

# Policy and Procedure for Listening and Responding to Concerns and Complaints

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## DOCUMENT TRACKING SHEET

### Policy and Procedure For the handling of Concerns and Complaints

Version	Status	Date	Issued to/ Approved by	Comments
3.0	Draft	23.04.12	Compliance Officer Complaints/PALS Team PPCI Manager Executive Director of Nursing & Governance TWPEG	Amendments required.
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4.3	Draft	28.02.14	PET Manager PPCI Manager	Amendments required
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6.0	Approved	11.07.17	Trust Wide Patient Experience Group	Authorised
6.1	Approved	February 2018	Policy Manager	Separated Equality Impact Assessment from document. Amended 'service line' to 'care group' throughout document.
6.2	Draft	November 2019	Trust Wide Patient Safety and Mortality Review Group	Updated policy
7.0	Final	January 2020	Trust Wide Patient and Carer Experience Group	Ratified

#### References

- **References – Legislation**
- The Data Protection Act 2018
- The General Data Protection Regulation 2016/679

- Freedom of Information Act 2000
- Access to information/Freedom of Information Publication Scheme – 2018.
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 SI 2009/309
- The Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2009 SI 2009/1768
- Department of Health. 'Complaints policy'. [DH website page](#). Available at: [www.dh.gov.uk](http://www.dh.gov.uk)
- [Section 22 of the Gender Recognition Act 2004](http://www.legislation.gov.uk/ukpga/2004/7/section/22). Available at <http://www.legislation.gov.uk/ukpga/2004/7/section/22>

## References

A number of Investigation and Review reports highlight the importance of effective handling of complaints and concerns:

- Shipman Enquiry. [Fifth report - Safeguarding patients: Lessons from the past - Proposals for the future](#). London: The Stationery Office.
- Independent Inquiry into the Care provided by Mid Staffordshire NHS Foundation Trust - January 2005 – March 2009
  - Volume 1; March 2010.
  - Report from Look Forward Seminars; 18 November 2011.
  - Healthcare Commission Report; March 2009

Available from <http://www.midstaffpublicinquiry.com/key-documents>

- [Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry](#)  
Robert Francis QC; 6 February 2013

The Department of Health website provides further information on complaints handling: [www.dh.gov.uk](http://www.dh.gov.uk).

The Local Government Ombudsman and Parliamentary and Health Service Ombudsman websites provides further information on complaints handling in the public sector: [www.dh.gov.uk](http://www.dh.gov.uk).

## Further Guidance available at

- [www.lgo.org.uk](http://www.lgo.org.uk)
- [www.lgo.org.uk](http://www.lgo.org.uk)
- [www.ombudsman.org.uk](http://www.ombudsman.org.uk)
- [www.npsa.nhs.uk](http://www.npsa.nhs.uk).
- [www.cqc.org.uk](http://www.cqc.org.uk)
- [www.nao.org.uk](http://www.nao.org.uk)
- [www.nhs.uk](http://www.nhs.uk)

<b>Related Policies/Procedures/Protocols/Forms/Leaflets</b>	
Code of Conduct	KMPT.HR.020
Safeguarding Adults Policy	KMPT.CiG.006
Safeguarding & Protecting Children & Young People Policy	KMPT.CiG.030
Stress Management Policy	KMPT.HR.017
Accessible Information Policy	KMPT.CorG.124
Corporate Communications Strategy	KMPT.CorG.040
Disciplinary Policy	KMPT.HR.007
Grievance Policy	KMPT.HR.008
Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy and Procedure	KMPT.HR.002
Promoting safe services policy	KMPT.CorG.013
Losses, Compensation and Remedy Policy	KMPT.FiN.019
Claims Management Policy and Process	KMPT.CorG.014
Duty of Candour Being Open Policy	KMPT.CorG.018
Staff Support Policy	KMPT.HR.044
Health & Social Care Records Management Policy	KMPT.CiG.071

### **SUMMARY OF CHANGES**

<b>Date</b>	<b>Author</b>	<b>Page</b>	<b>Changes (brief summary)</b>
November 2019	Serious Incidents and Complaints Lead/PALS and Complaints Manager		<p>Significant review to include internal restructures and national recommendations on the NHS &amp; Social Care Complaints Procedure, to ensure that:</p> <ul style="list-style-type: none"> <li>▪ The document still complies with best practice and National policies</li> <li>▪ Consistency with the new PALS and Complaints Team Structure.</li> <li>▪ Consistency with the Trust's Investigation Policy</li> <li>▪ Consistency with the updated reporting structure</li> <li>▪ Updated complaints flow chart</li> <li>▪ Updated and reviewed outdated appendices</li> </ul>

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## 1 INTRODUCTION

- 1.1 This policy sets out a framework for the management of complaints within the Kent and Medway NHS and Social Care Partnership Trust (the Trust) in line with best practice and the expectations of the Department of Health Guidance the Care Quality Commission (CQC) meeting the commitment to complaint handling outlined within the NHS Constitution 2010 and fulfilling the current provisions of the Local Authority Social Services and National Health Services Complaints (England) Regulations 2009 (Statutory Instrument 2009 No. 309).
- 1.2 It ensures compliance with the Care Quality Commission's (CQC) Essential Standards of Quality and Safety.
- 1.3 **PALS and Complaints Team** - Since December 2017 Complaints have been managed within KMPT by the PALS and Complaints Team who also have responsibility for PALS and for monitoring compliments within the Trust.
- 1.4 All staffs are required to be familiar with this policy and must understand and adhere to the policy's underlying principles, and follow the specified procedures.
- 1.5 **Key Objectives:** As outlined in the Parliamentary and Health Service Ombudsman's (PHSO) 'Principles of Good Complaint Handling' the Trust is committed to:
  - 1.5.1 Getting it right
  - 1.5.2 Being customer focussed
  - 1.5.3 Being open and accountable (Duty of Candour)
  - 1.5.4 Acting fairly and proportionately
  - 1.5.5 Putting things right
  - 1.5.6 Seeking continuous improvement
- 1.6 **The Trust will:**
  - 1.6.1 Ensure that this procedure is accessible and well publicised to service users, carers, staff and complainants.
  - 1.6.2 Be fair to service users, carers, complainants and staff whilst dealing with concerns or complaints.
  - 1.6.3 In consultation with the complainant, adopt a reasonable and proportionate approach, whilst responding in a timely, conciliatory, open, transparent and sensitive manner that addresses the issues raised.
  - 1.6.4 Ensure effective working relationships with other agencies involved with the same complaint.
  - 1.6.5 Maintain a balance between treating staff fairly and maintaining proper accountability for their actions; fostering a learning culture across the Trust and not a culture of blaming staff.
  - 1.6.6 Be supportive to those who may find it difficult to raise a concern or complaint, or to any staff member who might be complained against or involved in a complaint.
  - 1.6.7 Ensure that complaints are fully and fairly investigated in a reasonable and proportionate manner, with an evidence based approach to any decision making as a result of that investigation.
  - 1.6.8 Take all reasonable steps to satisfactorily resolve complaints and avoid protracted correspondence.

1.6.9 Avoid unnecessary litigation.

1.6.10 Ensure that the Trust's Concerns and Complaints Procedure emphasises the importance of learning and service improvement as a result of concerns, complaints or feedback shared with the Trust.

1.6.11 Ensure that service users and carers are able to complain without fear of being discriminated against.

## 2 SCOPE

2.1 This policy applies to all staff within the Trust and wherever the Trust carries responsibility for the staff it employs, including seconded, agency, bank and contracted staff. All staff have a responsibility to familiarise themselves with this procedure.

2.2 **What may be complained about:** The NHS Complaints Regulations 2009 states that 'a complaint may be about any matter reasonably connected with the provision of health care or any other services'. This procedure allows people to express concern about the services they receive from the Trust in accordance with that principle.

