

## First Community Health & Care

### POLICY FOR HANDLING COMPLAINTS

Version:	4
Name of Approval body :	Integrated Governance Committee
Name of Ratification Body:	First Community Health & Care Board
Date of Ratification	April, 2013
Name of originator/author:	Clinical Governance Manager and Company Secretary
Effective From	April 2014
Next Review Date	April 2016
Reviewing Officer	Clinical Governance Manager and Company Secretary

## EQUALITY IMPACT ASSESSMENT TOOL

		Yes/No	Comments
1.	<b>Does the document/guidance affect one group less or more favourably than another on the basis of:</b>		
	• Race	No	
	• Ethnic origins (including gypsies and travellers)	No	
	• Nationality	No	
	• Gender	No	
	• Culture	No	
	• Religion or belief	No	
	• Sexual orientation including lesbian, gay and bisexual people	No	
	• Age	No	
	• Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
2.	<b>Is there any evidence that some groups are affected differently?</b>	No	
3.	<b>If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?</b>	N/a	
4.	<b>Is the impact of the document/guidance likely to be negative?</b>	No	
5.	<b>If so, can the impact be avoided?</b>	N/a	
6.	<b>What alternative is there to achieving the document/guidance without the impact?</b>	N/a	
7.	<b>Can we reduce the impact by taking different action?</b>	N/a	

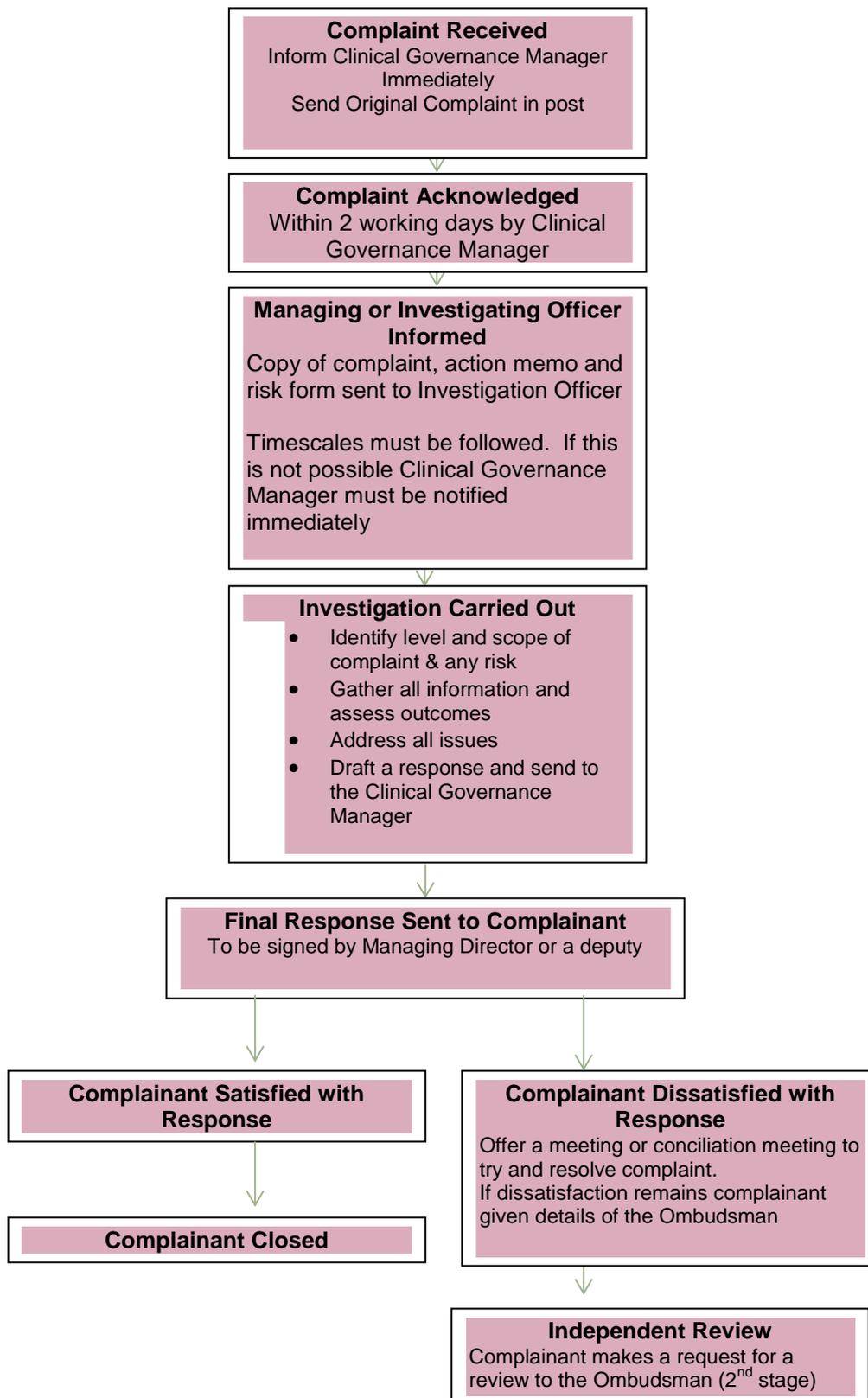
<b>Names and Organisation of Individuals who carried out the Assessment: Please give contact details</b>	<b>Date of the Assessment</b>
Val Frost Val.frost@firstcommunitysurrey-cic.nhs.uk Beverley Sharp <a href="mailto:beverley.sharp@firstcommunitysurrey-cic.nhs.uk">beverley.sharp@firstcommunitysurrey-cic.nhs.uk</a>	February 2013

## VERSION CONTROL SHEET

Version	Date	Author	Status	Comment
V1	February 2013	Beverley Sharp	Draft	To CQ & E for Comments
V1	March 2013	Beverley Sharp	Final	Ratified by Integrated Governance Committee
V2	April 2014	Beverley Sharp	Final	Amendment s to remove reference to PALS and to include Being Open Policy Statement and Duty of Candour
V3	March 2015	Beverley Sharp	Final	Amendment of address from St John's Court to Forum House
V4	June 2015	Beverley Sharp	Final	Change of FCHC to First Community. Inclusion of contractual Duty of Candour as per NHS Contract

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## First Stage – Local Resolution



## **POLICY STATEMENT**

This policy has been formulated to ensure staff respond to complaints to a satisfactory standard and comply with the requirements contained within The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. First Community Health & Care will follow the guidance entitled 'A Guide to Better Customer Care' issued by the Department of Health (Reference 11215) to support implementation of the Regulations.

First Community recognises complaints and compliments as being valuable tools for improving the quality of health services we provide and identifying the training needs of staff. The objectives of this policy are:-

- To listen, respond and learn from people's experiences so that services can be improved
- To ensure that complaints are handled efficiently and in a timely manner, using a person-centred approach
- To obtain a good outcome for the complainant
- To identify any areas of risk and take appropriate action where necessary
- To learn from outcomes of complaints and share good practice throughout the organisation
- To ensure there is a simple procedure common to all complaints about any service provided by First Community
- To enable an open and honest process that is fair to complainants and staff
- To ensure the principles of the Being Open Policy and Duty of Candour are followed in relation to complaint investigation

### **1. INTRODUCTION**

The policy covers the Local Resolution (first stage) of the NHS complaints procedure and includes guidance on relevant subjects such as access, timescales, supporting informal resolution, investigation monitoring and learning from complaints. The policy applies to complaints received after 1 April 2013.

