

# Complaints

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## Policy and Procedure

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<b>Author &amp; Title:</b>	Sam Blacker Complaints Manager
<b>Responsible Director:</b>	Chief Nurse
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<b>Ratified by:</b>	Antonia Lynch Chief Nurse
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<b>Related Policies and Guidelines</b>	<ul style="list-style-type: none"><li>• Incident Reporting and Management Policy (213)</li><li>• Health and Safety Policy (804)</li><li>• Safeguarding Adults (719)</li><li>• Whistleblowing (719)</li><li>• Policy and Procedure for the management of claims (211)</li><li>• Strategic Framework for Risk Management (210)</li><li>• Record Management Policy (318)</li><li>• Being Open and Duty of Candour Policy (7026)</li></ul>
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## Amendment History

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Issue	Status	Date	Reason for Change	Authorised
2.0	Approved	January 2010		Clinical Governance Committee
3.0	Approved	February 2012	Planned Review	Operational Governance Committee
4.0	Approved	February 2013	Planned review	Mary Lewis Acting Director of Nursing
	Draft	November 2014	Policy update after process review	Not published
	Draft	January 2016	Updates to reflect evolution of process	Not published
5.0	Approved	June 2017	Review and Update	Helen Blanchard Director of Nursing and Midwifery
6.0			Review and Update	Antonia Lynch Chief Nurse

## 1. Policy Summary

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The purpose of this document is to set out the aims and responsibilities in the management of complaints for the Royal United Hospitals (RUH) Bath NHS Foundation Trust; hereafter referred to as the Trust.

This policy sets out a framework for the management of complaints in line with best practice and the expectations of the NHS Constitution, the Parliamentary and Health Service Ombudsman and the Care Quality Commission. It fulfils the current provisions of the Local Authority, Social Services and NHS Complaints Regulations 2009. In line with these requirements the complaints procedure provides for concerns to be dealt with through Local Resolution at Trust level. Any complainant who remains dissatisfied following the conclusion of Local Resolution has the right to request an Independent Review from the Parliamentary and Health Service Ombudsman.

The national complaints regulations that came into force in April 2009 are designed to improve the way in which complaints are handled and to bring real benefits for complainants to NHS and Social Care organisations and for the staff working in them. This policy sets out the framework and the process that the Trust will follow when dealing with a complaint.

From April 2009 there has been a single approach for dealing with complaints about the NHS and Adult Social Care Services. The complaints approach is structured around three main principles:

- Listening
- Responding
- Improving

Complaints must be dealt with efficiently, and must be adequately investigated. Complainants must be treated with respect and courtesy and receive a timely and appropriate response. They must be told the outcome of their complaints and actions that have been taken if necessary.

The Parliamentary and Health Service Ombudsman has published six principles of good complaint handling which the Trust has adopted:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement

The Parliamentary and Health Service Ombudsman has published a *Complaint Standards Framework*. This is a summary of core expectations for NHS organisations and staff to promote a learning and improvement culture, positively seek feedback, be thorough and fair and give a fair and accountable decision.

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In January 2020 Healthwatch published *Shifting the Mindset: A closer look at hospital complaints* which presents their recommendations for improvement in the complaints handling and management system at national and local level. In particular the need for consistent and accessible reporting and communication of complaints with a focus on learning and improvement and not the number of complaints.

## 2. Policy Statements

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The Trust views complaints positively and is committed to having effective procedures in place to handle all issues brought to the attention of staff. The organisation will take an active approach to asking for people's views, dealing with complaints more effectively and using the information received to learn and improve.

Staff work very hard to get the job right first time but sometimes mistakes can occur. If services can respond to user feedback quickly and effectively, problems and mistakes can be prevented from happening again.

Complaints can often arise from differences of understanding, perceptions or beliefs but they provide a valuable indication of the quality of services provided. This information can and will be used to help improve services and find a better way to meet the needs of patients.

Staff will treat all complaints seriously and listen to what service users have to say, providing assistance and advice on the process which the Trust will follow. It may be that the concerns can be dealt with by the Trust's Patient Advice and Liaison Service (PALS) in an attempt to resolve the concerns quickly without the need to follow the formal complaint route.

The Trust will ensure that complaints relating to any form of discrimination or cases whereby an individual reports to have suffered any form of discrimination as a result of making a complaint are investigated and action taken as a result.

It should be recognised that patients receiving care can, at times, feel vulnerable and may feel that their care will be affected if they complain. Staff should do everything they can to dispel this impression, for example, by actively seeking patients' views on their care and by being open and responsive to patients' needs. It is essential that service users understand that they have a right to complain without fear or discrimination. In keeping with the code of openness within the NHS the Trust will always respond to a complaint in a non-defensive and open manner, apologising where appropriate.

The underpinning aims of this Complaints Policy and Procedure are to establish a process to effectively manage situations of perceived failure or shortcoming of the

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services provided by the Trust and to ensure learning and change occur, where appropriate.

The Complaints Policy and Procedure will reflect the needs of:

- Complainants, with regard to accessibility, timeliness, empathy, clear communication, simplicity, confidentiality, transparency and quality of personal service given.
- Staff, by creating a transparent and supportive culture.
- The Trust, by creating an open, efficient system which provides the basis for an overall culture of learning and care.

## Being Open

Following the Francis Report (2013) it is a requirement for clinicians to be candid with patients about avoidable harm and for safety concerns to be reported openly and truthfully. The Trust must be accurate, candid and must not provide misleading information to the public, regulators and commissioners.

### Definitions

- **Openness** - enabling concerns and complaints to be raised freely without fear, with questions asked being answered.
- **Transparency** - accurate information about performance and outcomes to be shared with staff, patients, the public and regulators.
- **Candour** - any patient harmed by a healthcare service is informed of the fact and an appropriate remedy offered, regardless of whether a complaint has been made.

### Being open involves

- Acknowledging, apologising and explaining when things go wrong.
- Conducting a thorough investigation into the incident, complaint or claim.
- Reassuring patients, their families and carers that lessons learnt will help prevent incidents occurring; and providing support for those involved to cope with the physical and psychological consequences of what happened.
- Healthcare organisations are required to acknowledge, apologise and explain when a patient is harmed or has died as a result of a patient safety incident.

### Candour about harm

Where death or serious harm has been or may have been caused to a patient by an act or omission of the Trust, the patient (or any lawfully entitled personal representative or other authorised person) should be informed of the incident, given full disclosure of the surrounding circumstances and be offered an appropriate level of support, whether or not the patient or represent.

To meet the requirements listed above the Trust will:

- See complaints as an **opportunity** to review the service the Trust provides.

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- Encourage the **resolution of informal concerns (those we aim to resolve within 48 hours)** by staff at a local level wherever possible.
- Use the **Patient Advice and Liaison Service (PALS) for resolution of informal concerns** particularly when resolution by local staff is not possible.
- Ensure that the **complaint is discussed with the complainant at the earliest opportunity** to understand their concerns and their desired outcome.
- Ensure **ease of access to the Trust Complaints Policy and Procedure** including Easy Read leaflets.
- Ensure **all responses are provided in clear, easy to understand language.**
- Ensure a consistent approach which is **respectful of individual cultural, religious or specific needs.**
- **Work effectively** with other agencies in **multi-agency complaints.**
- Ensure that all formal complaints receive a written response, if requested, from the Chief Executive (or nominated deputy when not available).
- Respect **complainant confidentiality.**
- Respect **staff confidentiality.**
- Ensure **staff are informed of the details of any complaint against them,** have the opportunity to respond to the complaint and are **kept informed of the progress and outcome of the complaint by their manager.**
- Use **learning** from complaints to inform future service planning and delivery.
- Ensure that **no patient** or other representative **experiences any adverse action or discrimination** as a result of making a complaint to the Trust.
- Ensure that all **complaints are reviewed for seriousness of consequence** on receipt. Serious clinical complaints will be highlighted with the Medical Director and Chief Nurse to ensure that appropriate immediate action is instigated.
- **Review and monitor all complaints regarding Protected Characteristics.**

Ensure that **Equality and Diversity and relevant equalities legislation** is followed to ensure that no one is discriminated against because of gender, age, disability, gender reassignment, marriage or civil partnership, maternity or pregnancy sexual orientation, race, belief or religion.

