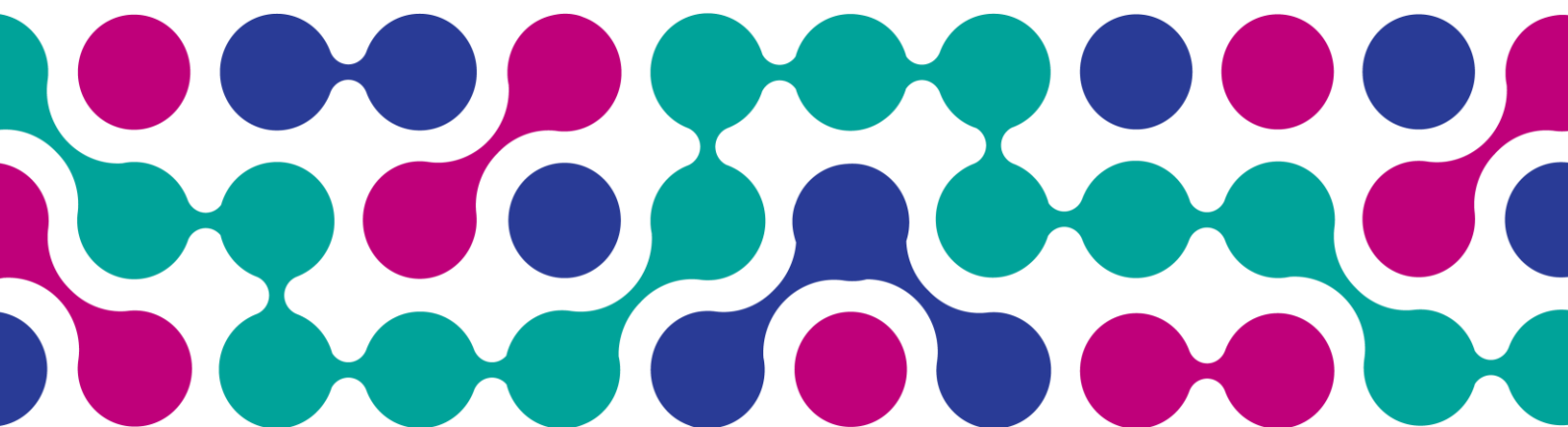


# Compliments, Concerns and Complaints Policy

**BSW ICB policies can only be considered to be valid and up-to-date if viewed on the intranet. Please visit the intranet for the latest version.**



## Compliments, Concerns and Complaints Policy

Purpose	The policy has been developed to provide clear best practice guidelines on the approach and procedures to be followed when handling and managing compliments, concerns and complaints to ensure this is undertaken effectively, responsively and complies with revised complaints regulations which came into force on 1 April 2009 entitled The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 ('the Regulations').
Document type	Policy
Reference Number	PA05
Version	5
Name of Approving Committees/Groups	BSW ICB Executive Group
Operational Date	6 February 2023
Document Review Date	January 2026
Document Sponsor (Job Title)	BSW ICB Chief Nurse Officer
Document Manager (Job Title)	BSW ICB Patient Safety and Quality Lead
Document developed in consultation with	NHS South, Central and West Patient Advice and Complaints Team.
Intranet Location	<a href="https://intranet.bsw.icb.nhs.uk/tools-and-resources/resource-library/policies-and-guidance/patient-policies/290-compliments-concerns-complaints-policy-1/file">https://intranet.bsw.icb.nhs.uk/tools-and-resources/resource-library/policies-and-guidance/patient-policies/290-compliments-concerns-complaints-policy-1/file</a>
Website Location	
Keywords (for website/intranet uploading)	Compliments, concerns, complaints

# Compliments, Concerns and Complaints Policy

## Review Log

Version Number	Review Date	Name of reviewer	Approval Process	Reason for amendments
Version 1	August 2015	Quality Lead, Quality and Patient Experience Manager, Interim Complaints & PALS Manager	Quality Lead	Circulated for internal comment and feedback. Changes to the format agreed
Version 2	September 2015	Governance and Risk Manager	Quality Lead	Amended following comments and suggestions
Version 3	October 2015	Associate Director of Communications	Quality Lead	Amended following comment regarding liaison with the communications team if a complainant becomes persistent and repetitive in line with the policy
Version 4	October 2015	Director of Quality	Director of Quality	Amended following comment regarding adding a reference to the Management of Persistent and repetitive Applicants Policy
Final Draft Compliments, Concerns and Complaints Policy	October 2015	Healthwatch Wiltshire	Quality Lead	Amended following comment regarding adding SEAP contact details
Final Draft Compliments, Concerns and Complaints Policy	October 2015	BSW CCG EMT	Accountable Officer	Amended following suggestion regarding commissioning gaps
Final Draft Compliments, Concerns and Complaints Policy	November 2015	Quality and Clinical Governance Committee		
Version 1	October 2018	Quality Lead, Complaints & PALS Manager	Quality Lead	Circulated for internal comment and feedback. Changes to the content and format discussed and agreed
Version 2	November 2018	Governance and Risk Manager	Quality Lead	Amended following comments various and suggestions including addition of Evaluation Standard
Version 3	November 2018	Associate Director, Communications and Engagement	Quality Lead	Amended following comment regarding social media policy
Final Draft Compliments, Concerns and Complaints Policy	January 2019	Healthwatch Wiltshire	Quality Lead	No feedback received
Final Draft Compliments, Concerns and Complaints Policy	January 2019	Shared with CCG Lay Member and Lead for Patient Public Involvement	Quality Lead	No feedback received

Final Draft Compliments, Concerns and Complaints Policy	January 2019	Director of Nursing and Quality	Director of Nursing and Quality	Amended following comments and suggestions
Final Draft Compliments, Concerns and Complaints Policy V3.1	January 2020	Complaints Manager and Quality Lead	Director of Nursing and Quality	In preparation for the merger on 1 <sup>st</sup> April 2020 the three separate policies have been reviewed and the policy updated with the intention that this will go live on 1 <sup>st</sup> April 2020. To be ratified at QPAC
V4.0	August 2020	Complaints Manager and Quality Lead	Assistant Director of Quality and Patient Safety	Change of wording to replace 'Vexatious' with 'Persistent and repetitive'
5	January 2023	Patient Safety and Quality Lead  Complaints Manager SCW PACT	BSW ICB Executive Group	<p>Policy reviewed and updated for BSW ICB.</p> <p>Director of Nursing and Quality changed to Chief Nurse</p> <p>Recognised that South Central and West Patient Advice and Complaints Team (SCW PACT) now manage the complaints process</p> <p>Lay members changes to Non -Executives</p> <p>Reference to PSIRF</p> <p>Change Individual Funding Requests to Exceptional Funding Requests</p> <p>Change regarding Concerns or complaints received via MPs to reflect Data Protection Act 2018</p> <p>Update for Data Protection Act 2018</p> <p>Updates to cover draft guidance from PHSO (2022)</p> <p>No hard copies kept – all paperless, stored on electronic file</p> <p>Outcomes of complaints now sent to NHS Digital Strategic Data Collection Services</p> <p>Clarity around repose times to complaint in line with Regulations and SCW PACT processes</p> <p>Recognition of role of NHSE with regards to complaints relating to Primary Care</p> <p>Clarity of role of Lead Investigator</p> <p>Update Telephone number for Local Counter Fraud Specialist. Delete reference to Council's Audit manager on advice of Governance AND Assurance Manager</p> <p>Update Advocacy contacts</p> <p>Update Safeguarding contact numbers</p> <p>Added Pharmacy, Optometry and Dentistry</p>

# Compliments, Concerns and Complaints Policy

## Summary of Policy

NHS BaNES, Swindon & Wiltshire Integrated Care Board (BSW ICB) is committed to responding to service user needs and encouraging a culture that seeks and uses people's experiences of care to improve the commissioning and provision of services. In line with the NHS Constitution, this will be accomplished by ensuring that when something goes wrong, it is acknowledged and an apology and explanation is given by the most appropriate organisation involved in health care delivery. Things are also put right as quickly and effectively as possible. People have the right to express their views of their health care experience and need to have easy access to responsive procedures to enable this. People must experience a culture where there are no repercussions for raising a concern or making a complaint. This standard also applies to staff working within the BSW ICB.