### 2.3 Who may complain

2.3.1 Existing or former service users using the Trust's services and facilities.

2.3.2 A representative can complain on behalf of a service user with the written consent of the service user. If the complainant is not the service user, the consent of the service user should be sought. Where it is felt that a service user does not have capacity to provide informed consent, advice should be sought and a decision made whether or not it is appropriate to respond to the complaint. (A representative can include a relative/friend, the Independent Complaints Advocacy Service, the service user's advocate, their MP, etc).

2.3.3 Carers and relatives in respect of their own contact with the service. If a complaint from a carer or relative relates to the care of service user, care must be taken not to disclose personal health information without the express consent of the service user (if they have the capacity to provide informed consent). Carers can complain about their own treatment but any response cannot disclose patient identifiable information.

2.3.4 Visitors or other users of Trust facilities.

2.3.5 People who are affected by or likely to be affected by a decision of the Trust or any action or omission of the Trust.

### 2.4 Complaints about the provision of mental health services

2.4.1 A complaint can be made directly to the Clinical Commissioning Groups (CCG) or NHS England about the services provided by this Trust that they commission. The CCG/NHS England will seek the complainant's consent to share the complaint with the Trust.

2.4.2 Generally, the Trust will be responsible for local resolution of the complaint. If however, the CCG/NHS England considers that it is appropriate for the CCG/NHS England to deal with the complaint they must notify the complainant and continue to handle the complaint in line with the regulations. Any such complaint to a CCG/NHS England that is shared with the Trust should be recorded as a reportable complaint to the Trust.

2.4.3 Where local consideration of a complaint identifies possible commissioning shortfalls, it will be shared with the CCG/NHS England via the Kent and Medway

Commissioning Support Service for consideration and response, with the complainant's agreement.

**2.5 Timeframes** - A person can make a complaint within a year of the event occurring, although there that timeframe can be waived if there is good reason for not raising the complaint sooner and if a reasonable investigation can be undertaken. The Trust has agreed benchmark response times for responding to complaints, however, this is dependent on the complexity of the situation and level of investigation required; and should be in agreement with the complainant.

## **2.6 What is exempt from the Complaints Procedure?**

2.6.1 The Trust will respond to all complaints through the appropriate process. However, Regulation 8 within the NHS Complaints Regulations states that the following complaints are not required to be dealt with in accordance with these Regulations:

- a) A complaint by a responsible body;
- b) A Complaint by an employee of a local authority or NHS body about any matter relating to that employment;
- c) A complaint which is made orally; and is resolved to the Complainant's satisfaction no later than the next working day after the day on which the complaint was made;
- d) A complaint that has previously been made and resolved in accordance with 2.6.1 c above;
- e) A complaint that has previously been investigated under these Regulations or any previous Complaint Regulations;
- f) A complaint which is being or has been investigated by a Local Commissioner or the Health Service Commissioner;
- g) A complaint arising out of an NHS body's alleged failure to comply with a data subject request under the GDPR 2019, Data Protection Act 2018 or a request for information under the Freedom of Information Act 2000. Such issues will be logged by the PALS and Complaints and then passed to the Caldicott office for investigation;
- h) A complaint which relates to any scheme established under Section 10 (superannuation of persons engaged in health services, etc) or Section 24 (compensation for loss of office, etc (of the Superannuation Act 1972 (c) or to the administration of those schemes.'

## **2.7 The Trust cannot:**

2.7.1 Deal with complaints about privately funded treatment.

2.7.2 Deal with complaints about other providers where KMPT have no role in the complaint.

2.7.3 Deal with staff grievances, which should be raised through the Trust's Staff Grievance Procedure.

2.7.4 Deal with concerns by staff that should be raised through the Trust's Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy and Procedure

2.7.5 Deal with staff bullying and harassment which should be raised through the Trust's Dignity at work (bullying and harassment) policy.



## **2.8 Who to complain to:**

- 2.8.1 Any Trust staff member, who should attempt to resolve the complaint wherever possible. The complainant should be informed of the complaints process and a complaint leaflet provided.
- 2.8.2 Staff who feel unable to respond appropriately to a complaint should forward it to their line manager or the PALS and Complaints team, who will ensure that it is properly dealt with.
- 2.8.3 The Trust has a designated PALS and Complaints team, who may be contacted directly by staff, managers or Complainants if they do not wish to raise concerns locally.
- 2.8.4 The Chief Executive.

## **2.9 Complaints to the Care Quality Commission (CQC)**

- 2.9.1 Patients who are detained under the Mental Health Act may also raise their complaint during a CQC Mental Health Act visit. The CQC can help with complaints about health services received if a patient:
  - a) Has been detained
  - b) Is subject to guardianship; or
  - c) Is on a Supervised Community Treatment Order
- 2.9.2 These complaints are then raised with the ward manager at the time of the visit and included in the formal report.

## **2.10 Process for Joint Handling of Complaints**

- 2.10.1 Complaints involving more than one NHS Organisation or Local Authority
  - a) Organisations have a duty to co-operate with each other in order that the complainant is not required to pursue matters with more than one organisation if the complainant is in agreement with this approach.
  - b) When the initial triage of the complaint indicates involvement by other agencies, the PALS and Complaints Team will seek consent from the complainant and/or the patient to share the complaint with any other agency with the aim of providing a joint response.
  - c) Agreement will be reached between agencies as to the lead agency and correspondence will be shared as appropriate.
- 2.10.2 Kent and Medway Complaint Management Network - The Trust has representation on the Kent and Medway Complaint Management Network, which supports learning and joint working in respect of concern and complaint handling. The Network has agreed a Joint Working Protocol which can be seen in Appendix J. This protocol should be applied wherever possible if complaints also relate to agencies outside of the Kent and Medway area.
- 2.10.3 Complaints made to the Trust relating to a Local Authority or another NHS Organisation - The Trust should seek the Complainant's consent to share the complaint within 5 working days of receipt of the complaint, which should then be sent to the other agency for action.
- 2.10.4 Social Care staff working within Adult Mental Health Services - Complaints about services provided by social care staff working within the Adult Mental Health Service will be Will be passed to KCC to be addressed in line with their own complaints policy.

2.10.5 Complaints about Approved Mental Health Practitioners – where these staff are employed within the Trust these should be investigated within the Trust in the first instance. With the Complainant's agreement the Local Authority should be informed about the complaint and the outcome. The Trust would utilise specialist knowledge and support from KCC as required.

2.10.6 Older Adult Mental Health Services - All complaints received in respect of Older Adult Mental Health Social Care Services should be referred to KCC Adult Social Care Complaints Team or Medway Council's Customer Services Department, for direct response. If a joint complaint is received about Health and Social Care for Older Adult Mental Health Services, the Trust would endeavour to work jointly with KCC or Medway Council to respond to the complaint (see joint working in Section 2.11 below).

2.10.7 Private Providers – The Trust is unable to investigate and respond to complaints relating to another provider. As with complaints relating to other NHS organisations, the Complainant can contact the provider directly or with the patient's consent the Trust will offer to share the complaint with the provider who can either respond directly or where appropriate, contribute to a joint response with the Trust. Again, with the patient's consent the Trust can share the complaint with the Commissioner of the service.

## 2.11 **Complaints relating to Abuse**

Any allegation of serious misconduct or criminal offence will be a Reportable complaint with the Complainant's agreement. If that person does not agree to making a complaint the incident must still immediately be reported as an incident which will be investigated in accordance with the Trust's Guidelines for the Reporting and Investigation of Serious Incidents (SI). Such allegations include:

2.11.1 Physical/Psychological abuse

2.11.2 Sexual abuse

2.11.3 Financial misconduct

## 2.12 **Coroner's Cases**

The reporting of a death to the Coroner's office does not mean that investigation into a complaint should be suspended, although agreement from Legal services should be sought to ensure that the complaint does not jeopardise the Coroner's process. It is important to initiate proper investigations regardless of the Coroner's inquiries, and where necessary to extend these investigations at the Coroner's request. Where a complaint relates to the cause of death the Trust will only formally respond in writing after the Coroner has delivered its verdict. The PALS and Complaints team will share and liaise with Legal Services and the Head of Patient Safety regarding any complaint that is also subject to an Inquest or Serious Incident.

