



Cheshire and Merseyside

Complaints, Compliments, Patient Advice & Liaison Service (PALS) Policy

Listening, Responding, Improving

Version Control

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Contact for Further Information:	Patient Experience Team: enquiries@cheshireandmerseyside.nhs.uk
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Contents

1.	Introduction.....	4
2.	Purpose and Principles.....	5
3.	NHS Cheshire & Merseyside ICB obligations.....	6
4.	What is a complaint.....	7
5.	Investigation and time limits for response.....	7
6.	Exceptions.....	8
7.	How do I make a complaint.....	9
8.	Advocacy.....	10
9.	Who can complain.....	11
10	Consent.....	12
11	Handling complaints.....	13
12	Appeals process.....	14
13	Learning from complaints.....	14
14	Service improvements and clinical governance.....	15
15	Health Service Ombudsman.....	15
16	Duty of Candour.....	15
17	Persistent behaviour.....	16
18	Withdrawing persistent status.....	19
19	Patient Advice Liaison Service.....	19
20	Possible claims for negligence.....	20
21	Redress and ex-gratia payments	21
22	Appendix 1 – PALS and Complaints Process Flow	22

1. Introduction

- 1.1 NHS Cheshire and Merseyside Integrated Care Board (ICB) recognises the importance of listening, responding, and improving, because of concerns raised by patients and service users. The information obtained from complaints and compliments is used to help improve and develop services, whilst recognising and acknowledging good practice. Patients and service users are encouraged to express complaints, concerns, and views, both positive and negative, about the treatment and services they receive, in the knowledge that:
- They will be taken seriously.
 - They will receive a speedy and effective response by a member of staff who is appropriately qualified and trained to respond.
 - Appropriate action will be taken.
 - Lessons will be learned and disseminated to staff accordingly.
 - There will be no adverse effects on their care or that of their families.
- 1.2 This policy sets out the process for complaints management and the standards that complainants and service users can expect. It also explains how complaints will be reviewed, monitored and how lessons learned will be implemented and improve services as a result. The policy aims to provide a fair and effective procedure for the management of complaints and ensure that complainants not only feel fully engaged in the process but are actively involved in matters which relate to the care they have received and in the on-going complaints learning cycle.
- 1.3 Ensuring good practice in the handling of complaints is one way in which the ICB can help to improve quality for their patients. Monitoring trends and patterns in complaints and concerns highlighted by patients about commissioned services, facilitates early detection of systemic problems. The learning from complaints helps the ICB and our commissioned providers to continually improve the services they provide. Complaints are essential in identifying the users' perspective of the services provided and can act as an early indicator of a system issue, or a quality and safety issue which may be putting patients at risk. Appropriate trend analysis and triangulation of other factors such as reported incidents and patient experience surveys, combined with complaints, concerns and enquiries provide a valuable and powerful insight into health care areas which may require improvements to be made.
- 1.4 We also welcome insight into patient experiences which have been well received and may be seen as good practice or exceptional. This informs the ICB of clinical or operational practice which can be shared with other areas of the healthcare community, to drive up quality of care.
- 1.5 The ICB monitors public involvement activity across partner organisations - primarily via contract and quality schedules which ensure statutory duties are met. We also

work closely with partner organisations on joint patient and public involvement work, including formal public consultations.

2. Purpose and Principles

- 2.1 This policy sets out the framework that the ICB will follow when addressing concerns, feedback, or complaints made by people registered with an ICB GP Practice (or their nominated representatives).
- 2.2 The policy incorporates the requirements of the [Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#) (hereon ‘the regulations’) and the rights of patients and service users set out in [The NHS Constitution](#)
- 2.3 The policy will ensure that the complaints service provided by the ICB, observes NHS England’s [Assurance of Good Complaints Handling for Acute and Community Care – A toolkit for Commissioners](#) and applies the Health Service Ombudsman (HSO) [Principles of Good Complaints Handling](#) by:

Getting it right – by ensuring compliance with the law, statutory powers and duties, and the ICB’s own policies and procedures; acting reasonably and fairly in making decisions; commissioning quality and effective services through competent, trained staff, and where things go wrong handling and investigating complaints well and taking steps to remedy any injustice and hardship suffered and avoid any recurrence.

