

# Complaints Management Policy

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<b>Document Author:</b>	Head of Corporate Governance, and Corporate Governance Manager
<b>Executive Lead:</b>	Chief Finance Officer

## Engagement and Ratification Schedule

ENGAGEMENT AND RATIFICATION SCHEDULE	
<b>Document Name:</b>	Complaints Management Policy
<b>Policy Number / Version:</b>	Version 1
<b>Target audience:</b>	All patients, service users, staff, including temporary / interim staff and contractors, working for, or on behalf of, NHS Leicester Leicestershire and Rutland Integrated Care Board.
<b>Purpose:</b>	To set out the policy for processing of complaints received by NHS Leicester, Leicestershire and Rutland Integrated Care Board and the standards that complainants and service users can expect.
<b>Action required:</b>	This policy should be read by staff in conjunction with other associated LLR ICB policies and procedures and national guidance.
<b>Associated documents:</b>	Risk Management Strategy and Policy Claims Policy Information Governance Policy Corporate Incident Policy
<b>References:</b>	<ul style="list-style-type: none"> <li>• Local Authority Social Services and National Health Service Complaints (England) Regulations 2009</li> <li>• Data Protection Act 2018 (DPA 2018)</li> <li>• UK Data Protection Regulation</li> <li>• <i>NHS Complaint Standards: Model Complaint Handling Procedure for commissioners of NHS Services in England</i> (Parliamentary Health Service Ombudsman, December 2022)</li> <li>• <i>Complaint Standards for NHS services in England</i> (Parliamentary Health Service Ombudsman, December 2022)</li> <li>• <i>Principles of Good Complaint Handling</i> (Parliamentary and Health Service Ombudsman, February 2009)</li> </ul>

## Version Control

Version number	Approval / Amendments made	Date (Month Year)
1.0	Complaints Management Policy for the Leicester, Leicestershire and Rutland Integrated Care Board. The policy reflects the complaints management process in LLR ICB and the changes in Primary Care Commissioning and updates to Scheme of Reservation and Delegation (SoRD).	January 2024

### Document Status:

This is a controlled document. Whilst this document may be printed, the electronic version available to staff via the shared network drive and folders is the controlled copy. Any printed copies of the document are not controlled.

### Related Documents:

This document will reference additional policies and procedures, which will provide additional information.

**All policies can be provided in large print or Braille formats upon request. An interpreting service, including sign language, is also available.**

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#### **Appendices:**

- Appendix 1 – LLR ICB Equality Monitoring Form
- Appendix 2 – LLR ICB's Complaints Management Process

## **Purpose of the Policy**

1. NHS Leicester, Leicestershire and Rutland Integrated Care Board (hereafter LLR ICB or the ICB) is committed to listening to the patients and service users that we serve.
2. The ICB expects that its own organisation and organisations that are commissioned to provide healthcare will aim to give the best possible care to patients and their carers, respecting their views and trying to meet their expectations. However, it is acknowledged that, on occasion, patients and / or their representatives may feel dissatisfied with the service they receive and will wish to express this dissatisfaction.
3. This policy sets out the approach and process that the ICB will follow when addressing concerns, enquiries, complaints and feedback received from patients and / or their representatives in the Leicester, Leicestershire and Rutland area. The Policy also sets out the standards of service that complainants and / or their representatives should expect from the ICB.
4. The policy will also go on to explain how concerns, enquiries, complaints and feedback are reviewed, investigated, responded to and how lessons learnt from the complaints will be implemented to improve the services we provide to our local population.
5. The Policy aims to provide a fair and effective process for the management of complaints and, to try to ensure this, the Policy takes account of latest guidance in addition to Regulatory requirements.
6. The LLR ICB aims to provide a fair and streamlined procedure for the management of complaints to ensure that patients and service users feel empowered to inform the LLR ICB about their interactions with their local NHS service with the knowledge that their concerns, complaints and views will be dealt with sympathetically, promptly, confidentially, impartially and with empathy.
7. The complaints handling process is one way in which the LLR ICB can help improve the quality of the NHS services the LLR ICB commissions for its patients and service users. We will actively look to monitor and analyse the concerns highlighted by patients about our commissioned services so that we can work with our commissioned service providers to continually improve the services they provide.
8. We will ensure where complaints involve more than one NHS organisation, or are joint complaints relating to Health and Social Care, that they are led by the most appropriate organisation and handled in a coordinated manner.
9. The ICB will ensure that appropriate guidance is provided for a resolution e.g. the Parliamentary and Health Service Ombudsman (PHSO) where a suitable resolution cannot be found for a complaint.

## **Scope**

10. This policy applies to all concerns, enquiries, complaints and feedback received by the LLR ICB about the NHS funded services commissioned by the LLR ICB for the patients and general public in the Leicester, Leicestershire and Rutland area. We recognise that a complaint investigation conducted by a provider of NHS funded care (such as a hospital) can result in a more timely response for the patient and / or their representative due to the direct contact with the organisation. Complainants will always be offered the option to have their complaint referred to the provider for direct management. This policy also covers any action, omission or decision of the ICB.

11. From the 1 July 2023, the LLR ICB holds statutory responsibility for the handling of Primary Care services complaints for the Leicester, Leicestershire and Rutland area; this includes General Practice, Pharmacy, Optometry and Dentistry, which was previously held by NHS England.
12. For all Primary Care complaints received by the LLR ICB, the LLR ICB Corporate Governance Team will aim to work with the complainant to reach a local resolution, however if this is not possible the complaint will be escalated to the East Midlands Primary Care Complaints Team to investigate the complaint. The East Midlands Primary Care Complaints Team is hosted by NHS Nottingham and Nottinghamshire ICB on behalf of the five ICBs in the East Midlands region.
13. For services not commissioned by the ICB, complainants will need to refer to the complaints policy for the provider or commissioner concerned.

