



# Management of Concerns and Complaints Policy

## Date Policy Approved

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**The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as 'uncontrolled' and as such may not necessarily contain the latest updates and amendments.**

## POLICY AMENDMENTS

Amendments to the Policy will be issued from time to time. A new amendment history will be issued with each change.

New Version Number	Issued by	Nature of Amendment	Approving Body	Approval Date	Date Published on Website
1.0	Humber & North Yorkshire ICB	6 CCG policies aligned to 1 standardised ICB policy, referring to new ICB organisational structures, roles/responsibilities and aligned to the Parliamentary and Health Service Ombudsman Complaint Standards	ICB Quality Committee	October 2022	October 2022

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## 1.0 Introduction

The NHS Humber and North Yorkshire Integrated Care Board (ICB), hereafter referred to as the ICB, is committed to working in partnership with patients, the public and other key stakeholders for the improvement of health across the local community.

This document outlines our commitment to dealing with complaints about the services provided and commissioned by the ICB. It also provides information about how we manage, respond to and learn from complaints made about our services and the way in which they are commissioned.

This complaint handling procedure describes how the core expectations given in the [NHS Complaint Standards](https://www.ombudsman.org.uk/complaint-standards)<sup>1</sup> will be put into practice by the ICB.

This procedure sets out how we handle complaints and the standards we will follow. This procedure follows the relevant requirements as given in the Local Authority, Social Services and National Health Service Complaint Regulations 2009 and the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the 2009 and 2014 Regulations).

It should be read in conjunction with the more detailed guidance modules available on the Parliamentary and Health Service Ombudsman [website](https://www.ombudsman.org.uk)<sup>2</sup>.

The ICB also welcomes all types of feedback in addition to complaints; i.e. concerns, comments and compliments. Its approach to handling this feedback is outcome focused and seeks to answer concerns and resolve problems as early and quickly as possible. The ICB is committed to learning from this feedback (in conjunction with complaints) to improve the quality of services and to contribute to continuous improvement of patient safety, clinical effectiveness and patient experience. Each Place within the ICB records and reports on the feedback in line with its Standard Operating Procedure.

## 2.0 Purpose

The ICB is committed to high quality care for all as a core principle of our vision and purpose. This includes the provision for any user of the organisation, their family, carers, or members of the public, with the opportunity to seek advice, raise concerns or make a complaint, about any of the services it commissions, or policies and procedures it has developed and implemented. All information in relation to this policy is available in alternative languages and formats on request. Contacts are dealt with as individuals via their preferred method. Adjustments are made on an individual basis.

The ICB recognises that staff work very hard to get it right first time. However, there may be occasions when people will be dissatisfied with the service received, or decisions made, and wish to make a complaint or raise a

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<sup>1</sup> <https://www.ombudsman.org.uk/complaint-standards>

<sup>2</sup> <https://www.ombudsman.org.uk/complaint-standards>

concern.

The ICB will endeavour to respond as quickly and effectively as possible to resolve complaints and to use the information to improve the quality of its commissioned services.

The complaints system incorporates the Parliamentary and Health Service Ombudsman 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

The policy is also informed by the NHS Constitution that includes a number of recommendations relating to patient rights. Patients have the right to:

- Have their complaint acknowledged and properly investigated.
- Discuss the manner in which the complaint is to be handled and know the period in which the complaint response will be sent.
- Be kept informed of the progress and to know the outcome including an explanation of the conclusions and confirmation that any action needed has been taken.
- Take a complaint to the independent Parliamentary and Health Service Ombudsman if not satisfied with the way the NHS has dealt with the complaint.
- Make a claim for judicial review if the patient thinks that they have been directly affected by an unlawful act or decision of an NHS body; and receive compensation if the patient has been harmed by medical negligence via the claims process.

Other documents guiding the policy are:

- NHS England's Assurance of Good Complaints Handling for Primary Care – A toolkit for commissioners (2015)
- the Local Authority Social Services and National Health Service Complaints [England] Regulations (2009),
- recommendations from the Francis report (2013).
- Putting Patients First: The NHS England Business Plan for 2013/14 – 2015/16.

The policy includes the fundamental requirements of good complaints and

concerns handling used by the ICB to deliver arrangements in an easily accessible, equitable, sensitive and open manner.

### **3.0 Definitions / Explanation of Terms**

**Complaint** – A complaint is an expression of dissatisfaction about an act, omission, or decision of the ICB, either verbal or written, and whether justified or not, which requires an investigation and a formal response.

**Concern** – A concern is an expression of dissatisfaction without the need for formal investigation or formal correspondence.

### **4.0 Scope of the Policy**

The policy applies to NHS Humber and North Yorkshire Integrated Care Board and all its employees and must be followed by all those who work for the organisation, those on temporary or honorary contracts, secondments, pool staff, contractors and students.

This policy shall be applied to all members of the public (and/or their representatives) who have been in receipt of NHS care commissioned by the ICB, or who complain about any services directly provided by the ICB, such as, Continuing Health Care. For the purpose of this policy NHS care is defined as receiving care, or treatment, under the NHS Act 1977.

For complaints about services other than those commissioned by the ICB, please refer to the complaints service of the relevant organisation.

Complaints can be made by any person who is affected by, is likely to be affected by or is aware of, either through direct experience or observation, an action, omission or decision of the ICB.

All staff have a responsibility to ensure that they are aware of the contents of this policy and have undertaken training as appropriate. Further information regarding who can make a complaint can be found in Section 4.3

#### **4.1 Complaints that cannot be dealt with under this policy**

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

- A complaint made by one NHS organisation about another NHS organisation.
- A complaint made by an employee about any matter relating to their employment. ICB staff should use appropriate HR policies for this purpose.
- A complaint, the subject matter of which has previously been investigated under these or previous Regulations.
- A complaint made by a primary care provider which relates to the

exercise of its functions by an NHS body or to the contract or arrangements under which it provides primary care services.

