



**West London  
Clinical Commissioning Group**

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## **Policy and Procedure for the Recording, Investigation and Management of Complaints, Comments, Concerns and Compliments (4C Model)**

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## 1. Definition of Terms

<b>CCG</b>	Clinical Commissioning Group. The CCGs are the Statutory Organisations and their Governing Boards are the accountable bodies.
<b>CWHH CCG Collaborative</b>	The Collaborative formed by Central London CCG; Hammersmith & Fulham CCG; Hounslow CCG and West London CCG to share a leadership team and work together in key areas including the management of complaints.
<b>Complaints Manager</b>	Employed by CWHH Collaborative to manage Complaints, Comments, Concerns and Compliments on behalf of the four CCGs.
<b>Complainant</b>	The person making a complaint whether this is the patient, their relative or representative.
<b>The Patient</b>	The person who is affected by the issues that have caused concern and resulted in the complaint.
<b>Chief Officer</b>	The Chief Officer is accountable for the CCGs. He / She is responsible for ensuring that complaints undergo a full investigation and that an appropriate and timely response is provided to the complainant. The Chief Officer is responsible for signing off complaints.
<b>Member of Staff</b>	Any person employed by or acting on behalf of the CCGs or CWHH CCG Collaborative whether in a substantive post, Interim capacity, as a Contractor or in a temporary position.
<b>PHSO</b>	Parliamentary and Health Service Ombudsman

### 1.1 Role of the CCG

CWHH CCGs are responsible for commissioning health services for their local population. These services primarily include Acute (hospital) Services, Community Service and Mental Health Services. They are not responsible for the commissioning of Primary Care Services (i.e. GP, Dental, Pharmacy, and Optician) or Specialist Services (i.e. specialist heart & lung treatment; specialist cancer care); these services are commissioned by NHS England (London).

### 1.2 Introduction

The four CCGs within the CWHH CCG Collaborative are committed to providing all service users with the opportunity to seek advice, raise concerns, make a formal complaint and provide a compliment about any of the services it commissions. The objectives of the CCGs are to listen, respond and improve services for the local population. The 4C approach for managing the patient experience has been adopted and the organisations will actively seek feedback about the services it commissions and recognise the rights of its patients to comment on these services and the actions of the CCGs.

The aim of this policy is to ensure that all contacts from patients are listened to and that complaints are resolved quickly and simply and that information gained from them is used to improve the services commissioned. It is recognised that in the majority of cases queries or concerns can be resolved by talking with healthcare providers. It is therefore encouraged, wherever possible, that the person wishing to raise an issue speak to a member of the team providing the service. Where this is not possible the Complaints Manager will assist in trying to resolve any problems but if this is not possible he/she will make sure that it is easy for patients to make a complaint and give feedback about how services can be improved.

The CCGs will ensure that all those providing a service on their behalf are aware of their obligation to have a complaints procedure in place which reflects the NHS Complaints Procedures. Service users and their representatives need to feel confident that making a complaint will not have a negative impact on their access to the service they require. Complaints should be treated positively and, wherever possible, leave service users and carers feeling satisfied with the way in which their complaint has been handled and confident that the organisation has learnt from the experience. The CCGs will focus on satisfying complainants' concerns whilst being fair to service providers, practitioners and staff.

The CCGs are committed to achieving excellence in all services it commissions and understands the importance of complaints, comments, concerns and compliments as a means of reviewing its standards and as an avenue by which communication can be improved. Despite the best efforts of staff, and every effort to strive for excellence, mistakes can occur and the organisation endeavours to reflect quickly on the event that occurred and improve the service to prevent future reoccurrence.

This policy does not duplicate information which is clearly set out in the guidance and legislation surrounding NHS complaint management, but adapts and supplements these to meet local needs and recent developments within the NHS. It also aims to meet the principles of good complaint handling laid down by the Parliamentary and Health Service Ombudsman (PHSO).

### 1.3 Policy Statement

We take dealing with complaints seriously and the CCGs are committed to having effective procedure in place to handle all issues brought to the attention of staff. We aim to ensure that the procedures are simple, easy to understand and are widely publicised.

In addition to issues that occur when genuine mistakes are made, complaints often arise from differences of understanding, perception or beliefs but they provide a valuable indication of the quality of services provided and this information can and will be used to help improve the services we commission and find a better way to meet the needs of patients; to learn from mistakes and take steps to prevent them happening again.

The CCGs will treat all complaints seriously and will listen to what service users have to say and provide assistance and advice on the process which the organisations will follow. All complaints will be properly investigated and receive a timely and appropriate response, the outcome of the investigation will be explained along with any actions which are taken in light of the complaint.

The CCGs have a commitment to ensure that no person is treated in a less favourable manner than another on grounds of age, religious belief, disability, ethnic or national origins, medical condition or marital status, nationality, race, sex or sexual orientation nor is placed at a disadvantage because of a complaint or by the application of conditions or requirements which cannot be shown to be justifiable.

This document demonstrates CWHH CCGs' commitment to create a positive culture of respect for all individuals, including staff, patients, their families and carers as well as community partners. The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is also intended to use the Human Rights Act 1998 and to promote positive practice and value the diversity of all individuals and communities.

Investigations will be objective, impartial and open in accordance with the 'Principles of Good Complaints Handling – Parliamentary and Health Service Ombudsman'. Investigations will provide an explanation, an apology where appropriate, a description of lessons learned and identification of guidance/policy/system requiring review and/or amendment. This will enable the CCGs to:

- Handle complaints objectively, consistently and fairly
- Bring complaints to a fair and satisfactory conclusion
- Maintain a constructive and non-punitive approach
- Ensure all action taken are proportionate
- Maintain a positive relationship with complainants
- Identify and implement changes/improvements in practice/services.

## 2.0 Definitions and Scope of the Policy

This policy applies to all staff employed by the GCCs and CWHH CCG Collaborative who are involved with its services, including bank and agency staff, students and volunteers. It also applies to concerns and/or dissatisfaction about services that the CCGs commission.

The principles of the 4Cs have been adopted as described by the Department of Health. These are:

**Complaint** – A complaint is an expression of dissatisfaction about a service for which a response must be provided.

**Comment** – A comment can be a remark or observation that does not require a formal response but still requires an appropriate response.

**Concern** – A concern can be an issue that can be dealt with as an informal enquiry or via local resolution with the relevant service provider.

**Compliment** – As expression of gratitude as a result of services provided to a service user, relative, carer or member of the public.

## 2.1 Links to Other Policies

The procedures outlined in this policy should be read in conjunction with the following CCG policies, procedures and legislation.

- The Local Authority Social Services and NHS complaints (England) (Amendment) Regulations 2009
- CCG Incident Policy
- Data Protection Policy
- Freedom of Information Policy
- Staff Disciplinary Policy
- Safeguarding Adults Procedures
- Safeguarding Children Procedure
- Serious Incident Policy

## 2.2 Guiding Principles

### 2.2.1 The Human Rights Act

The CCGs have considered The Human Rights Act and the equality benefits of a Human Rights based approach when handling complaints.

