Compliments, Concerns and Complaints Policy

# Document Control:

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| Policy Name | Compliments, Concerns and Complaints Policy |
| Policy Number | MSEICB 062 |
| Version | 1.0 |
| Status | Final ICB Policy |
| Author / Lead | Governance Lead, Mid & South Essex Integrated Care Board (MSE ICB)  |
| Responsible Executive Director | Chief Nurse |
| Responsible Committee | Quality Committee |
| Date Ratified by Responsible Committee | 8 March 2022 |
| Date Approved by Board/Effective Date | 1 July 2022 |
| Next Review Date | 1 July 2025 |
| Target Audience | Service users or members of the public who wish to lodge a compliment, concern or complaint about any services provided or commissioned by the Mid and South Essex Integrated Care Board. |
| Stakeholders engaged in development of Policy (internal and external)  | * Mid and South Essex CCG Governance Leads.
* Mid and South Essex complaints teams.
* Quality, Information Governance and Primary Care leads.
* MSE CCGs Patient Safety & Quality Committees meeting in common.
 |
| Impact Assessments Undertaken *(Delete if non-applicable)* | * Equality and Health Inequalities Impact Assessment.
 |

# Version History

| Version | Date | Author (Name and Title) | Summary of amendments made |
| --- | --- | --- | --- |
| 0.1 | 31/01/22 | Viv Barnes, Governance Lead | First draft of new Policy for Integrated Care Board. |
| 0.2 | 23/02/22 | Viv Barnes, Governance Lead | Draft amended to reflect feedback from Quality, Complaints and IG teams.  |
| 0.3 | 02/06/22 | Viv Barnes, Governance Lead | Final amends prior to adoption. |
| 0.4 | 21/06/22 | Sara O’Connor | Policy Ref added.  |
| 1.0 | 06/07/22 | Charlotte Tannett | Final review of version 1.0. |

# Contents

[1. Introduction 4](#_Toc108005045)

[2. Purpose 4](#_Toc108005046)

[3. Scope 5](#_Toc108005047)

[4. Definitions 5](#_Toc108005048)

[5. Roles and Responsibilities 5](#_Toc108005049)

[5.1. ICB Board 5](#_Toc108005050)

[5.2. Quality Committee/Audit Committee 5](#_Toc108005051)

[5.3. Chief Executive 6](#_Toc108005052)

[5.5. Chief Nurse 6](#_Toc108005053)

[5.6. Designated Complaints Manager 6](#_Toc108005054)

[5.7. Managers 7](#_Toc108005055)

[5.8. All Staff 7](#_Toc108005056)

[6. Screening 7](#_Toc108005057)

[7. Confidentiality and Consent 8](#_Toc108005058)

[8. Compliments 8](#_Toc108005059)

[9. Concerns and Queries 9](#_Toc108005060)

[10. MP Enquiries 9](#_Toc108005061)

[11. Complaints 10](#_Toc108005062)

[12. Learning from compliments, concerns and complaints 16](#_Toc108005063)

[13. Publicity 17](#_Toc108005064)

[14. Monitoring Compliance 17](#_Toc108005065)

[15. Staff Training 17](#_Toc108005066)

[16. Arrangements For Review 17](#_Toc108005067)

[17. Associated Policies, Guidance and Documents 18](#_Toc108005068)

[18. References 18](#_Toc108005069)

[19. Accessibility 18](#_Toc108005070)

[20. Equality Impact Assessment 18](#_Toc108005071)

[Appendix A – Concerns and complaints flowchart 19](#_Toc108005072)

[Appendix B - Persistent, unreasonable or abusive contact 20](#_Toc108005073)

[Appendix C - Equality Impact Assessment 23](#_Toc108005074)

## Introduction

This policy outlines the commitment of the Mid and South Essex Integrated Care Board (the ‘ICB’)’ to dealing effectively and fairly with compliments, complaints and concerns about the services we provide and commission. It also provides information about how we manage, respond to and learn from complaints made about our services and the way that they are commissioned

It is the intention of the ICB to create an open, fair, flexible and conciliatory approach to all compliments, concerns and complaints, viewing them as a valuable indication of service quality that can be used to help improve services and ensure the needs of patients are met.

This policy is compliant with:

* The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
* The NHS Constitution.
* The Parliamentary Health Service Ombudsman’s (PHSO) ‘Principles of Good Administration’, ‘Principles of Good Complaint Handling’ and ‘Principles for Remedy’ 2009.

This Policy also reflects the following recommendations that arose from the Francis Enquiry:

* Active encouragement of both positive and negative feedback.
* Duty of Candour, openness and transparency.
* Complaints amounting to Serious Incidents should trigger an investigation.