- A complaint made by an independent provider, NHS Trust or an NHS Foundation Trust about any matter relating to arrangements made by an NHS body with that independent provider or NHS Foundation Trust.
- A complaint which is being or has been investigated by the Ombudsman.
- A complaint arising out of an NHS body's alleged failure to comply with a request for information under the Freedom of Information (FOI) Act 2000. Information regarding how to request a review of your FOI can be found in the ICB FOI Policy
- A complaint which relates to any scheme established under Section 10 (superannuation of persons engaged in health services) or Section 24 (compensation for loss of office) of the Superannuation Act 1972 or to the administration of those schemes.
- Concern about the outcome of a Continuing Healthcare Assessment. A separate Appeals framework is in place.
- A complaint regarding suspected fraud. Any allegations of fraud or financial misconduct should be referred to the National Fraud reporting line; details should NOT be taken by the Complaints team. Full details of the methods for reporting are on their Website: <https://www.reportnhsfraud.nhs.uk/>

If the complainant has made or intends to take legal action or there is an inquest pending, this should not get in the way of the complaint being investigated. Advice should be sought from the Responsible Person to determine steps to ensure there is no prejudice to existing or planned investigations.

## **4.2 Carer's Rights**

Carers can make a complaint on behalf of the person they care for where the person is a child, has asked the carer to act on their behalf, or is not capable of making the complaint themselves. The organisation has the discretion to decide whether the carer is suitable to act as a representative in the individual's best interests.

If the Responsible Person or their delegated officer is of the opinion that a representative does or did not have sufficient interest in the person's welfare, is not acting in their best interests or is unsuitable to act as a representative, they will notify that person in writing stating the reasons.

## **4.3 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 a patient in any case where that person:

- is a child (an individual who has not attained the age of 18) – in the case of a child, we 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.
- has died – in the case of a person who has died, the complainant must be the personal representative of the deceased. The ICB needs 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, NHS England needs to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is made.
- has delegated authority to act on their behalf for example in the form of a registered Power of Attorney which must cover health affairs.
- has given consent to a third party acting on their behalf
- where a concern or complaint is raised by an MP or an elected member of the Local Authority and relates to services provided to an individual, a statement that they are acting for the constituent/resident satisfies the requirement for consent where the person is also the patient to whom the concern or complaint relates. Where this is not the case, consent will be sought as per section 4.4. This is in line with the Information Commissioner's Office (ICO) guidance.

The following information will be documented in the complaint file and confirmation will be issued to both the person making the complaint and the person affected.

- Name and address of the person making the complaint;
- Name and either date of birth or address of the affected person; and
- 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.

If an officer in the ICB is of the opinion that a representative does not or did not have sufficient interest in the person's welfare, or is not acting in their best interests, we will notify that person in writing.

#### **4.4 Consent**

If a complaint is received on behalf of someone else, consent will be required and a form will be provided if required.



Consent is also required if the ICB is required to share the complaint with a third party, such as the provider of a service.

There is an expectation that when capturing consent for the use and sharing of information, that the patient has made an informed decision and clearly understands the processing and potential sharing of their information. Staff must also understand the expectations of confidentiality under which the information is provided.

Information will not be disclosed to third parties unless the complainant or appropriate authorised party who has provided the information has given consent to the disclosure of that information.

Consent will be pursued. If by the 40th working day consent has not been received the complaint will be closed and categorised as a concern.

## **5.0 Timescale for making a complaint**

Complaints must be made to us within 12 months of the date the incident being complained about happened or the date the person raising the complaint found out about it, whichever is the later date.

If a complaint is made to us after that 12 month deadline, we will consider it if:

- we believe there were good reasons for not making the complaint before the deadline, and
- it is still possible to properly consider the complaint.

If we do not see a good reason for the delay or we think it is not possible to properly consider the complaint (or any part of it) we will write to the person making the complaint to explain this. We will also explain that, if they are dissatisfied with that decision, they can complain to the Parliamentary and Health Service Ombudsman.

There is no time limit for giving feedback to the ICB for those issues which fall outside the Complaints Regulations. All feedback will be received and acted upon wherever possible to ensure learning and improvement.

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## **6.0 Duties, Accountabilities and Responsibilities**

The roles and responsibilities of staff within our organisation and relevant delegated functions when dealing with complaints are set out in Appendix B.

### **6.1 Chief Executive**

Overall responsibility and accountability for the management of complaints

lies with the 'Responsible person'. In the ICB the identified Responsible Officer is the Chief Executive.

The 2009 Regulations allows the ICB to delegate the relevant functions of the Responsible Person and Complaints Manager to other staff where appropriate. We do this to ensure we can provide an efficient and responsive service.

## **6.2 Executive Directors (Corporate Affairs and Nursing and Quality)**

The Executive Director of Corporate Affairs has delegated responsibility for the management of complaints. The Executive Director of Nursing and Quality has delegated responsibility for identifying trends and themes from complaints and patient experience to ensure quality of commissioned service delivery.

## **6.3 Place Director or Place Nurse**

Has responsibility for the reviewing and approval of final responses prior to issue.

## **6.4 Senior Managers and Directors**

We have processes in place to ensure that our senior managers regularly review complaints alongside other forms of feedback. They will make sure action is taken on all identified learning arising from complaints so that improvements are made to our service.

Our senior managers demonstrate this by:

- leading by example to improve the way we deal with compliments, feedback and complaints
- understanding the obstacles people face when making a complaint, and taking action to improve the experience by removing them
- knowing and complying with all relevant legal requirements regarding complaints
- making information available in a format that people find easy to understand
- promoting information about independent complaints advocacy and advice services
- making sure everyone knows when a complaint is a serious incident or safeguarding or a legal issue and what must happen
- making sure that there is a strong commitment to the duty of candour so there is a culture of being open and honest when something goes wrong
- making sure we listen and learn from complaints and improve services when something goes wrong.

## **6.5 Complaints management**

The ICB complaints service managers are responsible for managing this procedure and for overseeing the handling and consideration of any complaints we receive.

## **6.6 Responsibilities for Approval**

ICB Quality Committee

## **7.0 Identifying a Complaint**

### **7.1 Everyday conversations with our users**

Our staff speak to people who use our service and the services we commission every day. This can often raise issues that our staff can help with immediately. We encourage people to discuss any issues they have with our staff, as we may be able to sort the issue out to their satisfaction quickly and without the need for them to make a complaint.