## 2.13 **Police/Crown Prosecution Service (CPS)**

It is imperative that the Trust's handling of a complaint does not prejudice any Police/CPS investigation. The complaints process may be suspended pending legal advice and clearance from the appropriate authority to proceed with the complaint.

## 2.14 **Safeguarding (Child or Adult Protection)**

If an allegation of abuse of any kind is made regarding a member of KMPT staff then a discussion with KMPTs safeguarding team should be held to decide if a safeguarding alert should be raised by the relevant service. When a safeguarding alert has been raised with regard to a complaint then one investigation should be conducted to address both the complaint and the safeguarding alert, which should be conducted in cooperation with the

local authority safeguarding coordinator. As necessary the PALS and Complaints team, will liaise with the Trust's leads on Adult Protection or Child Protection to agree the way forward.

## **2.15 Legal Action and Complaints**

2.15.1 When a complainant's initial communication is via a solicitor's letter, it should not necessarily be assumed that formal legal action is being taken. It may not be clear whether the complainant simply wants an explanation and an apology, with assurance that any failures in service will be rectified in the future, or whether information is being sought with litigation in mind. A hostile or defensive reaction to the complaint is more likely to encourage the complainant to pursue matters through the courts. In all cases a full explanation should be given and acknowledgement made of the complainant's distress; this does not necessarily constitute an admission of liability. However consultation with the Trust's Legal Services Department must be held before any such response is given.

2.15.2 If a complaint reveals evidence of negligence or the likelihood of legal action, the person dealing with the complaint must notify the relevant PALS and Complaints team, member and/or the Legal Services Department immediately.

2.15.3 Where there is any indication of possible litigation, the PALS and Complaints team, would always liaise with the Legal Services Department prior to the response being sent to the complainant.

2.15.4 The complainant can take legal action at any time throughout the complaints process. Where that is the case, the PALS and Complaints team will liaise with the Legal Services Department to determine whether progressing the complaint might prejudice subsequent legal action. The PALS and Complaints team will continue to resolve the complaint unless there are clear legal reasons not to do so.

## **2.16 Relationships with other Trust Policies**

### **2.16.1 Serious Incidents**

- a) Any complaint that is related to a Serious Incident will be investigated by the Complaints and Serious Incidents facilitator who will work closely with Legal Services and the Head of Patient Safety.
- b) Where a complaint is also subject to a Serious Incidents, agreement should be reached regarding the way forward.
- c) Where appropriate only one investigation should be undertaken if a RCA is being undertaken into the Serious Incident and a complaint investigation is required.
- d) The PALS and Complaints team will seek the complainant's agreement regarding the way forward and the timeframe, as investigations into complex cases tend to require longer timeframes.
- e) A meeting should be offered and the complainant should be invited to be part of the process and will be kept informed of progress.
- f) A formal response should then be shared with the complainant, together with the findings, recommendations and any proposed actions to be taken.
- g) Usually a meeting will be offered to discuss the outcome.

### **2.16.2 Disciplinary Procedures**

- a) The Complaints Procedure will only be concerned with resolving complaints and not with the investigation of Disciplinary, Competency or Counter Fraud Investigation,

which are managed separately. Where there is evidence of a disciplinary or competency case to consider, this must be pursued under the Trust's Disciplinary and Competency Procedures. The aim of these procedures is to ensure consistent and fair treatment for all staff, and a just outcome.

- b) If a Disciplinary investigation is felt to be necessary, the complaints investigation is suspended pending the outcome of the Disciplinary process. Any unrelated matters raised in the complaint should continue to be investigated under the Complaints Procedure. The Trust must inform the complainant that a Disciplinary inquiry is under way, particularly if the complainant is likely to be asked to take part in this process. Complaints documentation may be used within the disciplinary investigation.
- c) The complainant should be kept informed of progress so that it is understood what happened, why it happened, and what action has been taken to ensure that it does not happen again. Such information can sometimes contain sensitive information regarding a staff member, and care should be taken to ensure that staff confidentiality is not breached by responding to the complaint. Any such response should always be shared with the Workforce Directorate for agreement, prior to being sent to the complainant.
- d) Where there are a number of complaints about the same staff member the PALS and Complaints team will inform the appropriate Head of Service or equivalent to allow any necessary action to take place.

**2.16.3 Complaints about FOI request handling** – The PALS and Complaints team receives, logs and signposts to Information Access / Governance Department.

#### **2.16.4 Duty of Candour**

- a) New rules to toughen transparency in NHS organisations to increase patient confidence within the delivery of care have resulted in the Government creating Statutory Regulations relating to Duty of Candour. Candour means being open and honest.
- b) Patients, or someone lawfully acting on their behalf, should as a matter of course be properly informed about all of the elements of their treatment and care and this should involve any incidents that result in harm. This means that as soon as practicable following an incident or as soon as there is awareness that a notifiable incident has occurred the health professional or Trust must:
  - c) Notify the patient within 10 working days of the incident complaint being known (or someone lawfully acting on their behalf) that the incident has occurred.
  - d) Provide the patient with all the information available directly relating to the incident. Some investigations will take longer than 10 days, particularly incidents which occur with community patients. Provide reasonable support following the incident, in cases of a serious incident or complaint the Service Manager / Locality Manager or nominated individual will act as a family liaison officer.
  - e) For further information on the Duty of Candour and the Trust process for ensuring full compliance please refer to the Duty of Candour – Being Open Policy.

**2.16.5 Losses and Compensation** – Requests for compensation for lost or damaged belongings should be considered under the Trust's Losses and Compensation Procedure in the first instance, although any related complaint should be processed through the complaints procedure. The individual may complain about a decision

relating to the Losses and Compensation Procedure should they remain unhappy with outcome.

**2.16.6 Complaints received outside normal working hours** - Some complaints may be received outside normal office working hours. Every attempt should be made to resolve the complaint locally in the first instance. Where that is not possible between the hours of 5.00pm-9.00am advice on complaints can be referred to the on-call managers/directors via the on-call system. The local senior practitioner / On-call Manager should explain the complaints process to the complainant and ensure that a complaint leaflet is provided. The 'Record of Locally Resolved Complaint/PALS Concern' Form should be completed for verbal complaints. If the complaint cannot be resolved at the time, the complainant should be asked to put their complaint in writing, wherever possible. Advice about Advocacy providers should be provided. The complaint should be referred to the relevant PALS and Complaints team /Service Manager/Locality Manager/Director at the earliest opportunity during normal working hours. The complaint will be processed according to the procedure.

**2.16.7 Non-Statutory Complaints** – Complaints that do not meet the criteria for the NHS Complaints Procedure might be processed within the Trust's Non-Statutory Complaints Process

## **2.17 Complaints to Professional and Regulatory Bodies**

2.17.1 In some instances, it might be necessary to refer the actions of a staff member to a professional organisation, such as the General Medical Council (GMC) or the Nursing and Midwifery Council [NMC]. This decision and referral should be made by the appropriate Executive Director, in conjunction with Personnel.

2.17.2 2.16.2 Any complaint received by the Trust via a professional organisation should be passed immediately to the PALS and Complaints team, who will coordinate any appropriate investigation and response.

