaise with the Senior Patient Experience Manager to arrange for a formal letter, and copy of this policy, to be sent to the individual advising them that their contact is unreasonable/persistent and include an explanation of how this is affecting the

member of staff, or organisation, and, if possible, giving the individual an opportunity to alter their behaviour.

Full and accurate documentary records must be kept of all contacts with the individual, which may be shared with them if requested.

#### 17.14 **Stage 2 – Issue a warning.**

When a formal letter and copy of the policy has been sent to the member of public and they continue to behave in a way which is perceived as persistent and unreasonable the Manager and the Senior Patient Experience Manager will consult with the Associate Director of Corporate Affairs and Governance (ADCAG), or nominated deputy, to decide what action is taken.

If the ADCAG agrees that the contacts continue to be unreasonable and/or persistent the member of staff receiving the contacts, or their Manager, will send a second formal warning letter with a copy of this policy. The warning should explain:

- why the contacts are found to be unreasonable / persistent.
- the consequences of continuation of unreasonable / persistent contact.
- the restrictions on future contacts with the ICB and the consequences of persisting with unacceptable behaviours.

Where possible, warnings should be in writing as this provides a clear statement and an audit trail. If it is necessary to provide a telephone warning this should be followed up in writing.

#### 17.15 **Stage 3 – Request further action**

Where two warnings have been given but the individual continues to behave in a way that is unacceptable, a request to apply further action must be made to the ADCAG. This should include:

- a summary of evidence for applying further action from staff/ relevant Manager.
- information about any extenuating circumstances.
- relevant documentation.
- proof that warnings have been provided and any other efforts made to prevent use of further action.
- what steps are considered appropriate to control any adverse effects on the service user's behaviour.

17.16 The action decided upon will be applied for a set period of time, determined by the ADCAG (usually six months). The ICB will automatically consider if unrestricted contact can resume after six months, dependent on the individual's behaviour over this period. If unreasonable / inappropriate contact resumes the ADCAG can invoke the restrictions previously applied, including a further review after six months.

#### 17.17 **If further action is not taken**

Upon full consideration of the case the ADCAG may decide not to take further action. If this is the case, they should consider:

- the need to provide guidance for staff in dealing with the individual concerned.

- changing the staff dealing with the individual.
- steps required to safeguard the health and well-being of staff.

#### 17.18 **Stage 4 – Further action**

The ADCAG will decide if further action should be applied and what action to implement, which could be one or more of the following:

- A.** Restricting the method/ type of contacts, e.g., written communications only. If the ICB is to withdraw from telephone contact with the individual a suggested statement should be prepared for staff to use.
- B.** Restricting the point of contact, e.g., single point of access via a generic email.
- C.** Drawing up an ‘agreement’ setting out a code of behaviour and process of communication that the individual must comply with. This agreement should last for a period of six months at which point it will be reviewed and can be extended or repealed dependent on the behaviour of the individual during the six-month period. A code of behaviour could include the following:
  - Restricting contact to a named individual (see point B).
  - Restricting the method of communication, e.g., by letter only (see point A).
  - Restricting the time allocated if contact is to be made by telephone.
  - Offer a meeting to attempt to resolve any outstanding issues.
- D.** Decline further communications. Where the ICB has responded fully to the points raised by the client and tried to resolve the issues without success, and continuing contact on the matter would serve no useful purpose, the individual will be notified that contact is at an end and any further communication will be acknowledged but not responded to.
- E.** In exceptional circumstances the ICB might take legal advice or, if appropriate, refer the matter to the police.

The ADCAG will arrange for a letter to be sent to the individual notifying them why they have been classified as unreasonably persistent, the action that will be taken and date this decision will be reviewed.

#### 17.19 **Review of a decision to apply further action/ review of habitual status**

Once individuals have been deemed as habitual or unreasonably persistent a mechanism to review and withdraw that status (if appropriate) needs to be put in place.

- 17.20 At the specified review date (i.e., 6 months), the individual will be reviewed, and a decision made if appropriate to withdraw persistent/unreasonable status. The decision will be based on the individual’s conduct during the review period and if any breaches are evident.