### **7.2 When people want to make a complaint**

We recognise that we cannot always resolve issues as they arise and that sometimes people want to make a complaint. A complaint is an expression of dissatisfaction, either spoken or written, that requires a response. It can be about:

- an act, omission or decision we have made or a service we commission has made
- the standard of service we have provided or a service we commission has provided.

### **7.3 Feedback and complaints**

People may want to provide feedback instead of making a complaint. In line with DHSC's NHS Complaints Guidance people can provide feedback, make a complaint, or do both. Feedback can be an expression of dissatisfaction (as well as positive feedback) but is normally given without wanting to receive a response or make a complaint.

People do not have to use the term 'complaint'. We will use the language chosen by the service user, or their representative, when they describe the issues they raise (for example, 'issue', 'concern', 'complaint', 'tell you about'). We will always speak to people to understand the issues they raise and how they would like us to consider them. For further explanation of what is and isn't a complaint please see the guidance module 'Identifying a complaint'.

For more information about the types of complaints that are and are not covered under the 2009 Regulations please see The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

If we consider that a complaint (or any part of it) does not fall under this procedure we will explain the reasons for this. We will do this in writing to the person raising the complaint and provide any relevant signposting information.

Complaints can be made to us:

- in person
- by phone
- in writing, by email or online.

We will consider all accessibility and reasonable adjustment requirements of people who wish to make a complaint in an alternative way. We will record any reasonable adjustments we make.

We will acknowledge complaints within three working days of receiving it. This can be done in writing or verbally.

We may receive an **anonymous or a general complaint** that would not meet the criteria for who can complain. In this case we would normally take a closer look into the matter to identify if there is any learning for our organisation unless there is a reason not to do so.

#### **7.4 Complaining to us as a commissioner of NHS Services**

As a commissioner we can look into complaints about the services we commission. Under section 7 of the Regulations, the person making the complaint has a choice of complaining either to the provider of the service, or to us as the commissioner of the service.

When a complaint is made to us about a service we commission, we will determine how best to handle the complaint in discussion with the person making the complaint.

We will discuss whether it is best dealt with by either the provider of the service or us as the commissioner of the service. When we agree the complaint is best dealt with by the provider of the service, we will seek consent from the person making the complaint to forward the complaint to the provider of the service.

When we decide that we are best placed to handle the complaint about the service provider, we will do so following the expectations set out in the Complaint Standards and this procedure. We will request relevant evidence from the service provider in order to provide a full response to the person making the complaint.

#### **8.0 Complaints and other procedures**

We make sure our complaints staff are properly trained to identify when it may not be possible to achieve a relevant outcome through the complaint

process on its own. Where this happens, staff will inform the person making the complaint and give them information about any other process that may help to address the issues and has the potential to provide the outcomes sought.

This can happen at any stage in the complaint handling process and may include identifying issues that could or should:

- trigger a patient safety investigation
- involve a coroner investigation or inquest
- trigger a relevant regulatory process, such as fitness to practice investigations or referrals
- involve a relevant legal issue that requires specialist advice or guidance
- Involve decisions where an appeal process is available.

When another process may be better suited to cover other potential outcomes, our staff will seek advice and provide clear information to the individual raising the complaint. We will make sure the individual understands why this is relevant and the options available. We will also signpost the individual to sources of specialist independent advice. For further details see guidance.

This will not prevent us from continuing to investigate the complaint. We will make sure that the person raising the complaint gets a complete and holistic response to all the issues raised, which includes any relevant outcomes where appropriate. Our complaints staff will engage with other staff or organisations who can provide advice and support on the best way to do this.

If an individual is already taking part or chooses to take part in another process but wishes to continue with their complaint as well, this will not affect the investigation and response to the complaint. The only exceptions to this are if:

- the individual requests or agrees to a delay
- there is a formal request for a pause in the complaint process from the police, a coroner or a judge.

In such cases the complaint investigation will be put on hold until those processes conclude

## **8.1 Safeguarding - Concerns Relating To Potential Abuse**

Should any complaint or concern include a disclosure or suspicion of abuse, the ICB Safeguarding Policies must be followed

## **9.0 Confidentiality of complaints**

We commit to maintaining confidentiality and protecting privacy throughout

the complaints process in accordance with UK General Protection Data Regulation and Data Protection Act 2018. We will only collect and disclose information to those organisations and staff who are involved in the consideration of the complaint. Documents relating to a complaint investigation are securely stored and kept separately from medical records or other patient records. They are only accessible to organisations and staff involved in the consideration of the complaint.

Complaint outcomes may be anonymised and shared within our organisation and the organisations we commission and may be published on our website to promote service improvement.

Further information regarding how the ICB uses personal information, including in relation to complaints, is available in the Privacy Notice published on the ICB website.

## **10.0 How we handle complaints**

### **10.1 Making sure people know how to complain and where to get support**

We publish clear information about our complaints process and how people can get advice and support with their complaint through their local independent NHS Complaints Advocacy service and other specialist independent advice services that operate nationally.

We will make sure that everybody who uses our services and the services we commission (and those that support them) know how they can make a complaint. This includes making people aware that they can also complain to us about any service we commission from others.

We do this by having our complaints policy and materials that promote our procedure visible in public areas and on our website. We also ensure that the services we commission have similar information available. We will ensure there are a range of ways to do this so that people can do this easily in a way that suits them. This includes providing access to the complaints process online.

We will make sure that our service users' ongoing or future care and treatment will not be affected because they have made a complaint.

### **10.2 How to make a complaint**

A complaint may be made in writing, verbally, face to face or by email.

If an individual is unsure regarding the process or who to contact advice can be sought by contacting the Patient Relations Team. Information and contact details for each Place can be found here [Areas Covered - Humber and North Yorkshire Health and Care Partnership](#)

Face to face discussion of a complaint can take place by prior arrangement.

Where it is possible and appropriate, complaints and concerns can be resolved on the spot or quickly by front line staff or the service provider. This is called local resolution. Local resolution aims to resolve complaints quickly and as close to the source of the complaint as possible.

