

**Meeting Title:** Governing Body



**Scarborough and Ryedale**  
Clinical Commissioning Group

**Meeting Date:** 26 September 2018

**Report's Sponsoring Governing Body Member:** Carrie Wollerton

**Report Author:** Corporate Services Manager

**1. Title of Paper:** Complaints Policy and Procedure

**2. Strategic Objectives supported by this paper:**

To create a viable & sustainable organisation, whilst facilitating the development of a different, more innovative culture.

To commission high quality services which will improve the health & wellbeing of the people in Scarborough & Ryedale.

To build strong effective relationships with all stakeholders and deliver through effectively engaging with our partners.

To support people within the local community by enabling a system of choice & integrated care.

To deliver against all national & local priorities including QIPP and work within our financial resources.

**Executive Summary:**

THIS document outlines our commitment to dealing with complaints about NHS Scarborough and Ryedale Clinical Commissioning Group (CCG) and the services that we commission.

**3. Risks relating to proposals in this paper:**

None identified

**4. Summary of any finance / resource implications:**

None identified

**5. Any statutory / regulatory / legal / NHS Constitution implications:**

We meet the requirements of the Local Authority Social Services and National Health Service complaints (England) Regulations (2009) and conform to the NHS constitution.

**6. Equality Impact Assessment Completed? (Yes/No/Not Relevant):** Yes

**7. Quality Impact Assessment Completed? (Yes/No/Not Relevant):** Not Relevant

**8. Any related work with stakeholders or communications plan:**

Consultation took place with the Communications and Engagement Team, Communications and Engagement Committee (CEC) and Quality and Performance Committee (Q&P). The Policy amends have been approved by CEC and Q&P

**9. Recommendations / Action Required**

The Governing Body is asked to approve the Complaints Policy and Procedure

**10. Assurance**

The Quality and Performance Committee is responsible for monitoring compliance with the Complaints Policy and Procedure

For further information please contact:

Name: Communications and Engagement Manager



# Complaints Policy and Procedures

(Updated, August 2018)





*“We will treat complaints seriously and ensure that complaints, concerns and issues raised by patients, relatives and carers are properly investigated in an unbiased, non-judgemental, transparent and timely manner.”*

# 1. Introduction

THIS document outlines our commitment to dealing with complaints about NHS Scarborough and Ryedale Clinical Commissioning Group (CCG) and the services that we commission.

Appendix 1 provides information about how to make a complaint and sets out how we manage and respond to complaints made about our services and the way that they are commissioned.

We meet the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009) and conform to the NHS constitution.

We will treat complaints seriously and ensure that complaints, concerns and issues

raised by patients, relatives and carers are properly investigated in an unbiased, non-judgemental, transparent and timely manner.

The outcome of any investigation, along with any resulting actions will be explained to the complainant.

We believe a complainant needs to:

- Know how to complain
- Feel confident their complaint will be dealt with seriously
- Understand their concerns will be investigated and they will be informed of the findings of that investigation
- Trust that we will learn from complaints, feedback and compliments and apply those lessons while also learning from and sharing best practice





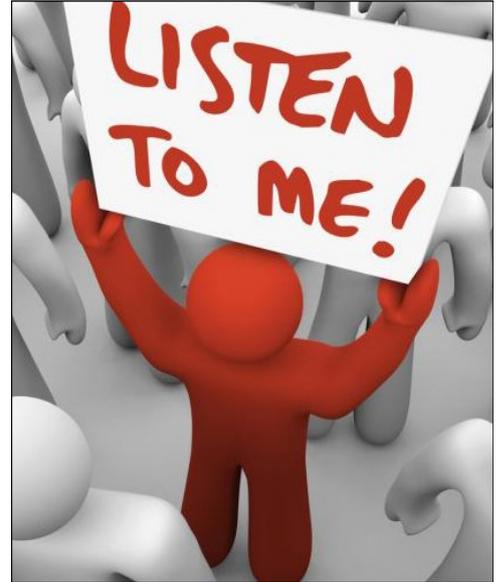
*“We will ensure that patients and their representatives can seek advice, provide feedback or make a complaint about the services that we commission or the policies that we have developed and implemented.”*

## 2. Our aims

WE are committed to high quality care for all as a core principle of our vision and purpose. We will ensure that patients and their representatives can seek advice, provide feedback or make a complaint about the services that we commission or the policies that we have developed and implemented.

