

Complaints, MP letters and Concerns Policy

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CONSULTATION SCHEDULE

Name and Title of Individual	Groups Consulted	Date Consulted
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Equality and Inclusion Business Partner	MLCSU	June 2018

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IMPACT ASSESSMENTS – Available upon request

	Stage	Complete	Comments
Equality Impact Assessment	N/A		
Quality Impact Assessment	N/A		
Privacy Impact Assessment	N/A		

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1.0 Introduction

- 1.1 This document sets out the Integrated Care Board's (ICB) approach to dealing with complaints, MP letters and concerns about the services provided by them and the services commissioned. It provides a framework for how the ICB will handle, respond to and learn from complaints and how this will influence future commissioning of services. The ICB welcome the opportunity to learn from user experience and to improve services in the future.
- 1.2 The ICB will meet the legal requirements of the Local Authority Social Services and National Health Service Complaints (England) regulations 2009. The ICB will act in accordance with the NHS Constitution and in line with the Francis Report (2013) and Clywd Hart Review (2013) and will be guided by best practice.

2.0 Aims

- 2.1 The ICB is committed to high quality patient care for all local residents. This includes encouraging a culture that seeks and uses people's experiences of care to improve commissioned services. The ICB is accountable to local residents for commissioning decisions and will use the valuable insight from patients and their representatives to improve services.
- 2.2 The ICB will take all complaints seriously and make sure they are properly investigated and responded to in an unbiased, non-judgmental, appropriate and timely way. The ICB aims to deal with all complaints fairly for both the complainant and complained about, including any staff that may be involved. Where complaints can be resolved quickly and informally, the ICB will aim to support this.
- 2.3 The ICB work will be underpinned by the NHS Constitution including the 'Duty of Candour' and the 'Compassion in Practice' 6Cs:
 - Courage
 - Commitment
 - Competence
 - Care
 - Compassion
 - Communication
- 2.4 There is also a range of documents and publications that will guide how the ICB manage complaints and concerns which are set out in Section 4.0 of this document.

3.0 Scope of the Policy

- 3.1 A complaint may be made by the person who is receiving, or has received NHS treatment or services, which are provided or commissioned by the ICB, or it may be made by a person acting on behalf of the person affected in any case where that person:
 - 3.1.1 *is a child; (an individual who has not attained the age of 18)*

In the case of a child, the ICB must be satisfied that there are reasonable grounds for the complaint being made by a representative of the child and furthermore that the representative is making the complaint in the best interests of the child.

- 3.1.2 *has died;*
In the case of a person who has died, the complainant must be the personal representative of the deceased. The ICB need to be satisfied that the complainant is the personal representative. Where appropriate, evidence may be requested to substantiate the complainant's claim to have a right to the information.
- 3.1.3 *has physical or mental incapacity;*
In the case of a person who is unable by reason of physical capacity, or lacks capacity within the meaning of the Mental Capacity Act 2005, to make the complaint themselves, the ICB need to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is made.
- 3.1.4 *Has given consent to a third party acting on their behalf;*
In the case of a third party pursuing a complaint on behalf of the person affected the ICB will request the following information:
- Name and address of the person making the complaint;
 - Name, date of birth and address of the affected person; and
 - Contact details of the affected person so that they can be contacted for confirmation that they consent to the third party acting on their behalf. This will be documented in the complaint file and confirmation will be issued to both the person making the complaint and the person affected.
- 3.1.5 Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs.
- 3.1.6 Is an MP, acting on behalf of and by instruction from a constituent.
- 3.2 A complaint should be made within 12 months of:
- The date of the event that led to the complaint took place
 - The date it came to the attention of the complainant
- Except in exceptional circumstances.**
- 3.3 Where a complaint is received after the time limit the ICB will decide whether to investigate. This will be based on the reason the complaint was not made sooner and whether it can still be fairly investigated.
- 3.4 It is the ICB's duty to make sure that Providers co-operate and complaints are handled in a timely and user-centred way.
- 3.5 Some types of complaints fall outside the scope of this policy. They include:
- Complaints about privately funded healthcare;
 - If a complaint is also part of an ongoing police investigation or legal action it will be discussed with the relevant police authority or legal advisor and only continue as a complaint if it does not compromise the police or legal action. When other action is concluded there will be a discussion with the complainant about whether to investigate and respond at that stage;
 - A matter that has already been investigated under the complaint regulations;
 - Matters which are being or have been investigated by the Ombudsman;
 - A matter arising out of an alleged failure to comply with a data subject request under the Data Protection Act 2018;
 - A matter arising out of an alleged failure to comply with a request for information under the Freedom of Information Act 2000;
 - Concerns raised under the Public Interest Disclosure Act 1998 (whistle blowing);

- ‘Service to service’ complaints where a health organisation or local authority makes a complaint about another health organisation or local authority;
 - Complaints by staff working in the ICB about employment or contractual matters .
- 3.5 In these circumstances, the ICB will contact the complainant and explain the reasons for not dealing with the complaint.
- 3.6 From 1 July 2023, the ICB will hold statutory responsibility for complaints handling for Primary Care Services; this includes GPs, dentists, pharmacists and opticians, and was previously the responsibility of NHS England.
- 3.7 These complaints will be managed by the West Midlands Hub, hosted by Birmingham and Solihull ICB, who will carry out complaint investigations on behalf of the ICB. The ICB will hold overall responsibility for the complaint, with sign-off by the CEO. (See Appendix 7 – Primary Care Flowchart.)
- 3.8 The Complaint and Concerns Policy is not designed to blame staff, but to investigate complaints to provide a satisfactory outcome for the complainant, to learn any lessons and make improvements. If a complaint identifies information which indicates a need for disciplinary action this will be managed separately under the ICB’s Disciplinary Policy and Procedures.

4.0 Timescales

- 4.1 Once a complaint or MP letter is received by the ICB it must be dealt with immediately in order that it can follow the process and allow the Patient Services Team to acknowledge the complaint within the statutory three working day timescale (this timescale starts from the day of receipt. It is therefore vital that there are no delays in complaints or MPs letters being sent to the Governance Team.
- 4.1.1 Response to receipt of complaint within three working days.
- 4.1.2 The ICB would like to respond to complaint in full within 40 working days, if investigation needs longer, complainant to be notified and kept up to date with the ongoing investigation.
- 4.1.3 Respond to complaint no later than 40 working days unless there is additional complexity which could cause a delay, notification to the complainant must be adhered to.
- 4.2 **COMPLAINTS:**
The statutory timescale for responding to complaints is within six months, NHS England guidance suggests 40 working days maximum as a timescale for responding to a complaint, and therefore the ICB commit to providing a response within 40 days. Where it is not possible to provide a response within short timescales reasons must be stated and fed back to the Patient Services Team in order for them to provide timely updates to the complainant. Where a complaint has not been concluded with a response sent within six months then the reasons must be set out and the complainant must be informed.
- 4.3 **MP LETTERS:**
The ICB have made a commitment to their local MPs that their queries will be dealt with within ten working days. In the event that this timescale is not possible the Executive Assistant to the Chief Executive Officer MUST be informed immediately setting out the reasons that the timescale cannot be met in order that the MP can be advised and an extension requested.
- 4.4 **QUALITY ASSURANCE REVIEWS:**
If a review of a draft response is required from the ICB or a response from a provider it should be reviewed within three working days and returned to the Patient Services Team
- Complaints and Concerns Policy

with comments via use of the quality assurance form (Appendix B).