In June 2018 NHS Improvement published 'The learning disability improvement standards for NHS trusts'. Standard 2 states "services must be values-led"; for example in service design/improvement, handling of complaints, investigations, training and development and recruitment." In practice this means "Trusts support people (with learning disabilities) whose complaints and concerns are being looked into" The RUH is committed to ensuring the complaints process and procedure meets the needs of all our patients. An easy-read leaflet is available for any patient, family member or carer who needs one that delivers key messages about the complaints process in an accessible format. Where it is known that a complainant has learning needs the RUH will make any reasonable adjustment that is required to

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meet the needs of the individual. This may include the involvement of advocacy services, easy read documentation, face to face meetings or home visits.

### 3. Definition of Terms Used

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The **Trust** is the Royal United Hospitals Bath NHS Foundation Trust

A **concern** is an issue raised by a patient, relative, carer or visitor that can easily be resolved (usually within 48 hours).

A **complaint** requires more in-depth investigation and cannot be resolved within a short time scale, for example 48 hours.

The **Patient Advice and Liaison Service (PALS)** deals mainly with concerns that can be resolved within 48 hours. They will be the point of contact for simple issues that may take a little longer due to availability of staff to answer.

The **Complaints Manager** oversees the formal Complaints Process and the PALS service. The Complaints Manager is the nominated manager for The Trust.

Complaints are **categorised** according to the impact on the patient, complexity of investigation required and impact on service standards.

**Divisional Patient Experience Staff** include both the Divisional Clinical Governance and Complaints Coordinator and the Governance and Patient Experience Administrator.

### 4. Duties and Responsibilities

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#### Chief Nurse

The Chief Nurse is responsible for:

- Designating an individual as a Complaints Manager to manage the NHS Complaints procedure and act on behalf of the Chief Executive.
- Receive and review the Quarterly Patient Experience report which will include information on the status of all complaints including a summary of learning points for the Trust and actions required and those completed.
- Provide a copy of the Annual Complaints Report to the Board of Directors.

#### Divisional Governance Committees

The Governance Committees are responsible for:

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- The review of complaints, claims and incidents.
- Discuss recommendations arising from complaints, claims or incidents and ensure that the learning and changes are implemented Trust wide and to monitor progress accordingly.
- Determine what lessons can be learned from concerns raised through PALS and wider family, patient and carer feedback.
- Delegate and monitor the Trusts complaint action plan documentation to ensure that deadlines are met.
- Identify areas suitable for audit.
- Discussing the identified themes, assess the risk to the Trust and identify the options to manage those risks.
- Considering control measures to improve the level of risk such as review of protocols/policies, environmental issues and staff training requirements.

### **Divisional Triumvirate**

The Divisional Director, Divisional Director of Operations or Divisional Director of Nursing/Midwifery will be nominated by the Division to take accountability for all Divisional complaints and have responsibility to:

- Review every complaint or concern that is received in relation to the Division they are responsible for, to maintain an overview of the service within their Division and to acknowledge the importance of feedback from service users.
- The most appropriate member of the Divisional Triumvirate will formally sign off all Divisional complaints prior to Chief Executive sign off.
- It is the Divisional Director lead responsibility to ensure that a Matron, Clinical Lead or other senior member of staff calls the complainant within two days of the complaint being received by the Trust and that every effort is made to resolve the complaint at the earliest possible opportunity and to the satisfaction of the client.
- Grade the complaint or allocate a senior member of staff to grade the complaint to a grade 2 or 3 based on the severity assessment and grading criteria, and ensure that this is recorded on DATIX and the Divisional and Complaints Team are informed.
- Ensure that senior leaders and managers through Divisional governance structures are aware of complaints, and the themes arising from them and that actions identified following a complaint investigation are implemented.
- Have processes in place within the Division so that complaints are managed effectively and within the required timeframe agreed with the complainant.
- Appoint a Complaint Investigator for each complaint received within each Division.

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- Ensure that the Complaint Investigator has the appropriate knowledge, skills and expertise to carry out a timely and high quality investigation.
- Ensure that those staff coordinating and constructing written response letters have the appropriate training to deliver responses to the Trust standard.
- Where complaints cross over several divisions, Divisional Managers will agree who will take responsibility for coordination of the investigation of all aspects of the complaint.
- Ensure that they (or a nominated deputy where this is not possible) attend a weekly meeting with the Complaints Manager to advise on the latest position of Divisional responses, covered by a senior member of staff in the Complaints Manager's absence.
- Review all complaints and action plans within the Division to ensure that progress on immediate actions are taken and any further recommendations are recorded in accordance with the Trust and the Parliamentary and Health Service Ombudsman.
- Support staff with reflective practice and the development of improvement plans in order to learn from any feedback. Monitor staff performance and manage performance following a complaint.
- Ensure that Action plans as a result of complaints are completed.
- Fully support staff who are involved in a complaint and where applicable recommend the Employee Assistance Programme (EAP).
- Ensure that responses are prepared in line with the being open policy, and provide honest explanations.
- Provide information for the quarterly report in terms of learning and actions taken.

### **The Specialty Management Team**

The Specialty Management Team has responsibility to:

- Update processes and procedures when and where necessary and inform the Complaints Department of such changes so that learning and improvement can be captured and shared with the executive team, families, patients, carers and other external organisations.
- Provide written responses or telephone contact for complainants of grade one complaints and PALS queries. The Speciality Manager will log the responses on DATIX. These responses will be signed by the Specialty or Divisional Manager as appropriate. The Speciality Manager will inform the Complaints Manager when complaint/concern has been concluded.
- Record family, patient and carer feedback through complaints and concerns ensuring that appropriate action and practice change is clearly recorded and monitored via the DATIX System.
- Ensure that all complainants receive a response which identifies what changes will be or have been made as a result of their feedback within the timescale agreed with the complainant. Apologies should be offered if a service or behaviour fell below Trust expectations.

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- Ensure that the Complaint Investigator has the appropriate knowledge, skills and expertise to carry out a timely and high quality investigation.
- Arrange complaints training for staff within the division that is appropriate and where necessary identify new/additional training needs for staff groups or with individuals through supervision and appraisal.
- Fully support staff who are involved in a complaint and where applicable recommend the Employee Assistance Programme (EAP)
- Ensure that the staff working within the Division are familiar with the complaints procedure.
- Ensure that the Division adopt a root cause analysis investigative style approach and make reference to the Policy for Risk and Incident Management and Procedure for Serious Incidents as appropriate.
- Immediately inform the Complaints Manager and the Head of Risk and Assurance if the investigation highlights a clear breach of duty of care as it may be necessary to notify the NHS Litigation Authority. This is in accordance with NHS Resolution Guidelines.

