

Basildon Road Surgery  
**Complaints Procedure Policy (England)**

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# Basildon Road Surgery

## 1 Introduction

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### 1.1 Policy statement

The purpose of this document is to ensure all staff at Basildon Road Surgery understand that all patients have a right to have their complaint acknowledged and investigated properly. This organisation takes complaints seriously and ensures that they are investigated in an unbiased, transparent, non-judgemental and timely manner.

The organisation will maintain communication with the complainant (or their representative) throughout, ensuring they know the complaint is being taken seriously.

In accordance with [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014 \(Regulation 16\)](#), all staff at Basildon Road Surgery must fully understand the complaints process. Additionally, the BMA has released guidance titled: [Responding to concerns: a guide for doctors who manage staff](#).

### 1.2 Status

The organisation will aim to design and implement policies and procedures that meet the diverse needs of our service and workforce, ensuring that none are placed at a disadvantage over others, in accordance with the [Equality Act 2010](#). Consideration has been given to the impact this policy might have regarding the individual protected characteristics of those to whom it applies.

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time. For the avoidance of doubt, it does not form part of your contract of employment. Furthermore, this document applies to all employees of the organisation and other individuals performing functions in relation to the organisation such as agency workers, locums and contractors.

## 2 Overview

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### 2.1 Legislation and guidance

Every provider of NHS healthcare is required to have a complaints procedure. This process must detail how to complain about any aspect of NHS care, treatment or service and this is a requirement that is written into the NHS Constitution.

This document follows those processes as established within the following:

- [The Local Authority Social Services and National Health Services Complaints \(England\) Regulations 2009](#)
- [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014: Regulation 16](#)

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- [The NHS Constitution](#)
- [PHSO - Principles of Good Complaint Handling](#)
- [PHSO - NHS Complaint Standards](#)
- [PHSO – An opportunity to improve](#)
- [Good Practice standards for NHS Complaints Handling](#)
- [CQC GP Mythbuster 103 – Complaints Management](#)
- [General Medical Council \(GMC\) ethical guidance](#)
- [Assurance of Good Complaints Handling for Primary Care – A toolkit for commissioners](#)

### 2.2 Complaints management team

The responsible person, or complaints lead, is Dr Jyoti Chand, GP Partner and they are responsible for ensuring compliance with the complaints regulations making sure action is taken because of the complaint.

The complaints manager is Pauline Clelland, Practice Manager. They are responsible for managing all complaints procedures and must be readily identifiable to service users. As recognised in [A Guide to Effective Complaints Resolution \(England\)](#), the responsible person and complaints manager can be the same person.

### 2.3 Definition of a complaint versus a concern

NHS England defines that a concern is something that a service user is worried or nervous about and this can be resolved at the time the concern is raised whereas a complaint is a statement about something that is wrong or that the service user is dissatisfied with which requires a response.

It should be noted that a service user could be concerned about something and raise this matter, however, should it not be dealt with satisfactorily, then they may make a complaint about that concern.

### 2.4 Formal or informal?

There is no difference between a “formal” and an “informal” complaint. Both are expressions of dissatisfaction.

It is the responsibility of the complaints manager to consider whether the complaint is informal and therefore early resolution of an issue may be possible. If the complaints manager believes an issue can be resolved quickly then this organisation will aim to do this in around 10 working days and, with the agreement of the enquirer, we will categorise this as a concern and not a complaint.

However, if the enquirer is clear that they wish to formalise the complaint, then the organisation will follow this complaints policy in full.

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## 2.5 Complaints information

Basildon Road Surgery has prominently displayed notices in the waiting room and on the Practice website detailing the complaints process. In addition, the process is included on the organisation website and a complaints pack is also available from reception.

The information provided is written in conjunction with this policy and refers to the legislation detailed in [Section 2.1](#) and the complaints poster is linked at [Section 2.3](#).

## 2.6 A duty of candour

The duty of candour is a general duty to be open and transparent with people receiving care at this organisation.

Both the statutory duty of candour and professional duty of candour have similar aims, to make sure that those providing care are open and transparent with the people using their services whether or not something has gone wrong.

