MANAGING COMPLAINTS AND COMPLIMENTS

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Policy Number	ACG/Group/C&L04
Version Number	01
Purpose	This policy: • Sets out the process for identifying, receiving, handling, and responding appropriately to all concerns, complaints and compliments.
Scope	• All colleagues employed by and working on behalf of (e.g., agency, bank, contractors, honorary contracts, etc.) ACG • All sites and services in England, Scotland and Wales
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MANAGING COMPLAINTS AND COMPLIMENTS

Welcome complaints, concerns, and compliments in a positive way

- Provide accessible information promoting all ways that people can make a complaint or compliment (See Section 14)
- Recognise that complaints come in a variety of forms, and not always via the formal route (See Section 7)
- Provide information on advocacy services
- Support people to make complaints or compliments
- View complaints as an opportunity to improve services.

Being thorough and fair

- Complaints and compliments must be recorded on the Incident Management System
- A person should not be discriminated against for making a complaint
- If possible, resolution of complaints should be resolved at a local level

Investigate

- The process for resolution of all complaints consists of three stages
  - **Stage 1** – Local resolution at service/site level (See Section 10)
  - **Stage 2** – Internal review conducted by a colleague within ACG (See Section 11)
  - **Stage 3** – External Review (See Section 12)

- If a Stage 1 investigation is required, this will be determined by the Responsible Person
- If the complaint cannot be resolved at Stage 1, the complainant must be made aware of the next steps they can take. (See Sections 11 and 12)

Honest and accountable responses

- Following investigation, a response is given to the complainant
- Responses are honest, open and in a format that the complainant can understand (See Section 4)

Learn

- Share findings to improves services:
  - Compliments highlight best practice
  - Complaints can lead to positive changes which may be implemented throughout the Group
  - Complaints can inform Policy reviews.

1 INTRODUCTION

1.1 The Active Care Group (ACG) welcomes the views from people using our services, families, and other stakeholders, and is committed to delivering a fair, open and clear process for managing concerns, complaints and compliments.

1.2 ACG takes all concerns and complaints seriously and seeks to ensure their satisfactory resolution, and to learn from them to reduce the likelihood of recurrence and ensure that services are improved as a result. Compliments received by ACG will be used as an opportunity to share good practice.

1.3 ACG is required to comply with Care Quality Commission, OFSTED, Healthcare Improvement Scotland, Care Inspectorate Scotland, Care Inspectorate Wales and Healthcare Inspectorate Wales standards and registration requirements. This document explains the process by which ACG manages concerns, complaints, and comments.

2 DEFINITIONS

2.1 The term "person" is used throughout this policy to refer to any individual in receipt of care and treatment within an ACG service. This will include but is not limited to:

- Residents – in registered homes and care centers
- Patients – in hospital services
- Clients – care in the home and case management services
- Children and Young People – in Child and Adolescent Mental Health Services

The term "patient" may be used where it forms part of an accepted phrase or term such as "patient safety".

2.2 **A Concern** is an issue requiring advice, support or explanation and usually in regard to current care. A concern would not normally be considered under Complaint Regulations 2009. If the issue cannot be resolved or it is not possible to have a plan in place to resolve it, within 3 working days, or the person wishes to make a complaint, the issue should then be managed as a complaint e.g., when a service user, carer or relative has an informal issue that they would like resolved quickly.

2.3 **A Complaint** is an expression of dissatisfaction from anyone who accesses ACG's services, or third party, and which requires a response. Complaints may relate to any aspect of care, treatment, professional competencies or to any of the administrative or support services. A complaint may be made by telephone, in person, in writing or by email to any member of ACG personnel.

2.4 **A Compliment** is positive feedback received in writing or verbally, about the service provided. All written compliments must be recorded on the Incident Management System and circulated amongst relevant colleagues. All written compliments should be formally acknowledged.

2.5 **Third party** a complaint by a service user's representative (including Advocacy) will only be accepted in the following circumstances:

a) Where the service user has consented, either verbally or in writing.

OR

b) Where the service user cannot complain unaided and cannot give consent because they lack capacity within the meaning of the Mental Capacity Act 2005.

AND

c) The representative is acting in the service user's best interests i.e., where the matter complained about, if found to be true, would be detrimental to the service user. This may also require the service user's lawful representative being informed and asked to approve the proposed further action.

2.8 **The Ombudsman -** each devolved government has their own ombudsman services (see Appendix B for contact details). In most circumstances, the ombudsman can only be approached once a complainant has exhausted ACG's internal complaints procedure.

3 RESPONSIBILITIES

3.1 The Director of Risk and Governance has overall responsibility and accountability for the management of complaints across ACG.

