

NHS England Complaints Policy

NHS England and NHS Improvement



NHS England Complaints Policy

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Contents

1. Introduction	4
2. Scope	4
3. Roles and responsibilities.....	4
4. How to make a complaint	5
5. Who can make a complaint?	5
6. Advocacy services	6
7. Time limit for making a complaint.....	6
8. Complaints about more than one provider	7
9. Acknowledgement.....	7
10. Investigation	8
11. Response	8
12. Confidentiality and consent	9
13. Exceptions to the policy.....	9
13.1 Fraud.....	9
13.2 Safeguarding and patient safety.....	9
13.3 The safety of complaints staff.....	10
14. Persistent and unreasonable contact	11
15. Compliance and reporting	11
16. Impact Assessments	11
16.1 Policy Impact Assessment	11
16.2 Equality and Health Inequality Analysis.....	11
Appendix 1: Clinical review template	12
Appendix 2 – Consent standard operating procedure	21
Appendix 3 - Guidance for dealing with persistent and/or unreasonable contact	22
Appendix 4 – Equality and Health Inequalities Impact Assessment	26

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Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 3

1. Introduction

The policy outlines our commitment to handling complaints about services commissioned by NHS England.

NHS England handles complaints in line with the Local Authority Social Services and NHS Complaints Regulations 2009 (the Regulations).

2. Scope

This policy **only** applies to the handling of complaints relating to NHS England's commissioned services and/or its commissioning decisions.

This would include NHS (not private) primary care such as GPs, dentists, pharmacists and optometrists. It also applies to all of NHS England's specialised commissioning services.

For the purposes of this policy, a complaint is defined as an expression of dissatisfaction about an act, omission or decision, either verbal or written, and whether justified or not which requires a response.

3. Roles and responsibilities

The Chief Executive has overall accountability for ensuring that the NHS England complaints policy meets the statutory requirements as set out in the Regulations.

The Regulations permit the approval and signing of complaint response letters to be delegated appropriately. At NHS England, the Chief Executive has delegated this responsibility to national and regional senior leadership teams, and this is described in our Scheme of Delegation¹.

The Chief Commercial Officer is the Executive Director responsible for the operational delivery of the NHS England complaints policy.

The majority of the complaints received by NHS England are handled by our regional complaints teams. At a local level, these regional complaints teams sit as part of a wider regional directorate who work together to provide the complaints service.

It is the responsibility of the Customer Contact Centre to consider whether informal and therefore early resolution of an issue may be possible. If we think an issue can be resolved quickly we aim to do this in around 10 working days and, with the agreement of the enquirer, would categorise this as a concern. However, if the enquirer is clear that they wish to make a formal complaint then we follow our complaints policy in full.

¹ <https://www.england.nhs.uk/publication/scheme-of-delegation-policy/>

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 4

4. How to make a complaint

A complaint can be made by telephone:
03003 11 22 33

Email:

England.contactus@nhs.net

Post:

NHS England, PO Box 16738, Redditch, B97 9PT

British Sign Language (BSL) users can talk to us via a videocall to a BSL interpreter. Currently this needs to be booked. In future this will be available via an App or through the NHS England website.

We will seek to make the necessary reasonable adjustments in order to handle any complaint. For people whose first language is not English, we have access to a translation and telephone interpreting service. We can also handle complaints in alternative formats such as Braille.

When receiving an inbound call to the regional complaints teams, an offer should be made to call the complainant straight back so that they do not incur excessive costs. If the regional complaints team make an outbound call to a complainant, for reasons of security and confidentiality, they should withhold the telephone number.

Where possible freepost/pre-paid envelopes should be provided to complainants if asking them to return any papers by white mail.

The Customer Contact Centre is responsible for publishing information about the complaints process including advice on signposting to advocacy services. This includes making Easy Read materials about the complaints process available as part of our commitment to AskListenDo. These can be found online at:

<https://www.england.nhs.uk/learning-disabilities/about/ask-listen-do/>

5. Who can make a complaint?

In line with the Regulations, a complaint may be made by “a person who receives or has received services” or “a person who is affected, or likely to be affected, by the action, omission or decision.....which is the subject of the complaint”.

A complaint may be made by a representative acting on behalf of a person mentioned above who:

- a) Has died

The complainant would usually be the personal representative of the deceased. In order to respond to the personal representative, NHS England may request some formal documentation from this person such as copy of a will (to demonstrate their role as executor) or a lasting power of attorney relating to health care.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 5

b) Is a child

NHS England must be satisfied that there are reasonable grounds for the complaint to be made by a representative of the child (rather than by the child themselves), and that the representative is making the complaint in the best interest of the child (a child is considered anyone up to the age of 18).

c) Has physical or mental incapacity

In the case of a person who is unable to make the complaint themselves because of either physical incapacity or who lacks capacity within the meaning of the Mental Capacity Act 2005, NHS England needs to be satisfied that the complaint is being made in the best interest of that person.

In relation to points a, b and c above, where NHS England is satisfied that the representative is not conducting the complaint in the best interests of the person on whose behalf the complaint is made, the complaint will not be considered under this policy. NHS England must notify the representative in writing of this decision and state the reason for that decision.

d) Has given consent to a third party acting on their behalf.

In this case NHS England will require the following information;

- Name and address of the person making the complaint
- Name and either date of birth or address of the person who is the subject of the complaint
- A consent form signed by the person who is the subject of the complaint

This information is recorded as part of the complaint file.

e) Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs

f) Is an MP, acting on behalf of and by instruction from a constituent

Where the constituent is not the patient or the person who is the subject of the complaint, we will pursue consent in the usual way.

6. Advocacy services

Local authorities have a statutory duty to commission independent advocacy services to provide support in order for people to make a complaint about their NHS care or treatment. People who contact the NHS England Customer Contact Centre to discuss making a complaint should be given information about their local advocacy provider (and in certain circumstances other specialist advocacy) at the earliest opportunity. This information will be provided again at the acknowledgement stage.

