

CORP 05

Complaints Policy

Policy number	CORP05
Version	2.0
Approved by	Quality and Performance Board
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Owner (director)	Elaine Newton, ICS Director of Governance & Corporate Affairs
Date of last approval	June 2020
Next approval due	June 2022

If you would like this policy translated into another language or alternative format such as large print, Braille, audio or BSL, please contact us using the details (page 3).

Version control sheet

Version	Review date	Name of reviewer	Status	Notes
0.1	July 2018	Liz Patroe	DRAFT	Policies for the three Surrey Heartlands CCGs brought into one common policy
0.2	August 2018	Liz Patroe	DRAFT	Amendments from Patient Experience Coordinators incorporated
0.3	September 2018	Maria Bruce	DRAFT	Amendments from Continuing Healthcare Team incorporated to explain authority to act
0.4	October 2018	Elaine Newton	DRAFT	Amendments incorporated
0.5	October 2018	Joint Executive Team	DRAFT	Amendment to clarify the route for review, amendment, approval and sign-off of complaint responses for which the CCGs are responsible for investigating or coordinating
0.6	October 2018	Quality Committees	FINAL	Wording amended regarding timescales (section 7.0)
1.0	October 2018	Liz Patroe	FINAL	Final
1.1	February 2019	Liz Patroe	FINAL	Updated text, telephone and contact details for complaints (page 19)
1.2 (1.3= formatted)	June 2019	Liz Patroe	FINAL	Roles and responsibilities (page 14) and flow chart (page 28) amended to reflect new Director roles
1.4	November 2019	Governance Team	FINAL	Executive Director titles clarified.
2.0	February 2020	Liz Patroe	DRAFT	Creation of a single policy for Surrey Heartlands CCG. Procedures updated.
2.0	01/06/2020	Quality and Performance Board	FINAL	Policy approved by the Quality and Performance Board in June 2020 (via Chair's Action due to inquorate meeting).

Contact details for alternative format

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

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Equality and diversity statement

Surrey Heartlands Clinical Commissioning Group (CCG) is committed to promoting equality and diversity in all its activities and to promote inclusive processes, practices and culture.

- We will strive to work to eliminate any unlawful or unfair discrimination including direct or indirect discrimination, discrimination by association, discrimination linked to a perceived characteristic, harassment and victimisation.
- We will remain proactive in taking steps to ensure inclusion and engagement for all the people who work for and with us.
- We will continue to strive towards a culture that is diverse and inclusive that recognises and develops the potential of all staff and service users.
- We recognise the business benefits and opportunities of having a diverse community of staff who value one another and realising the contribution they can make to achieving the CCG's vision.

This includes promoting equality and diversity for all irrespective of:

- age *
- disability *
- ethnic group *
- gender *
- gender reassignment *
- religion or belief *
- sexual orientation *
- marriage and civil partnership *
- pregnancy and maternity *
- carers
- people with diverse communication needs

*Under the Equality Act (2010) these are known as “protected characteristics”.

The CCG aims to meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. We take into account the Human Rights Act 1998 and promote equal opportunities for all. We embrace the seven staff pledges in the NHS Constitution¹ that represent a commitment by the NHS to provide high-quality working environments for staff. This policy is consistent with these pledges.

This document has been assessed to ensure that no employee or member of the public receives less favourable treatment based on their protected characteristics.