3.2 At a local level, the Site/Service Manager has responsibility for complaints handling and following the complaints process set out below.

3.3 A full list of roles and responsibilities, see Appendix A.

4 DUTY OF CANDOUR

4.1 Under Duty of Candour, ACG has a duty to be open and honest. (See current Duty of Candour policy)

4.2 Where a complaint is made regarding care or treatment, ACG commit to full transparency in the investigation procedure and will be as open as possible with those involved. The complainant will be provided with as full a response as is possible, without breaching confidentiality of other patients/residents or impeding any HR procedures.

5 COMPLIMENTS

5.1 All compliments received in writing will be recorded on the Incident Management System. They should also be circulated amongst relevant colleagues, so that colleagues are aware of the number of compliments received, and the specific topics which are raised.

5.2 Written compliments should receive a formal acknowledgement from the Site/Service Manager.

6 THE COMPLAINTS PROCESS

6.1 The process for resolution of all complaints consists of three stages:

- **Stage 1** – Local resolution at service/site level
- **Stage 2** – Internal review conducted by a colleague within ACG
- **Stage 3** – External Review by the Ombudsman, Parliamentary Health Service Ombudsman (PHSO) or Adjudication by the Independent Sector Complaints Adjudication Service (ISCAS) or by the Independent Complaint Panel.

6.2 The three stages of resolution are described further in Sections 10 – 12.

6.3 **NB:** In Scotland, anyone can complain to Healthcare Improvement Scotland or the Care Inspectorate at any stage of the complaints process. It is not dependent on the local procedure being exhausted.

6.4 **Advocacy -** People with a concern may choose to speak and receive the support of a person slightly removed from the cause of their problem. An Advocate can:

- Help resolve problems quickly and informally by liaising between the service user/their representative and colleagues.
- Provide information and help on how to make a complaint.
- Provide information in English and other languages.

Details of advocacy services can be found in Appendix B.

6.5 **Discrimination -** Some people worry that the service they receive will suffer if they make a complaint. This may prevent those bringing important matters to the attention of the organisation. Complainants are reassured in letters of acknowledgement and through feedback questionnaires that their care will not suffer if they make a complaint.

6.6 ACG will not tolerate discrimination against a complainant that might occur as a result of their having complained.

6.7 **MP on behalf of constituents -** Where an MP states, in writing, that he or she has a person's consent to access confidential information; this should be accepted without further recourse to the individual. However, if a third party has written to the MP, then consent must be sought from the subject of the information. When a complaint is received via an MP, this must be logged as per policy onto the Incident Management System, **AND** the CEO and the Director of Risk and Governance be informed of its receipt. The complaints process should be followed locally, and the final response will be signed by the CEO.

7 IDENTIFYING A COMPLAINT

7.1 Our colleagues speak to people who use our service every day. This can often raise issues that our colleagues can help with immediately. We encourage people to discuss any issues they have with our colleagues, as we may be able to sort the issue out to their satisfaction quickly and without the need for them to make a complaint.

7.2 We recognise that we cannot always resolve issues as they arise and that sometimes people want to make a complaint. A complaint is an expression of dissatisfaction, either spoken or written, that requires a response. It can be about:

- An act, omission or decision we have made
- The standard of service we have provided.

7.3 People may want to provide feedback instead of making a complaint. Feedback can be an expression of dissatisfaction (as well as positive feedback) but is normally given without wanting to receive a response or make a complaint.

7.4 People do not have to use the term 'complaint'. We will use the language chosen by the person, or their representative, when they describe the issues they raise (for example, 'issue', 'concern', 'complaint', 'tell you about'). We will always speak to people to understand the issues they raise and how they would like us to consider them.

7.5 If we consider that a complaint (or any part of it) does not fall under this procedure we will explain the reasons for this. We will do this in writing to the person raising the complaint and provide any relevant signposting information.

7.6 Complaints can be made to us:

- In person
- By phone
- In writing, by email or online.

We will consider all accessibility and reasonable adjustment requirements of people who wish to make a complaint in an alternative way. We will record any reasonable adjustments we make.

7.7 We will acknowledge complaints within three working days of receiving it. This can be done in writing or verbally.

7.8 We may receive an anonymous or a general complaint that would not meet the criteria for who can complain. In this case we would normally take a closer look into the matter to identify if there is any learning for our organisation unless there is a reason not to do so.

8 WHO CAN MAKE A COMPLAINT

8.1 Any person may make a complaint to us if they have received or are receiving care and services from our organisation. A person may also complain to us if they are affected or likely to be affected by any action, inaction or decision by our organisation.