Further information can be sought from the CQC [GP Mythbuster 32: Duty of Candour and General Practice \(regulation 20\)](#)

## 2.7 Parliamentary and Health Service Ombudsman (PHSO)

[The Parliamentary and Health Service Ombudsman's](#) role is to make final decisions on complaints that have not been resolved locally by either the organisation or the Integrated Care Board (ICB). The Ombudsman will look at complaints when someone believes there has been injustice or hardship because an NHS provider has not acted properly or has given a poor service and not put things right.

The Ombudsman can recommend that organisations provide explanations, apologies and financial remedies to service users and that they take action to improve services.

## 2.8 Complainant options

The complainant, or their representative, can complain about any aspect of care or treatment they have received at this organisation to this organisation via the complaints manager or directly to NHS England.

As of 1 July 2023, the patient (or their nominated representative) may now submit a complaint either to the [ICB](#) or to the organisation that has been commissioned by the NHS to provide a service.

While this was previously NHS England or the organisation, should a complainant have an ongoing complaint that was submitted to NHS England prior to 1 July 2023, they will receive a letter from explaining that their complaint will continue to be investigated by NHS England along with details of their case handler.

If NHS England receive a complaint on or after 1 July, the complainant will receive a letter advising that the ICB will be handling their complaint along with details of their case handler.

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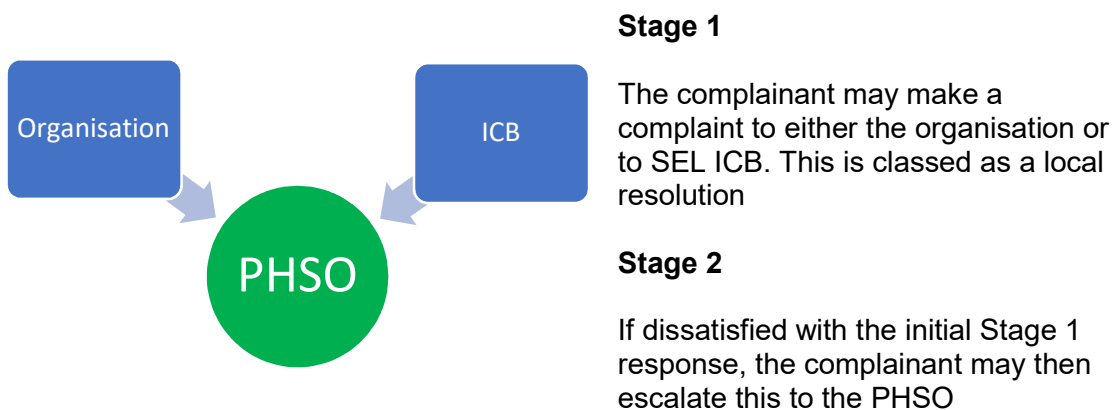
Information on how to make a complaint to South East London (SEL) ICB can be sought from its webpage [Making a complaint - South East London ICS \(selondonics.org\)](http://selondonics.org).

As complaints also come directly to this organisation, we have adopted a patient-focused approach to complaint handling.

Complaints are not escalated to an ICB following the organisation's response. A Stage 1 complaint is made to either the organisation or to the ICB.

If dissatisfied with the response from either ICB or the organisation, then the complainant may wish to escalate their complaint to the PHSO. This process is as detailed within the [Local Authority Social Services and National Health Service Complaints \(England\) Regulations \(2009\)](#) where it states that there should be two stages of dealing with complaints.

See below image that further explains the route of any complaint:



It should be noted that neither the organisation nor the ICB will investigate any complaint should this have been responded to by the other.

The complainant should be provided with a copy of the complaints leaflet at [Annex D](#) detailing the complaints process and they should be advised of the two-stage process.

## 2.9 Timescale

The time constraint for bringing a complaint is 12 months from the occurrence giving rise to the complaint or 12 months from the time that the complainant becomes aware of the matter about which they wish to complain.