### **Divisional Patient Experience Staff**

- Ensure that all processes within the informal and formal complaint process are logged on DATIX.
- Keep DATIX up to date, ensuring that all contacts made during the investigation, dates and documents/correspondence are clearly recorded and stored.
- Link closely with the Complaint Investigator to ensure regular contact with the complainant is maintained throughout the process, as appropriate, by telephone, email, etc. and ensure that all correspondence is recorded within the complaint file and DATIX.
- Update and validate the information contained on DATIX for individual complaints.
- Link closely with all Lead Investigators and the Complaints Manager to ensure seamless communication throughout the process
- Make any meeting arrangements required and take notes accordingly.
- Ensure where complaints cross over several Divisions or other external organisations they link with the other Division's/organisation concerned and confirm who is responsible for investigating all aspects of the complaint.
- Divisional Patient Experience Staff are responsible for obtaining the medical records and making these available to the Complaint Investigator.
- Work with the Complaint Investigators and all the staff involved with the case so that all the questions contained in the complaint are answered.
- Support staff who are involved in a complaint by fully briefing them on the complaints process and ensure that advice is readily available when required.

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- Ensure the Complaint Investigator delivers a concise and accurate response addressing all concerns, no later than 10 days prior to the final deadline, including immediate remedial action taken and action plans.
- Check that the response is constructed in the Trust style of openness and that the letters it grammatically correct.
- Facilitate the checking of draft response letter within the Division and through the Directors office. Ensure the Complaints Manager has a full briefing each week containing up to date records of all contacts, meetings, discussions, information from Health Records, etc.
- Provide a weekly update to the Complaints Department informing them of progress of all outstanding responses, and if there is a delay in responding to the complainant will provide a new deadline, a reason for the delay and details of when and how the complainant was updated.
- Provide adhoc reports from DATIX as requested by the specialties within their own Division or the Complaints Manager to support analysis into hotspot areas.
- Support Divisional staff in the use of DATIX, which may include providing some basic training.
- Provide a monthly report for their Division which should include:
  - The number and type of complaints by specialty
  - Compliance with target response timeframes
  - Outcome of complaints
  - A summary of learning and actions taken
  - Themes and trends; complaints by theme, number per month and by ward/dept.

## **The Complaints Manager**

The Complaints Manager, with the support of Complaints officer and the PALS team, is the designated management for the Trust and has the overall responsibility to ensure that the Complaints Policy and Procedure is followed and:

- Meet with the Divisions on a weekly basis to ensure the Divisions manage all complaints effectively and within the required time frame.
- Work collaboratively with other Health and Social Care Organisations to resolve cross agency complaints for patients and public where appropriate producing one coordinated response.
- Identify grade 1 complaints based on the Complaint Severity Assessment Matrix and when consent has been obtained pass either to the PALS Team for resolution, or, if after assessment it is concluded that the content of the complaint is such that it can't be addressed through the PALS service then a phone call should be made to the complainant to discuss how they would like to proceed.

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- Notify the Head of Risk and Assurance of any complaint which relates in whole or part to an incident.
- Provide support and advice to the Divisions.
- Provide support and advice to patients and/or others wishing to complain about the Trust.
- Produce information on the complaints process which is available throughout the Trust.
- Identify whether additional communication support is required.
- Deliver complaints training to staff through sessions arranged by individual departments as per the mandatory training policy matrix. Such sessions will provide details of the complaints procedure and focus on a number of issues such as process, investigations, preventing discrimination and improving services.
- Ensure and provide assurance that where a complaint has been raised by a third party, the subject of the complaint is aware of the issues raised and has given consent for the investigation to take place and the response to be shared with the third party. If circumstances are such that consent from the subject cannot be obtained, any serious issues will be investigated but the detailed findings may not be shared with the complainant. Reassurance should be given that the Trust has responded to the issues raised.
- Give active consideration to the use of mediation and conciliation in complex complaints to ensure that local resolution is achieved.
- Liaise with the Local Counter Fraud Specialist in the event that concerns of fraud have been raised either as a result of a complaint or where a Counter Fraud investigation is taking place and relates to a complaint
- Discuss with the Chief Nurse the most appropriate action to take in situations where the complainant raises issues which have already been investigated and answered by the Trust.
- Assist the Parliamentary and Health Service Ombudsman (PHSO) with any investigation undertaken.
- Work with the Trust's internal auditors to monitor the effectiveness of the complaints policy and procedure.
- Report weekly, monthly and quarterly reflecting the number of complaints received to the Trust.
- Provide the Annual Report.

### **Complaint Investigator**

- The Complaint Investigator will be the most appropriate member of staff who is allocated a complaint to investigate by the nominated Divisional Director within their division.
- The member of staff will be allocated a case dependent on the areas covered by the complaint. The possible staff who can become Complaint Investigator include a Nurse or Midwife, Specialty Manager, Clinical Lead/Doctor, Allied

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Health Professional or a Pharmacist. For guidance an investigation should take a similar form to that of a Root Cause Analysis. Guidance on writing a statement to respond to a complaint can be found on the intranet: [patient experience/complaints/response.asp](#)

- Divisional Patient Experience Coordinators who will act as coordinator of the case and these staff will train them to use DATIX at the outset to ensure that the records are kept on the database.
- They will use the Local Resolution Plan as part of the complaint investigation, acknowledging the complaint details, the outcomes sought by the complainant and the severity of the complaint and using this information will conduct an appropriate review.
- They will work in partnership with the Divisional Patient Experience staff to ensure that complaints relating to the Division are handled effectively and in a timely manner to meet the agreed deadlines.
- Contact the complainant as instructed by the Divisional Directors of Nursing, explaining the process to the complainant and confirm time scales. Trust standard is 20 days for Grade 1 complaints, 35 working days for Grade 2 complaints and 60 days for Grade 3 complaints or those which are also classified as Serious Incidents. Anything out of these timescales will need approval from the Chief Nurse or a nominated deputy (Complaints Manager).
- On completion of the acknowledgement call, an email or a call must be made to the Divisional Patient Experience staff to advise of the method of response, confirming the name of the Complaint Lead. If consent forms need to be sent out as well as confirmation of time scales agreed and grade allocated this should be done.
- Ensure that all interactions/contacts are recorded on DATIX. All records held on file are to be of a professional standard in order that they would be in readiness to be shared with the complainant and the Parliamentary Health Service Ombudsman as required.
- They will investigate the entire complaint they have been allocated, even when another Directorate is involved. Where this is the case an investigation response will be sought from the relevant department.
- Agree and maintain contact with the complainant as appropriate, working closely with the divisional Patient Experience staff, who will also have contact with the complainant.
- Perform a thorough review/investigation into all the concerns the complainant has raised, taking statements from relevant staff, as necessary.
- They will work with Divisional Patient Experience staff to set up meetings with complainants.
- Working closely with the Divisional Patient Experience staff, draft a final response which provides a report of the findings, actions and any changes to service that are required to ensure that similar events are not repeated in future, as appropriate.
- The Complaint Investigator will create an Action and Learning Plan and report on changes to practice locally and/or trust wide following the complaint.

