

COMPLAINTS, CONCERNS, PATIENT ADVICE AND LIAISON SERVICE (PALS), COMPLIMENTS AND REMEDY POLICY

Author: Helen Collins, Head of Patient Experience and Involvement

Executive

Lead: Andrea Lewis, Interim Chief Nurse

Status: Approval date: February 2020

Ratified by: Trust Executive Committee

Review date: February 2023

Patients first • Personal responsibility • Passion for excellence • Pride in our team

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 1 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	--------------

History

Issue	Date Issued	Brief Summary of Change	Author
1	February 2019	New policy	Trust Executive Committee

For more information on the status of this document, please contact:	
Policy Author	Helen Collins
Department/Directorate	Patient Experience Team
Date of issue	February 2020
Review due	February 2023
Ratified by	Trust Executive Committee
Audience	Trust Staff Patients, their families and carers General public

Executive summary

The Complaints, Concerns, PALs, Compliments And Remedy Policy outlines the processes required to capture and respond to patient experience and make improvements to healthcare.

It outlines the regulatory requirements, persons responsible, time-scales, information governance considerations and key organisations and departments the Trust is required to work with internally, and external stakeholders.

Contents

1.	Introduction	5
2.	The NHS Constitution	6
3.	Scope.....	6
4.	Purpose.....	6
5.	Explanation of Terms Used.....	7
6.	Duties and responsibilities	8
7.	Recording information.....	10
8.	PALS functions and core standards.....	10
9.	Procedure for PALS	11
10.	Access to PALS	12
11.	Concerns and Complaints.....	13
12.	Advocacy Services and support for Complainants.....	14
13.	Consent.....	15
14.	Consent not received	15
15.	Confidentiality	16
16.	Timescales for making a complaint.....	16
17.	What cannot be dealt with under the NHS Complaints Procedure?.....	16
18.	Concerns raised to frontline staff	17
19.	Timescales for complaints.....	17
20.	Risk Assessment of complaints	18
21.	Serious Incidents / Duty of Candour / Being Open.....	18
22.	Methods for raising a Complaint	19
23.	Complaints - Upheld/ Partially Upheld / Not Upheld.....	19
24.	Complaint Procedure.....	19
26.	Support for staff who are the subject of a Complaint	22
27.	Supporting staff investigating complaints.....	22
28.	Complaints made by MPs on behalf of their constituents	23
29.	Multi-organisational complaints.....	23
30.	Retention of records - Complaints recording and computer held records	23
31.	Complaints, Legal Action and Criminal Proceedings	23
32.	Disciplinary procedures.....	24
33.	Safeguarding.....	24
34.	Diversity monitoring	25
35.	Re-opening complaints	25

36.	Learning from Complaints	26
37.	Parliamentary Health Service Ombudsman (PHSO).....	26
38.	Remedy.....	27
39.	Monitoring the complaints process.....	28
40.	Unreasonably Persistent or Unreasonable Complainants.....	28
41.	Compliments	31
42.	Training	32
43.	Stakeholder Engagement and Communication.....	32
44.	Approval and Ratification	32
45.	Review and Revision Arrangements	32
46.	Document Control and Archiving	32
47.	Monitoring compliance with this Policy.....	33
48.	Supporting References / Evidence Base.....	33
APPENDIX 1	Equality Impact Assessment.....	35

1. Introduction

Ashford and St Peter’s Hospitals NHS Foundation Trust (hereafter referred to as the Trust) provides healthcare services to the 302,600 people who live in north-west Surrey. The Trust provides district general hospital services and some specialist services such as neonatal intensive care and limb reconstruction surgery.

The Trust employs staff who come to work each day to treat and care for their patients. We recognise that sometimes we do not meet people’s expectations and that mistakes do happen. The Trust is committed to providing patients with an apology, an honest explanation and actions to show how we will learn from their experience to improve patient and public experiences in the future. The Trust will also provide support to members of staff during the process.

This policy provides guidance to managers and staff so that they understand their responsibilities when a patient, relative, carer or member of the public is unhappy with the care or service they have received.

The policy will help staff support patients, direct how to deal with their dissatisfaction or where to direct them to register their concerns. This policy also informs staff what the patient, relative, carer or member of the public can expect from the Trust and the involvement staff will have to help bring their concerns to a satisfactory conclusion, or what further steps they may wish to take if they remain dissatisfied.

This policy is informed by the many recent reports released nationally including:

- Data Protection Act, 1998
- Freedom of Information Act, 2000
- NHS confidentiality code of Practice, 2003
- Principles of Good Complaints Handling, Parliamentary and Health Service Ombudsman, 2008
- Principles for Remedy, Parliamentary and Health Service Ombudsman, 2009
- Principles of Good Administration, Parliamentary and Health Service Ombudsman, 2009
- Local Authority, Social Services and NHS Complaints Regulations, 2009
- Listening Responding Improving: A Guide to better customer care, 2009
- Francis, R (2013) Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry: Executive summary. London: stationery Office
- Review of the NHS Hospitals Complaints System Putting patients back in the picture, Clwyd and Hart, 2013
- Hard Truths: The journey to putting patients first, Department of Health 2014,
- “More Complaints Please!”, Commons Public Administration Select Committee, 2014
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 20. Duty of Candour.
- HealthWatch report “Suffering in Silence”
- Care Quality Commission “Complaints Matter”

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 5 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	--------------

- Dept. of Health Select Committee “Complaints and Raising Concerns”
- Patients Association “Handling Complaints with a Human Touch”

All of these reports have the same thread running through them, that concern/complaints and the people who make them should be handled well from the start and always with an apology and with compassion. There should be a relentless focus on challenging poor care and behaviour, remembering “the standard you accept is the standard you walk past” which will encourage us not to get it wrong in the first place. It is the personal responsibility of all trust staff to act when a complaint is made and to try everything in their power to resolve the problem.

The Local Authority Social Services and National Health Service Complaints Regulations (England) Regulations: Statutory Instrument No 309 came into force on 1 April 2009. This procedure and approach to managing patient’s complaints and concerns reflects the requirements of this current legislation.

2. The NHS Constitution

As well as capturing the purpose, principles and values of the NHS, the Constitution brings together a number of rights, pledges and responsibilities for staff and service users. These rights and responsibilities are the result of extensive discussions and consultations with staff, patients and the public and will be adhered to when managing complaints. Further details can be obtained from www.gov.uk/government/publications/the-nhs-constitution-for-england.

3. Scope

This Policy should be read by all Trust staff and applies equally to staff in a permanent, temporary, voluntary or contractor role acting for or on behalf of the Trust. This policy applies to the management of all PALs, Concerns, Complaints and Compliments made about the services provided by the Trust. This policy also provides guidance to staff on how to manage habitual and vexatious behaviour, in line with NHS Protect guidance and remedy for redress in line with the Parliamentary Health Service Ombudsman guidance on redress.