### **2. PURPOSE AND SCOPE**

This policy applies to all staff employed by First Community and is a guide to the NHS Complaints Procedure and the recording and reporting of complaints.

Members of staff, permanent or temporary, volunteers or members of the public may request assistance with this policy if they have particular needs. If members of staff have language difficulties and difficulty in understanding this policy they should speak to their line manager and the use of an interpreter will be considered.

This policy will be subject to review on an annual basis or when there is new guidance or legislation from the Department of Health, whichever is the sooner.

The aims of this policy are:-

- To provide an outcome-focused (rather than process-driven) complaints process
- To provide accessible, flexible and responsive, person-centred complaints handling
- To link the outcome of complaints investigations to service improvements and patient safety.

### **3. BEING OPEN AND DUTY OF CANDOUR**

The importance of being open and transparent when communicating with patients and relatives following any incident was emphasised in the document 'Making Amends' published by the Department of Health in 2003 and the NPSA document 'Saying Sorry When Things Go Wrong – Being Open' (2009). First Community is therefore committed to ensuring that this duty is underpinned in any replies provided to complainants in response to a complainant. In addition it is the commitment of First Community to be proactive in contacting the patient and/or relative when a reportable safety incident has occurred in accordance with our contractual duty of candour under the NHS Standard Contract and with reference to the Being Open and Duty of Candour Policy.

### **4. SUMMARY OF THE COMPLAINTS PROCEDURE**

Concerns should ideally be raised with relevant healthcare professionals at the time they occur and with staff involved who will endeavour to put things right "on the spot".

An oral complaint, which can be dealt with by the close of the following working day, should not be dealt with through the complaints procedure. Those complaints that have not been resolved informally shall proceed to the formal complaints process. The complaint will be clarified in writing with the complainant.

Written complaints shall be handled in accordance with national and local guidelines. Efforts should be made to obtain a satisfactory outcome for the complainant by local resolution. If complainants remain dissatisfied; they will be advised that they have the option of asking the Parliamentary & Health Service Ombudsman (PHSO) to carry out an independent review of their complaint. There is no further appeal beyond that to the Ombudsman.

As well as ensuring the efficient handling of complaints First Community will identify areas of risk, implement good practice to rectify matters and prevent a recurrence.

Each complaint shall be taken on its own merit and responded to accordingly. The amount of time and effort spent on investigating and resolving a complaint will be proportionate to its seriousness and/or risk of recurrence.

### **5. LEGAL OBLIGATIONS**

The Local Authority Social Service and National Health Services Complaints (England) Regulations 2009 oblige First Community to have arrangements in place to deal with patient complaints. The Health Act 2009 draws attention to the NHS Constitution, which sets out the following rights for patients:-

- A right to have any complaint about NHS 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 Parliamentary & Health Service Ombudsman, if not satisfied with the way the complaint has been dealt with by First Community

### **6. DUTIES & RESPONSIBILITIES**

The First Community Board, Managing Director and senior managers are responsible for ensuring that First Community handles complaints according to the regulations and good practice.

First Community shall ensure that there is a designated Clinical Governance Manager who will be readily available to the public and to staff. The Clinical Governance Manager shall be responsible to the Managing Director for the handling of all complaints made against First Community. The Clinical Governance Manager will record all written complaints received and ensure they are dealt with in accordance with this policy, reporting as necessary to the Chairman, Managing Director, deputies and relevant committees. The Clinical Governance Manager will liaise as required with other staff to ensure that the appropriate information is available to enable full and open responses to be drafted within the appropriate timescale for the Managing Director or his deputy to consider.

**The Clinical Governance Manager is responsible for:-**

- Managing the complaint from start to conclusion
- Acknowledging the complaint within two days of receipt
- Agreeing with the complainant the manner in which the complaint will be dealt with, including the timescale
- Ensuring the response is received by the complainant within 25 working days of receipt of the complaint.
- Updating the Managing Director or his deputy on the progress of the complaint
- Updating the complainant if there is a delay in responding
- Ensuring the target dates and deadlines for responses are achieved or extensions agreed
- Producing quarterly and annual reports for the Board, Integrated Governance Committee and other relevant committees in the number and type of complaints, lessons learnt, action taken and trends. The outcome of investigations and corrective action should be used to improve services
- Producing an annual report for First Community
- Liaising closely with Directors and other senior managers to ensure they are regularly updated on issues of particular interest and learning from complaints
- Maintaining suitable records, including the logging of complaints
- Liaising with colleagues from other health and/or social care organisations to produce a joint response when required
- Producing annual statistics to the NHS Information Centre for the K041a and b returns
- Providing training and support to staff in handling complaints and investigations including assistance with drafting responses
- Providing induction training for all new staff members
- Ensuring independent conciliation is available to complainants and practitioners if required.
- Monitoring the implementation of any recommendations of the PHSO

**Senior Managers/Line Managers are responsible for:**

- Agreeing with the Clinical Governance Manager on how a complaint will be investigated
- Undertaking complaint investigations
- Root cause analysis of complaints
- Informing staff involved in the complaint
- Ensuring that all their staff are familiar with the NHS Complaints Procedure
- Ensuring that any written statements made by staff as part of the investigation process are accurate, legible, signed and dated
- Reporting complaints to the Clinical Governance Manager on the same day they receive them by telephone, fax or e mail and following up by sending the original letter of complaint to the Clinical Governance Manager
- Ensuring that the investigation is carried out as soon as possible and findings are sent to the Clinical Governance Manager within 15 working days
- Providing a draft response letter or a statement addressing all points raised
- Returning a risk form and advising on lessons learnt

- Liaising, information sharing and feedback where the investigation indicates that external partner agencies should be involved e.g. Health & Safety Executive, Housing, Police, Social Care and other Trusts
- Using complaints/findings as a learning opportunity for staff by cascading good and bad practices identified, and ensuring actions are taken to minimise and prevent future complaints, including:-
  - Review of practice and systems in place
  - Action plan
  - Training
  - Preparation of a protocol/guidance
  - Redress and remedy
- Advising relevant staff of the outcome of a complaint against them

**All staff are responsible for:**

- Ensuring they are familiar with and follow the complaints procedure
- Knowing where to access the complaints policy or relevant information (e.g. line manager, Clinical Governance Manager, intranet).

**7. STANDARDS TO BE ATTAINED**

The Care Quality Commission (CQC) requires organisations to investigate complaints effectively and learn lessons from them.

First Community will adhere to the Care Quality Commission Key Lines of Enquiry, by monitoring complaints to ensure that the organisation is safe, effective, caring responsive and well led.

The CQC regulate this procedure and the organisation will provide a summary of complaints to the Commission when requested and within the timescale

Complainants can contact the CQC to inform them of any concerns they may have about the carrying out of a regulated activity.