8.2 If the person affected does not wish to deal with the complaint themselves, they can appoint a representative to raise the complaint on their behalf. There is no restriction on who may represent the person affected. However, they will need to provide us with their consent for the representative to raise and discuss the complaint with us and to see their personal information.

8.3 If the person affected has died, is a child or is otherwise unable to complain because of physical or mental incapacity, then the complaint may be made on their behalf by a representative. There is no restriction on who may act as representative but there may be restrictions on the type of information we may be able to share with them. We will explain this when we first look at the complaint.

8.4 If a complaint is brought on behalf of a child we will need to be satisfied that there are reasonable grounds for a representative bringing the complaint rather than the child. If we are not satisfied we will share our reasons with the representative in writing.

8.5 If at any time we see that a representative is not acting in the best interests of the person affected we will assess whether we should stop our consideration of the complaint. If we do this, we will share our reasons with the representative in writing. In such circumstances we will advise the representative that they may complain to the Parliamentary and Health Service Ombudsman, Public Services Ombudsman, or the Independent Sector Complaints Adjudication Service (ISCAS) if they are unhappy with our decision.

9 COMPLAINT PROCESS

9.1 Colleagues are encouraged to resolve concerns immediately and informally. This may include:

- Listen to complainant and apologise where appropriate
- Ask how they wish to resolve matters and indicate how long this might take
- Seek advice from manager where necessary
- Involve complainant in finding solutions to any failure that has been highlighted
- Arrange for the concern to be resolved
- Inform complainant of outcome.

9.2 Complaints should be raised within 12 months of the event which has given rise to the complaint, or within 12 months of becoming aware that there was cause for complaint. This time limit shall not apply if ACG is satisfied that the complainant had good reason for not making the complaint within the time limit, and if it is still possible to investigate the complaint effectively and fairly.

9.3 Complaints can be made in writing (including email) or orally. Oral complaints should be recorded in writing and the complainant invited to sign the statement. Where

appropriate the complainant should be offered help in making a written statement with the option to do this through advocacy.

10 STAGE 1 – LOCAL RESOLUTION

10.1 If the complaint cannot be resolved informally and requires a Stage 1 investigation, the complaint should be immediately forward to the Responsible Person who will check for any safeguarding issues and make an initial risk assessment of the complaint and grade it accordingly.

10.2 The Responsible Person will decide on the most appropriate person to be the Investigation Officer. Where an external investigator is appointed, additional support will be offered to them by the Responsible Person to ensure they understand policy, procedure and good practice around complaints handling.

10.3 The Investigation Officer should have:

- The appropriate level of authority and autonomy to carry out a fair investigation
- The right resources, support and protected time in place to carry out the investigation, according to the complexity of each case

10.4 The Service Complaints Coordinator will log the complaint onto the Incident Management System and forward a copy of the complaint letter to the Investigation Office. A copy of all correspondence including initial complaint, any investigation reports and the final response must be attached to the Incident Management System log.

10.5 An acknowledgement letter will be sent to the complainant within **three** working days of the complaint being received. The acknowledgement should

- Refer to the conversation between complainant and Investigation Officer.
- Include details of the Local Resolution Action Plan.
- Give information about local advocacy available.
- Give information on ACG Complaints Procedure.

10.6 The Investigation Officer must make every effort to contact the complainant to discuss and agree a Local Resolution Action Plan (including how the complainant might wish their complaint to be resolved and how long this might take). The Local Resolution Action Plan methods will be proportionate, realistic and fair to all those concerned. Methods might include:

- Mediation
- A meeting between complainant and complained against
- Professional/clinical second opinion
- Investigation by direct manager
- Independent of team investigation
- Paper review by an independent person
- Root cause analysis
- Remedy (returning the complainant to the position that would have been had the maladministration or poor service not happened).

10.7 If it has not possible to speak with the complainant, the acknowledgement letter will suggest a Local Resolution Action Plan and invite the complainant to respond if the plan is not acceptable.

10.8 If the complainant is not the person in care and their consent is required, this will be sought within three working days. If consent is not given, the response to the complainant should not include any personal details relating to the person of which the complainant is not already aware.

10.9 The complainant should be regularly updated with progress of the investigation and a

formal response received within an agreed number of days. In services in England, the complainant will be responded to within 25 working days. In Scotland, complaints will be responded to within 20 working days. Further negotiation around this time limit should solely be due to the method of resolution and the complexity of the complaint (e.g., the number of persons involved).

10.10 It is good practice to explain to the complainant that information from their records may need to be disclosed to colleagues involved in managing the complaint and any independent review.