## Purpose

The purpose of this policy is to ensure that compliments, concerns and complaints about the services provided or commissioned by the ICB are handled fairly, consistently and wherever possible resolved to the complainant's satisfaction. This policy ensures that the ICB’s compliments, complaints and concerns procedures centre on people’s needs and wishes and that they:

* Make the complaints arrangements accessible to people and provides clear, simple, easy to understand procedures for managing complaints.
* Encourage and empower people to come forward with their compliments, concerns and complaints.
* Provide a ‘one-stop-shop’ at a local level with unified handling of complaints and concerns across organisational boundaries.
* Encourage complainants to feel confident that the complaint will be dealt with seriously.
* Help complainants to understand the investigation process.
* Engender trust that the ICB will learn from complaints, feedback and praise and apply those lessons and share good practice.

## Scope

This policy applies to all ICB Board members and staff (including temporary/bank/agency/work experience staff, students and volunteers). This policy is not binding upon other organisations and contractors, although it may set out best practice that will facilitate effective joint working.

## Definitions

* **Compliment** - an expression of praise or admiration for someone or something.
* **Concern** - a matter of interest or importance to someone.
* **Complaint** - an expression of dissatisfaction made to an organisation, either verbal or written and whether justified or not, which requires a response.
* **Serious misconduct** - an act or omission that is in breach of accepted ethical and professional standards of conduct, such as theft or fraud, assault, discrimination, bullying and harassment, working whilst intoxicated, serious breaches of health and safety or confidentiality, etc.
* **PHSO** - Parliamentary Health Service Ombudsman.
* **The Regulations** – reference to ‘the regulations’ throughout this policy are to The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

## Roles and Responsibilities

### ICB Board

* + 1. The ICB Board is accountable and responsible for ensuring that the ICB has effective processes for handling compliments, concerns and complaints in accordance with relevant legislation and best practice guidance. The Board is assured through the work of the Quality Committee.

### Quality Committee/Audit Committee

* + 1. This committee is responsible for the detailed oversight and scrutiny of the ICB’s systems and processes for handling compliments, concerns and complaints.

### Chief Executive

* + 1. The ICB Chief Executive has overall responsibility for the management of compliments, concerns and complaints. The Chief Executive is the ‘responsible person’ as set out in the complaints regulations for ensuring compliance with the Compliments, Concerns and Complaints policy and that any necessary action is taken in the light of the outcome of a concern or complaint.

**Executive Lead**

* + 1. The ICB Chief Executive has delegated operational responsibility to the Director of Nursing & Patient Experience for the management of compliments, concerns and complaints.
		2. The Director of Nursing & Patient Experience has delegated responsibility from the Chief Executive for signing complaint response letters.

### Chief Nurse

* + 1. The Chief Nurse has Board level responsibility for improving patient experience, clinical quality and patient safety. The Chief Nurse will be alerted by the Complaints team to any trends in complaints and concerns to be managed through the ICB’s quality assurance processes with providers.

### Designated Complaints Manager

* + 1. The Designated Complaints Manager (DCM) is authorised to act on behalf of the Chief Executive in relation to the management of compliments, concerns and complaints. In particular the Designated Complaints Manager is responsible for:
* Publicising the ICB’s Compliments, Concerns and Complaints policy to patients, the public and other key stakeholders.
* Ensuring compliance with the Compliments, Concerns and Complaints policy.
* Providing internal and external reports on compliments, concerns and complaints.
* Ensuring that processes are in place for communicating the outcomes and learning from compliments, concerns and complaints to individual patients/complainants and to the wider public.
* Alerting any trends in complaints and concerns that require management through the ICB’s quality assurance processes with providers.
* Reviewing and updating the Compliments, Concerns and Complaints policy at least every 3 years or sooner should legislation, guidance, organisational change or other circumstances necessitate an earlier review.

### Managers

* + 1. At the request of the DCM, Service Managers are responsible for:
* Investigating any concerns and complaints within their service area.
* Providing a written response setting out the findings of their investigation and any action taken in the light of these findings.
* Ensuring that all reasonable steps are taken to resolve a concern or complaint, including participating in resolution meetings as

required.

* + 1. Line Managers are responsible for ensuring that staff reporting to them adhere to the requirements of this policy.

### All Staff

* + 1. All staff and other individuals covered by the scope of this policy are responsible for making themselves aware of the content of this policy and implementing its requirements when appropriate. This includes:
* Ensuring that complainants are made fully aware of their rights under the complaints regulations and the support available to them in making a complaint.
* Reporting promptly to the Designated Complaints Manager any compliments, concerns or complaints received directly in order that they can be logged and actioned.
* Co-operating and assisting on request with the investigation of concerns and complaints.
* Ensuring that complainants, patients and their relatives and carers are not discriminated against or treated in any way less favourably when complaints are made.
* Reviewing their practice as a result of any complaint raised.