Where attempts to resolve the issue fail to achieve a satisfactory outcome, the complainant has the right to raise a formal complaint with either the service provider or the commissioner of the service.

### **10.3 What we do when we receive a complaint**

We want all people who use our service and the services we commission, their family members and carers to have a good experience while they use our services. If somebody feels that the service received has not met our standards, we encourage them to talk to staff, to see if the issue can be resolved locally.

Where a local resolution has not been possible a complaint can be raised directly with the provider of the service (see contact details in Appendix A) or the ICB where they are the commissioner of the service.

ICB Patient Relations staff will make sure people are listened to, get an answer to the issues quickly wherever possible, and any learning is captured and acted on.

Our staff will:

- listen to you to make sure they understand the issue(s)
- ask how you have been affected
- ask what you would like to happen to put things right
- carry out these actions themselves if they can (or with the support of others)
- explain why, if they can't do this
- capture any learning if something has gone wrong, to share with colleagues and improve services for others

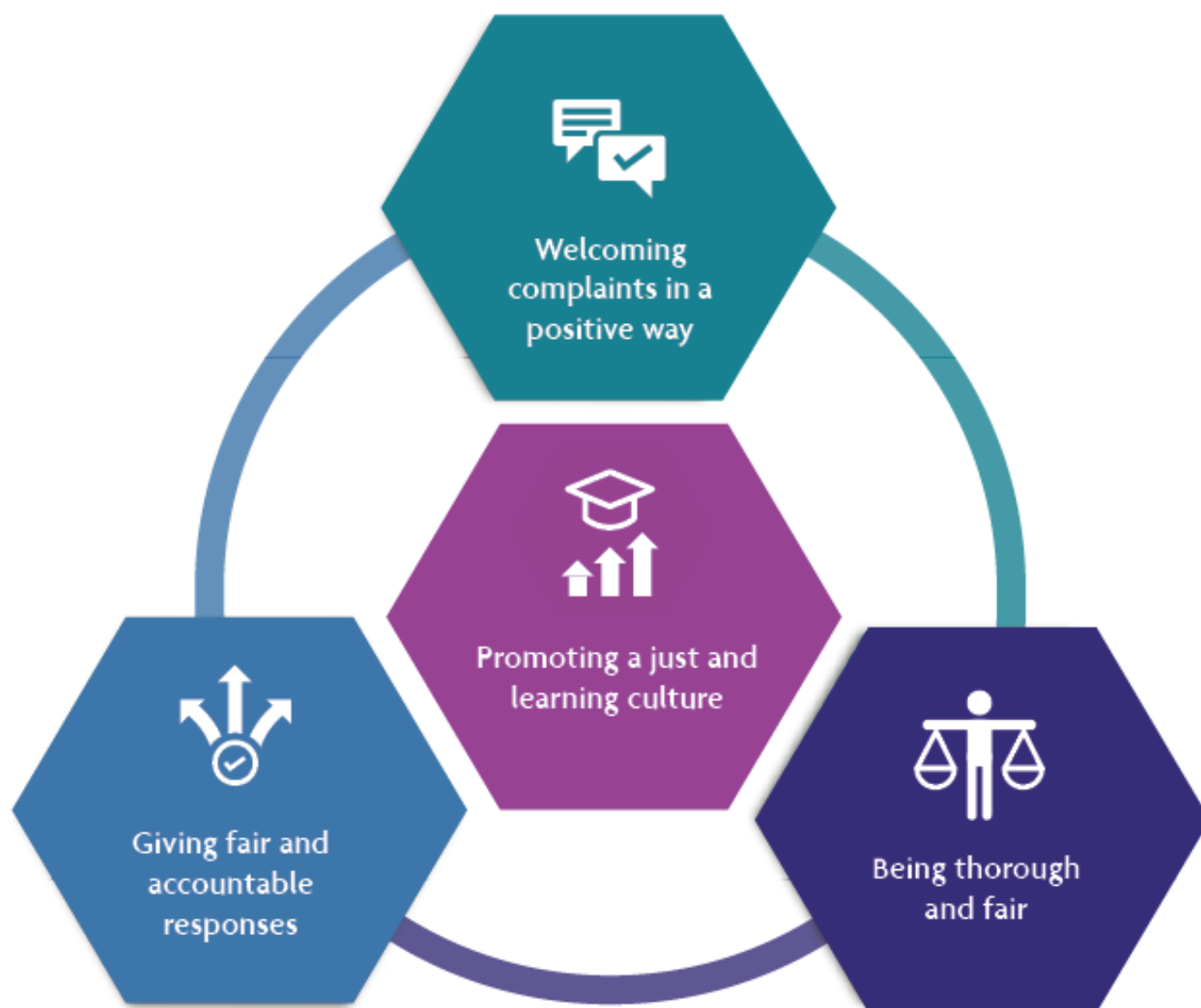
### **11.0 Investigation and Organisational Response**

The ICB will investigate a complaint in a manner appropriate to resolve it as efficiently as possible, proportionate to the seriousness of the complaint.

There are instances whereby a complaint is received regarding an individual provider. Where appropriate the complainant may be advised to make the complaint direct to the service provider. The ICB will support the individual to do this either in an advisory capacity or with the consent of the complainant will forward the complaint direct to the provider to investigate and respond direct to the complainant. In these circumstances the ICB will not undertake any form of investigation.

Where a complaint involves more than one organisation or service provider, the ICB will agree with the service providers which organisation should lead and coordinate the investigation. This should avoid duplication and enable a single response to be provided to the complainant. The organisation to which the majority of the complaint relates will normally act as the lead respondent. Consent will be sought from the complainant to share the detail of their complaint with each of the relevant providers.

### 11.1 Acknowledging complaints



For all other complaints, our staff will acknowledge them (either verbally or in writing/email) within three working days.

### 11.2 Processing a Complaint



Not every issue can be resolved quickly. This can be due to its complexity or seriousness. It can also be due to the issue being about a service we commission where we do not have direct access to relevant information and records, or the clinicians/staff involved. In cases that cannot be resolved quickly, we will take a closer look into the issues raised. This will always involve taking a detailed and fair review of the concerns to determine what happened and what should have happened.