The Human Rights Act contains 15 rights, all of which NHS organisation have a duty to act compatibly with and to respect, protect and fulfil. Six rights are particularly relevant to healthcare, four of which are particularly relevant to this policy. In compliance with Articles 3, 5, 6 and 8 of the Human Rights Act this policy allows patients -

- The right to complain about services
- The right to be treated with dignity and respect throughout the complaints process
- An improved quality of health service – patients treated with fairness, respect, equality and dignity

## 2.2.2 The NHS Constitution

As well as capturing the purpose, principles and values of the NHS, the Constitution brings together a number of rights, pledges and responsibilities for staff and patients. These rights and responsibilities are the result of extensive discussions and consultations with staff, patients and the public and will be adhered to when managing complaints. Further details can be obtained from [www.dh.gov.uk/nhsconstitution](http://www.dh.gov.uk/nhsconstitution)

## 2.2.3 Health Service Ombudsman's Principles of Remedy

*Principles of Remedy* published by the Parliamentary and Health Service Ombudsman describes six principles that represent best practice and are directly applicable to the NHS Complaints Procedure. Good Practice according to the document entails:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement

A downloadable version of the *Principles for Remedy* document is available on the Health Service Ombudsman Website at: <http://www.ombudsman.org.uk>

## 2.3 Definition of a Complaint

2.3.1 The NHS complaints procedure, as set out in the regulations, is for patients or users of services and not for the resolution of contractual or staff grievances.

2.3.2 The definition of a complaint is 'an expression of dissatisfaction, grievance and/or injustice requiring a response'. Clearly this is an extremely wide definition and it is not intended that every minor concern should warrant a full-scale complaints investigation. Rather, the spirit of the complaints procedure is that front line staff are empowered to resolve minor comments and problems immediately and informally. The CCGs will therefore seek to distinguish between requests for assistance in resolving a problem and a formal complaint. All issues will be dealt with in a flexible manner, which is appropriate to their nature and the latter will be dealt with strictly in accordance with the NHS Complaints Procedure.

2.3.3 Whenever there is a specific statement of intent on the part of the caller/correspondent that they wish their concern to be dealt with as a formal complaint, this will be treated as such.

2.3.4 Any caller/Correspondent who is dissatisfied with the preliminary response to a matter which has been dealt with as a problem solving issue will be advised of their right to pursue the matter further through the complaints procedure.

### 2.3.5 Concerns and Complaints may be expressed about:

- Commissioning decision taken
- Something which is against the choice or wishes of the patient
- The way treatment, service or care has been provided to a patient
- Discrimination against a patient
- How a service has been managed
- Lack of a particular service
- Manner, attitude or other behaviour of staff

This list is not exhaustive.

## 2.4 Who can make a complaint?

A complaint may be raised under this policy by anyone who is receiving, or has received services which are commissioned by the CCGs; or a representative such as a friend or relative on behalf of the patient, if they have been given permission to act.

A complaint may be made by:

2.4.1 Existing or former patients using services of the CCGs or facilities, or an individual who is affected, or likely to be affected, by the action, omission or decision of the CCGs.

2.4.2 A relative/significant other of the patient with the knowledge and consent of the patient. If the patient is a child, has died, is unable to put forward a complaint because of physical incapacity, lack of capacity within the meaning of the Mental Health Capacity Act 2005 or has requested a representative to act on their behalf, then the complaint will be accepted from a close relative/friend/significant other or suitable representative body, or any person who is affected by the act, omission or decision of the CCGs, providing it is the subject of the complaint. The patient will, however receive the written response unless his/her written consent is received authorising the response to be shared with a third party.

If the patient is unable to act, by reason of incapacity, consent is not needed but the designated Complaints Manager will determine whether the complainant has sufficient interest in the patient's welfare and is conducting the complaint in the best interest to be suitable to act as a representative. Confidentiality must be safeguarded, particularly in relation to clinical complaints, and copies of correspondence should not be sent to any third party without the written consent of the complainant. If the Complaints Manager determines that a person is not suitable, a full explanation outlining the reasons for this decision must be provided.

If a complaint is made about NHS services by a person representing a child who is judged to be Fraser Competent (under the age of 16), it must not be considered unless the Complaints Manager is satisfied that there are reasonable grounds for the complaint being made by a representative instead of the child. In such cases, the Complaints Manager will write to the representative and request the consent of the child. The Complaints Manager will also provide information about advocacy and support available to the patient and the complainant.

\*In this Policy and Procedures, any reference to a complainant includes a reference to his/her representative.

## **2.5 Complaints that cannot be dealt with under this Policy and Procedures**

The following complaints will not be dealt with under the NHS Complaints Regulations 2009:

- A complaint made by a Local Authority, NHS body, Primary Care provider or Independent provider
- A complaint made by an employee of a Local Authority or NHS body about any matter relating to employment
- A complaint which is made orally and is resolved to the complainant's satisfaction no later than the next working day after the day on which the complaint was made.
- A complaint which has previously been investigated under the 2004, 2006 or 2009 NHS Complaints Regulations.
- A complaint which is or has been investigated by a Health Service Commissioner under the 1993 Act.
- A complaint arising out of the alleged failure by the CCGs to comply with a request for information under the Freedom of Information Act 2000.

Complaints can contain requests for information under the Freedom of Information Act 2000 (FOI) or Data Protection Act 1998 (DPA). Requests, which need to be in writing, do not need to refer to the legislation specifically and must be handled under the relevant policies and procedures.

Reference to the separate process can be made in the complaint response and the fact that it is an independent process with a right to appeal. The legislation also provides a duty to advise and assist, which can be met in the case of FOI requests by a clear referral to the appropriate member of staff who will provide specific guidance.

## **2.6 Methods of Complaining**

A complaint may be made in writing (by e-mail, fax or letter) or verbally over the telephone or in person. If the complaint is made verbally the person accepting the complaint should record this in writing and the complainant should be given/sent a copy to sign and return to confirm accuracy. The complaint procedure must be followed for every complaint and the person making the complaint should be treated with respect and sensitivity and encouraged to be open about their concerns.

### **2.6.1 Procedures to ensure that patients, relatives and carers are not treated differently as a result of a complaint.**

All staff must ensure that patients, carers and relatives are not discriminated against as a result of having made a complaint. All Complainants will be assured that their care and treatment will not be adversely affected as a result of making a complaint and that the CCGs value their feedback.

## 2.7 Publicity

Information on how to make a complaint will be readily available to patients, clients and their relatives and carers in leaflet form (Appendix D), posters and on appropriate NHS websites.

## 2.8 Claims and 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 CCGs. Advice must be sought from the Complaints Manager and the Director of Quality and Patient Safety.

Where a possible clinical negligence claim is intimated before a complaint has been resolved the Complaints Manager will consider whether by dealing with the complaint it might prejudice the potential defence of the claim. Where it is thought that dealing with the complaint might prejudice the legal action, resolution of the complaint will be deferred until legal action is concluded.

The Complaints Manager 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 *prima facie* case of clinical negligence, a full explanation will be provided and if appropriate, an apology offered to the complainants. The Complaints Manager will inform the Claims Manager so he/she may notify the NHS Litigation Authority under the CNST scheme reporting guidelines and the Policy and Procedure for the Management of Clinical Negligence Claims and Employer/Public Liability Claims.

## 2.9 Disciplinary Procedures

The complaints process can continue alongside disciplinary procedures. However, it is important that the processes are seen to be fair to all parties and that those involved are encouraged to be open and honest. Advice must be sought from the Complaints Manager and Department of Human Resources (HR).

If any complaint indicates a *prima facie* need for a referral for an investigation under the organisations disciplinary procedures, one of the professional regulatory bodies, and independent inquiry into a serious incident under Section 84 of the NHS Act 1977 or investigation of a criminal offence; the Complaints Manager will refer the case to the Director of HR and the Chief Officer and advise the Chair and Managing Director of the relevant CCG.

### **3. Roles and Responsibilities**

#### **3.1 All staff**

All staff have a duty to ensure learning from complaints is reflected in their work. All staff must adhere to the CWHH CCG Collaborative Policy and Procedure for the Recording, Investigating and Managements of Complaints, Comments, Concerns and Compliments; NHS Confidentiality code and Practice; and the Data Protection Act when dealing with complaints.