## Screening

In order to ensure that the gravest matters are managed in a timely and appropriate way, concerns and complaints will be screened upon receipt and rated as ‘red’ if they allege serious misconduct by an ICB member of staff or health professional or indicate that there has been a significant mismanagement of patient care with a detrimental impact on patient safety or clinical outcomes.

Allegations of serious misconduct by an ICB member of staff will be immediately referred to the Human Resources team for investigation under the ICB’s Disciplinary Policy.

Allegations of serious misconduct by a health professional will be referred to NHS England and/or the relevant professional regulatory body as soon as reasonably practicable to manage as a performance concern.

Serious patient safety concerns will be immediately brought to the attention of the Deputy Director of Nursing to decide whether direct action by the ICB is appropriate. This could include liaison between the ICB and the provider (with the patient’s consent, commissioning an independent clinical appraisal of the case from an ICB colleague or external clinical adviser and/or raising as a contractual breach with the provider. In some cases it may be necessary to pursue the concern through the serious incident process (see Serious Incident Policy for further details).

Any concerns or complaints that involve the safeguarding of children will be referred to the Local Authority Designated Officer (LADO) as per the Southend, Essex and Thurrock (SET) Child Safeguarding Procedures. Any concerns or complaints that involve the safeguarding of adults will be brought to the attention of the Director of Nursing for Patient Experience and Adult Safeguarding Lead.

## Confidentiality and Consent

All concerns and complaints will be treated in the strictest confidence and, as such, their details will not be shared without consent.

In the case of concerns and complaints made directly by the affected individual, prior consent will be sought that the ICB may:

* Pass the concern/complaint to any relevant third party for investigation
* Have access to information relating to the issues raised within the concern/complaint, including any relevant hospital and other medical records for the purposes of investigation
* Have access to any final responses produced by any third party.

Where a concern or complaint is made by representative acting on behalf of an individual, consent will be sought in accordance with the ICB’s Standard Operating Procedures before taking any action to discuss the case with another body or access any relevant records.

The ICB will keep a record of all compliments, concerns and complaints and copies of all correspondence relating to these, but such records will be kept secure and in accordance with the Data Protection Act.

## Compliments

The ICB welcomes hearing when the care, support and services provided by our staff have been appreciated. Anyone is able to convey their compliments by their preferred method of communication (email, telephone, letter or in person). Expressions of thanks are gratefully received, however it should be noted that staff are not able to accept monetary gifts.

Compliments will be acknowledged and shared with the relevant staff members and/or services. Some cases may also be anonymised and used as best practice cases for shared learning purposes with other departments and/or organisations.

## Concerns and Queries

Any individual can raise a concern or query with the ICB by their preferred method of communication (email, telephone, letter or in person). The concern/query will be acknowledged, investigated and a response sent to the individual.

Some concerns can be dealt with at the time of initial contact, however others may require input from other staff members or providers before a response can be provided. Whilst the aim will be to deal with concerns swiftly and achieve a resolution to the satisfaction of the enquirer, if this is not possible they will be escalated to the formal complaints procedure by either the person raising them or the ICB as the investigation progresses.

In the case of concerns and queries about GP services, the DCM will determine whether they can be resolved informally with the assistance of the ICB. Suitable cases for informal resolution would typically be related to practice’s administrative arrangements such as access to appointments, the processing of referrals and the availability of prescriptions. The DCM will acknowledge receipt of the case and inform the enquirer of the target date for response. The DCM will then forward details of the concern/enquiry to a relevant member of the ICB’s Primary Care, Quality or Medicines Optimisation team and ask them to undertake an investigation of the issues raised in the complaint and submit a draft response to the DCM.

In the event that a response to a more complex case cannot be completed within the target deadline, the enquirer will be kept up to date with progress made and timescales will be agreed on a case by case basis.

A flowchart showing how concerns and complaints are handled is set out in Appendix A.

## MP Enquiries

Members of Parliament (MPs) may contact the ICB with general enquiries about the ICB’s services or on behalf of one of their constituents who has raised a concern with them. Whilst these enquiries may be received by email, telephone or letter, in recognition of their official status they will receive a formal letter of response that has been signed by the Chief Executive or his/her designated deputy.

The DCM will acknowledge receipt of the case and inform the MP of the target date for response. In the event that a response to a more complex case cannot be completed within the target deadline, t, the MP will be informed of the reasons for the delay and the revised date of response.

## Complaints

**Who can make a complaint?**

A complaint may be made by a service user or any person affected by or likely to be affected by the action, omission or decision of the NHS body, independent provider or local authority that is the subject of the complaint. Consequently, complainants will generally be existing or former users of services that are provided or commissioned by the ICB.