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

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

Equality Analysis

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

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

Name of Policy: Complaints Policy	Policy Ref: CORP05
Assessment conducted by: Liz Patroe, Head of Engagement	Date of Analysis: 26/05/2020
<p>Give a brief summary of the policy. Explain its aim.</p> <p>This policy aims to ensure that complaints can be easily raised with the CCG and are handled and responded in accordance with regulations and best practice.</p>	
<p>Who is intended to <u>benefit from</u> this policy? Explain the aim of the policy as applied to this group.</p> <p>Patients and carers.</p> <p>The aim is to ensure that people are able to make a complaint about NHS care and services to the CCGs; that their complaint is handled respectfully and efficiently and that learning takes place.</p>	
<p>1. Evidence considered. <i>What data or other information have you used to evaluate if this policy is likely to have a positive or an adverse impact upon protected groups when implemented?</i></p> <ul style="list-style-type: none"> • Joint Strategic Needs Assessment (available through Surrey-i) • The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 	
<p>2. Consultation. <i>Have you consulted people from protected groups? What were their views?</i></p>	
<p>3. Analysis of impact: <i>In the boxes below, identify any issues in the policy where equality characteristics require consideration for either those abiding by the policy or those the policy is aimed to benefit, based upon your research.</i></p> <p><i>Are there any likely impacts for this group? Will this group be impacted differently by this policy? Are these impacts negative or positive? What actions will be taken to mitigate identified impacts?</i></p> <p>People can make a complaint via a range of different interfaces/channels. The process for handling complaints includes the option to discuss a complaint with relevant arrangements for interpreters and carers. Complaints made on behalf of others are handled in line with GDPR.</p>	

<p>a) Age</p> <p>Ageism is prejudice or discrimination on the grounds of a person's age. Ageism can affect anybody, regardless of their age</p>	<p>No issues identified.</p>
<p>b) Disability</p> <p>A person has a disability (by law) if they have a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.</p>	<p>All correspondence can be adjusted for different accessibility needs on request.</p>
<p>c) Gender reassignment</p> <p>Gender reassignment is a personal, social, and sometimes medical process by which a person's gender appears to others to have changed. Anyone who proposes to, starts or has completed a process to change his, her or their gender is protected from discrimination under the Equality Act. A person does not need to be undergoing medical supervision to be protected.</p>	<p>No issues identified.</p>
<p>d) Marriage or civil partnership</p> <p>This is the relationship between two people who are husband and wife, or a similar relationship between people of the same sex (as defined by Marriage (Same Sex Couples) Act 2013).</p> <p>Civil partners must be treated the same as married couples on a wide range of legal matters.</p>	<p>No issues identified.</p>
<p>e) Pregnancy and maternity (adoption is covered within this)</p> <p>Pregnancy - being pregnant or expecting a baby. Maternity is the period after the birth or adoption and is linked to maternity and adoption leave in the employment context.</p>	<p>No issues identified.</p>
<p>f) Race</p> <p>Race characteristics refers to a group of people defined by their race, colour and nationality (including citizenship) ethnic or national origins.</p>	<p>No issues identified.</p>
<p>g) Religion and belief</p> <p>Religion refers to any religion while belief comprises religious and philosophical beliefs including lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.</p>	<p>No issues identified.</p>

<p>h) Sex</p> <p>This is defined as a person's legal sex; in the UK this is recognised as either being a man or a woman. Sex is more commonly referred to as gender identity, which is the internal sense of being male, female, a combination of male and female, or neither male or female.</p>	<p>No issues identified.</p>
<p>i) Sexual orientation</p> <p>Refers to a persons' orientation or attraction towards; the same sex, opposite sex or to both sexes.</p>	<p>No issues identified.</p>
<p>j) Carers</p> <p>A carer is anyone, including children and adults who looks after a family member, partner or friend who needs help because of their illness, frailty, disability, a mental health problem or an addiction and cannot cope without their support. The care they give is unpaid.</p>	
<p>4. Monitoring <i>How will you monitor the impact of the policy on protected groups?</i> Equality monitoring forms will be sent to complainants and monitored.</p>	

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1. Introduction and Policy Objective