#### **3.2 The Chief Officer**

The Chief Officer is responsible for ensuring compliance with the arrangements made under the Local Authority Social Services and National Health Service (England) Regulations 2009 and ensuring that action is taken if necessary depending on the outcome of a complaint.

#### **3.3 The Complaints Manager**

Is responsible for ensuring an investigation into all complaints made by patients/representatives in line with the Local Authority Social Services and National Health Service (England) Regulations 2009 ensuring best practice with regard to handling and management of complaints on behalf of the Chief Officer

Provides advice and support to CCG and CWHH CCG Collaborative staff involved at all stages of the Complaints Procedure. Work with colleagues across the CCGs, using information gained from the investigation of complaints to ensure that actions which minimise the risk of reoccurrence are developed, shared and implemented across the organisations.

To act as a point of contact for complainants and their representatives.

To act as the CCGs and CWHH CCG Collaborative link to external organisations such as the Parliamentary and Health Service Ombudsman (PHSO); General Medical Council (GMC) etc.

#### **3.4 CCG Chairs and Managing Directors**

CCG Chairs and Managing Directors are responsible for ensuring the investigation of formal complaints about the services they commission, commissioning decisions they have taken or action of their staff. They will implement systems for ensuring that staff are supported through a complaint and that all current investigation into complaints are tracked monitored and target dates for draft responses are met. Following the outcome of an investigation the investigating officer will risk assess the complaint again and the score may be revised depending on the information obtained from the investigation. Chairs and Managing Directors are responsible for ensuring that all staff within the CCG are aware of the updated complaints process, and that the Policy and Procedures are adhered to. They will also take action on any recommendations arising from an Ombudsman's report.

### **3.5 Front Line staff**

Where appropriate on receipt of a complaint the CCGs will ensure the immediate healthcare needs of the patient are met.

Front line staff who receive a complaint will notify the Complaints Manager immediately. Written complaints sent to or forwarded to CCG Chairs and Managing Directors will be forwarded immediately to the Complaints Manager for acknowledgment of the complaint.

Staff may receive informal comments and suggestions and these may include an expression of dissatisfaction. If staff receive verbal comments from patients/service users; the person receiving the comment should establish the facts and clarify whether a complaint is being made. Staff are encouraged, in conjunction with their line manager to deal with verbal complaints to which they can provide an immediate response.

The aim is to resolve the matter causing concern; to reassure the complainant; to learn from the complainant's experience and to eliminate the potential for reoccurrence of similar problems.

Where the recipient of the complaint is unable to investigate and resolve the complaint adequately, or feels unable to provide the outcome that the complainant is seeking then with the complainant's consent the complaint should be referred to the Complaints Manager.

Some complainants may prefer to make their initial complaint to someone who has not been involved in their case. In these circumstances, they should be advised to direct the complaint to the Complaints Manager. Advice about the local Complaints Advocacy Service should be provided.

### **Complaints Management Process**

This section outlines the process for managing complaints including internal and external communication, and collaboration with other organisations when necessary (see section 6 for joint working)

See Appendix A for flow chart summarising the process

## **4. First Stage – Local Resolution**

The CCGs will investigate a complaint in an appropriate manner always aiming to resolve it as speedily and efficiently as possible. The timescale for responding to a complaint should normally not be more than 25 working days, but deviation from this may be agreed following consultation with the complainant. During the investigation the organisation will keep the complainant informed as far as reasonably practicable as to the progress of the investigation.

As soon as reasonably practicable after completing the investigation, CWHH CCG Collaborative will respond to the concerns outlined on behalf of the CCGs. The response will include:

- An explanation of how the concerns raised were investigated
- The conclusion reached in relation to the complaint including any remedial action that is considered to be appropriate
- Confirmation that the CCG is satisfied that any action required as a result of the complaint has been or will be taken.

If the Complaints Manager believes that the agreed timescale will not be met the complainant will be contacted; the reason for the delay will be explained and a revised response date will be provided. A response will be provided to the complainant as soon as reasonably practicable after the relevant period.

#### **4.1 Response to verbal complaints / Informal resolution of complaints within 24 hours**

Any member of staff receiving a verbal complaint should establish whether the matter is one that they, a colleague or line manager can respond to immediately.

If a member of staff is approached by a service user who wishes to make a verbal complaint which the member of staff is able to resolve to the service user's satisfaction within one working day then the issue will not be recorded as a formal complaint.

However, to ensure that the CCGs capture the concerns of service users, staff are requested to inform the Complaints Manager of such issues – this can be done by sending an e-mail with brief details of the actions they have taken to resolve an informal complaint. This information will be recorded by the Complaints Manager.

#### **4.2 Serious Complaints**

If a concern or complaint is an allegation or suspicion of any of the following it should immediately be investigated as a formal complaint:

- Physical abuse
- Sexual abuse
- Financial misconduct
- Criminal offence

In a situation where a person discloses physical/sexual or financial misconduct it must be reported even if the complainant does not want to make a formal complaint. In addition to this, following consultation with the CCG Chair/Managing Director, Chief Officer and Chief Financial Officer; the Police and any other appropriate agencies should be informed to ensure that appropriate action is taken. The CCG and HR policies appropriate to the case should be followed i.e. Safeguarding Adults Policy, Safeguarding Children Policy, Serious Incident Policy, Primary Financial Policies; Fraud and Corruption Policy.

Confidentiality will be maintained in such a way that only managers and staff who are leading the investigation know the content of the case. Anyone disclosing information to others who are not directly involved in the case should be dealt with under the disciplinary procedure. In the case of financial misconduct the Primary Financial Policies must be followed.

### **4.3 Advocacy Services and support for complainants**

When a person raises concerns or makes a complaint it can be complex and stressful. CWHH CCG Collaborative and the CCGs understand that dealing with complaints can be difficult for all concerned.

Complainants will be given support to overcome any communication or other difficulties to enable them to make a complaint e.g. provision of an interpreter; easy read documentation for complainants with Learning Disabilities.

Complainants will be offered independent support when making a complaint, through the local Complaint Advocacy Service and, where appropriate, specialist advocacy services. Information on how to access complaints advocacy and other advocacy will be provided to all complainants and service users by the Complaints Manager and is included in the complaints leaflet.

When appropriate information will be sought for other local advocacy services for patients who lack capacity to make particular decision and have no-one else to support them or for Social Care.

### **4.4 Conciliation and Complaints Meetings**

A Conciliator is an independent lay person, not employed by the NHS who acts as a neutral party between the complainant and those complained against in order to resolve any outstanding concerns.

Conciliation can only be used on the basis of both parties fully co-operating and consenting to such a process. It cannot be used as a coercive measure or threat against either the complainant or staff members involved. All parties must enter this process with an open mind.

Conciliation is free to complainants, but commissioned services and independent contractors involved in a complaint will be expected to contribute to the cost of conciliation if this avenue is pursued to resolve the complaint.

#### 4.5 Complaints Meetings

Should a complainant wish to meet with the Complaints Manager or the CCG Chair or Managing Director to discuss their complaint this can be arranged if appropriate to do so. Under the Complaints Regulations the complainant may wish to meet with CCG or CWHH CCG Collaborative representatives to discuss their concerns as part of the investigation process. If this is the case this will be discussed when the request is made; if the request is declined a full explanation as to why will be provided.

Notes will be taken at all meetings and a copy of these sent to all those involved to confirm accuracy before recording the document in the complaint file. The use of tape recorders and other recording devices will only be permitted if all parties agree to it. If parties do agree, it must be agreed and clearly documented what the recording will be used for and who will retain responsibility for it.