The purpose of this policy is to ensure that any Compliments, Complaints and Concerns which are brought to the attention of the BSW ICB are managed in line with appropriate guidelines and regulations and to ensure that investigations are thorough, fair, responsive and transparent.

This policy clearly indicates what is within scope for the BSW ICB to investigate and provides a clear process by which Compliments, Concerns and Complaints will be managed by the BSW ICB.

# Compliments, Concerns and Complaints Policy

## CONTENTS

INTRODUCTION & PURPOSE.....	8
National Requirements .....	10
SCOPE .....	10
What falls outside the policy .....	11
DEFINITIONS .....	12
WHO CAN COMPLAIN? .....	13
PROCESS/REQUIREMENTS.....	14
How to raise a concern, complaint or compliment .....	14
Serious incidents and safeguarding issues .....	16
Exceptional funding request (EFR) decisions.....	16
Continuing Health Care (CHC) and Funded Nursing Care (FNC) .....	16
Complaints about social care .....	16
Complaints from MPs or elected representatives .....	16
Freedom of Information (FOI) & Data Protection Act (DPA) .....	17
Withdrawing a complaint .....	17
Help in making a complaint .....	17
MONITORING COMPLIMENTS, CONCERNS AND COMPLAINTS .....	20
Improving Quality and Service Improvements .....	20
Timescales and outcomes.....	22
Other enquiries.....	23
Services regulated under the Care Standards Act 2000.....	24
Other investigations.....	24
Safeguarding .....	24
Legal Proceedings.....	26
Support for Staff .....	26
Persistent and repetitive complainants .....	27
Application of the criteria for persistent and repetitive complainants .....	28
Withdrawing Persistent and Repetitive Complainant Status .....	29

ROLES AND RESPONSIBILITIES .....	30
Individual Roles & Responsibilities .....	30
TRAINING .....	31
EQUALITY IMPACT ASSESSMENT .....	31
SUCCESS CRITERIA / MONITORING EFFECTIVENESS .....	31
REVIEW .....	32
REFERENCES AND LINKS TO OTHER DOCUMENTS .....	32

## INTRODUCTION & PURPOSE

1. NHS BaNES, Swindon & Wiltshire Integrated Care Board (BSW ICB) is committed to responding to service user needs and encouraging a culture that seeks and uses people's experiences of care to improve the commissioning and provision of services. In line with the NHS Constitution, this will be accomplished by ensuring that when something goes wrong it is acknowledged and an apology and explanation is given by the most appropriate organisation involved in health care delivery. Things are also put right as quickly and effectively as possible. People have the right to express their views of their health care experience and need to have easy access to responsive procedures to enable this. People must experience a culture where there are no repercussions for raising a concern or making a complaint. This standard applies to employees of the BSW ICB, and anyone contracted to work for or on behalf of the BSW ICB.
2. This policy has been developed to provide clear best practice guidelines on the approach and procedures to be followed when handling and managing compliments, concerns and complaints. This policy also undertakes to ensure this is completed effectively, responsively and complies with revised complaints regulations which came into force on 1 April 2009, entitled 'The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 ('the regulations').
3. The BSW ICB also expects that those organisations which it commissions to provide health care have their own procedures for managing comments, compliments, concerns and complaints, and as part of their NHS contract will provide assurance reports which identify trends, learning and quality improvement. Section 2 covers the scope of this policy.
4. The BSW ICB will publish the policy and procedure on the BSW ICB website making it easily accessible to the public, advocacy services, consumer advice services etc.
5. This policy aims to provide:
  - An outcome-focused (rather than process-driven) complaints process
  - Accessible, flexible and responsive patient-centred complaints handling focused on enabling continuous service improvement and patient safety.
6. The key elements of the service are:
  - Complaints and Patient Advice and Liaison Service (PALS) dedicated telephone line and email address; NHS South, Central and West Patient Advice and Complaints Team (SCW PACT) manage all concerns, complaints and compliments on behalf of BSW ICB. Their contact details are:
    - Email: [scwcsu.palscomplaints@nhs.net](mailto:scwcsu.palscomplaints@nhs.net)
    - Telephone: 0300 561 0250
  - Acknowledgement of issue or complaint
  - Each contact will be logged by SCW PACT onto Datix (electronic system)
  - Any case raising concerns will be sent to the provider concerned once consent has been obtained either verbally or in writing and in accordance with agreed protocols; where verbal consent is obtained this will be documented on the complaint record on Datix. Where verbal consent is given, SCW PACT will subsequently request written consent.
  - Assist complainants to resolve concerns or problems with BSW ICB Commissioned



#### Services and related issues

- Preparation of BSW ICB response cover letter to include input from a commissioning perspective
- Coordination of any further local resolution required to resolve the case
- Record all contact details and maintain database (Datix)
- Analysis of data and production of quarterly and annual reports (and ad hoc reports as required)
- Provide information on complaints to answer FOI requests
- Provide information for MP enquiries
- Point of contact and liaison with Parliamentary and Health Service Ombudsman's (PHSO) office
- Facilitate and support face to face meetings between complainants and BSW ICB managed functions (and providers of health services where appropriate)
- Provide training on effective complaints handling within the BSW ICB.

7. The purpose of this policy is to:
  - Ensure our procedure is easy to understand and simple to use.
  - Make sure any investigations are thorough, fair, responsive, open and honest.
8. Demonstrate that we will learn from compliments, concerns and complaints and use them to learn and where necessary to improve the services we commission for patients.
  - As a result of feedback received from patients and complaints, ensure that our services, and those we commission, are accessible to everyone i.e., any perceived commissioning gaps are reviewed and possible solutions identified, demonstrating that the BSW ICB is learning from complaints and is using them to inform provision of services and future commissioning intentions.
  - To answer complaints in a timely manner.
  - Demonstrate that we respect individuals' rights to confidentiality.
  - Ensure the BSW ICB is supported in discharging its functions and duties as to quality through appropriate quality assurance and surveillance oversight of providers.
  - Enable staff to respond positively to compliments, concerns and complaints and endeavour to resolve and learn from issues as soon as possible.
  - Assure the complainant that a thorough investigation has been conducted and provide a full explanation.
  - Ensure patients, relatives and their carers are not treated differently as a result of making a complaint.
  - Seek assurance from commissioned providers that responding to and learning from complaints is a philosophy that is fully embedded within their organisation and seek evidence of this.
  - Ensure the BSW ICB is accessible to everyone including, when required, through the provision of independent advocacy for those people who need this.
  - Reinforce positive outcomes reported by people through the communication of compliments and the factors which contributed to a positive experience.
9. However, the BSW ICB does recognise in some instances it will not be possible to provide the complainant with a response which the complainant deems satisfactory. In these cases the BSW ICB will work closely and cooperatively with the Parliamentary & Health Service Ombudsman (PHSO) on any case the Ombudsman chooses to investigate.