We will make sure staff involved in carrying out a closer look are properly trained to do so. We will also make sure they have:

- the appropriate level of authority and autonomy to carry out a fair investigation
- the right resources, support and protected time in place to carry out the investigation, according to the complexity of each case.

Where possible, complaints will be looked at by someone not involved in the events complained about. If this is not possible, we will explain to the person making the complaint the reasons why it was assigned to that person. This should address any perceived conflict of interest.

## **12.0 Clarifying the complaint and explaining the process**

### **12.1 The Complaint Handler will:**

- engage with the person raising the complaint (by telephone) to make sure they fully understand and agree:
  - the key issues to be looked at
  - how the person has been affected
  - the outcomes they seek
- signpost the person to support and advice services, including independent advocacy services, at an early stage
- make sure that any staff members or service provider subject to a complaint are made aware at the earliest opportunity (see 'Support for staff' below)
- agree a suitable timescale for how long the investigation will take with the person raising the complaint, depending on:
  - the complexity of the complaint
  - the work that is likely to be involved including whether information will be required from a service provider
- keep the person (and any staff or provider subject to the complaint) regularly informed and engaged throughout
- explain how they will carry out the closer look into the complaint, including:
  - what evidence they will seek out and consider

- who they will speak to
- who will be responsible for the final response
- how the response will be communicated.
- explain where service is commissioned if they will need to contact the provider of the service to request information and obtain consent to do so.

## **12.2 The complainant can expect that:**

- They will be kept up to date.
- They will be provided with contact details for the duration of the investigation.
- Their complaint will be investigated and they will receive an honest explanation based on facts.
- Assurance that the matter has been investigated and action has been taken to prevent a recurrence.
- To be informed of any learning.
- A remedy will be made where appropriate and at the earliest opportunity.
- Where the complaint involves more than one NHS or social care body, the ICB discuss and agree the most appropriate body to take the lead in coordinating the complaint and communicating with the complainant.
- Permission will be sought from the complainant before sharing or forwarding a complaint to another body. Consent will need to be obtained to forward the complaint to another provider.

## **13.0 Carrying out the investigation**

Staff who carry out investigations will give a clear, balanced explanation of what happened and what should have happened. They will reference relevant standards, policies and guidance to clearly identify if something has gone wrong.

The Complaint Handler will make sure the investigation clearly addresses all the issues raised. This includes obtaining evidence from the person raising the complaint, from any staff member or service provider and any applicable records and policies from commissioned services involved in the investigation. If the complaint raises clinical issues the Complaint Handler will obtain a clinical view from someone who is suitably qualified. Ideally, they should not have been directly involved in commissioning or providing the care or service that has been complained about.

We will complete our investigation within the timescale set out at the start of the investigation. Should circumstances change we will:

- notify the person raising the complaint (and any other parties to the complaint) immediately
- explain the reasons for the delay
- provide a new target timescale for completion.

If we cannot conclude the investigation and issue a final response within 6 months (unless we have agreed a longer timescale with the person raising the complaint within the first 6 months) the Responsible Person or a Senior Manager will write to the person to explain the reasons for the delay and the likely timescale for completion. They will then maintain oversight of the case until it is completed and a final written response issued.

### **13.1 Providing a remedy**

If, following the investigation, the Complaint Handler identifies that something has gone wrong they will seek to establish what impact the failing has had on the individual concerned. Where possible they will put that right or ask the provider of the service complained about to put it right.

If it is not possible to put the matter right they will decide, in discussion with the individual concerned, relevant staff and the commissioned service provider, what action can be taken to remedy the impact.

### **13.2 The final written response**

As soon as practical after the investigation is finished, the Complaint Handler will co-ordinate a written response, signed by our Responsible Person (or their delegate). They will send this to the person raising the complaint and any other interested parties. The response will include:

- a reminder of the issues investigated and the outcome sought
- an explanation of how we investigated the complaint
- the relevant evidence we considered
- what the outcome is
- an explanation of whether or not something went wrong that sets out what happened compared to what should have happened, with reference to relevant standards, policies and guidance
- if something did go wrong, an explanation of the impact it had
- an explanation of how that impact will be remedied for the individual
- a meaningful apology for any failings
- an explanation of any wider learning we have acted on/will act on to improve our service for other users
- an explanation of how we will keep the person raising the complaint involved until all action has been carried out
- confirmation that we have reached the end of our complaint

procedure

- details of how to contact the Parliamentary and Health Service Ombudsman if the individual is not satisfied with our final response
- a reminder of where to obtain independent advice or advocacy.

### **13.3 Timescales for responding to complaints**

All complaints will be acknowledged no later than three working days.

The ICB will investigate and respond to complaints promptly avoiding any unnecessary delays. Exact timescales for providing a response will depend on the individual circumstances of the complaint and the complexity of the investigation.

Complaints will be investigated and responded to as quickly as possible and the ICB would like, wherever possible, to issue a response within 25 working days.

However, it is recognised that there will be instances where investigations require longer and when this is the case complainants will be notified and kept up to date with the ongoing investigation. In these complex cases, the ICB will aim to issue a response within 60 working days.

The complainant or their representative will be kept up to date on progress and the reasons for any delay in responding.

### **13.4 Support for staff**

We will make sure all staff who look at complaints have the appropriate: training, resources, support and protected time to respond to and investigate complaints effectively.

We will make sure staff being complained about are made aware and will give them advice on how they can get support from within our organisation, and external representation if required.

We will make sure staff and service providers who are complained about have the opportunity to give their views on the events and respond to emerging information. Our staff will act openly and transparently and with empathy when discussing these issues.

The Complaint Handler will keep any staff or service provider complained about updated. These staff and providers will also have an opportunity to see how their comments are used before the final response is issued.

## **14.0 Referrals to the Parliamentary and Health Service Ombudsman**

In our response on every complaint we will clearly inform the person raising the complaint that if they are not happy with the outcome of our investigation, they can take their complaint to the Parliamentary and Health Service

Ombudsman.