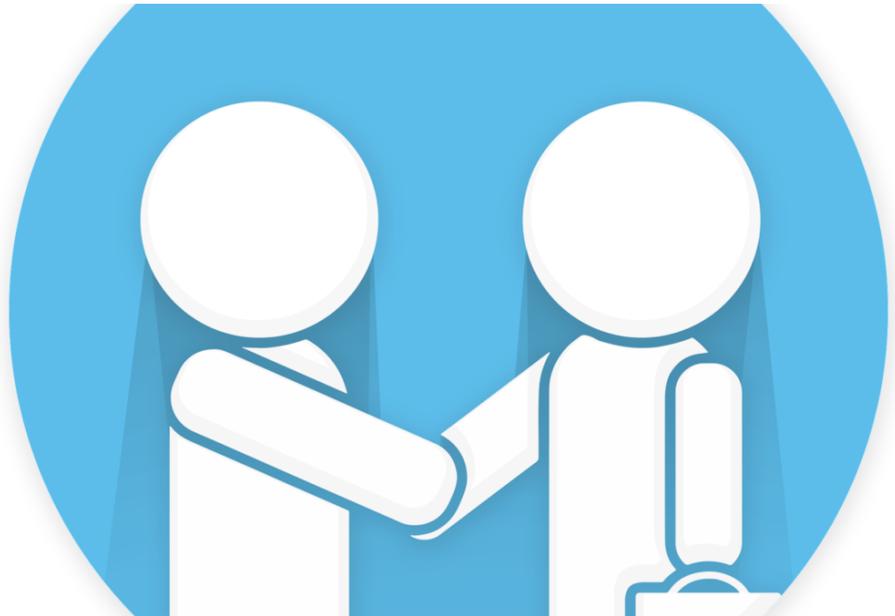
When dealing with complaints we follow the *Good Practice for NHS Complaints Handling* (September 2013) as outlined by the Patients Association. We aim to:

- Ensure openness and transparency and to provide well publicised, accessible information and processes, understood by all those involved in a complaint
  - Undertake evidence-based complainant led investigations and responses including a consistent approach to the management and investigation of complaints
  - Be logical and rational in our approach
  - Be sympathetic when responding to complaints and concerns in appropriate timeframes
  - Provide opportunities for people to offer feedback on the quality of service provided
  - Provide support and guidance for complainants throughout the complaints process
  - Provide a level of detail appropriate to the seriousness of the complaint
  - Ensure the identification of the causes of complaints and take action to prevent recurrence
  - Ensure the use of ‘lessons learnt’ as a driver for change and improvement
  - Ensure the care of the complainant is not adversely affected as a result of making a complaint
  - Ensure that NHS Scarborough and Ryedale CCG meets its legal obligations
- We support the Parliamentary and Health Service Ombudsman’s Principles of Good Complaints Handling (2009), My Expectations (2014) and the NHS Constitution which includes a number of patients’ rights relating to complaints. In summary these include patients’ rights to:
- Have their complaint acknowledged and properly investigated
  - Be informed of how the complaint will be handled and a likely timescale for response
  - Be kept informed of the process and to be informed of the outcome including confirmation that any actions identified have been carried out
  - Take a complaint about data protection breaches to the independent Information Commissioners Office (ICO) if not satisfied with the way the complaint has been dealt with





*“A complaint or concern is an expression of dissatisfaction about an act, omission or decision of NHS Scarborough and Ryedale CCG, either verbal or written, and whether justified or not, which requires a response.”*



### 3. Definition of a complaint or concern

A COMPLAINT or concern is an expression of dissatisfaction about an act, omission or decision of NHS Scarborough and Ryedale CCG, either verbal or written, and whether justified or not, which requires a response.

### 4. Scope

THIS policy applies to the handling of complaints or concerns relating to directly commissioned services by NHS Scarborough and Ryedale CCG.

For complaints about GPs, dentists, pharmacists and optometrists you should direct your complaint to NHS England.

For complaints about services other than those commissioned by NHS Scarborough and Ryedale CCG or NHS England, please refer to the complaints

service of the provider concerned.