7. Time limit for making a complaint

A complaint must be made not later than 12 months after the date on which the matter, which is the subject of the complaint occurred or, if later, the date on which

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 6

the matter which is the subject of the complaint came to the notice of the complainant.

The time limit shall not apply if NHS England is satisfied that the complainant had good reasons for not making the complaint within that time limit and, notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly.

If we do not see a good reason for the delay or we think it is not possible to properly consider the complaint (or any part of it) we will write to the person making the complaint to explain this.

8. Complaints about more than one provider

When NHS England receives a complaint, which contains issues about more than one provider or organisation it will have a discussion with the complainant about who is best placed to co-ordinate the investigation and provide the response. Where it is agreed that NHS England will co-ordinate and respond on behalf of the providers/organisations, consent will be obtained to share the complaint as appropriate.

Where NHS England is not the lead organisation it will fully co-operate with the organisation who has been identified as the lead. In this event we would liaise with that organisation to ensure appropriate consent is in place.

9. Acknowledgement

Where a complainant has specified the way in which they wish to be addressed all communication from the acknowledgement stage onwards will follow that request, including the use of pronouns.

An acknowledgement to a complaint:

- Must be within 3 working days;
- Will be in writing unless in exceptional circumstances where it may be verbal (if made verbally it must be followed up in writing as soon as is possible);
- Must include an offer to discuss the handling of the complaint;
- Must include an offer to discuss the timeframe for responding to the complaint;
- Should include a summary of what the complaint is about and, where unclear, offer to discuss the desired outcome;
- When the complaint has been made verbally, it must include the written statement which has been recorded as the formal complaint;
- Must include information about local NHS Complaint Advocacy Services (and consideration be given to providing information about specialist advocacy services such as when the complaint may also be a serious incident or claim);
- Will address any issues of consent; and
- Must include the name and title of the complaints handler who will be the point of contact for the complainant throughout the complaints process.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 7

10. Investigation

An investigation into a complaint will usually involve the provider of care or service issuing a response to NHS England. For clinical complaints, NHS England will quality assure any response from a provider we commission by seeking a clinical review on a peer to peer basis (so for example a complaint about a GP will be reviewed by one of NHS England's independently appointed clinical reviewers who must also be a GP). The template for recording a clinical review is found at appendix 1 and must be used.

For complaints that raise contractual issues about the services NHS England commissions, we would similarly seek a response from the provider but would expect our commissioning colleagues who oversee the contract to comment on that response and provide expert contractual knowledge.

For complaints that raise issues purely about a decision taken by NHS England, we may not need to involve a provider of care directly. For such complaints we would expect regional and/or national senior leadership teams (for the relevant subject matter) to provide a suitable response based upon their expert knowledge.

In the event that our investigation is likely to take longer than the original timeframe identified at the acknowledgement stage, the complainant must be contacted to be advised of a new timeframe for responding and an explanation given as to the reason for the delay.

We will make sure that named providers being complained about are made aware of where they can access support should it be required.

11. Response

There are two models of complaint response delivered across NHS England. These are:

- One letter of response which incorporates all elements of the investigation
- Two letters of response – one from Practice/Provider, one from regional senior leadership team

Where a complaint is about a single provider (such as one dental practice) NHS England should send no more than two enclosures when responding. This could be the covering response from the regional senior leadership team alongside one response from the practice. NHS England should not accept multiple responses from one practice.

In the event of a complaint about more than one provider/organisation, it may be necessary to include more than two enclosures.

A response to a complaint must:

- Include an explanation of how the complaint has been considered
- Provide information about who has been involved in the investigation
- Include a meaningful apology where it is due

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 8

- Refer to any records, documents or guidelines that have been considered
- Conclude and evidence how a decision was reached
- Tell the complainant what has been done to put things right where appropriate
- Signpost the complainant to next steps including details of the Parliamentary and Health Service Ombudsman (PHSO)

Before sharing a response with the complainant, consideration should be given to any response which may contain sensitive, unexpected and/or potentially harmful information or which may be delivered at a sensitive time (such as the anniversary of a death).

NHS England must share a copy of its final response with the provider(s) complained about. There is further specific instruction regarding the sharing of clinical reviews in certain circumstances – please see appendix item.

If NHS England 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 PHSO without waiting for local resolution to be completed.

12. Confidentiality and consent

NHS England has a legal duty to maintain the confidentiality of personal information. NHS England will not access or share information pertaining to complaints without following our standard operating procedure in relation to consent for complaints. This more detailed document is located in appendix 2.

All personal data received is recorded and stored on a secure server with limited authorised access. Information is retained in accordance with NHS England’s retention schedule and DHSC guidance.

13. Exceptions to the policy

13.1 Fraud

Any allegations of fraud or financial misconduct should be referred to the National Fraud Reporting Line at NHS Counter Fraud Authority. Full details of the methods for reporting are available at their website <https://cfa.nhs.uk/reportfraud> NHS England and NHS Improvement staff as well as Primary Care Contractors should refer to the ‘[Tackling Fraud Bribery and Corruption Policy](#)’ The policy includes details of the organisational response to Counter Fraud and mechanisms to report or discuss concerns.

13.2 Safeguarding and patient safety

There may be circumstances in which information disclosure is in the best interest of the patient, or the protection, safety or wellbeing of a child or adult at risk. In these circumstances, a complaint will be escalated as necessary in line with NHS England’s safeguarding policy and procedure.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 9

Each NHS England region has a safeguarding lead and further support and guidance should be sought from the regional lead as required. The Complaints Manager (or equivalent) in each region (supported by their Operational Lead) is responsible for ensuring that all staff in their regional complaints team have access to the NHS England Safeguarding policy, the Safeguarding: Patient and Public Participation policy, and all current contact details and local escalation processes.