**2.18 MP Correspondence** – This is generally a request for information or seeking assistance for their constituent. However, MPs can and do act as a patient's representative when making a complaint. The Trust will co-operate with such requests/complaints in compliance with this procedure and the Data Protection Act 2018. Where an MP acts on behalf of a constituent who has sought their assistance, this shall be regarded as a form of consent. Consent should be sought from the Service User if they have not personally asked the MP to act as their representative. In some cases a general response can be provided about Trust service. Careful judgement will be exercised by the Trust to ensure that the information disclosed meets the test of necessity and appropriateness.

**2.19 Staff Complaints** – Staff who have complaints about other staff or Service Users and/or relatives should take forward their concerns via line management and/or the Human Resources Department and using the Trust's policies/procedures for:

- Grievance
- Dignity at Work (Bullying and Harassment)
- Freedom to speak up: Raising concerns (Whistle Blowing)

### **3 DUTIES**

#### **3.1 Front line staff/ managers**

- 3.1.1 To listen to the concerns/issues being raised and respond accordingly.
- 3.1.2 To resolve concerns where possible, ensuring that lessons are learnt.
- 3.1.3 To report Level 1 Complaints [see 5.4] (resolved or progressing to a Reportable Complaint) to the PALS and Complaints team and their line manager as appropriate.
- 3.1.4 To acknowledge receipt of a complaint and to refer it to their line manager, Head of Service and the PALS and Complaints team manager.
- 3.1.5 To share the complaint response with any staff involved and provide a more formal debrief for more complex cases if required.

#### **3.2 Trust Board**

- 3.2.1 Is ultimately responsible for the Trust's response times to complaints and ensuring that the complaints process is fit for purpose and complaints are handled effectively, fairly and in a timely way.
- 3.2.2 Receives monthly reports - IQPR
- 3.2.3 Receives bi-monthly complaint reports summarising the complaints, outcomes and highlighting themes and trends.

#### **3.3 Trust-Wide Patient Experience and Carers Group**

- 3.3.1 Responsible for monitoring and providing an overview of the Trust's complaints handling. Terms of Reference and membership can be seen in Appendix F.
- 3.3.2 Receives Bimonthly PALS and Complaints team reports to monitor Complaints, PALS and Compliments and identify good practice. This report includes the number of complaints received, response times, issues, themes and trends, together with any learning and actions identified as a result of a complaint.
- 3.3.3 Monitors the Trust's complaints handling in respect of any concerns raised about possible discrimination when somebody raises a concern or complaint.
- 3.3.4 Approves the Complaints Annual Report.

#### **3.4 Chief Executive**

- 3.4.1 Has ultimate responsibility for formally responding to all Reportable Complaints that have not been
- 3.4.2 Resolved locally, in accordance with the National NHS Complaints Procedure

#### **3.5 Executive Director of Nursing and Quality**

- 3.5.1 **The Director of Nursing and Quality is the Executive Lead for Complaints**
- 3.5.2 Responsible for ensuring that complaint handling is in accordance with National Policy and Guidance
- 3.5.3 Advice on nursing issues as appropriate.

#### **3.6 Head of Patient Safety**

- 3.6.1 Provides the quality report to the Quality Committee

- 3.6.2 Provides monthly Quality Performance Indicators to the Board and CCGs
- 3.7 **SI and Complaints Lead** – Management responsibility for the functions undertaken by the PALS and Complaints team and acts as Strategic Complaint Lead for the Trust.
- 3.8 **PALS and Complaints Manager**
- 3.8.1 To act as the Trust's designated Complaints Manager with operational responsibility for complaint handling.
  - 3.8.2 Manages the PALS and Complaints Team.
  - 3.8.3 Provides data and reports to Trust-wide Patient and Carers Experience Group (TWPCEG), quality committee and the Board, identifying organisational learning from themes from complaints and PALS
  - 3.8.4 Provides quarterly complaint figures for the annual Quality Account.
- 3.9 **Complaints and SI Facilitator**
- 3.9.1 Is a shared post with Patient Safety and is responsible for investigating all level 4 complaints including those related to an SI investigation
  - 3.9.2 Undertakes independent reviews of reopened complaints as required
  - 3.9.3 Offers clinical advice and support to the PALS and Complaints team
- 3.10 **PALS and Complaints Team**
- 3.10.1 Coordinates complaint handling, identifying the appropriate level of complaint and response options in discussion with the Complainant.
  - 3.10.2 Produces the investigation form and either drafts the response based on information provided in the Investigating Report or ensures that the Draft Response addresses all issues as appropriate.
  - 3.10.3 Liaising with senior management as required to ascertain the need for independent investigation, including Root Cause Analysis, Risk Assessment, Serious Incidents, Safeguarding Vulnerable Children/Adults, Litigation, Disciplinary, etc.
  - 3.10.4 Liaises with other agencies to ensure effective handling of complaints
  - 3.10.5 Ensures that requests for information from the PHSO's office are managed appropriately.
  - 3.10.6 Provides reports as required within the Trusts governance structure, identifying trends in complaints together with any learning and actions identified as a result of a complaint.
  - 3.10.7 Monitors action taken as a result of the complaint investigation.
  - 3.10.8 Responsible for ensuring that all cases received are entered onto the Risk Management Database (Datix), storing all complaints correspondence in the relevant electronic folder and any original documentation received by the Trust in the paper case file.
  - 3.10.9 Ensures that notices and leaflets about complaints are available, up to date and accessible on all sites.
  - 3.10.10 Provides training to managers and staff in the Complaints Procedure.
  - 3.10.11 Produces a Complaints Annual Report
  - 3.10.12 Provides the annual return to the Department of Health.

3.10.13 Provide PALS services and engagement support to the Trust alongside the responsibilities listed here

### **3.11 On-Call Manager**

3.11.1 Aware of the complaint process.

3.11.2 Available to deal with a complaint if the local staff/manager refers to a more senior manager outside of normal working hours.

3.11.3 Attempt to resolve the complaint wherever possible.

3.11.4 Report the complaint appropriately as soon as possible the following working day.

### **3.12 Clinical Leads/Heads of Service**

3.12.1 To liaise and investigate or provide advice to the Investigating Manager in respect of clinical complaints.

3.12.2 To allocate or assist with the allocation of complaints to appropriate clinical personnel for investigation.

3.12.3 To approve the draft response in respect of clinical complaints.

3.12.4 Assist any outcomes/actions identified regarding clinical complaints.

### **3.13 Heads of Service/Designated Manager**

3.13.1 To manage the performance of investigators within their Service Line to ensure that response times are met.

3.13.2 To ensure that thorough, fair, impartial, evidence based investigations are undertaken and that responses are to a high standard.

3.13.3 To oversee and approve the handling of the complaint, include local response times and actions/learning.

3.13.4 To confirm extensions to the timeframe where agreed with the complainant and/or with good reason.

3.13.5 To nominate Investigating Managers ensuring impartiality is maintained and medical/professional input, as appropriate.

3.13.6 To act as a senior contact point for complex cases, ensuring that a 'wise person' approach is taken for decision making, ongoing communication and management of the case review complaints,

3.13.7 Ensure that lessons are learned and appropriate action taken to prevent reoccurrence.

3.13.8 To ensure support for staff involved in a complaint.

### **3.14 Investigators**

3.14.1 An Investigator will be appointed to investigate all Reportable Complaints made to the Trust that require a formal response.

3.14.2 The Investigator may be a clinician, local/senior manager responsible for the service, or a manager from another part of the Trust, or a medical/professional person, as appropriate to the complaint.