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- Progress against the action plan will be reported by the Complaint Investigator within four working weeks of the complaint response to the divisional Patient Experience staff, who will in turn report the progress to the central Complaints Manager.
- Work with the Divisional Patient Experience staff, who will ensure that the response and meeting notes meet the Trust standards in terms of style and grammar and presentation and will not breach the target response rate.
- If the Complaint Investigator is unable to meet the agreed timescale, they must arrange contact with the complainant by telephone and explain the reason for the delay and inform the Complaints Manager and relevant Divisional Director immediately. The Divisional Director will agree a new date by which the Trust will respond to the complaint.
- During the investigation it is essential that to ensure that complainants are not treated any differently as a result of raising a complaint. The Complaint Investigator will ensure that information about the complaint and the people involved is strictly confidential. Information is only disclosed to those with a demonstrable need to know and/or a legal right to access those records under General Data Protection Regulation
- They will report improvements made following a complaint and completed the relevant action plan.
- Assess and provide required services for complainants who have specific communication needs and emotionally support them through the process as appropriate, e.g. arrange for people who are Deaf to have/use a BSL interpreter at complaints meeting and for telephone contact.

### **Patient Advice and Liaison Service (PALS) Manager**

- Will liaise and work closely with the Complaints Manager and Ward/Department and Divisional Staff to resolve immediate concerns.
- Will deputise for the Complaints Manager in their absence and on their behalf.
- Will inform patients of the formal complaints process and refer cases to the Complaints Manager if concerns have been unable to be resolved in an informal manner.
- Inform the Complaints Manager of any formal complaints that are received in the Patient Advice and Liaison Service.
- Will monitor trends and themes which will be shared with the Complaints Manager and monitored through the Complaints monthly and quarterly reports.
- Provide monthly, quarterly and ad hoc reporting as requested.
- Provide the PALS section for the Annual Report.
- Produce information on the PALS and complaints process which is available throughout the Trust, including leaflets, posters, intranet and internet web site and ensure that information is easily accessible for service users.

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- Will grade new formal complaints to identify grade one complaints and provide support to the Patient Experience Administrator for formal complaints in the absence or at the request of the Complaints Manager.
- Will coordinate grade 1 and PALS written responses from the Divisions.
- Will manage and coordinate all MP letters to the CEO and provide a draft response. All MP letters need to be drafted for the CEO within 7 working days.

### **Matron/Consultant/Ward Manager/Speciality Manager**

- Will forward any formal complaints that are received directly on the ward or within the department to the Complaints Manager, within one working day and advise the team by email.
- Will record verbal formal complaints made by patients or their relatives and ensure that the details are passed to the Complaints Manager.
- Will work to resolve immediate concerns that are raised by inpatients or their family.
- Provide written responses or telephone contact for complainants of grade one complaints. The Matron will ensure that all communication and documentation is logged on DATIX. These responses will be signed by the Matron or Divisional Directors of Nursing as appropriate. The Matron will inform the Complaints Manager or PALS Manager when a complaint/concern has been concluded.

### **Risk Management Team**

The Team will inform the Complaints Department of any incidents that have the potential to result in a complaint, so that appropriate support may be offered to the patient and their family. This will be actioned via email.

### **All Staff**

All staff are required to:

- Read and be familiar with the Complaints Policy and Procedure. All staff have a responsibility for ensuring that the principles outlined within this document are universally applied.
- Encourage families, patients and carers to raise any concerns they may have about care or the service and deal with these concerns at the time they are raised.
- Where appropriate assist patients, relatives and carers with their concerns or enquiries. Alternatively, if further support is required, signpost them to their manager in the first instance or the Patient Advice and Liaison Service (PALS)
- All staff are encouraged to adopt a proactive approach to any concerns raised directly with them. If they are unable to deal with the issue themselves they must escalate to a line manager for further support.

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- Referrals to the PALS or complaints process should not be written in the patients notes, or referred to in any formal clinical documentation such as discharge or referral letters.
- Adopt and follow the Trust Respect Behaviours at all times and demonstrate conduct consistent with this purpose including putting excellent patient care at the heart of everything the staff members do.
- Attend complaint meetings where appropriate and as requested, ensuring that a full investigation is completed prior to the meeting being held. Cases of non-attendance will be shared with the Medical Director and Chief Nurse

## 5. Procedures

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### Local Resolution Procedure

Under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 people can complain about:

- Any perceived failure or shortcoming of the services provided by the Trust
- An event which takes place that is in opposition to the choice or wishes of a patient
- The way treatment, service or care has been provided to a patient
- Discrimination against a patient or carer
- How a service or system has been managed
- Lack of a service
- Problems accessing contact or a service
- The attitude or other behaviour of staff/other people

This is not an exhaustive list.

### Patient Advice and Liaison Service (PALS)

The single point of contact for concerns from patients, visitors, relatives etc. is via the Patient Advice & Liaison Service (PALS) which exists to ensure that the Trust listens to patients, their relatives, carers and friends, and answers their questions and resolves their concerns as quickly as possible.

PALS will:

- Provide service users with information about the Trust and help with other enquiries.
- Help resolve informal concerns or problems encountered by patients and visitors to the Trust.

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- Provide information about the NHS complaints procedure and how to get independent help where users decide they may want to make a formal complaint.
- Provide information to enquirers about, and signpost or refer to agencies and support groups outside the Trust.
- Inform users about getting involved in their own healthcare and with the Trust.
- Listen to concerns, suggestions and experiences and ensure that people who design and manage services are aware of the issues raised.
- Act as early warning system for the Trust and monitoring bodies by identifying problems or gaps in services and reporting them.
- Document and keep a record of each contact with the service and the final record will be entered onto the Trusts Database, DATIX.
- Whilst PALS does not have a role in the formal complaints procedure they provide advice to service users about the procedure and a PALS enquiry may be the first contact where a serious concern is raised. In this case like all staff the PALS will take all details in order to minimise the number of contacts to explain the concern, and explain the formal process.

## Formal complaints

A formal complaint can be made verbally, in writing or electronically. The Complaints Team will acknowledge the complaint within 3 working days of receiving it.

The Complaints Manager will use their discretion to contact the complainant if, on reading written complaints they decide that the issues could be resolved outside of the formal complaints procedure. The concern may be passed to PALS to continue resolution.

The staff directly involved in the complaint will not be nominated to investigate the complaint although if required they will be approached to provide a statement in relation to the complaint.

The complaints investigation will include, requests for statements from key staff, analysis of the relevant health records, staff interviews, root cause analysis or impartial advice or opinion from other Trust staff who are independent of the clinical team providing the care complained about.

If the complainant does not accept the offer of a discussion in relation to the above, the Trust will determine the response period and notify the complainant of that response period in writing. Where a complainant does not want their complaint to be investigated in a formal manner it will be recorded by the Patient Advice and Liaison Service and shared with the Division and feedback requested.

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## Written complaints

All written complaints received by staff must be sent to the Complaints Department immediately via e-mail.

All complaints will be acknowledged by the Complaints Manager within 3 working days of receiving the complaint and information will also be provided on the independent advocacy agencies.

Where written complaints are sent directly to the Offices of the CEO or Chair an additional response letter will be sent by the same to acknowledge this. This will be copied to the Complaints Manager for their records.

## Verbal complaints

Any member of staff receiving a verbal complaint should establish whether the matter is one that they, a colleague, their line manager/director or the Patient Advice and Liaison Service (PALS) can respond to immediately.

If a member of staff is approached by a service user who wishes to make a verbal complaint which the member of staff is able to resolve to the service user's satisfaction within one working day, then the issue will not be recorded as a formal complaint.

If the complaint cannot be resolved then the member of staff is required to record the information accurately on the Verbal Complaint Form (Appendix 1) which is available on the Trust intranet and should be faxed / emailed to the Complaints Team within one working day.