4. Purpose

This policy aims to ensure:

- The Trust is open to feedback from anyone who comes into contact with its services and will respond in a proportionate, appropriate and fair manner in accordance with all relevant regulations and best practice guidance.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 6 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	--------------

- That processes to deal with complaints and concerns ensure that the person raising feedback is fully involved in collaboratively agreeing how their issues will be dealt with, and their response shared with them.
- The Trust learns from the experiences of those who use our services and embeds any changes in practice identified as a result of feedback.
- All staff involved in any form of feedback are treated fairly and supported.
- Any staff member who is asked to investigate a concern or complaint has a clear process to follow to support their investigation.

The Trusts main objectives, with regard to complaints and concerns are:

- To promote feedback from anyone who comes into contact with services, to enable the Trust to learn from people’s experiences and improve for the future.
- To have an efficient and timely complaints and concerns process.
- To ensure that all complainants are dealt with courteously and sympathetically and that they are involved in all relevant decisions about how their complaints are dealt with.
- That no one will be treated negatively as a result of raising a complaint or concern, or of having a complaint or concern raised on their behalf.
- That systems are in place to ensure that patients, carers and relatives are assured that the Trust acts appropriately on all feedback and makes any identified changes and improvements.
- That the complaints and concerns process is fully accessible and that alternative formats are provided to meet each individual’s needs.

5. Explanation of Terms Used

PALS (Patient Advice and Liaison Service)

A concern or enquiry that is raised that can be resolved / responded to straight away or within 5 working days. This type of concern does not require a full investigation or statements from staff involved or a written response. These cases are normally received by email, telephone or in person to the PALS Office. PALS cases can be responded to by telephone or via email to the complainant by the PALS officers and are not reported as complaints, as they fall outside the complaints arrangements.

Concern (Informal)

This is when a complaint is received where the complainant has made it clear that they do not wish for their concerns to be managed under the formal complaints process. This will be logged as a concern and managed under an informal process that will still require a full investigation and written response. Concerns should be responded to within 25 working days and should be signed off by Division once the Patient Experience Manager has approved the letter. This will also apply to complaints received from other service providers, who are leading on a joint complaint with the Trust. (This is part of the KO41a

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 7 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	--------------

data requirements so a complaint is not reported twice by two separate organisations, and reported only by the leading provider).

Complaint (Formal)

A complaint is an expression of dissatisfaction. A complaint is received either in writing, by email, in person or by telephone, where the complainant has requested for their complaint to be managed under the formal complaints process. The formal process also applies to; all complaints addressed to the Chief Executive, MP Enquiries, The Parliamentary Health Service Ombudsman and Joint Service provider complaints that the Trust is leading on.

Compliment

A compliment is positive feedback received as a result of services provided to a patient, relative or member of the public that has gone above and beyond their expectations.

Serious Incident (SI)

In accordance with the NHS England SI Framework, SI's are events in healthcare where the potential for learning is so great, or the consequences to patients, families and carers, staff or organisations are so significant, that they warrant using additional resources to mount a comprehensive response.

Joint Complaint

A formal complaint involving two or more organisations for which a co-ordinated approach is required.

NHS Complaints Advocacy

This is an organisation that provides independent help and support for people pursuing an NHS complaint.

The Parliamentary and Health Service Ombudsman (PHSO)

This is the organisation that manages an independent review of complaints once all stages of the complaints process have been exhausted.

6. Duties and responsibilities

Trust Board

The Trust Board is required to receive assurance that robust systems are in place that enables feedback to be heard and lessons learned in order to provide the best possible care leading to an improved patient experience and services. The Trust Board will receive monthly data on the number of complaints and timeliness of responses will be provided to the Board, along with trends, themes and learning.

Patient Experience Monitoring Group (PEMG)

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 8 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	--------------

The Patient Experience monitoring Group will receive quarterly divisional and corporate patient experience reports which will include information about complaint numbers, themes, trends and relevant actions; this report will also include details of other patient feedback. PEMG will monitor key performance indicators and ensure the dissemination of complaint trends and required actions.

Chief Executive (CEO)

The CEO is the designated responsible person whose duty it is to ensure overall compliance with the statutory requirements for the Trust.

Chief Nurse (CN)

Executive Director responsible for the operational delivery of the described complaints system

Deputy Chief Nurse (DCN)

DCN acts on behalf of the CN for the operational delivery of the Patient Experience Team. The DCN is the responsible manager who oversees the complaint process ensuring connectivity with Incidents, Claims, Inquests, Safeguarding and Mortality review Process.

Divisional Directors/Corporate Directors/Divisional Chief Nurses

Is responsible to ensure that complaints are received, disseminated to appropriate management teams, there is a thorough investigation and that the response is compiled appropriately covering all issues in a chronological order. The Divisional Directors, Chief Nurses or designated senior manager is responsible for letting the Patient Experience Team know if the response will be outside the agreed time, the reasons for the delay and the expected date for completion.

Head of Patient Experience and Involvement (HOPE)

HOPE is responsible for overseeing the Patient Experience Policy and for overseeing the management of the PALs, Concerns, Complaints and Compliments Procedure. This includes the monitoring of trends; statistical and data analysis; development and monitoring of action plans should deficiencies occur or scope for improvement be identified.

Patient Experience Manager (PEM)

The PEM assumes day to day responsibility for the procedures on behalf of the Chief Executive and will monitor and maintain the policy and procedures.

Patient Experience Team (PET)

The Patient Experience Team will undertake a central role in communicating with the complainant, triaging all PALS, Concerns, complaints and Compliments appropriately allocating to the relevant division ensuring an investigation is initiated. The Patient Experience Team will also ensure that the divisional response is comprehensive and compliant with the expected standard for the response letter in line with good practice.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 9 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	--------------

The Patient Experience Team will be responsible for the collection of data in relation to concerns, complaints and compliments received in the Trust and entering the data onto the Trust's central database (Datix).

All Trust Staff are responsible for the effective implementation of the policy and play an important role in reducing the numbers of concerns/complaints received by the Trust. This includes:-

- Cooperating fully with the investigation of each concern/complaint, and ensuring that any staff for which they have responsibility respond to investigations in a timely and appropriate manner;
- Ensuring that action is taken and action plan implemented, following any complaint which gives rise to the need for wider scale implementation of change;
- Enabling the processes of organisational learning following a complaint;
- Ensuring that complaints are responded to within the agreed timescale;
- Ensuring staff have support and time to review and fully respond to a complaint

7. Recording information

The Data Protection Act covers any information collected by the Patient Experience Team. The confidentiality of individuals, staff or service users is respected. The Patient Experience Team, however, has the discretion to share information where patient or public safety is threatened, or criminal activity is suspected.

All information is recorded and entered into the Datix database. Access to the Datix database is password protected and limited to a small number of registered users within the Trust. Any information retrieval for reporting is anonymised and paper records are ultimately shredded once scanned onto the Datix database, to preserve the confidentiality.

Complaint records are kept separate from health records, subject to the need to record information, which is strictly relevant to the patient's health. Such records must be treated with the same degree of confidentiality as normal medical records and would be open to disclosure in any legal proceedings.