- 4.5 **PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN (PHSO):**
If a complainant is unhappy with a complaint response and local resolution has been exhausted, a complainant has the right to ask the Parliamentary and Health Service Ombudsman (PHSO) to review the complaint. In such cases, the PHSO will make contact with the ICB and review the complaint and investigation.
- 4.6 Where the ICB have been asked to provide information or carry out recommendations following a PHSO investigation this must be done without any delays, to meet the timescale set by the PHSO. The PHSO commit to completing their investigations/ findings within a time period of three to six months where possible.

5.0 Definition of Terms and Glossary

- 5.1 A **Complaint** is an expression of dissatisfaction that requires a formal response. It is usually a problem which has not yet been resolved, or which concerns past treatment. It can be made face-to-face or over the telephone (verbal complaints) or by letter and e-mail (written complaints).
- 5.2 A MP Letter is an expression of dissatisfaction that requires a formal response from a member of parliament on behalf of and by instruction from a constituent. It is usually a problem which has not yet been resolved, or which concerns past treatment.
- 5.3 **Concern** is a problem which can be dealt with more quickly and informally. This is usually by the end of the working day after it is received.
- 5.4 **Local Resolution** is the investigation and resolution of complaints under the first stage of the NHS complaints procedure. It includes everything done locally, before a complaint is considered by an Ombudsman.
- 5.5 A **Serious Incident (SI)** is any event where the organisation or individual has, through act or omission, caused significant or permanent harm to patients, reputational damage to organisations or significant disruption of normal services (NHSE (2015)).
- 5.6 The **Ombudsman** refers to the Parliamentary and Health Service Ombudsman (PHSO) who are the second stage of the NHS complaints procedure. If the ICB cannot resolve a complaint, the complainant has the option to approach the Ombudsman for a review. The Ombudsman will assess if the ICB have acted fairly in the complaint investigation and if the response has adequately addressed the complaint.
- 5.7 Local **Advocacy Services** are available to act on a patient's behalf throughout the complaint process including dealing with the Ombudsman.
- 5.8 The **Local Authority Social Services and National Health Service Complaints (England) Regulations 2009** is the legislation which provides the framework for managing complaints in the NHS.
- 5.9 **"Ulysses"** is the ICB' risk management system which is used for the recording and reporting of incident, complaints, PALS, claims and organisational risks.

6.0 Principles of handling concerns and complaints

- 6.1 The ICB will make sure that complaints are considered in accordance with the law and this policy. There are several documents and publications that give helpful guidance in how to deal with complaints and concerns.
- 6.2 The Parliamentary and Health Service Ombudsman (PHSO) 2009 guidance sets out **'Principles of Good Administration, Principles of Good Complaints Handling and Principles for Remedy.'**

- 6.3 These three sets of principles outline the approach to be taken by public bodies when delivering good administration and customer service, and how to respond when things go wrong.
- 6.4 They underpin the Ombudsman’s assessment of performance, their vision of good complaint handling and their approach to put things right. The same six themes which apply to each of the three principle documents are:
- Getting it right;
 - Being customer focused;
 - Being open and accountable;
 - Acting fairly and proportionately;
 - Putting things right;
 - Seeking continuous improvement.
- 6.5 These documents also provide some specific rights for patients. These include:
- Have their complaint acknowledged and properly investigated;
 - Discuss how the complaint will be handled and when they can expect a reply;
 - To be kept informed of the progress and promptly told the outcome;
 - Have access to further redress through the PHSO, the Information Commissioners Office or legal channels including Judicial Review.
- 6.6 The PHSO also issued ‘**My Expectations for Raising Concerns and Complaints**’ which articulates a user led vision for raising complaints and concerns based around a series of ‘I’ statements across the life cycle of a complaint. For example, when someone is considering making a complaint they should be able to say ‘I felt confident to speak up’ and they would know they had a right to complain, they knew how to complain, they could receive support to complain and their future care would be unaffected. A summary of the ‘I’ statements is below.

Stage of Complaint	I Statement
Considering a complaint	I feel confident to speak up
Making a complaint	I felt that making my complaint was simple
Staying informed	I felt listened to and understood
Receiving outcomes	I felt my complaint made a difference
Reflecting on the experience	I would feel confident making a complaint in future

- 6.7 The ‘**Good Practice Standards for NHS Complaints Handling**’ was published by the Patients Association in September 2013. The standards can be summarised as:
- Openness and transparency, including well publicised and accessible information that is understood by all parties to the complaint;
 - A consistent approach, centred on evidence based and complainant led investigations and responses;
 - A logical and rational approach;
 - Provide opportunities to give feedback on the complaints service;
 - Offer support and guidance throughout the complaint process;
 - Provide a level of detail which is proportionate to the complaint;
 - Identify the cause of the complaint and take action to prevent recurrence;

- Using lessons learned to make changes and improvements;
 - Ensure that ongoing care is not affected by having complained.
- 6.8 The ICB' complaint system will enable patients and the public to readily make their own views known, without fear of discrimination and will ensure that lessons learned are widely disseminated.
- 6.9 The ICB will promote equality of access to the complaint service and will ensure that people from minority and disadvantaged communities are given full and equal access to the Complaints and Concerns process. The ICB acknowledge that it may be difficult for some people to express their concerns and the ICB will encourage people to voice their opinions where appropriate. The PALS service will be an important point of contact, or referral, to facilitate this.
- 6.10 The handling of complaints will adhere to the principles of the Mental Capacity Act 2005 and the Data Protection Act 1998. Confidential patient information will not be disclosed to a third party unless the patient has given their consent. The ICB will assume a person has capacity to make their own decisions and support them to do so. If it is assessed that a person cannot give consent they will seek evidence that the person complaining on the patient's behalf has the authority to do so.

7.0 Roles and Responsibilities

- 7.1 ICB will undertake a number of roles in relation to the management, resolution and investigation of complaints, these roles are:
- The thorough investigation of complaints received by the ICB;
 - To co-operate fully with other NHS and Social Care bodies to co-ordinate complaint investigations;
 - To monitor whether commissioned providers adhere to the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009;
 - To request and use information about complaints which is provided by healthcare providers commissioned by the ICB, when monitoring the quality of services commissioned;
 - To use information gained through complaints investigation, to inform the commissioning process, to ensure that the services commissioned meet the expectation and needs of the local population.
- 7.2 The complaints process is managed by the Patient Services Team and PALS Service who are part of the ICB's Governance Team. They will make sure the system works effectively and efficiently and that deadlines are met. The team is responsible for ensuring investigations are completed, drafting a response to the complainant and keeping a log of lessons learned. The Patient Services Team will produce a quarterly report for the Quality and Safety Committee for assurance.
- 7.3 The Patient Services Team will be accessible to the public and to all staff for advice and support. Cover arrangements must be in place for periods of absence from work. The Patient Services Team also provide a PALS service to act as an accessible guide and information point about health services, as well as working to resolve informal concerns about commissioning decisions and commissioned services.
- 7.4 All staff must be aware of the correct procedure to follow should anyone wish to raise a concern or make a complaint. If a complainant wishes to make a formal complaint but is unable or unwilling to put it in writing, the person who takes the call should take down the details of the complaint using the Verbal Complaints Form at appendix 1. The completed form should then be sent to the generic Complaints inbox; patientservices@staffsstoke.icb.nhs.uk. In addition, staff must provide information

reasonably required of them by the Patient Services Team during complaint investigations.