- 1.1. Surrey Heartlands CCG receives a wide range of correspondence from patients, carers, representatives, advocates, professionals and MPs about its own responsibilities and about care and services provided by other organisations. This correspondence includes complaints, compliments and enquiries as well as freedom of information and subject access requests.
- 1.2. Such feedback plays a vital role in identifying what's working well and what isn't and can highlight potential problems and risks.
- 1.3. This policy has been formulated to ensure the CCG responds to complaints to a satisfactory standard, respectfully and efficiently, and complies with the requirements contained within The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, referred to as the Complaints Regulations 2009, and in a clarification note issued in 2014.
- 1.4. The objectives of this policy are:
 - To provide a fair complaints procedure which is clear, accessible and easy to use for anyone wishing to make a complaint
 - To ensure that everyone can access the complaints process; that they are treated fairly and without discrimination and that information will be provided in a format that meets people's needs
 - To publicise the existence of the complaints procedure so that people know when and how to contact the CCG to make a complaint and when to contact other organisations
 - To make sure everyone at the CCG knows what to do if they receive a complaint
 - To make sure all complaints regarding the CCG's responsibilities are investigated fairly and in a timely way
 - To make sure that complaints regarding the CCG's responsibilities are, wherever possible, resolved and that confidence is restored
 - To gather information which helps the CCG to adopt a continuous improvement and learning approach

2. Legislative Framework / Core Standards

- 2.1. The Complaints Regulations 2009 set out the responsibilities of NHS organisations when handling complaints. As a responsible body, the CCG must make arrangements ("arrangements for dealing with complaints") in accordance with these Regulations for the handling and consideration of complaints.
- 2.2. The arrangements for dealing with complaints must be such as to ensure that:
 - Complaints are dealt with efficiently;

- Complaints are properly investigated by the right organisation;
- Complainants are treated with respect and courtesy;
- Complainants receive, so far as is reasonably practical:
 - Assistance to enable them to understand the procedure in relation to complaints; or
 - Advice on where they may obtain such assistance;
- Complainants receive a timely and appropriate response;
- Complainants are told the outcome of the investigation of their complaint; and
- Action is taken if necessary in the light of the outcome of a complaint.

2.3. This policy aims to ensure these regulations are fully implemented by the CCG.

2.4. The CCG's complaints approach is structured around the Parliamentary and Health Service Ombudsman's [Principles of Good Complaints Handling 2009](#).

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

2.5. This policy also takes into consideration 'Putting Patients First and Foremost: the initial government response to the Francis Report 2013' (section 2.53 to 2.55 – Complaints).

2.6. There is no legislation that applies to the handling of compliments and enquiries. However, the same principles of efficiency, equity and respect apply to the handling of these forms of correspondence. The principles of the 4Cs are adopted as described by the Department of Health. These are:

- **Complaint** – A complaint is an expression of dissatisfaction about a service for which a response must be provided.
- **Comment** – A comment can be a remark or observation that does not require a formal response but still requires an appropriate response.
- **Concern** – A concern can be an issue that can be dealt with as an informal enquiry with the relevant service provider.
- **Compliment** – An expression of gratitude as a result of services provided to a service user, relative, carer or member of the public.

3. Scope

3.1. Included in the policy:

3.1.1. This policy covers complaints that have been received either first hand or through a third party e.g. carer, advocate, relative, Member of Parliament, regarding:

- The responsibilities of the CCG as described in the Health and Social Care Act 2012 and the CCG's constitution
- Services commissioned by the CCG and thereby provided by a different organisation

3.2. Exceptions to the policy:

3.2.1. This policy does not cover:

- Freedom of information requests made under the Freedom of Information Act 2000;
- Subject access requests made under the Data Protection Act 1998;
- Compliments, comments or enquiries;
- A complaint:
 - that has already been investigated;
 - made by another primary care body, NHS body, private or independent provider or local authority about any matter relating to arrangements made by Surrey Heartlands CCG with that provider;
 - made by an employee about any matter relating to his/her contract of employment;
 - made orally and which is resolved to the complainant's satisfaction not later than the next working day after the day on which the complaint was made;
 - being or has been investigated by the Parliamentary and Health Service Ombudsman;
 - relating to any scheme established under section 10 (superannuation of persons engaged in health services, etc.) or section 24 (compensation for loss of office, etc.) of the Superannuation Act 1972(c), or to the administration of those schemes;
- Allegation or suspicions covering any of the areas below (in which case, the relevant policies should be followed):
 - Physical abuse;
 - Sexual abuse;
 - Financial misconduct;
 - Criminal offence;

- Safeguarding.
- Where a complaint leads to the identification of a Serious Incident (SI), the CCG's Serious Incident Policy shall be followed.