When informed that a complainant has approached the PHSO, the ICB will cooperate fully with the PHSO and provide all information that has been requested in relation with the complaint investigation. The relevant Director will be informed that a request for investigation has been made so that the staff involved can be informed.

If the complaint is about detention under the Mental Health Act, or a Community Treatment Order or Guardianship we will inform the person making the complaint that if they are not happy with the outcome, they can take their complaint to the Care Quality Commission.

## **15.0 Complaints involving multiple organisations**

If we receive a complaint that involves other organisation(s) (including cases that cover health and social care issues) we will make sure that we investigate in collaboration with those organisations. Complaint Handlers for each organisation will agree who will be the 'lead organisation' responsible for overseeing and coordinating consideration of the complaint.

The Complaint Handler for the lead organisation will be responsible for making sure the person who raised the complaint is kept involved and updated throughout. They will also make sure that the individual receives a single, joint response. For further information see guidance.

## **16.0 Complaints about a private provider of our NHS services**

This complaint handling procedure applies to all NHS Services we provide.

Where we commission the provision of NHS Services to a private provider we will ensure that they follow these same complaint handling procedures.

## **17.0 Record Retention**

Keeping clear and accurate records of complaints is important.

All documentation relating to the investigation will be stored securely in the case file. Members of staff named in the complaint (personally or by role) should be informed of the complaint, and fully supported by their relevant line manager. The investigation should be comprehensive, fair and timely, and should not apportion blame.

Complaints case files are retained for 10 years in line with the Records Management Code of Practice for Health and Social Care (2021)

## **18.0 Public Sector Equality Duty**

All policies should include a statement that NHS Humber and North Yorkshire aims to design and implement services, policies and measures that meet the

diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

It is required that a Equality Impact Assessment (QEIA) is carried out on a new policy that is likely to impact on patients, carers, communities or staff. The QEIA toolkit is attached at Appendix A/can be found at (and insert link).

Potential adverse impact on any protected group identified through the QEIA will be monitored as part of the routine work to monitor compliance with the policy.

## **19.0 Consultation**

- Consultation is not required as complaints are regulated by The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 <http://dh.gov.uk>

## **20.0 Training**

This policy will be published on the ICB's website.

All staff dealing with complaints will be given training for implementation of this policy. A training needs analysis will be undertaken within the ICB to identify staff affected by this document. Based on the findings of that analysis appropriate training will be provided to staff as required.

The policy will be brought to the attention of all new employees as part of the induction process.

Where staff are the subject of a complaint from a member of the public/patient, the ICB will ensure that support is available for staff through line management structures, Human Resources Services, Occupational Health Services and where staff are members of a trade union/organisation, Staff Side organisational support.

Support is available to staff from:

- Line manager
- Director
- Peer support
- Occupational health
- Professional bodies

## **21.0 Monitoring Compliance with the Document**

The ICB will demonstrate positive use and feedback of complaints to learn and improve by monitoring both the effectiveness of the complaints process, and how complaints information is being used to improve services and delivery of care.

Our Senior Managers take an active interest and involvement in all sources of feedback and complaints, identifying what insight and learning will help improve our services and the services we commission for other users.

- We maintain a record of:
- each complaint we receive
- the subject matter and outcome
- whether we sent our final written response to the person who raised the complaint within the timescale agreed at the beginning of our investigation.

All information from patient complaints is collated and recorded onto a database and reviewed in conjunction with feedback and insight from other sources. This information is reported to the ICB Committee who will monitor the service delivery and provide assurance to the Integrated Care Board.

Complaint information will be proactively considered as part of all service redesign projects to ensure patient feedback is routinely used to improve services and inform commissioning intentions.

The ICB will:

- Disseminate learning from complaints and concerns across the relevant parts of the organisation.
- Include the use of complaints procedures as a measure of performance and quality.
- Use complaints and concerns information to contribute to practice development, commissioning and service planning.

As a minimum of two reports per year will be produced to the ICB and as requested at Place. An annual report will be produced and presented to the Integrated Care Board which will detail as a minimum:

- Numbers of complaints received.
- Numbers of complaints received considered to be upheld (based on solid evidence or good reasons).
- Issues and key themes that the complaints have raised.
- Lessons learnt.
- Actions taken, or being taken, to improve services as a result of the complaints made.
- Compliance with the organisational performance targets within this policy.
- Number of cases which the ICB has been advised are being considered or referred to the Parliamentary and Health Service Ombudsman.

We monitor all feedback and complaints over time, looking for trends and

risks that may need to be addressed.

In keeping with the Regulations section 18, as soon as practical after the end of the financial year, we will produce and publish a report on our complaints handling. This will include how complaints have led to a change and improvement in our services, policies or procedures.

## **22.0 Arrangements for Review**

The policy will undergo a full review every four years. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation/guidance, as instructed by the senior manager responsible for this policy.

The ICB Quality Committee will be responsible for the review.

## **23.0 Dissemination**

Notification of this document will be included in the all staff email bulletin and staff briefings.

The policy will be published on the ICB website and webpages will summarise to the general public how to make a complaint.

## **24.0 Associated Documentation**

- The NHS Constitution (revised 2015)
- ICB Confidentiality: Code of Conduct Policy
- ICB Data Protection and Confidentiality Policy
- ICB Serious Incident, Incident and Concerns Policy
- ICB Safeguarding Adults and Children Policies
- ICB Whistleblowing Policy
- ICB Risk Management Strategy

## **25.0 References**

- Caldicott Report 1997
- Equality Act 2010
- Freedom of Information Act 2000
- Human Rights Act 1998
- Listening, Responding and Improving – A Guide to Better Customer Care(2009) <http://dh.gov.uk>
- Principles of good administration. Parliamentary and Health Service Ombudsman (2009) <http://www.ombudsman.org>