Be customer focused – by commissioning accessible services; providing clear and understandable information about services and customers’ entitlements; doing what we say or if we can’t explain why; behaving helpfully; being sensitive to individual needs and flexible in response to circumstances, coordinating with other public authorities and providers; and promptly identifying and acknowledging failures or poor service and apologising.

Being open and accountable – by handling information as openly as the law allows while respecting the privacy of personal and confidential information; providing clear, accurate, complete, relevant, and timely information and advice; being open and truthful about the reasons for its decisions and actions; maintaining reliable and useable records; and taking responsibility for the actions of its staff and others acting on its behalf.

Acting fairly and proportionately – by listening to its customers; treating people equally, impartially, fairly and consistently; managing conflicts of interest appropriately to avoid prejudicing decisions or actions; ensuring any penalties or remedies applied are fair, reasonable and proportionate in handling complaints. Ensuring that complainants are not discriminated against in relation to any ongoing services and that staff as well as customers are treated fairly in the process.

Putting things right – when mistakes happen by acknowledging them, apologising, explaining what went wrong, and putting things right quickly and effectively. Where possible, putting things back to the position they would have been in if nothing had gone wrong.

Seeking continuous improvement – by reviewing policies and procedures regularly; seeking and using feedback to improve delivery and performance; capturing and reviewing the lessons learned from complaints to develop services; and reporting on complaints handling performance and its outcomes.

- 2.4 The regulations, NHS England guidance and HSO principles all place emphasis on putting the patient at the heart of the handling of their complaint to ensure an inclusive investigative process which is conducted fairly and effectively and is outcomes driven.
- 2.5 The ICB embraces the HSO, Local Government Ombudsman and Healthwatch vision for complaints handling entitled [My Expectations](#) .

3. NHS Cheshire and Merseyside Integrated Care Board Obligations and Responsibilities

- 3.1 The NHS complaints procedure provides for complaints to initially be managed at the source of the complaint. The ICB has a Patient Experience Team designated to manage complaints. Any complainant who remains dissatisfied with the outcome of the investigation at local level has the right to request a review, and if they are still not satisfied, an investigation by the HSO.

The responsibility of the ICB in handling complaints is to:

- Investigate complaints raised against the ICB itself and the services it provides or commissions.
 - Support and advise ICB staff and complainants as appropriate, in dealing with the issue raised.
 - Identify and address any issues, advising complainants of the actions being taken as part of the formal process and that the ICB and/or its commissioned providers learn any appropriate lessons.
- 3.2 The Chief Executive is the designated 'Responsible Person' for the purposes of ensuring compliance with the Local Authority Social Services and NHS (England) Complaints Regulations 2009. They are, therefore, responsible for ensuring there is an effective system for the management, investigation and resolution of complaints/concerns and requests for advice within the organisation, and for ensuring that the ICB complies with the relevant regulations. In addition, they have responsibility for ensuring that the ICB utilises information relating to, and gathered from, complaints/concerns and requests for advice to improve services, to inform

the commissioning process, and to assure itself that the services commissioned are safe and of the quality expected.

- 3.3 The Assistant Chief Executive has responsibility for preparing and keeping under review the arrangements for handling complaints, which includes the production of the Complaints Policy.
- 3.4 Any changes to the policy require the approval of the ICB Quality and Performance Committee.
- 3.5 The Senior Patient Experience Manager is the lead for the day-to-day management of complaints.

4. What is a complaint?

- 4.1 One definition of a complaint is “*an expression of dissatisfaction that requires a response*”. Clearly this is an open definition, and it is not intended that every minor concern should warrant a full-scale complaints investigation. However, the ICB should always ask the person how they would like their concern dealt with, whether informally through the Patient Advice and Liaison Service (PALS), or formally using the complaints policy.
- 4.2 The spirit of this complaints policy is to have a user led system for raising concerns and complaints. The ICB wants to set out what good outcomes look like from the point of view of the person who has made a complaint.
- 4.3 All issues will be dealt with in a flexible manner, which is appropriate to their nature. Sometimes a complaint can be resolved quickly to the complainant’s satisfaction. Whenever there is a specific statement of intent on the part of the person that they wish their concerns to be dealt with as a complaint, they will be treated as such. Anybody who is dissatisfied with the initial response to a matter which has been dealt with as a problem-solving issue will be advised of their right to pursue the matter further through the appeals procedure.