If, however, there are good reasons for a complaint not being made within the timescale detailed above, consideration may be afforded to investigating the complaint if it is still feasible to investigate the complaint *effectively* and *fairly*.

Should any doubt arise, further guidance should be sought from SEL ICB by the Complaints manager, Pauline Clelland.

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### 2.10 Responding to a concern

Should the complaints manager become aware that a patient, or the patient's representative, wishes to discuss a concern, then this is deemed to be less formal and should be responded to as detailed below.

Points that should be considered are that:

- Should the patient be on the premises, then there will need to be a degree of interaction sooner than if it was a telephone call or email
- All facts need to be ascertained prior to any conversation
- Should the person be angry, contacting them too soon may inflame the situation further if they did not receive the outcome that they desired
- Consider any potential precedence that may be established, and will any future concern be expected to always be dealt with immediately should any response be given too soon
- Time management always needs to be considered
- Many of the concerns raised are not a true complaint, simply a point to note or a concern and this will still be investigated, and an answer ordinarily given within 10 working days. In doing this and with agreement with the enquirer, this would not need to be logged as a complaint as it can be dealt with as a concern.

Whilst each concern will warrant its own response, generally at Basildon Road Surgery, the outcome will always be to ensure that the best response is always provided.

### 2.11 Responding to a complaint

The complainant has a right to be regularly updated regarding the progress of their complaint. The complaints manager at Basildon Road Surgery will provide an initial response to acknowledge any complaint within three working days after the complaint is received.

All complaints are to be added to the complaints log in accordance with [Section 2.29](#).

There are no timescales when considering a complaint, simply that it must be investigated thoroughly, and that the complainant should be kept up to date with the progress of their complaint

At Basildon Road Surgery, should any response not have been provided within six months, we will write to the complainant to explain the reasons for the delay and outline when they can expect to receive the response. At the same time, we will notify the complainant that they have a right to approach the PHSO without waiting for local resolution to be completed.

The MDU advises in its document titled [How to respond to a complaint](#) that a response or decision should be made within six months with regular updates during

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the investigation. If it extends beyond this time, then the complainant must be advised.

[CQC GP Mythbuster 103](#) states the following:

- The tone of a response needs to be professional, measured and sympathetic
- Patient confidentiality should be considered and timescales agreed
- A complaint can be either written or verbal, practices cannot insist that complainants 'put their complaints in writing'
- Verbal complaints (not resolved in 24 hours) should be written up by the provider. They should share this with the complainant to agree content

### 2.12 Meeting with the complainant

To support the complaints process, [BMA guidance](#) suggests that a meeting should be arranged between the complainant and the complaints lead.

Whilst not a CQC requirement, having a meeting is considered as being best practice due to there often being a more positive outcome.

### 2.13 Verbal complaints

If a patient wishes to complain verbally and should the patient be content for the person dealing with the complaint to deal with this matter and if appropriate to do so, then complaints should be managed at this level. After this conversation, the patient may suggest that no further action is needed.

Should this be the case, then the matter can be deemed to be closed.

Having this acknowledgement of the verbal complaint will be deemed as being sufficient and therefore the complaints manager does not need to subsequently respond in writing. However, the verbal complaint must be recorded in the complaints log to enable any trends to be identified and improvements to services made if applicable. The complaints manager should record notes of the discussion (for reference only) which may be used when discussing complaints at meetings.

Further information on logging complaints can be sought at [Section 2.29](#).

If the matter demands immediate attention, the complaints manager should be contacted who may then offer the patient an appointment or may offer to see the complainant at this stage. Staff are reminded that when internally escalating any complaint to the complaint's manager then a full explanation of the events leading to the complaint is to be given to allow any appropriate response.

Note a verbal complaint may simply be a concern. Should this be a less formal concern and, in agreement with the enquirer, then the process at [Section 2.10](#) should be followed.

### 2.14 Written complaints



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Although this is not the preferred option due to the timescales involved from both parties, it is the complainant's choice, and they may either write or verbalise their concerns.

Therefore, they are not to be persuaded or dissuaded from putting it in writing and when a complaint is received, the response is to be as per [Section 2.11](#).