## Due Regard

14. The LLR ICB aim 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, taking account of the provisions of the Equality Act 2010.
15. All policies and procedures are developed in line with the LLR ICB's Equality and Inclusion Strategy and need to consider the diverse needs of the community that is served. The LLR ICB will endeavour to make sure the principles and values of equity and inclusion are applied in management of complaints, concerns and enquiries and will not discriminate on the grounds of their race, social exclusion, gender, disability, age, sexual orientation, or religion/belief.
16. Complainants will be requested to complete the **Equality Monitoring Form (Appendix 1)** to assist the ICB with improving how we handle complaints. This form will be sent to every complainant along with the initial letter of acknowledgement and consent form to ensure that we handle complaints fairly and do not discriminate in any way. The completion of the Equality Monitoring Form is not compulsory. If the complainant does not wish to complete the form this will not impact on their complaint in any way.
17. The completed Equality Monitoring Forms will be logged anonymously, and protected characteristics reported on for further analysis and consideration. The Equality Monitoring Form will help the ICB to gain a better understanding of issues raised across the protected characteristics; this will also assist with monitoring access to making a complaint, ensuring that everyone has a fair opportunity to make a complaint.

## Legal Framework and guidance

18. This policy is drawn up to ensure compliance with the national ruling Regulation which is the *Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*. This includes subsequent amendments.
19. National guidance documents are also considered within the ICB's Policy and procedures, this includes but not limited to:
  - *NHS Complaint Standards: Model Complaint Handling Procedure for commissioners of NHS Services in England* (Parliamentary Health Service Ombudsman, December 2022).

- *Complaint Standards for NHS services in England* (Parliamentary Health Service Ombudsman, December 2022).
- *Principles of Good Complaint Handling* (Parliamentary and Health Service Ombudsman, February 2009).
- *The NHS Constitution*, which sets out the rights of the patients and service users.
- *NHS England Guide to Good Complaints Handling for Primary Care – a toolkit for commissioners* (NHS England, November 2015).

20. The ICB will strive to ensure that any complaint is investigated in a transparent way with an unbiased report / letter provided at the conclusion. Care has been taken to ensure that the commitments given in the NHS Constitution are embedded in this Policy and the user-led vision set out in the *NHS Complaint Standards: summary of expectations* (Parliamentary Health Service Ombudsman, December 2022) are adhered to. The “expectations” are:

- *I felt confident to speak up*
- *I felt that making my complaint was simple*
- *I felt listened to and understood*
- *I felt that my complaint made a difference*
- *I would feel confident making a complaint in the future.*

21. The Parliamentary Health Service Ombudsman’s (PHSO) *Principles for Good Complaints Handling* are at the heart of this policy:

- Getting it right** – by ensuring that the LLR ICB is compliant with the law, statutory powers and duties as well as the LLR ICB’s own policies and procedures. To act reasonably and fairly in making decisions, commissioning quality and effective services and where things go wrong handling and investigating complaints appropriately.
- Be customer focused** – by commissioning quality and accessible services and providing the local population with clear and understandable information about the services we commission and how to complain if they are not happy. To monitor the services, we commission and acknowledging and rectifying failures and poor service.
- Being open and accountable** – by treating the complainant impartially, and without unlawful discrimination or prejudice. To ensure that complaints are investigated thoroughly and fairly the decision reached are proportionate and appropriate.
- Acting fairly and proportionately** – to acknowledge when a failure in a service has been identified by a complaint received by the LLR ICB and providing and appropriate response and resolution.
- Putting things right** – to have a process in place to record and analyse complaints received by the LLR ICB to identify lessons learnt from complaints which can then be implemented to improve services.
- Seeking continuous improvement** – to have processes in place to review the lessons learnt from complaints received to improve services and ensure that policies and procedures are regularly reviewed and updated.

22. The LLR ICB will apply the regulatory framework and appropriate guidance to ensure that the best resolution is found for the complainant.

## Definitions

23. The ICB will discuss and agree with the patient and / or representative whether they would like their issue to be dealt with as a concern, enquiry, complaint or feedback depending on what the patient and / or representative is hoping to achieve from the process.

24. The terms used are defined below:

- a. **Concern** – a concern may be defined as “an expression of worry or doubt over an issue considered to be important for which reassurances are sought”.
- b. **Enquiry** – an enquiry may be defined as “an expression of a request for information, support or assistance”.
- c. **Complaint** – “an expression of dissatisfaction – either spoken or written – that requires a response. It can be about an act, omission or decision made, or the standard of service provided. These definitions should be considered within the context of “no issue is too big to be a concern and no issue is too small to be a complaint”. (*NHS Complaints Standards: summary of expectations*, Parliamentary Health Service Ombudsman, December 2022).

The Patients Association has a similar definition as outlined within the *Good Practice Standards for NHS Complaints Handling* (Patients Association, September 2013): “An expression of dissatisfaction made to an organisation, either written or spoken, and whether justified or not, which requires a response. There is no difference between a “formal” and an “informal” complaint, both are expressions of dissatisfaction.”

- d. **Feedback** - an opinion, whether invited or spontaneous, that can be positive, negative or neutral.

## Roles and Responsibilities

25. The **Accountable Officer (Chief Executive Officer)** - has overall responsibility and accountability for ensuring compliance with the arrangement made under the Regulations. The Accountable Officer (or in their absence, their named deputy or another executive officer as appropriate) will sign all complaint responses and all responses to Members of Parliament.

26. The **Chief Finance Officer** – the Accountable Officer has delegated responsibility to the Chief Finance Officer to ensure effective complaints management is in place, that policy and procedures are established and learning and improvement actions are implemented as a result.