10.11 The Investigation Officer will provide the Responsible Person with an investigation report. If the timescale cannot be met, an extension must be agreed with the complainant. In England, this is 25 days, in Scotland this is 20 days. In rare circumstances, extension to this timeframe may be necessary but the complainant should be notified and an explanation provided.

10.12 The final written response from the Responsible Person to the complainant should include:

- An explanation of how we investigated the complaint
- The relevant evidence we considered
- What the outcome is
- An explanation of whether or not something went wrong that sets out what happened compared to what should have happened, with reference to relevant standards, policies and guidance
- If something did go wrong, an explanation of the impact it had
- An explanation of how that impact will be remedied for the individual
- A meaningful apology for any failings
- An explanation of any wider learning we have acted on/will act on to improve our service for other users
- An explanation of how we will keep the person raising the complaint involved until all action has been carried out
- Confirmation that we have reached the end of our complaint procedure
- Details of how to contact the Parliamentary and Health Service Ombudsman if the individual is not satisfied with our final response
- A reminder of where to obtain independent advice or advocacy.

NB: Before sending to the complainant, the final written response must be signed off by one of the following, depending on service

Service Type	Sign-off Responsibility
Hospitals	Hospital Director
Residential Services	Operational Director
Case Management	Business Director
Care In The Home	Operational Director

10.13 The Investigation Officer will be asked to confirm that the final response letter is factually correct. This might include their decision to share a copy of the draft response with the subject/s of the complaint.

10.14 All colleagues must ensure that:

- The person's health needs are a priority and should be met before any matters relating to their complaint are addressed.
- A person's healthcare is not affected by their making of a complaint.
- Colleague approach is non-adversarial, but rather supportive and understanding.
- The person is equipped to make their complaint, if desired, by giving them information about the most appropriate advocacy service.
- The person is equipped to make their complaint; by giving them information in appropriate formats, e.g., in another language.

- Any subsequent action taken to address a complaint, including the provision of a draft response, must be treated as a priority task to ensure procedural timescales are met.

10.15 If the investigator or any colleague believes that a complainant or their representative's care is adversely affected by having complained, they must contact the Responsible Person. The Responsible Person will bring this to the attention of the Director of Risk and Governance. If any allegations of discrimination are upheld, these will be dealt with under the organisation's Disciplinary Procedure.

10.16 **Links with Safeguarding Procedures -** Any complaint which initially identifies that abuse, harm or neglect may have taken place will be subject to a review to identify whether it is a safeguarding concern. This review must take place within 24 hours of the concern being identified, in line with the current Adult/Children's Safeguarding Policy.

10.17 If an investigation reveals at any time that abuse, harm or neglect may have taken place then a referral to the appropriate safeguarding team will be made immediately. Colleagues must act according to the principle "The welfare of the child is paramount" and "The person is at the heart of everything we do".

10.18 **Concerns about Vulnerable Adults or Children -** If concerns about the well-being (abuse or neglect) of a child or vulnerable adult are raised through a formal complaint, the organisation's Child Protection guidelines (Children Safeguarding Policy) or Vulnerable Adult guidelines (Adult Safeguarding Policy) will be followed and those concerns will immediately be discussed with the appropriate named professional for Children/Vulnerable Adults.

10.19 If an allegation of abuse or neglect is made against a member of staff or volunteer, the appropriate Manager and Director will immediately be informed and they will follow the appropriate Child Protection ('Guidance for responding to allegations or concerns about child abuse perpetrated by health professionals and ancillary staff working in NHS Trusts') or Vulnerable Adult guidelines, discuss with the relevant named professional and pursue an investigation

10.20 **The Director of Risk and Governance has the discretion to escalate any high-risk complaints.**

11 STAGE 2 – INTERNAL INDEPENDENT REVIEW

11.1 If the complainant is not happy with the final response received from the site, they can request that their complaint be escalated to the Director of Risk and Governance who will arrange for an independent review to take place. The points that the complainant is unhappy about should be identified and reviewed. It would also be appropriate to offer the complainant a Local Resolution Meeting.

11.2 If following the independent review the complainant is still not satisfied, the complaint moves to Stage 3.

11.3 These additional reviews should be completed within 25 working days wherever possible. However, if a longer timeframe is required this should be negotiated with the complainant.

12 STAGE 3 – EXTERNAL INDEPENDENT REVIEW

12.1 If the complainant remains unhappy, they should be referred to the relevant Ombudsman (see Appendix B for contact details).