4. Definitions

- 4.1. A policy is a document that sets out the expectations of the organisations in respect of the area covered by that policy. It applies to all relevant staff, compliance with which is legally binding on all staff as part of their contract of employment.
- 4.2. A complaint is an expression of dissatisfaction about a service for which a formal response must be provided.

5. The Principles of Remedy

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

5.1. Getting it right

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

5.2. Being customer focused

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

5.3. Being open and accountable

- Be open and clear about policies and procedures and ensuring that information and any advice provided, is clear, accurate and complete.
- State the criteria for decision making and giving reasons for decisions.

- Handle information properly and appropriately.
- Keep proper and appropriate records.
- Take responsibility for actions.

5.4. Acting fairly and proportionately

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

5.5. Putting things right

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

5.6. Seeking continuous improvement

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

6. Roles and Responsibilities

6.1. The Governing Body and Committees

6.1.1. The Accountable Officer is designated as the responsible person, in line with section 4 (1) (a) of the Complaints Regulations 2009. This person is responsible for ensuring compliance with the arrangements made under these Regulations, and in particular ensuring that action is taken if necessary in the light of the outcome of a complaint.

6.1.2. This person is also responsible for ensuring that there is a designated staff member who is responsible for managing the procedures for handling and considering complaints, compliments, concerns and comments. This responsible person must be accessible to the public and to staff.

6.2. Directors and Managers

6.2.1. Integrated Care Partnership (ICP) Directors are responsible for delegating the investigation into a complaint relevant to their role to a relevant Deputy or Associate Director and approving and signing off responses to these complaints.

- 6.2.2. Integrated Care System (ICS) Directors are responsible for delegating the investigation into a complaint relevant to their role to a relevant Deputy or Associate Director and for approving and signing off responses to these complaints.
- 6.2.3. Deputy and Associate Directors are responsible for investigating complaints where these have been delegated to them by a Director and for drafting a response to the complaint in line with best practice for complaint responses.

6.3. Policy Owners / Authors

- 6.3.1. The Head of Engagement is the designated Complaints Manager in line with section 4 (1) (b) of the Complaints Regulations 2009.
- 6.3.2. This person is responsible for managing the procedures for handling and considering complaints in accordance with the arrangements made under the Complaints Regulations 2009.

6.4. All Staff

- 6.4.1. The Patient Experience and Complaints Officer is responsible for the day-to-day handling of complaints received by the CCG. This person is the main point of contact for complainants and for Investigating Managers.
- 6.4.2. The Continuing Healthcare (CHC) Relationship Manager is dedicated to handling complaints regarding NHS Continuing Healthcare (CHC) and Funded Nursing Care. Complaints regarding CHC fall within the scope of the CCG to investigate and respond to as the host organisation for this function across Surrey. The CHC Relationship Manager is responsible for handling complaints regarding this service according to the procedures in this policy.
- 6.4.3. All other staff are responsible for supporting the investigation of complaints on request by their line managers.

7. Procedure

7.1. Complaints about commissioned services

- 7.1.1. Under the Complaints Regulations 2009 a patient can choose to approach either the provider or the commissioner of a service to make a complaint. However, they are unable to approach both. Each provider has its own complaints procedure.
- 7.1.2. Complainants will be advised to contact the relevant provider directly or provide written consent for their complaint to be redirected to the relevant provider by the CCG.
- 7.1.3. The provider will be asked to acknowledge receipt of the complaint from the CCG and to carry out a full investigation according to their own complaints procedures.