8. PALS functions and core standards

The main functions and core standards of PALS are to:

- Be identifiable and accessible to patients, their carers, friends, families and members of the public. Everyone who contacts PALS will be given information about options available to resolve an issue or concern.
- Listen and provide relevant information and support to help resolve patients' concerns quickly and efficiently.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 10 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

- Provide on the spot help, whenever possible, with the power to negotiate solutions and resolve problems as quickly as possible.
- Enable people to access information about Trust services and information about their health and social care provided by the Trust.
- Signpost and guide people through health and social care services provided by the Trust.
- Liaise with staff and managers, and where appropriate, with other PALS services and health related organisations, to facilitate a resolution.
- Act as an early warning system if there are particular problems and/or concerns emerging.
- Act as a gateway for advocacy or the complaints process.
- Refer patients, when appropriate, to independent advice and advocacy support from local and national sources, including Independent Complaints Advocacy Services (ICAS), which is a free independent advocacy service that can help people make a complaint and locality advocacy services in use across the Trusts localities.
- Establish and maintain effective systems for reporting on and learning from PALS contacts.
- Promote a culture in the Trust that puts patients at the heart of service delivery.
- Involve patients and carers where appropriate and with consent from the patient, in the planning, development and monitoring of PALS.

PALS is not a crisis or emergency service. We recognise that people who contact PALS may be distressed or deemed to be at risk. If people need further support, PALS staff will signpost them to the appropriate service to ensure their needs are met.

Following the publication of Making Experiences Count (Department of Health, 2007) and the enactment of The Local Authority Social Services and NHS Complaints (England) Regulations 2009, the PALS and Complaints functions work in an increasingly integrated way to resolve complaints which are risk assessed as low and moderate risk.

9. Procedure for PALS

The PALS service is open to everyone who uses ASPH services. PALS leaflets should be freely available and visible in all clinical and public areas. Leaflets can be made available in other languages to suit individual needs and upon request.

Whilst the following procedure relates to all staff, including the PALS Officers, it is acknowledged that they are not clinicians. Clinical information about specific conditions should be provided to patients by clinical staff.

- Where people raise concerns, a sincere apology should be offered to the person acknowledging the concern. An apology does not constitute an admission of liability

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 11 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

or unsatisfactory professional performance but provides acknowledgement of the concern.

- Those raising a concern should also be signposted to local advocacy services and/or the Independent Complaints Advocacy Services (ICAS) which is a free service.
- Attempt to resolve any concerns that have been raised or provide information as quickly as possible. However, it may be necessary for the concern to be referred to their manager or an identified senior member of the team for advice and resolution.
- Deal with issues according to their urgency, and whenever possible, within five working days.
- Ensure the individual raising the concern is kept informed of progress and is fully involved throughout the process. It is important that, wherever possible, a named member of staff deals with the concern through to its conclusion to ensure good communication, understanding and trust. If a member of staff cannot see an issue through to its conclusion, they should provide a full handover to an appropriate colleague. The individual raising the concern must be kept informed of the situation.

PALS is always an option for those requiring support and those raising a concern. Individuals should be made aware that they could at any time be supported by the PALS Officer.

All Trust colleagues should be aware that when a person raises a concern, local resolution in the first instance is the best outcome for all concerned, before referring to the PALS or Complaints Department.

Staff who are finding it difficult to resolve more complex issues can also be supported by their line manager/matron/service manager in the first instance. Patients and carers should be made fully aware that they are able to pursue a formal complaint at any time. It should be made clear that PALS will not be able to assist with their concern whilst a formal complaint is being pursued, although PALS can support people through the complaints process.

Details of any compliments received either written or by telephone to the PALS Officer will be logged on Datix and shared with the division and relevant named staff members. The PALS Officer will also acknowledge and thank the sender.

10. Access to PALS

The PALS office is open Monday to Friday from 09:00 to 17:00, except Bank Holidays. However the service offered will also be flexible as far as possible to accommodate those who are not available during these hours.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 12 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

- If a patient wishes to speak to the PALS Officer outside of normal office hours, this will be organised by prior arrangement, where reasonably practicable.
- An answer-machine is available 24 hours a day to take messages for PALS. Should contact be required, this will be made at the earliest opportunity.
- People can email, telephone, visit or write to the PALS team.

Telephone: 01932 723553

Email: asp-tr.patient.advice@nhs.net

Address: St Peters' Hospital, Main Entrance, Guildford Road, Chertsey, KT16 0PZ.

PALS Officers are available to attend appointments or meet a patient, family or representative to support with any concerns.

11. Concerns and Complaints

The Trust manages all concerns and complaints in line with the Parliamentary Health Service Ombudsman's (PHSO) Principles of Good Complaint Handling. The following standard will be followed in all correspondence (and can be found in detail at www.ombudsman.org.uk):

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

The Trust recognises that patients, relatives, carers and visitors have a fundamental right to raise concerns about the services they receive. It is expected that staff will not treat patients, relative, carers or visitors unfairly as a result of any complaint or concern raised by them. Any concern or complaints, by a patients, relatives, carer or visitors who feels they have received unfair treatment as a result of having raised a concern or complaint will be investigated as a separate concern and appropriate action will be taken.

Who can make a complaint?

A complaint can be made by a patient or their relative, carer or representative in the following circumstances:

- If the patient or carer has granted consent for the representative to act on their behalf
- When the patient concerned has died
- If the patient concerned is under the age of 18
- If the patient is unable to make a complaint due to physical incapacity or lack of capacity within the terms of the Mental Capacity Act 2005.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 13 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

In the case of a patient who has died or who lacks capacity, the representative must be a relative or other person who, in the opinion of the Patient Experience Team, has, or has had, sufficient interest in his or her welfare or is suitable to act as a representative.

In the case of a child the representative must be a parent, guardian or other adult person who has care of the child, or who has the consent of such a person. Where the child is in the care of a local authority or voluntary organisation the representative must be a person authorised by the local authority or voluntary organisation.

To ensure the Trust maintains confidentiality and abides by the Data Protection Act, where consent is to be obtained, the Patient Experience Team will send forms to the individual to obtain authorisation from the patient. If authorisation has not been received by the time the response is ready, a reminder will be sent to the individual by the Patient Experience Team restating why it is required and asking for it to be returned. If it is not returned the response will be reviewed, and if necessary abridged, to ensure that the response does not breach patient confidentiality. Any complaints made by solicitors on a patient's behalf, whether written or oral, must be referred to the Patient Experience Team, who will take a view on whether the complaints procedure is appropriate or whether the complaint constitutes a claim for negligence. Negligence claims are referred to the Trust Legal Coordinator.

12. Advocacy Services and support for Complainants

Complainants will be offered independent support when making a complaint, through the Local Complaint Advocacy Service and, where appropriate, specialist advocacy services. Information on how to access the complaints advocacy service will be provided to all complainants by the Patient Experience Team and is included in the complaints leaflet.

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

- advise people how to complain;
- support people through the complaints process;
- provide information on who to complain to;
- support when drafting complaints correspondence;
- Representation or support at complaints meetings.