10. Re complaints which are not directed at the BSW ICB but involve services commissioned by the BSW ICB, the BSW ICB's approach will be to recommend that in the first instance the complainant contacts the provider of the service directly. This is because the service provider is usually best placed to investigate and respond direct to the individual making the complaint. However, the BSW ICB recognises that there may be circumstances in which this is not appropriate and, in these cases, will facilitate communication between the parties.
11. In instances where the BSW ICB has signposted complainants to providers, a record will be kept of the contact to inform quality contract monitoring. At the same time, the BSW ICB will also monitor providers' adherence to the statutory Duty of Candour which places a duty on organisations to be open with patients when things go wrong and when harm has been caused.

## National Requirements

12. This policy is in accordance with national requirements set out in the Local Authority Social Services and National Health Services Complaints (England) Regulations 2009 which came into force on 1 April 2009 (the regulations). It also reflects the reforms to the health and social care system brought about by the Health and Social Care Act 2012 and embeds the recommendations contained in the Francis Enquiry report, other reports such as "My Expectations" (Parliamentary and Health Service Ombudsman – PHSO) as well as the Government's response paper the Francis Enquiry report.
13. The Health Act 2009 also draws attention to the NHS Constitution, which sets out the following rights for patients.
  - A right to have a complaint about services dealt with efficiently and to have it properly investigated
  - A right to know the outcome of any investigation into the complaint
  - A right to take a complaint to the independent PHSO if not satisfied with the way the complaint has been dealt with by the NHS
14. Further details can be obtained from <https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england>
15. This policy also aims to ensure that patients, relatives, carers and all other users of local health services have their complaints and concerns dealt with in confidence, with courtesy and in a timely and appropriate manner.

## SCOPE

16. Integrated Care Boards have delegated responsibility for commissioning general practitioners (GPs); however, complaints relating to GPs continue to be handled by NHS England. The NHS England Complaints and PALS team can be contacted on telephone number 0300 311 2233 or email [England.contactus@nhs.net](mailto:England.contactus@nhs.net) . From April 2023, the BSW

ICB will have delegated responsibility for commissioning Pharmacists, Optometrists and Dentists (POD), however the response to complaints and concerns relating to POD will also remain with NHS England

17. Similarly, any complaints or concerns relating to services commissioned by Public Health will be directed to the Local Authority. The BSW ICB will ensure any referral advice is clearly signposted to the complainant, alternatively, with the complainant's consent, the BSW ICB will forward the complaint to the national contact centre at NHS England.

### **What falls outside the policy**

18. The complaints policy does not apply when:

- The person wishing to complain does not meet the requirements of 'who may complain' and is not acting on behalf of such an individual.
- A complaint made by an employee about any matter relating to their employment- this should be processed in line with BSW ICB Human Resources (HR) Policy.
- The complaint is made by a responsible body
- The complaint is regarding actions and decisions which fall outside of the BSW ICB's responsibilities and remit for example relating to services the BSW ICB does not commission.
- The complaint relates to a formal appeal relating to the outcome of a Continuing Health Care (CHC) assessment. The CHC team have the responsibility to process all appeals in this area in line with the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care July 2022 (Revised). Further details can be found in the Continuing Healthcare Operational Policy available on the BSW ICB internet.
- A complaint, the subject matter of which has previously been investigated under these or previous Regulations; a complaint made by a primary care provider, which relates to the exercise of its functions by an NHS body or to the contract or arrangements under which it provides primary care services.
- Matters are either under investigation or have been investigated by the Parliamentary and Health Service Ombudsman and are concluded.
- A complaint is made via social media e.g., Twitter. Please see the BSW ICB Social Media Policy.
- The complaint is unclear and all reasonable efforts have been made to clarify the nature of the complaint, **or** if the complaint is persistent or repetitive and has been considered in line with the BSW ICB's policy on persistent or habitual complainants (section 4.13 below)
- The complaint is about the BSW ICB's alleged failure to comply with a data subject request under the General Data Protection Regulation and Data Protection Act 2018 or the handling of a Freedom of Information Act (FOI) request. These would be considered under the appeals route as outlined in the relevant organisational FOI policy and procedures.
- Matters that should be dealt with under other proceedings such as, personnel

procedures, services for which an alternative statutory appeals process already exists, criminal investigation where Court action is pending, matters that involve a suspicion of fraud or corruption and other procedures supersede the complaints procedure e.g. Grievance Policy and Whistleblowing Policy. Should an employee have cause to raise a complaint in the public interest then the BSW ICB maintains a Whistleblowing Policy which can be accessed via the intranet.

- Primary care, Pharmacy, Optometry and Dentists complaints related to contracts, clinical care and performance (These are currently managed by NHS England).
- Contractual issues between services and commissioners and complaints by health organisations or local authorities against other health organisations or local authorities

19. Each complaint is considered on an individual basis. SCW PACT will take advice from necessary sources including personnel and managers as to whether a complaint may be considered under this procedure. In some cases, elements may need to be considered under different procedures. If this is the case, SCW PACT will inform the complainant of this and the reasons why.

## DEFINITIONS

20. The following is a list and description of the meaning of the terms used in this document:

<b>'a complaint'</b>	Is an expression of dissatisfaction requiring investigation and a written response.
<b>'an enquiry'</b>	Is a request for information which is fed back orally (within 24 hours, see below for more information on timescales) or by written response (within 14 working days).
<b>'a concern' (recorded as PALS)</b>	Is an expression of dissatisfaction requiring an oral response, with an aim of response within 24 hours but extended to 5 days where information gathering is required. Where concerns require a written response, the team will endeavor to respond within 14 working days. However, if this timeframe cannot be met the team will contact the enquirer. If a complaint or is under investigation by the relevant provider or has already been investigated by the relevant provider, the BSW ICB will request a copy of the response.
<b>'a compliment'</b>	Is an expression of views, namely appreciation, approval, admiration or respect, made in recognition of individuals, teams or services.
<b>'PALS'</b>	Is the 'Patient Advice and Liaison Service'.
<b>'a comment' or 'suggestion'</b>	Is an expression of views or ideas for service development, for the BSW ICB to act on or consider which may or may not require a response;

'the Regulations'	Refers to The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and so amended by The Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2009.
'stakeholders'	Includes but is not limited to patients, providers, members of the public, BSW ICB staff and provider staff.