**8. DEFINITION OF A COMPLAINT**

A complaint is defined as an expression of dissatisfaction about a service provided or not provided, which requires a response. Examples of complaints include: concerns about the quality of service provided, the following of standard procedures and practice, poor communication and the attitude or behaviour of a member of staff. This complaint can be either verbal or written.

**9. WHO CAN COMPLAIN**

A complaint may be made by:

- a) A person who receives or has received services
- b) A person who is affected, or likely to be affected, by the action , omission or decision of the responsible body which is the subject of the complaint

A complaint may be made by a person acting on behalf of someone who:

- Has died
- Is a child
- Has physical incapacity or
- Lack of capacity within the meaning of the Mental Capacity Act 2005 or
- Has requested the representative to act on their behalf

Where a representative makes a complaint on behalf of a child, the responsible body to which the complaint is made:

- a) Must not consider the complaint unless it is satisfied that there are reasonable grounds for the complaint being made by a representative instead of the child; and
- b) If it is not satisfied, the complaint must not be considered on behalf of a person who lacks capacity under the Mental Capacity Act 2005

## **10. EXCLUSIONS**

The following are excluded from the scope of this policy:

- A complaint made by or about another organisation
- A complaint made by an employee about any matter relating to his/her contract of employment
- A complaint which is made orally and which is resolved to the complainant's satisfaction, not later than the next working day after the day on which the complaint was made
- A complaint which has previously been investigated by the Parliamentary Health Service Ombudsman
- A complaint arising out of the organisation's alleged failure to comply with a data subject request under the Data Protection Act 1998

First Community shall notify complainants in writing if it decides not to consider the complaint providing the reason for the decision.

## **11. FEEDBACK**

The complaints procedure encourages a culture in which feedback from patients and the public is actively invited. Frontline staff will be trained and empowered to deal with oral complaints as they arise.

Views, comments, concerns, compliments as well as complaints, requiring a response will be recorded and used to inform service improvements. Analysis of trends and themes will be conducted.

## **12. INFORMAL COMPLAINTS**

First Community recognises the importance of informal complaints and will ensure that matters are dealt with quickly to rectify the situation so that issues do not progress unnecessarily to a formal complaint. The Clinical Governance Manager will be responsible for collating and recording informal complaints made to the organisation. Information from informal complaints will also inform organisational learning.

## **13. COMPLIMENTS**

Compliments should be seen as a means of learning and how things have gone well. Compliments statistics will be reported to the Integrated Governance Committee and cascaded to staff. Compliments will be collated by the service which receives the compliment and forwarded to the Clinical Governance Manager on a monthly basis (See Appendix 7).

A compliment is an expression of appreciation by letter, card, gift or donation. Oral compliments are not formally recorded in the overall statistics.

## **14. CONFIDENTIALITY**

All staff shall be aware of their legal and ethical duty to protect the confidentiality of patient information. The legal requirements are set out in the Data Protection Act 1998 and the Human Rights Act 1998. The common law duty of confidence must also be observed. Caldicott Guidelines provide relevant guidance.

Particular care will be taken when a patient's records contain information provided in confidence, by or about a third party who is not a health professional. Only that information which is relevant to the complaint will be considered for disclosure and then only to those within the organisation who have a demonstrable need to know in connection with the complaint investigation. Third party information will not be disclosed to the complainant unless the person who provided the information has expressly consented to the disclosure. Disclosure of information provided by a third party outside the organisation requires the express consent of the third party. If the third party objects, then it can only be disclosed where there is an overriding public interest in doing so.

## **15. TIMESCALES FOR COMPLAINTS**

Complaints should be made within 12 months of the event, unless the complainant could not reasonably be expected to know about the incident or had appropriate reasons for not complaining within the time limit.

There is discretion to investigate a complaint outside the timescales if there is good reason for the delay and if it is still possible to carry out an investigation.

Complaints should be acknowledged within two days inviting complainants to agree a plan for how the complaint will be handled including the timescales for response.

Timescales for investigating complaints are not intended to be rigid and will be negotiated with complainants, which reflect the complexity of the issue. Complainants will be kept informed during a lengthy investigation and advised of the reason for any delays. Should a case continue to be unresolved for more than six months, it will be reviewed and reasons for the slow progress will be investigated.

The complainant has 12 months from the raising of the complaint in which to apply to the PHSO for a review, although all possible attempts to resolve the complaint through Local Resolution should be attempted, including the offer of independent conciliation where appropriate.

## **16. SUPPORT FOR THE COMPLAINANT AND STAFF**

### **16.1 Complainant Support**

The Clinical Governance Manager will be able to offer advice and act as a guide through the complaints procedure. If a member of staff can offer support initially to the complainant they should take the appropriate action or refer the matter to the Clinical Governance Manager. The Complaint lead can provide information on the NHS Complaints Advocacy Service.

The NHS Complaints Advocacy Service is a separate service and provides independent advice and support to people who wish to raise a complaint about the organisation. Their services will include, amongst other tasks, the drafting of letters for a complainant or accompanying them to a meeting with the organisation. Further information about this service can be obtained by contacting the complaints lead.

Complainants can also obtain information about the complaint process from NHS website at [www.nhs.uk/choiceintheNHS](http://www.nhs.uk/choiceintheNHS). The local Citizen's Advice Bureau may also be able to assist complainants.

### **16.2 Staff Support**

Staff who are involved in a complaint are entitled to be supported both professionally and personally through the supervision process, by their line manager or other agreed supervisor. This support will include advice, assistance and attendance at meetings if required. In addition staff subject to a complaint could access help through counselling services provided by Occupational Health arrangements either by their manager or self-referral.

Staff subject to a complaint may also seek support from their union representative, where appropriate.

## **17. NHS COMPLAINTS ADVOCACY**

NHS Complaints Advocacy has a statutory role in helping complainants at each stage of the process. The service is independent of the NHS, free and confidential. The purpose of the service is to:

- Advise people how to complain
- Support people through the formal complaints process
- Provide information on who to complain to
- Provide support when drafting complaints correspondence
- Provide representation or support at complaints meetings

NHS Complaints Advocacy will be particularly helpful when the person making the complaint is in need of extra support.

Under the Mental Capacity Act 2005, the Independent Mental Capacity Advocacy Service (IMCA) undertakes a role of advocate for patients who lack mental capacity. Complainants may also receive support from other specialist advocacy services or from the Citizens Advice Bureau (CAB).

## **18. FAIRNESS AND EQUALITY**

Making a complaint does not mean that a patient/complainant will receive less help or that things will be made difficult for them. Everyone can expect to be treated fairly and equally regardless of age, disability, race, culture, nationality, gender, sexual orientation or religious belief. Staff must ensure that patients and their carers are not discriminated against when a complaint is made and that their on-going treatment will be unaffected. Complaint records must be kept separate from clinical records. (Appendix 9).

Every effort will be made to resolve the complaint to the satisfaction of the complainant whilst being scrupulously fair to the staff.

Each complaint must be taken on its own merit and responded to accordingly. The amount of time and effort spent on investigating and resolving a complaint will be proportionate to its seriousness and risk of recurrence.