7.2. Complaints about hosted services

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

7.3. Timescales for complaints

- 7.3.1. Complaints received by the CCG will be acknowledged in writing (email or post) within three working days of receipt.
- 7.3.2. The CCG aims to respond to complaints regarding its own responsibilities within 25 working days of receiving² the complaint. Complainants will be kept updated if it is anticipated it will take longer than 25 working days to respond.
- 7.3.3. Complaints should be made at the earliest opportunity (usually within 12 months). However, it is recognised that there can be circumstances in which a complainant could not reasonably be expected to know about the incident or have had appropriate reasons for not complaining within this time period.
- 7.3.4. Therefore, if a complaint is made more than 12 months after the incident in question, the CCG will consider the complaint if there is good reason for the delay and if it is still possible to carry out an investigation effectively and fairly.
- 7.3.5. A complainant has 12 months from raising the complaint in which to apply to the Parliamentary and Health Service Ombudsman for a review, although all possible endeavours to resolve the complaint locally will be made.

7.4. Consent to share personal information

- 7.4.1. For the CCG to comply with its legal obligation to handle complaints according to the Complaints Regulations, it may be necessary to share personal data.
- 7.4.2. Surrey Heartlands CCG adheres to the [Fair Processing Notice](#) published on its website³. Written consent must be provided by the relevant person i.e. the patient

² When complaints are emailed to the CCG outside of normal working hours, the date of receipt is the date that the CCG opens the email and not the date that it is received into an Inbox.

³ Please see '*How we use your information*' on the website for details.

before any information is shared outside the CCG, subject to lasting power of attorney arrangements.

- 7.4.3. When a person makes a complaint on behalf of a third party it is necessary to establish whether or not confidential information regarding the third party can be shared with the complainant.
- 7.4.4. In cases where the third party is aged 16 years and over and where there is no a lasting power of attorney arrangement the CCG requires the written consent of the third party before personal information can be shared outside the organisation.
- 7.4.5. A lasting power of attorney (LPA) is a legal document that allows a person (the 'donor') to appoint one or more people (known as 'attorneys') to help them make decisions or to make decisions on their behalf. Only people aged 18 or over who have mental capacity (the ability to make their own decisions) can make a LPA.
 - There are two types of LPA: health and welfare LPA and property and financial affairs LPA. The health and welfare LPA gives an attorney the power to make decisions about things such as medical care, moving into a care home, daily routines and life-sustaining treatments.
- 7.4.6. For complaints where there is a query around the level of detail that can be shared with the complainant (in regard to regulations around patient confidentiality and establishing authority to act), an interim letter will be sent to the complainant during the investigation period. This should be sent following acknowledgement, requesting further information.

8. Confidentiality

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

9. Clinical review

- 9.1. Complaints about a clinical need that cannot be met within the usual commissioning arrangements are not handled as a complaint. In most cases, the Individual Funding Request policy, or in the case of mental health services referrals, the Out of Area Treatments (OATs) policy, applies.
- 9.2. When neither of these policies apply, an exceptional clinical review can be undertaken by the CCG to determine whether exceptional circumstances apply. This review is coordinated by the CCG's Contracts Team in liaison with relevant clinical leads.
- 9.3. Correspondence regarding the request for review will be handled by the Contracts Team.

10. Risk management

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

11. Reporting arrangements

- 11.1. Under the complaints regulations, the CCG must summarise in its annual report:
 - The subject matter of complaints that the responsible body received;
 - Any matters of general importance arising out of those complaints, or the way in which the complaints were handled;
 - Any matters where action has been or is to be taken to improve services as a consequence of those complaints.
- 11.2. Complaints Reports will be submitted to the Quality and Performance Board as agreed through the reporting schedule. An annual report will be submitted to the Governing Body.

- 11.3. The CCG must complete the quarterly [Hospital and Community Health Services Complaints Collection \(K041a\)](#) only including data for complaints that relate to its commissioning responsibilities and hosted services.
- 11.4. Complaints that have been redirected to other organisations outside of the CCG e.g. providers, NHS England, are not included in this data set as these organisations include these in their own organisational K041a submissions.