## WHO CAN COMPLAIN?

21. A person is eligible to make a complaint where the service concerned is commissioned or provided by the BSW ICB. This includes anyone who is affected or is likely to be affected, by the decision, action or lack of action on the part of the BSW ICB. Consent to proceed with the enquiry is required by the BSW ICB in line with the Data Protection Act 2018, explicit consent requires the BSW ICB to explain to the complainant how their personal information will be used in the complaints process and how it will be stored.
22. A complaint may be made by a representative acting on behalf of an eligible person who has asked the representative to act on their behalf. A representative could include a family member, advocate or a Member of Parliament (MP). In the instance of a complaint being made by a family member or advocate, the BSW ICB requires consent from the eligible person. This can be obtained either verbally or by the eligible person signing a consent form. If an eligible person is not capable of making the complaint themselves (this includes a child or a person who has died, or a person who lacks mental capacity according to the Mental Capacity Act 2005) supporting documentation will be required e.g. Grant of Probate, Death Certificate, evidence of kinship (e.g., Birth or Marriage Certificate) or Lasting Power of Attorney. Staff should also be aware of the Safeguarding Policy.
23. Where a complaint is made by an elected representative, i.e. MP, on behalf of their constituent the BSW ICB will obtain explicit consent from the patient / person or their appointed legal representative. If the complaint involves multiple providers or is complex in nature then it is appropriate to request a signed consent form. If the eligible person is not capable of making the complaint themselves supporting documentation will also be requested as detailed above.
24. It is important to ensure that there is appropriate consent to share the outcome of the investigation, including any personal information with the person complaining on their behalf.
25. If a complaint is being made by a person stating they are representing a child under the age of 18, who cannot demonstrate Gillick competence<sup>1</sup>, it must be verified that this

<sup>1</sup> Gillick competence states that a young person below the age of 16 can consent for their own medical treatment if they demonstrate sufficient understanding. The Gillick principle is adopted within the complaints process. Therefore there is no minimum age for a young person to raise concerns about the care they have received. The

person is the legal guardian or formally nominated by the legal guardian to represent the complainant. The same applies where a representative makes a complaint on behalf of a person who lacks capacity under the Mental Capacity Act 2005.

26. A child or young person under 18 is entitled to make a complaint in their own right if they demonstrate Gillick competence. For all complaints regarding children or young people under 18, whether made by the parents, other family or friends or the children themselves, the circumstances of the complaint will need to be handled sensitively and advice sought from the BSW ICB safeguarding lead as to any concerns for the child's immediate or future safety.
27. Anonymous complaints will always be recorded and referred in the same way as other complaints. Anonymous complaints fall outside of the scope of the statutory procedure and the decision on what action to take will be on a case by case basis. The fact the complaint is from an anonymous source should not in itself justify a decision not to pursue the matter.

## PROCESS/REQUIREMENTS

### How to raise a concern, complaint or compliment

28. The most effective way for someone to raise a concern, complaint or compliment is by raising this directly with the person or service with whom they are involved. This is usually the quickest way to resolve a problem or give a compliment.
29. It is not intended that every minor concern should warrant a full-scale complaints investigation. Rather, the spirit of the Complaints procedure is that staff are empowered to resolve minor concerns and problems immediately and informally. The BSW ICB will, therefore, seek to distinguish between requests for assistance in resolving a problem (i.e. an informal concern and a formal complaint). All issues will be dealt with in a flexible manner, which is appropriate to their nature; however, the latter (formal complaints) will be dealt with strictly in accordance with the Regulations.
30. Compliments, concerns, or complaints are welcomed by the following means:
  - By email, [scwcsu.palscomplaints@nhs.net](mailto:scwcsu.palscomplaints@nhs.net)
  - By telephone, 0300 561 0250
  - See the BSW ICB website for more detail, <https://bsw.icb.nhs.uk/contact-us/compliments-and-complaints/>
  - If other members of staff receive a complaint they must pass it to SCW PACT to handle. Verbal complaints can also be made directly to SCW PACT

---

young person will be offered support by PALS and signposted to any additional resources such as Healthwatch Wiltshire.

- In terms of compliments, staff and/or managers can record the positive feedback received which should then be passed onto SCW PACT for logging on the database. Compliments can also be sent directly to SCW PACT who will ensure they are fed back to the relevant service line manager.
  - It is important that concerns, complaints or compliments received locally by staff of the BSW ICB are shared with SCW PACT in a timely manner for recording.
  - Feedback and the lessons learnt will be used to inform the service improvement programme if appropriate
  - Where the complaint relates to more than one body, the BSW ICB will liaise with the complainant and agree who will lead on the coordination of the complaint investigation and provide the responses accordingly in line with the Regulations.
  - SCW PACT will ensure the BSW ICB's Communications Department and /or Chief Nurse are aware of any concerns or complaints that could cause reputational damage to the BSW ICB and if there is potential that they may be shared with the media.
  - The BSW ICB encourages enquirers and complainants to be able to contact them by all means possible. The BSW ICB will also seek assurance that providers are considering accessibility of complaints information. This would include letter, telephone, in person, email and social media. Language support for non-English speakers and the cross referencing of information provided with the Accessible Information Standard ensuring accessibility considers both physical and communication access will also be considered, [www.england.nhs.uk/ourwork/patients/accessibleinfo-2/](http://www.england.nhs.uk/ourwork/patients/accessibleinfo-2/)
  - Assistance shall be given to complainants accessing the complaints policy and associated procedure. This includes providing an appropriate and acceptable response to complainants. The BSW ICB will provide guidance to complainants who do not have English as their first language, unable to read English, or have communication barriers; this may include seeking support of a local advocate, where required.
31. Process Map (Appendix 1) which details the complaints process from initial receipt of the complaint through to investigation and the quality assurance processes.
  32. The process enables BSW ICB to meet its Statutory duties and obligations as set out in the Regulations.
  33. This policy and associated process documentation is available on the ICB website at [www.bsw.BSW ICB.nhs.uk](http://www.bsw.BSW ICB.nhs.uk).

## **Serious incidents and safeguarding issues**

34. When a complaint recognises an incident has occurred that potentially requires further review, this will be shared with the BSW ICB Quality Team and advice sought on the level of review required. This will align to the National Serious Incident Framework (2015) and from September 2023 this will be replaced by the Patient Safety Incident Response Framework (2020).
35. If a complaint is received which raises child protection issues or concerns about an adult at risk (over 18 and in need of care and support and because of those needs is unable to protect themselves against abuse or neglect) the responsibility for highlighting through safeguarding processes lies with the person who has received the concern or complaint. The safety of the child and adult at risk must always be paramount and if there are any safeguarding concerns identified these should be notified to the Local Authority and BSW ICB safeguarding leads immediately.

## **Exceptional funding request (EFR) decisions**

36. The EFR Policy outlines the appeals process in relation to EFR Committee Decisions; this is available on the BSW ICB website. If a complaint is received about an EFR decision, the complainant will be advised that they are entitled to request the referring clinician to resubmit the funding request with extra clinical information, which has not been previously submitted to the panel.

## **Continuing Health Care (CHC) and Funded Nursing Care (FNC)**

37. Complaints in relation to the BSW ICB's administration of the CHC/FNC process can be made via this policy. Further information in relation to the CHC appeals process can be found within paragraph 77 of this policy; 'what falls outside of this policy.'

## **Complaints about social care**

38. SCW PACT will seek consent from the complainant to pass the complaint on to the respective Council's Complaints Team for investigation of concerns regarding adult social care or children's services. It should be noted that complaints about adult social care are dealt with under the same Regulations as NHS complaints but complaints about Children's services are dealt with through the procedures set out in the Children Act 1989.

## **Complaints from MPs or elected representatives**

39. From time to time the BSW ICB receives concerns and complaints from MPs on behalf of their constituents. These follow exactly the same process as complaints received directly from individuals.



40. Where a concern or complaint comes via the elected representative, copies of written responses should be provided to the patient or constituent whenever possible/appropriate.

### Freedom of Information (FOI) & Data Protection Act (DPA)

41. Complaints can contain a request for information under either the Freedom of Information Act 2000 (FOI) or Data Protection Act 2018 (DPA). Requests which may include access to the complaint file need to be in writing in both cases. These must be handled under the policies and procedures relevant to FOI and Subject Access Requests (SARs), see [Subject Access Request guidance](#) and [Fol guidance](#)
42. Complaints which contain only FOI or SARs requests should be passed formally to the correct team within the BSW ICB and the complainant informed of who will be handling their request.