The Complaints Manager will contact the complainant asking them to agree with the summary of their complaint.

The person receiving the complaint will use the following guidance:

- Listen carefully to the complainant to understand their concerns and what they wish to achieve.
- Summarise their understanding of the complaint and record as far as possible in bullet point format on the Verbal Complaints Form.
- Record the complaint factually and objectively.
- Email the completed Verbal Complaints Form to the Complaints Manager using the complaints email address.

## Out of hours complaints

If a complaint (either written or verbal) is received outside working hours and cannot be resolved immediately by staff then the Site Manager must be contacted.

The Site Manager will speak to the complainant in order to resolve the complaint. In any event the Site Manager will inform the complainant they are recording the complaint on the Verbal Complaint Form (Appendix 1) which will be sent to the Complaints Manager.

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The Complaints Team will contact the complainant asking them to confirm that the summary is a correct record of their complaint and discuss the manner in which the complaint is to be handled.

## Assessing the Severity of the Complaint

By correctly assessing the seriousness of a complaint about a service, the right course of action can be taken. Each complaint will be reviewed by the Complaints Manager. The responsible Divisional Director or nominated deputy will grade the complaints into either grade 1, 2 or 3.

The assessment grading will be recorded on DATIX once the complaint has reached the Division.

In the process of grading, if the complaint involves a member of staff or is of a difficult nature both the responsible Divisional Director as well as the Complaints Manager should consider the involvement of staff support and provide contact details for EAP or alert the responsible line manager as soon as possible.

## Local Resolution Meetings

During the initial discussion with the complainant they will be offered an opportunity to meet with the relevant staff members. The standard offer to meet will be withdrawn if it is felt that the complainant or chosen advocate poses a threat to the well-being of staff.

Staff will attempt to arrange a meeting for the convenience of all parties. It is acknowledged that where several staff (including clinicians) have been requested to be present there may be a delay in being able to set a date.

If the complainant chooses to cancel the meeting the Trust will attempt to re arrange a further two times. However the Trust reserves the right to change the response to a written one if the complainant continually cancels agreed meetings and if the 6 month deadline is to be breached.

If a meeting is to be arranged, details will be provided in writing to the complainant, which will include the personnel who will be present and the person arranging the meeting.

When meetings are arranged the complainant will be sent the details of the meeting arrangements, which will include a summary of what is expected to be discussed. This is to ensure the appropriate investigation has taken place in to the concerns prior to the meeting and that the correct staff are present.

Communication is at the heart of healthcare and when there has been an incident or concern raised, the Trust will provide patients and their families with an honest and open explanation.

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Where a cross divisional complaint is received or a number of staff are required to provide information then an initial meeting will be held with the medical records available to all. This is to ensure that the key issues can be discussed rather than a delay occurring whilst the medical records are shared between staff.

It is essential that the chair of the meeting is clear about the purpose of the meeting in order to ensure that the complainant's expectations are met in terms of what can be achieved.

If a meeting is arranged, notes and details of any actions agreed will be taken by a member of Divisional staff and shared with the complainant and the Patient Experience Team. The notes will be shared with staff present at the meeting to ensure accuracy before being sent to the complainant.

Following the meeting a letter and the meeting summary will be sent from Chief Executive (or Deputy) outlining who was present at the meeting, what was discussed, the finds and outcome of the investigation and the actions agreed. The complainant should receive these no later than 14 working days after the meeting. If this timescale cannot be met then the complainant will be informed of the delay.

## Visits to complainants' homes

In some circumstances it may be appropriate to offer to hold a resolution meeting at local offices rather than the main Trust site or visit the complainant at home to talk through and resolve their concerns. Home visits should be considered if the complainant would experience difficulties in attending the Trust e.g. if there are carer duties to consider or if travelling to the Trust would cause further distress to the complainant. The use of video conferencing software such as Zoom or Microsoft Teams should also be considered as it facilitates participation from a wider range of people.

It is the responsibility of the Divisional Director or Divisional Director of Nursing/Midwifery to assess the circumstances and merits of such a home visit and to risk assess the visit as per the Trusts Lone Worker Policy (Ref 813). Action plans should be put in place to minimise the risk to staff. It is also their duty to ensure that the staff making the visit are aware and have read the Lone worker policy.

It is the responsibility of the staff member making the visit to ensure that they comply with the guidance and requirements contained within the Lone Worker policy.

Prior to the visit the responsible Divisional Directors will ensure that the contact criteria contained within the Lone Worker Policy have been agreed.

Meeting notes and a formal complaint response are required following the meeting as outline in the Local Resolution Meetings section.

## Mediation

Mediation is an effective way of resolving conflict. It involves an independent, specially trained third party listening to the complaint and using the information to

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help the parties reach a resolution on which they both agree. The decision to go to conciliation / mediation will be made by the Chief Nurse. The agreement of the complainant must be obtained.

## Investigation

The objective of local resolution is to listen, respond and improve our services. Where a complaint concerns and involves one or more health or social care organisation the Complaints Department will contact the relevant organisation to agree which organisation will lead the investigation. Where the Trust has agreed to work with an external organisation and provide them with information, the Complaints Manager will agree a timescale by which the Trust will respond.

If the investigating staff are unable to meet the agreed timescale then the Division investigating the complaint will contact the complainant by telephone and explain the reason for the delay. The extension will be confirmed in writing. They will also agree a new date by which the Trust will respond to the complaint. The responsible Divisional Director will set this date by exception only.

During the investigation, to ensure that complainants are not treated differently as a result of raising a complaint:

- Information about complaints and the people involved is strictly confidential. Information is only disclosed to those with a demonstrable need to know and/or a legal right to access those records under the Data Protection Act 1998.
- Complaints information / letters will NOT be kept in the patient record/notes but maintained in a separate case file.
- The Trust complaint file will contain ALL statements, notes and other communication/documentation obtained (including emails) during the investigation.
- Complaint files will be kept for a minimum of 10 years – longer for children. Please refer to the Trusts Record Management Policy for further information on retention schedules.
- Complaint files will be stored securely and will be clearly labelled and filed so that records can be found easily if urgently required.
- Complaints files will be stored in line with the Trust's overarching Information policy when not in use to ensure that patient confidentiality is not breached.
- Complaint files will be inaccessible to members of the public or unauthorised staff to ensure that patient confidentiality is not breached.
- Complaints must not affect the patient's/complainant's treatment and the complainant must not be discriminated against. Any identified discrimination will be reported to HR and managed as per Trust policies.

## Complaints and disciplinary procedure

The complaint process is only concerned with resolving complaints and cannot investigate and resolve staff disciplinary matters. It cannot apportion blame and investigations must be fair to staff. The aim is to improve services from any areas identified as requiring improvement.

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In the case that an investigation identifies the need for disciplinary action, the full investigation will be sent to the relevant Divisional Directors and the Divisional Specialty Manager for review. The matter will then be subject to a separate process of investigation outside the compliant process.

Where a complaint leads to the need for a disciplinary investigation, the complaints process, the Human Resource process and any subsequent Safeguarding process must run in parallel ensuring information is shared to underpin a coordinated approach and response.

If a disciplinary investigation is commenced or is underway the complainant will be informed. It should be made clear all or only part of the complaint is the subject of the investigation.

Where a disciplinary investigation has taken place the confidentiality of the member of staff will be protected, however the complainant should be informed of what happened, why it happened and what action has been taken to ensure it does not happen again.

