

NHS Herts and West Essex Integrated Care Board (ICB)

Complaints, Concerns and Patient Feedback Policy

July 2022 V1.0

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	clear guidelines for staff, managers and complainants around how complaints will be managed.
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1. Introduction

This policy outlines the process for handling complaints generated by patients or their representatives and sets out clear guidelines for staff, managers and complainants around how complaints will be managed.

The Integrated Care Board (ICB) welcomes feedback, both positive and negative, about the services that we commission on behalf of patients in Hertfordshire and west Essex, as it helps us to maintain and improve the quality of local services. The ICB is committed to providing service users, families and members of the public with the opportunity to raise concerns or to complain regarding any services it provides or commissions. We recognise that it can be distressing to make a complaint and will ensure access to appropriate support is offered throughout the process.

This policy complies with the Local Authority Social Services and National Health Services Complaints (England) Regulations which came into effect on 1st April 2009. These regulations were designed to improve the handling of complaints and to bring real benefits for health and social care organisations and for staff working in them. The policy also reflects recommendations contained in the Francis Enquiry Report as well as the corresponding Government response paper.

2. Purpose

The purpose of this policy is to describe the systems in place to effectively manage all complaints and concerns by the organisation in accordance with National Health Service (NHS) complaints regulations. It outlines the responsibilities and processes for receiving, handling, investigating and resolving complaints and concerns relating to the actions of the ICB, its staff and services.

The policy also includes the process for complaints received relating to commissioned services such as NHS Acute and Foundation Trusts, Mental Health Trust, Community NHS Services, and independent sector providers.

This purpose of this policy is to ensure that the ICB promotes best practice within its complaints management function, and also that it is compliant with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

Scope

This policy applies to all staff employed by the ICB (including relevant contractors) It covers all complaints (or concerns) received by the ICB that relate to a policy, service or care it provides or commissions or is associated with commissioning.

If a complaint relates to circumstances where disciplinary action is being considered or taken against a member of staff or relates to legal action/police are involved please see detail in appendix 7 of how the complaint must be managed.

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This policy does not cover the following;

- Complaints that have already been investigated under the current or previous complaints regulations;
- Those that 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 1998;
- Arising from 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.
- Complaints by health organisations, including primary care providers, or local authorities against other health organisations or local authorities
- Complaints about Primary Care Services - these will remain the responsibility of NHS England and Improvement until formally delegated to the ICB.
- Complaints from staff about employment, contractual or pension issues.
- Complaints about non-NHS services.

3. Definitions

Complaint: A complaint is any expression of dissatisfaction regarding any aspect of service relating to patient care, clinical or non-clinical, relating to attitudes or behaviour, the environment, facilities or systems that requires an organisational response. Complaints can be made verbally, in writing and electronically and are included under this term along with formal complaints raised by Members of Parliament (MPs) on behalf of their constituents.

Issues/concerns (also known as Patient Advice and Liaison Service (PALS)): a written or oral expression of dissatisfaction that can be resolved without the need for formal investigation or correspondence.

Compliments: Positive feedback received, relating to the ICB or one of the ICB's commissioned services.

Multi-Organisational Complaint: A formal complaint involving two or more organisations for which a co-ordinated approach is required.

NHS Complaints Advocacy: Advocacy provides independent help and support for people pursuing an NHS complaint.

The Parliamentary and Health Service Ombudsman (PHSO): is the organisation that manages the second stage of the NHS complaints procedure.

Investigating Officer: The person identified as responsible for handling and investigating an individual complaint.

Serious Incident (SI): In accordance with the NHS England SI Framework 2015, SIs are events in healthcare where the potential for learning is so great, or the

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consequences to patients, families and carers, staff or organisations are so significant, that they warrant using additional resources to mount a comprehensive response.

4. Roles and Responsibilities

ICB Board: The role of the Board is to ensure it is assured of the quality of commissioned services and holds providers to account in relation to the management of complaints and all associated actions and learning.

ICB Quality Assurance Committee: The role of the Committee is to work to ensure that commissioned services are being delivered in a high quality and safe manner, ensuring quality sits at the heart of everything the ICB does.

The Committee takes an active role in reviewing and advising on all patient experience issues, and reviewing themes, trends and learning from complaints through regular reporting. The Quality Assurance Committee regularly triangulates information from complaints with other intelligence to inform the wider quality agenda.

Chief Executive Officer (CEO): The CEO (the responsible person) is ultimately accountable for the quality of care commissioned by the ICB. The CEO of the ICB, or any other person authorised by the responsible body to act on behalf of the responsible person, is accountable for responding in writing to all complaints whether they have been made verbally, electronically or in writing. Within the ICB, the Director of Nursing and Quality has delegated accountability for complaints and nominated Deputies within the ICB are responsible for complaints management.

Only the CEO, or Director of Nursing and Quality, can decide whether a complainant meets the definition of a vexatious, persistent or habitual complainant

Nursing and Quality Team: The team is responsible for managing the complaints and concerns processes. Please see appendix 3 for detailed list of responsibilities.

Senior Managers: All Assistant and Associate Directors are responsible for ensuring that the ICB's Complaints, Concerns and Patient Feedback Policy is implemented across their Directorates and complaints are investigated in accordance with this policy; to ensure satisfactory resolution of complaints, including the implementation of any lessons learned.

If a member of their staff is the subject of a complaint, senior managers must ensure that their staff member is informed and offered timely support including, where appropriate, referral to Occupational Health Services.

All staff: All ICB staff, including temporary and agency staff, are expected to assist the Nursing and Quality Team to ensure complaints are properly investigated and ensure improvement of services and patient care through learning and development. This includes the investigating of concerns raised, drafting a response and attending Local Resolution Meetings as required.

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All staff that come into contact with patients and the public are responsible for knowing how to deal with a complaint and are responsible for any immediate response to a complaint relating to their area of responsibility.

5. Consultation and communication with stakeholders

Patient and carer feedback and satisfaction with the ICB complaints process will be sought, reported annually to the Quality Committee and used when reviewing this policy.

The Nursing and Quality Team will actively request feedback from all persons who have made a complaint (or received a letter of response even when not a formal complaint).

People's experience of using the ICB Patient Experience service will be reviewed and the service evaluated in light of any feedback.

6. Equality and Diversity

Every complainant will be treated fairly and equally regardless of age, disability, race, culture, nationality, gender, sexual orientation and faith.

The patient/complainant will not receive less help, will not have things made difficult for them and nor have the quality of their care compromised as a result of their complaint.

Any under-representation of vulnerable groups shown by monitoring information will be considered and discussed by the Quality Assurance Committee and the Nursing and Quality Team will ensure mitigating action is initiated to better promote this service to identified groups.

Valuing diversity is a key organisational principle, equality of opportunity and outcome for everyone is promoted. The ICB is building a culture that encourages dialogue and involves a diverse range of staff and service users in evaluating and planning services.

7. Complaints and Concerns

7.1 Accessibility and Support to Complainant

The ICB is committed to ensuring that the guidance in this policy is accessible to all. This means that, as required, additional support will be provided to help ensure that the information in this policy can be understood and its guidance followed. This support includes (but is not limited to):

- The provision of the policy and any associated documents in alternative formats.
- Enabling individuals to have an advocate or interpreter involved for support with communication.
- Making reasonable adjustments, in discussion with individuals or their representatives, to procedures where these are necessary to ensure their accessibility.