Patient Relations services for the CCG are provided under contract by Scarborough Borough Council by way of a Service Level Agreement outlining the scope of activity and key performance indicators.

The responsibility for managing the Patient Relations service lies with the Patient Relations Team working to the agreed specification.



*“A complaint can be made by the person who is affected by the action, or it may be made by a person acting on behalf of that person.”*

## 5. Who can make a complaint?

A COMPLAINT can be made by the person who is affected by the action, or it may be made by a person acting on behalf of that person where that person:

- **Is a child (an individual not yet eighteen year old).** In this case we must be satisfied that there are reasonable ground for the complaint being made by a representative of the child, and furthermore that the representative is making the complaint in the best interests of the child.
  - **Has died.** In the case of a person who has died, the complainant must be a personal representative of the deceased. The CCG needs to be satisfied the complainant is the personal representative and, where appropriate, may request evidence of this.
  - **Has physical or mental incapacity.** In the case of a person who is unable by reason of physical capacity, or who lacks capacity within
- the meaning of the Mental Capacity Act 2005, to make the complaint themselves. The CCG needs to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is being made.
- **Has given consent to a third party acting on their behalf.** In the case of a third party pursuing a complaint on behalf of the affected person we would request contact details for both the third party and the affected person and we would contact the affected person to ensure they consent for the third party to act on their behalf.
  - **Has delegated authority to act on the complainant's behalf.** For example, in the form of a registered Power of Attorney which must cover health affairs.
  - **Is an MP, acting on behalf of and by instruction from a constituent.**





*“Keeping clear and accurate records of complaints is important and these records will be retained for a period of 10 years.”*

## 6. Complaints that cannot be dealt with under this policy

- A complaint made by an NHS provider or independent provider or responsible body
- A complaint made by an employee about a matter relating to their employment
- A complaint, the subject matter of which has already been investigated under existing or previous NHS regulations
- A complaint made orally and resolved to the complainant's satisfaction no later than the next working day
- A complaint about services directly commissioned by NHS England such as GP services, dentistry, pharmacy, optometry, justice related health services and military health
- A complaint which relates to any scheme established under Section 10 (superannuation of persons engaged in health services) of Section 24 (compensation for loss of office) of the Superannuation Act 1972 or to the administration of those schemes

## 7. Record keeping

KEEPING clear and accurate records of complaints is important and these records will be retained for a period of 10 years.

## 8. Timescales

ONCE you have contacted us a letter will be sent out to you acknowledging your complaint. This will be sent to you within three working days. This letter will reference the subject of your complaint and will provide you with a reference number and a likely timescale for response which in most instances will be 40 working days. If your complaint is complex, or has a number of different dimensions which need investigating, it may take longer than 40 days, but we would keep you informed of this.



With all complaints, we will always try to respond in a reasonable timeframe.



*“The Patient Relations Team will disseminate learning from complaints across the organisation as appropriate, so that feedback can be used as a measure of performance and quality and to inform commissioning and service planning.”*



## 9. Monitoring / reporting

WE use feedback to learn and improve. Our complaints are reported on in our Annual Report and we also provide a quarterly report to the Quality and Performance Committee. Our reporting includes:

- Numbers of complaints received
- Numbers of complaints upheld
- Issues and key themes
- Lessons learnt
- Actions taken
- Number of cases referred to the Ombudsman
- Compliments and other feedback

## 10. Quality Assurance

WE will monitor the effectiveness of the complaints process and will review the policy annually.

The Patient Relations Team will disseminate learning from complaints across the organisation as appropriate, so that feedback can be used as a measure of performance and quality and to inform commissioning and service planning.

## 11. Equality impact Assessment

AN assessment of the potential impact of this policy in relation to the protected characteristics of the Equality Act 2010 has been carried out. The intention of this

assessment is to eliminate unlawful discrimination, advance equality of opportunity and foster good relations as stated in the Equality Act.

## 12. Compliance and review

COMPLIANCE with this policy will be monitored by the CCG by way of the Contract Review process against the service specification being delivered by Scarborough Borough Council.