Managers should ensure that contact details are reviewed regularly to ensure that the details remain current. This information should be shared with any newly recruited member of the complaints team as part of their local induction. This local information in terms of contact details should also be made available to the Customer Contact Centre teams at tier one (Redditch) and tier two (Leeds). It is the responsibility of the regional Complaints Manager (or equivalent) to provide this information and ensure it is up to date.

An appropriate summary of any action or escalation in respect of safeguarding upon receipt of a complaint/concern, or at any stage of the process, should be recorded on CRM to ensure all staff who may handle the enquiry are aware.

13.3 The safety of complaints staff

Most of the contact with complainants is via telephone, email or white mail. However, there may be either planned or unscheduled meetings face to face with complainants and appropriate measures need to be in place to support staff in the engagement. The NHS England Safeguarding Policy and the Safeguarding: Patient and Public Participation provide guidance and support to staff and managers, alongside the Patient and Public Voice Partners Policy and NHS England’s bite-size guides to participation available on the share point [here](#).

Most regional complaints offices are not considered spaces appropriate for meeting complainants and have not been designed with suitable public meeting rooms. If a complainant makes an unscheduled visit to a regional office it is important that upon being made aware of their arrival, a check should be made on CRM check to see if any reasonable adjustments are recorded in order to provide the complainant with the best possible outcome when meeting. It would also be advisable to see if there is any Customer Message about restricted communications/or any possible risks the complainant may pose. Depending on the information on CRM, it may be the case it is not advisable to enter into any meeting of an unscheduled nature and this should be explained to the visitor.

Whilst the complainant may wish to discuss a confidential matter, it is essential that based upon the knowledge of the complainant, the complaints staff make a considered decision about where they speak to the complainant. In these circumstances complaints staff should not meet the complainant alone and if possible should be accompanied by a colleague with clinical experience.

If the decision is taken to proceed with an unscheduled meeting, complaints staff should be accompanied by a colleague. Good practice would suggest that the complaints staff advise other colleagues of where they are meeting with the complainant and to request that they check on them at regular points. A documented

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 10

record of the discussion which takes place should be made by one of the staff in attendance.

Within the complaints process there is scope for a planned local resolution meeting. Complaints staff should be supported by a colleague with appropriate experience according to the nature of the complaint. A neutral and safe venue should be sought for such a meeting. Managers should be aware of the location and duration of the meeting. A colleague should be identified as a key point of contact and the complaints staff undertaking the engagement should make contact with this colleague prior to the start of the meeting and then again upon conclusion. Complaints staff should ideally check the suitability of the any suggested meeting space and an awareness of any security measures at the venue are recommended in advance of the meeting.

14. Persistent and unreasonable contact

Detailed guidance on how we will manage persistent and unreasonable contact is set out at Appendix 3

15. Compliance and reporting

NHS England will use a variety of ways to report and review compliance with the policy. These will include:

- Customer Contact Executive Group will monitor performance regionally and nationally on a six weekly basis (including escalation)
- NHS England will provide an annual complaints report via the organisation's broader annual report and accounts
- Regular reviews of quality of data entry on the complaints management system
- Peer reviews of regional complaints handling (and national)
- All partially or fully upheld PHSO investigations into complaints originally managed by NHS England will be reported on a regular basis to Quality Group
- Internal audit
- Complainant satisfaction survey (based upon 'My Expectations') will be reported regularly to Quality Group and Customer Contact Executive Group
- Equality and Diversity monitoring will be reported regularly to Quality Group and Customer Contact Executive Group

16. Impact Assessments

16.1 Policy Impact Assessment

As part of the development of this policy, its impact on the business has been assessed; no detrimental issues were identified.

16.2 Equality and Health Inequality Analysis

An Equality and Health Inequalities Impact Assessment is available in Appendix 4.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 11

Appendix 1: Clinical review template

To be completed by the complaints team:

Case/CRM ref:	
Practitioner Name (if applicable):	
Provider Name:	
Provider Code:	
Date of Complaint:	
Summary of Complaint and Questions for Review:	
Date Clinical Review Due: (please allow 5 working days)	

To be completed by the Clinical Reviewer:

Clinical Reviewer Name:	
Declaration of Conflict of Interest: (See Annex A for more information on conflict of interest)	
Reviewer Qualification:	
Additional questions identified by clinical reviewer:	
Documents Reviewed: Please list documents reviewed, for example, medical records, NICE Guidance, GMC Clinical Standard, Professional Body Professional Standards, etc.	
Findings: Was the care and treatment acceptable? Please describe and evidence how you have come to this conclusion. If you have found that care and treatment was acceptable and there is no need for further recommendation, please proceed to Information for Inclusion in the Complaint Response.	
If your findings are critical has the practice already identified the issues and have they been appropriately addressed in the response? If you have found that the response addresses all issues arising, and there is no need for further recommendation please proceed to Information for Inclusion in the Complaint Response.	

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 13

<p>Recommendations:</p> <p>a) Please state clearly:</p> <ul style="list-style-type: none"> - The recommendation/s being made - Who the recommendation/s apply to - The urgency or specific timeframe attached to recommendation/s 	a)
	b)
<p>b) In the event of a very critical finding with serious issues identified please confirm that the recommendation/s have been/will be shared with the provider and by whom:</p>	
<p>Please provide any comments on the quality of the clinical record keeping?</p> <p>If your comments are critical is there a need for any follow up outside of the complaints process?</p>	
<p>Please provide any comments you have on the quality of the provider response?</p> <p>If it is so poor or incomplete that there is a need for it to be rewritten please give clear instruction to the complaints case officer/team as to what further work is required.</p>	
<p>Please mark appropriate box²:</p> <p>Upheld <input type="checkbox"/> Partially Upheld <input type="checkbox"/> Not Upheld <input type="checkbox"/></p>	

² Not upheld: You have *no criticisms of any* element of the clinical care, service or decision making

Partly upheld: You have *criticisms of some* elements of the clinical care, service or decision making

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 14

Risk Rating Please mark appropriate box: (see annex B for guidance)	Green (with score)	Amber (with score)	Red (with score)
Recommended for referral to PAG: No <input type="checkbox"/> Yes <input type="checkbox"/>			
Information for inclusion in response to complainant: Please note that this is for inclusion in the response to the complainant and therefore needs to be in format that the complainant can understand. This must be based upon the findings and recommendations above <i>only</i> and must be an original narrative (no standard text).			
Please confirm by marking box that NHS England will not be releasing information which might cause harm	<input type="checkbox"/>		
Wider interest: Please state clearly: <ul style="list-style-type: none"> - is the complaint of wider interest? - if so, who is it of interest to, for example Regional NHS England teams, National NHS England teams, other organisations? - Why is it of wider interest? For example, have you seen a pattern of similar complaints from a number of providers? 			