Where a complainant makes a complaint about services that are not directly provided by the ICB, they will be asked if they wish to make their complaint directly to the organisation that provided the service or wish to raise their complaint via the ICB as the commissioner of that service. In the case of the former, the ICB will retain an overview of the case to ensure that the complainant receives a response from the provider.

The ICB welcomes complaints and concerns from children and young people. The ICB will ensure that child friendly information on making complaints is made available and ensure safeguarding issues are considered when a parent/carer makes a complaint on behalf of a child or young person. Given the additional safeguards and considerations when handling complaints from children and young people (such as consent and Fraser competence), any such cases will be overseen by the Safeguarding team.

Complainants may be a person acting on behalf of the person who:

* Has died. In the case of a person who has died, the ICB needs to be satisfied that the complainant is the personal representative and can demonstrate that the subject of the complaint has been affected by an action, omission or decision of the ICB.
* Is a child.
* Is unable to make the complaint themselves because of physical incapacity, lack of capacity within the meaning of the Mental Capacity Act 2005, or the person has requested the representative to act on their behalf.
* Has requested an MP to act on his/her behalf.
* Has given delegated authority to the complainant, for example via a registered Power of Attorney which covers health affairs, to act on his/her behalf.

Where the patient is a child (i.e. under the age of 18), a complaint can be made by:

* Either parent, or in the absence of both parents, the guardian or other adult who has care of the child.
* A person duly authorised by a local authority to whose care the child has been committed under the provisions of the Children Act 1989.
* A person duly authorised by a voluntary organisation by which the child is being accommodated.

Where a representative is making a complaint under section 11.4 above, the ICB can only consider the complaint where they are satisfied that there is reasonable grounds for the complaint being made by a representative instead of a child, and if not satisfied shall notify the representative in writing, stating the reason for this decision.

In addition, complaints under section 11.4 above must not be considered further unless the ICB is satisfied that the representative conducting the complaint is acting in the best interests of the person on behalf of whom the complaint is being made.

A complaint may be made by the person who is affected by the issue that is the subject of their complaint, or it may be made by a person acting on behalf of a patient in any case where that person:

**What people cannot complain about**

The complaints arrangements cannot be used by health organisations or local authorities against other health organisations or local authorities. Similarly, staff working within, or contracted to, those types of organisation cannot use the arrangements to complain about employment, contractual or pension issues.

This policy does not cover complaints from ICB staff about employment or contractual issues, which should be addressed via the ICB’s Grievance Procedure and other HR policies.Guidance for staff who have concerns about the services commissioned by the ICB is contained within the ‘Raising Concerns’ policy.

Also excluded from the arrangements are complaints:

* That have already been investigated under the current or previous complaints regulations.
* Which are being or have been investigated by a Local Commissioner under the Local Government Act 1974 or the Health Service Commissioner under the 1993 Act.
* Arising from the alleged failure to comply with a data subject request under the Data Protection Act 2018.
* Arising out or an alleged failure by an English local authority or NHS body to comply with a request for information under the Freedom of Information Act 2000.

The latter two types of complaint are handled under specific processes set out in the relevant Acts of Parliament with a route of appeal to the Information Commissioner.

Complaints can be investigated if disciplinary action is being considered or taken against a member of staff, provided that the organisation has regard to good practice around restrictions in providing confidential or personal information to the complainant. Although the complaints handling arrangements operate alongside the disciplinary arrangements, the two processes will remain separate.

Complaints can still be investigated where legal action is being taken or the police are involved, provided that it can be established that progressing the complaint should not prejudice subsequent legal or judicial action.

**How to complain**

If an individual has concerns relating to a service commissioned by the ICB, it is recommended that wherever possible he/she seeks to have these concerns resolved on the spot with their local service provider. If it is not appropriate to raise a concern informally or where informal resolution fails to achieve a satisfactory outcome, the complainant has the right to raise a formal complaint either with the service or the ICB as the commissioner of the service.

A complaint or concern can be logged with the ICB by mail, electronically, face to face or by telephone.

* By telephone: 01268 594350.
* By email: mseicb.complaints@nhs.net.
* By post or in person (by prior appointment only): Mid and South Essex ICB, Phoenix Court, Christopher Martin Road, Basildon, Essex SS14 3HG

All contacts will be acknowledged (where return contact details have been provided) and a record kept of them. As part of the acknowledgement, the DCM will clarify with the complainant how he/she wants the complaint to be investigated and may need to seek additional information, for example in relation to consent and time limits, prior to initiating an investigation into the issues raised.