5. Investigation and Time Limits for Response

- 5.1 The ICB aims to resolve all complaints within 55 working days, following receipt of consent. See Appendix 1 – PALS and Complaints Process Flow for further details.
- 5.2 Where the nature of the complaint relates to an ICB commissioned provider, the Patient Experience Team will discuss the points of concern with the most appropriate ICB Programme Team / Quality Lead. This will ensure that ICB commissioning managers are made fully aware of the concerns being received about the services which they have commissioned.
- 5.3 Upon receipt of patient consent, the Patient Experience Team shares the details of the complaint with the commissioned provider for an investigation to commence.

Following receipt of the provider investigation response, the Patient Experience Team shares the outcomes and any lessons learned with the ICB Quality Team/ Programme Team, as part of the quality assurance process.

- 5.4 For complaints which relate to in-house ICB services (e.g., Continuing Healthcare), these will be investigated directly by the ICB service concerned and quality assured with the Director of the service.
- 5.5 If NHS Cheshire and Merseyside has not provided a response within six months, we will write to the complainant to explain the reasons for the delay and outline when they can expect to receive the response. At the same time, we will notify the complainant of their right to approach the HSO without waiting for local resolution to be completed. This timescale may be subject to variation, dependent upon the complexity of the complaint investigation and if the focus of the complaint is within the direct provision of the ICB or concerns a third party (i.e., a commissioned provider).
- 5.6 The response should include a full explanation of the issues and findings, details of any actions taken to prevent a recurrence of the incident and information about the ICB appeals process. Details regarding the rights of the complainant to further their case with the HSO will also be included.
- 5.7 Where multiple commissioners of services are involved in a complaint, we will ensure there is agreement on which commissioning organisation leads the investigation.
- 5.8 Following investigation, all complaint responses are quality assured by the most appropriate ICB Director or Programme Lead and Assistant Chief Executive, before being signed by the ICB Chief Executive.

6. Exceptions

- 6.1 The following are excluded from the scope of this policy:
 - Complaints and grievances raised by members of ICB staff, relating to their contract of employment.
 - Complaints by third party organisations about contracts arranged by the respective ICB under its commissioning arrangements.
 - Complaints which have previously been investigated under these or previous regulations and where no significant additional information is supplied.
 - A complaint which is being or has been investigated by the Health Service Ombudsman.
 - Investigations and enquiries arising out of an ICB's alleged failure to comply with a data subject access request under the General Data Protection Regulations

and Data Protection Act 2018, or a request for information under the Freedom of Information Act 2000.

- Complaints about privately funded health care treatment.
- A case where an out of court settlement has previously been received.
- An NHS Continuing Healthcare appeal.
- Any allegations of fraud, bribery or financial misconduct raised via the complaints process will be forwarded on to the ICB Counter-Fraud Specialist for consideration.

6.2 Where a complaint (verbal or written) raises concerns, suspicions or allegations of abuse or neglect of children or adults, it will immediately be brought to the attention of the ICB's Executive Director of Nursing and Care, who will then determine the most appropriate course of action, including:

- Whether the concerns should be reported through formal external safeguarding processes;
- If Police involvement is necessary;
- Communication of any referral made to the patient/family/NHS Trust, healthcare provider or staff as appropriate, and;
- Next steps in terms of an investigation. This may require advice from multiple internal and external stakeholders.

6.3 In some cases safeguarding processes may take precedent over the complaints process. Where safeguarding processes are invoked and this impacts on the timing of the complaint response, re-negotiation regarding timescales may be necessary to allow for the completion of the safeguarding investigation first. In all cases an agreement will be reached with the individual parties involved as to what process will provide the material response, or what elements of the complaint can/will be answered outside of the safeguarding process.