### 2.15 Who can make a complaint?

A complaint may be made by the person who is affected by the action, or it may be made by a person acting on behalf of a patient in any case where that person:

- Is a child (an individual who has not attained the age of 18)

In the case of a child, this organisation must be satisfied that there are reasonable grounds 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 the personal representative of the deceased. This organisation will require to be satisfied that the complainant is the personal representative.

Where appropriate, the organisation may request evidence to substantiate the complainant's claim to have a right to the information.

- Has physical or mental incapacity

In the case of a person who is unable by reason of physical capacity or lacks capacity within the meaning of the [Mental Capacity Act 2005](#) to make the complaint themselves, the organisation needs to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is 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 person affected, the organisation will request the following information:

- Name and address of the person making the complaint
- Name and either date of birth or address of the affected person
- Contact details of the affected person so that they can be contacted for confirmation that they consent to the third party acting on their behalf

The above information will be documented in the file pertaining to this complaint and confirmation will be issued to both the person making the complaint and the person affected.

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

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

Should the complaints manager believe a representative does or did not have sufficient interest in the person's welfare, or is not acting in their best interests, they will discuss the matter with either the MDU or [NHS Resolution](#) to confirm prior to notifying the complainant in writing of any decision.

### 2.16 Complaints advocates

Details of how patients can complain and how to find independent NHS complaints advocates are detailed below. Additionally, the patient should be advised that the local Healthwatch Greenwich - 020 8301 8340 who can help to find an independent complaints advocacy services in the area.

Independent advocacy services include:

- [POhWER](#) – a charity that helps people to be involved in decisions being made about their care. POhWER's support centre can be contacted via 0300 456 2370
- [Advocacy People](#) – gives advocacy support. Call 0330 440 9000 for advice or text 80800 starting message with PEOPLE
- [Age UK](#) – may have advocates in the area. Visit their website or call 0800 055 6112
- [Local councils](#) can offer support in helping the complainant to find an advocacy service.

The PHSO provides several more advocates within its webpage titled [Getting advice and support](#).

### 2.17 Investigating complaints

This organisation will ensure that complaints are investigated effectively and in accordance with extant legislation and guidance. Furthermore, we will adhere to the following standards when addressing complaints:

- The complainant has a single point of contact in the organisation and is placed at the centre of the process. The nature of their complaint and the outcome they are seeking are established at the outset
- The complaint undergoes initial assessment, and any necessary immediate action is taken. A lead investigator is identified
- Investigations are thorough, where appropriate obtain independent evidence and opinion, and are carried out in accordance with local procedures, national guidance and within legal frameworks
- The investigator reviews, organises and evaluates the investigative findings
- The judgement reached by the decision maker is transparent, reasonable and based on the evidence available

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- The complaint documentation is accurate and complete. The investigation is formally recorded with the level of detail appropriate to the nature and seriousness of the complaint
- Both the complainant and those complained about are responded to adequately
- The investigation of the complaint is complete, impartial and fair
- The complainant should receive a full response or decision within six months following the initial complaint being made. If the complaint is still being investigated, then this would be deemed to be a reasonable explanation for a delay

### **2.18 Conflicts of interest**

The complaints manager and/or investigating clinician must consider and declare whether there are any circumstances by which a reasonable person would consider that their ability to apply judgement or act as a clinical reviewer could be impaired or influenced by another interest that they may hold.

This could include, but not limited to having a close association, having trained or appraised the person(s) being complained about, and/or being in a financial arrangement with them previously or currently.

Should such circumstances arise, the organisation should seek to appoint another member of the organisation as the responsible person with appropriate complaint management experience.

### **2.19 Final formal response to a complaint**

A final response should only be issued to the complainant once the letter has been agreed by the MDU.