NHS complaints advocacy will be particularly helpful when the person making the complaint is in need of extra support. Under the Mental Capacity Act 2005, the Independent Mental Capacity Advocacy Service (IMCA) undertakes a role of advocate for

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 14 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

patients who lack mental capacity. Complainants may also receive support from other specialist advocacy services or from the local Citizens Advice Bureau (CAB). Staff who are responsible for the management of complaints should be aware of the local advocacy services available and ensure that complainants are directed to these services when a need for support has been identified, or is requested.

13. Consent

If the patient has capacity to give consent and wishes a representative to act on their behalf, then signed authorisation will be sought by the Patient Experience Team Department. The Patient Experience Team will request consent and allow four weeks for the form to be returned. If the form is not received the Patient Experience Team will close the complaint. However, a full investigation will still take place to ensure that if any areas of improvement are identified and lessons are learnt to improve the service.

If the patient has died, or is incapacitated, the Patient Experience Coordinator in conjunction with the Caldicott Guardian must decide whether the complainant is a suitable person to pursue a complaint. Consideration must be given to all relevant factors such as the closeness of the complainant's involvement with the patient over the time they had known them and the nature and frequency of their contact.

Where the complainant has Lasting Power of Attorney (LPA) on behalf of a patient, the Patient Experience Team will ensure that this is valid, registered with the Office of the Public Guardian and the extent of the powers held, in order to decide whether consent from the patient is required. A copy of the LPA will be kept on the complaint file.

Where the complaint is made on behalf of a child (under 18 years old), the Patient Experience Team will check with the clinician to get an opinion as to whether the child has competency to give consent for the complaint to be made on their behalf by a parent, carer or advocate. If a child (under 18 years old) makes a formal complaint on their own behalf, the Patient Experience Coordinator will check with the clinician regarding their Gillick Competency and the appropriateness of this.

14. Consent not received

When the complainant is not the patient, and there is no written authority from the patient for the complainant to pursue the matter on their behalf, the patient will be asked to complete a consent form. Where consent cannot be obtained for a third party to make a complaint about the care and treatment of a patient, the Trust will not respond to the concern/complaint, which includes specific or confidential information about the patient.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 15 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

15. Confidentiality

The Trust has a statutory duty to investigate complaints under Sections 113-115 of The Health and Social Care (Community Health and Standards) Act 2003 and The Local Authority Social Services and National Health Service Complaints [England] Regulations (2009). This forms the legal basis, where necessary, for processing special category data under the General Data Protection Regulations (GDPR).

If the Patient Experience Team requires consent from an individual they will send or email a consent form which can be signed and returned to the Trust. Particular care must be taken where the patient's record contains information provided in confidence by or about a third party who is not a health professional. Complaints and any information arising from a complaint will be dealt with in the strictest of confidence and should be kept separately from patients' medical records. The complaints records will not be filed within clinical records but held within a separate complaints file by the Patient Experience Team on the complaints database Datix Web.

Complainants have the right to withdraw consent to use confidential data at any time, but this will limit the possibility of a full investigation. Complaints will be handled in the strictest confidence at all times. Care must be taken at all times throughout the complaints procedure to ensure that any information disclosed about the patient is confined to that which is relevant to the investigation of the complaint and only disclosed to those people who have a demonstrable need for it in connection with the investigation.

16. Timescales for making a complaint

Normally a complaint should be made within 12 months of the incident that caused the problem or within 12 months of discovering the problem, although the Patient Experience Team, following discussion with the relevant Division, has discretion to extend these time limits using the following criteria:

- The individual had good reasons for not making the complaint within that period;
- Notwithstanding the time elapsed it is still possible to investigate the complaint effectively and efficiently;
- There is a possibility the treatment provided could become the subject of a legal claim for which longer timescales are applicable.

17. What cannot be dealt with under the NHS Complaints Procedure?

The following complaints will not be dealt with under the NHS Complaints Regulations 2009:

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 16 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

- A complaint made by an NHS organisation or private or independent provider or responsible body.
- A complaint made by an employee about any matters relating to their employment.
- A complaint, the subject matter of which has been previously investigated under these or previous NHS regulations.
- A complaint arising out of an NHS body's alleged failure to comply with a request for information under the Freedom of Information Act 2000.
- Where a complaint is raised which the Trust is not able to investigate under the NHS Complaints Regulations 2009, where possible the complainant will be signposted appropriately to progress their concern.

Complaints can contain requests for information under the Freedom of Information Act 2000 (FOI) or under GDPR. Requests, which need to be in writing, do not need to refer to the legislation specifically and must be handled under the relevant policies and procedures.

Reference to the separate process can be made in the complaint response and the fact that it is an independent process with a right to appeal. The legislation also provides a duty to advise and assist, which can be met in the case of FOI requests by a clear referral to the appropriate member of staff who will provide specific guidance.

18. Concerns raised to frontline staff

It is a priority that concerns are resolved as quickly and as efficiently as possible. In the first instance, and in most cases, a frontline member of staff or the departmental manager will do this through an immediate informal response to resolve the concern at the point of contact with the service.

If resolution has not been achieved at the point of contact, individuals may wish to contact the Patient Advice and Liaison Service (PALS) team, who are able to support individuals to resolve a concern informally within an agreed timescale. The PALS role is explained on page 1 above.

19. Timescales for complaints

All complaints must be acknowledged within three working days. The 2009 government regulations allow the Trust to negotiate a timescale for the completed response with the individual. The Trust will endeavour to respond to most complaints within 25 working days unless there are reasonable circumstances which may delay the investigation for example:

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 17 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

- Where the complaint is particularly complex or requires input from other organisations for example the ambulance service, GP practice or other hospitals.
- Where the notes required are with the coroner, off site or unavailable for other reasons out of the investigator's control.
- Where key members of staff are on leave or have left the Trust and will need to be contacted for a statement.
- If disciplinary proceedings are taking place.
- When safeguarding or other investigations, such as police investigations, coroner's inquest etc. are taking place. In these cases the complaint will be placed on hold until the outcome of the other investigation has been completed. This will be explained to the complainant.
- Where the timeliness of a response may be deemed insensitive or inappropriate e.g. over Christmas period or a significant anniversary. In such cases the Division will inform the complainants and agree revised timeframes. Datix web will be updated accordingly.

20. Risk Assessment of complaints

On receipt, each complaint/concern will be risk assessed using the NHS risk assessment matrix on Datix Web to ensure the right action is taken, in addition to the complaints process. The Patient Experience Team will ensure that any high risk complaints are brought to the immediate attention of the Patient Experience Manager, senior managers within the division along with the patient safety team and any other relevant leaders, as appropriate.