## **Actions and learning**

Complaints from service users provide the Trust with opportunities to improve clinical practice and the overall standard of care and service provision. Therefore if the investigation into a complaint identified areas for improvement the Complaint Investigator will create an Action and Learning Plan if this is relevant.

Progress against the action plan will be reported by the Complaint Investigator within 4 working weeks of the complaint response to the Divisional Patient Experience staff, Governance and Patient Experience Administrator who will in turn report the progress to the central Complaints Team.

All Action Plans and progress will be logged on DATIX.

## **Final Written Response**

Where a complainant has requested a formal written response, the allocated Complaint Investigator within the Division will liaise with the Governance and Patient Experience Coordinator to draft a response based on their findings. The Divisional Triumvirate has responsibility for quality assuring all written responses prior to submission for Chief Executive sign off.

The final written response will include:

- A detailed explanation regarding questions raised in the complaint from the staff involved.
- An apology – if service, standards and the patients experience fell short of what was reasonable to expect.
- The answers to any specific questions that have been raised.

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- Conclusions reached in relation to the complaint including appropriate remedial action which will be explained and where appropriate an action plan will be included.
- Offer a meeting if the complainant is unhappy with the written response.
- Details of escalation procedures to the Parliamentary and Health Service Ombudsman.
- Copy of Action Plan (or details) if areas for improvement have been identified. This should include target dates for completion of actions.

## Feedback from Patients

All complainants will be sent a survey following the final response to their complaint. The survey will pose a number of questions and will monitor the effectiveness of the complaint process. The survey will reflect the 'I' statements from the Parliamentary and Health Service Ombudsman with regard to complaint handling.

The results of the survey will be captured and shared with each Division and included in the quarterly Quality Report.

## Monitoring Timeliness of Complaints

The Regulations refer to a 'relevant' period of 6 months commencing on the day on which the complaint is received in which to respond to the complaint. The Divisions will, in the first instance, discuss and agree an appropriate timescale with the complainant.

The Division investigating the complaint will either telephone or write to the complainant informing them of any delays, and update them on the progress of the investigation as far as reasonably practicable. The Complaints Manager will provide the Divisional Managers, Senior Managers and Ward Managers with a weekly report of complaints and pending completion dates.

## Analysis and Improvement

Information pertaining to each complaint is retained on the Trust data base. The information on the database is monitored and reviewed regularly in the following ways:

A monthly report will be sent to the Chief Nurse and Divisional Managers to assist performance management. The report will include the following information: The number of complaints by Division, the area of the complaint and main areas of the complaints.

A quarterly report will be produced which will be included in the Quality report for the Divisional Governance meetings and Management and the Board of Directors and will include:

- The summary of complaints by Division

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- Compliance to response deadlines
- Category and Subject Matter of complaints received
- Number of complaints currently with the Parliamentary and Health Service Ombudsman
- Number of reopened complaints
- Any themes and trends
- Learning and service improvements

It is the responsibility of the Complaints Manager to collate all documentation and reports arising from the investigation of all complaints for central reporting. The Divisions will be able to produce specific adhoc reports to meet their Divisional requirements. The Complaints Manager will produce a regular quarterly report on the analysis of complaint data, to include the aggregation of complaints. This information will be presented to the Trust Quality Board and the Board of Directors as part of the Patient and Carer Experience Report.

If actions are identified and taken as part of the complaints investigation then evidence of changes to practice are to be included in the complaints file along with completion of the action plan documentation. If areas for learning are identified during the investigation an action plan must be completed and timescales indicated.

The Complaints Manager will provide reports to meet NHS requirements including:

- The Trust Annual Complaints Report
- The Quarterly NHS Executive KO41 return.

## Result of Complaint

A complaint is considered to be either upheld, partially upheld or not upheld using the civil standard 'balance of probabilities'.

A complaint will be upheld where the investigation has demonstrated that the service provided did not meet the appropriate standard.

A complaint is not upheld when it can be established that what the complainant claims either did not happen or their view on what they should have expected was not reasonable.

A complaint will also be not upheld when there is insufficient evidence to conclude on the balance of probabilities, that the allegations are true.

The number of complaints that have been upheld, partially upheld or not upheld must be reported in the Annual Report.

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## Parliamentary and Health Service Ombudsman (PHSO)

If after all attempts at local resolution the complainant remains dissatisfied with the response to their complaint they have the right to ask The Parliamentary and Health Service Ombudsman PHSO to review their complaint.

### The Role of the Ombudsman (PHSO)

The Ombudsman is independent of the National Health Service and the Government. The Ombudsman is appointed by the Queen and is answerable to a Parliamentary Select Committee.

The role of the Ombudsman is to identify cases of genuine hardship or injustice or any unfairness of complaint management under the NHS Complaint Procedure. The Ombudsman may decide to investigate complaints about services received from the NHS if not resolved to the complainant's satisfaction locally through Local Resolution.

The Ombudsman has powers to investigate complaints about NHS providers and purchasers and non-NHS providers which are funded by the NHS, on such matters as care and treatment, clinical judgement, maladministration causing hardship or injustice, service provision and complaints handling.

It is intended that complainants should fully exhaust the local complaints procedure before referring their case to the Ombudsman. However, the Ombudsman shall have discretion, exceptionally, to override this requirement.

In deciding whether to investigate a complaint, the Ombudsman will require access to all papers relating to local resolution of the complaint as well as relevant medical records.

The Ombudsman will not investigate complaints about disciplinary or other personnel matters.

The Trust's information leaflet on complaints contains details of how to contact the Ombudsman and the 'Principles of good Complaint Handling'. The PHSO has outlined the principles below so that organisations understand what is expected when a public body is dealing with complaints. The six principles which the Trust will work are:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right

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- Seeking continuous improvement

For further details on the Principles of Good Complaint Handling please visit the Parliamentary and Health Service Ombudsman website [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

## Joint Complaints

The responsibility for ensuring that the Trust works collaboratively with other service providers involved with a complaint lies with the Complaints Manager and PALS Manager. Where a complaint crosses more than one provider consent must be obtained from the subject to share and forward details of the complaint and investigations with the providers concerned.

Where the complaint is 'owned' by another organisation the Trust will provide comments to be inserted into the holding Trusts final response. The holding Trust will be asked to provide a draft copy to the RUH to be agreed. This is to ensure that the facts have remained as provided.

The Trust holds a single comprehensive response to the complainant covering all aspects of a complaint as the standard to be achieved if at all possible.

In complex cases or exceptional circumstances the Trust may agree to provide a complete response to the holding Trust addressed to the complainant signed by the Deputy Chief Executive (but to be sent via the holding Trust).

## Levels of Investigation

The Complaints Manager has responsibility for the initial assessment of each complaint into two groups, grade one, and grades two and three combined. The allocated Division will re-grade the second group after an initial assessment as to the issues raised, the complexity of the complaint and severity.

## Confidentiality

Complaints and concerns must be handled in the strictest confidence and information will only be shared and disclosed to those who have a demonstrable need to access it.

Information collected as part of the PALS and complaints process will be used to influence service change.

The Patient Experience Team will not release any personal specific information without consent from the person on whose behalf the concern is being raised. If this is not possible an assessment must be made and the risks evaluated for releasing information.

Information that has been shared and the reasons for sharing it will be documented (why, the date and to whom it was released).

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In order to investigate and respond to a complaint it may be necessary to share personal information with other organisations (both NHS and non NHS). Where this is the case, the subject should be made aware and the appropriate verbal or written consent gained.