- 7.5 The ICB's Board will take a lead role in ensuring that the complaints are handled effectively, and that services are improved as a result of the lessons learned. The Quality and Safety Committee will feed information into the Board and will receive a quarterly complaints report including trends, themes and improvement actions. The Board will receive a copy of the Annual Complaints Report which will be distributed in accordance with Regulation 18 of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- 7.6 The Chief Executive Officer of the ICB is ultimately responsible for ensuring there is an effective process for the management, investigation and resolution of complaints and for ensuring that the ICB comply with the regulations. The Chief Executive Officer will sign all complaint responses sent by the ICB, except where this would lead to a significant delay. On such occasions, a suitable deputy will sign the letter.
- 7.7 The Quality and Safety Committee is responsible for monitoring the ICB's complaints process. They will identify any areas of concern with the process, investigation and outcome of complaints responded to by the ICB or commissioned providers. The Quality and Safety Committee will raise identified concerns with the appropriate Quality Improvement Manager to ensure that action is taken. The Committee will receive reports on:
- the numbers of complaints received and their outcomes;
 - themes and trends;
 - actions taken as a result of complaints investigation including lessons learned;
 - the time taken to respond to complaints by the ICB and main commissioned providers Ombudsman investigations and action plans.
- 7.8 The ICB's Internal Complaint Lead is the Patient Services Team Manager; the ICB's MP Lead is the Senior Corporate Services Manager. They are responsible for managing the complaint and ensuring that all requested information is received back in a timely manner.
- 7.9 The Patient Services Team and Patient Services Team are responsible for the handling of complaints, enquiries and MP letters and liaise with complainants and members of the public on behalf of the ICB. The Team also handles any Parliamentary and Health Service Ombudsman cases that are lodged against the ICB.
- 7.10 Each Directorate is asked to provide the Patient Services Team with the names of the relevant officers responsible for services and who should provide draft responses in the event of a complaint against any of the services.
- 7.11 Complex complaints may be forwarded to the relevant ICB Chief Medical Officer.

8.0 The Complaints procedure (Local resolution)

8.1 Each phase of the complaint and the associated actions are in the table below:

Complaint Phase	Action
Assessment	<ul style="list-style-type: none"> • Complaint is assessed as being within the scope of our service and acknowledged; • Advocacy services offered; • Consider early and informal resolution- look at whether it can be resolved by the end of the next working day;

Complaint Phase	Action
Summary of complaint	<ul style="list-style-type: none"> • Personal contact to agree a summary of the complaint and desired outcomes • Explanation of process and timescales • Consent sought
Investigation	<ul style="list-style-type: none"> • Complaint sent for investigation with agreed timescale and desired outcome • Investigation response of adequate quality received and accepted
Complaint Response	<ul style="list-style-type: none"> • Co-ordinated response to complaint drafted for sign off • Response agreed by senior management and sent out to complainant
Lessons Learned	<ul style="list-style-type: none"> • Further actions identified to resolve the individual complaint • Wider service improvements identified and implemented

- 8.2 If necessary, independent clinical reviews will be carried out. The Patient Services Team will ensure that all of the points raised by the complainant are covered in the complaint response. Where a complaint involves more than one NHS or social care organisation, the Patient Services Team will agree how the complaint will be managed and include all relevant information in a single coordinated response.
- 8.3 Serious complaints should be notified to the ICB's Chief Executive Officer without delay.
- 8.4 Sometimes agreed deadlines cannot be met. Where this is a delay, the Patient Services Team will contact the complainant, explain to them the reasons for the delay and discuss an extension in timescale. The Patient Services Team will escalate cases of excessive delay to the ICB.
- 8.5 The Patient Services Team will request an investigation response in simple, easy to understand language which provides an honest, clear and constructive response to all the issues raised together with lessons learned and service improvements log. Once the team receives this information the team will produce a draft response letter. The Lead Director will review the draft response to confirm they are satisfied with the way the complaint has been investigated and any action taken. The response will cover how the complaint has been handled, the conclusions reached on the basis of facts and evidence and an explanation of any actions the ICB intend to take as a consequence.
- 8.6 The outcome of the complaint should be made clear to the complainant - i.e. upheld, partially upheld or not upheld.
- 8.7 All written responses will invite the complainant to contact the Patient Services Team if they remain unhappy with their response. The Patient Services Team will make a further attempt to address any outstanding concerns. The response letter will always advise of the right to approach the Parliamentary and Health Service Ombudsman (PHSO). Where appropriate, the ICB will offer to meet with complainants where this could achieve local resolution. This could include using a mediation service.
- 8.8 If the complainant remains dissatisfied with the response received they have the right to ask the PHSO to review their complaint. They are independent of the NHS and will advise the complainant in writing of the outcome of their application.
- 8.9 All complaint files will be retained for a minimum of ten years. Archived files will be stored separately and securely the ICB. To preserve confidentiality any paper complaint files will be held in a locked cabinet at the ICB. Data held electronically on the Ulysses database will be password protected and access restricted.

8.10 Consent

The handling of complaints must operate to the principles of the Mental Capacity Act (2005) the Data Protection Act (2018) and the requirements of the General Data Protection Regulation. Confidential patient information should never be disclosed to a third party unless the patient has given their consent to do so. The ICB will assume a person has capacity to make their own decisions and support them to do so.

If it is assessed that a person cannot give consent to investigate a complaint themselves they will seek evidence that the person complaining on the patient's behalf has the authority to pursue the complaint.

9.0 Patient Advice and Liaison Service (PALS)

- 9.1 PALS offer important support for both staff and patients in promptly resolving concerns and enquiries. PALS staff will make initial contact with an enquirer within one working day enquiry and to give a final response as quickly as possible. Where a concern will not be resolved by the end of the next working day, this can still be handled through PALS but the enquirer will be informed that they may make their concerns a formal complaint at any time.
- 9.2 Wherever possible, PALS will aim to answer enquiries directly. However, in some cases this will involve referral to a person or service more appropriate for resolving the enquiry promptly and comprehensively. Appropriate consent will be needed. Enquirers will be given the option to return to if their enquiry if they are not satisfied with the response they receive.
- 9.3 PALS will respond to both general enquiries and those about an individual. Enquiries may be made personally or on behalf of someone, but PALS will not discuss issues about an individual without their consent.
- 9.4 PALS is a confidential service and will not disclose personal information without appropriate consent of the person involved, unless it relates to an actual or potential criminal offence, adult or child protection.
- 9.5 If an enquirer states that they intend to harm themselves PALS may speak to service staff either already or potentially involved in that person's care. If the enquiry relates to a specific incident PALS may need to discuss this with relevant staff but will only contact those people who need to be involved.