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Complaints are sometimes very distressing and the process of complaining can seem difficult. Often people find that it helps to talk through their concerns and get support with the complaints process, from someone knowledgeable, empathetic and independent. This is where the NHS Complaints Advocacy Service can help.

Complainants will be informed of this service as part of the formal acknowledgement letter.

Contact details:

Hertfordshire

NHS Complaints Advocacy

POhWER

PO Box 14043

B6 9BL

Telephone: 0300 456 2370

E-mail: pohwer@pohwer.net

Website: www.pohwer.net/our-services/nhs/complaints-advocacy

West Essex

Rethink Essex Advocacy

Essex All-Age Advocacy

Advocacy Hub 1

15-16 Floor

89 Albert Embankment

Vauxhall

London

SE1 7TP

Telephone: 0300 7900 559

Email: essexadvocacy@rethink.org

Website: <https://www.rethinkessexadvocacy.org/>

The ICB also works in collaboration with other organisations such as Healthwatch. Healthwatch are known as the independent voice for health and social care in Hertfordshire and Essex and are an independent organisation that provides a signposting and advocacy function, that works with health and social care organisations to help resolve concerns in a timely manner.

7.2 Informal Concerns

The Nursing and Quality Team acts as the first point of contact for informal concerns as well as complaints raised by patients, their families or carers. Informal concerns and complaints can be raised by email, telephone, or by letter. Consent will be sought if the concern is raised on behalf of the patient, or if the enquiry requires redirection to another organisation.

The Nursing and Quality Team will liaise with appropriate staff to resolve the concern or redirect the enquirer to the appropriate organisation.

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Should an early resolution not be possible or enquirer wishes to escalate to a formal complaint, the formal complaints process will then be followed. The enquirer will be kept updated on progress while the enquiry is ongoing.

The ICB has offices covering Hertfordshire and West Essex, contact details for each site are;

East and North Hertfordshire

By telephone on 01707 685356
By email to enhccg.quality@nhs.net
By letter addressed to;
Patient Experience Team
Charter House
Parkway
Welwyn Garden City
Hertfordshire
AL8 6JL

West Hertfordshire

By telephone on 01442 898865
By email to hvccgpatientfeedback@nhs.net

By letter addressed to;
Patient Experience Team
The Forum
Marlowes
Hemel Hempstead
Hertfordshire
HP1 1DN

West Essex

By telephone on 01992 566122/3
By email to weccg.comments@nhs.net

By letter addressed to;
Patient Experience Team
Building 4
Spencer Close
St Margaret's Hospital
The Plain Epping
CM16 6TN

7.3 What is a Complaint?

A complaint is 'An expression of dissatisfaction that requires a response'. This is a wide definition, and it is not intended that every minor concern should warrant a full-scale complaints investigation.

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Complaints may be received verbally over the telephone, during a face-to-face meeting, in writing or by email (including social media).

See appendix 2 for a grading matrix to assist with identification of a complaint and the level of investigation required.

If the person raising a concern states they wish it to be dealt with as a complaint, it will be. There will be occasions where the Nursing and Quality Team recommends that a concern is treated as a complaint even when that was not the original intention of the person.

Any caller/correspondent who is dissatisfied with an immediate response to a matter which has been dealt with informally and not as a complaint will be advised of their right to pursue the matter further through the complaints procedure and assisted to do so.

7.4 Who can complain/raise a concern?

A complaint may be made by;

- A patient or service user
- Any person who is affected by or likely to be affected by the action, omission or decision of the ICB
- A carer of a patient or service user. Clarification will be required regarding whether the carer is complaining in their own right or on behalf of a consenting adult with capacity.

Carers in Herts provide carers' advocacy free of charge at <http://www.carersinherts.org.uk/have-your-say/advocacy-support> ; email info@hertshelp.net for details.

In Essex support is available by contacting essex.carers@essex.gov.uk

- A representative of either of the above in a case when that person –
 - Has died
 - Is a child
 - Is unable by reason of physical or mental capacity to make the complaint themselves
 - Has requested a representative to act on their behalf (a representative may include a parent, guardian, relative, civil partner or friend, and, in these cases consent will be required)

Where a complainant has requested a representative acts on their behalf, this will need to be confirmed in writing.

In the case of a patient or person affected who has died or who is unable to make the complaint themselves (for whatever reason), the representative must provide documentation to evidence that they are an authorised executor or person with legal authorisation.

If in any case it appears that a representative does not have sufficient authority to act on a patient's behalf, the Nursing and Quality Team will notify the person in writing, stating the reasons why.

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In the case of a child or young person aged under the age of 16, the representative must be a parent, guardian or other adult person who has care of the child and where the child is in care of a Local Authority or voluntary organisation, the representative must be a person authorised by the Local Authority or the voluntary organisation.

Anonymous complaints will be accepted (e.g. telephone call, letter) but if possible the person should be encouraged to provide their name and other relevant details. If the person is unwilling to provide contact details, the Nursing and Quality Team will record the complaints and investigate if appropriate and possible.

In the case of a patient lacking capacity under the Mental Health Act 2005 the complaints regulations permit the responsible body for the complaint to take a view on whether the person is acting in the patient's best interests. If it is considered that this is not the case the responsible body can refuse to handle a complaint made by that person.

If a person lacks capacity to make a complaint the ICB would seek assurance from the person's representative that they are acting in the person's best interests. The representative would need to have a Lasting Power of Attorney recorded with the Office of the Public Guardian or be a relative that can evidence that they are involved in the person's on-going care and may be asked to provide evidence of a Mental Capacity Act Assessment in regard to this decision.

Concerns from Members of Parliament and Local Councillors/any other elected official should be managed according to Appendix 6.

7.5 Timescales for making a complaint

A complaint must be made no later than 12 months from the date on which the matter occurred, or the matter came to the notice of the complainant.

If there are extenuating or exceptional circumstances for not having made the complaint within the above timeframe and, if it is still possible to investigate the complaint effectively and fairly, the ICB may decide to still consider the complaint.

When a complaint is made outside these limits and the time limits are not waived, the complainant will be informed of their rights to request that the Parliamentary and Health Service Ombudsman (PHSO) to consider their case.

7.6 Confidentiality

The Nursing and Quality Team and all ICB staff will treat information about patients and staff in strict confidence. The Caldicott Principles will be followed and any information collected and recorded by the service will be covered by the Data Protection Act.

See appendix 10 for further information on confidentiality and circumstances in which a breach of confidentiality can be considered.

7.7 When is Written Consent Required?

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- When patient/complainant information needs to be shared by the ICB with other organisations e.g. providers of services
- If the complaint is made on behalf of another person, the patient must consent to that person acting for them
- If the person being represented does not have mental capacity to give this consent, the complainant will need to demonstrate that they have the authority to act for the person, in the form of, for example, a lasting power of attorney for health.
- If a person is making a complaint on behalf of a person without mental capacity and there is no evidence of authority to act on their behalf, the complaint will be reviewed by the Nursing and Quality Team and a best interests decision made in terms of investigating and what information can be shared with the complainant. There may be an overwhelming public interest to investigate.
- If a Member of Parliament (MP) makes a complaint, acting on behalf of a constituent without providing explicit consent from the constituent, implicit consent is presumed. This is because the constituent has by the nature of their contact with the MP requested they act on their behalf in contacting the ICB.
- Where it is necessary for the ICB to share the complaint with another organisation or independent contractor, explicit (written) consent must be obtained from the constituent.