#### 4.6 Formal Complaints Procedure

Once it is clear that an individual wishes to make a formal complaint, the process set out in the Complaints Procedure should be followed (Appendix A). The following points should be noted:

- Complaints should normally be made within 12 months of the events complained about or twelve months of knowledge of the events. Those received outside this timescale will be investigated at the discretion of the Complaints Manager, taking into account any exceptional circumstances for not making the complaint within timescale, such as bereavement or illness, and whether it is still possible to investigate the complaint effectively and fairly. The Complaints Manager's views should always be sought before complainants are refused access to the procedure. In those instances where the Complaints Manager has decided not to investigate the complaint the reasons for this must be put in writing to the Complainant by the Complaints Manager or the Chief Officer.
- All staff should be aware that where a complaint is referred to the Ombudsman (second stage) any information received as part of their investigation may be used to assess the CCG's performance.
- The Complaints Manager should be notified of all formal complaints as soon as they are received and provided with all documents relating to the complaint. The Complaints Manager will ensure that the appropriate CCG Chair and Managing Director are made aware that a complaint has been received.
- All complaints received by the Complaints Manager, either directly or via other routes will be acknowledged within three working days of the date received. This will be done either by letter, telephone call (which should be recorded in the complaints file) or by e-mail. Usually the method of acknowledging a complaint will match the method by which it was originally made.

- The acknowledgement letter will include an offer by the Complaints Manager to discuss with the complainant the manner in which the complaint is to be handled, the period within which the investigation of the complaint is likely to be completed and when the response is likely to be sent to the complainant
- If the complainant does not accept the offer of a discussion, the Complaints Manager, in conjunction with the relevant CCG Chair or Managing Director will decide on the response time and notify the complainant in writing.
- When a complaint is received, the Complaints Manager will contact the complainant to negotiate a timeframe for resolving the complaint which is both realistic and acceptable to the complainant and to clarify their concerns and to find out how they would like their complaint to be resolved. Other options include:
  - Face to face meeting with the complainant and parties involved
  - Resolution of the complaint by telephone
  - The use of an independent advocate or mediator arranged by the Complaints Manager

NB: this list is not exhaustive and a combination of several methods can be used when handling a single complaint, until it is resolved to the complainant's satisfaction.

Although current complaints legislation states that a timescale for response should be agreed with the complainant, in order to manage all complaints in an equitable manner, the CCGs will aim for all complaints to be resolved within 25 working days or up to 45 working days in complex cases (but this should be in exceptional circumstances with the complainant being kept informed of progress throughout). If, however a complainant indicates that an earlier response is required every effort will be made to meet this request whilst ensuring that a full investigation has been carried out.

- The Complaints Manager will assist in making the necessary arrangements for meetings. However, responsibility for the arranging of taking notes will rest with the individual CCGs or in the case of Commissioned Services or Independent Contractors, with their designated Complaint Manager.
- If the agreed deadline cannot be met, the complainant must be informed of this at the earliest opportunity and provided with an explanation and apology. This should be followed up in writing with a request for an extension and a suggested revised date. The need for an extension should be identified at the earliest possible opportunity and not be left until the deadline nears.
- Regardless of the method used to resolve the complaint, a clear written record should be maintained of the investigation detailing any meetings or discussion with staff and complainant, covering what was asked and the responses given. A copy of this record should be shared with and made freely available to the complainant and staff involved in the complaint. Copies of all correspondence and associated file notes should be kept securely and separately from medical records/case files.

- As soon as possible after the investigation, where appropriate, the Complaints Manager should send the complainant a response signed by the Chief Officer or delegated signatory.
- Although the CCGs are commissioning bodies, should it on rare occasion need to provide a substantive response to a complaint that involved medical staff and matters of clinical or professional judgment, the response will be given to the relevant clinician prior to dispatch to allow comments or amendments to be made.
- All communications will be clearly marked 'Private and Confidential'. The reply may be sent electronically where the complainant has consented in writing or electronically and has not withdrawn such consent.

Responses will include the following:

- An explanation of how the complaint has been considered
  - An explanation of events
  - The conclusion reached, including any matters for which remedial action is needed
  - An apology where appropriate
  - Confirmation as to whether the CCG and CWHH CCG Collaborative are satisfied that any action required as a consequence of the complaint has been taken or is proposed to be taken
  - Reimbursement of expenses or losses where appropriate.
- In the event that the complainant remains dissatisfied with the outcome of the investigation the Complaints Manager will discuss with the complainant the manner in which resolution can be achieved. The complaint will be reviewed by the Complaints Manager along with the CCG Chair and/or Managing Director (or another member of staff designated by them). A meeting or further response will be offered by the Complaints Manager if relevant to the subject matter of the complaint.
  - In those circumstances where the offer of a meeting or further response is declined or a meeting/proposed course of action by the CCG or CWHH CCG Collaborative fails to resolve the complaint, the Complaints Manager will draw to the complainant's attention their right to take their complaint to the Parliamentary and Health Service Ombudsman.
  - Once the formal response has been sent, it will be shared with those involved in the investigation and named in the complaint.
  - Complainants must not be discriminated against during or after a complaint investigation.
  - Correspondence pertaining to the complaint will not be filed in the patient's healthcare records.

#### **4.7 Improving our Services**

Regardless of the method used to resolve the complaint, a SMART action plan for improvement should be developed for any improvements that are identified. This should be agreed with the responsible Service Manager and the local Quality/Governance lead. At the conclusion of a complaint, all action points with clear deadlines for implementation will have been clearly documented; this will be monitored by the Complaints Manager to allow the CCGs to demonstrate how they constructively use service user feedback to learn and improve. Good practice resulting from complaints will be shared across the four CCGs in order to promote learning networks and continuous improvement.

The investigating officer should monitor the action plan and provide the Complaints Manager with a progress report, which will be entered onto the complaints database. If this is not forthcoming or the action plan is not being implemented this will be escalated to the relevant CCG Chair and Managing Director.

#### **4.8 Sign Off**

The overall responsibility for the management, investigation and sign off of all complaints remains that of the Chief Officer. However, he/she may delegate this to the relevant Director or the Complaints Manager. (See flowchart at Appendix A)

Regardless of the method used to resolve the complaint, where the complainant requires it, a response in writing from the Chief Officer will be provided (usually by letter, but it may be electronically, if the complainant has consented to electronic communication). This should be prepared for the complainant, Chair or Managing Director of the CCG involved in the Complaint. The response should comprehensively cover each aspect of the complaint, with explanations of actions being taken and be in plain English. A spelling and grammar check should also be completed before submission. The Complaints Manager can assist in this upon request.

The author of the letter should forward the completed draft complaints response to the Complaints Manager for approval.

The Complaints Manager will complete a final quality assurance check of the response and consult with senior staff if necessary.

Electronic signatures should not be used for final sign-off, except in extenuating circumstances when sign off by a deputy is not possible.

After the complaint has been dealt with, the Complaints Manager will send the complainant a Complaints Handling Questionnaire and Ethnicity Monitoring Form enclosing a pre-paid envelope. Appendix B and C.

The Complaints Manager will close the complaints file two weeks after the final response has been sent if there is no further communication from the complainant. However, this can be re-opened (subject to statutory deadlines) if there is further communication from the complainant.