7. How do I make a complaint to the ICB?

7.1 The ICB has a dedicated Patient Experience Team who will handle your complaint. If you would like to submit a formal complaint, then the service can be reached via the contact points on the ICB website at:

<https://www.cheshireandmerseyside.nhs.uk/contact/complaints/>

You can also write to:

NHS Cheshire and Merseyside
No 1 Lakeside,
920 Centre Park,
Warrington
WA1 1QY

7.2 Complaints can be received via post, email, or telephone. Verbal complaints will be transcribed as a record by a member of our Patient Experience Team. The record will then be sent to the complainant with an acknowledgement and an invitation to confirm that it is an accurate representation of the complaint. The complainant and/or their representative will be asked to review and return it to the Patient Experience Team. Upon receipt of the signed agreed statement, the Patient Experience Team will begin the investigation.

8. Advocacy

8.1 The ICB supports the use of independent help within the complaint procedure and any complainant wishing to access independent advocacy will be provided with information on how to obtain one. The Independent NHS Complaints Advocacy Services across Cheshire and Merseyside can be contacted as follows:

Area	Address	Tel	Email
Cheshire East / West	Healthwatch Cheshire CIC Sension House, Denton Drive Northwich, Cheshire CW9 7LU	0300 323 0006	info@icascheshire.org
Halton	Halton Advocacy Hub Suite 5, Foundry House, Widnes Business Park Waterside Lane, Widnes WA8 8GT	0151 347 8183	advocacy@weareecs.co.uk
Knowsley	Advocacy Together Hub Prescot House 3 High Street Prescot L34 3LD	0151 426 3174	knowsley-advocacy@together-uk.org
Liverpool	Liverpool Advocacy Hub Head Office: Unit 1, Edward VII Quay Navigation Way Preston PR2 2YF	0300 3030 629	referral@liverpooladvocacyhub.org.uk
Sefton	Sefton Council for Voluntary Service (CVS) 3rd Floor, Suite 3B North Wing Burlington House Crosby Road North Waterloo L22 0LG	<u>0800 206</u> <u>1304</u>	info@healthwatchsefton.co.uk

St. Helens	2nd Floor, Beacon Building, College Street, St Helens W 1TF	0300 111 0007	info@healthwatchsthelens.co.uk
Wirral	Healthwatch Wirral, Liscard Business Centre, The Old School, 188 Liscard Road, Liscard, CH44 5TN	0151 230 8957	info@healthwatchwirral.co.uk
Warrington	Healthwatch Warrington Advocacy Service The Gateway, 85-101 Sankey Street Warrington WA1 1SR	0151 347 8183	advocacy@weareecs.co.uk

9. Who Can Complain?

9.1 In general terms, a complaint can be made by:

- Anyone who is receiving, or has received, NHS treatment or services commissioned or provided by the ICB.
- Anyone who is affected by or likely to be affected by an action, omission, or decision of the ICB.

9.2 If a person is unable to make a complaint, then someone can act on their behalf. A representative may make a complaint on behalf of an eligible person who is not able to make the complaint themselves. This includes where the person:

- Is deceased.
- Is unable by reason of physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005.
- Has requested the representative to act on his or her behalf and provided written consent.
- Is a child *.

*Note

A person with parental responsibility can make a complaint on behalf of a child if you judge that the child does not have sufficient understanding of what is involved. You do not need the child's consent in these circumstances (or the consent of the other parent/guardian).

It is good practice, if you can, to explain the process to the child in a way that they can understand. This includes telling them that information from their health records may need to be shared with the people looking into the complaint.

If the child has sufficient maturity and understanding they can either, make the complaint themselves or consent to a representative making the complaint on their behalf.

Gillick competency applies mainly to medical advice, but it is also used by practitioners in other settings. Medical professionals need to consider Gillick competency if a young person under the age of 16 wishes to raise a complaint without their parents' or carers' consent or, in some cases, knowledge.