10.0 Multi-Agency complaints

- 10.1 Where a complaint involves more than one NHS Provider, or one or more other public bodies, there should be full co-operation in seeking to resolve the concerns through each body's local procedures.
- 10.2 A single co-ordinated approach is required and a single response should be sent to the complainant.
- 10.3 Where a complaint is received which is solely concerned with another body, the Patient Services Team will, with the consent of the complainant, ensure that it is passed on without delay.

11.0 Negligence claims

- 11.1 The complaints procedure should not stop where the complainant is taking legal advice. However, where legal action is started by the complainant then the ICB will seek legal advice to consider whether handling the complaint could adversely impact the legal action. The ICB will follow the legal advice.

12.0 Coroner's cases

- 12.1 Where a death has been referred to the Coroner's office this does not mean complaint investigations need to be suspended. Investigations will continue and a copy of the final response will be sent to the Coroner for information.

13.0 NHS Resolution

- 13.1 If the Patient Services Team identifies a complaint which meets NHS Resolution's referral criteria, this will be raised with the ICB, who will then report the complaint to the NHS Resolution.

14.0 Habitual, unreasonably persistent or vexatious complainants

- 14.1 There are times when nothing further can reasonably be done to help a complainant. As a last resort and after all reasonable measures have been taken to try and resolve the complaints under this policy, the following should be considered.
- 14.2 Complaints made by persistent complainants should be reviewed by the Patient Services Team to establish whether the same issues are being raised again. Complaints about matters unrelated to previous complaints should be approached objectively and without any assumption that they are bound to be frivolous, vexatious or unjustified.
- 14.3 If a complainant is abusive or threatening, the ICB may require the complainant to communicate in a specified way that still allows the complaint to be investigated. For example, this could be in writing and not by telephone, or solely with one or more designated members of staff, or with a limit on the number of contacts each week. It is not reasonable to refuse to accept or respond to communications about a complaint until it is clear that all practical possibilities of resolution have been exhausted.
- 14.4 Complainants regarded as unreasonably persistent or vexatious should follow the procedure below:
- The ICB will review the complaint and make a decision as to whether or not it is appropriate for the ICB to investigate the complaint further;
 - If the investigation is to continue, the Patient Services Team will handle the complaint in line with this policy and may restrict communication with the complainant;
 - If the ICB decide that the complaint will not be investigated, the complainant will be advised of their right to approach the PHSO.

15.0 Serious Incidents (Sis) and complaints

- 15.1 The procedure for investigating SIs is separate from the complaints procedure and is managed in accordance with the ICB's Serious Incidents Policy. If during the course of investigating an SI, a complaint is also received, the incident procedure will normally take precedence. If a complaint investigation reveals the need to take action under the SI procedure, again the incident procedure will normally take precedence.
- 15.2 In these circumstances the complainant will be notified of the SI investigation and will be kept updated on the progress by the Patient Services Team. The issues raised in a complaint will not always be identical to those investigated under the SI procedure and a separate and full response to the complaint will be required.

16.0 Safeguarding of vulnerable adults and children and complaints

- 16.1 All staff will follow the Adult Safeguarding Policy and Safeguarding Children Policy. If at any point in the complaint investigation process a member of the ICB staff suspect that a vulnerable person is being abused or is at risk of abuse, they should follow these procedures and report concerns to a Line Manager and the respective Safeguarding Lead.

17.0 Risk assessing the complaint

17.1 By correctly assessing the seriousness of a complaint about a service, the right course of action can be taken. The complaint will be risk assessed at the point at which it is entered onto the Ulysses system, which is the electronic data base for all Complaints. The system will calculate the level of risk by looking at the seriousness of the complaint and the likelihood of recurrence. The risk assessment of a complaint will be undertaken again when investigation reports are received and clinical review has been undertaken.

17.2 *Step One: deciding how serious the issue is:*

Seriousness	Seriousness
Negligible	Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care.
Minor	Unsatisfactory service or experience related to care, usually a single resolvable issue. Minimal impact and relative minimal risk to the provision of care or the service. No real risk of litigation.
Medium	Service or experience below reasonable expectations in several ways, but not causing lasting problems. Has potential to impact on service provision. Some potential for litigation.
Seriousness	Seriousness
High	Significant issues regarding standards, quality of care and safeguarding of or denial of rights. Complaints with clear quality assurance or risk management issues that may cause lasting problems for the organisation, and so require investigation. Possibility of litigation and adverse local publicity.
Extreme	Serious issues that may cause long-term damage, such as grossly substandard care, professional misconduct or death. Will require immediate and in-depth investigation. May involve serious safety issues. A high probability of litigation and strong possibility of adverse national publicity.

17.3 *Step Two: deciding how likely the issue is to recur:*

Likelihood	Description
Rare	Isolated or 'one off' – slight or vague connection to service provision
Unlikely	Rare – unusual but may have happened before
Possible	Happens from time to time – not frequently or regularly
Likely	Will probably occur several times a year
Almost certain	Recurring and frequent, predictable.

17.4 Step Three: Categorise the risk

Seriousness	Likelihood of recurrence				
	Rare	Unlikely	Possible	Likely	Almost certain
Negligible	Low				
Minor		Moderate			
Medium			High		
High				Extreme	
Extreme					

18.0 Measuring complainant satisfaction with the complaints and PALS service

18.1 A process is in place to understand the experience and satisfaction of people using the complaints and PALS service. This will establish if the process of managing their complaint or concern was positive or not and to suggest areas that they think could be improved.

19.0 References and further reading

- 19.1 Listening, Responding, Improving – A Guide to Better Customer Care; Department of Health, February 2009.
- 19.2 Principles of Good Administration, Principles of Good Complaint Handling and Principles for Remedy;
- 19.3 PHSO, February 2009 <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples>
- 19.4 The Local Authority Social Services & NHS Complaints (England) Regulations (Amended) 2009; Department of Health, April 2009
<http://www.legislation.gov.uk/uksi/2009/309/contents/made>
- 19.5 Results of the Peer Review Panels; Patients Association & Mid Staffordshire NHS Foundation Trust, Various <https://www.patients-association.org.uk/complaints-management>
- 19.6 NHS Constitution; Department of Health, March 2013.
<https://www.gov.uk/government/publications/the-nhs-constitution-for-england>
- 19.7 Guide to good handling of complaints for CCG; NHS England, May 2013. Available here:
<https://chcfunding.files.wordpress.com/2014/05/good-complaints-handling-for-ICB-nhs-may-2013.pdf>
- 19.8 My expectations for raising concerns and complaints.
https://www.ombudsman.org.uk/sites/default/files/Report_My_expectations_for_raising_concerns_and_complaints.pdf
- 19.9 A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture. Final report Right Honourable Ann Clwyd MP and Professor Tricia Hart
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/255615/NHS_complaints_accessible.pdf
- 19.10 Francis Inquiry into Mid Staffordshire Hospital Recommendations