Signature:

Date of Review:

Upheld: You have *criticisms of all* elements of the clinical care, service or decision making

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 15

Annex A – Conflicts of Interests

You must consider and declare whether there are any circumstances by which a reasonable person would consider that your ability to apply judgement or act as a clinical reviewer could, in this case, be impaired or influenced by another interest you hold. This includes, but is not limited to, having a close association with the complained about, having trained or appraised the complained about, and/or being in a financial arrangement with them previously or currently.

For further information please refer to NHS England’s conflict of interest guidance which was shared with you during your induction.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 16

Annex B – Risk Matrix Tool

TABLE ONE

Likelihood Description rating

Almost Certain	Will undoubtedly happen/recur, possibly frequently. Probability >50%
Likely	Will probably happen/recur, but it's not a persistent concern. Probability 10-50%.
Possible	Might happen or recur occasionally. Probability 1-10%
Unlikely	Do not expect this event to happen/recur but it is possible that it might do so. Probability 0.1-1%
Rare	This will probably never happen/recur. Or not expected to occur for years. Probability <1%

Contributory Factors for Likelihood	Explanatory
Level of Insight	Does the practitioner understand and accept the deficiencies in performance? Is there evidence that the practitioner appreciates the impact of the issue/incident or potential for harm if not addressed?
Health	Is there evidence of ill health, or potential indicators of ill health?
Behaviours	Is there evidence of concerning behaviour, outside the standards outlined by regulatory body guidelines or behaviours expected of the profession?
Level of support	Is the practitioner engaged with support agencies – defence union/local representative committee/support groups. Is the practitioner supported by friends/family/peers/mentor/supervisor or could they be considered to be isolated?
Context of work	Are they a locum/Partner/salaried? Are they working in a supportive and/or positive environment i.e. a training practice Is the practice involved in any CQC action?
Level of engagement	Has the practitioner engaged with NHS England or other relevant agencies? Have they engaged with support agencies? Have they engaged with requests for information?

TABLE TWO

Consequence Description rating

Catastrophic	Patient/Public Safety (physical/psychological harm)	Incident leading to death. Multiple permanent injuries or irreversible health effects. An event which impacts on a large number of patients or a one-off isolated incident.
	Stat.	Practitioner specific root cause of severely critical report – prosecution – multiple breaches in statutory duty
	Duties/inspections	Evidence of significant financial mis-management of NHS funds, NHS fraud investigations/findings.
	Financial	Significant and immediate infringement of process/systems which results in loss of critical service and/or risk to service users
	Management	May result in urgent action by regulator. Major criminal investigation/charges. Catastrophic impact on maintaining trust - evidence of system wide dishonesty by professionals; Catastrophic breach of Professional ethics (measured through disrespect for profession, others and patients).
	Professionalism / conduct/ Reputation	National media coverage inevitable. Total loss of public confidence.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 17

Major	<p>Patient/Public Safety (physical/ psychological harm)</p> <p>Stat.</p> <p>Duties/inspections</p> <p>Financial</p> <p>Management</p> <p>Professionalism/ Conduct/Reputation</p>	<p>Mismanagement of patient care with long-term effects. Major injury leading to long-term incapacity/disability. Significant risk to patient safety if unresolved. Required urgent acute admission. Will require clinical supervision.</p> <p>Multiple breach in stat. duties – Improvement notices - Practitioner not acting on/engaging with regulatory body actions/recommendations.</p> <p>Evidence of financial mismanagement of NHS funds, NHS fraud investigations/findings</p> <p>Multiple/similar complaints and will require external review. Significant infringement of process/systems</p> <p>Major impact on maintaining trust; evidence of professional dishonesty; Major breach of Professional ethics (measured through respect for profession, others and patients).</p> <p>National media involvement likely. Risk to corporate reputation if not acted upon. Significant and long term loss of public confidence.</p>
Moderate	<p>Patient/Public Safety (physical/ psychological harm)</p> <p>Stat.</p> <p>Duties/inspections</p> <p>Financial</p> <p>Management</p> <p>Professionalism / Conduct/Reputation</p>	<p>Moderate injury requiring professional intervention but with no residual disability/harm. May affect a small group of patients. Results in regulator complaint. May result in a structured improvement action plan for performer. May require clinical supervision.</p> <p>Single breach in statutory duties. Practitioner challenging external recommendations/ improvement notice.</p> <p>Limited evidence of financial mismanagement of NHS funds.</p> <p>Complaint/s investigation may result in referral to Practitioner Performance Team and may require external review. Moderate infringement of process/systems. May be isolated complaint.</p> <p>Major impact on maintaining trust; evidence of dishonesty; breach of professional ethics (measured through respect for profession, others and patients). Local media coverage –loss public confidence (short – medium term)</p>
Minor	<p>Patient/Public Safety (physical/ psychological harm)</p> <p>Stat.</p> <p>Duties/inspections</p> <p>Financial</p> <p>Management</p> <p>Professionalism/ Conduct/Reputation</p>	<p>Minor injury or illness, first aid treatment may be needed. Minor implications for patient safety if unresolved. No residual harm or disability. Overall treatment.</p> <p>Limited evidence of breach in statutory legislation. Small loss or minor risk of claim</p> <p>Single failure to meet internal standards. Low level complaint, resolved by commissioning organisation or provider.</p> <p>Minor impact on maintaining trust; isolated evidence of dishonesty. Minor breach of Professional ethics (measured through respect for profession, others and patients). Media involvement unlikely. Local media coverage – short-term reduction in public confidence Elements of public expectation not being met</p>