9.3 Where the representative makes a complaint on behalf of a child, the ICB:

- Must not consider the complaint unless it is satisfied that there are reasonable grounds for the complaint being made by the representative instead of the child: and
- If it is not satisfied, must notify the representative in writing, and state the reason for its decision.

9.4 Deciding who can complain can often be a complex issue. In the event of any uncertainty, then contact should be made with the Patient Experience Team for clarification and advice.

9.5 Normally a complaint should be made within twelve months from the date the incident occurred, or within twelve months of the date of discovering the problem. There is discretion for the Patient Experience Team to extend this time limit where it would be unreasonable in the circumstances of a particular case for the complaint to have been made earlier, and where it is still possible to investigate the facts of the case effectively. Where it is decided not to investigate, the complainant will have the opportunity to approach the HSO.

10. Consent

10.1 In order for a complaint to be taken further, the ICB requires consent from the patient, or a person authorised to act on their behalf. The reason for this request is to comply with the General Data Protection Regulation 2018 (GDPR) and Data Protection Act 2018, together with NHS patient confidentiality guidelines. The main purposes of these Acts and guidance are to respect and protect the individual's rights and ensure that any information about the person concerned is not disclosed without their consent.

10.2 Care will be always taken throughout the complaints process to ensure that any information disclosed about the patient is confined to that which is relevant to the

investigation of the complaint, and only disclosed to those people who have a demonstrable need to know it for the purpose of investigating the complaint. The investigation will begin when written consent is received either from the patient or designated third party.

- 10.3 To allow the ICB to investigate a complaint, in most cases personal information of the patient will be required. ICBs have statutory duties (Section 6 of the Local Authority Social Services and National Health Service Complaints [England] Regulations (2009) (under section 113 “Complaints about Healthcare” of the Health and Social Care (Community Health and Standards) Act 2003) which allow the processing of personal data in relation to complaints.

The ICB will generally collect/receive information when members of the public, their representatives, or Members of Parliament, contact us with concerns or enquiries. To enable us to process a complaint, the ICB will collect the relevant information at the point of contact to enable the team to provide a sufficient response to the request.

Information which may be sought in relation to investigating a complaint include the following categories of personal data:

- Patient’s name
- Patient’s address
- Patient’s contact number
- GP Surgery
- Patient’s NHS number
- Patient’s date of birth
- Representative details (if applicable)
- Representative address (if applicable)
- The nature of the complaint
- Physical or mental health details (special category data)
- Racial and ethnic origin (special category data)
- Sexual orientation (special category data)

11. Handling Complaints

- 11.1 All complaints received are logged and acknowledged within three working days of receipt. The Patient Experience Team will take reasonable steps to contact the complainant prior to an investigation to discuss how the complaint will be handled; clarify what the complaint is; what outcome the complainant expects; and the timescales involved.
- 11.2 Our intention is that complaints are dealt with flexibly; with the aim of achieving the desired outcome if that is possible, as early as possible. A meeting can be offered as part of the resolution process, and the Patient Experience Team can arrange dispute resolution to aid this process if needed.

12. Appeals Process

- 12.1 Should a complainant remain dissatisfied following receipt of the ICB response, they have a right of appeal. In this instance, we would ask that the appeal is submitted in writing to the ICB within 1 calendar month of receipt of the ICB response.
- 12.2 The appeal should clearly state the nature of the complainant's dissatisfaction with the ICB response and what outcome is being sought. The appeal gives the ICB an opportunity to consider the further points made by the complainant with the aim of achieving local resolution. Where appropriate, a different ICB investigating officer (from the original investigation) may carry out a re-investigation of all or part of the case, and/or seek assistance from a Director/Associate Director who was independent from the original investigation. The investigating officer will consider the robustness of the first investigation and if any points raised by the complainant have not been addressed. Where this is the case, the investigating officer may confirm to the Director/Associate Director that a partial or full re-investigation is necessary.
- 12.3 In cases where the investigating officer requires a second opinion, they may approach the appropriate Director/Associate Director for their view. Following investigation, should the investigating officer, Director/Associate Director uphold the original response, a letter with the outcome of this review will be sent to the Assistant Chief Executive and Chief Executive for approval. Following completion of attempts at local resolution, the complainant has a right to refer their case to the HSO.