## **19. LOCAL RESOLUTION (FIRST STAGE)**

The process for local resolution is shown in Appendix 1. Every attempt should be made by the staff to resolve complaints at the point of contact, if this is not possible the Clinical Governance Manager may be able to assist through the provision of informal resolution.

### **19.1 On Receipt of a Formal Complaint**

Formal complaints against First Community should be made in writing. If a complaint is made verbally it will be put in writing and the complainant will be asked to confirm its accuracy. Acknowledgement will be made within 2 working days orally, electronically or in writing. The acknowledgement should invite the complainant to discuss the manner in which the complaint will be investigated, the desired outcome and the timescale. If the offer of a discussion is not accepted the Clinical Governance Manager should determine the response period and notify the complainant in writing about how the investigation will proceed.

All written complaints should be sent to the Clinical Governance Manager immediately upon receipt. The Clinical Governance Manager will advise the relevant Service Manager on receipt

of a complaint. A Complaint form (Appendix 3) or file note can be completed if there is no written correspondence as long as the content is agreed with the complainant. The Clinical Governance Manager will log the complaint. There will be one central tracking system in place for all complaints against First Community overseen by the Clinical Governance Manager.

## **19.2 Investigation**

A comprehensive investigation, which may include a root cause analysis for complex issues, should be undertaken by senior members of staff identified to carry out the investigation for the service the complaint is about. The amount of time spent on a complaint investigation should be proportionate to its seriousness. Investigations should be thorough, with statements and information being obtained as necessary in order to identify the circumstances of the complaint, why it happened, what could have been done to prevent it and what actions, if any, are needed to prevent a similar complaint being made. The process should endeavour to support a culture of learning and continuous improvement.

Complainants shall be advised of the outcome of the investigation. If a response cannot be sent within the agreed timescale, an explanation should be given for the delay and the extension agreed with the complainant. If agreement cannot be sought then a holding letter should be sent giving the reason for the delay and an indication of when a response will be sent.

It is expected that most complaints will be resolved at Local Resolution stage.

Exceptionally, in the case of serious complaints, it may be necessary to involve an independent investigator but most complaints will be investigated by a First Community staff member.

## **19.3 Response**

Upon completion of the investigation, the investigating officer will prepare a draft response addressing all points raised in the complaint. The response should be written in plain English, succinct, jargon-free, conciliatory in tone and clear on all clinical and other issues, with clinical and technical information explained. Letters will be drafted in a format which meets the complainant's needs.

A response letter 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 considered remedial action is needed
- Respond showing empathy and 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 of the complainant's right to take their complaint to the Ombudsman if they remain dissatisfied with the outcome of the complaints procedure

The draft response will be sent to the Clinical Governance Manager who will prepare the final response. The final response letter will be signed by the Managing Director or designated deputy, and sent to the complainant within the agreed timescales or any agreed extensions. In the event that the complainant is not satisfied with the outcome they will be given the opportunity to contact a named person or if they would find it helpful discuss the matter further either on the telephone or in person.

Should they remain dissatisfied at the conclusion of the Local Resolution, complainants will be advised of their right to contact the Parliamentary Health Service Ombudsman to review their complaint within twelve months of raising their complaint.

## **19.4 Meetings**

In some cases a complainant may wish to meet with First Community staff (with or without the assistance of a Lay Conciliator) to address any outstanding queries, either initially or following an exchange of correspondence. Complainants can be supported if they wish, e.g. by a friend, relative, carer, advocate or an NHS Complaints Advocacy officer.

First Community shall explore every opportunity to resolve a complaint through Local Resolution. Once the final response has been signed and issued, the Clinical Governance Manager will liaise with relevant managers and staff to ensure that all necessary follow-up action has been taken or is in hand. Arrangements should be made for any outcomes to be monitored to ensure that they are actioned. Where possible, the complainant and those named in the complaint should be informed of any change or improvement in practice that has resulted from the complaint.

## **19.5 Accessing Clinical Advice**

Clinical advice will be obtained, where necessary, from inside or outside First Community.

## **20. CONSENT**

There are occasions where a complaint received relates to another NHS body, independent contractor or local authority e.g. hospital, social services and not to First Community. In these circumstances consent must be obtained from the complainant before the complaint is forwarded to the relevant organisation for investigation. (Appendix 4)

If a third party is making a complaint against First Community, written authorisation must be obtained from the patient both for the complaint to be investigated and for any release of clinical records or confidential information in order to clarify any issues raised. There may be instances where consent may not be provided, for example a child or a person who lacks mental capacity, in which case the designated Clinical Governance Manager, taking advice where necessary, is an appropriate person to advise whether the need for the patient's consent can be waived.

## **21. INDEPENDENT LAY CONCILIATION**

Independent conciliation (Appendix 5) can be an effective means of bringing parties together in discussion. Occasionally shuttle conciliation may be preferable to face-to-face meetings. Conciliation can be requested by the complainant or the complained against. A lay conciliator can assist with any complaint about any services provided by the Organisation. It is sometimes helpful for a clinician to attend a conciliation meeting to provide a source of independent advice to the conciliator and complainant.

Time spent in conciliation will be discounted for the purposes of monitoring timescales. Conciliation will be considered for more complex complaints. It is provided by First Community at no cost to the complainant or the practitioner. Conciliation is confidential and no notes are retained, although the conciliator will write to both parties after the meeting and this letter will be copied to the Clinical Governance Manager. The letter will confirm that the meeting took place and will summarise the outcome of the meeting and any action to be taken. Details of the discussion will not be given.

## **22. LEARNING FROM COMPLAINTS INCLUDING IMPLEMENTATION AND MONITORING OF RECOMMENDATIONS**

Action will be taken, as necessary, in the light of the outcome of a complaint. The First Community Risk Assessment Matrix (Appendix 10) will be used to assess the seriousness of a complaint and the likelihood or recurrence. The learning and necessary action will be

identified. A risk form may be sent to the investigating officer to record any actions or planned actions for learning/service improvement. Details should be retained by the Clinical Governance Manager upon completion of the investigation. Progress of the investigation will be monitored by the Clinical Governance Manager. Actions taken to improve services as a result of a complaint will be reported to the complainant, preferably in the letter of response or as soon as possible.

First Community shall monitor the content of complaints and the way in which they have been handled, identify trends, take action to deal with areas of concern and disseminate good practice. The Board and Integrated Governance Committee and Clinical Quality & Effectiveness Group will receive quarterly reports in order that they can be confident that complaints are being dealt with appropriately. They will note any trends and ensure that identified improvements are, where practicable implemented. Any recommendations from the Ombudsman's office will be implemented and monitored by the appropriate people as determined in the Organisation. Investigation of complex cases will follow a root cause analysis approach.

Complaints can highlight concerns about any aspect of the work of First Community. Where an omission or error in services is identified; consideration should then be given on how to ensure there is no repetition. Where appropriate, action plans will be prepared and working procedures will be reviewed, amendments implemented and shared with the specific service area and other departments. First Community will ensure that general learning is taken from specific formal and informal complaints and is embedded into the system of care for the future.