- 19.11 NHS England 6Cs of Nursing www.england.nhs
- 19.12 Cabinet Office. (2006) Equality Act 2006. London. HMSO.
- 19.13 Cabinet Office. (2005) Mental Capacity Act 2005. London. HMSO
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- 19.15 Cabinet Office. (1998) Access to Health Records Act. London. HMSO.
- 19.16 Cabinet Office. (1998) Data Protection Act 1998. London. HMSO.
- 19.17 Department of Health. (2008) Records Management: NHS Code of Practice. London: DH.
- 19.18 NHS Litigation Authority.(2014 Guidance on Duty of Candor for Organisations Registered with the CQC

STANDARD OPERATING PROCEDURE FOR THE MANAGEMENT OF MP AND COMPLAINT LETTERS

Information Reader Box

Directorate	Corporate
Purpose	Guidance
Document Purpose	Procedures
Document Name	Standard Operating Procedure For The Management Of MP and Complaint Letters
Author	Governance Manager
Publication Date	31 August 2021
Review Date	1 September 2023 or as legislation changes dictate
Target Audience	All staff employed by: Staffordshire & Stoke-on-Trent Integrated Care Board Including temporary and contract staff
Description	Standard Operating Procedure For The Management Of MP Letters and Complaints
Superseded Document	N/A
Cross-reference	Complaints and Concerns Policy
Action Required	To Note
Approved by	Quality & Safety Committees in Common
Contact Details and further information	Governance Team

Document Status

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1.0 Introduction

This procedure applies to the Staffordshire & Stoke-on-Trent integrated Care Board (ICB).

Ensuring good handling of complaints is one way in which the ICB can improve quality for our patients. Monitoring trends and patterns in complaints will also help the ICB monitor providers' performance.

This document sets out the process for handling complaints received in the ICB's offices whether written or verbal. It is intended to assist those members of staff who are involved in providing responses/investigations into complaints and providing guidelines for timescales in which complaints should be responded to.

2.0 Who Can make a complaint

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

- **is a child** (an individual who has not attained the age of 18).
A complaint of poor experience made by a parent or other carer will be investigated.
- **has died.**
In the case of a person who has died, the complainant must be the personal representative of the deceased. The ICB need to be satisfied that the complainant is the personal representative. Where appropriate we may request evidence to substantiate the complainant's claim to have a right to the information.
- **has physical or mental incapacity.**
In the case of a person who is unable, by reason of physical capacity or lacks capacity within the meaning of the Mental Capacity Act 2005, to make the complaint themselves the ICB need to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is made.
- **has given consent to a third party acting on their behalf.**
In the case of a third party pursuing a complaint on behalf of the person affected we will request the following information:
 - Name and address of the person making the complaint.
 - Name, date of birth and address of the affected person.
 - Contact details of the affected person so that we can contact them for confirmation that they consent to the third party acting on their behalf. This will be documented in the complaint file and confirmation will be issued to both the person making the complaint and the person affected.
- **Has delegated authority** to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs.
- **Is an MP**, acting on behalf of and by instruction from a constituent.

3.0 Key Roles

Governance Team – the ICB has a dedicated Complaints & PALs team within the Corporate Services Directorate. They are responsible for coordinating the ICB's response to complaints and ensuring that all requested information is received back in a timely manner.

The Patient Services Team will identify the Directorate responsible for managing a complaint investigation or the review of a complaint response developed by a Provider.

The ICB's MP Lead is the Senior Corporate Services Manager.

Lead Director – the Lead Director is the Director responsible for the area or service that the complaint relates to. The Lead Director is responsible for appointing officers to investigate a complaint against the ICB or review a response provided by a commissioned Provider. The Lead Director will liaise with other Directors as required.

If the Lead Director identifies any potential/actual risks to patient safety or safeguarding issues, at any stage of the complaints investigation, they must be escalated immediately to the Executive Director of Nursing & Quality and appropriate action to be agreed.

Investigating Officers – the Investigating Officer will be appointed by the Lead Director to undertake an investigation of the complaint. The Director's EA will also be copied into any complaints and asked to manage the process within the Directorate.

The officer will be responsible for ensuring Director sign-off of the investigation report.

Complaint Reviewer – the complaint reviewer will be appointed by the Lead Director to review the Provider response to confirm that all sections of the complaint have been addressed and that statements related to commissioned pathways and contracted standards are accurate. The Director's EA will also be copied into any complaints and asked to manage the process within the Directorate.

The officer will be responsible for ensuring Director sign-off of the Provider response.

4.0 Timescales

Once a complaint or MP letter is received by the ICB it must be dealt with immediately in order that it can follow the process and allow the Patient Services Team to acknowledge the complaint within the statutory three working day timescale (this timescale starts from the day of receipt). It is therefore vital that there are no delays in complaints or MPs letters being sent to the Patient Services Team.

COMPLAINTS:

The statutory timescale for responding to complaints is within **six months**; NHS England guidance suggests **40 working days** maximum as a timescale for responding to a complaint, and therefore the ICB commit to providing a response within 40 days but will respond sooner if possible. Where it is not possible to provide a response within 40 working days reasons must be stated and fed back to the Patient Services Team in order for them to provide timely updates to the complainant. Where a complaint has not been concluded with a response sent within six months then the reasons must be set out and the complainant must be informed.

MP LETTERS:

The ICB made a commitment to their local MPs that their queries will be dealt with within ten working days. In the event that this timescale is not possible the Executive Assistant to the Chief Executive Officer **MUST** be informed immediately setting out the reasons that the timescale cannot be met in order that the MP can be advised and an extension requested.

PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN (PHSO):

Contact from the PHSO is usually following a complaint being responded to. Any enquiries received from the PHSO should be actioned in the same way as complaints. Generally, the PHSO contacts either the Chief Executive Officer of the ICB or the Patient Services Team with their request for information. The request will be time sensitive. The Patient Services Team will liaise with the PHSO throughout the course of any investigation and will source and provide all the information required to the PHSO.

Where the ICB has been asked to provide information or carry out recommendations following a PHSO investigation this must be done without any delays, to meet the timescale set by the PHSO. The PHSO commit to completing their investigations/findings within a time period of three to six months where possible.

6.0 Habitual, unreasonably persistent or vexatious complainants

There are times when nothing further can reasonably be done to help a complainant. As a last resort and after all reasonable measures have been taken to try and resolve the complaints under this policy, the following should be considered.

Complaints made by persistent complainants should be reviewed by the Patient Services Team to establish whether the same issues are being raised again. Complaints about matters unrelated to previous complaints should be approached objectively and without any assumption that they are bound to be frivolous, vexatious or unjustified.

If a complainant is abusive or threatening, the Patient Services Team may require the complainant to communicate in a specified way that still allows the complaint to be investigated. For example, this could be in writing and not by telephone, or solely with one or more designated members of staff. The Patient Services Team will agree with the ICB's Chief Nursing & Therapies Officer, Director of Corporate Services, Governance and Communications and the Chief Executive Officer who the designated member(s) of staff will be, or impose a limit on the number of contacts each week. It is not reasonable to refuse to accept or respond to communications about a complaint until it is clear that all practical possibilities of resolution have been exhausted.

Complainants regarded as unreasonably persistent or vexatious should follow the procedure below:

- The ICB will review the complaint and make a decision as to whether or not it is appropriate for the ICB to investigate the complaint further.
- If the investigation is to continue, the Patient Services Team will handle the complaint in line with this policy and may restrict communication with the complainant.
- If the ICB decide that the complaint will not be investigated, the complainant will be advised of their right to approach the PHSO.