### Withdrawing a complaint

43. A complainant can withdraw their complaint at any stage of the investigation. If a complaint is withdrawn, the provider or service should be informed immediately in writing. Any identified issues or improvement should be followed up within the service area and any learning cascaded in the normal manner.

### Help in making a complaint

44. The BSW ICB will ensure all complainants are treated with courtesy and receive appropriate support throughout the handling of a complaint. Making a complaint should not be difficult or cause unnecessary worry. Complainants can use independent advocacy services. These are locally based services who can support people who wish to make a complaint about the commissioners and providers of NHS funded services. Details about the advocacy services available in BaNES, Swindon and Wiltshire and how they can be accessed is found below:

Area	Organisation	Contact
BANES	POhWER	Website: <a href="https://www.pohwer.net/bath-and-north-east-somerset">https://www.pohwer.net/bath-and-north-east-somerset</a>  Email: <a href="mailto:pohwer@pohwer.net">pohwer@pohwer.net</a>  Telephone: 0300 456 2370  Address: PO Box 17943 Birmingham B9 9PB

Area	Organisation	Contact
Swindon	VoiceAbility	<p>Website: <a href="http://www.voiceability.org/nhscomplaints">www.voiceability.org/nhscomplaints</a></p> <p>Email: <a href="mailto:helpline@voiceability.org">helpline@voiceability.org</a></p> <p>Telephone: 0300 303 1660</p>
Wiltshire	The Advocacy People (independent health and social care complaints advocacy service)	<p><b>Website:</b> <a href="http://www.theadvocacypeople.org.uk">www.theadvocacypeople.org.uk</a></p> <p><b>Email:</b> <a href="mailto:info@theadvocacypeople.org.uk">info@theadvocacypeople.org.uk</a>.</p> <p><b>Telephone:</b> 0330 440 9000</p> <p>Address: PO Box 375 Hastings East Sussex TN34 9HU</p> <p>Text: 80800 Starting message with PEOPLE</p>
Wiltshire	Rethink (Mental Health advocacy service)	<p>Website: <a href="https://www.rethink.org/">https://www.rethink.org/</a></p> <p>Email: <a href="mailto:wiltsadvocacy@rethink.org">wiltsadvocacy@rethink.org</a></p> <p>Telephone: 01225 774279</p> <p>Address: Unit 2 The Halve Trowbridge Wiltshire BA14 8SA</p>

45. All complainants must be informed how to contact complaints advocacy services. Complainants may, however, choose to be supported by someone else, such as a family member or friend, or an advocate from another organisation. The complainant must be reminded that, unless stated otherwise, their personal information will be shared with the person supporting them and explicit consent for this must be recorded in line with the DPA.
46. If a complaint has not been addressed to the complainant's satisfaction by written responses a local resolution meeting or further point of contact within the BSW ICB may be offered to the complainant. This should be offered in the formal response if the complainant wishes to take this forward. If they decide to attend such a meeting their advocate, or other representative (e.g. family member) is invited to

accompany them.

- 47. The Parliamentary and Health Service Ombudsman independently reviews NHS complaints. They can only review a complaint if it has already been raised with the responsible organisation and the complainant is dissatisfied with the written responses. The final letter from the BSW ICB will include information on referring complaints to the Ombudsman.
- 48. In managing complaints, the BSW ICB supported by SCW PACT, will aim to ensure:
  - The risk of a complaint escalating into a court case or judicial review is minimised.
  - Risk control systems are strengthened, and lessons can be learnt and actions can be taken where non-compliance occurs.
  - Decisions and the complaints process can withstand external scrutiny.
  - Accountability is improved.
- 49. Formal complaints will only be handled via the complaints process to ensure consistent handling in accordance with the regulations.
- 50. Healthwatch provides a signposting service to information about health and social care services. This includes Independent Health Complaints Advocacy referred to earlier in the policy. Contact details for Healthwatch in BANES, Swindon and Wiltshire are as follows:

<p>Healthwatch BaNES</p>	<p>Website:  <a href="https://healthwatchbathnes.co.uk/">https://healthwatchbathnes.co.uk/</a></p> <p>Email:  <a href="mailto:info@healthwatchbathnes.co.uk">info@healthwatchbathnes.co.uk</a></p> <p>Telephone: 01225 232401</p> <p>Address:          The Vassall Centre          Gill Avenue          Bristol          BS16 2QQ</p>
<p>Healthwatch Swindon</p>	<p>Website:  <a href="https://www.healthwatchswindon.org.uk/">https://www.healthwatchswindon.org.uk/</a></p> <p>Email:  <a href="mailto:info@healthwatchswindon.org.uk">info@healthwatchswindon.org.uk</a></p> <p>Telephone: 01793 497 777</p> <p>Address:          Sandford House          Sandford Street          Swindon</p>

	SN1 1HE
Healthwatch Wiltshire	<p>Website: www.healthwatchwiltshire.co.uk</p> <p>Email: info@healthwatchwiltshire.co.uk</p> <p>Telephone: 01225 434218</p> <p>Address: Freepost RTZK-ZZZG-CCBX The Independent Living Centre St George's Road Semington Trowbridge BA14 6JQ</p>

51. Agencies offering specialist guidance and advice:

**Advice UK**; a registered charity supporting the UK's largest network of independent advice services. They do not give out advice themselves, but the website has a directory of advice- giving agencies.

Post: Advice UK, 101E, Universal House, 88-94 Wentworth Street, London E1 7SA

Email: mail@adviceuk.org.uk

www.adviceuk.org.uk

**Citizens Advice** provides free, independent and confidential legal advice and provides advice on a range of topics, including human rights.  
www.citizensadvice.org.uk/about-us/contact-us/

**Liberty** is an independent civil liberties and human rights organisation, which runs an advice service for members of the public with human rights queries. They also have an advice website, which gives comprehensive information on the Human Rights Act.

Advice line: 0800 988 8177 Option 3

www.libertyhumanrights.org.uk

## MONITORING COMPLIMENTS, CONCERNS AND COMPLAINTS

52. The BSW ICB has established effective monitoring systems to enable the capturing, analysis and reporting of concerns, complaints, and compliments.

### Improving Quality and Service Improvements

53. Complaints will be monitored to identify if there are any wider issues that need to be addressed. This information will then be presented within quarterly reports to

the BSW ICB Quality and Outcomes Committee.

54. The purpose of the monitoring system is:
- To inform future commissioning and service planning.
  - To identify gaps in service provision, or gaps where services are not commissioned. Any complaint which relates to gaps in service provision or gaps where services are not commissioned will be shared with commissioning managers and relevant BSW ICB Directors. The information will be assessed and where appropriate will be used to inform future service redesign work streams and any future specifications. This information will also be shared more widely within the BSW ICB through a quarterly internal complaints and compliments briefing, produced by SCW PACT.
  - To help in preparation for the BSW ICB report to the Quality and Outcomes Committee and the quarterly and annual Concern, Complaints and Compliments reports. These reports are also made available to the public.
  - To support the performance management of the service providers under contract to the BSW ICB and as such the contracts with providers will require each to share trends and general information on complaints and compliments. Complaints received directly by the BSW ICB will also be discussed at contract performance and quality meetings, particularly where trends and themes have been identified. Providers will be required to report back on any actions, learning and/or mitigations as appropriate.
55. All statements, letters, phone calls and actions taken in an investigation must be documented and kept in the electronic complaint file (DatixWeb), which complies with BSW ICB Information Governance Framework.
56. All complaints communications are entered onto a confidential database (Datix) maintained by SCW PACT. It is important that all issues relating to complaints are fully and accurately documented, dated and retained. Complaints records will be stored in accordance with the Records Management Code of Practice – and must be kept separate from a patient's medical records.
57. Complaints records are disclosable documents under legal processes and will be accessible to the Parliamentary Health Service Ombudsman (PHSO) in the event of further investigation. All records will be managed in accordance with the BSW ICB's records management policy and in compliance with data protection and information security legislation.
58. The outcome of each complaint will also be recorded and submitted to NHS Digital Strategic Data Collection Services (SDCS) in line with quarterly KO41 submission criteria.