Guidance must be sought from the Information Governance Team in cases where the patient's record contains information provided in confidence by, or about a third party who is not a health professional.

All documentation pertaining to the complaint must be kept separately from patients medical records.

## Remedies

Where the Trust has failed in its obligations to provide an acceptable level of service and this has led to injustice or hardship, steps should be taken to put things right. The Parliamentary and Health Service Ombudsman (PHSO) 'Principles for Remedy' sets out the steps for remedy which can include one or more of the following:

- An Apology
- An Explanation
- Correction of an Error or other remedial action
- An undertaking to improve procedures of Systems
- Changing a decision on service provision
- Training for staff
- Financial recompense

The PHSO's aim is that organisations should, as far as possible put the individual back into the position they would have been in if the maladministration /service failure had not occurred. However there are circumstances where this cannot be achieved because of the passage of time or the events themselves. In such cases financial remedy may be appropriate.

## Remedial action

This may include:

- Reviewing or changing a decision on the service being given to the individual.
- Revising published material such as patient information leaflets.
- Revising procedures, policies, guidance to prevent the same things happening again.
- Training or supervising staff.

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## Compensation

If harm has been the result of negligent treatment the patient has the right to claim for damages. These matters and any request for compensation in respect of this will be dealt with under the litigation process, to which the legal standard of proof applies. If this is something that the complainant requests they should be advised to seek legal advice (NHS constitution section 3a).

## Redress

This part of the policy refers to financial redress as a result of maladministration or service failure but not to medico-legal claims for compensation.

It relates to complaints at the local resolution stage and to those being reviewed by the PHSO.

The Trust may also choose to provide redress to persons involved in other areas of investigation such as PALS.

There may be occasions where the complainant has requested and the Trust considers it appropriate to offer redress for additional expenses incurred, financial loss or inconvenience or distress.

The Parliamentary and Health Service Ombudsman expects that Trusts demonstrate good practice in financial redress.

Redress may be appropriate where:

- There has been a failure in the service provided or failure to provide a service
- Maladministration
- Neglect or unjustified delay in service provision
- Failure to follow policies
- Providing inaccurate or misleading advice
- Bias or unfair discrimination

The Divisional Manager in conjunction with the Chief Nurse is responsible for determining any financial compensation as a result of maladministration or poor service. The cost of the redress will be paid from the Divisional Budget.

Financial remedy is expected to be fair, reasonable and proportionate, but does not allow the recipient to gain a financial advantage.

Each case will be assessed on an individual basis.

The following is a list of considerations as a guideline but is not exhaustive:

- The effects of the complainants own actions
- Quantifiable loss

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- Professional fees incurred (appropriateness and timeliness)
- Passage of time
- Willful action by the Trust rather than maladministration
- Mitigating circumstances for the interruption of change of service provision or a failure to provide a planned service due to either unforeseen circumstances or severe service pressure.

The time and trouble taken in pursuing the complaint will not be considered if this is no more than would be routinely expected.

## Managing Persistent Complaints

In determining arrangements for managing persistent complaints staff must ensure that the complaints procedure has been correctly implemented so far as possible, and that no material element of a complaint is overlooked or inadequately addressed, and to appreciate that even persistent complainants may have issues which contain genuine substance.

### Definition of a persistent complaint

Complaints may be deemed to be persistent where previous or current contact with them shows that they meet one or more of the following criteria (this is not an exhaustive list, and other factors may be considered by the Chief Executive):

Where complainants:-

- Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted or where implementation of the NHS complaints procedure is inappropriate for the issue raised (e.g. where investigation is “out of time” and cannot be investigated fairly and effectively, or where the issue of concern arises from care as a private patient).
- Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. (Care must be taken not to discard new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints).
- Are unwilling to accept documented evidence of treatment as being factual, (e.g. drug records, medical or nursing records) or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.

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- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of Trust staff and, where appropriate, an advocate to help them specify their concerns, and/or where the concerns identified are not within the remit of the Trust to investigate.
- Repeatedly focus on specific issues which have been appropriately and fully considered and responded to.
- 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 complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication. All such incidents should be documented).
- Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Trust, placing unreasonable demands on staff. (A contact may be in person, by telephone, letter or fax. Discretion must be used in determining the precise number of “excessive contacts” applicable under this section, using judgement based on the specific circumstances of each individual case).
- Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- Display unreasonable demands or patient/complainant expectations, and fail to accept that these may be unreasonable complaints.

You should take account of the context and history of the complaint when considering the questions above. An individual complaint may not be persistent in isolation, but in context it may form part of a wider pattern of persistent behaviour.

However, you should not automatically refuse a request simply because it is made in the context of a dispute or forms part of a series of requests. You must still ask whether the request is persistent in that context by considering the questions listed above.

An important point is that it is the complaint, not the complainant, which must be persistent. You should not automatically refuse to deal with a complaint just because the individual has caused problems in the past. You must look at the complaint itself.

## Considerations prior to taking action

You must make sure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of things to bear in mind when considering the imposition of restrictions on a Complainant.

These may include:

- Ensuring that the Complainant’s case is being, or has been, dealt with

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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 client prior to their behaviour becoming unreasonable or persistent.
- Checking that the Complainant is not raising any new or significant concerns that need to be considered that will affect the organisation's view on the existing case.
- Applying criteria with care, fairness and due consideration for the Complainant's circumstances – bearing in mind any known physical or mental health conditions that may explain the reason for their difficult behaviour. This should also include consideration of the impact of any 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 level of unreasonableness of the behaviour and impact on staff.
- Ensuring that the Complainant has been advised of the existence and purpose of the policy and has been warned about, and given a chance to amend their behaviour or actions.
- Considering whether there are further actions to take before designating the Complainant as persistent or unreasonable.

### **Actions prior to designating Complainant as 'unreasonable or persistent'**

Consideration should be given as to whether any further action can be taken prior to designating the Complainant as 'unreasonable' or 'unreasonably persistent'. This might include:

- Where no meeting with staff has been held, consider offering this as a means to dispel misunderstandings and move matters forward – this option will only be appropriate where risks have been assessed, and a suitably senior member of staff can be present.
- Where multiple departments are being contacted by the complainant, consider setting up a strategy to agree a cross-departmental approach.
- Issue a warning letter explaining that if the Complainant's actions continue, the organisation may decide to treat him or her as an unreasonably persistent complainant and explain why.

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- Consider if providing a copy of records, or setting a meeting to talk through records, may help to dispel misunderstandings or misconceptions – this option will only be appropriate where staff are unaware of any circumstances where this would not be advisable and consent is appropriately obtained.

## Options for dealing with persistent complainants

Where complainants have been identified as persistent in accordance with the above criteria, the Chief Executive Officer (CEO) will determine what action to take.

The CEO (or deputy) will implement such action and will notify complainants in writing of the reason why they have been classified as persistent complainants and the action to be taken, and how long the restrictions will remain in place. The complainant should be provided with a copy of this Policy.

This notification may be copied for the information of others already involved in the complaint, e.g. practitioners, ICAS, Member of Parliament. A record must be kept for future reference of the reasons why a complainant has been classified as persistent.