7.0 PROCEDURE

Written Complaint received at the ICB's offices:

- Complaint letter is received in the post; the letter should be opened and logged on the ICB's post log. It should then be scanned and sent to the Complaints inbox - patientservices@staffsstoke.icb.nhs.uk regardless of who the complaint is addressed to. **No other action is required and the complaint should NOT be passed to any other staff member at this stage.**

The Patient Services Team will then log the complaint on the complaint log and commence the complaints process.

Verbal Complaint made to the ICBs:

- If a member of staff receives a telephone call from someone wishing to make a complaint, in the first instance they should attempt to re-direct the complainant to the PALs Team:

Email: patientservices@staffsstoke.icb.nhs.uk

Freephone: **0808 196 8861**- There is also a 24-hour answer phone service dedicated to this number

Freepost address:
Freepost Plus
Patient Services Team
Third Floor
Smithfield 1 Building
Leonard Coates Way
Stoke on Trent
ST1 4FA

If the complainant is insistent and refuses to approach the PALs Team and still wishes to log the complaint directly with the ICB staff member who answered the call, then staff are asked to complete the form at Appendix 1 of this procedure document. The completed form should then be scanned in and emailed to the Patient Services Team inbox. Staff should not give any personal advice or opinion to the complainant in connection with the complaint.

Complaints sent directly to the Patient Services Team

- Where a complaint has been sent directly to the Patient Services Team they will log the complaint. If the complaint is related to a Provider, the Team will ask the Provider to provide the response. If the complaint relates to CHC, the CSU will be asked to undertake the investigation and provide a response to the ICB. If it relates to any other service commissioned by the ICB, they will commence the complaints process, as described above.

Acknowledging a complaint

- The Patient Services Team will acknowledge the complaint to the complainant (within **three working days** of receipt of the complaint by the ICB). The Team will contact the complainant to discuss the complaint and agree the points for investigation. If consent is required, the Team will send out a consent form (if this is not already enclosed with the initial complaint).
- If consent is required, the timescale to respond to the complaint does not start until signed consent is received to allow the investigation to take place.

Complaints investigated by the ICB (Appendix 2)

- The Patient Services Team will identify a lead Director for the complaint.

The Lead Director will arrange for a member of the Directorate to investigate the complaint and draft an investigation report.

- The Lead Director must review the investigation report to confirm its accuracy and completeness and return to the Patient Services Team within 15 days. If the timescale cannot be met the Investigating Officer needs to alert the Patient Services Team as soon as possible.

Review of Complaints investigations by CHC (CSU) or other Provider (Appendix 3 & 4)

- If the complaint is in relation to treatment at an external provider e.g. a Trust, or GP Out of Hours Service, the Patient Services Team will liaise directly with the provider in order to get their response.
- Once the response is received from the provider the ICB will be asked to review the response.

In this instance the ICB needs to check to see if the provider has:

- Provided an answer to all of the queries raised in the complaint.
- Followed the ICB's commissioned pathway.
- Fulfilled the contract in place with the ICB (e.g. timescales for patients to be seen).
- Conducted a thorough investigation into the complaint.
- Offered appropriate apologies.
- Provided details of lessons learned.
- Could anything more be done

There may be times when the reviewer has queries on the provider's investigation findings that need to be addressed outside of the complaints process. Concerns with quality or safety should be escalated via the ICB's quality assurance processes as defined by the Quality Strategy, and concerns regarding compliance with commissioned pathways and timescales escalated into contract commissioning forums

If the response is found to be unsatisfactory it needs to be returned, to the Provider, with an explanation as to what is required from the provider to make the response satisfactory – this will be fed back to the provider with a request for further investigation and a new response.

When the draft response has been reviewed and is found to be satisfactory the Patient Services Team will then draft the ICB's closing response and send for the Chief Executive Officer's sign off.

MP Letters:

MP letters should be dealt with in the same way as any complaint received, i.e. logged on the post log, scanned and sent to the Patient Services Team inbox. They will then be actioned in the same way as complaints are dealt with – taking note of the shorter timescale to formally respond to MPs.

Again, anyone receiving direct contact from an MP should also log this with the Senior Corporate Services Manager who will then action appropriately and in line with the process.

All Complaints:

Once a draft response has been produced for sign off, the Patient Services Team will ask the relevant Director or their nominated deputy to approve the response. Once approved it will then be sent to the Chief Executive Officer for his approval and sign off.

APPENDIX 1 – VERBAL COMPLAINT FORM

ICB LOGGING OF ISSUES AND COMPLAINTS

**ULYSSES
REF:**

Name of Caller	
Date Call Made	
Contact Number	
On Behalf of (If Applicable)	
Dob of Patient	
Address of Patient	
Email Address	
Subject	
Patient GP Surgery	
	Postcode

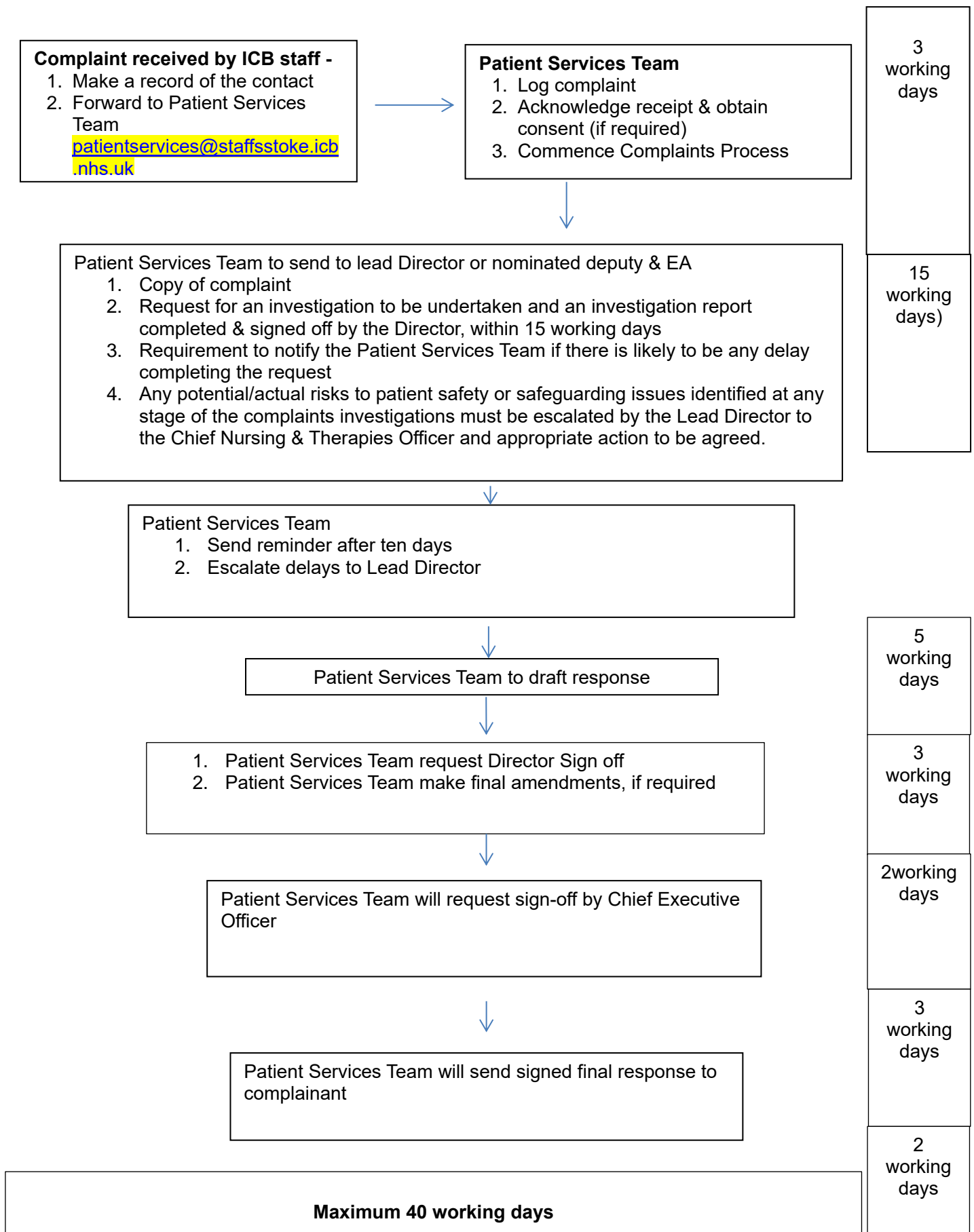
Patient's GP	
Has verbal consent been given (if on behalf of another person)?	Yes / No
Has written consent been given (if on behalf of another person)?	Yes / No