## Timescales and outcomes

59. The BSW ICB aims to acknowledge receipt of all concerns by the next working day. A concern is classed as an expression of dissatisfaction requiring an informal response. SCW PACT aims to respond to concerns within three working days but, where this is not possible, they will keep in contact with the enquirer and provide regular updates. Where a person calls stating they wish to make a formal complaint but this can be resolved to the complainant's satisfaction informally, it will be recorded as a concern. Sometimes a concern may require a written response in which case the timescale for responding will be discussed with the enquirer depending on the complexity of each case.
60. All formal complaints are to be acknowledged within three working days. Under the regulations, there is no mandated timeframe for providing the complaint response as this will vary depending on the nature and complexity of the concerns raised. SCW PACT will advise the complainant on the appropriated investigation process and the anticipated timescales for providing a response. In the event the original timescale cannot be achieved, SCW PACT will provide regular updates to keep the complainant informed of progress.
61. The BSW ICB adopts the view that complaints should routinely be investigated by the organisation which gave rise to the complaint. Complaints relating to primary care, Pharmacy, Optometry and Dentistry are managed through NHS England.
62. A response should:
  - Explain how the complaint has been considered
  - Address the concerns expressed by the complainant and show that each element has been fully and fairly investigated
  - Report the conclusion reached including any matters for which it is concerned remedial action is needed
  - Include an apology where things have gone wrong
  - Report the action taken or proposed to prevent recurrence
  - Indicate that a named member of staff is available to clarify any aspect of the letter
  - Advise the complainant to contact SCW PACT if they are not happy with the response
63. The letter or response should be written in plain English and clinical and other technical information should be explained. They should be drafted in a format which meets the complainant's needs.
64. SCW PACT will prepare and review the draft letter for quality assurances before final approval by the relevant Head of Service / Director and then signature by the Chief Nurse or their Deputy (providing the Chief Nurse is assured that a full explanation of the issues has been carried out with a view to resolving the complaint and that, where appropriate, lessons have been learnt).
65. If a complainant contacts the BSW ICB after receiving the response to their complaint requesting further information or explanation, every effort should be

made to answer these enquiries at local resolution. For example, further information or explanation can be provided. Alternatively, a meeting to discuss the issues raised in the complaint should be offered. It is important to note that this should not be considered a review or appeal of the complaint. If the complainant remains unhappy with the response following local resolution and any further efforts to explain they should be advised of their right to take their complaint to the Ombudsman.

66. Should a complainant raise new issues at this stage that were not included with the original complaint these must be investigated as a new complaint.
67. SCW PACT will close the complaints file after the final response has been sent. However, this can be re-opened (subject to statutory deadlines) if there is further communication from the complainant.
68. The complainant's desired outcomes should be determined in advance through discussion between the complainant, the Lead Investigator and SCW PACT. The complaint is progressed and resolved in line with this agreement.
69. The process for investigating complaints is detailed in Appendix 1. When a complaint is regarding an BSW ICB managed function, the department manager allocates a lead investigator, who should not be the subject of any part of the complaint. The lead investigator should carry out the investigation and write up their investigation findings based on the outcome of the investigation, ensuring all issues are covered, learning is identified, and proposed actions described. This investigation report should be provided within the timeframe identified by SCW PACT. A draft response is then prepared by SCW PACT.
70. Complaints that involve issues which occurred more than 12 months previously are often difficult or impossible to investigate in a full and fair manner. However, the decision whether to consider the complaint will be made on a case-by-case basis in line with the regulations. Possible reasons for accepting the complaint beyond the twelve-month time limit are:
  - The complainant had good reason for not making the complaint at the time
  - It is still possible to investigate the complaint effectively and fairly

## **Other enquiries**

71. Enquiries from a member of the public and Councillors or MPs on behalf of their constituents need to be considered on an individual basis. Most are general enquiries, requests for information or requests for services. However, a small number may be concerns or complaints. These enquiries will be dealt with under this policy.
72. If the matter giving rise to the complaint or concern relates to suspected fraud or corruption, then action must be taken immediately to bring the matter to the attention of the BSW ICB's Local Counter Fraud Specialist telephone number 07881 840869 or NHS Protect Fraud & Corruption Reporting Line 0800 028 4060, or at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk). The BSW ICB's Anti-fraud, anti-bribery and anti-

corruption policy applies.

### **Services regulated under the Care Standards Act 2000**

73. Complaints about services regulated under the Care Standards Act 2000, such as residential homes and home care providers will have their own complaints procedure.
74. In most cases, and only with the Complainant's consent, the complaint will be passed in its entirety to the Local Authority. The complainant will be advised to contact the Local Authority directly if they have further concerns or queries.

### **Other investigations**

75. There may be circumstances where to consider a complaint may prejudice other procedures, investigations and enquiries.
76. Where a complaint is not investigated or is suspended in these circumstances, then SCW PACT will notify the complainant of this and the reasons why.
77. Once the other investigation or enquiries are complete or discontinued then SCW PACT, taking advice from relevant sources, will consider whether the complaint investigation should be started or resumed. Where the BSW ICB determines not to consider the complaint in this circumstance, SCW PACT will notify the complainant and detail the reasons why.

### **Safeguarding**

78. Where you have a concern or an allegation that may relate to a child or an adult who needs safeguarding, this should be reported in the first instance to the Multi Agency Safeguarding Hub (MASH), the contact details are below. They will provide guidance and signposting to see if the concerns meet the criteria for intervention and safeguarding under relevant safeguarding legislation and enquiry. Reference should also be made to professional standard, internal recruitment, disciplinary and whistle blowing etc. policies if the concerns relate to conduct from a professional:

#### BaNES

If you are concerned that a vulnerable adult is at risk of abuse, please make an alert by ringing BANES Safeguarding Team on 01225 394200.

Emergency Duty Team (EDT) for out of hours/Weekend calls - Tel 01454 615165.

#### **In the event of an emergency, always ring the Police on 999**

If you have a concern about a child or young person, please call the Children and Families Assessment and Intervention Team on 01225 396111 or 01225 477929.



If outside of office hours, please call the Emergency Duty Team on 01454 615165.

**If a child or young person is in immediate danger then please dial 999 and ask for police assistance.**

### **Local Authority Designated Officer (LADO)**

The Local Authority Designated Officer for managing allegations or safeguarding concerns against staff can be contacted on 01225 396810 Monday – Friday in office hours.

### Swindon

Adult safeguarding team, Swindon Borough Council

Tel: 01793 463555

E-mail: [adultsafeguarding@swindon.gov.uk](mailto:adultsafeguarding@swindon.gov.uk) (During office hours - Monday to Friday inclusive, 8.30am to 5.00pm).

Safeguarding adults investigation team, Wiltshire police

Tel: 01380 826350 (During office hours: Monday to Friday inclusive, 9.00am-5.00pm).