The acknowledgement will also provide details of the support and advocacy services that are available to complainants, such as:

**Essex Healthwatch** ([healthwatchessex.org.uk](https://healthwatchessex.org.uk/)):

* By telephone: 0300 500 1895
* By email: info@healthwatchessex.org.uk
* By text: 07712 395398

**Southend Healthwatch** ([www.healthwatchsouthend.co.uk](https://www.healthwatchsouthend.co.uk/)):

* By telephone: 01702 416320
* By email: info@healthwatchsouthend.co.uk
* By post: Healthwatch Southend, C/o Family Action (Host Company) 34 Wharf Road, London, N1 7GR

**Thurrock Healthwatch** ([www.healthwatchthurrock.org](https://www.healthwatchthurrock.org/)):

* By telephone: 01375 389883
* By email: admin@healthwatchthurrock.org
* By post: The Beehive Resource Centre, West Street, Grays RM17 6XP

**Rethink advocacy service** ([rethinkessexadvocacy.org](https://www.rethinkessexadvocacy.org/)):

* By telephone: 0300 7900 559
* By email: essexadvocacy@rethink.org
* By post: Essex All-Age Advocacy, Advocacy Hub 1, 15-16 Floor, 89 Albert Embankment, Vauxhall, London SE1 7TP

**South Essex advocacy service** ([southessexadvocacy.org](https://www.southessexadvocacy.org/)):

* By telephone: 01702 340566
* By email: advocacy@southessexadvocacy.org
* By post: Unit 2, 225-235 West Road, Westcliff-on-Sea SS0 9DE

**POhWER advocacy service** ([www.pohwer.net](http://www.pohwer.net)):

* By telephone: 0300 456 2370
* By email: pohwer@pohwer.net
* By post: PO Box 17943, Birmingham B9 9PB

**Complaints about multiple organisations**

Where a complaint involves more than one commissioner or provider organisation, all parties will be asked to agree which organisation will lead on the investigation and response. This will usually be the organisation about whom the bulk of the complaint has been made. For example, if a complaint is primarily about an ICB policy but also mentions an experience in outpatients at a local hospital, then the ICB would normally lead on the response. In any event, all organisations involved are expected to co-operate with the investigation and endorse the response given to the complainant.

In line with the PHSO principles, the complainant will receive a single overarching response which details all aspects of the complaint investigation unless the complainant requests separate responses.

**Time Limits**

A complaint should be made as soon as possible after the action giving rise to it, to enable a thorough investigation whilst all the facts regarding the complaint are readily available.

An NHS or social care complaint must be made within 12 months from the date on which a matter occurred, or the date when the matter came to the notice of the complainant. For example, a patient may only become aware that they wish to make a complaint about a hospital consultant’s failure to diagnose a condition in an outpatient clinic once he or she has been seen by a specialist at another hospital following emergency admission. In this instance, the 12 months would be calculated from the date of diagnosis by the second specialist.

There is discretion 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 properly investigate the facts of the case. An example of this may be where a complainant has been too unwell or upset to raise their complaint sooner.

The Deputy Director of Nursing and the DMC, acting together, will make the decision whether ‘out of time’ complaints should be accepted and investigated.

**Investigation and response**

In the case of complaints about services directly provided by the ICB, the DCM will acknowledge receipt of the case and inform the complainant of the target date for response. The relevant ICB Head of Service will be forwarded details of the complaint and asked to undertake an investigation of the issues raised in the complaint and provide a draft report to the DCM.

In the case of complaints about an NHS or independent provider where the complainant has asked the ICB to deal with the complaint, the DCM will acknowledge receipt of the case and inform the complainant of the target date for response. The DCN will forward details of the complaint to the provider and ask them undertake an investigation of the issues raised in the complaint and provide a draft response to the DCM.

In the case of complaints about GP services, complainants will be advised how to pursue their complaints either directly with the GP practice or via NHS England.

In the event that a response to a more complex case cannot be completed within the target deadline, the complainant will be kept up to date with progress made and timescales will be agreed on a case by case basis.

On receipt of the draft response, a final response to the complaint will be prepared using the complainant’s preferred method of communication. The final response will include information on the next stages of the complaints procedure should the complainant wish to take matters further.

The ICB will aim to reply to all complaints with a response that includes:

* An explanation of how the complaint has been considered.
* The conclusions reached in relation to the complaint, including any matters for which the complaint specifies, or the ICB considers, that remedial action is needed.
* Confirmation whether the ICB is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken.
* Information and contact details of the Parliamentary and Health Service Ombudsman (PHSO) as the next stage of the NHS complaints process.

A flowchart showing how concerns and complaints are handled is set out in Appendix A.