12.2 ACG will co-operate with the Ombudsman when requests for information are received. The recommendations from any report arising from a full Ombudsman investigation will be set out in an action plan and passed to the relevant Director/Senior Manager.

13 SERVICE IMPROVEMENTS, CLINICAL GOVERNANCE AND PERFORMANCE MONITORING

13.1 **Risk Assessment -** The Investigation Officer will be mindful of the potential level of risk which a new complaint suggests, and will influence the Local Resolution Plan to produce a method of resolution/investigation which reflects this (e.g., investigation from outside department).

13.2 The Investigation Officer should be alert to any circumstances which give rise to the requirement of extended or additional investigations and where this occurs refer back to the Responsible Person for guidance and clarity.

13.3 If information from complaints and/or evidence from other sources, including that provided by other colleagues, indicates that service users or colleagues could be at risk the Investigation Officer will have the discretion to discuss the matter with the appropriate colleague within the organisation and be guided by them as to the most appropriate action to be taken. This could include the matter being referred:

- Under the disciplinary procedures
- To a professional body
- Through the serious incident requiring investigation procedure
- To the police
- To the counter fraud officer
- Through appropriate protection procedures (e.g.) child or vulnerable adult procedures.

13.6 **Organisational Change Arising from Complaints -** After an investigation, the manager of the Responsible Person must ensure that actions are taken when identified. Actions might include:

- Provide remedy for the individual complainant, and/or
- Reduce the risk of any identified failure recurring.

13.7 The manager is responsible for providing evidence of these actions. This evidence is to be forwarded to the Responsible Person and then to the Service Complaints Coordinator for logging.

13.8 **Ombudsman Action Plans -** Action plans (ACG/Group/C&L/F-12) will be generated by the Responsible Person as a result of Ombudsman recommendations after Independent Review. These will be passed to the relevant manager who will:

- Ensure that actions are devised and completed which meet the required goals
- Provide evidence to the Responsible Person that the actions have been completed.

13.9 The Service Complaints Coordinator will hold a central record of action plans, copied onto the Incident Management System.

13.11 **Reporting –** The Group Registration and Governance Manager is responsible for providing regular reports to the Executive Committee on ACG complaints management including lessons that have been learned, risks identified and themes noted.

13.12 Services' Responsible Individuals are required to ensure reports on complaints, concerns and compliments are produced and shared locally within their service's governance framework and also to their divisional Clinical Governance meetings.

14 RAISING AWARENESS

14.1 The Responsible Person will ensure that there is effective publicity for the service's complaints handling arrangements. Information leaflets will be provided to all complainants describing details of Local Resolution and Independent Review, together with support available to complainants during the process. The information must be provided in a way that the person can understand.

14.2 The Responsible Person will make available contact details and information on the role of the appropriate Ombudsman and advocacy services. Information will be provided for new colleagues at induction.

15 CONSENT

15.1 Any person wishing to make a complaint on behalf of another adult must have written consent to do so from the person concerned. In some cases it may be appropriate to obtain consent from a child if that child is considered to be capable of understanding the situation and can give informed consent.

15.2 Every attempt must be made to obtain consent including enlisting help from specialist advocates when appropriate. If the person has died or is not capable of providing consent, then the Responsible Person will determine whether the complainant had sufficient interest in the person's welfare, or is suitable to act as a representative

15.3 In England, a 'child' is any person who has not yet reached 18 years of age. In Scotland, in most cases a child is any person who has not yet reached the age of 16.

15.4 Children under 16 are not automatically presumed to be legally competent to make decisions about their healthcare, however, as the law currently stands, under 16s are deemed competent to give valid consent if they have "sufficient understanding and intelligence to enable him or her to understand fully what is proposed." If this is the case the child is classed as being 'Gillick' or 'Fraser' competent.

15.5 When a complaint is made about the care and treatment involving a child who is deemed not to have sufficient mental capacity it will be necessary to obtain consent from someone with parental responsibility for them. Once a child reaches the age of 16, they are presumed in law to be competent to give their consent, however it is still good practice to encourage them to involve their families in decision making

15.6 If a child of 16 or 17 is not competent to make decisions, then a person with parental responsibility can take decisions for them. This will often, but not always be the parent of the child. The Children's Act 1989 sets out the following as people who would have parental responsibility:

- The child's parents provided they were married to each other at the time of conception/birth
- The child's mother, but not father if they were not married unless he has acquired parental responsibility via a Court Order; has a parental responsibility agreement; the couple has subsequently married; or the child was born on or after 1st December 2003 and the father is named on the birth certificate
- The child's legally appointed guardian appointed by a Court or by a parent with parental responsibility in the event

15.7 Where the child is in the care of a local authority or a voluntary organisation, the representative must have appropriate authority to act. However, if it is considered by the Responsible Person or the Investigation Officer that the person making the complaint is not acting in the best interests of the child then the complaint will not be considered under

the Regulations and the complainant will be notified in writing of the reason/s for this decision.