Following this, and upon completion of the investigation, a formal written response will be sent to the complainant and will include the following as detailed within NHS Resolution document titled [Responding to complaints](#):

- Be professional, well thought out and sympathetic
- Deal fully with all the complainant's complaints
- Include a factual chronology of events which sets out and describes every relevant consultation or telephone contact, referring to the clinical notes as required
- Set out what details are based on memory, contemporaneous notes or normal practice
- Explain any medical terminology in a way in which the complainant will understand

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- Contain an apology, offer of treatment or other redress if something has gone wrong
- The response should also highlight what the organisation has done, or intends to do, to remedy the concerns identified to ensure that the problem does not happen again
- The response should inform the complainant that they may complain to the PHSO should they remain dissatisfied

Consideration must be given to the fact that the response is likely to be read by the complainant's family and possibly legal advisers.

A full explanation and apology may assist in avoiding a claim. However, if a patient subsequently brings a claim for compensation, the complaint file is likely to be used in those proceedings so it is important that any response to a complaint is clear and well explained and can be supported by evidence.

The full and final response should ordinarily be completed within six months, signed by the responsible person, although should it be likely that this will go beyond this timescale, the complaints manager will contact the complainant to update and give a projected completion timescale.

\* Note, it is not a mandatory requirement to forward all complaint response letters to the defence union prior to sending to the complainant. This has simply been added to reduce any potential risk of litigation. Organisations may therefore wish to continue to forward only the most significant complaints to the defence union.

### **2.20 Confidentiality in relation to complaints**

Any complaint is investigated with the utmost confidence and all associated documentation will be held separately from the complainant's medical records.

Complaint confidentiality will be maintained, ensuring only managers and staff who are involved in the investigation know the particulars of the complaint.

### **2.21 Persistent and unreasonable complaints**

The management of persistent and unreasonable complaints at this organisation will follow that as detailed by SEL ICB.

### **2.22 Complaints citing legal action**

Should any complaint be received and the content states that legal action has been sought then, prior to any response, consideration should be given to contacting the defence union for guidance.

- It is strongly suggested that should any organisation receive a complaint that highlights that legal action has been taken then they should be cautious
- By doing nothing with any complaint of this type, this could affect the outcome of a CQC assessment and/or the relationship with your ICB

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- Should any complainant cite legal action that refers to an incident after 1 April 2019, contact NHS Resolution and they will assist under the [Clinical Negligence Scheme for General Practice \(CNSGP\)](#). Refer to the NHS Resolution Guidance for general practice document [here](#)
- It is strongly suggested that organisations make a record of everything involving the complaint

### 2.23 Multi-agency complaints

The [Local Authority Social Services and NHS Complaints \(England\) Regulations 2009](#) state that organisations have a duty to co-operate in multi-agency complaints.

If a complaint is about more than one health or social care organisation, there should be a single co-ordinated response. Complaints managers from each organisation will need to determine which the lead organisation will be, and the lead organisation will then be responsible for co-ordinating the complaint, agreeing timescales with the complainant.

If a complaint becomes multi-agency, the organisation should seek the complainant's consent to ask for a joint response. The final response should include this and, as with all complaints, any complaint can be made to the provider/commissioner but not both.

### 2.24 Complaints involving external staff

Should a complaint be received about a member of another organisation's staff, then this is to be brought to the attention of their complaints manager at the earliest opportunity. The complaints manager will then liaise with the other organisation's manager.

### 2.25 Complaints involving locum staff

Basildon Road Surgery will ensure that all locum staff, be it GPs, nurses or administrative staff, are aware of both the complaints process and that they will be expected to partake in any subsequent investigation, even if they have left the organisation (keeping in mind the 12-month time frame to complain).

Locum staff must receive assurance that they will be treated equally and that the process will not differ between locum staff, salaried staff or partners.

### 2.26 Significant events

When a complaint is raised, it may prompt other considerations, such as a significant event (SE). SEs are an excellent way to determine the root cause of an event and Basildon Road Surgery can benefit from the learning outcomes because of the SE.

It is advised that the complainant, their carers and/or family are involved in the SE process. This helps to demonstrate to the complainant that the issue is being taken seriously and investigated by Basildon Road Surgery NHS E see too many instances where complainants are not involved in the SE process.