21. Serious Incidents / Duty of Candour / Being Open

All complaints are scoped on receipt by the Patient Experience Manager (or nominated deputy) for consideration of any possible patient safety incidents. Some complaints will be identified and investigated as a part of the Trust's serious incident (SI) process. This will be decided on a case by case basis following initial scoping by the Divisional Triumvirate and in discussion with the Patient Safety Lead. Confirmation of the need for an SI investigation will be made by a member of the Patient Safety Panel. If an SI is confirmed, the complaint process is halted; the Divisional Governance Team will take over the investigation of the SI element of the complaint, including communication with the complainant. The complainant will be notified by the Patient Experience Team and will be given the contact details for the Division's Governance Lead.

This process will usually take 60 days from the day an SI is declared. Issues complained of outside of the scope of the SI investigation will be responded to through the complaints process following completion of the SI investigation. Staff should consider their

Volume 1 Organisational & Finance	Section 1 Organisational	First Rated February 2020	Next Review February 2023	Issue 1	Page 18 of 35
---	-----------------------------	------------------------------	------------------------------	---------	---------------

responsibilities under the Being Open Policy when managing complaints and concerns. Consideration of the Trust's obligation in line with Duty of Candour does not mean that the complaints process should cease. Duty of Candour is covered under the Trust's Being Open Policy and is a statutory duty which applies to cases of moderate/serious harm.

22. Methods for raising a Complaint

A complaint may be made in writing (by e-mail or letter) or verbally over the telephone or in person. If the complaint is made verbally the person accepting the complaint should record this in writing and the complainant should be given/sent a copy to sign and return to confirm accuracy. The complaints procedure must be followed for every complaint and the person making the complaint should be treated with respect and sensitivity and encouraged to be open about their concerns.

23. Complaints - Upheld/ Partially Upheld / Not Upheld

The Trust is required to review each complaint and decide whether the complaint is upheld, not upheld or partially upheld. This decision is based on whether any or all of a complaint is considered to be well founded. The Ombudsman adopts this principle in their adjudications. This information is also submitted annually as part of the KO41 data collection process to the Health and Social Care Information Centre on written complaints.

24. Complaints Procedure

Acknowledgments

All complaints must be acknowledged within three working days. If the complaint is addressed to a member of staff outside the Patient Experience Department, the addressee will send an acknowledgment confirming that the complaint has been referred to the Patient Experience Department.

If a complaint is received outside of office hours or at the weekend or bank holiday the complaint will be recorded as being received on the next working day and the acknowledgement will be three working days from this date.

The Patient Experience Department will send an acknowledgment to all complaints received whether they were received directly from the complainant or via a member of staff. When a complaint is made orally which requires investigation as a complaint, the acknowledgment must be accompanied by a written account of the complaint, with an invitation to the complainant to confirm the accuracy by signing and returning it.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 19 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

When the complainant is not the patient and written authority from the patient for the complainant to pursue the matter on their behalf has not been supplied, the completion of a consent form will be requested. Where consent cannot be obtained for a third party to make a complaint about the care and treatment of a patient, no response will be given which includes specific or confidential information about the patient.

The acknowledgment will contain information about support available from an Independent Advocacy and information on the complaints process and about disclosure of information. Any disclosure must be confined to that which is relevant to the investigation of the complaint and only disclosed to those people who have a demonstrable need to know it for the purpose of investigating the complaint.

The Patient Experience Team will also send the Equalities questionnaire with the acknowledgement letter for the complainant to complete. This is to help identify any gaps in services or trends with any complainant that falls under one or more of the nine protected characteristics under the Equality Act 2010. Any trends found will be highlighted to Head of Patient Experience to look at how to resolve any issues, or lack of services.

Investigation

Complaints will be thoroughly investigated in a manner appropriate to resolving the issues speedily and efficiently and within the agreed timeframe.

Staff directly involved in the complaint will be requested to provide a statement in response to the complaint.

Junior staff will usually be notified of a complaint via their line manager or the Patient Experience Team. The Patient Experience Coordinator will oversee the quality and timeliness of the investigation, and validate the conclusions, outcome and actions agreed for inclusion in the complaint response. On completion of the investigation the Patient Experience Coordinator will review the complaint investigation to ensure that it has been thoroughly investigated and addresses all the issues raised by the complainant.

The Patient Experience Manager will support the Patient Experience Coordinator to scrutinise the findings, draw conclusions, agree complaint outcome and consider whether there is evidence of service failure or maladministration.

Final Response Sign Off

The overall responsibility for the management, investigation and sign off of all formal complaints remains that of the CEO. However, he/she may delegate this to an Executive Lead.

- Regardless of the method used to resolve the complaint, where the complainant requires it, a response in writing from the CEO will be provided (usually by letter, but it may be electronically, if the complainant has consented to electronic communication).

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 20 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

- The response should comprehensively cover each aspect of the complaint, with explanations of actions being taken and be in plain English. A spelling and grammar check should also be completed before submission. The author of the letter should forward the completed draft complaints response to the Patient Experience Manager for approval. The Patient Experience Manager will complete a final quality assurance check of the response and consult with senior staff if necessary.
- Electronic signatures should not be used for final sign-off, except in extenuating circumstances when sign off by a deputy is not possible.
- After the complaint has been dealt with, the Patient Experience Team will send the complainant a Complaints Service Evaluation Form.
- The Patient Experience Team will close the complaints file once the final response has been posted or sent electronically, updating all relevant fields, with outcome, learning and assigning any actions from the complaint to monitor its completion. However, the complaint can be re-opened (subject to statutory deadlines) if further communication from the complainant is received.

The overall investigation, management and response for all informal complaints, will be reviewed and signed off by the Divisional Chief Nurse or appointed deputy. The division will also ensure the following:

- The response should comprehensively cover each aspect of the complaint, with explanations of actions being taken and be in plain English. A spelling and grammar check should also be completed before submission. The author of the letter should forward the completed draft complaints response to the Patient Experience Manager for approval. The Patient Experience Manager will complete a final quality assurance check of the response and consult with senior staff if necessary.
- Electronic signatures should not be used for final sign-off, except in extenuating circumstances when sign off by a deputy is not possible.
- After the complaint investigation has concluded, the Patient Experience Team will send the complainant a Complaints Service Evaluation Form.
- The Patient Experience Team will close the complaints file once the final response has been posted or emailed, updating all relevant fields, with outcome, learning and assigning any actions from the complaint to monitor its completion. However, the complaint can be re-opened (subject to statutory deadlines) if further communication from the complainant is received.

Final Responses will include the following:

- An explanation of how the complaint has been considered
- An explanation of events
- The conclusion reached, including any matters for which remedial action is needed
- An apology where appropriate
- Confirmation as to whether the Trust is satisfied that any action required as a consequence of the complaint has been taken or is proposed to be taken.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 21 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

25. Discrimination

Complainants need to feel confident that their care will not be affected as a result of their having made a complaint. This commitment will be communicated to patients throughout the Complaints Process.

Complainants will be invited to complete a questionnaire (which is currently under review) at the end of the procedure and results will be monitored to identify any discrimination and action to be taken. The questionnaire will also provide reassurance that internal complaint handling processes are being followed and that complainants are satisfied with this.