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 18

Negligible	Patient Safety	Minimal injury requiring no/minimal intervention or treatment and no time off work (Patient safety)
	Stat. Duties	No or minimal impact or breach of guidance
	Financial	Insignificant evidence of financial loss and risk of claim remote
	Management	Minor infringement of process/systems with no enduring consequence
	Professionalism/ Conduct/ Reputational	No risk of media coverage, minimal / negligible impact on maintaining trust and reputation

<u>Likelihood</u>	<u>Severity</u>				
	1 Negligible	2 Minor	3 Moderate	4 Major	5 Catastrophic
1 – Rare	1	2	3	4	5
2 - Unlikely	2	4	6	8	10
3 - Possible	3	6	9	12	15
4 – Likely	4	8	12	16	20
5 - Almost Certain	5	10	15	20	25

Instructions for use:

1. **Define the risk(s)** explicitly in terms of the adverse **consequence(s)** that might arise from the risk.
2. Use table 2 (above) to determine the consequence score(s) for the potential adverse outcome(s) relevant to the risk being evaluated.
3. Use table 1 (above) to **determine the likelihood** score(s) (L) for those adverse outcomes.
 - i. It is noted that the immediacy of the risk will play a part here i.e. if likelihood of recurrence is very likely within a short timescale, and this carries a possibly significant adverse outcome, the overall risk score will reflect this.
 - ii. If possible, score the likelihood by assigning a predicted frequency of occurrence of the adverse outcome. If this is not possible, assign a probability to the adverse outcome occurring within a given time frame, such as the lifetime of a project or a patient care episode. If it is not possible to determine a numerical probability then use the probability descriptions to determine the most appropriate score.
4. Calculate the risk score the **risk multiplying the consequence by the likelihood**: C (consequence) \times L (likelihood) = R (risk score)

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 19

5. Identify the level at which the risk will be managed in the organisation, assign priorities for remedial action, and determine whether risks are to be accepted on the basis of the colour bandings and risk ratings, and the organisation's risk management system.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 20

Appendix 2 – Consent standard operating procedure



Consent SOP
v.1.3.pdf

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 21

Appendix 3 - Guidance for dealing with persistent and/or unreasonable contact

1. Introduction

This guidance covers all contacts, enquiries and complaints. It is intended for use as a last resort and after all reasonable measures have been taken to try to resolve an issue.

Persistent contact may be as a result of individuals having genuine issues and it is therefore important to ensure that this process is fair and the person's interests have been taken into consideration.

2. Purpose of the guidance

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

3. Definition of persistent and/or unreasonable contact

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

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

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 22

4. Actions prior to designating a person’s contact as persistent and/or or unreasonable.

It is important to ensure that the details of a complaint/concern are not lost because of its presentation. There are a number of points to bear in mind when considering imposing restrictions upon a person.

These may include:

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

Consideration should also be given as to whether any further action can be taken prior to designating the person’s contact as unreasonable or persistent.

This might include:

- Raising the issue with a senior manager (Customer Contact Centre or region) with no previous involvement, in order to give an independent view.
- Where there are multiple contact points, consider a strategy to agree a cross-departmental approach.
- Consider whether the assistance of an advocate may be helpful.

Consider how communication with the person could be managed, which may include;

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 23

- Time limits on telephone conversations and contacts.
- Restricting the number of calls that will be taken or agreeing a timetable for contacting the service.
- Requiring contact to be made with a named member of staff and agreeing when this should be.
- Requiring contact via a third party e.g. advocate.
- Limiting the person to one mode of contact.
- Informing the person of a reasonable timescale to respond to correspondence.
- Informing the person that future correspondence will be read and placed on file, but not acknowledged.
- Advising that the organisation does not deal with calls or correspondence that are abusive, threatening, offensive or discriminatory.
- Asking the person to enter into an agreement about their conduct.

5. Process for managing persistent and/or unreasonable behaviour

Where a person's contact has been identified as persistent and/or unreasonable, the decision to declare them as such must be made based upon information provided by the Customer Contact Centre and regional complaints team. It is important that all relevant information be made available before a decision is made, in order to ensure the person is treated fairly when considering imposing of restrictions.

Once a decision has been made, depending on where the main focus of communication has taken place, either the most senior customer contact centre manager or regional complaints lead will write to the person informing them that:

- Their complaint/concern is being investigated and a response will be prepared and issued as soon as possible within the timescales agreed or;
- Their complaint/concern has been responded to as fully as possible and there is nothing to be added.

Additionally:

- That repeated contact regarding the complaint/concern in question is not acceptable and that further calls will be terminated and;
- That any further correspondence will not be acknowledged.

All appropriate staff should be informed of the decision so that there is a consistent and co-ordinated approach across the organisation (ensuring that only information pertaining to the restriction is made available rather than information relating to the subject of the case).

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

A review of the status should take place at six monthly intervals. A virtual panel will aim to meet prior to the end of the six month interval to review any change in status. The panel can make recommendations to the Senior Customer Contact Centre

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 24

Manager or equivalent regional director as part of their consideration to either extend or remove any sanction.

There may be rare occasions when the nature of the contact requires immediate and urgent action such as involving emergency services in order to safeguard either the person or staff member (or both). In these circumstances follow usual safeguarding processes and retrospectively apply the persistent and/or unreasonable as necessary.

6 Record keeping

Ensure that adequate records are kept of all contact with persistent and/or unreasonable contacts.

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

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 25

Appendix 4 – Equality and Health Inequalities Impact Assessment

NHS England and NHS Improvement: Equality and Health Inequalities Impact Assessment (EHIA) template

A completed copy of this form must be provided to the decision-makers in relation to your proposal. The decision-makers must consider the results of this assessment when they make their decision about your proposal.