27. The **Head of Corporate Governance** – is responsible for the operational management and implementation of the complaints policy and associated procedures and is assisted by the **Corporate Governance Team**. He / she will ensure that through their team the complaints policy is implemented and complaints, enquires, concerns and feedback are logged. The Corporate Governance Team will also progress is monitored and will ensure the complaints are coordinated and investigation undertaken by appropriate officers from across the organisation and that a responsive service is provided.

28. **Chief Nursing Officer and Chief Medical Officer** – are responsible for oversight and assurance of complaints where there is a clinical, quality and safety aspect to the complaint. They will support the Accountable Officer and the Chief Finance Officer in promoting a culture of learning and continuous improvement.



29. All **Executive Directors** and their nominated deputies are responsible for overseeing and undertaking (where appropriate) the investigation into the complaint within their area of expertise and reviewing the letter of response.
30. Where the LLR ICB receive a complaint which involves multiple NHS organisations the **Corporate Governance Team** will ensure that a coordinated approach is undertaken to provide a response to the complainant.
31. **All LLR ICB staff**, including temporary and agency staff, are required to comply with the requirements of this policy and co-operate fully with any complaint investigation. Some staff may also be assigned to lead or support the investigation into the complaint depending upon the area of expertise. All staff should also ensure that they are aware of where to signpost patients and members of the public to raise their concerns, enquiries, complaints and feedback with the LLR ICB.
32. Any complaints received directly by LLR ICB staff must be emailed as soon as they are received to the **Corporate Governance Team** so it can be logged and processed. The email address to send all complaints to is [llicb-llr.enquiries@nhs.net](mailto:llicb-llr.enquiries@nhs.net)

## Who can make a complaint

33. A complaint can be made by:
- Someone who receives or has received services from an organisation commissioned by the ICB;
  - Someone who has received services by the ICB through the commissioning support unit (CSU);
  - A person who is affected, or likely to be affected, by the action, omission or decision of the ICB.
34. A complaint can also be made by a representative acting on behalf of someone else. This can be where:
- The patient has died.
  - The patient is a child – the Corporate Governance Team will take steps to be satisfied that there are reasonable grounds for a complaint being made by a representative instead of the child;
  - The patient is unable to complain themselves due to physical incapacity or lack of capacity as defined under the Mental Capacity Act – the Corporate Governance Team must be satisfied that the complaint is being made in the best interests of that person;
  - The patient has consented for a representative / third party to act on their behalf, including a Member of Parliament (MP) – this must be confirmed by the receipt of a signed consent form or, if this is not possible, the Corporate Governance Team must be satisfied that the representative is acting on the patient's behalf and in their best interests.

## What cannot be dealt with under the NHS Complaints procedure?

35. There are types of complaints that are excluded from the scope of the complaints process outlined in this policy, including:
- A complaint that is currently / has been investigated by another NHS body or the Parliamentary and Health Service Ombudsman (PHSO).

- A complaint which is the same as a complaint that has previously been made and resolved.
- Events requiring investigation by a professional disciplinary body.
- Complaints about privately funded health care including private medical or dental treatment.
- Any matter concerning employment within the ICB, any other NHS body or Local Authority.
- Complaints made by a LLR ICB employee about any matter relating to their contract of employment.
- Complaints made by another NHS organisation, independent contractor / provider or Local Authority.
- Any allegations of a criminal nature, including allegations of fraud
- Complaints which are relating to an ongoing police investigation or legal action, where a complaints investigation could compromise the police investigation or legal action.
- Complaints made about an alleged failure to comply with a request for information under the Freedom of Information Act 2000; these will be managed under the Freedom of Information Act 2000 Policy.
- Complaints about alleged failure to comply with the data protection regulations or data subject access request under the Data Protection Act 2018.

36. Where a complaint received by the ICB raises concerns, suspicious or allegations of abuse or neglect of children or adults, it will immediately be brought to the attention of the ICB's Chief Nursing Officer and / or the ICB's safeguarding team, who will determine the most appropriate course of action.

37. Where the ICB has decided not to investigate a complaint because it falls within one of the categories above, the Corporate Governance Team will write to the complainant to explain the decision providing the reasoning.

38. If a complainant reveals that they wish to seek compensation or pursue legal action due to alleged negligence, the complainant will be advised that the complaint will be investigated but will not be able to address the issues related to compensation. The complainant will need to contact the independent complaints advocacy service for appropriate advice and guidance.

## **Time limit for making a complaint**

39. The Regulations set out the time limits in which a complaint should be made. In line with these Regulations, a complaint should be made to the ICB within twelve months of the date on which the situation being complained about occurred, or within twelve months of the date on which the complainant became aware of situation.

40. Where a complaint is made after the 12 months' time limit, then the Corporate Governance Team may use their discretion to investigate a complaint if satisfied that the complainant had good reason for not making the complaint sooner and that it would still be possible to investigate the complaint effectively and fairly.

## **Patient Concerns**

41. If a patient has concerns in respect of a directly commissioned service such as a hospital, mental health clinic etc then it can be beneficial to raise the matter with the provider directly. This may allow the concern to be solved quickly and easily without resorting to a formal complaint.
42. If this is not appropriate or fails then the patient has a right to raise the matter as a formal complaint with either the provider (e.g. hospital, mental health provider, GP Practice etc) **or** with the commissioner of the service (e.g. the ICB).
43. The ICB is committed to learning from feedback from patients to help assess the quality of commissioned services. However, the importance of raising a concern locally to try to sort out misunderstandings or issues is also recognised. The ICB encourages patients to work with their healthcare providers to make them aware of problems which may occur in a timely manner to ensure that improvements take place and issues are resolved as quickly as possible with an aim to improve patient experience.

## **Coroner's Inquests**

44. a complaint associated with a death that has been referred to the Coroner may need to be suspended or delayed. Where appropriate the Corporate Governance Team will liaise with the Coroner's Office and the complainant will be advised in writing with a clear explanation of the reason.