3.14.3 Relevant investigators should be trained in undertaking complaint investigations.

3.14.4 To investigate the complaint in accordance with the Trust Policies.



- 3.14.5 To share the complaint letter with staff named in the complaint (if not already done).
- 3.14.6 To advise the PALS and Complaints team /Line Manager of any legitimate reason for any delay with a revised timeframe.
- 3.14.7 To complete the Investigation report for all reportable complaints requiring a formal response, which will include an action plan/lessons learnt section. This will be shared with the PALS and Complaints team. For more complex cases it will be considered if it is helpful to share the investigation report with the complainant with a covering letter from the Chief Executive.
- 3.14.8 To ensure that a joint SI/Complaint investigation is undertaken where a complaint is also subject to a Serious Incident. If the Serious Incident has already been investigated, full consideration must be given to the findings of that investigation to ensure consistency.
- 3.14.9 To produce or approve the draft or local response and any supporting documentation.
- 3.14.10 To attend meetings with Complainants, as required.
- 3.14.11 To update staff on the progress of the complaint.
- 3.14.12 To share the response with relevant staff and 'debrief' on outcomes.
- 3.14.13 To liaise and provide advice on complaints, as required.
- 3.14.14 To identify outcomes and ensure that actions are taken/reported upon.

### 3.15 **Internal sources of advice and support**

- 3.15.1 **Head of Legal Services** – For advice on all complaints with a potential for litigation or where there is an inquest.
- 3.15.2 **Communications Department** – For advice/action on media handling for all complaints with a potential for media implications.
- 3.15.3 **Medical Director** – Provides advice on medical complaints following the actions of the clinical directors, depending on the complexity of the complaint.

## 4 **HANDLING THE COMPLAINT**

### 4.1 **Complaint documentation**

- 4.1.1 Complaints files should be maintained in accordance with the Trust's Record Keeping Policy and the Complaints Policy.
- 4.1.2 All contacts with complainants will be documented in a formal manner, which may be needed to be shared and subject to audit.
- 4.1.3 All complaint records, including investigation reports, will be shared with complainants upon request subject to patient confidentiality considerations.
- 4.1.4 Complaints records should be kept separate from health records, subject to the need to record any information which is strictly relevant to their health in the patient's health records. Therefore, correspondence relating to complaints **MUST NOT** be filed in the patient's notes.
- 4.1.5 All complaints documentation should be returned to the PALS and Complaints team Office once Local Resolution has been concluded.
- 4.1.6 The PALS and Complaints team will keep all complaints documentation in an electronic folder and on Datix,
- 4.1.7 Complaints files should be retained by the Trust for 10 years.

## 4.2 Patient Confidentiality

- 4.2.1 Care must be taken throughout the Complaints Procedure to act in accordance with the NHS Complaints Regulations and Guidance, together with the Trust's Code of Conduct, the Data Protection Act 2018 and the Access to Health Records Act 1990.
- 4.2.2 The Service User's express consent is not required to access information about him/her for the purpose of investigating a complaint raised by the Service User. However, it is good practice to explain to the Service User that information from his/her health records may need to be disclosed to investigate the complaint.
- 4.2.3 Investigation of a complaint does not remove the need to respect a patient's confidentiality and everyone working within the Trust has a legal duty to keep records confidential. If the complaint is from a representative, family member or carer about the care or treatment of a Service User, written consent is required to respond to the complaint if the Service User is able to consent.
- 4.2.4 Where the PALS and Complaints team of the opinion that a representative does not have a sufficient interest in the person's welfare or is unsuitable to act as a representative, they may refuse to deal with the Complainant. The PALS and Complaints team must notify that person in writing, stating the reasons for the decision.
- 4.2.5 Complaints from transsexual people – Complaints from transsexual people should be responded to in the same way as any other complainant and so any complaint from a transsexual person must be handled in the following way described in the footnote below.<sup>1</sup>

4.3 **Third Party Confidentiality** - Particular care must be taken where the Service User's records contain information provided in confidence by or about a third party who is not a Trust employee. Only information which is relevant to the complaint should be considered for disclosure and then only to those within the NHS who have a demonstrable need to know. It must not be disclosed to the Service User unless the person providing the information has expressly consented to the disclosure. Disclosure of information provided by a third party outside the Trust also requires the express consent of the third party. If the third party objects then it can only be disclosed when there is an overriding public interest in doing so.

## 4.4 Consent to Disclose Confidential Information

- 4.4.1 Where a complaint is being made by a representative it must first be established that the representative is acting with consent, in accordance with the NHS Complaints Regulations 2009, the Data Protection Act 2018 and the common law of Confidentiality. It should also be noted that sometimes there are issues within a family, and consent should be sought via the Complainant or they should be asked if

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<sup>1</sup> If the Complainant advises s/he has already had, or is currently, undergoing transition and is applying for a full Gender Recognition Certificate [GRC], it is responsibility of the recipient to either redact the Personal Identifiable element, and then request the PET member or a clinician to answer the complaint, or if this is not possible, to redact the information that the Complainant is undergoing or has undergone transition and that they have been granted or applied for a GRC before forwarding the complaint to be investigated. In both instances this means the original correspondence should only be handled by the recipient of the letter, and s/he should personally copy the correspondence, redact the information on the copy, and then recopy the correspondence to be forwarded as appropriate. Alternatively, this information could be shared with a specifically named person with the written consent of the individual concerned. This is a legal requirement, and breaches will be dealt with in conjunction with the Caldicott office and may lead to a Police investigation, legal charges being made and a possible fine to the Trust.

they agree to consent being sought. Consent should be acknowledged with the complainant and the service user.

- 4.4.2 Whilst the Trust would take all reasonable steps to commence the investigation, the complaint response timeframe would not commence until consent had been received, or clarity surrounding capacity has been provided.
- 4.4.3 The question of whether a Complainant is suitable to represent a Service User who is unable to give consent depends in particular on the need to respect the confidentiality of the Service User. Consideration also needs to be given to any known wishes expressed by the Service User regarding their care or that information should not be disclosed to third parties. If such agreement is not received, the Trust may consider providing a generic response to a complaint, which **MUST NOT** refer to personal patient information that the patient's representative is not already aware of.
- 4.4.4 Where necessary the PALS and Complaints team will liaise with the Information Rights Department regarding the sharing of personal information.
- 4.4.5 Where appropriate, the PALS and Complaints team should seek an impartial opinion regarding the patient's capacity to consent. This opinion should be sought from an appropriate person who is not named in the complaint.

#### **4.5 Raising Concerns where a Patient has died**

- 4.5.1 A representative of an individual who has died may wish to make a complaint about the healthcare or treatment received by the individual. In order to respond fully, the Trust may be required to share confidential information about the individual's healthcare and treatment.
- 4.5.2 The PALS and Complaints team will consider concerns raised on an individual basis and provide at the very least a general response.
- 4.5.3 In order to provide a full response the PALS and Complaints team will be required to ascertain is related to or holds an interest in the patient's welfare prior to sharing any confidential information. In order to do this the PALS and Complaints team will request information from complainant to support their request
- 4.5.4 The request is from the personal (legal) representative<sup>1</sup>/executor of the will of the deceased and is supported by documentary evidence of their position, i.e. a copy of the Last Will and Testament or Grant of Probate, which shows that you are the sole personal representative; or
  - a) The request is from an individual who can provide the Trust with the written consent of the personal representative along with supporting documentary evidence of the relationship; or
  - b) Confirmation that no Will was in existence at the time of death, and that Grant of Probate was not applied for, accompanied by the consent of the next of kin and documentary evidence supporting the relationship; or
  - c) The individual has a claim arising out of the death of the deceased. The Trust, in this case, is only legally obliged to release that information which is deemed relevant (by a Clinician) to the claim.
  - d) The Court orders the release of the records.

#### **4.6 In the case of a child- for the purposes of this policy a Child is any person who is under the age of 18**

- 4.6.1 The representative must be a parent, guardian or other adult who has care of the child.
- 4.6.2 Consideration must be given to the child's capacity to provide informed consent, using the Gillick competencies and Fraser Guidelines.
- 4.6.3 The consent of the child may be required and will be considered by the PALS and Complaints team. Where the child is in the care of a Local Authority or a voluntary organisation, the representative must be a person authorised by that body. Consent may also be required from the child as well as the representative. Children can make a complaint in their own right where it is deemed they have the capacity to do so.
- 4.6.4 If the Service User does not consent to the complaint, or if the complainant does not wish the patient to be contacted, attempts should be made to provide a generic response to the complaint (if possible). This must not divulge specific patient information that has not already been shared with the complainant by the Trust. Without the Service User's consent the complaint could only proceed to the next stage of the NHS Complaints Procedure based on the general issues that might affect the complainant.