1. Name of the proposal (policy, proposition, programme, proposal or initiative)³:
2. Brief summary of the proposal in a few sentences

Updated complaints policy for NHS England in relation to complaints we handle regarding services we commission. Covers how complaints will be received, investigated, and responded to in line with the legal requirements of 2009 complaints legislation.

3. Main potential positive or adverse impact of the proposal for protected characteristic groups summarised

Please briefly summarise the main potential impact (positive or negative) on people with the nine protected characteristics (as listed below). Please state **N/A** if your proposal will not impact adversely or positively on the protected characteristic groups listed below. Please note that these groups may also experience health inequalities.

Protected characteristic groups	Summary explanation of the main potential positive or adverse impact of your proposal	Main recommendation from your proposal to reduce any key identified adverse impact or to increase the identified positive impact
Age: older people; middle years; early years; children and young people.	We are aware of the importance of the complaints process being accessible to people of all ages. If we do not make reasonable adjustments and/or consider the ways	We accept complaints in whatever way suits the individual, so it is not digitally exclusionary. We have a consent process that allows complaints to be made on behalf of people who may lack capacity in ways that link to

³ Proposal: We use the term proposal in the remainder of this template to cover the terms initiative, policy, proposition, proposal or programme.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 26

Protected characteristic groups	Summary explanation of the main potential positive or adverse impact of your proposal	Main recommendation from your proposal to reduce any key identified adverse impact or to increase the identified positive impact
	people access the complaints process this would affect their ability to make a complaint. We also need to consider that complaints are made in a person's best interest where they are unable to consent.	age, for example the very young and older people with dementia. This process includes checks around best interest and clinical assessment of capacity. We will continue to make use of equality monitoring processes to assess appropriateness of our processes.
Disability: physical, sensory and learning impairment; mental health condition; long-term conditions.	We are aware that disabilities may affect a person's ability to make a complaint, particularly sensory, communications, and learning disabilities, as well as conditions that may affect behavior.	We accept complaints in whatever way suits the individual, so it is not digitally exclusionary. Our policy describes how reasonable adjustments should be made and recorded. Our persistent and unreasonable appendix item is designed to ensure that any restriction imposed is a last resort and a person's disabilities are considered as part of any action taken. We will continue to make use of equality monitoring processes to assess appropriateness of our processes. We have created easy read materials as part of our commitment to AskListenDo (a project designed to improve access to the complaints process for people with a Learning Disability and/or Autism and their families/carers). We liaise with the learning disability and autism team for advice.
Gender Reassignment and/or people who identify as Transgender	We are aware that transgender people may have low trust in health services and may have heightened concerns around issues of confidentiality and being correctly referred to as	Our policy specifically states requirements around addressing people by their stated preferences for all communications. Confidentiality is covered for all complainants via wider NHS England policy and specifically
Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 27

Protected characteristic groups	Summary explanation of the main potential positive or adverse impact of your proposal	Main recommendation from your proposal to reduce any key identified adverse impact or to increase the identified positive impact
	their stated gender. NHS England commissions gender identity services.	for the secure server on which the complaints data base sits. We will continue to make use of equality monitoring processes to assess appropriateness of our processes. We liaise with Michael Brady's LGBT team for advice and support.
Marriage & Civil Partnership: people married or in a civil partnership.	People who are married or in a civil partnership may wish to make complaints on behalf of partners. The policy needs to consider the appropriateness of this as it would with any third-party complaint.	We have a consent process that allows complaints to be made on someone else's behalf. This process considers choice, capacity, best interest, and confidentiality.
Pregnancy and Maternity: women before and after childbirth and who are breastfeeding.	Maternity services are not commissioned by NHS England and therefore our volume of complaints received in this respect are low. The complaints process needs to be accessible to pregnant people as it would be with all other protected groups.	We accept complaints in whatever way suits the individual. We will continue to make use of equality monitoring processes to assess appropriateness of our processes.
Race and ethnicity ⁴	We know people from ethnic minorities have poorer outcomes. We need to ensure the complaints process is accessible so it captures and responds to their experiences. We also need to ensure that	Our policy specifically covers interpretation and translation requirements. We will continue to make use of equality monitoring processes to assess appropriateness of our processes, which will include identifying groups we are not hearing from.

⁴ Addressing racial inequalities is about identifying any ethnic group that experiences inequalities. Race and ethnicity includes people from any ethnic group incl. BME communities, non-English speakers, Gypsies, Roma and Travelers, migrants etc.. who experience inequalities so includes addressing the needs of BME communities but is not limited to addressing their needs, it is equally important to recognise the needs of White groups that experience inequalities. The Equality Act 2010 also prohibits discrimination on the basis of nationality and ethnic or national origins, issues related to national origin and nationality.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 28

Protected characteristic groups	Summary explanation of the main potential positive or adverse impact of your proposal	Main recommendation from your proposal to reduce any key identified adverse impact or to increase the identified positive impact
	people with English as a second language and non-English speakers can make complaints and receive their responses in a way they understand.	
Religion and belief: people with different religions/faiths or beliefs, or none.	We need to ensure the complaints process is accessible to people from different religious backgrounds.	We will continue to make use of equality monitoring processes to assess appropriateness of our processes.
Sex: men; women	We need to ensure the complaints process is accessible to all.	We will continue to make use of equality monitoring processes to assess appropriateness of our processes.
Sexual orientation: Lesbian; Gay; Bisexual; Heterosexual.	We need to ensure the complaints process is accessible to people of all orientations.	We will continue to make use of equality monitoring processes to assess appropriateness of our processes. We liaise with Michael Brady's LGBT team for advice and support.