## **5. Staff who are the subject of complaints**

CWHH CCG Collaboration recognises that complaints will be made. It will, as far as possible, resist assigning blame and adopt a fair blame culture whereby remedial action, such as system change and training, will be sought before considering any disciplinary action. Having said this, however the system and those working within it will be held appropriately accountable. The culture of the organisation will be to promote positive attitudes towards dealing with complaints where mistakes are handled openly, learning and appropriate support is developed and appropriate action is taken. The complaints process will be about finding out what went wrong, why it went wrong, what can be done to ensure that it does not happen again and apologising where a complaint has been upheld.

All statements, letters, phone calls and actions taken in an investigation must be documented and kept in the complaint file. A complete complaints file is required should the complaint be referred to the Parliamentary and Health Service Ombudsman.

### **5.1 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 / or the Complaints Manager and consulted during the investigation. The investigation should be full, fair and timely and should not apportion blame although the system and those working within it will be held appropriately accountable.

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.

CWHH CCG Collaborative and the CCGs do not expect staff to tolerate any form of abuse from service users or others during complaint management. Staff are not expected to put themselves in situations where they feel they may be at risk when dealing with complaints.

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.

Staff will not be expected to undertake home visits or to meet people on their own if they feel themselves to be at risk. Alternative places to meet may be arranged and they may take a colleague, usually their line manager or the Complaints Manager.

Staff safety is paramount and staff are expected to complete an incident form where a risk has been identified. If staff experience any form of abuse, violence or harassment from a service user or member of the public (physical or verbal), this should be managed under NHS Health and Safety Policy: Violence and Aggression to staff.

## **5.2 Supporting staff investigating complaints**

Staff investigating complaints will be provided with support and guidance by the Complaints Manager who can also provide support and guidance to contracted service providers when requested.

Guidance and training on complaints management and investigation techniques should be provided to all staff on an individual or team basis, where appropriate.

Lessons learned from complaints should be used in training for all staff.

## **6. Complaints that Cross Organisations and Boundaries**

There will be complaints about services commissioned by the CCGs and provided from other NHS organisations, local authorities or private providers. Complainants should be able to make their complaint to one organisation but have all aspects of their concerns addressed. In order for this to be achieved Complaints Managers from different organisations will have to work in collaboration with each other.

In these cases the Complaints Manager will acknowledge receipt of the complaint within 3 working days and seek consent to share the content of the complaint with the other organisations involved. The organisation with the most outstanding issue/s of complaint will usually take the lead and co-ordinate the final response, itemising each individual issue investigated by the respective organisations.

### **6.1 Health and Social Care Complaints**

If a complaint is received that solely involves or also has elements of a complaint about another NHS or Social Care organisation the Complaints Manager should write to the complainant within three working days and request consent from the complainant before sending a copy of the complaint to the other organisation.

Discussions should take place between the relevant Complaints Managers, in conjunction with the complainant, as to whether the issues should be handled separately or as part of a joint coordinated investigation and response. When the issues raised in complaints are interconnected, it is usually better to arrange a joint response.

When a complaint relates to a provider commissioned by one of the CCGs, the complainant can request that CWHH CCG Collaborative or the CCG directly investigates (even if the commissioned organisation has its own complaints department and complaints handling procedure).

In this situation, the Complaints Manager in collaboration with the CCG Chair / Managing Director will make the final decision as to whether it is appropriate to investigate such complaints. In most cases it is anticipated that the commissioned services will handle any complaints which concern their services.

However, in some cases this may not be appropriate and the Complaints Manager will contact both the patient and the relevant organisation to explain what action will be taken and who will be managing the complaint. Discussions should take place between all parties to reach an agreement on the way the complaint will be investigated. The lead commissioning manager of the service will be involved in the discussion and take a leading role in any ensuing investigation. The Complaints Manager will work with colleagues to ensure the service user receives a timely and full response to their concerns.

In the case of a joint response, one officer should be nominated to co-ordinate the investigation and to be the main point of contact for the complainant during the investigation. The complainant should be provided with details of how the investigation will take place and should be part of any discussion about the appropriate response timescales.

The Complaints Manager writing the response should ensure that they clearly inform the complainant, in writing, which organisation is responsible for each part of the complaint.

Joint responses should generally be agreed and signed by the relevant Director of the commissioning organisation along with the CCG's Chief Officer.

## **6.2 Independent Provider Complaints**

Independent providers are expected to have local complaints procedures, which are comparable with those operated in the NHS. Complaints relating to NHS purchased care provided within the independent sector, which are directed to the CCGs, will be dealt with in accordance with the procedure set out in 6.1 above. The provider will also be expected to co-operate in the investigation of any multi-sector complaints in which it was involved or any investigation by the CWHH CCG Collaborative or the CCG when requested by the complainant.

## **6.3 Complaints about services which are not the responsibility of CWHH CCG Collaborative or its CCGs**

Occasionally complaints will be received about services not provided or commissioned by the CCGs e.g. private treatment. In such cases the Complaints Manager will, wherever possible, advise the complainant of the correct agency to contact and offer to forward the complaint to that agency for investigation. Beyond this the CWHH CCG Collaborative and its CCGs would have no further input.

## 6.4 Complaints about Primary Care Independent Contractors

CCGs do not commission Primary Care Independent Contractors (General Practitioners, Dental Practitioners, Pharmacist and Opticians) and are not responsible for complaints made against these services. These fall under the responsibility of NHS England. Complaints about Primary Care Independent Contractors will be forwarded to the NHS England contact centre or their delegated authority once consent from the Complainant has been received. Otherwise the complainant will be advised of where to appropriately address their complaint.

Note: In line with the above procedure where a complainant is not satisfied with the Independent Contractors response the complaint cannot be escalated to NHS England or their delegated body but should be referred to the Parliamentary and Health Service Ombudsman.

In cases where the subject to the complaint is regarding a local commissioning decision, the CCG and Primary Care Independent Contractor have a duty to co-operate in undertaking an investigation, which will be carried out in a thorough and timely manner appropriate to the topic and in accordance with Local Resolution.

## 7. Second Stage – Handling and Consideration of complaints referred to the Parliamentary and Health Service Ombudsman

**7.1** If a complainant remains dissatisfied with the response gained at the Local Resolution stage they can ask the Parliamentary and Health Service Ombudsman (PHSO) to review the case. Usually a complaint should have already been made to the organisation or practitioner involved before it is referred to the PHSO.

The Complaints Manager will provide details of the role of the PHSO and other options for local resolution to complainants when issuing a response.

**7.2** The Parliamentary and Health Service Ombudsman (PHSO) considers complaints made by or on behalf of people who have suffered injustice or hardship because of unsatisfactory treatment or service by the NHS or by private health providers who have provided NHS funded treatment to the individual.

**7.3** 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:

The Ombudsman  
 The Health Service Commissioners Office for England  
 Millbank Tower  
 Millbank  
 London SW1P 4QP  
 Tel: 0345 015 4033

E-mail: [phso.inquiries@ombudsman.org.uk](mailto:phso.inquiries@ombudsman.org.uk) Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

**7.4** The Complaints Manager will notify the Chief Officer and the Chair and Managing Director of the appropriate CCG and those complained against of any requests to the PHSO. In those circumstances where a request is accepted by the PHSO, the Complaints Manager will provide the following information to the appointed Case Manager:

- chronology of the case;
- copies of correspondence;
- copies of any relevant healthcare records (if appropriate);
- notes from local resolution meetings (excluding conciliation)
- any local investigation documents;
- relevant/related NHS policies and procedures;
- the CCG's views on the complaint;
- final response given to the complainant.

**7.5** Following receipt of the PSHO's findings and conclusions, the Accountable Officer will:

- Write to the complainant within 25 working days informing of any action the CCG is taking as a result of the PSHO's deliberations.