16 SUPPORT

16.1 **Support for Complainants -** Complainants will be offered independent support when making a complaint, through the advocacy services available on site where available, and via **Independent Complaints Advocacy Service** (details available in Appendix B)**.** Complainants will be given support to overcome any communication or other difficulties to enable them to make a complaint, e.g., provision of interpreters.

16.2 **Support for Colleagues** - **Colleagues who are the subject of a complaint.** ACG appreciates the negative associations of complaints; which happen when something has gone wrong or is perceived to have gone wrong. Managers will inform colleagues of the details of any complaint made against them, give them the opportunity to answer the complaint, and be kept informed of the progress of the complaint and its outcome. ACG operates a "just culture".

16.3 This is a structure which does not seek to allocate unconstructive personal blame for errors, but instead provides support and learning opportunities to individuals where required. Colleagues do, however, remain accountable for deliberate violations of policy. Colleagues should be familiar with the current Duty of Candour Policy.

16.4 ACG does not expect colleagues to tolerate abuse from service users or others during complaints management.

16.5 **Colleague Safety -** Colleagues are not expected to put themselves in situations where they feel they may be at risk when dealing with complaints:

- Abuse, harassment or violence of any kind towards colleagues will not be tolerated.
- Colleagues will not be expected to undertake home visits or to meet people on their own if they feel themselves to be at risk. Alternative places to meet may be arranged and they may take a colleague with them.
- Colleagues undertaking home visits will leave the address with a colleague. Details of their expected return to the office or time when they will contact the office should be left. If no contact is made another colleagues will be entitled to access the address and take appropriate action to ensure their colleague's safety.
- Colleagues will report and record any incident that gives them concern for their safety under the zero tolerance procedures; completing an incident form.

16.6 **Colleague Complaints and Concerns**

- Colleagues who may have concerns about a service users' care have a responsibility to make their concerns known. Such concerns should be raised in the first instance through the normal line management structures.
- Where a colleague wishes to remain anonymous, they can raise their concern via the Whistleblowing Policy.
- A colleague wishing to highlight a concern with any aspect of their employment should do so via the Grievance Procedure.

17 FURTHER ACTIONS

17.1 **Withdrawing a Complaint -** If an individual wishes to withdraw a complaint, it is important to know why, and to ensure the complaint has not been withdrawn under duress. A signed consent withdrawing the complaint must (if practicable) be sought from the complainant in these circumstances.

17.2 Serious complaints will continue to be investigated. Allegations that are subject to the Safeguarding Adults/Children process must **always** be investigated. The Responsible Person will decide whether or not it is possible or appropriate to continue the investigation without the complainant's involvement.

17.3 **Dealing with 'unreasonable' or 'unreasonably persistent' complainants -** There are a small number of complainants who pursue their complaints in a way that can prevent proper investigation, or who require significant and inappropriate levels of resource, or who refuse to accept the results of the investigation and outcome of their complaint. (See Guideline: Unreasonable and Unreasonably Persistent Complaints (ACG/Group/C&L/G-01)).

17.4 **Disciplinary Procedures -** The Complaints Policy, being concerned only with resolving complaints and not with investigating disciplinary matters, is completely separate from the Disciplinary Procedure.

17.5 Where complaints about ACG employee are of a nature that could also give rise to one of the following:

- An investigation under the internal disciplinary procedure
- A professional regulatory body
- An independent inquiry into a serious incident under Section 84 of the NHS Act 1977
- An investigation of a criminal offence.

The person in receipt of the complaint should pass the relevant information at once to the Responsible Person, who will take responsibility for deciding whether or not to initiate investigative action. Such a referral may be made at any stage of the complaints procedure.

17.6 Paperwork relating to the complaints investigation may be used in any disciplinary or criminal investigation

17.7 The outcome of any investigatory action is a confidential matter between employer and employee and should not be relayed to the complainant

17.8 **Complaints and Litigation -** Even if the complainant's initial communication with ACG is via a solicitor's letter, it should not necessarily be inferred that the complainant has decided to take legal action in respect of the complaint. A hostile or defensive reaction to the complaint is more likely to encourage the complainant to seek information and a remedy through the Courts. An open and sympathetic approach may satisfy the complainant

17.9 Unless the complainant, or the solicitor on their behalf, has explicitly indicated an intention to take legal action in respect of the complaint, a response should be given in the normal way with a full explanation and apology where appropriate. **An apology is not an admission of liability.**

17.10 Where legal action has been started or an explicit intention to take legal action has been expressed, the Responsible Person will notify the Director of Risk and Governance who will take the necessary actions.