## **Legal action**

45. Where a complaint is received and there is a prima facie case of negligence or an indication of possible legal action, the Corporate Governance Team will inform and seek advice from the Head of Corporate of Governance. The complaint investigation will continue. If there is a stated intention to initiate legal action, LLR ICB will seek legal advice and / or advice from the appropriate senior officer on whether the complaint investigation can continue alongside this.

## **Support for Complainants**

46. The ICB supports the role and involvement of POhWER as the local complaints advocacy service and will ensure that all complainants are made aware of this free service and the benefits of support and assistance which is available. Information for complainants will be provided upon first contact with the complainant.
47. Healthwatch England also provides information for those making a complaint including template letters and contact details for local support. Local support is available through Healthwatch Leicester and Leicestershire, and Healthwatch Rutland.
48. The ICB will aim to communicate with complainants in their preferred medium whenever possible, this could be by telephone, by e-mail or letter.

## **Options for Making a Complaint**

49. Complaints can be made in person, by telephone, in writing or by email (see section "How can a complaint be made to LLR ICB" below for contact details). All complaints will be acknowledged no later than three working days of receipt and this may be in writing, email or verbally. the following information will be required:
  - Name, date of birth, address and telephone number of the complainant.
  - If the complainant is acting for someone else, their details and consent.

- A list of issues the complaint relates to with a summary of what happened, who was involved and when it happened, giving dates if possible.
- The preferred method of communication of the complainant.
- The outcome that is being sought by the complainant.

50. Complaints can be sent either directly to the service provider (e.g., the hospital where treatment was received) or to the LLR ICB, where the LLR ICB are responsible for commissioning the service(s) used by the patient.

51. When a complaint received by the ICB also involve service(s) provided by another body (e.g., Local Authority) we will work with the other provider(s) and/or commissioners as appropriate establishing timescales for responding.

52. Where a complaint relates to a commissioned service, complainants will be given the option of sending the complaint directly to the provider.

## **Consent and Confidentiality**

53. During a complaints investigation, patient confidentiality and adherence to the Data Protection Act 2018 and the UK General Data Protection Regulations would be adhered to at all times, ensuring personal information is sent and received safely and information is only disclosed to those people who have a need to know for the purpose of the investigation.

54. Consent will be sought from complainants before a complaint investigation is undertaken. If a complaint needs to be re-directed to a service provider to respond directly to the complainant, written consent will be obtained before this can occur.

55. Where a complaint relates to NHS funded care provided by a GP Practice, Pharmacy, Optometry or a Dental Practice, complainants will be advised by the ICB's Corporate Governance Team that the complaint will be investigated by the East Midlands Primary Care Complaints Team on behalf of the LLR ICB. This Team is based in NHS Nottingham and Nottinghamshire ICB and they will seek consent from the complainant on behalf of the LLR ICB.

56. If a complaint is made regarding the ICB, and it is not necessary to contact any external organisations in order to provide a full response, written consent is not required. The complaint letter or verbal complaint will be treated as express consent for us to start an investigation.

57. If the LLR ICB is of the opinion that a representative does not or did not have a sufficient interest in the person's welfare, or is unsuitable to act as a representative, the Corporate Governance Team will notify that person in writing stating the reasons.

58. In the case of a child, the representative must be a parent, guardian or other adult person who holds parental responsibility for the child or has care of the child. In cases where the child is in the care of a Local Authority or a voluntary organisation, the representative must be a person authorised by the Local Authority or voluntary organisation.

59. There may be rare occasions that, when for the sake of the patient's safety, it is necessary to override confidentiality. This action would only be taken if the complainant, the patient or any other person is at risk or harm. Any such action will be taken with advice and authorisation from the Chief Nursing Officer in their capacity as an executive lead nurse for patient safety and as Caldicott Guardian.

60. In transferring complaints between agencies (including the PHSO) confidentiality will be maintained at all times. Every effort will be made to obtain consent from the patient and / or

their representative before sharing confidential information with another body or organisation. Consent will be obtained in writing, or where this is not possible, the Corporate Governance Team will seek advice from the Head of Corporate Governance or from the Caldicott Guardian or from the Senior Information Risk Owner.

61. The Corporate Governance Team will be responsible for ensuring all complaint documentation is clear, legible and safely stored, whether electronically or manually within the LLR ICB in line with national guidance; Records Management Code of Practice for Health and Social Care 2023.
62. The complete complaints file must be retained for a period of ten years (retention begins at the closure of the complaint) and in some cases longer, as the documentation may be required in a court of law if subsequent legal proceedings take place. The LLR ICB Corporate Governance Team will refer to the LLR ICB Records Management Policy and retention schedules as detailed in national guidance.
63. The LLR ICB also acknowledges a duty of confidence applies equally to third parties who have given information or where there is reference made to a third party in a patient's record. Care must be taken if information has been provided in confidence by or about a third party who is not a healthcare professional. Prior knowledge must be given to the person(s) concerned to ensure they have consented to the disclosure of the information. If anonymous information is deemed to be adequate, identifiable information should be omitted. This does not remove the legal duty of confidence.

## **How can a complaint be made to the LLR ICB**

64. Complaints can be made to the LLR ICB via the below options:

- **Verbally by telephone:** 0116 295 7572
- **In writing to:**  
(Addressed to either the Chief Executive or the Corporate Governance Team)  
Leicester, Leicestershire and Rutland Integrated Care Board (LLR ICB)  
Room G30, Pen Lloyd Building  
County Hall  
Glenfield  
Leicester, LE3 8TB
- **By Email:** [llricb-llr.enquiries@nhs.net](mailto:llricb-llr.enquiries@nhs.net)

65. All complaints regardless of how they are made are treated as complaints and will be investigated as such.

66. Where the complaint is made verbally to either the Corporate Governance Team directly, or any member of staff, a written record will accompany the acknowledgement together with an invitation to the complainant to agree or amend the information, date, sign and return it.