The CEO may decide to deal with complainants in one or more of the following ways:

- Place time limits on telephone conversations and personal contacts.
- Decline contact with the complainants either in person, by telephone, by fax, by letter or any combinations of these, provided that one form of contact is maintained, (if staff members are to withdraw from telephone conversations with a complainant it may be helpful for them to have an agreed statement available to be used should the complainant persist in ringing).
- Restrict contact liaison through a third party (such as an advocate organisations).
- Refuse to register and process further concerns or complaints about the same matter - notify the complainant in writing that the Trust has responded fully to the points raised and has tried to resolve the complaint but has nothing more to add and continuing contact on the matter will serve no benefit. The complainant should also be notified that the correspondence is at an end and that further letters received will be acknowledged but not answered. Complainants should be reminded of their right to pursue their complaint via the Health Service Ombudsman.
- Inform the complainant that future correspondence will be read and placed on file, but not acknowledged.
- State that the organisation does not deal with correspondence that is abusive or contains allegations that lack substantive evidence, request that a revised version of the correspondence be provided.

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- Inform the complainant that any personal contact will take place in the presence of a witness.
- Drawing up a signed “agreement” with the complainant which sets out a code of behaviour for the parties involved if the Trust is to continue processing the complaint. If these terms are contravened consideration would then be given to implementing other actions as indicated in this section.
- Inform the complainants that in extreme circumstances the Trust reserves the right to pass unreasonable or persistent complaints to its solicitors.
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the Health Service Ombudsman.

## Reviewing and withdrawing ‘Persistent Complainant’ status

Once complainants have been determined as ‘persistent’ there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach, or if they submit a further complaint for which normal complaints procedures would appear appropriate.

Staff should have used discretion in recommending the initial ‘persistent’ status and discretion should similarly be used in recommending that the status be withdrawn when appropriate. Where this appears to be the case, discussion will be held with the Chief Executive (or the Chief Nurse). Subject to their approval, normal contact with the complainants and application of NHS complaints procedures will then be resumed.

## Record Keeping

Ensure that adequate records are kept on DATIX of all contact with persistent complainants. This should include circumstances when:

- The decision to use this policy is invoked.
- Where a deputy is used to make the decision, the reason for the non-availability of the Chief Executive should be recorded on the file.
- A decision is taken not to apply the policy when a member of staff asks for this to be done, or make exception to the policy once it has been applied

## Complaints and Review Learning

Complaints monitoring is a tool which can help facilitate both local and wider learning within the Trust. Quarterly Patient Experience Reports will be produced and will

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include both qualitative and quantitative data. The report will include the actions taken in response to highlighted trends within complaints and PALS to improve services and reduce and eliminate identified risks.

In addition, following the closure of any complaint a summary with learning points identified for action will be produced by the Complaint Investigator and shared with the Divisional Directors of Nursing and Complaints Manager and Team.

The reporting of complaints within the monthly Quality Report is made available to the public within the Monthly Trust Board papers which are published on the Trust's web page.

## **6. Monitoring Compliance**

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The implementation of this policy will be under regular review by the Complaints Manager, to assess the timeliness and quality of complaint investigations, responses and action plans.

It is expected that all complaints will have been handled in accordance with this policy. Where non-compliance is identified, the Complaints Manager will advise the relevant Division/Directorate of the issue and the Chief Nurse for further action to be taken.

The effectiveness of the complaints process will be monitored by the quarterly report indications including the number of reopened complaints and the number of complaints responded to within the timeframe agreed with the complainant. Annual audits will be undertaken and the results fed back to the Management Board and Board of Directors.

### **Duties**

The key responsibilities of the identified leads within this policy will be monitored as per the existing Human Resources appraisal process.

### **Listening and responding**

It is expected that all concerns and complaints will have been handled in accordance with this policy. Where non-compliance is identified, the Complaints Manager will advise the relevant Division/Directorate, Clinical Lead and the Chief Nurse to address.

### **Treated differently**

To ensure that patients are not treated differently as a result of raising a concern or complaint the Trust will review the complaints survey results on a quarterly basis and address any issues accordingly.

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## Making improvements

The Divisional Governance Groups will review and monitor learning and action plans made as a result of a concern or complaint.

## 7. Review

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This policy will be subject to a planned review every three years as part of the Trust's Policy Review Process. It is recognised however that there may be updates required in the interim arising from amendments or release of new regulations, Codes of Practice or statutory provisions or guidance from the Department of Health or professional bodies. These updates will be made as soon as practicable to reflect and inform the Trust's revised policy and practise.

## 8. Training

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Managers are responsible for ensuring all their staff receive the type of initial and refresher training that is commensurate with their role(s).

Staff must refer to the Mandatory Training Profiles, available on the intranet, to identify what training in relation to [insert subject here] is relevant for their role and the required frequency of update. Further information is available on the statutory and mandatory training web pages about each subject and the available training opportunities.

The Mandatory Training Policy identifies how training non-attendance will be followed up and managed and is available on the intranet.

Training statistics for mandatory training subjects are collated by the Learning & Development team, and are reported to the Strategic Workforce Committee.

Staff must keep a record of all training in their portfolio.

All staff and managers can access their mandatory training compliance records via the Trust's mandatory reporting tool (STAR) available on the intranet.

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## 9. References

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The Local Authority Social; Services and National Health Service Complaints (England) Regulations 2009.

Department of Health Guide - Listening, Responding and Improving: A guide to better customer care.

The Parliamentary and Health Service Ombudsman Principles of Good Complaint Handling.

Francis Report – February 2013

The Parliamentary and Health Service Ombudsman Complaint Standards Framework.

Healthwatch Shifting the Mindset: A closer look at hospital complaints.

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## Appendix 1:

# Formal Complaint Report

Complaints and Patient details:	
Complainant's Name: Telephone Number: Email address: Address:	Patient: Patient D.O.B: MRN:
Complaint details (including incident date, location, staff involved, impact on patient etc.)	
Questions to be addressed:	
1. 2. 3. 4.	
Desired outcome- What would you like to see happen as a result of your complaint?	
Method of response: Letter <input type="checkbox"/> Meeting <input checked="" type="checkbox"/>	
If meeting, any particular requires? (including availability for meetings)	
Details taken by:	
Name:	Date:
Title:	
Method of receiving the complaint i.e. in person/ by phone:	

## Appendix 2: Complaint Severity Assessment Matrix

The matrix below is to be used to assess the complaint severity. This is then used to inform the complaint category

Severity Assessment for Complaints - Guidance	
	Description
Low	Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care. Or unsatisfactory service or experience related to care, usually a single resolvable issue. Minimal impact and relative minimal risk to the provision of care or the service. No real risk of litigation
Medium	Service or experience below reasonable expectation in several ways, but not causing lasting problems. Has the potential to impact on service provision. Some potential for litigation.
High	Significant issues regarding standards, quality of care and safeguarding of or denial of rights. Complaints with clear quality assurance or risk management issues that may cause lasting problems for the organisation and so require investigation. Possibility of litigation and adverse local publicity. Or Serious issues that may cause long term damage such as grossly substandard care, professional misconduct or death. Will require immediate and in depth investigation. May involve serious safety issues. A high probability of litigation and strong possibility of adverse national publicity.

Likelihood	Description
Rare	Isolated or 'one off' – slight or vague connection to service provision.
Unlikely	Rare- unusual but may have happened before
Possible	Happens from time to time – not frequently or regularly
Likely	Will probably occur several times a year.
Almost certain	Recurring and frequent, predictable.

### Seriousness

### Likelihood of recurrence

	Rare	Unlikely	Possible	Likely	Almost certain
Low	Grade 1 or PALS				
		Grade 2			
Medium			Grade 3		
High				Grade 3	

Low severity can be resolve through PALS or via Specialty Manager depending on complainant's wishes.

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