26. Support for staff who are the subject of a Complaint

Members of staff named in the complaint, either personally or by role, should be informed of the complaint by their manager. Staff should be fully supported by their line manager and/or someone from the Patient Experience team and consulted during the investigation. The investigation should be full, fair and timely and should not apportion blame although the system and those working within it will be held appropriately accountable. Staff will be informed of the details of any complaint made against them. They will be involved in the investigation of the complaint, will have the opportunity to respond to the issues raised and will be kept informed of the progress of the complaint and its outcome by their manager.

The Trust does not expect staff to tolerate any form of abuse from service users or others during the complaint investigation. Staff are not expected to put themselves in situations where they feel they may be at risk when dealing with complaints. Abuse, harassment or violence of any kind towards members of staff will not be tolerated. Personal contact may be withdrawn from any individual who acts in this way. Staff will not be expected to undertake home visits or to meet people on their own if they feel themselves to be at risk. Alternative places to meet may be arranged and they may take a colleague, usually their line manager or someone from the Patient Experience Team. Staff safety is paramount and staff are expected to complete an incident form where a risk has been identified. If staff experience any form of abuse, violence or harassment from a service user or member of the public (physical or verbal), this should be raised to their line manager or a member of the Patient Experience Team for advice and support on how to manage the situation.

27. Supporting staff investigating complaints

Staff investigating complaints will be provided with support and guidance by the Patient Experience Team who can also provide support and guidance to contracted service providers when requested. Guidance and training on complaints management and investigation techniques should be provided to all staff on an individual or team basis, where appropriate. Lessons learned from complaints should be used in training for all staff.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 22 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

28. Complaints made by MPs on behalf of their constituents

Complaints, concerns or information requests from MPs are usually addressed to the Chief Executive and where this is the case, the Chief Executive will send an acknowledgment that the letter or email has been received and passed to the Patient Experience Team.

The Patient Experience Team will review the letter/email and determine the best route for addressing the issues raised. If the letter or email is a formal complaint, this will be dealt with in the line with the Trust's Complaints Procedure. Consent from the person concerned must be obtained if correspondence is to be copied to the MP. All responses to MPs are signed by the Chief Executive.

29. Multi-organisational complaints

There will be complaints about services provided by other NHS organisations, local authorities, GP practices, private providers, or ambulance services. Complainants should be able to complain to one organisation but have all aspects of their concerns addressed. The Patient Experience Teams from the different organisations will work in collaboration. In these cases the Patient Experience Team will acknowledge receipt of the complaint within three working days and seek consent to share the content of the complaint with the other organisations involved. The organisation with the most outstanding issue/s of complaint will usually take the lead and co-ordinate the final response, itemising each individual issue investigated by the respective organisations. The Patient Experience Team will contact the complainant and discuss their complaint with them and advise on the best way to handle their complaint.

30. Retention of records - Complaints recording and computer held records

It is important to keep clear and accurate records of complaints and these should be retained for a period of 10 years and at this point reviewed and destroyed if no longer needed. Please see the link below to the Records Management Code of Practice for Health and Social Care 2016: <https://digital.nhs.uk/article/1202/Records-Management-Code-of-Practice-for-Health-and-Social-Care-2016>

31. Complaints, Legal Action and Criminal Proceedings

Where a complainant states they are starting legal action against the Trust in relation to their complaint, the Patient Experience Department will notify the Trust's Legal Team, and information collated during an investigation of a complaint, may have to be disclosed when legal action is taken.

It should be noted that the updated Complaints Regulations 2009 no longer states that the complaint should be halted where legal action has started. It should also not necessarily

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 23 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

be assumed that a complaint made via a Solicitor means that the complainant has decided to take legal action. If consent has been received, a response should be made in the normal matter. An apology is not necessarily an admission of liability.

If the subject of the complaint has been referred to the police, the complaints procedure will be suspended pending the outcome of the police investigation and the complainant will be informed of the reasons for this delay. Once the outcome is known the complaint may continue if appropriate.

32. Disciplinary procedures

Complaints can be investigated even if disciplinary action is being considered or taken against a member of staff. However, the confidentiality of the member of staff concerned must be respected and the Data Protection Act must be adhered to.

33. Safeguarding

If there is Safeguarding information in the patient's medical records and it is crucial to the complaint, then the Safeguarding team would be contacted for their advice as to whether it can be released. The release of such information would also very much depend on who the information would be released to – especially if the complaint is being made on behalf of a patient who lacks capacity and the concerns are about the patient's representative. Where the Trust receives sensitive information (for example safeguarding information) in patient information from other Trusts/Organisations, additional consideration should be given as to whether this should be mentioned to the complainant. It may be appropriate to contact the originator of the information about the release.

If during the investigation of the complaint it becomes apparent that a safeguarding referral should have been made during the original period of care with the Trust, this referral should now be made by the individual who identified it, to the Safeguarding Team. Additionally if during the investigation of the complaint new issues come to light which may require a safeguarding referral, this should now be made by the individual who identified it, to the Safeguarding Team. This may involve care at home, in a care home or care delivered by a third party provider.

Safeguarding is a key element of complaints management. It may be necessary to identify if any of the following elements are evident in the complaint information:

- Safeguarding concerns to the person, to include their ability to manage with daily living.
- Safeguarding concerns regarding the adequacy of care and support being provide to the person.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 24 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

- Safeguarding concerns regarding the behaviour of a professional to a patient, service user or carer.
- Safeguarding concerns regarding the behaviour of the person/complainant to professional staff.

If any safeguarding issues are identified, guidance and support should be sought immediately from the Trust's safeguarding leads.

34. Diversity monitoring

The Trust is required to collect ethnicity information for monitoring and evaluating the service it provides. Provision of this information by complainants is optional and a questionnaire will be sent out with the acknowledgment letter for the patient to complete. This is to help the Trust identify any gaps in service delivery for all of the nine characteristics protected under the Equality Act so that the Trust can ensure that everyone has access to the services it provides and helps support our patients and community

35. Re-opening complaints

Once the individual has received the Trust's response to a complaint further or outstanding issues should be raised within a reasonable time – a guideline is twelve months from receipt of the response, though it very much depends on individual circumstances. In such cases, the complaint file is reopened and further investigation will take place to ensure that the Trust has addressed all of the issues raised and a further response is sent to the individual with the findings. In some cases a second opinion or clinical advice will be sought. The Trust will endeavour to resolve re-opened complaints through local resolution, however, once it is considered by the Trust this is completed the individual is advised of their right to refer their case to the PHSO.

When a complaint is assessed as; being complex, graded as high or very high risk or concerns a deceased patient, the Trust may offer a local resolution meeting to the complainant to allow a full and open discussion of the issues raised, in accordance with the recommendations of the Parliament and Health Service Ombudsman.

The chair of the meeting will be responsible for making a record of the meeting in a digital format and any follow-up correspondence. A copy of the recording will be provided to the complainant at a later date, along with a written response from the Chief Executive.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 25 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

36. Learning from Complaints

Lessons learnt are discussed at Divisional Governance Meetings and are cascaded to all frontline teams through the Divisional structure. Divisional Risk and Governance Newsletters support this process.