7.8 Risk assessing a complaint

Correctly assessing the seriousness of a complaint can assist in ensuring the right action is taken in addition to the complaints process. Determining the level of risk is achieved by assessing both the consequence and likelihood of recurrence. Risk is then determined by balancing the consequence to the likelihood of recurrence.

The Nursing and Quality Team will ensure that any ‘red flag’ complaints are flagged to senior managers within the Nursing and Quality Team, and relevant Leads as required. An example of a red flag complaint is:

- Concerns about the patient’s immediate safety and care.
- Concerns that could impact on the safety and care of other patients.
- A complaint that alleges substantial failings in basic care.
- A complaint where care has been compromised.
- A complaint detailing potential safeguarding concerns.
- A complaint which could also be a potential serious incident.

Please refer to appendix 10 for details regarding the processes followed when there is concern for the safety of the complainant or others.

7.9 Safeguarding

All adults and children at risk of abuse and neglect should be able to access public organisations to obtain appropriate interventions which enable them to live a life free from fear, violence and abuse.

During a complaint investigation, it may become apparent that a vulnerable adult or child at risk may have been abused or may have made allegations of abuse. In these

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circumstances, it is essential that appropriate pathways are accessed in order that appropriate personnel can intervene to alleviate any distress being experienced and to progress the matter in line with the ICB's Safeguarding Policies and Procedures.

If the ICB Nursing and Quality Team is made aware that a vulnerable adult or child at risk may have been abused or is experiencing abuse that they will immediately notify the appropriate ICB Safeguarding Lead.

7.10 Processing a Complaint/ Formal Concern

First Stage- Local Resolution

Complaints and concerns must be acknowledged within 3 working days.

- If there is an explicitly stated intention to take legal action the Nursing and Quality Team will inform the Risk Manager (for information).
- If the complainant indicates they will be contacting the media or where the Nursing and Quality Team has assessed that the complaint constitutes a potential reputational risk for the ICB, they will inform the communications team and relevant ICB colleagues within the same day
- If a complaint raised concerns about individual practitioner performance the Nursing and Quality Team will seek guidance from the Director of Nursing and Quality on any next steps

The Nursing and Quality Team will contact the person and clarify any points for investigation, these will be put in writing and the complainant will be asked to confirm they are correct. Appropriate consent will be sought.

A time frame for the response will be discussed and agreed with the complainant (for formal complaints this should be within 6 months in line with 2009 regulations). For further details regarding estimated timeframes for response, please refer to Appendix 2.

The investigation will be coordinated by the Nursing and Quality Team (this may involve several organisations).

The Nursing and Quality Team will keep in touch with the complainant throughout the process with relevant updates.

If for any reason the ability of the Nursing and Quality Team to stay in contact with the person raising the complaint/concern is compromised, this must be escalated, within the Nursing and Quality Team and mitigation put into place. If the team has concerns about a complainant's welfare this must be escalated to the relevant senior manager.

The Nursing and Quality Team will ensure a final response is drafted by the relevant manager, or support the drafting of a final response within the team for multi-agency complaints where appropriate, which will be approved by a senior manager.

The final response will be reviewed and signed by the ICB Chief Executive Officer (or nominated deputy) then sent to the complainant.

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If the complainant is not satisfied with the response it will be reopened if there are further questions to answer (these questions may not have been apparent at the time of the original complaint)

For management of complaints relating to Continuing Healthcare or Individual Funding Request decisions please refer to appendix 5.

Local Resolution Meeting

Should a complainant remain unhappy with the response provided by the ICB, a Local Resolution Meeting may be offered, as this provides a final opportunity to resolve concerns and address any unresolved aspects of a complaint prior to the second stage of a complaint commencing.

The ICB will ensure that the meeting is chaired by a senior member of staff, and the meeting will focus on resolution of outstanding concerns, with the ICB taking an open and honest approach at all times. Appropriate apologies will be provided and areas of learning will be shared with the complainant.

The ICB will be flexible where possible in order to arrange a suitable date and time for the meeting, to accommodate any requests made by the complainant. Meetings could be in person or virtual. Where a complainant wishes for a meeting to be deferred, the ICB will expect the meeting to take place within 6 months of the final response being sent to the complainant.

A copy of our Standard Operating Procedure relating to Local Resolution Meetings is included at Appendix 8.

Second Stage – Handling and Consideration of Complaints referred to the Parliamentary and Health Service Ombudsman (PHSO)

If a complainant remains dissatisfied with the response gained at local resolution stage they can ask the PHSO to review the case. The PHSO considers complaints made by or on behalf of people who believe there has been an injustice or hardship because an organisation has not acted properly or fairly or has given poor service and not put things right. This service is free for everyone.

Referral to the Ombudsman is the second (and final) stage of the complaints procedure. However, all efforts should be made locally to resolve a complaint before the complainant is directed to the Ombudsman.

An appeal should be made within one year of the incident in question or from the discovery of the effect of the incident. The Ombudsman can be contacted at the following addresses:

Parliamentary and Health Service Ombudsman
Millbank Tower
Millbank
London

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Tel: 0345 015 4033

E-mail:phso.enquiries@ombudsman.org.uk Website:www.ombudsman.org.uk

7.11 Unreasonable and Persistent Complainants

It is recognised that there are times when there is nothing further that can reasonably be done to rectify a real or perceived problem.

Unreasonably persistent, serial, or habitual complainants are those complainants who, because of the frequency or nature of their contacts with the ICB, hinder the consideration of their or other people's complaints.

The ICB realise it is important that such complainants may have a genuine grievances that should be properly investigated.

Before deciding that someone is an unreasonable persistent complainant, the ICB must be satisfied that:

- The complaint is being or has been investigated properly;
- Any decision reached on the complaint is the right one;
- Communications with the complainant have been adequate; and
- The complainant is not now providing any significant new information that might affect the ICB's view on the complaint.

Further clarification of vexatious/habitual complaints can be found in Appendix 9.

7.12 Support for staff

Please refer to Appendix 4 for information regarding support available for staff who are either the subject of a complaint or handing the complaint.

7.13 Learning from Complaints

Every opportunity will be taken by the ICB to learn from complaints, enquiries, feedback and compliments, and ensure that future commissioning arrangements are positively influenced by patient feedback.

The insight and experience of complainants will be used to resolve the complaint or issue and reduce the risk of it reoccurring. Where possible and practicable complainants will be offered the chance to review and contribute to problem solving arising from their complaint and commenting on changes made as a result.

The ICB will use complaints, appropriately anonymised, as an aid to staff learning and for service redesign and improvement. Intelligence from complaints and concerns will be used to inform Quality Assurance and Improvement Visits to providers of commissioned services, and the ICB will review embedding or actions from complaints during these visits.

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Regular reports to the Quality Committee and the Board will identify trends in complaints and learning/changes to practice that have taken place. They will also highlight actions taken to share learning with staff.

The ICB Board will publish an annual complaints report in line with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

7.14 Withdrawal of a Complaint

Any concern or complaint received by the ICB, either verbally or in writing, can be withdrawn at any stage of the procedure. Any issues against an individual, those complained against will be informed. Where possible, learning will be shared with the appropriate teams or individuals.

8. Monitoring Compliance and Policy Review

This policy will be monitored via quarterly reports to the Quality Assurance Committee where any gaps or issues arising from implementation of the policy will be reported.