**Remedy and Redress**

The ICB recognises that providing fair and proportionate remedies is an integral part of good customer service and complaints handling, as recommended by the Health Service Ombudsman’s Principles for Remedy. Such remedies might include:

* An apology, explanation, and acknowledgement of responsibility.
* Remedial action such as reviewing or changing a decision on the service given to an individual complainant, revising published material; revising procedures to prevent the same thing happening again, or training or supervising staff.
* Financial compensation for direct or indirect financial loss, loss of opportunity, inconvenience, distress, or any combination of these.

All proposals for remedial action and financial compensation will be considered by the ICB Quality Committee and, in the case of financial compensation, a recommendation to approve/decline made to the Director of Finance. Where a proposed remedy is not agreed, the reasons will be explained to the complainant (and the PHSO where relevant) in writing.

Where the ICB is investigating complaints about a provider from which it commissions services, the provider (rather than the ICB) is responsible for making any payments proposed as a remedy at local resolution or following a PHSO review.

**Referrals to the Parliamentary Health Service Ombudsman (PHSO)**

Should a complainant remain dissatisfied following receipt of the response to his/her complaint, every reasonable effort will be made to reach a resolution that is acceptable to the complainant. This might include the ICB offering to meet face to face with the complainant to discuss any remaining issues of concern. Resolution meetings will be arranged in a timely manner taking into account the availability of the complainant and that of the staff members involved. A written record of the meeting may be taken with the consent of the complainant.

However if it is felt that local resolution has been exhausted and the ICB complainants process has reached an end, the complainant will be advised in writing that the ICB has no further comment to make and how the complainant can exercise his/her right to seek an independent review of any outstanding concerns by the PHSO.

The PHSO can be contacted as follows:

* By telephone: 0345 015 4033.
* By text ‘call back’: 07624 813 005.
* By email: phso.enquiries@ombudsman.org.uk.
* Online: <https://www.ombudsman.org.uk/making-complaint>.
* By letter: Parliamentary and Health Service Ombudsman, Millbank Tower, Millbank, London, SW1P 4QP.

The ICB will co-operate fully with the PHSO and provide all requested information in relation to the investigation. Once completed, the PHSO will inform the ICB and the complainant of the outcome of their investigations.

**Persistent and Unreasonable Complaints**

It is recognised that in a minority of cases, complainants may become persistent and unreasonable in their pursuit of a complaint and that this in turn has a detrimental effect on staff and services. This applies not only to those who make a complaint but also those who contact the ICB verbally with informal concerns. The ICB fully supports the NHS Zero Tolerance Policy and whilst it is understood that complainants will sometimes be distressed and angry, abusive conduct in all forms is unacceptable and unfair to NHS staff.

In cases where the DCM is considering terminating contact with a complainant on account of unreasonable, abusive or unduly persistent behaviour, this proposed course of action will be discussed with the Deputy Director of Nursing in an attempt to explore alternative solutions or, in case termination of contact becomes necessary, to provide senior management support for the decision.

The full process for dealing with persistent, unreasonable or abusive contact is set out in Appendix B.

## Learning from compliments, concerns and complaints

The DCM will identify lessons learnt and recommendations as part of the complaints investigation process and ensure that these are recorded.

Lessons learnt from the investigation will be reviewed by the Quality Committee to identify the appropriate method of disseminating these within the ICB and more widely, such as summarising the learning points on the intranet, all-staff emails or at team meetings.

The ICB supports a culture of continual learning from user feedback. Compliments and anonymised user feedback will be used to inform service improvement and development.

## Publicity

The ICB will ensure that its role as a single point of contact for complaints and concerns is effectively publicised on a regular basis using a variety of media. The DCM, on behalf of the ICB, will take all reasonable steps to ensure that the following patient/client groups and organisations are informed of the complaints handling arrangements and point of contact:

* Patients and their carers.
* Local NHS Providers.
* Staff directly employed by the ICB and its support organisations.
* Primary care contractors and their staff.
* Local Independent providers.
* Essex, Thurrock and Southend Healthwatch.
* Local authorities, including Essex County Council, Thurrock Council and Southend Borough Council.
* Associations of Voluntary Services.
* Other statutory organisations.

## Monitoring Compliance

Compliance with this policy will be monitored as part of the routine monitoring undertaken by the DCM, with any persistent or significant breaches being reported to the Quality Committee.

The Quality Committee will also receive a written report of the number and nature of compliments, concerns and complaints received each quarter, including an analysis of the outcome of each case and lessons for the ICB as commissioner.

The ICB will produce an annual complaints report providing a summary of all compliments, concerns and complaints received, along with any learning and changes to procedures that have been implemented.

## Staff Training

It is expected that an overview of this policy will be included in the induction programme for all new ICB staff in order that they understand how to recognise and respond to compliments, concerns and complaints.