**7.6** The Complaints Manager will:

- Report on individual cases to the relevant committees and directors on a monthly basis.

If the PSHO investigates a complaint which is not upheld and there are no substantial additional issues, the CCG and CWHH CCG Collaborative will not re-open the Local Resolution process and will advise the complainant accordingly.

## **8 Unreasonably persistent, serial or habitual complainants**

If a member of staff believes that a complainant is persistent, serial or malicious then they should contact the Complaints Manager for advice. The organisation has guidance for dealing with persistent, serial, or vexatious complainants which are set out below. The action set out in this guidance should only be taken by the Complaints Manager, having first sought advice from the relevant Director and/or the Chief Officer

**These steps should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaint following the NHS Complaints Procedure.**

Habitual complainants are becoming an increasing problem for NHS staff. The difficulty in handling such complaints is placing a strain on time and resources and is causing undue stress for staff that may need support in difficult situations. NHS staff are trained to respond with patience and sympathy to the needs of all complainants but there are times when there is nothing further which can reasonably be done to assist them or to rectify a real or perceived problem. It is also recognised that a persistent complainant should be protected in ensuring that staff respond to all genuine grievances.

Therefore, in determining arrangements for handling such complaints, staff are presented with the following key considerations:

- To ensure that the complaints procedure has been correctly implemented as far as possible and that no material element of a complaint is overlooked or inadequately addressed.
- To appreciate that even habitual complainants may have grievances, which contain some genuine substance.
- To ensure an equitable approach.
- To be able to identify the stage at which a complainant has become habitual.

All complaints handled by the CWHH CCG Collaboration are processed in accordance with NHS complaints procedures. During this process staff inevitably have contact with a small number of complainants who absorb a disproportionate amount of NHS resources in dealing with their complaints. The aim of this section of the Complaints Policy is to identify situations where the complainant might be considered to be habitual and to suggest ways of responding to these situations, which are fair to both staff and complainant.

**It is emphasised that these steps should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the NHS complaints procedures**, for example through local resolution, conciliation, or the involvement of independent advocacy services as appropriate. Judgement and discretion must be used in applying the criteria to identify potential habitual complainants and in deciding the action to be taken in specific cases. These steps should only be implemented following careful consideration by, and with the authorisation of, the Accountable Officer, Chair and/or Managing Director of the CCG.

## 8.1 Definition of a Habitual Complainant

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual where previous or current contact with them shows that they meet at least TWO of the following criteria:

## Where complainants:

- a) Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted (e.g. where the Parliamentary and Health Service Ombudsman (PHSO) has declined a request for Independent Review, or where one has taken place and its findings have been reported and acted upon).
- b) Seek to prolong contact by changing the substance of a complaint or continually raising new issues and questions whilst the complaint is being addressed. (Care must be taken not to discard new issues, which are significantly different from the original complaint. These might need to be addressed as separate complaints).
- c) Are unwilling to accept documented evidence of treatment given as being factual e.g. drug records, GP records, nursing notes.
- d) Deny receipt of an adequate response despite evidence of correspondence specifically answering their questions.
- e) Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- f) Do not clearly identify the precise issues, which they wish to be investigated, despite reasonable efforts of staff and, where appropriate, an appropriate advocate, to help them specify their concerns, and/or where the concerns identified are not within the remit of the CWHH CCG Collaboration to investigate.
- g) Focus on a trivial matter to an extent, which is out of proportion to its significance, and continue to focus on this point. **(It is recognised that determining what a 'trivial' matter is can be subjective and careful judgement must be used in applying this criteria).**
- h) Have, in the course of addressing a registered complaint, had an excessive number of contacts with the organisation placing unreasonable demands on staff. (contact may be in person or by telephone, letter, E-mail or fax. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section using judgement based on the specific circumstances of each individual case).
- i) Are known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.

- j) Display 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).
- k) Have threatened or used actual physical violence towards staff or their families or associates at any time – this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication.
- l) Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this).

## 8.2 Procedure for Dealing With Habitual Complainants

- a) Check to see if the complainant meets sufficient criteria to be classified as an habitual complainant.

Where there is an on-going investigation

- b) A senior director should write to the complainant setting parameters for the code of behaviour and the lines of communication. If these terms are contravened consideration will then be given to implementing other action.

*\* It may be inappropriate for the Chief Officer to set these parameters at this stage as s/he will be involved in the on-going complaints process.*

Where the investigation is complete

- c) At an appropriate stage, the Chief Officer or senior director should write a letter informing the complainant that:
  - the Chief Officer has responded fully to the points raised,
  - and
  - has tried to resolve the complaint,
  - and
  - there is nothing more that can be added, therefore, the correspondence is now at an end.

The organisation may wish to state that future letters will be acknowledged but not answered.

- d) In extreme cases the organisation should reserve the right to take legal action against the complainant.

### **8.3 Withdrawing 'Habitual Complainant' Status**

Once complainants have been determined as 'habitual' there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate. Staff should previously have used discretion in recommending 'habitual' status and discretion should similarly be used in recommending that this status be withdrawn.

## **9. Discriminatory complaints**

These are complaints made against an individual because of their racial background, gender, marital status, race, ethnic origin, colour, nationality, national origin, disability, sexuality, religion or age. Some will be easily identifiable from the outset; others may come to light during the complaints process.

At an early stage, the Complaints Manager with the assistance of CCG staff will endeavour to identify any complaint that amounts to harassment and ensure that the employee/practitioner concerned is not put through the process of an investigation. Any complaint made purely on the basis of race will be considered to be harassment and will not be tolerated.

The Complaints manager will discuss any possible discriminatory complaints with the CCG Chair/Managing Director or Chief Officer and determine whether the complaint should be progressed through the complaints process.

If the decision is taken not to progress the matter through the complaints process, the complainant will be notified in writing that the complaint will not be progressed and informed that harassment against the member of staff will not be tolerated.

Support will be offered to the employee/service provider who is the subject of the complaint.

Any complaints couched in discriminatory language that raise legitimate issues about clinical practice, procedure and communication, will be investigated using the complaints procedure, without prejudice to the outcome of the investigation.

Where a complaint is investigated that is couched in discriminatory language, the complainant will be advised that discriminatory language will not be tolerated. The employee/service provider will also be offered support.

## 10. Complaints about Independent Funding Requests (IFR)

If a complaint is received about an IFR decision, the complainant will be advised that they are entitled to appeal this decision and they will be directed to the IFR Team. If the complainant still wishes to make a formal complaint regarding the way in which the IFR process has been delivered, this will be managed in line with the complaint guidance.

## 11. Performance Management and Reporting

Complaints will form an integral part of the contract monitoring and performance management processes. This will be achieved through the regular review of complaints managed on behalf of the CCGs by the CWHH CCG Collaborative, and the main service providers, thus ensuring that the required quality of service provision is achieved and maintained and that information derived from complaints contribute to development, commissioning and service planning.

Managers should use the issues raised in individual complaints to explore and, where appropriate, initiate service improvements. Issues arising from complaints, problems and other user feedback should be a standard item for discussion at team meetings.

All types of complaints reports must be anonymous to ensure patient/complainant/staff confidentiality. The Complaints Manager will ensure that anonymised reports are shared throughout the organisation and that these will highlight learning and improvement strategies.

Reports will be forwarded to each CCG on a monthly basis and will be reviewed at their Quality and Patient Safety Committee.