Any Parliamentary and Health Service Ombudsman (PHSO) reports which require the ICB to undertake further investigations or changes to the way a complaint has been handled will be reported to the Quality Assurance Committee and will be reviewed to determine if amendments to this policy are required as a result.

The policy and subsequent amendments will be approved and ratified by the ICB Quality Assurance Committee. The Policy Owners are responsible for monitoring compliance with the process and the effectiveness of actions taken, overseen by the ICB Quality Assurance Committee.

This policy will be reviewed two yearly (or sooner if guidance changes) by the Nursing and Quality Team.

9. Records Management

Complaints records will be stored in accordance with the NHS Records Management Code of Practice; Parts 1 and 2 and must be kept separate from a patient's medical records. Complaints files relating to ICB complaints investigations will be held by the organisation for a minimum of 10 years.

Electronic records will be stored within a secure database managed by and accessible only to the Nursing and Quality and Governance Teams. Any hard copy (paper) records will be kept securely locked and accessible only to the Nursing and Quality Team.

Dissemination and implementation

This policy will be disseminated annually to all staff working in the ICB via electronic link. Staff will be expected to read and understand the policy.

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All staff will have access to the latest Complaints, Concerns and Patient Feedback Policy which will be stored in the policy section of the intranet. This will enable all staff to provide basic signposting and advice to the local population.

10. Education and Training

Managers and staff referred to within the Policy are responsible for ensuring they and their staff, are adequately trained to carry out the roles and responsibilities described.

The Nursing and Quality Team will provide training within the ICB and provide advice to providers as required.

11. Associated Documentation

Local Authority Social Services and National Health Services Complaints (England) Regulations 2009.

House of Commons Library (2013) NHS complaints procedures in England.

The NHS Complaint Standards, *draft* (Parliamentary and Health Service Ombudsman)

The Principles of Good Complaint Handling (Parliamentary and Health Service Ombudsman) 2009.

The Principles of Remedy (Parliamentary and Health Service Ombudsman, 2009)

My Expectations for raising concerns and complaints (Parliamentary and Health Service Ombudsman) 2014.

The Patients Association – How to Make a Complaint (January 2012)

Listening, Improving, Responding – a Guide to Better Patient Care (Department of Health 2009).

NHS Constitution (Department of Health 2009).

Health and Social Care Act 2014 (Duty of Candour regulations).

Being Open – communicating patient safety incidents with patients and their carers (NPSA, 2009).

The Francis Report

NHS England – Guide to the Good Handling of Complaints for CCG, (May 2013)

Review of the NHS Hospital Complaints System – Putting Patients Back in the Picture (Department of Health, 2013) (The Clwyd Report)

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NHS England – Assurance of Good Complaints Handling: A toolkit for commissioners (2015)
 Equality Act 2011

Local Policies

NHS Herts and West Essex Integrated Care Board (ICB) Management of Serious Incidents Policy 2022 v1.0

NHS Herts and West Essex Integrated Care Board (ICB) Safeguarding Children at Risk and Looked After Children policy 2022 v1.0

NHS Herts and West Essex Integrated Care Board (ICB) Safeguarding Adults Policy 2022 v1.0

The NHS Hertfordshire and West Essex Integrated Care Board (ICB) Raising Concerns (whistleblowing) Policy 2022 v1.0

The NHS Hertfordshire and West Essex Integrated Care Board (ICB) Information Governance Framework and Policy 2022 v1.0

The NHS Hertfordshire and West Essex Integrated Care Board (ICB) Records Management Information and Lifecycle Policy 2022 v1.0

Appendix 1: Glossary of Acronyms

CEO	Chief Executive Officer	MP	Member of Parliament
CHC	Continuing Healthcare	NHS	National Health Service
ED	Emergency Department	PALS	Patient Advice and Liaison Service
GP	General Practitioner	PHSO	Parliamentary and Health Service Ombudsman
ICB	Integrated Care Board	SI	Serious Incident
IFR	Individual Funding Request	SOP	Standard Operating Procedure
LRM	Local Resolution Meeting		

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Appendix 2: PALS and Complaints Grading Matrix

Grading	Examples	Timescales
<p>On the spot intervention (PALS)</p> <p>Or concerns the person specifically does not want raised as a complaint</p>	<p>Concerns about access to treatment or healthcare services</p> <p>Concerns about all aspects of clinical treatment received</p> <p>Concerns regarding commissioning policies/decisions</p> <p>Requests for information</p> <p>Signposting to other services</p>	<p>Acknowledgement within 24hrs</p> <p>Final response either same day or within three working days</p>
<p>Concern – minor (will be documented as PALS)</p> <p>Relates either to an unsatisfactory service or experience, not directly related to clinical care.</p> <p>Or relates to a single resolvable issue relating to care with minimal impact and minimal risk to the provision of care or the service.</p>	<p>Complaints about:</p> <ul style="list-style-type: none"> • Manner and attitude • Delayed or cancelled appointments • Cleanliness 	<p>Acknowledgement within 3 working days.</p> <p>Final response within 10 working days</p>
<p>Concern – moderate (PALs or complaint)</p> <p>Relates to a service or experience which appears to be below reasonable expectation in several ways, but not causing lasting problems. There may be some potential for litigation. Includes clinical care issues.</p>	<p>Complaints about:</p> <ul style="list-style-type: none"> • Alleged prescribing errors • Event resulting in moderate harm • Alleged failure to meet care needs • Complaint affecting a vulnerable adult 	<p>Acknowledgement within 3 working days.</p> <p>Final response within 25* working days.</p>
<p>Concern – major (complaint)</p> <p>Raises significant issues regarding standards, quality of care and safeguarding or clear evidence of denial of rights. Evidence of quality assurance or risk management issues. High probability of litigation and adverse local publicity.</p>	<p>Complaints about:</p> <ul style="list-style-type: none"> • Issues listed under Moderate and <ul style="list-style-type: none"> ○ where there are multiple issues ○ where serious harm/death is alleged as a result of health care ○ or where joint investigations with other NHS or Social Care Trusts are required. 	<p>Acknowledgement within 3 working days.</p> <p>Final response within 40* working days.</p>
<p>Concern – catastrophic (complaint)</p> <p>Serious issues which may cause long-term damage, including grossly substandard care or professional misconduct. High risk of litigation or adverse national publicity.</p>	<ul style="list-style-type: none"> • Events resulting in serious harm or death. • Alleged criminal offence (e.g. assault) • Alleged abuse or neglect. 	<p>Acknowledgement within 3 working days.</p> <p>Final response within 40* working days</p>

*These are suggested response timescales for consideration during negotiation with complainants

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Appendix 3: Role of the Nursing and Quality Team

The team will:

- Be the first point of contact for persons with queries/complaints about the ICB or commissioned services
- All PALS concerns that are resolved informally will be logged by the Nursing and Quality Team on the Risk Management database, Datix, so that learning can take place.
- The risk management database will be used to track complaints and ensure complainants only need to “tell their story” once. The data base will be updated by the Nursing and Quality Team after each contact.
- This will ensure that whichever member of the Nursing and Quality Team is contacted by a complainant or member of staff, she/he knows the details of their complaint and can update them as to the current situation.
- Formally acknowledge all complaints within three working days of receipt.
- Maintain an up-to-date database of all concerns and complaints
- Liaise with the locally agreed points of contact with providers to address any issues
- Support ICB staff that are outside the Nursing and Quality Team with investigations
- Quality Assure draft response letters that have been prepared by the relevant ICB Lead and draft responses for multi-agency complaints as required.
- Provide quarterly and annual complaints data for the ICB.
- Maintain a record of all action plans and changes in practice resulting from complaints and obtain progress reports on relevant actions at regular intervals.
- Be responsible for providing information to the Parliamentary and Health Services Ombudsman and ensuring actions arising from investigations are monitored, delivered and reported to the ICB Quality Assurance Committee and learning is shared with providers where appropriate.
- Provide the ICB Quality Assurance Committee with regular reports about the number and type of concerns and complaints made about the ICB or any other matters reasonably connected with the exercise of their functions (including complaints about commissioned services).
- Ensure the service is widely advertised to people who are likely to use commissioned services and is accessible, particularly to people with communication difficulties such as learning difficulties or people who cannot read, write or speak English.