13. Learning from Complaints

- 13.1 The aim of a complaint investigation is to try to understand what went wrong and what actions, if any, should be taken as a result. Lessons learned from complaints are discussed by the ICB at a senior management level. The purpose of the discussion is to use the information to:
- Ensure any common themes are visible to the ICB.
 - Make informed decisions about where service improvements can be made.
 - Monitor progress against any action plans.
 - Reduce the risk of a similar patient experience being repeated.
- 13.2 The learning from complaints is provided via a regular report to the ICB Quality and Performance Committee, the minutes of which are disseminated to local place quality leads.

14. Service Improvements and Clinical Governance

- 14.1 ICB Programme Lead Managers should use the issues raised in individual complaints to explore and, where appropriate, initiate service improvements.
- 14.2 If information from complaints and/or evidence from other sources, including that provided by other staff, indicates that patients could be at risk; escalation should take place to pertinent Associate Directors of Quality and Safety Improvement, Place Directors, and Executive Director of Nursing and Care/ Deputy Director of Nursing and Care for guidance as to the most appropriate action to be taken.

15. Health Service Ombudsman

- 15.1 If the complainant remains dissatisfied following the ICB's attempts at local resolution, the complainant can ask the HSO to investigate their case. The HSO is completely independent of both the NHS and the Government. The HSO can investigate complaints about how the complaints procedure is working. The HSO is not obliged to investigate every complaint that is put to them and will not normally accept a case, which has not first been through the local NHS complaints procedure and exhausted attempts of local resolution. The HSO can be contacted at:

Website: <https://www.ombudsman.org.uk/>

Tel: 0356 015 4033

- 15.2 Upon request from the HSO, the ICB will:
- Ensure the Ombudsman is sent copies of the complaint investigation file within the timescale set by the Ombudsman.
 - Liaise with the offices of the Ombudsman to provide additional information as requested.
 - Report any complaint which has been accepted by the Ombudsman, to the ICB's Quality and Performance Committee. Assurance and information will be provided to the ICB's Quality and Performance Committee of any required actions as directed by the HSO.

16. Duty of Candour

- 16.1 The ICB has a responsibility to investigate if a complaint includes reference to a breach of Duty of Candour or where there is evidence in a complaint response to suggest that the provider has not acted in an open and honest manner.
- 16.2 The NHS Constitution sets out a series of rights and pledges for both staff and patients. It is integral for creating a positive and caring culture within the NHS and

one which patients, carers and their families can expect openness and transparency when things go wrong. The NHS Standard Contract (used when commissioning NHS funded healthcare services) includes a specific requirement relating to the Duty of Candour. This 'Duty' applies to all patient safety incidents which result in moderate harm, severe harm or death. This builds upon the National Patient Safety Agency's principles (prior to its closure) of 'Being Open' but making it a contractual requirement for provider organisations to be open and honest with patients, families and carers when a patient safety incident occurs. The Duty of Candour also requires organisations to support staff at all levels and to encourage even greater honesty when incidents occur which result in moderate harm, severe harm or death. A breach of the Duty of Candour will, therefore, be regarded as a failure to disclose when something has gone wrong.

- 16.3 Any member of the public, Healthwatch or whistle-blower informing the ICB of a potential or actual breach of Duty of Candour by a provider, can expect a full investigation. Once notified of a breach, the ICB will investigate to establish if the circumstances do constitute a breach of the contractual requirements.
- 16.4 The ICB has a responsibility to investigate if a complaint includes reference to a breach of Duty of Candour or where there is evidence in a complaints response to suggest that the provider has not acted in an open and honest manner.