The ICB will also ensure that training on how to investigate and reply to complaints is offered to Heads of Service and other relevant employees on a regular basis.

## Arrangements For Review

This policy will be reviewed every three years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.

If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the ICB Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the ICB Board.

## Associated Policies, Guidance and Documents

* Freedom to Speak Up (Whistleblowing) Policy
* Incident Policy
* Continuing HealthCare Policy
* Safeguarding Children and Adults policies
* NHS England Complaints Policy

## References

* The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
* The NHS Constitution
* The Parliamentary Health Service Ombudsman’s) ‘Principles of Good Administration’, ‘Principles of Good Complaint Handling’ and ‘Principles for Remedy’ 2009.

## Accessibility

This policy can be provided in alternative formats upon request, such as larger print, easy read, braille, audio format and different languages.

## Equality Impact Assessment

The EIA has identified a positive impact and is included at Appendix C***.***

## Appendix A – Concerns and complaints flowchart

## Appendix B - Persistent, unreasonable or abusive contact

**1. Introduction**

This guidance covers all contacts, enquiries and complainants. It is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint in accordance with the ICB’s policy. Persistent contact may be as a result of individuals having genuine issues and it is therefore important to ensure that this process is fair and the complainant’s interests have been taken into consideration.

**2. Definition of persistent and unreasonable complaints**

There is no one single feature of unreasonable behaviour. Examples of behaviour may include those who:

* Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted.
* Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff and/or any advocates.
* Continually make unreasonable or excessive demands about the way that a complaint is handled, such as insisting on responses to complaints being provided more urgently.
* Continue to focus on a minor issue to an extent that it is out of proportion to its significance.
* Change the substance of a complaint or seek to prolong contact by continually raising further issues in relation to the original complaint. Care must be taken not to discard new issues that are significantly different from the original issue. Each issue of concern may need to be addressed separately
* Consume a disproportionate amount of time and resources.
* Threaten or use actual physical violence towards staff.
* Have harassed or been personally abusive or verbally aggressive on more than one occasion (this may include written abuse such as emails).
* Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual.
* Make excessive telephone calls or send excessive numbers of emails or letters to staff.

**3. Actions prior to designating a person’s contact as unreasonable or persistent**

It is important to ensure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of considerations to bear in mind when considering imposing restrictions upon a complainant. These may include:

* Ensuring the persons’ case is being, or has been, dealt with correctly and that redress has been made where appropriate.
* Confidence that the person has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent.
* Checking that new or significant concerns are not being raised, that requires consideration as a separate case.
* Applying criteria with care, fairness and due consideration for the client’s circumstances – bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss or significant/sudden changes to the complainant’s lifestyle, quality of life or life expectancy.
* Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour, and the impact upon staff.
* Ensuring that the complainant has been advised of the existence of the policy and has been warned and given a chance to amend their behaviour.

Consideration should also be given as to whether any further action can be taken prior to designating the person’s contact as unreasonable or persistent. This might include:

* Raising the issue with an Executive Director with no previous involvement in order to give an independent view.
* Where no meeting with staff has been held, offering this as a means to dispel misunderstandings (only appropriate where risks have been assessed).
* Where multiple departments are being contacted by the complainant, considering a strategy to agree a cross-departmental approach.
* Considering whether the assistance of an advocate may be helpful.
* Considering the use of ground rules for continuing contact with the complainant. These may include:
* Time limits on telephone conversations and contacts
* Restricting the number of calls that will be taken or agreeing a timetable for contacting the service.
* Requiring contact to be made with a named member of staff and agreeing when this should be.
* Requiring contact via a third party such as an advocate.
* Limiting the complainant to one mode of contact.
* Informing the complainant of a reasonable timescale to respond to correspondence.
* Informing the complainant that future correspondence will be read and placed on file, but not acknowledged.
* Advising that the organisation does not deal with calls or correspondence that is abusive, threatening or contains allegations that lack substantive evidence. In such cases, the complainant should be asked to provide an acceptable version of the correspondence or make contact with a third party to continue communication with the organisation.
* Asking the complainant to enter into an agreement about their conduct.
* Adopting a ‘zero tolerance’ policy.This could include a standard communication line, for example: “The NHS operates a zero tolerance policy, and safety of staff is paramount at all times. Staff have a right to care for others without fear of being attacked either physically or verbally.“

**4. Process for managing unreasonable or persistent behaviour**

Where a person’s contact has been identified as unreasonable or persistent, the decision to declare them as such will be made by the DCM in consultation with the Deputy Director of Nursing.