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- Where complaints relate to the ICB and other NHS Trusts, independent contractors or services the Nursing and Quality Team will liaise with other complaints manager/s and agree who will take the lead in co-ordinating investigations and sending out the final response.
- All complaints received by the Nursing and Quality Team will be assessed using the matrix at appendix 2:

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Appendix 4: Support for Staff

Support for staff who are the subject of a complaint

Members of staff named in the complaint, either personally or by role, should be informed of the complaint by their manager. Staff should be fully supported by their line manager and consulted during the investigation. The investigation should be full, fair and timely.

The following sources of support are available to staff:

- Line Manager
- Directorate Manager
- Quality Team
- Occupational Health
- Professional Bodies
- Employee Assistance Programme
- Mental Health First Aiders

Staff will be informed of the details of any complaint made against them. They will be involved in the investigation of the complaint, will have the opportunity to respond to the issues raised and will be kept informed of the progress of the complaint and its outcome by their manager.

The ICB does not expect staff to tolerate any form of abuse from service users or others during complaint management.

Abuse, harassment or violence of any kind towards members of staff will not be tolerated. Personal contact may be withdrawn from any individual who acts in this way.

Support for staff handling complaints

Members of staff involved in handling complex complaints will be supported by their own line manager, quality managers, and the wider senior management team. This could be in relation to managing challenging and abusive conversations, whether by telephone, in person, by letter, or via email; or managing other parts of the process.

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Appendix 5: Management of Complaints SOP

All complaints, queries and other enquiries, with associated documentation, will be documented on the risk management database.

All complaints will be formally acknowledged within three working days.

The Nursing and Quality Team will contact the complainant prior to investigation to negotiate the complaints case management plan.

The complainant will be advised in the initial contact that support can be provided to them by the Health Complaints Advocacy Service, along with contact details.

A written copy of any oral complaint and the complaints case management plan (including request for written consent where needed) will be sent to the complainant with an acknowledgement and an invitation to confirm it is a correct representation of their concerns.

If the complainant does not respond to the written summary of their complaint, a second communication will be sent to ask them to confirm the summary of their concerns. If there is no response to this one further attempt will be made to contact the person. If there is no contact from the complainant no further action will be taken with regard to the complaint (the complainant will be informed of this in writing).

The time frame for investigation does not start until consent has been received from the patient.

The time frame for the final response to be sent to the complainant will be discussed and agreed with them. The time frame can be variable depending on the number of organisations involved.

The NHS Complaints regulations 2009 state that “relevant period” for sending a final response, means the period of 6 months commencing on the day on which the complaint was received, or such longer period as may be agreed before the expiry of that period by the complainant and the responsible body.

If the ICB does not send the complainant a final response in accordance within the relevant period, the ICB must

- notify the complainant in writing accordingly and explain the reason why; and
- send the complainant in writing (a final response) as soon as reasonably practicable after the relevant period.

The Nursing and Quality Team will share the complaint and any other pertinent details with the relevant manager and will support local managers with their investigation of the complaint if necessary

The concerns raised in the complaint will be investigated by the relevant ICB Lead who will draft a response based on their findings.

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The Nursing and Quality Team will Quality Assure the final response prior to submitting for the approval process.

Responses will be written:

- In plain English
- Free of jargon
- Include an apology
- All responses will contain an explanation as to what took place.
- Details will be given of what actions have been, or will be, taken to prevent a recurrence of the incident.
- Information about the Parliamentary and Health Services Ombudsman and the Health Complaints Advocacy Service will also be given.
- All responses will include the contact details of a named person who will discuss the complaint and the response letter with the complainant, if required.

Please refer to: <https://www.england.nhs.uk/wp-content/uploads/2015/11/ccc-toolkit-acute.pdf>

for expected standards in responding to complaints – this is a toolkit for Commissioners reviewing acute Trusts but the principles are the same for the ICB carrying out complaint investigations.

A meeting can be offered as part of the resolution process. The Nursing and Quality Team can also arrange dispute resolution to aid this process, including the possible use of a Lay Conciliator/Mediator. Interpreting will be offered for any meeting where this would aid communication and complainants will be informed that they are welcome to bring a friend and/or advocate (not a legal representative) to any meeting if they wish.

The Nursing and Quality Team will send electronic copies of the draft final response to the relevant Associate Director/nominated deputy for approval of the response recording the outcome on Datix

If a complaint is not released for Chief Executive Officer signature by an Associate Director or their nominated deputy after 3 working days, the Nursing and Quality Team will escalate the case to the ICB Deputy Director of Nursing and Quality.

Agreed final responses will be sent to the Chief Executive Officer for approval and signature.

Final letters for consideration will be accompanied by the original complaint letter(s) and relevant documents such as the investigation report.

Complaints regarding Individual Funding Requests (IFR) and Continuing Healthcare (CHC)

If a complaint is received about an Individual Funding Request (IFR) or a Continuing Healthcare (CHC) decision, including Retrospective Reviews, the complainant will be advised that they are entitled to appeal the decision and a copy of the appeals process will be provided if requested. If the complainant still wishes to make a formal complaint this will be investigated under the NHS

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Complaints Procedure but the complainant must be made aware that only the IFR or CHC Retrospective process will be investigated and not the actual funding or CHC Retrospective decision, which would have been made by the appropriate Panel.

Appendix 6: Procedure for replying to Members of Parliament’s/ other elected officials Correspondence

The following procedure should be followed when dealing with correspondence from Members of Parliament (MPs)/ other elected officials – local counsellors etc.

1. Complaint and patient-related MP queries should only be processed by the Nursing and Quality Team or ICB Executive Directors. (If dealt with directly by Directors the enquiry and all correspondence must be sent to the Nursing and Quality Team for recording on Datix)
 2. All letters and emails should be copied to the Nursing and Quality Team patient experience email address.
 3. All letters and emails from MPs must be acknowledged within 3 working days.
 4. Anyone other than the Nursing and Quality Team or an ICB Executive Director receiving any correspondence (letters or emails) from an MP must refer it to the Nursing and Quality Team immediately to be processed.
 5. Correspondence from MPs received by the Nursing and Quality Team will be sent electronically to the relevant Service Manager and Director as appropriate to draft a response. Consider copying in the Communications Team if appropriate.
 6. The Director or Service Manager is responsible for leading or delegating work on the draft response.
 7. Draft responses will be quality assured by the Nursing and Quality Team and sent to the CEO for sign off
- MPs references must be placed at the top of the letter in the section “your reference”.
8. The ICB Datix reference number must be in the “Our Ref” section.
 9. A draft response should be prepared for the ICB Chief Executive Officer within 15 working days. If additional time is required to investigate the MP query, the Director or Service Manager must contact the Nursing and Quality Team who will contact the MP and alert them to the revised timescale.
 - 10 If a response has not been received within the agreed timeframe, the Nursing and Quality Team will send a reminder to the relevant Director or manager by email; to obtain a response no later than 2 working days after the response was due.
 11. Replies to all MPs’ correspondence should be sent within 25 working days, and where possible sooner.