The Division will report key lessons learnt and actions taken as a consequence at the Patient Experience Monitoring Group for cross divisional learning and shared with the Trust Board.

Any lessons learnt from complaints which relate to patient safety will be escalated to the Patient Safety team by the Patient Experience Manager.

37. Parliamentary Health Service Ombudsman (PHSO)

If a complainant remains dissatisfied with the response gained at the Local Resolution stage they can ask the Parliamentary and Health Service Ombudsman (PHSO) to review the case. Usually a complaint should have already been made to the Trust involved before it is referred to the PHSO. The Patient Experience Coordinators will provide details of the role of the PHSO and other options for local resolution to complainants when issuing a response.

The Parliamentary and Health Service Ombudsman (PHSO) considers complaints made by or on behalf of people who have suffered injustice or hardship because of unsatisfactory treatment or service by the NHS or by private health providers who have provided NHS funded treatment to the individual. Referral to the Ombudsman is the second (and final stage) of the complaints procedure. However, all efforts should be made locally to resolve a complaint before the complainant is directed to the Ombudsman. An appeal should be made within one year of the incident in question or from the discovery of the effect of the incident. The Ombudsman can be contacted at the following address:

The Ombudsman
The Health Service Commissioners Office for England
Millbank Tower
Millbank
London
SW1P 4QP
Tel: 0345 015 4033
E-mail: phso.inquiries@ombudsman.org.uk
Website: www.ombudsman.org.uk

Following a PHSO investigation a report on the findings will be sent to the Trust. If the complaint is upheld recommendations will be made to the Trust which may include

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 26 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

changes in practice, service and financial redress. The Chief Executive will respond on behalf of the Trust to confirm the action the Trust will take as a result of the PHSO recommendations.

38. Remedy

The ‘Principles of Remedy’ published by the Parliamentary and Health Service Ombudsman describes six principles that represent best practice and are directly applicable to the NHS Complaints Procedure. Good Practice according to the document entails:

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

A downloadable version of the Principles for Remedy document is available on the Health Service Ombudsman Website at: <http://www.ombudsman.org.uk>

The Trust follows the guidance from the PHSO’s Principles of Remedy when reviewing each complaint for financial compensation, and uses their scale on how they calculate financial redress in each case.

If a complaint is upheld or partially upheld, the Trust will decide whether the maladministration or service failure has caused an injustice (Health Service Ombudsman’s Principles of Remedy). The Trust should, as far as is possible, put the individual back into the position they would have been in if the mal-administration or service failure had not occurred. If that is not possible, the Trust should compensate appropriately.

The Trust will consider suitable and proportionate financial and non-financial remedies for the complainant, and where appropriate, for others who have suffered the same injustice. An appropriate ‘remedy’ may be an apology, an explanation or remedial action. Financial compensation will not be appropriate in every case, but should be considered. Appropriate and proportionate financial remedy will be considered by the Divisional Chief Nurse (DCN) and Patient Experience Coordinator in the first instance.

On agreement with the DCN (budget holder for the service complained about), any financial remedy is then offered to the complainant, explaining the amount and why this has been offered and who to contact to accept the offer.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 27 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

The governance framework includes monitoring of decision-making processes and recording payments of financial remedy offered to complainants. This will be reported quarterly to the Patient Experience Monitoring Group.

This policy does not relate to clinical negligent claims for compensation which will be dealt with through the Legal Department in conjunction with NHS Resolutions.

39. Monitoring the complaints process

The complaints process will be audited, including surveying samples of users in order to continually review and improve the experience of people undergoing the complaints process. A questionnaire will be sent a month after the final response has been sent to the complainant to request feedback on the complaints process and outcome.

40. Unreasonably Persistent or Unreasonable Complainants

The Trust has adopted the guidance for dealing with persistent and/or unreasonable contact set out in NHS England's Complaints Policy (June 2017) and NHS Protect document 'unacceptable behaviours – Guidance.

This guidance covers all contacts, enquiries and complainants. It is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint within the Trust's Complaints Policy.

Persistent contact may be as a result of individuals having genuine issues and it is therefore important to ensure that this process is fair and the complainant's interests have been taken into consideration

Definition of persistent and/or unreasonable complainants

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

- Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted.
- Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff, and where appropriate, the relevant independent advocacy services could assist to help them specify their complaint.
- Continually make unreasonable or excessive demands in terms of process and fail to accept that these may be unreasonable e.g. insist on responses to complaints being provided more urgently than is reasonable or is recognised practice.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 28 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

- Continue to focus on a ‘trivial’ matter to an extent that it is out of proportion to its significance. It is recognised that defining ‘trivial’ is subjective and careful judgment must be applied and recorded.
- Change the substance of a complaint or seek to prolong contact by continually raising further issues in relation to the original complaint. Care must be taken not to discard new issues that are significantly different from the original issue. Each issue of concern may need to be addressed separately.
- Consume a disproportionate amount of time and resources, individual consideration would need to be given to this, depending on the complexity of the case being investigated.
- Threaten or use actual physical violence towards staff.
- Have harassed or been personally abusive or verbally aggressive on more than one occasion (this may include written abuse e.g. emails, telephone calls or face to face conversations).
- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual.
- Make excessive telephone calls or send excessive numbers of emails or letters to staff.

Actions prior to designating a person’s contact as persistent and/or unreasonable

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

- Ensuring the person’s case is being, or has been dealt with appropriately, and that reasonable actions will follow, or have followed, the final response.
- Confidence that the person has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent.
- Checking that new or significant concerns are not being raised, that requires consideration as a separate case.
- Applying criteria with care, fairness and due consideration for the complainants circumstances – bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss or significant/sudden changes to the complainant’s lifestyle, quality of life or life expectancy.
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour, and the impact upon staff.
- Ensuring that the complainant has been advised of the existence of the policy and has been warned about, and given a chance to amend their behaviour.

Consideration should also be given as to whether any further action can be taken prior to designating the person’s contact as unreasonable or persistent. This might include:

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 29 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

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

Ground rules may include:

- Time limits on telephone conversations and contacts.
- Restricting the number of calls that will be taken or agreeing a timetable for contacting the service.
- Requiring contact to be made with a named member of staff and agreeing when this should be.
- Requiring contact via a third party e.g. advocate.
- Limiting the complainant to one mode of contact.
- Informing the complainant of a reasonable timescale to respond to correspondence.
- Informing the complainant that future correspondence will be read and placed on file, but not acknowledged.
- Advising that the organisation does not deal with calls or correspondence that is abusive, threatening or contains allegations that lack substantive evidence.
- Request that the complainant provides an acceptable version of the correspondence or make contact with a third party to continue communication with the organisation.
- Ask the complainant to enter into an agreement about their conduct.
- Advise that irrelevant documentation will be returned in the first instance and (in extreme cases) in future may be destroyed.
- Adopting a 'zero tolerance' policy. This could include a standard communication line, for example: "The NHS operates a zero tolerance policy, and safety of staff is paramount at all times. Staff have a right to care for others without fear of being attacked either physically or verbally."