### 11.1 Reporting

Reports providing anonymised details of all complaints managed on behalf of the CCG by CWHH CCG Collaborative (including complaints received about services commissioned by the CCGs) along with independent review activity will be produced on a monthly basis throughout the year. Reports will include:

- The number of complaints received
- A trend analysis of complaint identifying the subject matter
- the timescales under which the complaint has been managed and a response provided. Exception reports will be provided when timescales have been breached.
- The number of complaints which have been referred to the Parliamentary and Health Service Ombudsman, in such cases a summary of outcome will include:
  - The subject matter of complaints
  - Any matter of general importance arising out of those complaint, or the way in which the complaint was managed
  - Any matters where action has been or is to be taken to improve services as a consequence of the complaint.
  - Recurring themes will be identified.

These reports will be reviewed at each individual CCG's Quality and Patient Safety Committee. The Quality and Patient Safety Committee will retain responsibility for oversight.

In addition to this reports will be provided to the CWHH Collaborative Quality and Patient Safety Committee on a quarterly basis. An annual report will also be provided to both CWHH and individual CCG Quality and Safety Committees.

All annual returns required by the Department of Health regarding annual complaints' data, for example the KO41a, will be submitted as required.

## **12 Confidentiality**

### **12.1 Confidentiality**

Complaints will be handled in the strictest confidence at all times. Care must be taken at all times throughout the complaints procedure to ensure that any information disclosed about the service user is confined to that which is relevant to the investigation of the complaint and only disclosed to those people who have a demonstrable need for it in connection with the investigation.

The appropriate maintenance of confidentiality helps to create an environment in which service users can speak freely and staff can work in safety.

Information will not be disclosed to patients or complainants unless the person who has provided the information has given written explicit consent to the disclosure of that information. If the Complaints Manager requires consent from an individual they will send a consent form which can be signed and returned to the organisation.

Particular care must be taken where the patient's record contains information provided in confidence by or about a third party who is not a health professional. Complaints and any information arising from a complaint will be dealt with in the strictest of confidence and should be kept separately from patients' medical records.

The complaints records will not be filed within clinical records but held within a separate complaints file by the service and the Complaints Manager. Please refer to the Data Protection Act 1998:

### **12.2 Breaches of Confidentiality**

Breach of confidentiality is a serious matter and should be reported as an incident. Circumstances where a breach of confidentiality may be justified are:

- Where there is a danger to the client or others, such as where the complaint raises issues relating to child protection or the protection of vulnerable adults.
- Where not to do so would be breaking the law.

Advice should be sought from the Complaints Manager in situations where confidentiality cannot be preserved. The service user / representative should be informed as soon as they raise their complaint that under the above circumstances confidentiality may be breached.

### **12.3 Sharing information**

When transferring complaints between agencies, including the Parliamentary and Health Service Ombudsman (PHSO), it is particularly important to ensure that confidentiality is maintained at all times. Every effort should be made to obtain the service user or their representative's consent before sharing confidential information with another body or organisation. Consent should be obtained in writing wherever possible. If this is not possible, verbal consent should be logged and a copy sent to the complainant.

### **12.4 Retention of records - Complaints recording and computer held records**

All complaints are entered on the complaints database by the Complaints Manager.

It is important that all issues relating to complaints are fully and accurately documented, dated and retained.

Complaint files are discloseable documents under legal processes and will be accessible to the PHSO in the event of further investigation. Files should be appropriately maintained, updated and retained for a minimum of 10 years in line with the NHS records management policy:

### **12.5 Dealing with media interest**

All enquiries from the media should be referred to the Communications Team. Confidentiality must be maintained in any dealing with the media.

### **12.6 Complaints made by MPs on behalf of their constituents**

If a patient has visited an MP in their surgery or written to them requesting their representation in making a complaint or raising a concern, consent is not required (Statutory Instrument 2002 No 2905. The Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002) If the MP states that they have received their constituent's permission then it should be assumed to be the case and the complaint investigated as per normal.

Information should only be disclosed on a need to know basis and nothing more than the relevant information pertaining to a complaint should be given in the final response.

#### **12.6.1 Third party complaints made by MPs on behalf of their constituents**

If an MP is representing a constituent who is acting on behalf of a patient, then consent must be obtained from the patient. Information must not be disclosed without the permission of the patient. If the MP has obtained this consent, then the MP must provide evidence of this.

When the consent form is received, then careful note must be made as to where they would like the response to be sent to.

### **12.6.2 Consent not received**

If consent has not been received within 10 working days, a standard reminder letter should be sent giving a further 10 working days to return the form (the date should be specified). The complainant and MP will be informed that if the consent has not been returned by this date then the complaint will be closed.

## **13 Comments and Compliments**

Comments and Compliments are welcomed as they acknowledge patient opinions and/or satisfaction and can evidence good practice. Patient often have suggestions about the way in which a service is run and it is beneficial to the CCG and service providers to take these into consideration. Comments and Compliments will be acknowledged from the Chief Officer and logged. They will be included in the reporting mechanism.

## **14 Complaints service evaluation**

An evaluation questionnaire relating to the management of the complaint will be sent to the complainant one month after the completion of the local resolution procedure. See Appendix B.

## **15 Equality and diversity monitoring**

An equality and diversity monitoring form will be sent to the complainant on completion of local resolution. This will be attached to the evaluation questionnaire. See Appendix C. Quarterly or six monthly reporting of equality and diversity data for complaints will be sent to the CCG Quality and Safety Committees to ensure that the provision of services is equitable to all communities

## **16 Other procedures**

Where a complaint leads to the identification of a serious untoward incident, the CCG policy for Incident Reporting must be followed. Should fraud be identified then the protocol must be followed and the Local Counter Fraud Service consulted.

## **17 Dissemination**

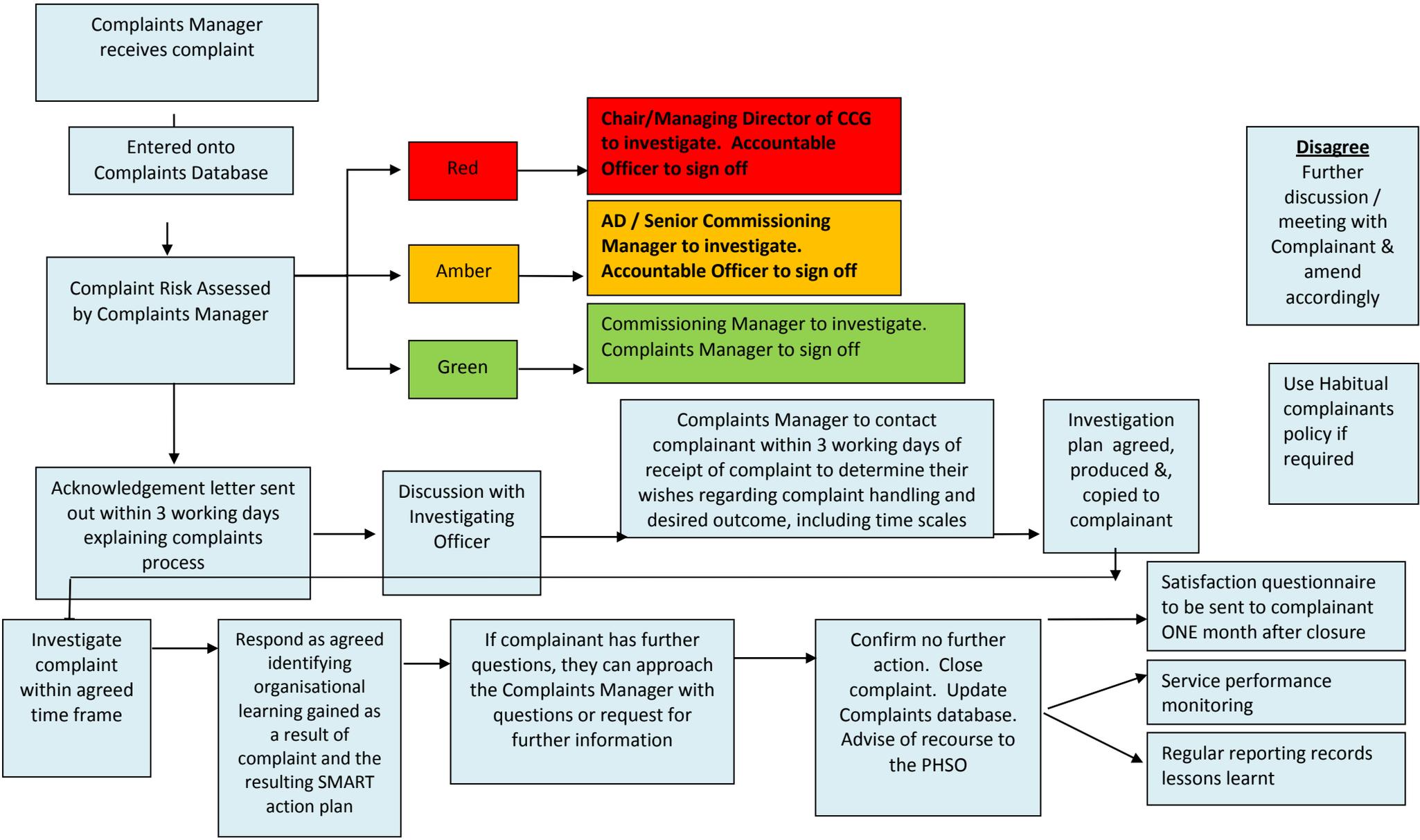
The policy will be stored on each CCG website. Directors and all line managers have responsibility for ensuring that relevant staff within their teams are aware of the policy, their roles and responsibilities within the policy and any changes or updates that may be made.