Issues & relevant dates	

Action taken & dates	

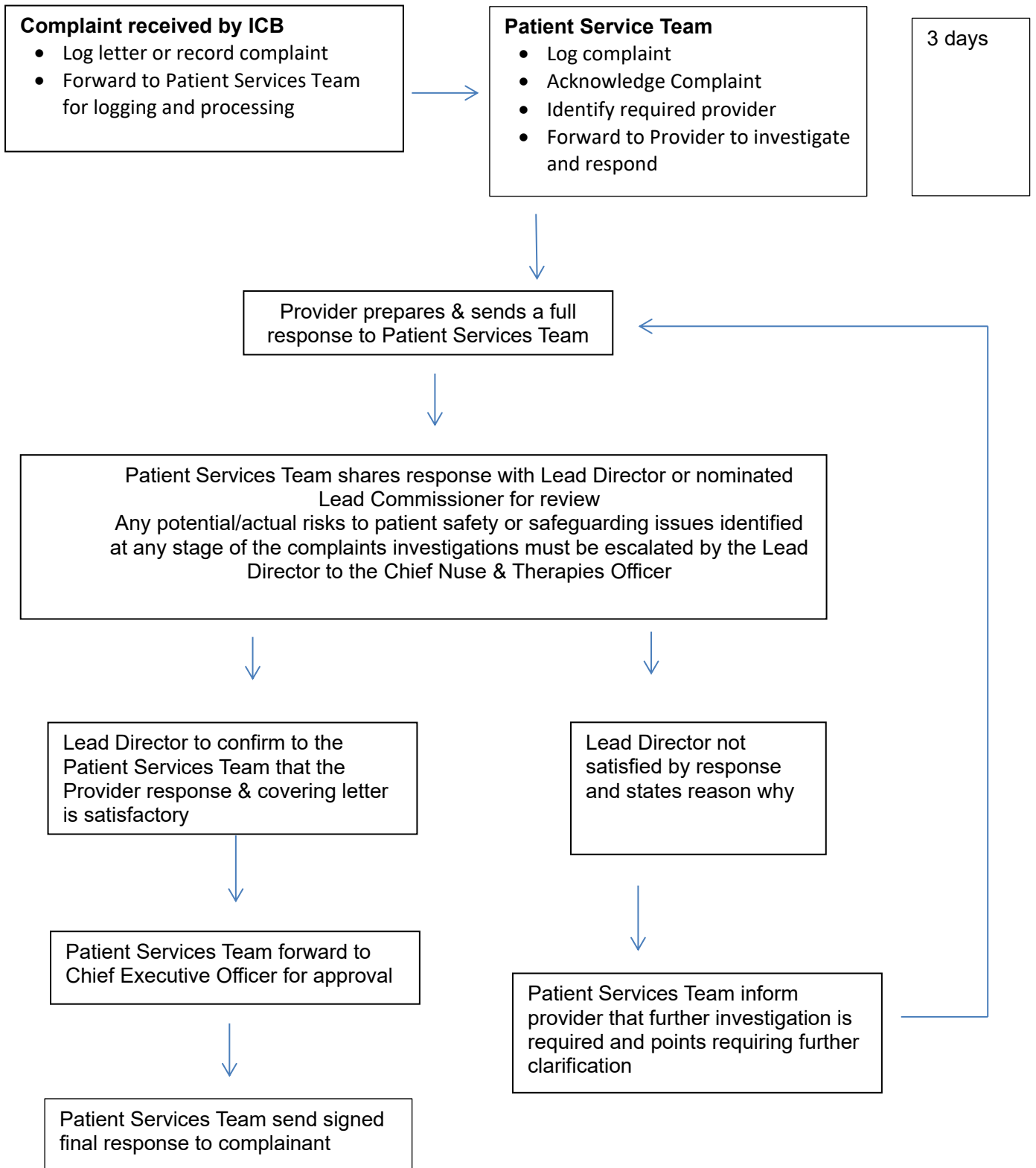
Call Handler		Date & Time Call Taken	
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Appendix 2
Complaint investigated by the ICB