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## 2.27 Fitness to practise

When a complaint is raised, consideration may need to be given to whether the complaint merits a fitness to practise referral and advice may need to be sought from the relevant governing body.

At this organisation, the Practice Manager will be responsible for firstly discussing the complaint with the clinician involved prior to seeking any guidance from the relevant governing body if applicable.

## 2.28 Staff rights to escalate to the PHSO

It should be noted that any staff who are being complained about can also take the case to the PHSO. An example may be that they are not satisfied with a response given on their behalf by a commissioning body.

## 2.29 Private practices and the PHSO

Independent doctors are unable to use the PHSO as they have no legal requirement to have an appeals mechanism.

As it is good practice to provide independent adjudication on any complaint, therefore using a service such as [Independent Sector Complaints Adjudication Service](#) (ISCAS) should be considered.

## 2.30 Logging and retaining complaints

All organisations will need to log their complaints and retain as per the [Records Retention Schedule](#).

Evidence required includes:

- a. Logging, updating and tracking for trends and considerations
- b. Details of all dates of acknowledgement, holding and final response letters and the timely completion of all correspondence relating to the complaint
- c. Compliance with the complaints in the categories that are required to complete the annual [KO14b submission](#) to NHS Digital

This data is submitted by the Practice Manager to NHS E within the KO14b complaints report annually and then published by NHS Digital. Any reporting period covers the period from 1 April until 31 March.

Evidence of complaints can be compiled within the [KO14b Complaints Log Toolkit](#).

## 3 Use of complaints as part of the revalidation process

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### 3.1 Outlined processes

As part of the revalidation process, GPs must declare and reflect on any formal complaints about them in tandem with any complaints received outside of formal complaint procedures at their appraisal for revalidation. These complaints may provide useful learning.

The Royal College of General Practitioners (RCGP) has produced appraisal [guidance](#) for this purpose.

Nurses may also wish to use information about complaints as part of their [NMC revalidation](#). This feedback can contribute towards submissions about organisation related feedback, and it can also be part of a written reflective account. Likewise, pharmacists and other healthcare professionals may wish to consider using complaints and their management as part of their revalidation process.

The General Pharmaceutical Council (GPhC) revalidation process can be sought [here](#) and information relating to the Healthcare Professionals Council (HCPC) revalidation process can be found [here](#).

## 4 CQC regulatory complaint assessment during inspection

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### 4.1 Overview

The CQC will inspect the organisation to ensure it is safe, effective, responsive, caring and well-led under the [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014 \(Regulation 16\)](#) and expect all staff to fully understand the complaints process.

When assessing complaints management, the CQC will seek to be satisfied of the following, as directed within the [GP Mythbuster 103 – Complaints management](#):

- People feel comfortable, confident and are encouraged to make a complaint and speak up
- The process is easy to use so people understand how to make a complaint or raise concerns
- The practice offers help and support where necessary, using accessible information
- The complaints process involves all parties named or involved in the complaint and they have an opportunity to be involved in the response
- The complaints are handled effectively, including:
  - Ensuring openness and transparency
  - Confidentiality

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- Regular updates for the complainant
- A timely response and explanation of the outcome
- A formal record
  
- Systems and processes protect people from discrimination, harassment or disadvantage
  
- Complaints are monitored to assess trends that are used for learning, and shared with the wider team or externally as appropriate to make changes and drive continuous improvement.

The complaints manager will advise the complaints procedure to the complainant or their representative. In many cases, a prompt response and, if the complaint is upheld, an explanation and an apology will suffice and will prevent the complaint from escalating (an apology does not constitute an admission of organisational weakness).

### **5 Further information**

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Further relevant information is available within both:

- [The Data Protection Act 2018](#)
- [Public Interest Disclosure Act 1998](#)

### **6 Summary**

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The care and treatment delivered by Basildon Road Surgery are done so with due diligence and in accordance with current guidelines. However, it is acknowledged that sometimes things can go wrong.

By having an effective complaints process in place, this organisation can investigate and resolve complaints in a timely manner, achieving the desired outcome for service users whilst also identifying lessons learned and ultimately improving service delivery.