12. Training and support for staff

- 12.1. Everyone employed by the CCG has a role to play in identifying mistakes, putting them right and learning from them. All staff should know how to react and what to do if someone raises a concern or makes a complaint.
- 12.2. This policy and the procedures described herein will be highlighted to all new staff during their corporate induction.
- 12.3. All staff are encouraged to seek help and advice from the Patient Experience & Complaints Officer and the Complaints Manager to enable them to adhere to this policy.

13. Independent health complaints advocacy service

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

14. The Parliamentary & Health Services Ombudsman (PHSO)

- 14.1. If complainants remain dissatisfied following local handling they have the right to approach the PHSO to request a review. The PHSO is independent of the NHS.
- 14.2. The Ombudsman will only usually consider complaints that have been through the NHS complaints procedure.
- 14.3. Complaints should usually be referred to the PHSO within 12 months of the complainant raising the complaint. There is no appeal against a decision made by the PHSO, although a complainant is able to seek a legal remedy e.g. judicial review.

- 14.4. All telephone calls, emails and letters from the PHSO that a member of staff may receive should be forwarded without delay to the Patient Experience & Complaints Officer.
- 14.5. The CCG endeavours to respond to all requests for information from the PHSO within 5 working days of receipt. A longer period of time may be required if data requests are particularly large; in this case, the Complaints Team will ensure that the PHSO is kept informed.
- 14.6. Responsibility for ensuring that recommendations arising from any investigation by the PHSO that are relevant to the CCG's responsibilities are implemented lies with the relevant ICP or ICS Director.
- 14.7. Contact details are:
- **Website:** www.ombudsman.org.uk/make-a-complaint
 - **Email:** phso.enquiries@ombudsman.org.uk
 - **Phone:** 0345 015 4033 - Open from 8:30am - 5:30pm, Monday – Friday, charged at local rate
 - **Sign Video:** If you use British Sign Language, visit www.ombudsman.org.uk/accessibility/signvideo-bsl-live
 - **Textphone (Minicom):** 0300 061 4298
 - **Callback Service:** 07624 813 005
 - **Post:** The Parliamentary & Health Services Ombudsman, Millbank Tower, Millbank, London, SW1P 4QP

15. Unreasonable or unreasonably persistent behaviour

- 15.1. The CCG recognises that it is the right of every individual to complain and is committed to treating all complainants equitably.
- 15.2. A complainant and/or anyone acting on their behalf may be deemed to be habitual or unreasonable in behaviour, for example where previous or current contact with them shows that the complainant has threatened or used actual physical violence towards staff or their families or associates at any time.
- 15.3. Other criteria that may constitute unreasonable or unreasonably persistent behaviour include:
- Persistence in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
 - Changing the substance of a complaint or continually raising new issues or seeking to prolong contact by continually raising further concerns or questions while the complaint is being addressed. However, care must be taken not to discard any new issues which are significantly different from the original complaint – these might need to be addressed as separate complaints.

- Unwillingness to accept documented evidence of treatment given as being factual e.g. drug records, clinical manual or computer records.
 - Denial of receipt of an adequate response despite correspondence specifically answering the questions.
 - Failure to clearly identify the precise issues the complainant wishes to have investigated, despite reasonable efforts of staff. Where appropriate Healthwatch Surrey would be approached to help the service user specify their concerns.
 - Continual focusing on a trivial matter where the extent of focus is out of proportion to its significance.
 - Having in the course of addressing a complaint had an excessive number of contacts with the NHS placing unreasonable demands on staff.
 - Harassment or personal abuse or verbal aggression on more than one occasion towards staff dealing with a complaint, or their families or associates.
 - Recording meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.
 - Display of unreasonable demands or patient/complainant expectations and failure to accept that these may be unreasonable.
- 15.4. A decision to restrict access will only normally be taken after we have considered possible adjustments which may help the complainant to avoid unreasonable behaviour. Such decisions will be taken by the relevant ICP or ICS Director in liaison with the Accountable Officer.
- 15.5. Any restrictions imposed will be appropriate and proportionate and may include:
- Requesting contact in a particular form, for example letters only
 - Requiring contact to take place with a named member of staff
 - Restricting telephone calls to specified days and times
 - Asking the complainant to enter into an agreement about their future conduct
 - Asking the complainant to contact us through an advocate
- 15.6. In all cases we will write (where possible) to tell the complainant why we believe their behaviour is unreasonable, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it.
- 15.7. Where a complainant continues to behave in a way which is unreasonable, despite any adjustments we have made, we may consider terminating contact with that complainant. Should this happen we will advise them of their right to contact the Parliamentary and Health Service Ombudsman.