17.21 Once a decision is reached a letter should be sent to the individual advising them of the outcome and confirming if the status has been lifted or the period of restriction extended.

17.22 The ICB may also consider withdrawing this status earlier, if:

- it becomes apparent that the complainant has adopted a more reasonable approach.
- If a new issue comes to light, an individual may not be deemed habitual / unreasonable unless their behaviour demonstrated this relating to the new issue.

### 17.23 **Right of Appeal**

If the individual wishes to appeal the action that has been taken a request should be made in writing to the Senior Patient Experience Manager, who will arrange for the decision to be reviewed at a meeting with the Chief People Officer, ADCAG and a Non-Executive Member.

17.24 If the individual remains unhappy with the outcome of their appeal, they should be directed to the ICB formal complaints process, which has recourse to the Parliamentary and Health Service Ombudsman for independent review.

### 17.25 **Monitoring**

A central register of decisions to apply further actions will be held by ADCAG and regular reports to demonstrate monitoring and assurance of this procedure will be presented to the ICB Quality and Performance Committee to ensure oversight and quality.

## 18. **Patient Advice and Liaison Service (PALS)**

18.1 The PALS service is an impartial, open, and confidential service for people who would like information or advice or would like to comment about any aspect of their services provided by an NHS organisation. The PALS service was introduced to support patients and carers throughout their care and treatment, assisting timely and relevant access to information and services.

18.2 All patients, service users, carers, interested third parties and staff can access the PALS service. Where the issue is raised by a third party and it directly relates to the circumstances surrounding an individual, it will be necessary to gain consent from that individual before any action is taken.

18.3 The ICB's Patient Advice Complaint Team operates the PALS Service within normal office hours (Monday to Friday 9am – 4pm). The Patient Advice Complaint Team will aim to acknowledge to contacts relating to concerns or enquiries within two working days.

18.4 The PALS Service will:

- Signpost individuals to appropriate information sources about NHS services.
- Listen and respond to concerns, suggestions, or queries.

- PALS staff will act as quickly and creatively as possible to support patients, their carers and families to deal with concerns, before they become more serious.
- An important part of PALS is to help people to talk through their concerns so they can identify the nature of the problem and work out options to resolve it. Concerns may be resolved by listening, providing relevant information, or by liaising with other organisations or staff on the individual's behalf and with their consent.
- Options for individuals may include making a formal complaint under the NHS Complaints Procedure and/or signposting complainants to Advocacy Services for free and independent advice and support.

## 19. Possible Claims for Negligence

- 19.1 Under the Complaints Regulations, the complaints procedure does not cease if a claim for negligence is received. The default position since 1 April 2009 is where a complainant expresses an intention to take legal proceedings, an NHS body should continue to try to resolve the complaint quickly unless there are compelling legal reasons not to do so. The ICB will take advice from NHS Resolution if a letter of claim is received relating to a complaint being investigated at the time of receipt of the claim.
- 19.2 Where the complainant is taking, or plans to take, legal proceedings, a complaint may only be put on hold where there are exceptional reasons to justify it (or the complainant has requested that investigation be delayed).
- 19.3 In the early part of the process, it may not be clear whether the complainant simply wants an explanation and apology, with assurances that any failures in service will be rectified for the future, or whether the complainant is in fact seeking information with formal litigation in mind. An open and sympathetic approach and response may satisfy the complainant, and, in all cases, NHS bodies should make clear to people who are concerned it is taking an unreasonable amount of time to investigate and respond to their complaint that they can complain to the PHSO about the delay.
- 19.4 Apparent evidence of negligence should not delay a full explanation of events and, if appropriate, an apology should be issued. An apology is not an admission of liability; it is the right thing to do.

## 20. Redress and ex-gratia payments

- 20.1 The PHSO's Principles for remedy are clear that where there has been maladministration or poor service, the public body restores the complainant to the position they would have been in, had the maladministration or poor service not occurred. Whilst financial redress or ex-gratia payments will not be appropriate in every case, the ICB will consider proportionate remedies for those cases where complainants have incurred additional expenses as a result of maladministration or poor service. This will not apply, however, to requests for compensation or allegations of personal injury where a claim is indicated.