## **23 TRAINING**

Everyone employed by First Community has a role to play in identifying mistakes (See Whistle Blowing Policy), putting them right and learning from them. First Community is committed to providing training to help support and advise staff on the handling of complaints, including induction training for new staff. All staff should understand the complaints system and how it works.

The Clinical Governance Manager is responsible for arranging and facilitating training for staff on the complaints policy and procedures, including induction training. The Clinical Governance Manager will in conjunction with Learning and Development arrange training programmes, which will cover communication, complaints investigation, risk management, fairness and equality and learning from complaints as well as good practice in customer care when identified.

People, who handle complaints regularly, whether front of house, staff or the Clinical Governance Manager, should benefit from regular supervision and professional development and have their on-going training and development needs assessed and appropriate training provided.

## **24 REPORTS**

First Community will report on:-

- The number of complaints received
- The subject matter
- Action taken as a result
- Performance against the agreed timescales for acknowledgements and responses
- How many complaints were referred to the Ombudsman
- Whether the complaint was upheld
- A narrative about significant issues relating to First Community's experience of complaints during the year, including lessons learnt and action taken.
- Trends

Information will be collected for the annual return of statistics to the NHS Information Centre.

## **25 LOGGING, RECORD KEEPING AND RETENTION**

The Clinical Governance Manager will prepare and retain files for the various complaints and where appropriate will include:

- Chronology of the case
- Copies of correspondence
- Copies of any relevant medical records
- Notes from any local resolution meetings
- Any local investigation documents
- Relevant/related policies or procedures

These files will be made available to the Ombudsman in the event of a request for an independent review by a complainant. First Community shall comply with any requests from the Ombudsman and adhere to their deadlines.

Complaints records should be kept separate from health records, subject only to the need to record information which is strictly relevant to the complainant's on-going health needs. Complaints records will be kept for ten years.

## **26 PARLIAMENTARY & HEALTH SERVICE OMBUDSMAN (SECOND STAGE)**

The Ombudsman promotes "doing it once and doing it well". Complaint responses following local resolution should, however, advise the complainant that if they remain dissatisfied they can take their complaint to the Ombudsman. In the case of complaints which span health and social care issues, the Health Service Ombudsman will work closely with the Local Government Ombudsman.

A complainant if remaining dissatisfied following Local Resolution can approach the Ombudsman to request a review Appendix 2. The Ombudsman is independent of the NHS. The Ombudsman will only usually consider complaints which have been conducted through the NHS complaints procedure. Complaints should usually be referred to the Ombudsman within 12 months of the complainant raising the complaint. There is no appeal against a decision made by the Ombudsman, although a complainant may be able to seek a legal remedy e.g. judicial review.

## **27 DISCIPLINARY AND PERFORMANCE ISSUES**

Disciplinary and performance matters are outside the scope of this policy. Evidence from complaints, however, may be used as part of a disciplinary process in accordance with relevant HR policies.

## **28 OUT OF HOURS**

For complaints made out of hours, this policy should be followed. If however, the complainant wishes to access a senior manager to discuss the complaint and appropriate members of staff at local level have not been able to resolve matters, then the out of hours duty manager should be contacted. Staff working out of hours should be able to respond to complaints which may arise. Where the matter is non-urgent, it can be passed to relevant staff to deal with during normal working hours.

## **29 LEGAL MATTERS**

A complainant may take legal action. Depending on the circumstances, it may be necessary for the complaints procedure to cease. The Clinical Governance Manager is responsible for ensuring that medical negligence claims received are notified to the Managing Director and the Director of Finance and Resources.

Particular care is needed in order not to prejudice any legal action. Complainants may obtain advice through Action Against Medical Accidents (AvMA), Citizens Advice Bureau or a solicitor.

The complainant and complained against will be advised in writing if it is necessary for the complaint to cease, or for some of the issues subject to litigation to cease.

### **30 COMPENSATION**

The NHS complaints procedure cannot assist complainants with claims for compensation. Depending on the complaint investigation, the Ombudsman's guidance on redress and remedy may be relevant. This can include an apology, reassessment of a need, provision of a service or changes in procedure. Occasionally a "time and trouble" ex gratia payment may be appropriate, although this is not usual.

### **31 SERIOUS INCIDENTS (SIs)**

Where a complaint leads to the identification of a Serious Incident, the Serious Incident Policy for the Management of Incidents shall be followed, including implementation of the Being Open Duty of Candour Policy where appropriate.

### **32 MULTI-AGENCY COMPLAINTS, INCLUDING COMPLAINTS ABOUT HEALTH AND SOCIAL CARE**

There is a duty to co-operate when complaints span different organisations. Complainants are entitled to receive a co-ordinated response from a single source. It is likely that these investigations will take longer than those involving a single agency. Consent must be obtained from the complainant in order to share any relevant information.

The agencies concerned will agree which of them will take on the lead role and be responsible for monitoring progress, keeping the complainant informed and responding. The complaints professionals will communicate regularly and ensure that any lessons needing to be learnt are identified by the relevant organisations.

Complainants will be informed when aspects of the concerns raised are not within the organisation's jurisdiction.

### **33 WITHDRAWAL OF A COMPLAINT**

If a complainant withdraws a complaint at any stage of the procedure, the complained against should be informed immediately in writing and the complainant should also be sent a letter confirming that the decision of the complainant has been noted. Any identified issues should be followed up within the service area and any learning cascaded to staff.

### **34 MEDIA/PRESS**

Complainants shall be dealt with on a strictly confidential basis. However, some may come to the attention of the media through the actions of complainants, staff or unconnected third parties. The Communication Manager should manage responses to any approaches from the media and press.

### **35 PUBLISHING THE COMPLAINTS PROCEDURE**

The Clinical Governance Manager is responsible for ensuring the complaints procedure is publicised as widely as possible including information on how to make a complaint. The complaints policy will be published on First Community's website for external access. Patients or, where appropriate their relatives/carers and advocates, will be made aware of the complaints/compliments procedure and an information leaflet which explains the right to

complain, options for pursuing a complaint and the types of help and support will be made available by contacting a member of staff or by contacting the Clinical Governance Manager. Information about the policy will be contained within relevant patient/client leaflets and will also be on the website. Information is available in other formats and languages on request.

First Community are currently working towards Information Standard certification for all our patient information. This programme is run by NHS England for all organisations producing evidence-based health and care information for the public. Currently our 0-19 service is accredited. The Information Standard quality mark assures the public that First Community Health & Care have undergone a rigorous assessment and that the information we produce is clear, accurate, impartial, evidence-based and up-date.

We have an internal process linked to our complaints policy and Information Standard toolkit to ensure feedback is given to services on any comments or concerns raised with regard to the information we produce for the public.

### **36 UNREASONABLE OR PERSISTENT COMPLAINANTS**

First Community shall have a policy for handling complaints from unreasonable and persistent complainants for extreme cases, although all possible efforts will be made to resolve matters before this happens. Abuse and assault, verbal or physical, will not be acceptable under any circumstances (Appendix 6)

### **37 CONCLUSION**

Efficient and careful handling of complaints is an essential requirement for First Community. It is recognised that being involved in a complaint can be both challenging and stressful. The process should run as smoothly as possible and should not be undertaken in an adversarial manner. The emphasis will always be on resolution and finding a good outcome for the complainant. Where possible, lessons should be learnt from complainants and training provided where required. Complaints should link with risk management and other aspects of clinical governance to ensure that improvements are made to the quality of services. An open, fair and honest culture should be encouraged and where shortcomings are identified appropriate action should be taken straightaway to resolve and rectify matters.