#### 4.7 **Lasting Power of Attorney (LPoA) and Court Appointed Deputies**

Where a Service User lacks capacity and someone with Lasting Power of Attorney (LPoA) has been appointed to act on their behalf within the Mental Capacity Act, then the LPoA should be consulted. Evidence of the LPoA should be requested and would need to specifically state that they have the authority to consent on behalf of the patient. The LPoA must either be stamped by the Court or evidence supplied to confirm that it has been registered. If the LPoA applies to only financial affairs the attorney is not an acceptable representative for the disclosure of confidential information about health and welfare. Where there is a Court Appointed Deputy with power to act on behalf of the Service User that person has the same powers as where there is a valid registered LPoA.

4.8 **Independent Mental Capacity Advocacy Service (IMCA)** – Where a Service User lacks capacity and has no-one to support them a referral should be made to the relevant Independent Mental Capacity Advocacy Service (IMCA).

4.9 **Independent Mental Health Advocate (IMHA)** – An IMHA can be appointed to represent the Service User's views.

4.10 **Mediation** – Where it is felt appropriate, and with the agreement of all concerned, the Trust can access an independent mediation service. This might involve meeting(s) or it can also be successful without the two parties meeting, depending on the individual circumstances. The mediator will talk with each side individually and represent the views of both parties.

4.11 **Dealing with Media interest** - Any potential media interest in a complaint should be immediately referred to the Communications Team, in accordance with the Communications Strategy and staff are reminded not to talk directly with the media.

#### 4.12 **Dealing with Difficult/Volatile Situations**

4.12.1 Complainants should be reminded that it is not acceptable for personal, derogatory or discriminatory comments to be used when raising complaints, if that is felt to be occurring.

4.12.2 Violent and abusive behaviour toward Trust staff and/or any other person is unacceptable.

4.12.3 When people complain they may be angry, frustrated or anxious about a situation or event that has occurred. Every attempt should be made to diffuse the situation in the

first instance and staff should remain calm and professional and endeavour to respond appropriately. Where the complainant is making inappropriate comments, shouting, swearing or becoming threatening, the staff member should explain that such comments are unacceptable or ask the complainant to discuss their concerns calmly; perhaps suggesting that they talk again at a later time.

4.12.4 Should a complainant's telephone call become threatening or abusive they can be recorded (if that facility is available within the workplace), but it is essential that the complainant is first informed.

4.12.5 If such presentation continues the complainant should be informed that the contact will be closed. Staff may wish to terminate a telephone call if it is felt that all the issues have been discussed and the call is becoming repetitive and non-productive. Under no circumstances should a staff member just put the telephone down without trying to defuse the situation or inform the complainant of their intention first.

4.12.6 If a staff member has concern about abusive behaviour and/or needs to terminate a telephone call for this reason, this should be reported through the relevant incident reporting system.

4.13 **Dealing with Persistent or Intractable Complainants** - Some complaints might be persistent or intractable. See Appendix D for management of such cases.

4.14 **Deferred Complaints** - See Appendix E where it is felt that complaints arise due to a patient's condition rather than service delivery.

#### 4.15 **Providing support for complainants**

4.15.1 The Trust will make information available on how to complain through information leaflets, posters and the internet. Advice on how to contact the Independent Complaints Advocacy Service (ICAS) and local Advocacy services will also be made available to complainants.

4.15.2 Complainants will have access to language and sign interpreters when needed.

4.15.3 The PALS and Complaints team can also provide confidential advice, information and sign-posting for patients and the public, outside of the NHS Complaints Procedure.

4.15.4 The Independent Complaints Advocacy Services (ICAS) provide independent advice and support for people who have a complaint about the NHS.

4.15.5 Other advocacy services or the local MP can represent the Complainant.

#### 4.16 **Providing support for staff**

4.16.1 An effective complaints procedure needs the confidence of the Trust's staff. It is important that staff also perceive the investigation of complaints as being fair and objective. This includes supporting staff throughout the complaints process and protecting staff from complainants who abuse or harass staff.

4.16.2 Service Managers / Locality Manager or equivalent are responsible for ensuring staff named in complaints have access to support

4.16.3 As well as the support identified within the Trust's Stress Management Policy, the following support is available to staff:

- Line managers
- Union Representatives

- Work Place Colleague
- Workforce Directorate
- Occupational Health
- Staff Support Service

4.16.4 All staff involved in the process should be appropriately trained to handle concerns or complaints.

4.16.5 All those involved in the process within the Trust should strive to remain objective at all times and to treat the resolution of each complaint as a learning process.

4.16.6 It is essential that all staff involved in a complaint are kept informed of progress and the outcome, including the sharing of the formal response in as supportive a way as possible. Depending on the individual complaint, a formal 'debrief' might be appropriate.

## **5 PROCESS FOR LISTENING AND RESPONDING TO CONCERNS AND COMPLAINTS OF PATIENTS, THEIR RELATIVES AND CARERS**

### **5.1 Process for Raising Concerns**

5.1.1 Service Users, Carers and the general public may have concerns about our services but not wish to make a complaint. It is important that the Trust learns from any experiences causing concerns, which can be done via any staff member. Individuals can raise issues as a PALS concern if they wish to highlight a concern but not formally complain about it. Literature explaining the complaints procedure and PALS will be made available across Trust services.

5.1.2 When a concern is raised via PALS, a PALS and Complaints team member will discuss the issue in order to understand what is alleged to have happened and what the contact would like to see done about it. The officer will consider this information and agree with the contact what action they will take.

5.1.3 Whilst the PALS and Complaints team member will act independently of both the contact and the staff they must ensure that everybody is treated with respect and dignity and that staff respond in a polite and non-confrontational manner.

5.1.4 Action regarding a reported concern may involve raising the issue with a relevant manager or staff member for comment and/or action, or making a referral to another agency such as an advocacy group, ICAS or service user/carer forum.

5.1.5 Whatever the agreed response the PALS and Complaints team member will maintain contact with the contact throughout the action and will report back to them upon achieving a resolution, unless the matter has been referred to another person/department.