*“The process for making a complaint is explored in more detail in Appendix One.”*



## 13. Complaints process

APPENDIX 1 set out the process for making a complaint. This information can also be found on our website at [www.scarboroughryedaleccg.nhs.uk](http://www.scarboroughryedaleccg.nhs.uk)

## 14. Persistent and unreasonable contact

PLEASE see Appendix 2 for details of the policy and

procedure for persistent and unreasonable contact.

NHS Scarborough and Ryedale Clinical Commissioning Group's Patient Relations Team can be contacted by telephone on

**01723 383636**

or by email,

**[scrccg.patientrelations@nhs.net](mailto:scrccg.patientrelations@nhs.net)**

Alternatively, you can write to us at Patient Relations, NHS Scarborough and Ryedale CCG, Scarborough Town Hall, York House, St Nicholas Street, Scarborough, North Yorkshire, YO11 2HG

# Appendix 1: Making a complaint - information for patients and their representatives

## Scope of the complaints process

Patients or their representatives can make a complaint to the CCG about services that it commissions and decisions that it has taken. Where the service is delivered by a provider, for example by a hospital, in the community or by a company delivering services on behalf of the NHS, a patient can choose to complain directly to the provider or to the CCG as the commissioner of this service but not to both. The CCG cannot investigate a complaint that is already under investigation by a provider.

## How to make a complaint

A patient, or their representative can make a complaint either by calling the CCG Patient Relations telephone line on 01723 383638, emailing the Patient Relations Team on [scrccg.patientrelations@nhs.net](mailto:scrccg.patientrelations@nhs.net) or writing to Patient Relations, NHS Scarborough and Ryedale CCG, Town Hall, St Nicholas Street, Scarborough YO11 2HG.

## What will happen when I make a complaint?

### By telephone:

If you ring the patient relations telephone line you will be asked for some initial details about your complaint. You will either be put through to the patient relations team or they will call you back. You will be asked to give your consent for the patient relations team to investigate your complaint which may mean making contact with other organisations such as hospitals, GP surgeries and other healthcare and social care providers. Your consent will be recorded and retained on file.

### By email:

The patient relations team will respond to your email and will seek further information as

required. They will also request consent from you to investigate your complaint including contacting other organisations as required which can be provided by email response if appropriate.

### By letter:

If the letter contains email and/or telephone contact details then a member of the patient relations team will contact you and request your consent to investigate your complaint. If only an address is provided then you will receive a consent form by post which we will ask you to sign and return to us. Please note that we will be unable to commence an investigation of your complaint until we receive this.

### If you are complaining on behalf of someone else:

If you are complaining on behalf of another adult then we would need their consent for you to act on their behalf. This consent can be provided verbally by phone, by email or by signed consent form. If the person does not have capacity then a Power of Attorney or evidence of Best Interests arrangements would usually be required.

## After I have made my complaint what happens next?

Once you have contacted us a letter will be sent out to you acknowledging your complaint. This will be sent to you within three working days. This letter will reference the subject of your complaint and will provide you with a reference number and a likely timescale for response which in most instances will be 40 working days.

## Next steps

If we have received consent to investigate then this investigation will now commence.

## If we cannot resolve your complaint within the agreed timescale

You will receive an update letter in the first instance and then regular updates from us until such time as we are able to provide you with a response.

## Complaint response

In 40 days or the alternative timescale specified you will receive a complaint response from the CCG signed by the Chief Officer or another member of the CCG senior management team.

## What if I am not satisfied with the response?

If you are not satisfied with the response you receive you have the option to proceed to a local resolution meeting (LRM). In this instance

you will be invited to discuss your case with appropriate members of the CCG team. You are entitled to bring a representative or supporter with you if you wish. At this meeting your case will be discussed and notes will be taken. After the meeting those involved will review the evidence and will make a decision on your complaint. You will then receive a letter outlining the outcome of the meeting along with the notes and action points. Should the decision of the CCG remain the same then the complaints process will cease and the CCG decision will be final.

## What if I am still not satisfied?

The next stage of the complaints process is to take your case to the Parliamentary and Health Service Ombudsman. Details of how to do this will be sent to you as part of the written response to your complaint.