### **38 MONITORING COMPLIANCE AND EFFECTIVENESS**

<b>Elements of Complaints Process</b>	<b>How</b>	<b>Who</b>	<b>When</b>
Duties and complaints management process followed correctly including internal and external communication and where necessary collaboration with other organisations	Audit of a sample of all complaints to check that policy has been followed by all staff involved in the response, as specified in the duties section of the policy and that requirements such as national response targets have been met.	Clinical Governance Manager	Annually unless new legislation and guidance is issued.
Complainants are not discriminated against	Audit of a sample of all complaints to check policy has been followed and that there is evidence that complainants have been treated fairly and that complaint correspondence has been kept separate from clinical records. Satisfaction Questionnaires	Clinical Governance Manager	Annually, unless new legislation and guidance is issued.  Annually
Changes as a Result of Complaints	Audit of a sample of all complaints to check if lessons learnt have been actioned or implemented. Review of quarterly complaints reports to check that lessons learnt and service	Clinical Governance Manager	Annually unless new legislation and guidance is issued

### **38.1 Satisfaction Questionnaires**

Complainants will be invited to complete a satisfaction questionnaire (Appendix 8). An annual audit will be undertaken by the Clinical Governance Manager and the findings of this audit will be reported to the Board, Integrated Governance Committee and the Clinical Quality and Effectiveness Group.

## **39 ASSOCIATED DOCUMENTATION**

This policy should be read in conjunction with the following policies:

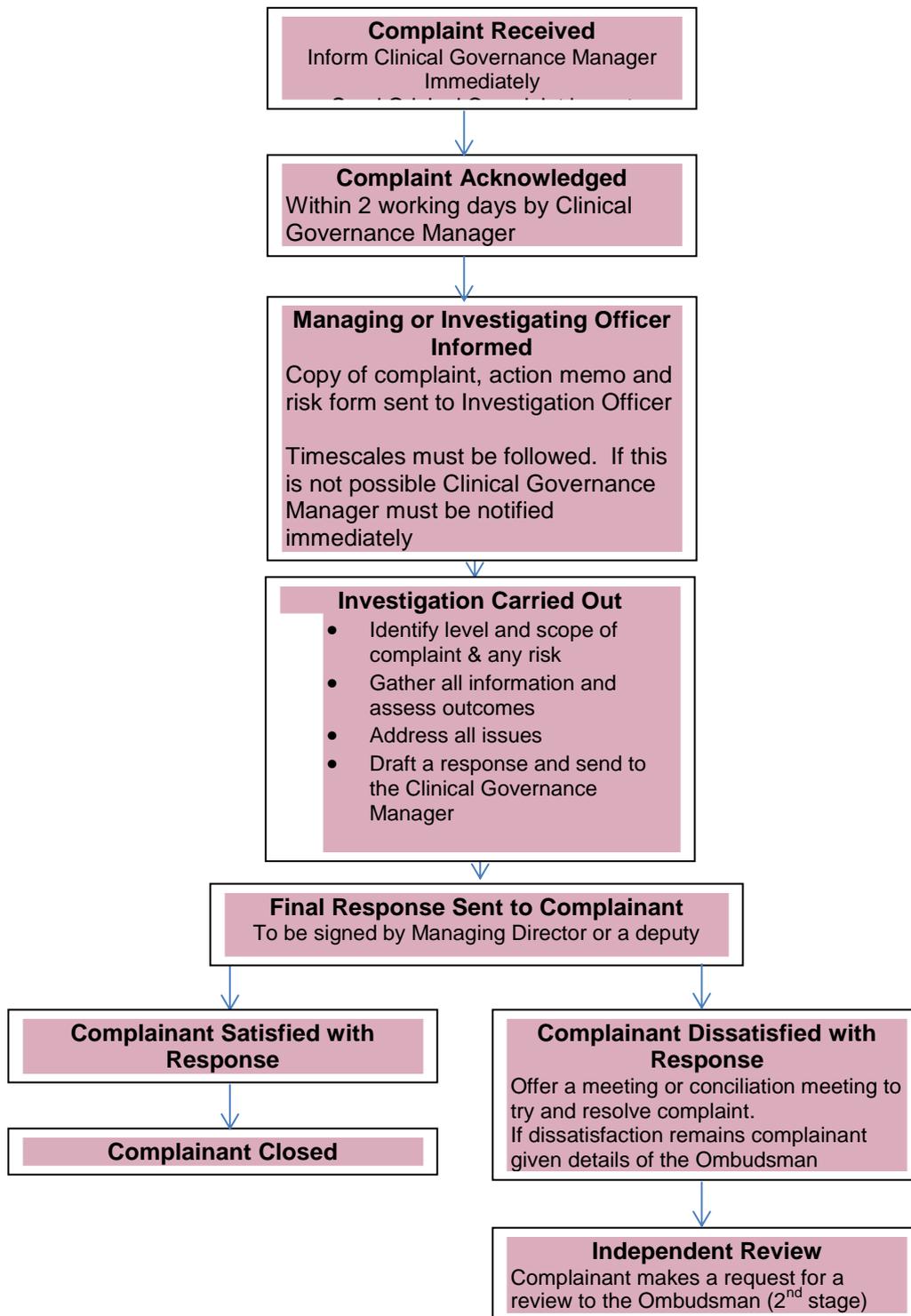
- Risk Strategy
- Risk Assessment Policy & Procedure
- Serious Incident Policy
- Management of Incidents including Serious Incidents Policy
- Information Governance Policy
- Records Management Policy
- Challenging Bullying and Harassment Policy and Procedure
- Management of Claims Policy
- Whistle Blowing Policy
- Stress and Wellbeing at Work Policy
- Grievance Policy
- Disciplinary Policy
- Capability Policy
- Being Open and Duty of Candour Policy
- Domestic Abuse Staff Policy
- Access to Health Records Policy