5.1.6 The PALS and Complaints team will log all activity onto Datix for central monitoring and reporting purposes.

5.1.7 All PALS activity will be reported into the TWPCEG within the PALS and Complaints team activity report.

5.1.8 Trends and themes highlighted in PALS activity will be reported to the relevant service line management mechanism.

### **5.2 Level 1 – Non-Reportable Complaints**

- 5.2.1 It is irrelevant who receives the complaint. If it is agreed with the complainant that it is a complaint it should be treated as such. Where immediate resolution is not possible the complaint **MUST be resolved within 24 hours or it must become a REPORTABLE COMPLAINT**. PALS concerns are also recorded as Level 1 non reportable complaints.
- 5.2.2 Where the complaint has been, or is being, resolved locally, this will be recorded on the Record of locally Resolved Complaint/PALS Concern form and forwarded to the PALS and Complaints team when concluded.
- 5.2.3 The outcome should be shared with the PALS and Complaints team, together with any actions or learning, which will then be followed up with the Care Group until it has been concluded.
- 5.3 Level 2 – Locally resolved complaints taking over 24 and are therefore Reportable**
- 5.3.1 Complaint dealt with and response provided by local manager that has taken more than 24 hrs to resolve
- 5.3.2 Complaint response provided by local manager and shared with the PALS and Complaints team along with completed Locally Resolved Complaints/PALS Concern Form
- 5.4 Levels 3 and 4 – Reportable Complaints requiring a formal response from CEO**
- 5.4.1 Categories:
- a) Level 3 – Routine Investigated Complaints where an independent investigator is appointed by the Care Group Head of Service, or deputy.
  - b) Level 4 – Complex complaint requiring an investigation by the Complaints and SI facilitator / Serious Incidents and Complaints Lead who is independent from the service being investigated. The following list is not exhaustive but examples include:
    - i. Multi-agency complaints
    - ii. Complaints linked to another process, i.e. SI, Safeguarding, Disciplinary, etc
    - iii. Complaints that relate to more than one service provided by the Trust
- 5.4.2 The PALS and Complaints team will acknowledge all reportable complaints requiring follow-up verbally or in writing within 3 working days. A verbal acknowledgement should be confirmed in writing. All acknowledgements will be documented within the complaints file.
- 5.4.3 The PALS and Complaints team will ensure that consent is sought from the complainant and/or the patient if required. The PET will seek an opinion regarding capacity for informed consent if any doubt is raised.
- 5.4.4 The PALS and Complaints team will produce the Complaint Investigation Report and pass it to the Designated Manager agreed within the Care Group together with the copies of correspondence for allocation to an appropriate investigator.
- 5.4.5 The Designated Manager will pass the case to the Investigator and ensure that the PALS and Complaints team is informed of the name of the Investigator and updated on the progress of the investigation.
- 5.4.6 The Designated Manager will ensure that the Investigator completes the investigation and returns the completed Investigation Report to the PALS and Complaints team.

- 5.4.7 The Investigation Report includes outcomes, actions and learning. The PALS and Complaints team will then follow this up with the Care Group until any actions and learning has been concluded.
- 5.4.8 If the complainant indicates dissatisfaction with the outcome the PALS and Complaints team will ensure that consideration is given to further actions that might be taken to resolve the matter satisfactorily. These might include further investigation and response, a meeting, mediation, complaint review, external advice, etc.
- 5.4.9 The PALS and Complaints team will ensure that all reasonable and proportionate steps have been taken to resolve the complaint locally; after which Local Resolution will have been completed.
- 5.4.10 The PALS and Complaints team will ensure that the complainant is informed of their right to progress to the next stage of the Complaints Procedure (i.e. Parliamentary and Health Service Ombudsman (PHSO) or once Local Resolution has been concluded.

## 5.5 The Investigation

- 5.5.1 Investigators should undertake a comprehensive investigation. Please also refer to the Complaints Guidance for further guidance on investigating and responding to a complaint.
- 5.5.2 The Investigator will liaise with the complainant to discuss the complaint either by telephone or via a meeting, and explore opportunities for resolution.
- 5.5.3 The Investigator will share the complaint with any staff involved, ensuring that support is provided. All reasonable attempts should be made to contact staff who are no longer employed by the Trust.
- 5.5.4 The Investigator will complete the investigation report and forward it to the PALS and Complaints team. The investigation report will include the outcome and any actions or learning and the PALS and Complaints team will follow this up with the Care Group until it has been concluded.
- 5.5.5 The Investigator must consult with the PALS and Complaints team about the timeframe and advise if this is not achievable, with reasons and a revised timeframe. Any delay should only be based on valid reasons. The PALS and Complaints team will then update the complainant.
- 5.5.6 The investigator/Manager should share the response/outcome with any staff involved and/or offer a debriefing where appropriate
- 5.5.7 Investigating Managers should attend the Trust's Investigation/RCA Training.

## 5.6 The complaint response (see Complaint Handling Guidance, Appendix D)

- 5.6.1 People may request explanations of events and what might have led to adverse outcomes, together with any remedial action being taken to prevent or minimise the risk of such an event reoccurring. The Trust will provide appropriate information when responding to concerns or complaints which should address the issues.
- 5.6.2 Where shortfalls have been identified it is appropriate to offer expressions of regret or apologies.
- 5.6.3 Any outcomes or findings must be evidence based and reasons offered for decisions reached.
- 5.6.4 The PALS and Complaints team will usually produce the initial draft response based on information provided by the Investigating Manager in the Investigation Report. Occasionally the Investigating Manager might prefer to produce the initial draft



response as well as the Investigation Report. Where that happens the PALS and Complaints team will ensure that it is fit for purpose before passing it for approval and signature.

- 5.6.5 The PALS and Complaints officers will seek the approval of the Investigator and forward the draft Response together with any supporting information where appropriate, to the Chief Executive for signature once approval has been received.
- 5.6.6 The Chief Executive or designate will sign the complaint response once the content has been agreed.
- 5.6.7 At any stage throughout the Local Resolution of the complaint the Investigator Chief Executive or PALS and Complaints team may seek further clarity or amendment on the complaint response.
- 5.6.8 At all stages of this process, high priority should be afforded to ensuring that complaint responses are progressed in a timely way.
- 5.6.9 The signed response will be returned to the PALS and Complaints team who will share it with the complaint circulation, for sharing with relevant staff and for actions to be completed.
- 5.6.10 The complaint response will invite the complainant to respond to the Trust if they have any outstanding concerns.
- 5.6.11 A copy of the signed response will be sent to the relevant Designated Manager together with the Action Plan for appropriate action/dissemination.

## **5.7 Remedy**

- 5.7.1 The Trust should quickly acknowledge and put right cases of maladministration or poor service that have led to injustice or hardship.
- 5.7.2 All relevant factors should be considered when deciding the appropriate remedy, ensuring fairness.
- 5.7.3 If possible, the Trust should return the Complainant and, where appropriate, others who have suffered similar injustice or hardship, to the position they would have been in if the maladministration or poor service had not occurred.
- 5.7.4 The Trust should consider all forms of remedial action.
- 5.7.5 The Trusts Losses, Compensation and Remedy Policy describes the process whereby Remedy payments can be requested with regard to upheld complaints

## **5.8 External Resolution**

- 5.8.1 If a complaint progresses to the PHSO's office, they will decide whether or not to review the complaint further.
- 5.8.2 Following contact from the PHSO's office the PALS and Complaints team will seek confirmation with the Heads of Service and all relevant managers that Local Resolution has been concluded. The PALS and Complaints team will ensure that this decision is passed to the PHSO's office.
- 5.8.3 Where further action is considered appropriate the PALS and Complaints team will initiate further review/investigation and response, together with the release of any relevant records.
- 5.8.4 The PHSO's office will review the complaint and reach a decision about the Trust's complaint handling. Recommendations will be made if it is felt that further action could be undertaken by the Trust.

5.8.5 Where the PHSO's office recommends further action by the Trust, the PALS and Complaints team will ensure that any correspondence is acknowledged and passed for further action, with a timeframe for response.

## 5.9 Response Times

5.9.1 It is essential that the Trust responds to complaints in a timely way. The PALS and complaints team will allocate the Trust's benchmark response time of 25 working days for routine complaints or agree a timeframe with the Complainant and relevant managers where appropriate. Where this timeframe is not achievable for a valid reason the Investigator must inform the PALS and Complaints team with the reason and a revised response time. The PALS and Complaints team will inform the Complainant.

5.9.2 The PALS and Complaints team will apply the escalation process to follow up delayed responses to complaints (see Appendix D).

5.9.3 Where an alternative response time has been agreed the PALS and Complaints team will allocate an appropriate timeframe.

5.9.4 All staffs are expected to respond to complaints promptly.

5.9.5 All Managers are expected to respond to the PALS and Complaints team promptly, ensuring that the investigation is concluded and the response is provided to the PALS and Complaints team.

## 5.10 Outcomes, Actions, Learning

5.10.1 Any outcomes, actions, learning will be reported to the PALS and Complaints team who will include this information in the TWPCEG and the Board reports.