## **What complainants can expect from the Complaints Management Process**

67. The Complaints Management Process (Appendix 2) has been developed to ensure that a consistent and equitable approach is undertaken with all complaints, irrespective of the issues raised.

68. When a complaint is received by the ICB, the complainant can expect:

- **An acknowledgement** - to be provided either verbally or in writing, within 3 working days of the complaint being received by the ICB.
- **Assessment of the complaint** – on receipt, each complaint / concern will be risk assessed to ensure appropriate actions is taken, ensuring any complaints requiring immediate attention of senior managers or officers is actioned urgently, in particular where there are safety concerns.
- **An offer to discuss the complaint** - Corporate Governance Team will contact the complainant to ascertain further details about the complaint and expected outcome(s). If a local resolution can be found for the complaint and the matter can be resolved informally, then the formal complaints process will not be instigated. The Corporate Governance Team will discuss with the complainant the option for a local resolution directly with the relevant provider.

If a local resolution is found, then the complaint will be de-escalated to a concern or enquiry and processed as such and not as a complaint. If a local resolution is not found, then a discussion will take place with the complainant to determine what the complainant hopes to achieve through the formal complaints process.

- **Consent** - where a formal complaint is being pursued then the Corporate Governance Team will seek consent for the LLR ICB to investigate the issues raised within the ICB or with the relevant third party. Details for advocacy support and also the Equality Monitoring Form will be provided to the complainant. Where the complainant is making a complaint about NHS funded primary care services (e.g. GP Practice, Pharmacy, Optometry or Dental Practice) the LLR ICB will forward the complaint to the East Midlands Primary Care Complaints Team (in Nottingham and Nottinghamshire ICB) for the team their to seek consent on behalf of the LLR ICB.

Where the patient is unable to give consent or unwilling to make the complaint themselves, the LLR ICB Chief Nursing Officer and / or the Head of Corporate Governance would have to be satisfied that it was reasonable for the complainant to act on behalf of the patient. If they are not satisfied, the LLR ICB may refuse to continue with the complaint investigation.;

Delays in providing consent will have an impact on investigation timescales.

The investigation time period starts when consent is received.

- **Staff will understand the complaints process** - the member(s) of staff dealing with the complaint will understand the complaints procedure and comply with this policy and will be fully trained in implementing it.
- **Keeping the complainant informed** - the Corporate Governance Team (or the East Midlands Primary Care Complaints Team) will keep the complainant updated on progress at agreed intervals advising when a response can be expected.
- **An explanation of options relevant to the issues raised in the complaint** - in order to ensure proper investigation and resolution which takes into account the views and wishes of the complainant.
- **A mutually agreed, reasonable timescale for dealing with the complaint**, in line with the timescales outlined in this policy, confirmed in writing.
- **To receive a clinical review** of the complaint, if required.

- **To receive a written response signed by the Chief Executive (or in their absence their appointed deputy or nominated senior officer) explaining the outcome** of the investigation into the complaint, what appropriate action has been taken, any learning outcomes that will be used in future together with an apology. This will also include information on their right to take the matter to the Parliamentary and Health Service Ombudsman (PHSO);
- Where the content of the complaint covers both Health and Social Care provision, or provision over a number of services **we will co-operate with Social Care colleagues and other providers, to investigate and provide a single letter of response where possible.**

## **The Complaint Investigation and Response Timescales**

69. All complaints will be acknowledged and assessed by the Corporate Governance Team in order to determine the complexity of the complaint. The acknowledgment will be sent within 3 days of receiving the complaint.
70. The Corporate Governance Team will assess the nature of the complaint to determine the anticipated length of time needed to complete the investigation and, where appropriate, other organisations that require input into a complaint investigation.
71. The Corporate Governance Team will agree an initial timescale for the response with the complainant, this will usually depend upon the complexity of the complaint and the number of organisations involved. The Corporate Governance Team (or the East Midlands Primary Care Complaints Team) will keep the complainant updated on progress at agreed intervals advising when a response can be expected.
72. The Corporate Governance Team may take expert advice to determine if there could be associated clinical risks which will require an immediate response outside the complaints process.
73. The Corporate Governance Team will also agree how the response will be managed and coordinate a single response where possible. The complainant will be kept informed throughout and assurance will be sought that the complainant agrees with the timescales and process.
74. Any potential/ actual risks to patient safety or safeguarding issues identified as a result of complaints investigations will be escalated to the Chief Nursing Officer and / or the safeguarding team.
75. Under the Regulations, there are no fixed and specified response timescales for formal complaints. However, the Regulations do state that, where possible, complaints should be responded to within 6 months.
76. Where the complaint response requires a response from a provider/s, the response and resolution timescales will be as timely as possible and set based on an agreement between the ICB and the provider and will often be individual to the nature and complexity of each complaint.
77. Where possible, the ICB will endeavour to provide the complainant with a full response within 25 working days. However if this timescale is not realistic due to, for instance, the complexity of the investigation, or number of providers involved, this will be discussed with the complainant and a target date agreed.

78. Every effort will be made to meet the timescales agreed, however unforeseen circumstances may lead to delays, this will be communicated to complainants as soon as possible and revised timescales agreed.

## **Final Complaint Response**

79. Each complainant will receive a response to their complaint, in the format agreed at the start of the complaints process. Each response will be written in the ICB corporate style, in a sensitive and understanding style and will include (as a minimum)

- Summary of the original complaint
- An explanation of the issues investigated and findings
- The conclusions reached as a result of the investigation, and a clear outcome
- A clear, meaningful (not conditional) apology where necessary
- An explanation of any clinical or specialist terminology
- Details of changes made, actions taken, and lessons learnt as a result of the complaint and subsequent investigation.