The Director of Nursing & Patient Experience or Deputy Director of Nursing will write to the complainant, informing them that either:

* Their complaint is being investigated and a response will be prepared and issued as soon as possible within the timescales agreed. Until this time repeated calls regarding the complaint in question are not acceptable and will be terminated.

OR

* Their complaint has been responded to as fully as possible and there is nothing to be added, therefore any further correspondence will not be acknowledged.

All appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation. If the complainant raises any new issues then they should be dealt with in the usual way. Review of the individual’s persistent status should take place at six monthly intervals.

**5. Sudden or extreme cases of unreasonable or persistent behaviour**

In the event of sudden or extreme unreasonable or persistent behaviour, safeguarding and zero tolerance policies procedures should be adopted immediately. The Deputy Director of Nursing must be informed of the incident so that an action plan can be developed, which may in some circumstances include the use of emergency services. In such instances, a review of the case should be undertaken at the first opportunity after the incident.

**6. Record Keeping**

Full records should be kept of unreasonable and persistent contact in the event that further action needs to be taken, such as reporting the matter to the police or legal action. In such cases relevant risk management or health and safety measures should also be taken in respect of the impact upon staff and their wellbeing.

## Appendix C - Equality Impact Assessment

**INITIAL INFORMATION**

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| **Name of policy:** Compliments, Concerns and Complaints Policy **Version number (if relevant):** 1.0 | **Directorate/Service**: Nursing & Quality |
| **Assessor’s Name and Job Title:** Viv Barnes, Governance Lead | **Date:** February 2022 |

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| **OUTCOMES** |
| *Briefly describe the aim of the policy and state the intended outcomes for staff*  |
| The Compliments, Concerns and Complaints Policy is intended to ensure that compliments, concerns and complaints about the services provided or commissioned by the ICB are handled fairly, consistently and wherever possible resolved to the complainant's satisfaction. |
| **EVIDENCE** |
| *What data / information have you used to assess how this policy might impact on protected groups?* |
| The policy has been shared with ICB Complaints and Quality staff whose experience of handling complaints enables them to help identify and minimise any possible impact on protected groups, |
| *Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?*  |
| Mid and South Essex CCG Governance Leads; Mid and South Essex complaints teams; Quality, Information Governance and Primary Care leads; MSE CCG Patient Safety & Quality Committees meeting in common. |

**ANALYSIS OF IMPACT ON EQUALITY**

The Public Sector Equality Duty requires us to **eliminate** discrimination, **advance** equality of opportunity and **foster** good relations with protected groups. Consider how this policy / service will achieve these aims.

N.B. In some cases it is legal to treat people differently (objective justification).

* ***Positive outcome*** *– the policy/service eliminates discrimination, advances equality of opportunity and fosters good relations with protected groups*
* ***Negative outcome*** *–**protected group(s) could be disadvantaged or discriminated against*
* ***Neutral outcome***  *–**there is no effect currently on protected groups*

Please tick to show if outcome is likely to be positive, negative or neutral. Consider direct and indirect discrimination, harassment and victimisation.

| ProtectedGroup | Positiveoutcome | Negativeoutcome | Neutraloutcome | Reason(s) for outcome |
| --- | --- | --- | --- | --- |
| Age | X |  |  | Section 5.8.1 makes it clear that discriminatory behaviour against complainants or their representatives is unacceptable. It is anticipated that any concerns that members of protected groups may have regarding raising concerns and complaints will be alleviated by the assurances provided within the policy.  |
| Disability(Physical and Mental/Learning) | X |  |  | As above.The policy requires that signposting is provided to complaints advocacy services for those individuals who may need assistance lodging a complaint  |
| Religion or belief | X |  |  | As above |
| Sex (Gender) | X |  |  | As above |
| Sexual Orientation | X |  |  | As above |
| Transgender/Gender Reassignment | X |  |  | As above |
| Race and ethnicity | X |  |  | As above.The policy also requires that signposting is provided to Interpreting or translation services for those individuals who may need this assistance to make a complaint. |
| Pregnancy and maternity (including breastfeeding mothers) | X |  |  | As above |
| Marriage or Civil Partnership | X |  |  | As above |

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| **MONITORING OUTCOMES** |
| Monitoring is an ongoing process to check outcomes. It is different from a formal review which takes place at pre-agreed intervals. |
| *What methods will you use to monitor outcomes on protected groups?* |
| Any breaches of this policy will be reported to the Quality Committee and triangulated with other information held by the ICB in relation to incidents, complaints or disciplinary action involving individuals who believe they have been mis-treated due to their protected groups status.  |

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| **REVIEW** |
| *How often will you review this policy / service?*  |
| Every 3 years as a minimum and earlier if there are any significant changes in legislation, policy or good practice. |
| *If a review process is not in place, what plans do you have to establish one?* |
| N/A |