Out-of-hours emergency duty service - the emergency duty service is only for reporting safeguarding concerns that require urgent action out of normal working hours. Any other concerns should be forwarded to the Adult Safeguarding Team at [adultsafeguarding@swindon.gov.uk](mailto:adultsafeguarding@swindon.gov.uk), which will be processed the next working day. Tel: 01793 436699

Children Safeguarding Non emergencies (office hours)

Email: [swindonmash@swindon.gov.uk](mailto:swindonmash@swindon.gov.uk)

Telephone: 01793 466903 (during normal office hours, 8.30am to 4.40pm Monday to Thursday, and 8.30am to 4.00pm Friday)

**Non emergencies (out of hours) – call police on 101  
Emergencies – call 999**

### Wiltshire

Wiltshire Safeguarding Adults MASH

<http://www.wiltshiresab.org.uk/contact-us/>

Telephone: 0300 456 0111 Textphone: 01225 712501

Email: [adviceandcontact@wiltshire.gov.uk](mailto:adviceandcontact@wiltshire.gov.uk)

Monday to Thursday: 08:30 – 17:20

Friday: 08:30 – 16:20

If you need urgent help or advice outside of these hours, you can call 0300 456 0100

Wiltshire Safeguarding Children  
<http://www.wiltshirescb.org.uk/home/about-wscb/>  
Wiltshire Multi-Agency Safeguarding Hub (**MASH**) **0300 456 0108** (08:45am-5pm Mon-Thurs) and (8:45am-4pm) Friday. Emergency Duty Service **0300 456 0100** (5pm - 8.45am)

If a child is in immediate danger or left alone, you should contact the police or call an ambulance immediately on 999.

If you wish to report a crime, contact the Police by calling 101  
In an emergency always dial **999**

## Legal Proceedings

79. The regulations no longer state that a complaint should be halted where legal action has started (or is implied). In addition, it should not necessarily be assumed that a complaint made via a Solicitor means that the complainant has decided to take legal action. A complainant has the right to be represented by whomever they chose throughout the complaints process. If consent has been received a response should be made in the normal manner. BSW ICB has a legal and moral responsibility under the Equality Act 2010 to provide any of its documents, leaflets, electronic resources in an alternative format if requested.
80. Compliance with the Accessible Information Standard is a legal duty under Section 250 of the Health and Social Care Act 2012.
81. In all cases, it will be important to ensure potential implications for patient safety and/or organisational learning are investigated as quickly as possible to allow urgent action to be taken to prevent similar adverse events arising.

## Support for Staff

82. Members of staff named in a complaint, either personally or by role, should be informed of the complaint by their line manager, where there is no police or Counter Fraud involvement. Staff should be fully supported by their line manager and consulted during the investigation. The investigation should be full, fair and timely and should not apportion blame. Where the complaint involves matters of serious employee performance or conduct an HR Manager will be consulted and relevant HR policies will be applied. Whilst it is important to respond to the complainant on the concerns they have raised, this must be balanced with the right to confidentiality owed to the employee. The Complaints Manager in conjunction with the relevant manager from the BSW ICB and HR Manager will need to discuss how best to respond to the complainant.
83. It is at the discretion of the BSW ICB to decide whether to investigate the complaint in these circumstances. Where a complaint is not investigated or is suspended in these circumstances, then SCW PACT will notify the complainant of this and the reasons why.

84. Once the other investigation or enquiries are complete or discontinued then SCW PACT, taking advice from relevant sources, will consider whether the complaint investigation should be started or resumed. It may be that the complaint has been fully considered through these other investigations. Where the BSW ICB decides not to consider the complaint in this circumstance, SCW PACT will notify the complainant and the reasons why.
85. The management style and culture within the BSW ICB will promote positive attitudes towards dealing with complaints.

### **Persistent and repetitive complainants**

86. A persistent and repetitive complaint is one that, on the facts of the case, has little merit or substance and has been made with the intended consequence of distress or harm to either the individual receiving the complaint, or the subject of the complaint (where they are different individuals).
87. A persistent and repetitive complainant is defined as 'someone who continually makes contact with the BSW ICB to request review of a regular complaint issue.' This may also include offensive, rude aggressive, discriminatory or abusive behaviour or comments during contact.
88. A prolific complainant is someone who raises the same issue despite having been given a full response and may display certain types of behavior:
  - Complains about every part of the health system regardless of the issue
  - Contacts several agencies and individuals simultaneously regarding the same issue
  - Automatically responds to any correspondence from the BSW ICB
  - Insists they have not received an adequate response
  - Focuses on a trivial matter.
89. Complainants may be deemed to be a 'persistent and repetitive complainant' where ongoing contact with them shows they meet at least two of the following criteria.
90. The complainant:
  - Persists in pursuing a complaint for which the NHS complaints procedure has been fully and properly implemented and exhausted.
  - Changes the substance of a complaint or continually raises new issues or seeks 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).
  - Is unwilling to accept documented evidence of treatment given as being

factual e.g. medication records, nursing records; or denies receipt of an adequate response in spite of correspondence specifically answering their questions; or does not accept facts and can sometimes be difficult to verify when a long period of time has elapsed.

- Does not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of the BSW ICB's staff and, where appropriate, local advocacy services to help them specify their concerns, and/or where the concerns identified are not within the remit of the BSW ICB to investigate.
- Focuses on a particular matter to an extent which is out of proportion to its significance and continues to focus on this point. (It is recognised that determining what such a matter is can be subjective and careful consideration must be used in applying this criteria).
- Has, in the course of addressing a registered complaint, had an excessive number of contacts with the BSW ICB and is placing unreasonable demands on staff. A contact may be in person or by telephone, email or letter. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case.
- Is known to have recorded meetings or face-to-face/telephone conversations without prior knowledge and consent of other parties involved.
- Displays unreasonable demands or patient/complainant expectations and fails to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).
- During the process of complaining, threatened or actual physical violence is used towards staff or their families or associates at any time, and/or offensive/discriminatory comments are made in communications with staff.

91. Where a complainant is perceived to be a 'persistent and repetitive complainant', and where there is potential for reputational damage to the BSW ICB, if, for example the complainant contacts the media, SCW PACT will ensure the BSW ICB Communications team is aware of the complaint.

### **Application of the criteria for persistent and repetitive complainants**

92. Prior to action being taken under this policy, senior staff should first consider:

- Has the complaints procedure been correctly implemented as far as is possible and has any material element of a complaint been overlooked or inadequately addressed?

- The stage at which a complainant has become or is developing into a persistent complainant where the complaint and responses have become repetitive, habitual or persistent (following a review of the available information). There should be evidence available to demonstrate the habitual and persistent nature of the complaint. The purpose of this procedure is to ensure any restrictions placed on complainants should be the result of a fair and consistent process. The procedure will be applied only in the absolute circumstances outlined, not because the complainants are forceful and determined.

93. The BSW ICB's Chief Nurse (or deputies) may decide to deal with the complaint in one or more of the following ways:

- Decline contact with the complainant either in person, by telephone by letter, by email or any combination of these, provided one form of accessible contact is maintained or alternatively to restrict contact to liaison through a third party.
- Notify the complainant in writing that the BSW ICB's Chief Nurse has responded fully to the points raised and has tried to resolve the complaint, but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that the correspondence is at an end and further letters received will be acknowledged but not responded to.
- Inform the complainant that in extreme circumstances the BSW ICB reserves the right to pass unreasonable or persistent complainants to be dealt with through the BSW ICB's solicitors and where appropriate other agencies.
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the BSW ICB legal advisors or any other relevant agencies.
- Consider whether there are any relevant equality considerations that may be linked to the persistency of the complaints. It is the responsibility of the managers reviewing each individual case to recognise some complainants (for example, individuals with speech/hearing impairment, learning disability or other permanent or temporary cognitive impairment or service users for whom English is not their first language) may need the BSW ICB to implement relevant equality factors throughout the complaints process (for example, disability).
- Any planned actions do not constitute unlawful victimisation.