## **18 Review and Revision arrangements, including version control**

The policy should be reviewed every two years or sooner if required due to statutory, organisational, structural or governance changes and/or amendments.

**APPENDIX A**

**INTERNAL PROCESS FOR MANAGEMENT OF COMPLAINTS**



APPENDIX D



APPENDIX B

**Complaints Manager**  
**15 Marylebone Road**  
**London NW1 5JD**

**Private and Confidential**

**Tel: 020 3350 4567 (Monday – Wednesday)**  
**020 8630 2943 (Thursday – Friday)**  
**Email: [cwhh.complaints@nhs.net](mailto:cwhh.complaints@nhs.net)**

**Add date**

Dear

With reference to the complaint we recently managed on your behalf I would be grateful if you could spare the time to complete the attached questionnaire and return it in the pre-paid envelope provided.

We want to make sure that the complaints we receive are managed in a satisfactory way. Where this is not the case we wish to make improvements of the shortfalls highlighted to us.

If you prefer not to complete the form but would still like to make a comment you are welcome to do so. You can do this by writing and sending you correspondence in the enclosed envelope, or by telephoning me on one of the numbers at the head of this letter.

I do hope you are able to find the time to provide your comments, as your feedback is valuable to us and will be very much appreciated.

Yours sincerely,

Julie Fuller  
**Complaints Manager**

## COMPLAINTS SERVICE EVALUATION

### Patient Questionnaire

(Please tick appropriate box)

#### Management of Complaint

1. How did you make your complaint?
  - Telephone
  - Letter
  - E-mail
  - Fax
  - Visit
  
2. How Helpful did you find the staff involved?
  - Very helpful
  - Fairly helpful
  - Not really helpful
  - Not at all helpful
  
3. Did you feel comfortable discussing your concerns with the complaints staff?
  - Yes, very comfortable
  - Fairly comfortable
  - Not really
  - Not at all
  
4. Did you feel the complaints staff listened to and understood your concerns?
  - Yes
  - No

If no, please explain.

.....

.....

.....

**Specific Case**

1. Were you satisfied with the outcome of your complaint?

Yes

No

If no, please explain why

.....  
.....  
.....

2. Did you receive feedback on any actions taken to improve the provision of service as result of your complaint?

Yes

No

If no, would you like to receive feedback?  Yes  No

If you have any suggestions or comments regarding the service you have received from the complaints team or any comments regarding the NHS complaints procedure, please write them in the space below:

.....  
.....  
.....

If you would like a member of the complaints team to contact you regarding any outstanding concerns, please provide contact details in the space below:

Name:..... Tel: .....

Address: ..... Mobile: .....

..... E-mail: .....

**Thank you for taking the time to complete this questionnaire**

**Please return to (in the pre-paid envelope provided):**

**The Complaints Manager, CWHH Clinical Commissioning Group Collaborative,  
15 Marylebone Road, London NW1 5JD**



## EQUALITY AND DIVERSITY MONITORING FORM

The information you enter on this Equality and Diversity monitoring form will be used for monitoring purposes only. The information is kept confidential and accessibility is strictly limited.

All health care organisations are required to collect data about the people who use their services – the areas covered are age, disabilities, gender or gender identity, ethnicity, religion or belief and sexual orientation. The information will be used solely for monitoring purposes to ensure that policies and procedures are effective. The NHS is committed to the principles of fairness, consistency and equality. No user of service should be discriminated against regardless of age, colour, disability, ethnicity, gender or gender identity, race, religion or belief and/or sexual orientation or if they do not wish to complete this form.

**It would be helpful to us if you would supply the following details. This will help us to ensure that no particular group is being disadvantaged**

**THIS INFORMATION WILL BE HELD IN CONFIDENCE AND WILL NOT BE ATTRIBUTED TO ANY INDIVIDUAL.**

**Please tick the appropriate box.**

- You are the patient
- You are complaining on behalf of a patient

### Equality Act 2010

**Please provide the following information about the patient:**

#### Age range:

- 18-24
- 25-44
- 45-54
- 55-64
- 65-74
- over 75
- I do not wish to disclose this

#### Gender:

- Male
- Female
- Transgender Male
- Transgender Female
- I do not wish to disclose this

#### Marital Status:

- Married
- Single
- Divorced
- In a Civil Partnership
- Widow/Widower
- I do not wish to disclose this

The patient would describe their ethnic origin as:

**White**

- British  
 Irish  
 Any other white background

**Mixed**

- White and Black Caribbean  
 White and Black African  
 White and Asian  
 Any other mixed group

**Asian or Asian British**

- Indian  
 Pakistani  
 Bangladeshi  
 Any other Asian Background

**Black or Black British**

- Caribbean  
 African  
 Any other black background

**Other Ethnic Groups**

- Chinese  
 Any other ethnic group

**Not Stated**

- I do not wish to disclose this

**Please select the option which best describes the patient's sexuality**

- Lesbian     Gay     Bisexual     Heterosexual     I do not wish to disclose this

**Please indicate the patient's religion or belief**

- Atheism     Buddhism     Christianity     Hinduism     Islam     Jainism  
 Judaism     Sikhism     Other     I do not wish to disclose this

**Does the patient consider themselves to have a disability?**

- Yes     No     I do not wish to disclose this

If the answer is yes, please state the impairment which applies to the patient. People may experience more than one type of impairment, in which case you may indicate one or that one. If none of the categories apply, please mark 'other'.

- Physical Impairment     Learning Disability/Difficulty     Sensory Impairment  
 Long-standing Illness     Mental Health Condition     Other

**Is the patient pregnant?**

- Yes     No

**Does the patient have a partner who is pregnant?**

Yes  No

**Thank you for helping us by completing this form.**

**Please return the completed form in the enclosed pre-paid envelope.**