## **Withdrawal of a complaint**

80. Any complaint or concern received by the LLR ICB can be withdrawn by the complainant at any stage of the process.

## **Record Keeping**

81. The ICB will maintain accurate and up-to-date complaints files for each case processed.

These files will include:

- Case notes and extracts from clinical records (if applicable)
- Statements relating to the investigation
- All communication related to the investigation or management of the complaint
- References to policy or procedural guidelines
- A clear summary of investigation findings
- Identification of any actions required in the form of a SMART action plan, and details of any lessons learnt.

## **Conciliation and Mediation**

82. Independent mediation and conciliation arrangements can be made available on a case-by-case basis. Requests for intervention of this type will be reviewed and considered by the Chief Nursing Officer/ Head of Corporate Governance and/ or appropriate Deputy.

## **Complaints referred to the PHSO**

83. The Parliamentary and Health Service Ombudsman (PHSO) is responsible for making final decisions on complaints that have not been resolved by the NHS in England, UK government departments and some other UK public organisations.

84. The PHSO offer a free service for complainants who believe there has been injustice or hardship because an organisation has not acted properly or fairly or has given them a poor service and not put things right.



85. The PHSO can only review a complaint if it has already been raised with the organisation concerned and the complainant remains dissatisfied with the way that complaint was investigated.

86. The time limits for referring a complaint to the PHSO will be no later than:

- 12 months of the event from the date of the act or omission being complained about; or
- 12 months from the date when the complainant should have realised that there was cause for complaint.

87. The PHSO's contact information is below:

- **Verbally by telephone:** 0345 015 4033
- **In writing to:**  
The Parliamentary and Health Service Ombudsman  
Millbank Tower  
30 Millbank  
Westminster  
London, SW1P 4QP
- **By Email:** [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)
- **Website:** <https://www.ombudsman.org.uk/making-complaint>

## Supporting staff involved in Complaints Investigations

88. The Complaints Management Policy has been developed to ensure that a consistent and equitable approach is taken to both complainants and staff. The LLR ICB appreciate that staff involved in investigating complaints or where they are the subject of a complaint, will require support throughout the process. This can at times be stressful and/ or traumatic. Staff can expect:

- That the organisation acts fairly towards staff as well as complainants.
- To be informed if they have been complained about and where appropriate have an opportunity to respond.
- To be provided with line management support and access to the Corporate Governance Team when conducting investigations.
- To be advised that external support is available, for example referral to independent staff counselling or Occupational Health.

## Learning from Complaints

89. The aim of a complaint investigation is to try and understand what went wrong and what actions, if any, should be taken as result to avoid a repeat of the situation.

90. The ICB is fully committed to facilitating organisational learning and development through complaints resolution. Resolving the individual complaint is only part of the process.
91. Taking positive steps regarding identification, communication, procedural and operational or strategic issues, within and across each agency, is vital in ensuring a relevant and positive complaints service.
92. The process of reporting will be to capture lessons learnt through the year relating to the ICB and where appropriate across providers and changes made to commissioning decisions, systems and processes as a result. This will be reported at agreed intervals, with an overview of complaints captured within the ICB's Annual Report and Accounts.
93. Learning from complaints will be shared with the patient experience and engagement teams to share learning, themes and trends. Links will also be maintained with the hosted Contracting Teams.

## **Unreasonable or Unreasonably Persistent Complaints**

94. In a small handful of cases, a complainant may pursue their complaint, concern or enquiry in a way that is considered to be unreasonable and unacceptable. They may be unreasonably persistent with their contacts with the LLR ICB while their complaint is being investigated or that they remain dissatisfied despite their complaint having been thoroughly investigated and responded to.
95. This behaviour can impede the investigation of their complaint or enquiry (or complaints or enquiries by others) and can have a significant impact on resources.
96. A complainant should only be termed unreasonable or unreasonably persistent as a last resort and after all reasonable measures have been taken to try to resolve the complaint by local resolution. Judgement and discretion must be used in applying the criteria to identify potential unreasonable complainants and action taken should be on a case-by-case basis.
97. LLR ICB staff must ensure that the complaints management process has been adhered to and to appreciate that even persistent complainants have issues that need to be addressed.
98. The ICB does not expect its staff to tolerate any form of behaviour from people that could be considered abusive, offensive, or threatening, or that becomes so frequent it makes it more difficult for staff to complete their work or help other people. The ICB will act under this process to manage this type of behaviour, and this applies to all contact with the ICB including the use of social media.
99. A complaint may be deemed to be vexatious where previous or current contact with the complainant shows that they meet one or more of the following criteria, a complaint may be considered unreasonable and vexatious if behaviour such as the following is displayed:
  - Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted or where implementation of the NHS complaints procedure is inappropriate for the issue raised (e.g., where investigation is "out of time" and cannot be investigated fairly and effectively, or where the issue of concern arises from care as a private patient).
  - Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. (Care must be taken not to discard new issues

which are significantly different from the original complaint. These might need to be addressed as separate complaints).

- Submitting repeat complaints with minor additions/variations that the complainant insists makes these 'new' complaints.
- Repeatedly focus on specific issues which have been appropriately and fully considered and responded to.
- Have threatened or used actual physical violence towards staff or their families or associates at any time – (this will 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 documented).
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous ICB staff or detailed letters every few days and expecting immediate responses.
- Unreasonably persistent contact would be defined as several emails per day being received from the complainant, multiple interactions on a social media site per day, multiple daily telephone calls, telephone calls demanding a response immediately or discussing issues already raised by the complainant more than 10 minutes.
- Refusing to accept that certain issues are not within the scope of the complaints and enquiries process.