## **40 REFERENCES**

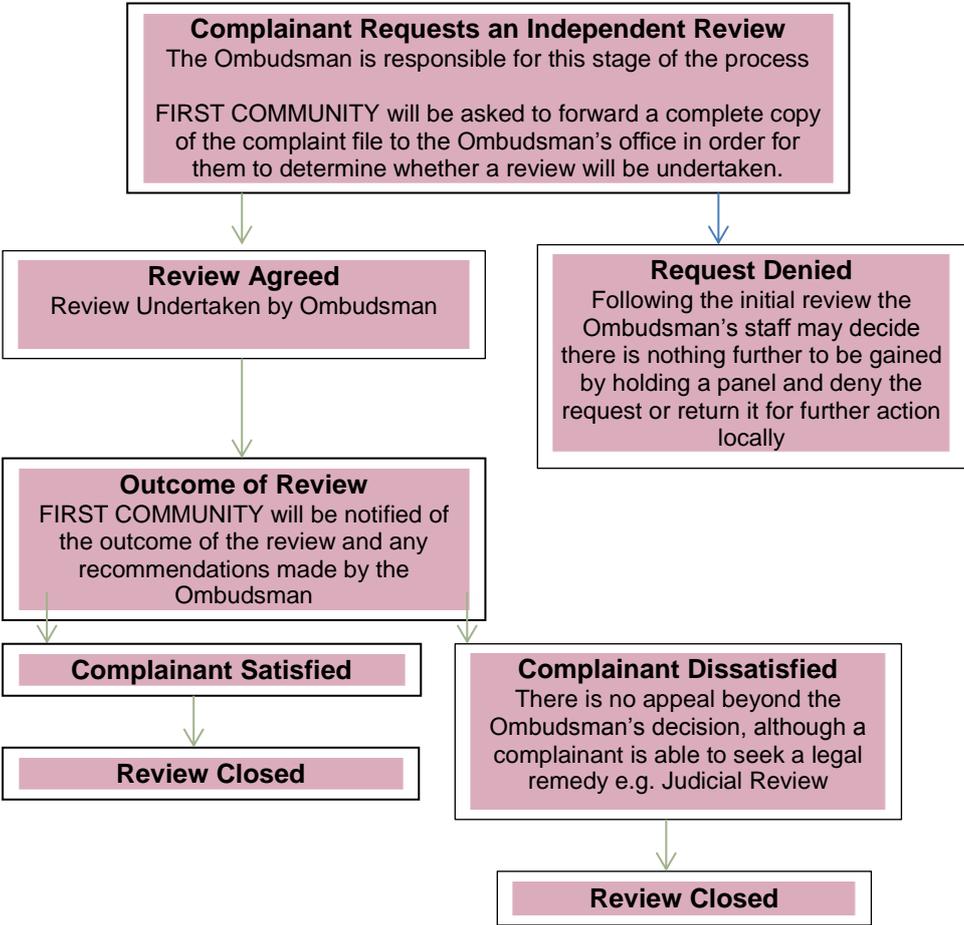
- Statutory Instrument 2009 No 309 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
- Guidance from the Department of Health : Listening, Responding, Improving: A Guide to Better Customer Care
- NHS Constitution
- Care Quality Commission: Key Lines of Enquiry
- The Health and Social care Act 2008 (Regulated Activities Regulations 2014)

# APPENDIX 1 – Flow Chart – Formal Complaints Process

## First Stage – Local Resolution



SECOND STAGE – INDEPENDENT REVIEW



**APPENDIX 3 - Complaint Form**

**COMPLAINT FORM**

(To be used if there is no correspondence)

**Service Area**..... (e.g. District Nursing Service)

**Location**..... (e.g. Caterham Dene)

**Name & Address of Complainant**  
(Please print)

.....  
.....  
.....  
.....

**Date:** .....

**Telephone (day time):** .....  
(Home, work or mobile)

**Name of Patient:**  
(If different from above)

.....  
.....  
.....

**Description of Complaint:**

In order to investigate the complaint, please give a clear description of all the issues of concern, including what you wish to achieve through the complaints process.  
(Please continue overleaf if necessary)

.....  
.....  
.....  
.....  
.....  
.....

.....(continued)

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

**This summary was completed by.....**  
(Please print)

**Signature:** .....

**How complaint was received:** Verbal in person/telephone/Other  
(Please Circle)

**Received by.....**  
(Please print)

**Title:** .....

**Date:** .....

**Work Area:** .....

**Tel No:** .....

**Please send form to Clinical Governance Manager, First Community Health & Care, 2nd Floor, Forum House, 41-51 Brighton Road, Redhill RH1 6YS**

**NB. The Clinical Governance Manager needs to agree with complainant the manner in which the complaint needs to be handled, including the timescale, prior to the investigation commencing if possible.**

# Appendix 4



2<sup>nd</sup> Floor  
Forum House  
41-51 Brighton Road  
Redhill Surrey  
RH1 6YS

Tel: 01737 775463

## CONSENT / FORM OF AUTHORITY

### In Confidence

### To:

Your .....has raised concerns with First Community Health & Care about your..... at ..... I am therefore seeking your permission to write to ....., with the findings of our investigation, which may reveal personal/confidential health information about yourself. I would therefore be grateful if you could please tick the appropriate box below and return this form as soon as possible in the addressed envelope enclosed. We may need to access the relevant parts of your health records if the complaint is about clinical care and treatment in order for us to check and clarify issues with regard to the concerns raised. We will ensure that strict confidentiality is observed.

### Please tick the relevant box below:

- I do not** give permission to First Community to send the findings of their investigation into the issues/concerns raised by .....
- I give** permission to First Community to send the findings of their investigation into the issues/concerns raised by....., which may reveal personal/confidential health information about me.

My full name is: [Please print] .....

Signature:..... Date:.....

Address:.....

.....  
.....  
**I understand that an investigation into the complaint may reveal personal and confidential health information about me. I also give my consent for access to the relevant parts of my health records in order to clarify any issues raised.**



### INDEPENDENT CONCILIATION SERVICES

**Healthwatch** provides independent conciliation services in the South East.

#### What Happens?

First Community Health & Care hopes you are satisfied with the services you receive but if you have concerns, conciliation may be the way forward.

An independent lay person (a neutral outsider) can help resolve the problem by talking the matter through.

#### What is Conciliation?

Conciliation is when an independent lay person assists in the resolution of a complaint. Assistance is usually given by bringing both parties together in discussion.

Conciliation is:

- Voluntary – it can only proceed if both parties agree. You can withdraw at any time.
- Confidential – all discussions are held in private and are confidential
- Impartial – Conciliators are not employed by the NHS, they are neutral and do not take sides
- Free – to complainant and practitioner

NB: No notes are taken at conciliation meetings. Complainants can be accompanied by friends, family or possibly a representative from NHS Complaints Advocacy.

Those complained against can be accompanied by a colleague or representative of their professional body.

#### When is Conciliation Useful?

Conciliation can be useful in the following situation, for example:

- You may be worried about making a complaint directly. If so, you can approach the Complaints Service for intermediary assistance, which may include conciliation.
- You have made a complaint and the organisation concerned wishes to meet with you in the presence of a conciliator in an attempt to resolve the matter.
- You may have received a response to your complaint but you are still dissatisfied with part of the explanation and wish to make a request for conciliation in an attempt to settle the matter at this stage.
- You may wish to refer your complaint to the Health Service Ombudsman, but have not yet tried conciliation.

#### What Happens Afterwards?

Afterwards, the conciliator will write to both parties stating that conciliation has taken place. We hope the problem will have been resolved but, if this is not the case, the conciliator will refer you to the Clinical Governance Manager for advice on the next stage of the NHS Complaints Procedure, when you may wish to refer your complaint to the Health Service Ombudsman.