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12. For Chief Executive Officer correspondence, the draft response will be sent to the to the Executive Office, for signature by the ICB Chief Executive Officer by the Nursing and Quality Team.

13. The Nursing and Quality Team, or the Executive Office where the subject matter is not patient-related, will send the final letter out, signed by the ICB Chief Executive Officer.

14. The Nursing and Quality Team will keep all the original documents together with a copy of the final reply letter to the MP.

15. The Executive Office and other relevant departments should be sent a copy of the final reply letter for their records.

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Appendix 7: Complaint and concurrent disciplinary investigation or Legal claims

Disciplinary Investigation

Where a complaint is being investigated and it becomes apparent that an investigation under the ICB Disciplinary Policy is required, a decision will be reached as to whether any further action under the complaints process can proceed. This flexibility in permitting the complaints and disciplinary processes to operate simultaneously, in certain circumstances, is designed to ensure that the potential implications for patient safety and organisational learning are investigated as quickly as possible, to allow urgent action to be taken to prevent similar incidents arising.

However, if the ICB does proceed with the two investigations simultaneously, the following rules must apply:

- Separate investigating managers;
- On-going liaison between the two investigating managers to ensure a co-ordinated and systematic approach, sharing of information where appropriate and the agreement of key findings;
- Agreement of how the outcomes of disciplinary proceedings can be communicated to the complainant.

If the decision is made to defer the complaints process pending completion of the disciplinary proceedings, then the following will apply:

- Any issues falling outside the scope of the disciplinary proceedings may be investigated under the complaints process provided that they do not impact upon the disciplinary investigation;
- The Nursing and Quality Team will be responsible for keeping the complainant informed as to the likely timescale for the completion of the disciplinary proceedings.

At the conclusion of the disciplinary proceedings, the Nursing and Quality Team will write to the complainant explaining:

- That the matter has been investigated;
- That the allegation has or has not been proven;
- Where an allegation has been proven, details can be given about any review of procedures or additional training to staff which is being undertaken as a result;
- Where disciplinary action has been taken against an individual, a statement can be made that appropriate actions have been taken, without the exact nature of that action being disclosed.

Any information collected in the complaints investigation can be used in the disciplinary procedure, but the two procedures must be kept separate and the right of the staff member to confidentiality must be maintained at all times.

Complaints received about other NHS services (not commissioned in full or in part by the ICB) will be directed to the relevant Trust or provider service complaints manager/s for investigation and response.

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Claims/ Legal action

In the event of a complainant's initial communication being via a solicitor's letter, the inference should not be that the complainant has decided to seek redress through the courts. The complaints procedure can continue even if the complainant indicates an intention to take, or does indeed take, legal action and makes a claim against the ICB. Advice must be sought from the ICB Director of Nursing and Quality and the ICB Governance Lead for Claims.

If a claim for clinical negligence is submitted this shouldn't normally prevent or delay a complaint being investigated through the NHS complaints procedure. However, in very exceptional circumstances this could happen, for example if a judge rules that the investigation of a complaint would interfere with the legal case.

The Nursing and Quality Team must establish whether a complaint into the issue being raised has already been investigated by the ICB or the relevant provider – as a complaint cannot be investigated twice

The Nursing and Quality Team must inform the complainant why the complaint process has been suspended. In those circumstances where following an investigation under the complaints procedure there is a prime facie case of clinical negligence, a full explanation will be provided and if appropriate, an apology offered to the complainants. The Nursing and Quality Team will inform the Governance Team so they may notify NHS Resolution.

Paperwork relating to the complaint investigation can be used in a court of law.

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Appendix 8: Standard Operating Procedure for Local Resolution Meetings in Complaints

Purpose

A local resolution meeting (LRM) could be held at any point during the first stage of the complaints process but is most likely to be offered or requested if the complainant is dissatisfied with the written response they have received from the ICB. The ICB would expect that an LRM should take place within 6 months of the final response being sent to the complainant. An LRM is often an opportunity to resolve concerns and address any unresolved aspects of a complaint before it may progress to the second stage of the complaints process, which would be review of the complaint by the Public and Health Service Ombudsman (PHSO).

Background

The focus for an LRM would be on the resolution of any outstanding concerns, with the ICB taking an honest and open approach at all times. The ICB would aim to provide assurance on, and demonstrate transparency in the ICB's complaints management process. The desired outcomes from an LRM could be:

- The complainant feeling that their complaint has been handled fairly;
- The complainant feeling that the response directly addressed all of the concerns they raised;
- The complainant feeling reassured that any issues identified will be rectified to prevent reoccurrence in the future;
- The ICB understanding how their complaints process may be improved;
- The complainant feeling confident in the ICB's complaints handling process and the outcomes produced;
- The complainant has been made aware of any improvements or changes in practice as a result of their complaint;
- The ICB has provided an open and transparent account of the complaint investigation undertaken;
- If relevant, the ICB has an understanding of how their original response and investigation did not meet the needs of the complainant, and will take any further action needed.

Process for LRM and Roles and Responsibilities

The Nursing and Quality Team

The Nursing and Quality Team will recognise where an LRM may be beneficial and suggest this to the relevant Directorate and the complainant. The team will take the lead in managing the arrangements for the meeting once agreed. The steps will usually be undertaken by the Complaint Handler, supported by the Senior Managers as necessary. The team will be responsible for:

- Ensuring the full complaint file is available and complete and circulated to ICB staff involved in the meeting as soon as possible.
- Securing a Suitable Chairperson for the meeting.
- Confirming the required attendees from the appropriate ICB Directorate and notifying them of the details.

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- Securing a range of suitable dates and times (at least 3 weeks ahead) and hold in diaries of ICB staff. Consider relevant flexibility to meet the complainant's needs, including any reasonable adjustments required
- The meeting could be in person, virtual or a combination of both .
- Offering dates to complainant and check who will be attending with them. Remind them of Advocacy services available.
- Checking access and travel needs for complainant and ICB staff and once meeting date is confirmed, book suitable venue. This will usually be at the ICB offices, but other venues will be considered if they better meet the needs of the complainant – including virtual meetings.
- Ensuring recording equipment is available.
- Requesting from complainant a clear agenda outlining the issues or questions they would like resolved. This should be received at least 2 weeks' prior to the meeting.
- Circulating agenda/issues as soon as possible to the Chair and Directorate concerned who will take responsibility for formulating responses.
- Confirming meeting details to complainant – include attendees and their titles, venue, time, duration and include consent form for recording of meeting.
- Confirming in writing meeting details to ICB staff as above and include meeting pack comprising complaints file and agenda/list of issues from complainant.
- Arranging pre-meet for ICB staff with agenda, ideally a few days prior to the confirmed LRM date.
- Informing reception of visitors.
- During the meeting, responsible for recording key points and actions

Post meeting, the team will be responsible for:

- Sending key actions and copy of recording to complainant (notes and actions to ICB staff also) within 2 weeks of the meeting date.
- Updating Datix with meeting notes, the recording and actions from the meeting.
- Sending a final update to complainant following completion of actions, or update and assurance of timescale for actions is greater than 6-8 weeks, and advising next step is PHSO.