# The authority to sign off complaints

	<b>Managements of Patients and Relatives' Complaints</b>	
a)	Overall responsibility for ensuring that all complaints made to CCG are dealt with effectively	<b>Chief Officer</b>
b)	Responsibility for investigation of complaints.	<b>Senior Officer (Band 8 and above)</b>
c)	Authority to sign response to complaints made to CCG	<b>Executive Nurse, Associate Director of Nursing Quality and Performance or Chief Finance Officer</b>
d)	Authority to sign responses to Ombudsman	<b>Chief Officer</b>

# Appendix 2: The management of unreasonable or persistent contacts

## Purpose

The CCG and its complaints handling team have contact with a small number of individuals who absorb a disproportionate amount of NHS resources, due to unreasonable persistent contact. The aim of the procedure for unreasonable, persistent contact is to identify situations where the contact might be considered to be unreasonable or persistent and to suggest ways of responding to these situations. It is emphasised that this procedure should only be used as a last resort and after all reasonable measures have been taken, to try to resolve issues and complaints.

Judgement and discretion must be used in applying the criteria to identify potential unreasonable or persistent contacts, and in deciding action to be taken in specific cases. The procedure should only be implemented following careful consideration by, and with the authorisation of the Chief Operating Officer. Where deputies are nominated, the reason for the non-availability of the Chief Operating Officer and the Clinical Commissioning Group Clinical Chair should be recorded on the file. Persistent complainants may have genuine issues and it is therefore important to ensure that this process is fair and the complainant's interests have been taken into consideration.

## Definition of an unreasonable, persistent contact

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

- Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted, or where investigation has been denied, as out of time.
- Display unreasonable demands, or expectations and fail to accept that these may be unreasonable (eg insist on responses to contacts or enquiries being provided more urgently than is reasonable or normal recognised practice).
- Change the substance of a complaint or concern, continually raise new issues or seek to prolong contact by continually raising further concerns upon receipt of a response, whilst the complaint or concern is being addressed. (Care must be taken not to discard new issues which are significantly different from the original contact. These might need to be addressed as separate concerns or complaints).
- Are unwilling to accept documented evidence of treatment given as being factual, such as drug records, General Practitioner records and nursing records. Deny receipt of an adequate response, in spite of correspondence specifically answering the complainants questions being received, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts by the CCG, Patient Relations staff and where appropriate, the Independent Contacts Advocacy Service supporting the complainant, or where the concerns identified are not within the remit of the CCG to investigate.
- Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what a trivial matter is, can be subjective and careful judgment must be used in applying this criteria).
- Have threatened, or used actual physical

violence towards staff, or their families or associates at any time - this will in itself cause personal contact with the individual and/or their representatives to be discontinued and the contact will, thereafter, only be pursued through written communication. (All such incidents should be documented).

- Have harassed, or been personally abusive, or verbally aggressive, on more than one occasion towards staff dealing with their concern or complaint, or their families or associates. (Staff must recognise that individuals may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this. They should document all incidents of harassment).
- Have in the course of addressing a concern or formal complaint, an excessive number of contacts with the CCG / CCG complaints-handling team service placing unreasonable demands on staff. (A contact may be in person or by telephone, email, letter or fax. Discretion must be used in determining the precise number of excessive contacts applicable under this section, using judgment based on the specific circumstances of each individual case).
- Are known to have recorded meetings, or face-to-face/telephone conversations, without the prior knowledge and consent of other parties involved.
- Consume a disproportionate amount of time and resources.

## **Actions prior to designating a complainant as unreasonable or persistent**

It is important to ensure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of considerations to bear in mind when considering imposing restrictions upon a complainant. These may include:

- Ensuring the complainant's case is being, or has been dealt with appropriately, and that reasonable actions will follow, or have followed, the final response.
- Confidence that the complainant has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent.

- Checking that new or significant concerns are not being raised, that require consideration as a separate case.
- Applying criteria with care, fairness and due consideration for the client's circumstances – bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss or significant/sudden changes to the complainant's lifestyle, quality of life or life expectancy.
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour, and the impact upon staff
- Ensuring that the complainant has been advised of the existence of the policy and has been warned about, and given a chance to amend their behaviour
- Consideration should also be given as to whether any further action can be taken prior to designating the complainant unreasonable or persistent.