#### How do I obtain Conciliation?

Contact the Clinical Governance Manager, First Community Health & Care on 01737 775463

#### Where do I obtain further advice about the NHS complaints procedure?

Contact the NHS Complaints Advocacy Service supported by Healthwatch for advice and support on the complaints procedure on 0300 030 7333

## Appendix 6 – Guidelines for Handling Unreasonable Complainants



On rare occasions, despite best efforts to resolve a complaint, the person making it can become aggressive or unreasonable. It is important to know how to handle circumstances such as these.

It is important to ensure that all reasonable efforts have been taken to address the complaint. There are a number of ways to help manage the situation:

- Make sure contact is being overseen by a manager at an appropriate level to the organisation
- Provide a single point of contact with an appropriate member of staff and make it clear to the complainant that other members of staff will be unable to help.
- Ask that they contact you only in one way, appropriate to their needs (e.g. by telephone)
- Place a time limit on any contact with the complainant
- Restrict the number of calls or meetings you will have with them during a set period.
- Ensure that any contact involves a witness
- Refuse to register repeated complaints about the same issue
- Acknowledge correspondence you received about a matter that has already been closed but take no action
- Explain that you do not respond to correspondence that is abusive
- Make contact through a third person such as a specialist advocate
- Ask the complainant to agree how they will behave when dealing with the organisation in future
- Return any irrelevant documentation and remind them it will not be returned again

When using any of these approaches to manage contact with unreasonable or aggressive people, it is important to explain what you are doing and why, and to keep a detailed record of the on-going relationship.





**CONFIDENTIAL QUESTIONNAIRE  
COMPLAINTS HANDLING**

We are constantly looking for ways to improve our complaints service. To make sure that we are getting this right we would be most grateful if you could take the time to fill in this questionnaire. The information you give will be treated in confidence. We have enclosed a FREEPOST envelope for your response. At the end of the questionnaire, we give you the opportunity to write any suggestions as to how we can further improve our services.

*For you information*

A letter of complaint should be acknowledged within three working days from the date we received the letter. The acknowledgement, which may be verbal, should invite you to agree a plan for how your complaint will be handled, including the timescale.

1. Was your letter acknowledged promptly?	Yes/No
---	--------

1. Did you receive a leaflet explaining the complaints procedure?	Yes/No
---	--------

3 What was your complaint about?	
----------------------------------	--

4. If there were any delays in our responding fully to you within the timescale agreed, were you kept informed of the reason for this	Yes/No/Not Applicable
---	-----------------------

5. Was our response clear and easy to understand Comments:	Yes/No
---	--------

6. Did you feel that all your issues were addressed? Comments:	Yes/No
---	--------

7. Were you informed of any action being taken to improve our service as a result of your complaint (if appropriate)? Yes/No/Not Applicable  
Comments:

8. Were you offered a meeting (initially or at the end?) Yes/No  
If yes, did you take up the offer? Yes/No  
Did you find the meeting beneficial? Yes/No/ Not Applicable  
Comments:

9. If no meeting was offered, would you have liked to have had this opportunity? Yes/No

10. Do you believe you have been discriminated against in anyway as a result of making a complaint? Yes/No  
If so please explain in what way.

11. Were you satisfied with the overall handling of your complaint even if the outcome may have been different to what you expected? Yes/No  
Comments

Results of the survey are reported to the Board of Directors of First Community Health & Care and our commissioners. Thank you for taking the time to complete this questionnaire. Completed questionnaires will not receive a response. You do not have to give your name and address. However please give your details below if you would like to receive results of this audit.

Name:

Address:

Completed questionnaires should be sent in the enclosed FREEPOST envelope to:  
Clinical Governance Manager, First Community Health & Care, 2<sup>nd</sup> Floor, Forum House, 41-51 Brighton Road, Redhill, RH1 6YS

## Appendix 9



2<sup>nd</sup> Floor  
 Forum House  
 41-51 Brighton Road  
 Redhill  
 RH1 6YS

Ref:

### *Reporting on Ethnic Data to the Department of Health*

As an Organisation treating NHS patients we are required by the Department of Health to collect data on the ethnic background of any patient who wishes to make a complaint. We would therefore be very grateful if you could complete this form and return it in the envelope provided.

The information you provide is treated in the strictest confidence and submitted to the Department of Health in an anonymous format.

Please indicate the ethnic group to which you feel you belong by ticking the appropriate box.

		Code Line Number	Please tick
<b>White:</b>	British	01	
	Irish	02	
	Other White	03	
<b>Mixed:</b>	White & Black Caribbean	04	
	White & Black African	05	
	White Asian	06	
	Other Mixed	07	
<b>Asian or Asian British:</b>	Indian	08	
	Pakistani	09	
	Bangladeshi	10	
	Other Asian	11	
<b>Black or Black British:</b>	Black Caribbean	12	
	Black African	13	
	Other Black	14	
<b>Other Ethnic:</b>	Chinese	15	
	Other Ethnic Group	16	
<b>Not Stated:</b>	Not stated	17	

Thank you very much for taking the time to complete this form.  
 Clinical Governance Manager



**C O N F I D E N T I A L**

**COMPLAINT RISK FORM**

Complainant:

Investigating Officer:

Service Area:

Our ref:

<b>Action Taken</b>	<b>Planned Action</b>	<b>Date</b>	<b>By Whom</b>	<b>Risk Rating</b> *
<p>Eg; What action did you take to ensure that this situation/complaint will not happen again. It could be a change of process or procedure.</p> <p>Eg; It could be an audit of records.</p> <p>E.g. staff training</p>				

\* After completing your investigation, please grade the complaint by using the attached 5 x 5 matrix. The level of the consequence or impact of the complaint should be multiplied by the level of the likelihood of recurrence, in order to reach the appropriate grading.

NAME of Lead Manager, Investigating the Complaint:.....

TITLE:..... Base: .....

DATE:.....

Thank you for completing this risk form. Please return completed form to Beverley Sharp. Clinical Governance Administration Manager, 2<sup>nd</sup> Floor. Forum House, 41-51 Brighton Road, Redhill, Surrey, RH1 6YS

## Grading of Incidents

Incidents should be graded for Consequence or Impact and likelihood and it is the responsibility of the managers to undertake the grading. The incidents will be graded on receipt of the form and will be re-graded when the investigation is complete.

## Consequence or Impact to Patient and/or Trust

	Consequence Score (severity levels) and examples of descriptors				
	1	2	3	4	5
Domains	Negligible	Minor	Moderate	Major	Severe
<b>Quality Complaint(s) Audit.</b>	Peripheral element of treatment or service suboptimal. Informal complaint/inquiry	Overall treatment or service suboptimal. Formal complaint with local resolution. Reduced performance rating	Treatment or service has significantly reduced effectiveness. Formal complaint with the potential to go external. Failure to meet internal standards.	Non-compliance with national standards with significant risk to patients if unresolved. Multiple complaints/independent review. Low performance rating.	Totally unacceptable level or quality of treatment/service. Gross failure of patient safety if findings not acted on. Inquest/ombudsman inquiry.

## Likelihood

Level	Descriptor	Description
1	Rare	May occur only in exceptional circumstances
2	Unlikely	Could occur at some time
3	Possible	Might occur at some time
4	Likely	Will probably occur in most circumstances
5	Almost certain	Is expected to occur in most circumstances