Process for managing persistent and/or unreasonable behaviour

Where a person's contact has been identified as persistent and/or unreasonable, the decision to declare them as such is made jointly by the CEO and the Executive Lead for Patient Experience.

The CEO will write to the complainant, outlining what behaviour is unacceptable and inform them what ground rules are being implemented to manage this behaviour. All

Volume 1 Organisational & Finance	Section 1 Organisational	First Rated February 2020	Next Review February 2023	Issue 1	Page 30 of 35
---	-----------------------------	------------------------------	------------------------------	---------	---------------

appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation.

If the declared complainant raises any new issues then they should be dealt with in the usual way.

Reference should also be made to the NHS Protect document 'unacceptable behaviours - Guidance on warning letters and other written communications', for suggestions on the structure and wording of warning letters that may be sent to vexatious complainants. Urgent or extreme cases of persistent and/or unreasonable behaviour

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

Consideration should be given as to whether the organisation should take further action, such as reporting the matter to the police or taking legal action.

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. A review of the status should take place at six monthly intervals and discretion should be used in recommending that this status be withdrawn.

41. Compliments

As well as receiving complaints, the Trust also receives compliments which highlight areas of good practice and acknowledge the hard work from our staff.

Staff who receive compliments should report these to the Patient Experience Team. They will then be formally recorded and acknowledged. The Patient Experience Team will ensure that staff and their line manager are made aware of any compliments received about them. Whilst there is no statutory duty to record compliments, the Trust values the positive feedback it receives about staff and services. Consequently, compliments will start to be reported to the Trust Board and Divisional Governance meetings.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 31 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

42. Training

The Patient Services Team will ensure provision of guidance and support for investigators, relevant managers and staff to enable them to carry out their duties and responsibilities relating to complaint and concern prevention and management. Awareness of the role of all staff in complaints management forms a part of the Trust's training programme and all staff are informed of their responsibilities through the Trust's Induction process.

Directorates can also request further support and the Patient Services Team will develop and deliver training and workshops to assist staff in dealing with a customer-focused approach. Training will be provided to Divisional Leads, Group Managers, Matrons, Senior Sisters, Clinical Directors and Consultants when requested.

43. Stakeholder Engagement and Communication

This policy has been shared with the Trust's Patient Panel for review and comment.

44. Approval and Ratification

Approval of this draft policy will be via the Patient Experience Monitoring Group. Formal approval will be by the Quality Care Committee. Ratification will be by the Trust Board.

This policy will be available on the Trust's Intranet and Internet sites.

Staff that work with, and provide support to the Patient Experience Team within the Trust will be reminded of this policy and its availability.

45. Review and Revision Arrangements

This policy will be reviewed by the author or Head of Patient Experience every 3 years, or before if new national guidelines/legislation change or other gaps that are identified before the review date.

46. Document Control and Archiving

This is a trust-wide document and archiving arrangements are managed by the Head of Regulation & Accreditation and Information Content Manager who can be contacted to request master/archived copies.

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 32 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

47. Monitoring compliance with this Policy

The Head of Patient Experience and Involvement will monitor compliance with this policy and it will be the responsibility of the Head of Patient Experience and Involvement to take remedial action as required if any gaps in compliance are identified.

Monthly, quarterly and annual reports will be provided to the Patient Experience Monitoring Group and to the Trust Board.

Measurable Policy Objective	Monitoring/ Audit method	Frequency of monitoring	Responsibility for performing the monitoring	Monitoring reported to which groups/ committees, inc responsibility for reviewing action plans
All policies will be reviewed by their authors at least annually to ensure that they remain valid and in date.	Compliance audit of sample of policies (including Review History)	Three years	Head of Patient Experience	Management Executive

48. Supporting References / Evidence Base

- The Local Authority Social Services and National Health Service Complaints (England) Regulations (2009)
- Department of Health (2009) Listening, responding, improving: a guide to better customer care
- Department of Health (2009) Implementation of the right to choice and the information set out in the NHS Constitution
- Parliamentary and Health Service Ombudsman (2009) Principles for Remedy
- Parliamentary and Health Service Ombudsman (2009) Principles of for Good Administration
- Parliamentary and Health Service Ombudsman (2009) Principles of Good Complaints Handling
- NHS Constitution
- Independent Inquiry into care provided by Mid Staffordshire NHS Foundation Trust January 2005 – March 2009 (2010)
- Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry – Executive Summary – “The Francis Report” (February 2013)

- A Review of the NHS Hospitals Complaints System: Putting Patients Back in the Picture. Clwyd and Hart (October 2013)

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 34 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------

APPENDIX 1: EQUALITY IMPACT ASSESSMENT

Equality Impact Assessment Summary

Name and title: Helen Collins, Head of Patient Experience and Involvement

Policy: Complaints, Concerns, PALS, Compliments and Remedy Policy

<p>Background</p> <ul style="list-style-type: none"> Who was involved in the Equality Impact Assessment
<p>Head of Patient Experience and Involvement</p>
<p>Methodology</p> <ul style="list-style-type: none"> A brief account of how the likely effects of the policy was assessed (to include race and ethnic origin, disability, gender, culture, religion or belief, sexual orientation, age) The data sources and any other information used The consultation that was carried out (who, why and how?)
<p>The policy is inclusive of all and makes specific references to enabling patients and relatives who may have specific needs to be accommodated e.g. the use of the Language Line or advocacy. The policy fully supports all potential users of the Patient Experience Processes and wherever possible seeks to address all potential adverse impacts for equality groups.</p>
<p>Key Findings</p> <ul style="list-style-type: none"> Describe the results of the assessment Identify if there is adverse or a potentially adverse impacts for any equalities groups
<p>There are potentially adverse impacts for those groups based on ethnic origin and social class - in terms of ease of use/accessibility. In response to this the policy aims to set out clear and robust guidance on how to mitigate this risk in order to ensure the process is open to and accessible to all potential users</p>
<p>Conclusion</p> <ul style="list-style-type: none"> Provide a summary of the overall conclusions
<p>Potentially adverse impacts on equality groups are addressed as far as possible by the current policy.</p>
<p>Recommendations</p> <ul style="list-style-type: none"> State recommended changes to the proposed policy as a result of the impact assessment Where it has not been possible to amend the policy, provide the detail of any actions that have been identified Describe the plans for reviewing the assessment
<p>Currently the ethnicity gender and age of all users is monitored if the data is available which has informed this impact assessment. It is recommended that this monitoring continues in order to inform future reviews of this policy. A new Equality monitoring form will be sent with each acknowledgement letter to ensure we are monitoring as many of the 9 characteristics to help identify any gaps in services or lack of access for any of our patients.</p>

Volume 1 Organisational & Finance	Section 1 Organisational	First Ratified February 2020	Next Review February 2023	Issue 1	Page 35 of 35
---	-----------------------------	---------------------------------	------------------------------	---------	---------------