- Principles of good complaints handling. Parliamentary and Health Service Ombudsman (2008) <http://www.ombudsman.org>
- Principles for remedy. Parliamentary and Health Service Ombudsman (2007) <http://www.ombudsman.org>
- Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry (2013)
- Superannuation Act 1972
- The General Data Protection Regulation (2018)
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 <http://dh.gov.uk>
- NHS England Complaints Policy <http://www.england.nhs.uk/wp-content/uploads/2013/11/Interim-complaints-policy.pdf>
- Parliamentary and Health Service Ombudsman NHS Complaint Standards <https://www.ombudsman.org.uk/complaint-standards>

## **26.0 Appendices**

- Appendix A – Key Contact Details
- Appendix B – Roles and Responsibilities
- Appendix C – Persistent & unreasonable contacters
- Appendix D – Equality Impact Assessment

## 27.0 Appendix A – Key Contact Details

**The ICB aims to resolve complaints quickly and as close to the source of the complaint as possible and should be made to the NHS organisation who provided the service.**

Complaints may be made initially to the commissioner of services to determine and agree the most appropriate way of resolution / investigation or direct with the provider. If the complaint is unclear who to make a complaint to regarding a specific service, the Patient Relations team at the ICB will be able to advise.

Providers of NHS services are required to ensure contact details of their Patient Relations Team (or equivalent) are accessible to their service users.

## 28.0 Appendix B - Roles and responsibilities

The roles and responsibilities of staff within our organisation, when dealing with complaints, are set out below. Regulations 4(2) and 4(3) of the 2009 Regulations allow us to delegate any complaints handling function to relevant staff where appropriate.

Role	Responsibility
Responsible Person	<p>The Responsible Person at the ICB is the Chief Executive and has overall responsibility for making sure we:</p> <ul style="list-style-type: none"><li>• comply with the 2009 and 2014 Regulations</li><li>• comply with the NHS Complaint Standards and this procedure</li><li>• take any necessary remedial action.</li></ul> <p>They are also responsible for:</p> <ul style="list-style-type: none"><li>• reporting externally on how we learn from complaints</li><li>• signing the final written response to the complaint (unless delegated to an authorised person).</li></ul>
Executive Directors	<p>The Executive Director of Corporate Affairs has delegated responsibility for the management of complaints and the Executive Director of Nursing and Quality has delegated responsibility for reviewing complaints and their responses to ensure quality of service delivery.</p>
Senior Nurse at Place and/or Place Director	<p>Has responsibility for the reviewing and approval of final responses prior to issue.</p>
Senior Managers	<p>Senior Managers are responsible for:</p> <ul style="list-style-type: none"><li>• overseeing complaints and the way we learn from them</li><li>• overseeing the implementation of actions required as a result of a complaint, to prevent failings occurring again</li><li>• contributing to the investigation of complaints</li><li>• deputising for the Responsible Person, if authorised.</li></ul> <p>Senior Managers retain ownership and accountability for the management and reporting of complaints. They are responsible for preparing, quality assuring or signing the final written response. They should therefore be satisfied that the investigation has been</p>

	<p>carried out in accordance with this procedure and guidance, and that the response addresses all aspects of the complaint.</p> <p>Senior Managers will review the information gathered from complaints regularly (at least quarterly) and consider how services could be improved or internal policies and procedures updated. They will report on the outcomes of these reviews via the organisation's governance structure.</p> <p>Senior Managers are also responsible for ensuring that complaints are central to the overall governance of the organisation. They will make sure that staff are supported both when handling complaints and when they may be the subject of a complaint.</p>
Complaints Manager	<p>The Complaints Manager is responsible for the overall management of the procedures for handling and considering complaints.</p> <p>The Complaints Manager, in conjunction with other senior manager(s) acting on his or her behalf (as above), will be involved in a review of the quarterly reports. They will use this review to identify areas of concern, agree remedial action and improve services.</p> <p>In larger organisations the Complaints Manager may also be responsible for the management and oversight of a complaints team.</p> <p>The Complaints Manager may also act as a Complaint Handler and Complaint Lead.</p>
Complaint Handler	<p>The Complaint Handler is the person allocated to oversee and co-ordinate the investigation of the complaint and for the response to a complaint which has not been resolved at Early resolution (stage 1).</p> <p>They are responsible for making sure that there is a closer look into the issues raised, with the support and input of others. They will make sure that the information and responses they receive from the person making the complaint, and from staff being complained about, clearly addresses all of the issues raised.</p> <p>The Complaint Handler will be trained in investigative techniques. Where possible they will also be trained in advanced dispute resolution skills. This will enable them to seek a mediated resolution to the concern or complaint at any time during the investigation of the issues.</p>

	The Complaint Handler may also act as a Complaint Lead and may also delegate their responsibilities as set out in this procedure to the Complaint Lead.
Complaint Lead	<p>As appropriate and when required, the Complaint Handler will call for the input of a designated Complaint Lead(s) with knowledge of the care or services complained about. The Complaint Lead will carry out an investigation, as set out in this procedure, and provide the Complaint Handler with:</p> <ul style="list-style-type: none"> <li>• an objective account of what happened</li> <li>• an explanation if something has gone wrong</li> <li>• details of any action already taken or planned to resolve the matter.</li> </ul>
All staff	<p>We expect all staff to proactively respond to service users and their representatives and support them to deal with any complaints raised at the 'first point of contact'. We will provide training so they can do this.</p> <p>We expect all of our staff who have contact with patients, service users, or those that support them, to deal with complaints in a sensitive and empathetic way. This includes making sure that people are aware of our local independent advocacy provider and/or national sources of support and advice.</p> <p>We expect all staff to listen, provide an answer to the issues quickly, and capture and act on any learning identified.</p>

## **29. APPENDIX C: GUIDANCE FOR DEALING WITH PERSISTENT AND UNREASONABLE CONTACTERS/COMPLAINANTS**

### **Introduction**

- This guidance covers all contacts, enquiries and complainants. It is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint.  
Persistent complainants may have genuine issues and it is therefore important to ensure that this process is fair and the complainant's interests have been taken into consideration.

### **Purpose of guidance**

- To assist staff to identify when a person is persistent or unreasonable, setting out the action to be taken.