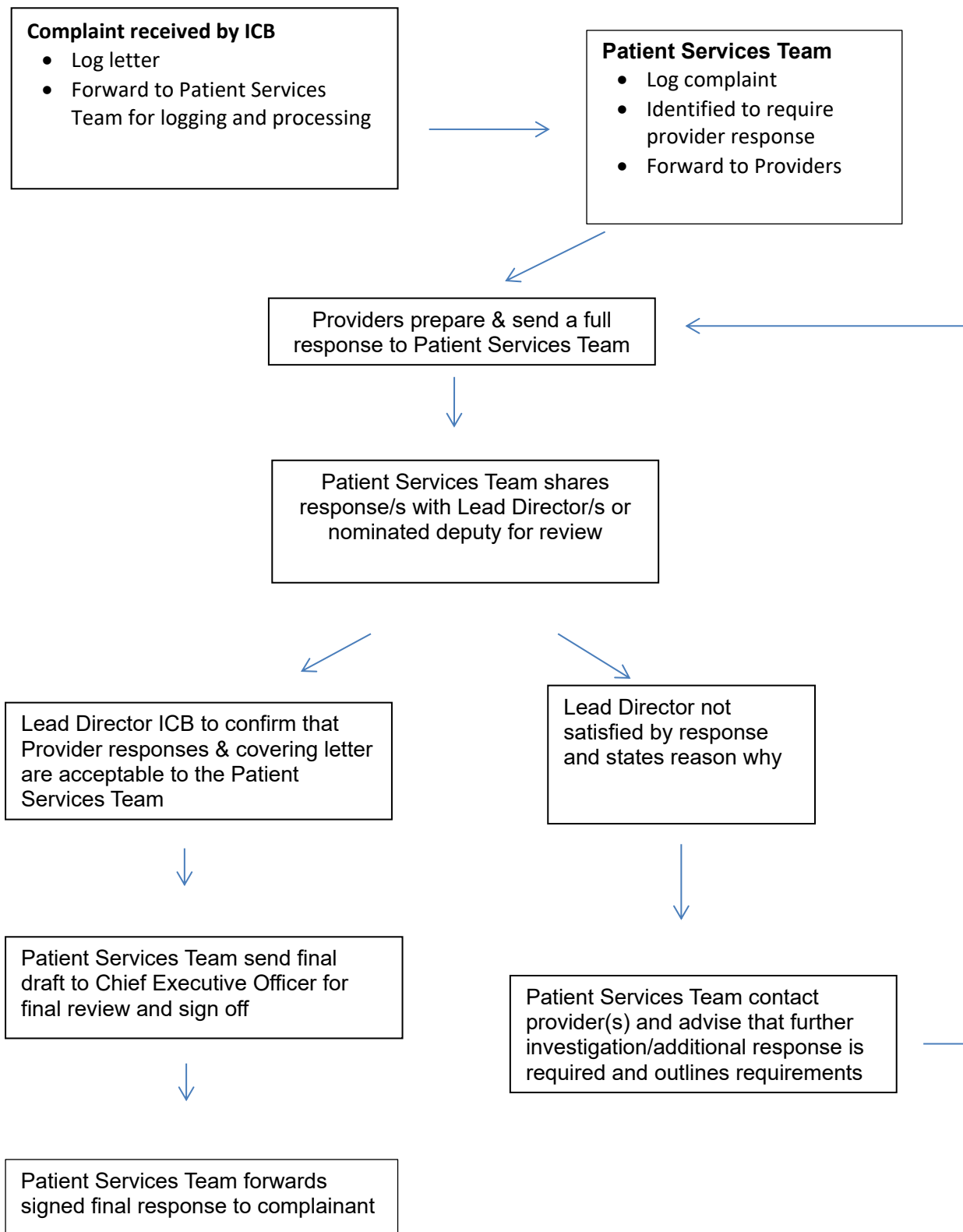
Appendix 3

Complaints investigated by a Provider/CHC (CSU)



Appendix 4

Multi agency complaints



Appendix 5 INVESTIGATING A COMPLAINT

In addition to delivering our duty regarding investigation and management of complaints the ICB aims to ensure:

- All complaints are well managed, in a timely fashion and in accordance with national guidance.
- Staff are empowered to deal with complaints in an open and non-defensive way.
- The learning from complaints is identified and used for improvement.
- The complaints service is accessible, well publicised, open and transparent.
- The complaints procedure is supportive for those who find it difficult to complain.

The ICB has a clear Complaints Policy which sets out the process for making and responding to a complaint. It is important that complaints are responded to in a thorough and transparent way. To lead this process the ICB will appoint an investigating officer to establish the facts regarding a complaint including:

- Identifying any root cause of the event.
- Identifying the contributory factors of the event.
- Identifying underlying problems in management systems, procedures, processes, standards, working arrangements through root cause analysis.
- Identifying shortfalls in both generic and specific risk assessments and control systems.
- Preventing reoccurrence.
- Identifying training needs.
- Learning from the event.

The Investigating Officer

It is the role of the Investigating Officer to ascertain the facts, assess the evidence and report their findings. You may also be asked to make recommendations.

The Investigating Officer should always aim to be impartial and examine the facts and evidence logically. It is essential to remember that an Investigating Officer is neither an advocate for the complainant, nor a spokesperson for the organisation.

Step 1 – Understand the complaint

Most people are reluctant to make a complaint against the NHS so when they do it is important that we understand the complaint and the impact upon the person. It is often useful to review the details of the complaint to ensure you are able to investigate each part of the complaint.

The following questions can help you define the task:

- a) What should have been provided? What was expected?
- b) What was provided? What actually happened?
- c) Is there a difference between the two and if so why?
- e) If the answer to c) is no, why does the complainant think otherwise?
- g) What should be done to put things right?
- h) What should be done to avoid a recurrence?

Step 2 – Investigating a complaint

The Investigating Officer should make a plan to ensure that they identify all information that could support the development of a response. Sources should include:

- *National guidance and local policies*
- *Meeting records*
- *Contract standards*
- *Interviews & statements from key individuals*

The process that has been followed by the investigation should be set out in the response to enable the ICB to demonstrate that the process has been thorough and robust.

Step 3 – Organising the evidence

Once gathered, the evidence should be ordered chronologically to support the RCA to be developed.

Step 4 – Response – completed by the Patient Services Team or a Provider

The response needs to explain the order of events making clear any deviation from policy or guidance and where possible identifying the reason for the deviation.

Step 5 – Remedial Actions

As part of the investigation, if any corrective actions have been taken these should be outlined. If an action plan has been developed but not yet implemented this should be referenced with the timescale for implementation.

Step 6 – Lessons Learned

If the findings from the investigation could be applied across the wider organisation, the response should outline the process that will be adopted to support the sharing of learning.

Step 7 – Apology

If there have been any shortcomings in the ICB's behavior the ICB should apologise for the drop in standards and any distress this might have caused.

Role of the Director

The Director is responsible for the investigation of all complaints in their area. To fulfil this role they need to:

- *Appoint Investigating Officers that have sufficient experience and expertise to be able to develop a response in a timely way.*
- *Ensure the Investigating Officer has sufficient protected time to investigate complaints.*
- *Provide support and guidance as required.*
- *Ensure that they have a system in place to ensure responses are delivered back to the Patient Services Team within the target time, or if not to inform the Patient Services team of any delays and identify a realistic timeframe.*

Role of the Patient Services Team – the Team co-ordinates responses to complaints and acts as the liaison point with the ICB. The Patient Services Team can provide advice and support to colleagues in the ICB.

Appendix 6
Glossary

<i>Complaint</i>	<i>A formal complaint made against the ICB, the services they commission or any member of its staff. Please refer to the ICB's Complaints and Concerns Policy for further guidance.</i>
<i>Ulysses</i>	<i>The electronic risk management system used for recording and reporting activities in relation to risk registers, incidents, complaints, concerns and claims.</i>
<i>Complaint Review</i>	<p><i>Whether reviewing an internal draft response or one provided by a Provider, the Reviewer is asked to confirm that the response:</i></p> <ul style="list-style-type: none"> <i>• Provided an answer to all of the queries raised in the complaint.</i> <i>• Followed the appropriate clinical treatment as per the ICB's commissioned pathway.</i> <i>• Fulfilled the contract in place with the ICB (e.g. timescales for patients to be seen).</i> <i>• Conducted a thorough investigation into the complaint.</i> <i>• Offered appropriate apologies.</i> <i>• Provided details of lessons learned.</i>
<i>Root cause analysis RCA</i>	<i>A systematic approach to investigating a problem that traces the problem to its origins</i>

APPENDIX 7 - PRIMARY CARE COMPLAINTS HANDLING FLOWCHART