17. Persistent, Habitual or Vexatious Behaviour

17.1 The ICB is committed to resolving concerns and complaints raised by patients, and/or members of the public, however, it is recognised that on rare occasions staff have contact with patients/members of the public whose complaints are considered to be persistent, habitual or vexatious. Complaints/concerns raised by patients/members of the public are considered to be persistent, habitual or vexatious where previous or current contact with the member of the public or complainant shows that at least 2 of the following criteria have been fulfilled, or are in repeated breach of at least one, of the following criteria:

- Persistent in pursuing a complaint where the NHS Complaints Procedure has been fully and properly implemented and exhausted.
- Seek to unduly prolong contact by restating what is essentially the same complaint in different terms. (Care must be taken not to discard new issues which are significantly different from the original complaint. These should be addressed as separate complaints).
- Refuse to accept, without good cause, documented evidence of treatment given as being factual e.g. drug records, GP records, nursing notes.

- Deny receipt of an adequate response despite evidence of correspondence specifically answering their questions.
- Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of ICB staff and, where appropriate, independent advocacy, to help them specify their concerns, and/or where the concerns identified are not within the remit of the ICB to investigate.
- Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what a 'trivial' matter is, can be subjective and careful judgement must be used in applying this criteria).
- Have, in the course of addressing a registered complaint, had an excessive number of contacts with the ICB, placing unreasonable demands on staff. (A contact may be in person or by telephone, letter or E-mail. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section using judgement based on the specific circumstances of each individual case).

17.2 This part of the policy will be used as a last resort and after all reasonable measures have been taken to try and resolve complaints, for example, through local resolution and conciliation. Judgement and discretion will be used in applying the criteria to identify persistent complainants and in deciding action to be taken in specific cases. The following procedure will only be implemented following careful consideration by and with the authorisation of the ICB Assistant Chief Executive. Ensuring that the person has been advised of the existence of the policy and has been warned about and given a chance to amend their behaviour.

17.3 Where complainants have been identified as persistent in accordance with the criteria, the ICB Assistant Chief Executive will ultimately determine what action should be taken. The ICB Assistant Chief Executive will implement such action and will notify complainants in writing of the reasons why their interaction with the ICB has been classified as persistent. A record will be kept, for future reference, of the reasons why a complainant has been classified as persistent.

17.4 The ICB Assistant Chief Executive, in conjunction with the ICB's Chief Executive may decide to deal with such complaints in one or more of the following ways:

- Set out in a letter, a code of commitment and responsibilities for the parties involved, if the ICB is to continue to process the complaint. If these terms are contravened, consideration will then be given to implementing other action as indicated below.

- Decline contact with the complainant, either in person, by telephone, by letter, by e-mail or any combination of these, provided that one form of contact is maintained. This may also mean that only one named ICB Officer will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of this person.
 - Notify the complainant, in writing that the ICB Assistant Chief Executive has responded fully to the points raised and has tried to resolve the complaint but that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will be notified that the ICB will acknowledge and respond to new complaints in accordance with the NHS Complaint Procedures.
 - The ICB does not intend to provide a response to any letters which are threatening or abusive or old issues, where a response has already been provided. The complainant will be advised that they are being treated as a persistent complainant.
 - Inform the complainant that in extreme circumstances the ICB reserves the right to seek legal advice on unreasonable persistent complaints.
 - Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered persistent, while seeking advice or guidance from the appropriate sources.
- 17.5 If a complainant, or someone with authority to act on their behalf, disagrees with the decision to deem their complaint as being persistent or habitual, they may appeal by putting their reasons in writing to the ICB Chief Executive.
- 17.6 In determining arrangements for handling persistent or habitual complaints the ICB will consider:
- Whether the NHS Complaints Procedure and the ICB's Policy have been correctly implemented and that no aspect of a complaint has been overlooked or inadequately addressed. In doing so it should be appreciated that complainants or members of the public who raised persistent or habitual complaints may raise substantive concerns and issues which, even if unable to be resolved, should be approached rationally and sympathetically.
 - Whether it can identify the point at which a complaint has become persistent or habitual.