### **Withdrawing Persistent and Repetitive Complainant Status**

94. Once a complainant has been determined as a 'persistent and repetitive complainant' there needs to be a mechanism for withdrawing this status at a later date if, for example the complainant subsequently demonstrates a more

reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate.

95. Staff should previously have used discretion in recommending 'persistent and repetitive complainant' status at the outset; the 'persistent and repetitive complainant' status will be reviewed after 6 months depending on the outcome of the review there can be a recommendation for this status to be withdrawn.
96. Where this appears to be the case, discussion will be held with the BSW ICB Chief Executive. Subject to their approval, normal contact with the complainants and application of NHS complaints procedures will then be resumed.

## **ROLES AND RESPONSIBILITIES**

97. The Chief Nurse is accountable for ensuring effective management of complaints across the BSW ICB and is the responsible signatory for written responses to formal complaints. Where the Chief Nurse is unavailable to sign responses, they may nominate a deputy or deputies to undertake this. For the purposes of The Local Authority Social and National Health Service Complaints (England) Regulations 2009, the Chief Executive acts as the 'Responsible Person'.
98. The Quality and Outcomes Committee will request assurance that appropriate and safe arrangement, mechanisms and processes are in place for the management of complaints, concerns and compliments. The Quality and Outcomes Committee will therefore receive regular reports concerning compliance with and effectiveness of this policy.

### **Individual Roles & Responsibilities**

99. The Chief Nurse has the responsibility for ensuring the efficient and effective implementation of the Compliments, Concerns and Complaints Policy.
100. SCW PACT and BSW ICB Patient Safety and Quality Lead is responsible for ensuring this policy remains relevant and accords with national guidance.
101. BSW ICB Directors and Senior Managers for BSW ICB Commissioned Services (including Continuing Healthcare, Exceptions & Prior Approvals) are accountable for the thorough investigation of complaints within BSW ICB directorates where directed by SCW PACT. They are responsible for ensuring the investigation is carried out in line with this policy and where an action is identified it is implemented. Delegated Lead Investigators are responsible for ensuring the investigation report, together with any supporting evidence and administration documents, are returned to SCW PACT within the stipulated timescale.
102. The Lead Investigator is responsible for liaising with the complainant to agree the scope, timescales and desired outcomes of the investigation. The lead investigator should carry out the investigation and write up their investigation findings based on the outcome of the investigation, ensuring all issues are covered, learning is identified, and proposed actions described. The Lead Investigator will liaise with

SCW PACT and ensure that SCW PACT are kept informed regarding the progress of the investigation.

103. SCW PACT is responsible for operationally managing and administering the Complaints process, ensuring thorough replies are drafted and provided to the complainant within the required timescales.
104. All staff are responsible for providing good customer service when dealing with members of the public or their advocates particularly in the instances of complaints and concerns where there is a need for the involvement of multiple organisations in the healthcare system.
105. All staff must comply with BSW ICB Information Governance policies, and use the utmost care when considering to share, or sharing information. Staff are strongly advised to seek guidance from the BSW ICB's Information Governance team when handling individuals' information and data..

## **TRAINING**

106. The BSW ICB will ensure all staff are made aware of this policy and signposting is available on the BSW ICB intranet.

## **EQUALITY IMPACT ASSESSMENT**

107. The BSW ICB ensures that every effort is made to facilitate and promote feedback from everyone and for those people that require specific assistance due to protected characteristics this is identified early and appropriate measures taken to support. This may, for example, take the form of interpreting services, to enable everyone who wishes to give feedback to be able to do so. Complaints can be made in a number of ways that are convenient to the complainant. The BSW ICB is committed to reassuring anyone making a complaint that any future care they receive will not be negatively affected as a result of having made a complaint.
108. We welcome feedback on this policy and the way it operates. We are interested to know of any possible or actual adverse impact this policy may have on any groups in respect of gender, marriage or civil partnership, race, disability, sexual orientation, pregnancy or maternity, religion or belief, transgender, age, deprivation or other characteristics.
109. An Equality Impact Assessment (EIA) has been completed for this policy and no significant issues were identified. The EIA will be published on the BSW ICB website.

## **SUCCESS CRITERIA / MONITORING EFFECTIVENESS**

110. The effectiveness of the policy will be demonstrated by carrying out a survey of

complainants. Complainants who have provided consent to be contacted for their feedback about the BSW ICB's complaints process at the start of the complaints process will be sent an electronic survey via Survey Monkey. The team will then collate responses on a quarterly basis and include summary information in the quarterly reports prepared for the BSW ICB.

111. The quality of response and ensuring the right processes and timeframes are followed is essential. Therefore, the BSW ICB will ensure there is a robust Quality Assurance process in place to monitor people's experience, the effectiveness of the process and to ensure lessons are shared and improvements are implemented. A random selection of responses will be reviewed (minimum of 10%) and the findings will be included in the quarterly reports submitted to the BSW ICB Quality Assurance and Outcomes Committee.

## REVIEW

112. This document may be reviewed at any time as appropriate but will be reviewed after a maximum of three years.

## REFERENCES AND LINKS TO OTHER DOCUMENTS

113. This Policy has been developed with reference to the following documents:

*'Principles of Good Complaint Handling' published February 2009 and 'Principles of Good Administration' published in February 2009 – Developed by The Parliamentary & Health Service Ombudsman, which set out the six principles which it advises public organisations use when handling complaints. In summary, the six principles are:*

1. Getting it right
2. Being customer focused
3. Being open and accountable
4. Acting fairly and proportionately
5. Putting things right
6. Seeking continuous improvement

*'My Expectations' (November 2014 [www.ombudsman.org.uk](http://www.ombudsman.org.uk)) developed by the Parliamentary & Health Service Ombudsman, Local Government Ombudsman and Healthwatch, which is a user-led vision for raising concerns and complaints through a series of 'I statements':*

1. I felt confident to speak up
2. I felt that making my complaint was simple
3. I felt listened to and understood
4. I felt that my complaint made a difference
5. I would feel confident making a complaint in the future

114. This policy is consistent with:

- Local Authority Social Services and National Health Services Complaints



(England) Regulations 2009.

- Listening, Improving, Responding – a Guide to better Patient Care (Department of Health 2009).
- NHS Constitution (Department of Health 2009)
- My Expectations – Parliamentary & Health Service Ombudsman
- Human Rights Act 1998
- The Mental Capacity Act 2005
- The Equality Act 2010
- Parliamentary Health Service Ombudsman Draft Guidelines (2022)
- Patient Safety Incident Response Framework (2022)
- National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care July 2022 (Revised).

115. This policy should be read in conjunction with the following BSW ICB policies:

- Information Governance Framework
- Confidentiality and Safe Haven Policy
- Freedom of Information Act Policy
- Safeguarding Adults, Children and Looked After Children Policy
- Human Resources Policies
- Freedom to Speak Up: Raising Concerns Policy
- Anti-Fraud, Bribery and Corruption Policy
- Security Management Policy