Chairperson

The ICB will ensure that a senior member of staff is appointed as Chair. This will usually be a Senior Manager in the Nursing and Quality Team, but this will be agreed on a case by case basis depending on the nature of the complaint, background and investigation. The Chair is responsible for:

- Familiarising with the complaints file, the investigation and background information.
- Leading the pre-meeting and debrief meetings: ensuring arrangements are confirmed, and allocating roles, agenda points, and follow-up actions as appropriate.
- During the meeting, remain in a neutral position, offering challenge to Directorate where necessary.
- Keep the meeting to the time allocated
- At the end of the meeting, summing up and allocating actions and timescales for responses, and ensuring these are communicated to all parties.
- Ensuring the complainant is aware that they have to right to escalate their complaint to the PHSO if they remain unhappy with the outcome of their complaint.

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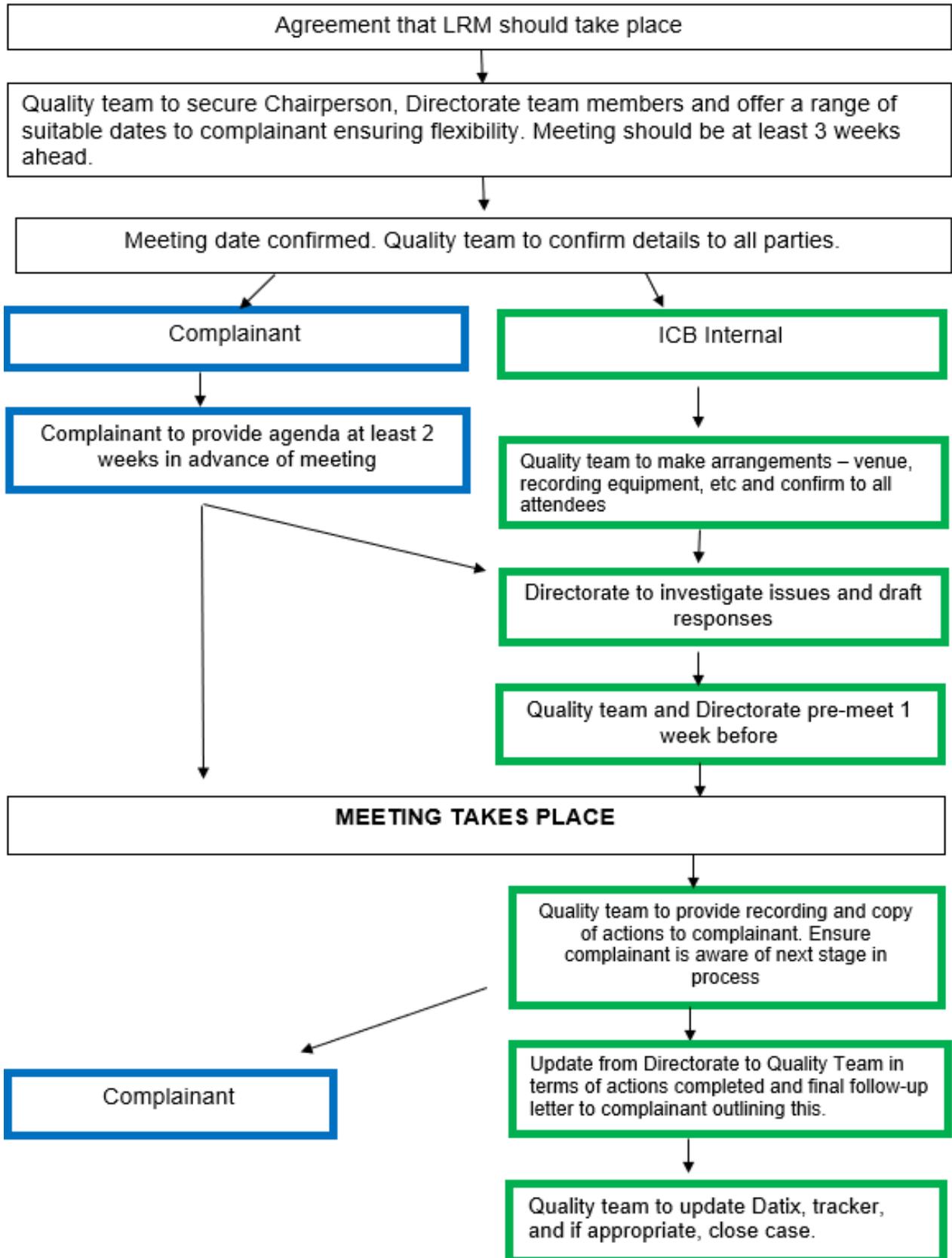
Directorate

The ICB Directorate involved in the complaint investigation and response are expected to take an active role in the LRM. This will usually be a senior member of the team but can be supported by other team members also. The Directorate are responsible for:

- Ensuring a senior member of staff is available for the meeting.
- Reviewing the complaint, investigation and response against the agenda and preparing responses to the issues raised by the complainant and ensuring these are complete in time for the pre-meet.
- Ensuring that any further information requested by the Chair is available at the LRM.
- Responding to issues raised giving factual responses and using an open, transparent approach.
- Ensuring that any issues that need following up or can't be answered at the LRM are recorded and a response is provided to the complainant within the agreed timeframe.
- Ensuring that any identified actions are taken.
- Ensuring that any learning from the complaint is shared with the team, and any amendments to policies or processes are implemented.

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Local Resolution Meeting Process



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Appendix 9: Vexatious/Habitual Complaints

There are exceptional circumstances where the ICB can reasonably do nothing further to rectify a real or perceived problem from a complainant.

Complainants (and/or anyone acting on their behalf) may be deemed to be vexatious or habitual complainants where previous or current contact with them shows that they meet one or more of the following criteria;

- Persist in pursuing a complaint/concern where the complaints procedure has been fully and properly implemented and exhausted;
- Changed the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions (care must be taken not to discard new issues which are significantly different from the original complaint);
- Continue to pursue a complaint with the ICB after appropriate consent has been sought to forward the complaint to the provider for investigation;
- Are unwilling to accept documented evidence of treatment given as being factual (i.e. records) or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed;
- Do not clearly identify the precise issue which they wish to be investigated, despite reasonable efforts and/or where concerns identified are not within the remit of the ICB to investigate;
- Focus on a matter to an extent which is out of proportion to its significance and continues to focus on this point (it is recognised that this can be subjective and careful judgements must be used);
- Have in the course of addressing a complaint had an excessive number of contacts with the organisation placing unreasonable demands on staff (this can be by telephone, email, social media, letter or in person and discretion must be taken in determining “excessive”);
- Take up excessive amount of the teams’ time during contacts - discretion must be taken in determining “excessive”;
- Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties;
- Displayed unreasonable demands or expectations and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice);
- Used inappropriate verbal or written language towards members of staff
- Are abusive or insulting to staff

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The following procedures will be used in exceptional circumstances and as a last resort, after all reasonable measures have been taken via the complaints procedure:

Stage 1

The ICB employees should refer the complainant to the Nursing and Quality Team. The Nursing and Quality Team will take action specifically targeted to try and help the complainant and staff involved, depending on the behaviour the complainant is displaying. This could include;

- Explaining the complaints process;
- Informing a limit to the number of and duration of telephone conversations, emails and written letters;
- Where handwritten correspondence is unclear, the complaint will be acknowledged, and the opportunity provided to contact the Nursing and Quality Team to discuss the concerns. If this option is not taken the correspondence will be returned and the complainant signposted to the NHS Complaints Advocacy Service;
- Use of recorded delivery postage;
- Seeking help from the NHS Complaints Advocacy Service to contact and liaise with the complainant where appropriate;
- The Nursing and Quality Team identified as the sole organisational contact point for the complainant;
- Informing the complainant that written communication will be the only communication between the ICB and the complainant;
- The Nursing and Quality Team will contact all staff likely to receive contact from the complainant, advising them of action decided upon and provide a suitable script which staff should read to the complainant (and repeat up to 3 times) in the event of the complainant contacting them before calls are terminated. This will be regularly reviewed.