4. Main potential positive or adverse impact for people who experience health inequalities summarised

Please briefly summarise the main potential impact (positive or negative) on people at particular risk of health inequalities (as listed below). Please state **N/A if your proposal will not impact on patients who experience health inequalities.**

Groups who face health inequalities ⁵	Summary explanation of the main potential positive or adverse impact of your proposal	Main recommendation from your proposal to reduce any key identified adverse impact or to increase the identified positive impact
Looked after children and young people	We are aware of the importance of the complaints process being accessible to looked after children. We also need to consider	We have a consent process that allows complaints to be made on behalf of people including children. This process includes checks around best

⁵ Please note many groups who share protected characteristics have also been identified as facing health inequalities.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 29

Groups who face health inequalities⁵	Summary explanation of the main potential positive or adverse impact of your proposal	Main recommendation from your proposal to reduce any key identified adverse impact or to increase the identified positive impact
	that complaints are made in a person's best interest where they are unable to consent.	interest and clinical assessment of capacity.
Carers of patients: unpaid, family members.	We are aware of the importance of the complaints process being accessible to carers. We also need to consider that complaints are made in a person's best interest where they are unable to consent.	We have a consent process that allows complaints to be made on behalf of other people. This process includes checks around best interest and clinical assessment of capacity.
Homeless people. People on the street; staying temporarily with friends /family; in hostels or B&Bs.	This group may have difficult accessing the complaints process where they do not have a fixed address and may not have access to digital or telephone services.	We accept complaints in whatever way suits the individual, so it is not digitally exclusionary. Our policy describes how reasonable adjustments should be made and recorded. We make specific regard to the cost of outbound calls for complainants, and remind regional complaints teams to ask on receipt of a call whether they would like to be called straight back. Our policy references the signposting to advocacy which should occur at numerous touch points, very relevant to this group.
People involved in the criminal justice system: offenders in prison/on probation, ex-offenders.	NHS England commissions prison health care so our policy needs to ensure the complaints process is accessible to those in the criminal justice system or those making a complaint on their behalf. They are likely to have restricted access to communication and won't be able to contact us as frequently.	We acknowledged there are limitations to the way in which we can approach the complainant experience for this group. However, our policy ensures we meet our regulatory requirements.
Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 30

Groups who face health inequalities⁵	Summary explanation of the main potential positive or adverse impact of your proposal	Main recommendation from your proposal to reduce any key identified adverse impact or to increase the identified positive impact
People with addictions and/or substance misuse issues	We are aware that this group may have personal and financial circumstances which may result in difficulties accessing the complaints process.	We accept complaints in whatever way suits the individual, so it is not digitally exclusionary. Our policy describes how reasonable adjustments should be made and recorded. We make specific regard to the cost of outbound calls for complainants and remind regional complaints teams to ask on receipt of a call whether they would like to be called straight back. A person's addiction or substance misuse issues will be considered in any decisions we make about the service they receive, including the application of our persistent and unreasonable process. Our complaints policy makes reference to our complaints handling responsibilities regarding safeguarding.
People or families on a low income	We are aware that this group may have personal and financial circumstances which may result in difficulties accessing the complaints process.	We accept complaints in whatever way suits the individual, so it is not digitally exclusionary. Our policy describes how reasonable adjustments should be made and recorded. We make specific regard to the cost of outbound calls for complainants, and remind regional complaints teams to ask on receipt of a call whether they would like to be called straight back.
People with poor literacy or health Literacy: (e.g. poor understanding of health services poor language skills).	We need to ensure the complaints process is accessible to all.	Our policy references the signposting to advocacy which should occur at numerous touch points, very relevant to this group. Easy read materials are available.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 31

Groups who face health inequalities⁵	Summary explanation of the main potential positive or adverse impact of your proposal	Main recommendation from your proposal to reduce any key identified adverse impact or to increase the identified positive impact
People living in deprived areas	We are aware that this group may have personal and financial circumstances which may result in difficulties accessing the complaints process.	We accept complaints in whatever way suits the individual, so it is not digitally exclusionary. Our policy describes how reasonable adjustments should be made and recorded. We make specific regard to the cost of outbound calls for complainants, and remind regional complaints teams to ask on receipt of a call whether they would like to be called straight back.
People living in remote, rural and island locations	This group may find it difficult accessing the complaints process digitally.	We accept complaints in whatever way suits the individual, so it is not digitally exclusionary. Our policy describes how reasonable adjustments should be made and recorded.
Refugees, asylum seekers or those experiencing modern slavery	This group may experience a mixture of issues affecting access to the complaints process including costs, lack of fixed address, consistent mode of communication, experience of the healthcare system, and language barriers.	We accept complaints in whatever way suits the individual, so it is not digitally exclusionary. Our policy describes how reasonable adjustments should be made and recorded. We make specific regard to the cost of outbound calls for complainants, and remind regional complaints teams to ask on receipt of a call whether they would like to be called straight back. Our policy references the signposting to advocacy which should occur at numerous touch points, very relevant to this group. Our policy specifically covers interpretation and translation requirements.
Other groups experiencing health	We are more likely to receive complaints from the group of patients	Our policy references the signposting to advocacy which should occur at numerous

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 32

Groups who face health inequalities ⁵	Summary explanation of the main potential positive or adverse impact of your proposal	Main recommendation from your proposal to reduce any key identified adverse impact or to increase the identified positive impact
inequalities (please describe)	placed on the special allocation scheme. These patients are likely to have displayed aggressive and or violent behaviours. As such they may complain to NHS England about the impact on their health care arising from the decision taken.	touch points, very relevant to this group. Our persistent and unreasonable appendix item is designed to ensure that any restriction imposed is a last resort and a person's circumstances and/or conditions are considered as part of any action taken.

5. Engagement and consultation

a. Have any key engagement or consultative activities been undertaken that considered how to address equalities issues or reduce health inequalities? Please place an x in the appropriate box below.

Yes X	No	Do Not Know
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b. If yes, please briefly list up the top 3 most important engagement or consultation activities undertaken, the main findings and when the engagement and consultative activities were undertaken.