- Whether the complainant or member of the public whose complaint is considered persistent or habitual is known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.
- Whether the complainant or member of the public whose complaint is considered persistent or habitual, displays unreasonable demands or expectations and fails to accept that these may be unreasonable (e.g. insists on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).
- Whether the complainant or member of the public whose complaint is considered persistent or habitual has threatened or used actual physical violence towards staff or their families or associates at any time - this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication. (All such incidents should be reported through the ICB Incident Reporting Procedure).
- Whether the complainant or member of the public whose complaint is considered persistent or habitual has harassed or been personally abusive or verbally aggressive towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this.) Staff should document all incidents.

18. Withdrawing Persistent Status

- 18.1 The ICB will consider withdrawing this status at a later date if, for example, a complainant subsequently demonstrates a more reasonable approach. As was the case in originally identifying a complaint as persistent, the ICB will use the same discretion in recommending that this status be withdrawn. A review of the status should take place at six monthly intervals. Where this appears to be the case, discussion will be held with the ICB Assistant Chief Executive and subject to their approval; normal contact with the complainant will then be resumed. The ICB Assistant Chief Executive will advise the complainant of this, in writing.

19. Patient Advice and Liaison Service (PALS)

- 19.1 The PALS service is an impartial, open, and confidential service for people who would like information or advice or would like to comment about any aspect of their services provided by an NHS organisation. The PALS service was introduced to support patients and carers throughout their care and treatment, assisting timely and relevant access to information and services.
- 19.2 All patients, service users, carers, interested third parties and staff can access the PALS service. Where the issue is raised by a third party and it directly relates to the

circumstances surrounding an individual, it will be necessary to gain consent from that individual before any action is taken.

19.3 The ICB's Patient Experience Team operates the PALS Service within normal office hours (Monday to Friday 9am – 5pm). The Patient Experience Team will aim to respond to contacts relating to concerns or enquiries within two working days. See Appendix 1 – PALS and Complaints Process Flow for further details.

19.4 The PALS Service will:

- Signpost individuals to appropriate information sources about NHS services.
- Listen and respond to concerns, suggestions, or queries.
- PALS staff will act as quickly and creatively as possible to support patients, their carers and families to deal with concerns, before they become more serious.
- An important part of PALS is to help people to talk through their concerns so they can identify the nature of the problem and work out options to resolve it. Concerns may be resolved by listening, providing relevant information, or by liaising with other organisations or staff on the individual's behalf and with their consent.

19.5 Options for individuals may include making a formal complaint under the NHS Complaints Procedure and/or signposting complainants to Advocacy Services for free and independent advice and support.

20. Possible Claims for Negligence

20.1 Under the Complaints Regulations, the complaints procedure does not cease if a claim for negligence is received. The default position since 1 April 2009 is where a complainant expresses an intention to take legal proceedings, an NHS body should continue to try to resolve the complaint quickly unless there are compelling legal reasons not to do so. The ICB will take advice from NHS Resolution if a letter of claim is received relating to a complaint being investigated at the time of receipt of the claim.

20.2 Where the complainant is taking, or plans to take, legal proceedings, a complaint may only be put on hold where there are exceptional reasons to justify it (or the complainant has requested that investigation be delayed).

20.3 In the early part of the process, it may not be clear whether the complainant simply wants an explanation and apology, with assurances that any failures in service will be rectified for the future, or whether the complainant is in fact seeking information with formal litigation in mind. An open and sympathetic approach and response may

satisfy the complainant, and, in all cases, NHS bodies should make clear to people who are concerned it is taking an unreasonable amount of time to investigate and respond to their complaint that they can complain to the Health Service Ombudsman about the delay.

- 20.4 Apparent evidence of negligence should not delay a full explanation of events and, if appropriate, an apology should be issued. An apology is not an admission of liability; it is the right thing to do.

21. Redress and ex-gratia payments

- 21.1 The HSO's Principles for remedy are clear that where there has been maladministration or poor service, the public body restores the complainant to the position they would have been in, had the maladministration or poor service not occurred. Whilst financial redress or ex-gratia payments will not be appropriate in every case, the ICB will consider proportionate remedies for those cases where complainants have incurred additional expenses as a result of maladministration or poor service. This will not apply, however, to requests for compensation or allegations of personal injury where a claim is indicated.

Appendix 1 – PALS and Complaints Process Flow