### **Definition of persistent and unreasonable complainants/contactors**

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

- Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted
- Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff, and where appropriate, the relevant advocacy services who could assist to help them specify their complaint
- Continually make unreasonable or excessive demands in terms of process and fail to accept that these may be unreasonable e.g. insist on responses to complaints being provided more urgently than is reasonable or is recognised practice
- Continue to focus on a 'trivial' matter to an extent that it is out of proportion to its significance. It is recognised that defining 'trivial' is subjective and careful judgment must be applied and recorded
- Change the substance of a complaint or seek to prolong contact by continually raising further issues in relation to the original complaint. Care must be taken not to discard new issues that are significantly different from the original issue. Each issue of concern may need to be addressed separately
- Consume a disproportionate amount of time and resources
- Threaten or use verbal, written or physical abuse towards staff
- Have harassed or been personally abusive or verbally aggressive on more than one occasion (this may include written abuse e.g. emails)
- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual
- Make excessive telephone calls or send excessive numbers of emails or letters to staff

### **Actions prior to designating a complainant as unreasonable or persistent**

It is important to ensure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of considerations

to bear in mind when considering imposing restrictions upon a complainant. These may include:

- Ensuring the complainant's case is being, or has been dealt with appropriately, and that reasonable actions will follow, or have followed, the final response
- Confidence that the complainant has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent
- Checking that new or significant concerns are not being raised, that require consideration as a separate case
- Applying criteria with care, fairness and due consideration for the client's circumstances bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss or significant/sudden changes to the complainant's lifestyle, quality of life or life expectancy
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour, and the impact upon staff
- Ensuring that the complainant has been advised of the existence of the policy and has been warned about, and given a chance to amend their behaviour
- Consideration should also be given as to whether any further action can be taken prior to designating the complainant unreasonable or persistent.

This might include:

- Raising the issue with a director with no previous involvement, in order to give an independent view
- Where no meeting with staff has been held, consider offering this at a local level as a means to dispel misunderstandings (only appropriate where risks have been assessed)
- Where multiple departments are being contacted by the complainant, consider a strategy to agree a cross-departmental approach
- Consider whether the assistance of an advocate may be helpful
- Consider the use of ground rules for continuing contact with the complainant.

Ground rules may include:

- Time limits on telephone conversations and contacts
- Restricting the number of calls that will be taken or agreeing a timetable for contacting the service
- Requiring contact to be made with a named member of staff and agreeing when this should be
- Requiring contact via a third party e.g. advocate
- Limiting the complainant to one mode of contact
- Informing the complainant of a reasonable timescale to respond to correspondence
- Informing the complainant that future correspondence will be read and placed on file, but not acknowledged
- Advising that the organisation does not deal with calls or correspondence that is abusive, threatening or contains allegations that lack substantive

evidence. Request that the complainant provides an acceptable version of the correspondence or make contact with a third party to continue communication with the organisation

- Ask the complainant to enter into an agreement about their conduct
- Advise that irrelevant documentation will be returned in the first instance and (in extreme cases) in future may be destroyed
- Adopting a 'zero tolerance' policy. This could include a standard communication line, for example: "The NHS operates a zero tolerance policy, and safety of staff is paramount at all times. Staff have a right to care for others without fear of being attacked either physically or verbally"

### **Process for managing unreasonable or persistent behaviour**

Where a complainant has been identified as unreasonable or persistent, the decision to declare them as such is made by the Place Senior Nurse or Place Director and Legal Services Manager. The complainant will be informed that:

- Their complaint is being investigated and a response will be prepared and issued as soon as possible within the timescales agreed
- That repeated calls regarding the complaint in question are not acceptable and will be terminated, or;
- Their complaint has been responded to as fully as possible and there is nothing to be added
- That any further correspondence will not be acknowledged

All appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation.

If the declared complainant raises any new issues then they should be dealt with in the usual way.

Review of the persistent status should take place annually.

### **Urgent or extreme cases of unreasonable or persistent behaviour**

- In urgent or extreme cases, adopt safeguarding and zero tolerance policies and procedures. Discuss the case with the Place Senior Nurse/Place Director and Legal Services Manager to develop an action plan that may include the use of emergency services in some circumstances. In these circumstances, carry out a review of the case at the first opportunity after the event.

### **Record keeping**

Ensure that adequate records are kept of all contact with unreasonable and persistent complainants.

Consideration should be given as to whether the organisation should take further action, such as reporting the matter to the police, taking legal action, or using the risk management or health and safety procedures to follow up such an event in respect of the impact upon staff.



## Appendix D Equality Impact Assessment

[Link to guidance](#)

Area*	Positive Impact	Neutral Impact	Negative Impact
Socio-economic deprivation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ethnicity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marital status	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Carers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any other groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Compliance with Human Rights Act	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Opportunity/Consequence Rating	Consequence	Likelihood	Total Score
Socio-economic deprivation positive rating			0
Socio-economic deprivation negative rating			0
Age positive rating	1	1	1
Age negative rating			0
Disability positive rating	1	1	1
Disability negative rating			0
Pregnancy and maternity positive rating			0
Pregnancy and maternity negative rating			0
Ethnicity positive rating			0
Ethnicity negative rating			0
Religion or belief positive rating			0
Religion or belief negative rating			0
Sex positive rating			0
Sex negative rating			0
Sexual orientation positive rating			0
Sexual orientation negative rating			0
Marital status positive rating			0
Marital status negative rating			0
Gender reassignment positive rating			0
Gender reassignment negative rating			0
Carers positive rating	1	1	1
Carers negative rating			0
Any other groups positive rating			0
Any other groups negative rating			0

[\\*See Impact Matrix tab for guidance](#)

Description of positive impacts (must include rationale and be evidence based)	How will these impacts be monitored
Multiple methods of contact (face to face, email, in writing, by phone) which increase accessibility, in particular for those with limited computer literacy or disabilities such as visual impairment. Remote (ie not face to face) methods are important for carers who are unable to leave the person they are caring for.	All information in relation to this policy is available in alternative languages and formats on request. Contacts are dealt with as individuals via their preferred method. Adjustments are made on an individual basis.

Description of negative impacts	Mitigating actions of negative impacts	How will this action be monitored	How often will this action be reviewed	Lead
None				