### **Considerations prior to taking action**

100. The Corporate Governance Team will make sure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of things to bear in mind when considering the imposition of restrictions on a complainant:

- Ensuring that the complainant's case is being, or has been, dealt with appropriately, and that reasonable actions will follow, or have followed the final response.
- Ensuring that the complainant has been kept updated regarding their complaint prior to their behaviour becoming unreasonable or persistent.
- Checking that the complainant is not raising any new or significant concerns that need to be considered that will affect the organisations view on the existing case.
- Considering the above criteria with care, fairness and due consideration for the complainant's circumstances – bearing in mind any known physical or mental health conditions that may explain the reason for their behaviour. This should also include consideration of the impact of any 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 level of unreasonableness of the behaviour and impact on staff.
- Ensuring that that all communications with the complainant have been accurately recorded to demonstrate why the LLR ICB considers the complainant to be acting or communicating in an unreasonable manner.

- Ensuring that the complainant has been advised of the existence and purpose of the policy and has been warned about and given a chance to amend their behaviour or actions.
- Considering whether there are further actions to take before designating the client as persistent, unreasonable or vexatious.

### **Actions prior to designating client as unreasonable, persistent, or vexatious**

101. Consideration should be given as to whether any further action can be taken prior to designating the complainant as 'unreasonable' or 'unreasonably persistent'. This might include:
- Offering a meeting to the complainant as a means to dispel any misunderstandings – this option will only be appropriate where risks have been assessed, and a suitably senior member of staff can be present.
  - Where multiple departments are being contacted by the complainant, consider setting up a strategy to agree a cross-departmental approach.
  - Issue a warning letter explaining that if the complainant's actions continue, the organisation may decide to treat him or her as an unreasonably persistent complainant and explain why.
  - Consider if providing a copy of records, or setting a meeting to talk through records, may help to dispel misunderstandings or misconceptions – this option will only be appropriate where staff are unaware of any circumstances where this would not be advisable, and consent is appropriately obtained.

### **Options for dealing with unreasonable, persistent, or vexatious complainants**

102. Where complainants have been identified as unreasonable, persistent or vexatious in accordance with the above criteria, the Corporate Governance Team, in conjunction with other senior staff within the LLR ICB, will determine what action is to be taken.
103. Complainants will be notified in writing of the reason why they have been classified as unreasonable, persistent or vexatious complainants and the action to be taken, and how long the restrictions will remain in place.
104. This notification may be copied for the information of others already involved in the complaint, e.g., practitioners, Independent Complaints Advocacy Service (ICAS), Member of Parliament.
105. The LLR ICB may decide to deal with complainants in one or more of the following ways:
- Place time limits on telephone conversations and personal contacts.
  - Decline contact with the complainants either in person, by telephone, by letter, by email or any combinations of these, provided that one form of contact is maintained.
  - A Single Point of Contact (SPOC) is nominated for the complainant to contact within LLR ICB for the duration of the complaint. It may be that contact with the nominated person within LLR ICB is also restricted to one method or frequency of communication.
  - Restrict contact through a third party (such as an advocate).

- Refuse to register and process further concerns or complaints about the same matter - notify the complainant in writing that the ICB has responded fully to the points raised and has tried to resolve the complaint but has nothing more to add and continuing contact on the matter will serve no benefit. The complainant should also be notified that the correspondence is at an end and that further letters received will be acknowledged but not answered. Complainants should be reminded of their right to pursue their complaint via the Parliamentary Health Service Ombudsman (PHSO).
- Inform the complainant that future correspondence will be read and placed on file, but not acknowledged.
- State that the organisation will not respond to correspondence that is abusive or contains allegations that lack substantive evidence, and/ or requests for a revised version of the correspondence be provided.
- Inform the complainants that in extreme circumstances the ICB reserve the right to pass unreasonable or persistent complaints to its solicitors.
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the Parliamentary Health Service Ombudsman (PHSO).

106. Once complainants have been determined as 'persistent' there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach, or if they submit a further complaint for which normal complaints procedures would appear appropriate.

## **Assurance, Monitoring and Governance**

107. A quarterly complaints report will be compiled and presented to the LLR ICB Executive Team (and other committee as appropriate) which will detail:

- the number of complaints received in the quarter for the financial year;
- Identify any trends in the nature of the complaints received;
- Highlight any areas of concern, improvements and lessons learnt;
- Identify the number of complaints responded to within the agreed timescales;
- Highlight any improvements put in place resulting from the lessons learnt from the complaints received;
- Detail any complaints that have been referred to the Parliamentary and Health Services Ombudsman, and whether these were upheld.

108. An annual review of complaints will be undertaken on the handling and considering of complaints. This will be reported to the Executive Management Team, this review will also identify any trends and actions taken to improve services as a result of any complaints.

## **Related Policies and Procedures**

109. All staff must be compliant with this policy and any related procedures and guidance including:

- Risk management strategy and policy
- Information Security Policy
- Information Governance Policy
- Corporate Incident Policy.

### Equality Monitoring Form (Strictly Confidential)

Leicester, Leicestershire and Rutland Clinical Integrated Care Board (LLR ICB) recognise and actively promote the benefits of diversity and is committed to treating everyone with dignity and respect regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. The completion of this equality monitoring form is optional, however, to ensure that our services are designed for the population we serve, we would like you to complete this short form. The information provided will only be used for the purpose it has been collected for and will not be passed on to any third parties.

**Data Protection Statement** - The information you provide is anonymous and will not be stored with any information that could identify you personally. All data provided will be used in accordance with the Data Protection Act 2018 and General Data Protection Regulation (GDPR). All information collected will be held in accordance with the Records Management Code of Practice 2021.

The Leicester, Leicestershire and Rutland Integrated Care Board Privacy Notice can be found on our website and describes how we use personal data.