- 15.8. Where the behaviour is so extreme that it threatens the immediate safety and welfare of staff or others we will consider other options, for example reporting the matter to police or taking legal action. In such cases we may not give the complainant prior warning of that action.
- 15.9. Staff should ensure that they document all contact with persistent and unreasonable complainants.

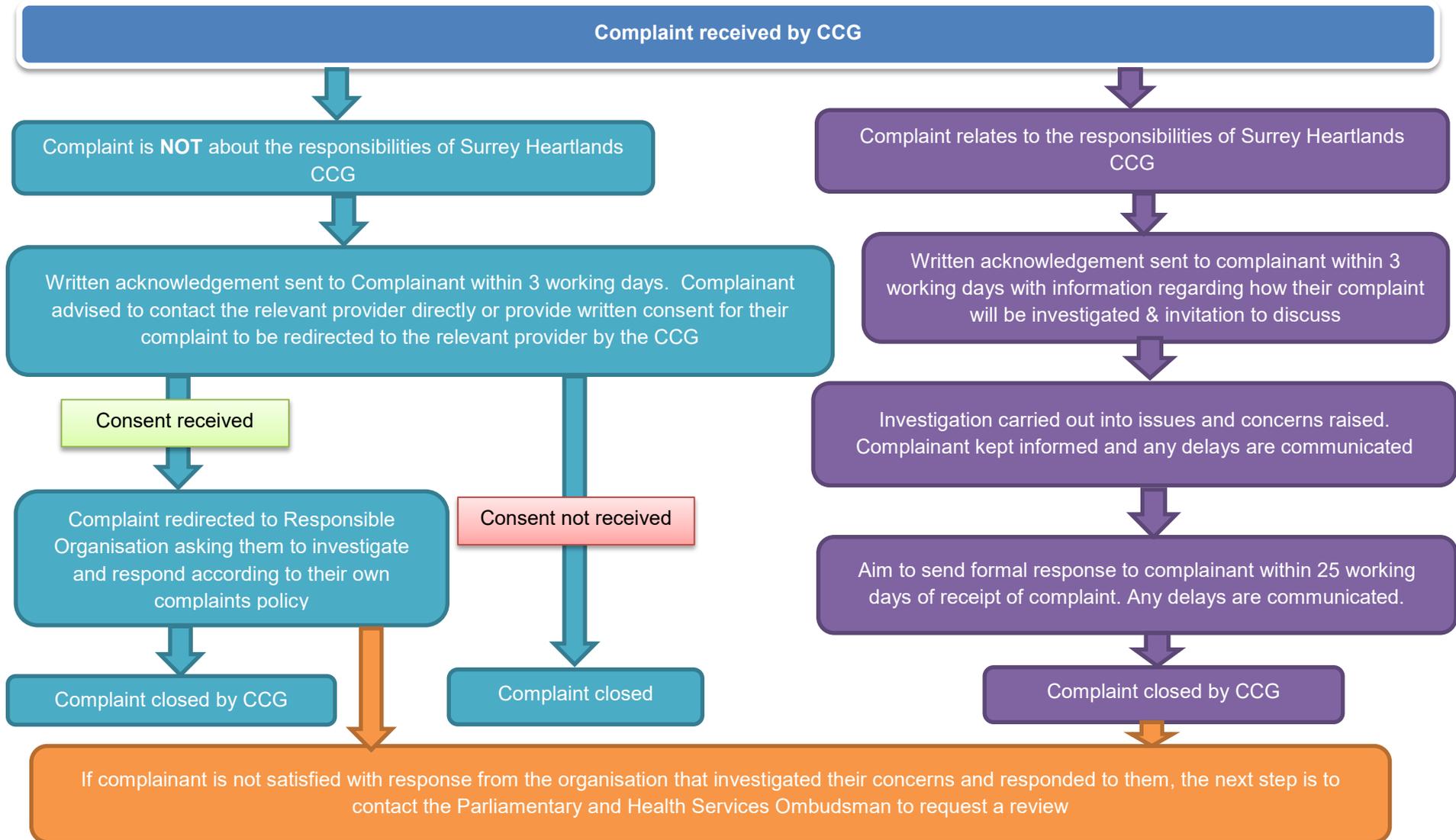
16. Legal advice and procedures for complaints involving litigation