Stage 2

If Stage 1 does not have the desired effect and the situation deteriorates, then one or more of the following may be taken;

- The Nursing and Quality Team will write to the complainant informing them why their behaviour is preventing any possible resolution of the complaint, and include an “agreement” setting out a code of behaviour for both parties listing grounds on which the complaint will be dealt with and which it will not;
- The Nursing and Quality Team will write to the complainant informing them that the points raised have been fully responded to and that to continue to contact on this matter would serve no useful purpose. The letter will include advice on contacting the Parliamentary Health Service Ombudsman (PHSO);
- Identify a single ICB staff member to be the point of contact for the complainant (with support for that member of staff)

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- The Nursing and Quality Team will escalate the case to an Executive Director and agree a suitable course of action, which will be communicated to the complainant in writing;
- If the action above does not have the desired effect, the Nursing and Quality Team will compile a report for the ICB Chief Executive Officer detailing the issues and sequence of events. The ICB Chief Executive Officer will then write to the complainant informing them of the ICB's actions.

All actions and decisions related to this type of action will be documented on Datix

Once a complainant has been deemed as vexatious or habitual, the status will be withdrawn at a later date if, for example, the complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which the normal complaints procedure would appear appropriate. Discretion should be used in removing the status.

If it becomes apparent through the course of investigating a complaint that staff have been subjected to inappropriate personal verbal or written abusive comments the complainant will be advised that this is unacceptable and will not be tolerated with any further communication the person may have with the ICB. Staff will be encouraged to report any such incidents to their Line Manager.

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Appendix 10: Confidentiality including circumstances when a breach is permitted

Encrypted e-mail using NHS.net to NHS.net or another approved secure email address (i.e. .gcsx.gov.uk (Local Government/Social Services), .hscic.gov.uk (The Health and Social Care Information Centre), .pnn.police.uk (Police)) will be used for patient or staff identifiable data.

All staff will adhere to information governance policies and must have up-to-date training in Information Governance.

There may be circumstances in which the ICB considers a breach of confidentiality may be required. Such breaches will occur in very limited circumstances and any decision taken will be documented to provide the rationale for doing so including the reasonable steps that have been taken to seek consent.

Such situations may include:

- where there is a risk or danger to the client or others e.g. prevention or detection of serious crime or other justified serious risk, and;
- where not to do so would be breaking the law.

If a member of the Nursing and Quality Team considers a breach of confidentiality might be appropriate, they will seek advice from the following staff and in addition may also seek legal advice:

- Senior Manager in the Nursing and Quality Team / ICB Director of Nursing and Quality.
- The Information Governance Lead
- The Caldicott Guardian

Complainants/Callers considered to be at immediate risk to themselves or others

Occasionally complaints give rise for concern about the immediate welfare or safety of the complainant or another person connected to the complainant. Contacts of this nature will be immediately prioritised for same day action and the complainant will be contacted and advised to contact their General Practitioner (GP) and/or NHS 111 for advice. Alternatively the Deputy Director of Nursing and Quality will be asked for advice as to immediate next steps.

Sometimes complainants state they are going to commit or feel like committing suicide. Suicidal callers will be encouraged to seek help from their GP or (if they already have one) their mental health team. They can also be advised to go to their nearest Emergency Department (ED) as they can access mental health help there. NHS 111 can advise over the phone. Details of The Samaritans can also be given. Even if there is consideration that the threat is not being made seriously; it must be treated as serious and the above advice followed.

If staff are concerned for the callers safety, they must speak to a senior manager in the Nursing and Quality Team who will consider informing relevant professionals either to obtain immediate help for the patient and so that the matter is recorded for the future.

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It may be appropriate to inform the caller's GP practice. If possible, the patient's agreement to this course of action should be obtained.

There may be cases where the patient is not willing to give consent for the ICB to contact their GP/mental health team - but if staff assess that the situation is so serious that they do need to contact a third party they must contact a senior manager in the Nursing and Quality Team, before contacting anyone else.

Breaking the patient's confidentiality in this way **is only justified** when there is perceived to be a danger to the patient or someone else. In these cases, staff **MUST** consult the Caldicott Guardian or in their absence the Deputy Director of Nursing and Quality.

Any action taken without the patient's express permission must be considered very carefully and be in proportion to the assessed risk to the caller.

All such cases should be recorded on Datix with full details of all contacts, how decisions were made and actions taken.

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PALS CHARTER

The **Patient Advice and Liaison Service (PALS)** is an easy to access service enabling people to obtain information / advice or raise concerns about healthcare in their local area.

Contact **PALS** for advice or assistance and we will:

- Listen empathetically and understand your needs
- Treat you with courtesy and politeness
- Advise you of the options available to resolve your concerns
- Signpost you to the relevant organisation if we cannot assist you
- Obtain your consent before contacting other organisations or accessing your medical records
- If you are a relative/carer/friend of the person concerned then we will need to obtain consent from that person where possible before we can look into the concerns raised
- Ensure that we keep you advised of actions that we will take on your behalf and update you accordingly
- Treat every person equally regardless of their sex, marital status, race, colour, creed, religion, physical disability, mental health, learning difficulty , age or sexual orientation
- Ask if you were happy with the service that you received from PALS and for feedback on how we can improve our service

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Appendix 12 – NHS Herts and West Essex ICB Equality Impact Assessment Screening Form

Very occasionally it will be clear that some proposals will not impact on the protected equality groups and health inequalities groups.

Where you can show that there is no impact, positive or negative, on any of the groups please complete this form and include it with any reports/papers used to make a decision on the proposal.

Name of policy / service	Complaints, Concerns and Patient Feedback Policy
What is it that is being proposed?	ICB Policy has been developed based on previous Hertfordshire and West Essex CCG complaints policies and aligned to Local Authority Social Services and National Health Services Complaints (England) Regulations 2009.
What are the intended outcome(s) of the proposal	To clearly outline the process for handling complaints generated by patients or their representatives, setting out clear guidelines for staff, managers and complainants around how complaints will be managed.
Explain why you think a full equality impact assessment is not needed	The revised policy is based on previous CCG policies and aligned to national legislation. No fundamental changes have been made to existing processes. All complainants have access to advocacy services.
On what evidence/information have you based your decision?	Previous review of similar policies.
How will you monitor the impact of policy or service?	Policy and EIA will be reviewed every 2 years.
How will you report your findings?	Any impact identified will be reported to ICB Quality Assurance Committee.

Having considered the proposal and sufficient evidence to reach a reasonable decision on actual and/or likely current and/or future impact I have decided that a full equality impact assessment is not required.

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Assessor's name and job title	Rosie Connolly, Associate Director Quality Improvement and Patient Safety
Date	1.6.2022

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