	Name of engagement and consultative activities undertaken	Summary note of the engagement or consultative activity undertaken	Month/Year
1	Regional complaints team	Policy discussed and ratified at Quality Group/CCEG	Ongoing
2	Quality lead for Health and Justice	Learning from complaints work routinely shared on quarterly basis	Ongoing
3	Learning disability and autism team	Have engaged with this team previously over Easy Read materials when produced and would share learning from complaints work on adhoc basis when relevant	Ongoing
4	LGBT team	Adhoc engagement with team regarding complaints policy in general	Ongoing
5	Primary care policy team	Learning from complaints work shared on quarterly basis.	Ongoing

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 33

6	Equalities and Health Inequalities Team	Consulted with regard to development and implementation of equalities monitoring in complaints survey and on ongoing basis regarding analysis of results	Ongoing
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6. What key sources of evidence have informed your impact assessment and are there key gaps in the evidence?

Evidence Type	Key sources of available evidence	Key gaps in evidence
Published evidence	PHSO standards	This is not live guidance pending pilots
Consultation and involvement findings		
Research		
Participant or expert knowledge For example, expertise within the team or expertise drawn on external to your team	Strategic Complaints Team, Regional Complaints Teams, NHS England Customer Contact Centre management team, National Head of Complaints	

7. Is your assessment that your proposal will support compliance with the Public Sector Equality Duty? Please add an x to the relevant box below.

	Tackling discrimination	Advancing equality of opportunity	Fostering good relations
The proposal will support?	X	X	X
The proposal may support?			
Uncertain whether the proposal will support?			

8. Is your assessment that your proposal will support reducing health inequalities faced by patients? Please add an x to the relevant box below.

	Reducing inequalities in access to health care	Reducing inequalities in health outcomes
The proposal will support?	X	X
The proposal may support?		

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 34

Uncertain if the proposal will support?		
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9. Outstanding key issues/questions that may require further consultation, research or additional evidence. Please list your top 3 in order of priority or state N/A

Key issue or question to be answered	Type of consultation, research or other evidence that would address the issue and/or answer the question
1 Throughout the process we refer to our equalities monitoring process. To make better use of this we require a higher return rate.	Ongoing actions to improve return rate and provide us with more meaningful data.
2 We are aware that our ability to manage informal concerns is not the same for every group listed here, for example the service we are able to offer to someone in prison to resolve their concern is different to those not in prison.	This will be considered working with quality lead in health and justice team to enhance this service.
3 We want to ensure a fair and equal process when applying our persistent and unreasonable appendix item.	We are considering a review process which would look at the ways in which restrictions are placed and/or removed, potentially adding more impartiality.

10. Summary assessment of this EHIA findings

Our assessment is that our policy will support the reduction of health inequalities and improve health outcomes as a result of making the complaints process accessible to all.

11. Contact details re this EHIA

Team/Unit name:	Strategic Complaints Team/National Head of Complaints
Division name:	EPE/Commercial
Directorate name:	Nursing/Commercial
Date EHIA agreed:	
Date EHIA published if appropriate:	

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 35

Internal decision-making not for external circulation

12. Do you or your team need any key assistance to finalise this EHIA?
Please delete the incorrect responses. If you require assistance please submit this EHIA and the associated proposal to EHIU (england.eandhi@nhs.net).

Yes:	No:	Uncertain: x
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13. Assistance sought re the completion of this EHIA:

If you do need assistance to complete this EHIA, please summarise the assistance required below.
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14. Responsibility for EHIA and decision-making

Contact officer name and post title:	Lee Bennett – Strategic Complaints Lead (Insight and Feedback Team, Nursing Directorate) Linda White – National Head of Complaints (Commercial Directorate)	
Contact officer e: mail address:	Lee.bennett3@nhs.net Linda.White15@nhs.net	
Contact officer mobile number:	N/A	
Team/Unit name: see above	Division name: see above	Directorate name: see above
Name of senior manager/responsible Director: Mark Blakeman Neil Churchill	Post title: Director of Corporate Operations/Director of Experience, Participation, Equalities	E-mail address: mblakeman@nhs.net neilchurchill@nhs.net

15. Considered by NHS England or NHS Improvement Panel, Board or Committee⁶

Yes:	No:	Name of the Panel, Board or Committee:	
Decision of the Panel, Board or Committee	Reject ed propo sal	Approved proposal unamended	Approved proposal with amendments in relation to equality and/or health inequalities

⁶ Only complete if the proposal is to be considered by a Panel, Board or Committee. If it will not be considered by a Panel, Board or Committee please respond N/A.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 36

Proposal gave due regard to the requirements of the PSED?	Yes:	No:	N/A:
Summary comments:			
Proposal gave regard to reducing health inequalities?	Yes:	No:	N/A:
Summary comments:			

16. Key dates

Date draft EHIA completed:	
Date draft EHIA circulated to EHIU: ⁷	
Date draft EHIA cleared by EHIU: ⁸	
Date final EHIA produced:	
Date signed off by Senior Manager/Director: ⁹	
Date considered by Panel, Board or Committee:	
Date EHIA published, if applicable:	
EHIA review date if applicable ¹⁰ :	

⁷ If the team producing the proposal has important unresolved issues or questions in relation to equality or health inequalities issues, the advice of the EHIU should be sought. A draft EHIA must also be completed, and attached to the proposal, if the proposal is to be considered through NHS England and NHS Improvement's Gateway process.

⁸ If the EHIU raises concerns about the proposal, the EHIA should state how these concerns have been addressed in the final proposal.

⁹ The Senior Manager or Director responsible for signing off the proposal is also responsible for signing off the EHIA.

¹⁰ This will normally be the review date for the proposal unless a decision has been made to have an earlier review date.

Document Owner: Director of Corporate Operations	Prepared by: National Head of Complaints	First Published: 2013
Document number:	Issue/approval date:	Version number: 3
Status: Draft	Next review date: April 2023	Page 37