If you have any questions or concerns about how we process your data, or you would like this information in an alternative format please contact [llricb-llr@enquiries@nhs.net](mailto:llricb-llr@enquiries@nhs.net).

1. Please provide the first part of your home Post Code e.g., LE1 4XX, LE19 4 XX	
The first part of your postcode will help us understand where services may need to be directed. (We will not be able to identify your address from this information)	
— — — — —	I'd prefer not to say <input type="checkbox"/>

2. What age group do you belong to ?	
16 – 25 <input type="checkbox"/>	66 – 75 <input type="checkbox"/>
26 – 35 <input type="checkbox"/>	76 – 85 <input type="checkbox"/>
36 – 45 <input type="checkbox"/>	85 + <input type="checkbox"/>
46 – 55 <input type="checkbox"/>	I'd prefer not to say <input type="checkbox"/>
56 – 65 <input type="checkbox"/>	

3. What is your legal marital or civil partnership status?	
Single <input type="checkbox"/>	Separated / Divorced <input type="checkbox"/>
Married / civil partnership <input type="checkbox"/>	Widowed <input type="checkbox"/>
	I'd prefer not to say <input type="checkbox"/>

**4. Which of the following best describes how you think of yourself?**

Male <input type="checkbox"/>	I'd prefer not to say <input type="checkbox"/>
Female <input type="checkbox"/>	

**5. Is your gender identity the same as the gender you were given at birth?**

Yes <input type="checkbox"/>	I'd prefer not to say <input type="checkbox"/>
No <input type="checkbox"/>	

**6. Which of the following best describes your sexual orientation?**

Straight / Heterosexual <input type="checkbox"/>	Other sexual orientation .....
Gay / Lesbian <input type="checkbox"/>	
Bisexual <input type="checkbox"/>	
I'd prefer not to say <input type="checkbox"/>	

**7. How would you describe the ethnic group you belong to?**

<p><b>White</b>                  English, Welsh, Scottish, Northern Irish, British Irish <input type="checkbox"/>                  Gypsy or Irish Traveller <input type="checkbox"/>                  Roma <input type="checkbox"/>                  Any other White background .....</p> <p><b>Mixed or Multiple ethnic groups</b>                  White and Black Caribbean <input type="checkbox"/>                  White and Black African <input type="checkbox"/>                  White and Asian <input type="checkbox"/>                  Any other Mixed or Multiple Background .....</p> <p><b>Black, Black British, African, Caribbean, African</b> <input type="checkbox"/>                  Caribbean <input type="checkbox"/>                  Any other Black, Black British or Caribbean background .....</p>	<p><b>Asian / Asian British</b>                  Indian <input type="checkbox"/>                  Pakistani <input type="checkbox"/>                  Bangladeshi <input type="checkbox"/>                  Chinese <input type="checkbox"/>                  Any other Asian background .....</p> <p><b>Other Ethnic Group</b>                  Arab <input type="checkbox"/>                  Polish <input type="checkbox"/>                  Somali <input type="checkbox"/>                  Any other Ethnicity .....</p> <p>I'd prefer not to say <input type="checkbox"/></p>
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**8. How would you describe the religion you belong to?**

Christian (including Church of England, Catholic, Protestant and all other Christian denominations) <input type="checkbox"/>  Buddhist <input type="checkbox"/>  Hindu <input type="checkbox"/>  Muslim <input type="checkbox"/>	Sikh <input type="checkbox"/>  Jewish <input type="checkbox"/>  Jain <input type="checkbox"/>  Other religion .....	No religion <input type="checkbox"/>  Atheist <input type="checkbox"/>  I'd prefer not to say <input type="checkbox"/>
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**9. Which language is your preferred option for communicating and interpreting information?**

English <input type="checkbox"/>  BSL (British Sign Language) <input type="checkbox"/>  Gujarati <input type="checkbox"/>  Polish <input type="checkbox"/>  Slovak <input type="checkbox"/>  Urdu <input type="checkbox"/>	Arabic <input type="checkbox"/>  Chinese <input type="checkbox"/>  Hindi <input type="checkbox"/>  Portuguese <input type="checkbox"/>  Somali <input type="checkbox"/>  Bengali <input type="checkbox"/>	Farsi <input type="checkbox"/>  Pashtu <input type="checkbox"/>  Punjabi <input type="checkbox"/>  Turkish <input type="checkbox"/>  I'd prefer not to say <input type="checkbox"/>  Other <input type="checkbox"/>
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**10. Do you look after, or give help or support to anyone because they have long term physical or mental health conditions or illnesses or problems related to old age?**

Yes <input type="checkbox"/>  No <input type="checkbox"/>	I'd prefer not to say <input type="checkbox"/>
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**11. Do you consider yourself to have a disability or suffer from poor health ?**

The Equality Act 2010 states a person has a disability if they have a physical or mental impairment which has a long term (12-month period or longer) or substantial adverse effects on their ability to carry out day to day activities.

Yes – I have a disability <input type="checkbox"/>  Yes – I am in poor health <input type="checkbox"/>	No – I am in good health <input type="checkbox"/>  I'd prefer not to say <input type="checkbox"/>
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**12. If you have answered “Yes” to the above question, please select which category/ categories your health condition or illness falls into?**

Physical (such as difficulty in walking)

Partial or total loss of vision

Learning disability / difficulty

Partial or total loss of hearing

Mental Health Condition

Speech impediment or impairment

Other .....

I'd prefer not to say

**All LLR ICB Policies can be provided in large print or Braille formats, if requested, and an interpreting service is available to individuals who require them.**

For any questions or feedback regarding this form please contact the Corporate Governance Team either by Phone: 0116 295 7572 or Email: [llricb-llr.enquiries@nhs.net](mailto:llricb-llr.enquiries@nhs.net)

## LLR ICB's Complaints Management Process