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

17. Bibliography

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

18. Appendix 1 – Complaints Handling Flow Chart



19. Appendix 2 - Procedural document checklist for approval

	Title of document being reviewed:	Yes/No/Unsure	Comments/Details
A	Is there a sponsoring director?	Yes	ICS Director of Governance & Corporate Affairs
1.	Title		
	Is the title clear and unambiguous?	Yes	Complaints Policy
	Is it clear whether the document is a guideline, policy, protocol or standard?	Yes	Policy
2.	Rationale		
	Are reasons for development of the document stated?	Yes	Section 1: Introduction
3.	Development Process		
	Do you feel a reasonable attempt has been made to ensure relevant expertise has been used?	Yes	
	Is there evidence of consultation with stakeholders and users?	Yes	Liaison with staff and feedback from complainants
4.	Content		
	Is the objective of the document clear?	Yes	
	Is the target group clear and unambiguous?	Yes	
	Are the intended outcomes described?	Yes	
5.	Evidence Base		
	Is the type of evidence to support the document identified explicitly?	Yes	Legislation
	Are key references cited?	Yes	
6.	Approval		
	Does the document identify which committee/group will approve it?	Yes	Quality and Performance Board
7.	Dissemination and Implementation		
	Is there an outline/plan to identify how the document will be disseminated and implemented amongst the target group? Please provide details.	Yes	Staff: <ul style="list-style-type: none"> • E-Brief • Intranet

	Title of document being reviewed:	Yes/No/Unsure	Comments/Details
			Public: <ul style="list-style-type: none"> Publish on CCG website
8.	Process for Monitoring Compliance		
	Have specific, measurable, achievable, realistic and time-specific standards been detailed to monitor compliance with the document?	Yes	Appendix
9.	Review Date		
	Is the review date identified?	Yes	June 2022
10.	Overall Responsibility for the Document		
	Is it clear who will be responsible for implementing and reviewing the documentation i.e. who is the document owner?	Yes	Head of Engagement
Approval			
Executive Director Name	Elaine Newton	Signed off on (date)	May 2020
Committee Chair Name	Julia Dutchman-Bailey	Signed off on (date)	04/05/2020
On behalf of the	Quality & Performance Board	Approved on (meeting date)	June 2020 (via Chair's Action)

20. Appendix 3 – Compliance & audit table

Criteria	Measurable	Frequency	Reporting to	Action Plan/ Monitoring
Responses to complainants within 25 working days	80%	Every 6 months	Quality & Performance Board	Datix
Bounce back complaints following final response	0%	Every 6 months	Quality & Performance Board	Datix
Complaints (CCG responsibility) investigated by PHSO	0%	Annually	Quality & Performance Board	Datix
Annual complaints report	100%	Annually	Governing Body	Governing Body agenda and minutes