17.11 Taking legal action does not prohibit use of the Complaints Procedure. Where legal action has been started or an explicit intention to take legal action has been expressed, the Responsible Person should take advice on whether any complaints investigation would prejudice the case. If so, then complaints handling should cease. Involved parties should be advised of this in writing.

17.12 **Final Redress** - Although compensation would normally need to be sought through legal channels, ACG has discretion to provide financial reimbursement of expenses or losses

where fault has been found, for example, reimbursement of the cost of lost property.

17.13 **Access to Records -** Where copies or access to records is provided as part of the resolution of a complaint, there is discretion to waive the usual access and associated charges.

18 TRAINING

18.1 Guidance on complaints management will be provided as part of the Induction process. Investigation training will be provided where appropriate.

19 RECORDS MANAGEMENT

19.1 Complaint records must be kept separate to health records and documentation must not, under any circumstances, be filed in the person's medical records.

19.2 Details of complaints, concerns and compliments received by ACG must be recorded on the Incident Management System.

19.3 Records relating to complaints must be kept securely.

19.4 Complaint files relating to complaints investigations will be retained by ACG for a minimum of 10 years.

20 EQUALITY IMPACT STATEMENT

20.1 This policy has been equality impact assessed and we believe that it is in line with the Equality Act 2010 as it is fair, it does not prioritise or disadvantage any employee or applicant and it helps to promote equality in our services.

21 REFERENCES

21.1 Patient Rights (Scotland) Act 2011
The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011

22 ASSOCIATED DOCUMENTS

22.1 **Forms**

- Compliments/ Suggestions Form (ACG/Group/C&L/F-07)
- Concerns/ Complaints Form (ACG/Group/C&L/F-08)
- Concerns/ Complaints Feedback Form (ACG/Group/C&L/F-09)
- Concerns/ Complaints Resolution Form (ACG/Group/C&L/F-10)
- Action Log on Completion of Complaint (ACG/Group/C&L/F-11)
- Health Services Ombudsman Action Plan (ACG/Group/C&L/F-12)
- Complaint Action Taken Form (ACG/Group/C&L/F-13)

22.2 **Guidelines**

- Unreasonable and Unreasonably Persistent Complaints (ACG/Group/C&L/G-01)
- Concerns, Complaints and Compliments - Visitor and Patient/Resident Guide (ACG/Group/C&L/G-02)
- Example Letters
- Information leaflets

23 DOCUMENT VERSION HISTORY

Version	Description of revision	Date of Revision
01	New Group-wide Policy	25/05/2022

Appendix A

ROLES AND RESPONSIBILITIES

Director of Risk and Governance – overall responsibility for the oversight of the complaints process across ACG.

Registration and Governance Manager – reporting responsibility – will undertake regular reviews of complaints and their responses providing reports for ACG in line with the framework and reporting requirements. Also responsible for ensuring feedback received centrally is allocated and acted upon appropriately

Responsible Person - The Service Manager is the designated responsible person for complaints handling, who sees all complaints and signs the investigation report and final response letter to the complainant. The complaint ownership remains with the Responsible Person throughout the process. Responsibility includes ensuring that:

- leading by example to improve the way we deal with compliments, concerns and complaints
- understanding the obstacles people face when making a complaint, and taking action to improve the experience by removing them
- knowing and complying with all relevant legal requirements regarding complaints
- making information available in a format that people find easy to understand
- promoting information about independent complaints advocacy and advice services
- making sure everyone knows when a complaint is a serious incident or safeguarding or a legal issue and what must happen
- making sure that there is a strong commitment to the duty of candour so there is a culture of being open and honest when something goes wrong
- making sure we listen and learn from complaints and improve services when something goes wrong.

Service Complaints Coordinator - The person responsible for logging all concerns, complaints and compliments onto the Incident Recording System. Other duties will involve the co-ordination of the complaint file, monitoring timings, ensuring compliments are acknowledged, providing complaint data where necessary in a timely manner.

Investigation Officer - The person designated by the Responsible Person who possesses the appropriate skills to undertake investigations.