This might include:

- Raising the issue with a director with no previous involvement, in order to give an independent view
- Where no meeting with staff has been held, consider offering this at a local level as a means to dispel misunderstandings (only appropriate where risks have been assessed)
- Where multiple departments are being contacted by the complainant, consider a strategy to agree a cross-departmental approach
- Consider whether the assistance of an advocate may be helpful
- Consider the use of ground rules for continuing contact with the complainant.

Ground rules may include:

- Time limits on telephone conversations and contacts.
- Restricting the number of calls that will be taken or agreeing a timetable for contacting the service.
- Requiring contact to be made with a named member of staff and agreeing when this should be.
- Requiring contact via a third party, eg. advocate
- Limiting the complainant to one mode of contact

- Informing the complainant of a reasonable timescale to respond to correspondence.
- Informing the complainant that future correspondence will be read and placed on file, but not acknowledged
- Advising that the organisation does not deal with calls or correspondence that is abusive, threatening or contains allegations that lack substantive evidence. Request that the complainant provides an acceptable version of the correspondence or make contact with a third party to continue communication with the organisation
- Ask the complainant to enter into an agreement about their conduct
- Advise that irrelevant documentation will be returned in the first instance and (in extreme cases) in future may be destroyed
- Adopting a 'zero tolerance' policy. This could include a standard communication line, for example: "The NHS operates a zero tolerance policy, and safety of staff is paramount at all times. Staff have a right to care for others without fear of being attacked either physically or verbally"
- soon as possible within the timescales agreed
- That repeated calls regarding the complaint in question are not acceptable and will be terminated, or;
- Their complaint has been responded to as fully as possible and there is nothing to be added
- That any further correspondence will not be acknowledged
- Inform the individual that in extreme circumstances the CCG reserves the right to pass unreasonable or persistent contacts on to their legal team and temporarily suspend all contact with the individual, or investigation of a complaint, whilst seeking legal advice, or guidance, from NHS England, or other relevant agencies.

## Process for Managing Unreasonable or Persistent Contacts

Where a complainant has been identified as unreasonable or persistent, the decision to declare them as such is made jointly by the Chief Officer. The Chief Officer may decide to deal with individuals in one or more of the following ways:

- Try to resolve matters, before invoking this procedure, by drawing up a signed agreement with the individual, which sets out a code of behaviour for all those involved if the CCG, or its complaints-handling team, is to continue processing the concern, or complaint.
- If these terms are contravened by the individual, consideration would then be given to implementing other action, as indicated in this section.

When the Chief Officer agrees that the complainant should be identified as unreasonable or persistent they will write to the complainant, informing them that either:

- Their complaint is being investigated and a response will be prepared and issued as

This notification may be copied for the information of others already involved in the concern or complaint, eg. Practitioners, ICA, Member of Parliament. A record must be kept for future reference, of the reasons why an individual has been classified as unreasonable, or persistent. All appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation. If the declared complainant raises any new issues then they should be dealt with in the usual way. Review of the persistent status should take place annually.

## Urgent or extreme cases of unreasonable or persistent behaviour

In urgent or extreme cases, adopt safeguarding and zero tolerance policies and procedures. Discuss the case with the appropriate director to develop an action plan that may include the use of emergency services in some circumstances. In these circumstances, carry out a review of the case at the first opportunity after the event.

## Record keeping

Ensure that adequate records are kept of all contact with unreasonable and persistent complainants. Consideration should be given as to whether the organisation should take further action, such as reporting the matter to the police, taking legal action, or using the risk management or health and safety procedures to

follow up such an event in respect of the impact upon staff.

## **Withdrawing Unreasonable Persistent Contact Status**

Once individuals have been determined as unreasonable or persistent there needs to be a mechanism for withdrawing this status, at a later date if, for example, they subsequently demonstrate a more reasonable approach, or if they submit a further concern, or complaint for which normal procedures would appear appropriate. Staff should previously have used discretion in recommending unreasonable or

persistent status at the outset and discretion should similarly be used in recommending that this status be withdrawn, when appropriate. Where this appears to be the case, discussion will be held with the Chief Operating Officer. Subject to their approval, normal contact with the individual will be resumed. When an individual has been classified as an Unreasonable Persistent Contact for one year, a review of the classification will be undertaken by the CCG / its complaints handling team to see if the classification is still appropriate. The individual will be advised of the outcome of the review and any change to their status. A further review will be held annually.