Role of Individual Colleagues - All colleagues are responsible for:

- Managing, and wherever possible, resolving complaints in line with ACG policy.
- Distinguishing the seriousness of concerns raised and bringing these to the attention of Senior Managers within ACG, for example if the concerns raised relate to Patient Safety and/or Safeguarding.
- Following the processes described in this policy
- Supporting people to access complaints information, including information leaflets and complaints forms.
- To co-operate within the investigation of a complaint, including meeting with complainants, if requested.
- All employees have a responsibility to abide by this Policy and any decision arising from its implementation.

Appendix B

USEFUL CONTACT DETAILS

Government Ombudsmen	
England	
Parliamentary and Health Service Ombudsman (NHS funded residents in England)	Tel: 0345 015 4033 www.ombudsman.org.uk
Local Government Ombudsman (Private and local authority funded residents in England)	Tel: 03000 610 614 www.lgo.org.uk
Independent Sector Complaints Adjudication Service (ISCAS)	Tel: 020 7536 6091 https://iscas.cedr.com/
Scotland	
Scottish Public Services Ombudsman	Tel: 0800 377 7330 https://www.spso.org.uk/spso
Wales	
Public Services Ombudsman for Wales (Local authority funded residents in Wales)	Tel: 0300 7900 203 Email: ask@ombudsman-wales.org.uk www.ombudsman-wales.org.uk
Advocacy	
The Advocacy People PO Box 375 Hastings East Sussex, TN34 9HU	Tel: 0330 440 9000 Email: info@theadvocacypeople.org.uk https://www.theadvocacypeople.org.uk/
Independent Mental Health Advocacy (IMHA)	
National Youth Advocacy Service (NYAS) Tower House 1 Tower Road Birkenhead Wirral, CH41 1FF	Tel: 0808 808 1001 Email: help@nyas.net https://www.nyas.net/
POhWER Independent Complaints Advocacy Services PO Box 14043 Birmingham, B6 9BL	Tel: 0300 456 2370 Email: pohwer@pohwer.net www.pohwer.net
Regulatory Bodies	
England	
Care Quality Commission National Customer Service Centre Citygate, Gallowgate Newcastle upon Tyne, NE1 4PA	Tel: 03000 61 61 61 Email: enquiries@cqc.org.uk www.cqc.org.uk
Ofsted (England and Wales) Piccadilly Gate Store Street Manchester, M1 2WD	Tel: 0300 123 1231 www.gov.uk/government/organisations/ofsted
Scotland	

Care Inspectorate Compass House 11 Riverside Drive, Dundee, DD1 4NY	Tel: 0345 600 9527 Email: enquiries@careinspectorate.com www.careinspectorate.com
Complaints Corporate Governance Office Healthcare Improvement Scotland Gyle Square 1 South Gyle Crescent Edinburgh EH12 9EB	Tel: 0131 623 4342 Email: hcis.complaints@nhs.net www.healthcareimprovementscotland.org
Wales	
Care Inspectorate Wales Welsh Government Office Rhydycar Business Park, Methyr Tydfil, CF48 1UZ	Tel: 0300 7900 126 Email: ciw@gov.wales www.careinspectorate.wales
Healthcare Inspectorate Wales (HIW) Welsh Government Rhydycar Business Park Merthyr Tydfil, CF48 1UZ	Tel: 0300 062 8163 Email: hiw@gov.wales www.hiw.org.uk
Estyn (Her Majesty's Inspectorate for Education and Training in Wales) Anchor Court Keen Road Cardiff CF24 5JW	Tel: 029 2044 6446 Email: enquiries@estyn.gov.wales www.estyn.gov.uk
Other	
Mental Welfare Commission. In Scotland complainants who are detained under the Mental Health (Care and Treatment) Act have the right to approach the Mental Welfare Commission directly.	
Healthcare Improvement Scotland (www.healthcareimprovementscotland.org) promotes improvements in the quality of healthcare in Scotland and will acknowledge and investigate complaints in relation to independent healthcare providers they regulate.	
The National Assembly for Wales Cardiff Bay Cardiff CF99 1NA	Tel: 0300 200 6565 Email: contact@assembly.wales www.assembly.wales
If a complaint involves a serious allegation of professional misconduct, a complainant may wish to contact the following regulatory authorities	
Nursing & Midwifery Council (NMC) 23 Portland Place London W1B 1PZ	Tel: 020 7637 7181 Email: fitness.to.practise@nmc-uk.org www.nmc.org.uk
General Medical Council (GMC) Fitness to Practice Directorate 3 Hardman Street Manchester, M3 3AW	Tel: 0161 923 6602 Email: gmc@gmc-uk.org www.gmc-uk.org
Health & Care Professions Council (HCPC) Park House 184 Kennington Park Road, London, SE11 4BU	Tel: 0845 500 6184 www.hcpc-uk.org.uk