5.10.2 Actions from complaint investigations to embed the learning will be recorded on the Datix action module by the PALS and Complaints Team who will then assign it to the appropriate handler who remains responsible for evidencing the learning for the action to be closed.

5.10.3 The Serious Incidents and Complaints Lead and Complaints Manager meet on a monthly basis to review the open actions and monitor the closing of actions.

5.10.4 Reminders are sent to handlers seeking the evidence to support the learning which is then uploaded to the complaint record on Datix.

5.10.5 Once this has been received and quality checked; the action is closed on Datix.

## 5.11 Ensuring that Patients, their relatives and Carers are not treated differently as a result of raising a Complaint

5.11.1 The complaints procedure will be supportive for those who may find it difficult to complain and for staff who have been complained against and will ensure that Service Users, their Relatives and their Carers are not discriminated against as a result of raising a concern or complaint.

5.11.2 The Trust will ensure a fair investigation of any concern or complaint about potential discrimination.

5.11.3 Staff will be made aware of the need not to discriminate against people who raise concerns or complain via complaint training and awareness, including complaint leaflets.

5.11.4 Complaints will be considered for off-line or independent investigation where appropriate to ensure impartiality.

5.11.5 The TWPCEG will monitor the Trust's complaints handling in respect of any concerns raised about possible discrimination when somebody raises a concern or complaint.

## **6 MAKING IMPROVEMENTS AS A RESULT OF CONCERNS OR COMPLAINTS RAISED**

- 6.1 **Reporting and Learning from Concerns and Complaints** - The Trust is committed to learning from all forms of feedback and recognises the importance of lessons that can be learnt as a result of complaints processed within this Procedure. Concerns and Complaints are a positive aid to informing and influencing service improvements. Investigating Managers and Heads of Service are responsible for ensuring that relevant action is taken and this is monitored through the Care Group Management Teams. The PALS and Complaints team Manager reports outcomes through the Trust's Governance arrangements and Trust Board.
- 6.2 The overall purpose of recording is to:
- 6.2.1 Enable Complainants to see that their concerns and complaints are being dealt with and that a thorough and fair investigation has taken place.
  - 6.2.2 Enable the Trust to demonstrate that concerns and complaints are taken seriously and how they are resolved.
  - 6.2.3 Ensure that feedback from concerns and complaints lead to improvements in service planning and delivery
- 6.3 The Record of locally Resolved Complaint/PALS Concern form will include any actions and learning which will be shared through line management and with the PALS and Complaints team and through the Trust wide Learning through Experience Group
- 6.4 An Investigation report will be completed by the Investigator for all Reportable Complaints requiring a formal response, which will include an action plan/lessons learnt section. This will be shared with the PALS and Complaints team office. For more complex cases it might be helpful to share the investigation report with the complainant with a covering letter from the Chief Executive.

## **7 IMPLEMENTATION OF THE TRUST'S COMPLAINTS PROCEDURE, INCLUDING TRAINING AND AWARENESS**

- 7.1 This document will be disseminated in accordance with the Trust's Policies and Procedures and published on the Trust Intranet and Internet sites.
- 7.2 Complaints handling is everybody's responsibility. All staff will be made aware of Trust processes and standards for handling complaints, via the following methods:
- 7.2.1 Information on the Trust internet/intranet sites, via Team Brief, staff communications and Supervision.
  - 7.2.2 Training on customer care.
  - 7.2.3 Complaints Training.

## 8 MONITORING COMPLIANCE AND EFFECTIVENESS OF THIS DOCUMENT

What will be monitored	How will it be monitored	Who will monitor	Frequency	Evidence to demonstrate monitoring	Action to be taken in event of non compliance
Duties: the PALS AND COMPLAINTS TEAM provides reports to the Board	Monitoring of reports provided to the Board	PALS and Complaints Manager	monthly and Bi-monthly	Board meeting minutes	System reviewed and change implemented to ensure compliance
Improvements as a result of concerns or complaints: Action plans to improve as a result of a complaint are monitored through the Care Group management teams	Assurance around Improvements and learning considered at bi-monthly TWPCEG meeting  Six monthly audit	PALS and Complaints coordinators PALS and Complaints manager  PALS and Complaints manager	Bi-monthly   Six monthly	Minutes of meetings   Audit report	Issues highlighted to service line management systems and TWPCEG
An audit of complaints records will be conducted to review the following: Reportable complaints are acknowledged within 3 working days The PALS and Complaints team seek consent to share information with other agencies involved in joint complaints Complaints are investigated independently to ensure impartiality where required. Evidence of learning and improvement arising from complaints	Audit of complaints files	PALS and Complaints Manager	Annually	Audit report	Required change to practice will be identified and actioned within a specific time frame. A lead member of the team will be identified to take each change forward where appropriate and lessons will be shared with all the relevant stakeholders

## **9 STAKEHOLDER, CARER AND USER INVOLVEMENT AND CONSULTATION**

- 9.1 As from April 2009 there has been a single approach for dealing with complaints about NHS and Adult Social Care Services. Organisations are encouraged to ask people what they think of their care, to sort out problems more effectively and to use the opportunities to learn.
- 9.2 This procedure has been produced in consultation with key staff and managers involved in the complaints process. The document was subsequently approved by the TWPCEG, which includes representation from Executive and Non-Executive Directors, Senior Managers within the Trust, PALS and Complaints team members and Service User and Carer representatives.
- 9.3 Further, ongoing reporting on complaints is provided via the Trust Wide Patient and Carer Experience group which has representation for service users and carers
- 9.4 This procedure is available on the Trust's Website and Intranet and is shared with:
- 9.4.1 The relevant Trust Governance Groups
  - 9.4.2 The Trust Board
  - 9.4.3 The CCG's within Kent and Medway
  - 9.4.4 The Kent and Medway Complaints Management Network

## **10 EQUALITY IMPACT ASSESSMENT SUMMARY**

- 10.1 All public bodies are required to have due regard to the aims of the general equality duty when making decisions and when setting policies. KMPT will continue with the culture of conducting Equality Impact Assessment to ensure a good understanding of the effect of our policies and practices on people within different protected groups. This will facilitate the identification of areas of concerns and may develop practical courses of action to mitigate negative consequences or to promote positive ones.
- 10.2 The Trust is positive in its approach to equality and diversity and the complaints process is open to everybody regardless of their age, race, gender, religion and belief, disability, sexual orientation, gender reassignment, marriage, pregnancy and civil partnership. This policy has been Equality Impact Assessed to ensure that staff and/or service users do not experience a negative impact .

## **11 HUMAN RIGHTS**

- 11.1 The Human Rights Act 1998 sets out fundamental provisions with respect to the protection of individual human rights. These include maintaining dignity, ensuring confidentiality and protecting individuals from abuse of various kinds. Employees and volunteers of the Trust must ensure that the trust does not breach the human rights of any individual the trust comes into contact with.

## **12 EXCEPTIONS**

- 12.1 There are no exceptions to this policy.

## APPENDIX A ABBREVIATIONS & DEFINITIONS

ABBREVIATIONS	
Abbreviation	Meaning
CQC	Care Quality Commission
DoH	Department of Health
DPA	Data Protection Act
EMT	Executive Management Team
FOI	Freedom of Information
GDPR	General Data Protection Regulation
IMCA	Independent Mental Capacity Advocacy
IMHA	Independent Mental Health Advocacy
KCC	Kent County Council
LGO	Local Government Ombudsman
LPoA	Lasting Power of Attorney
MHA	Mental Health Act 1983
MHAC	Mental Health Act Commission
NHSLA	National Health Service Litigation Authority
PHSO	Parliamentary and Health Service Ombudsman
PALS	Patient Advice and Liaison Service
SI	Serious Incident
The Trust or KMPT	Kent and Medway NHS and Social Care Partnership Trust
TWPCEG	Trust-Wide Patient and Carer Experience Group

### DEFINITIONS

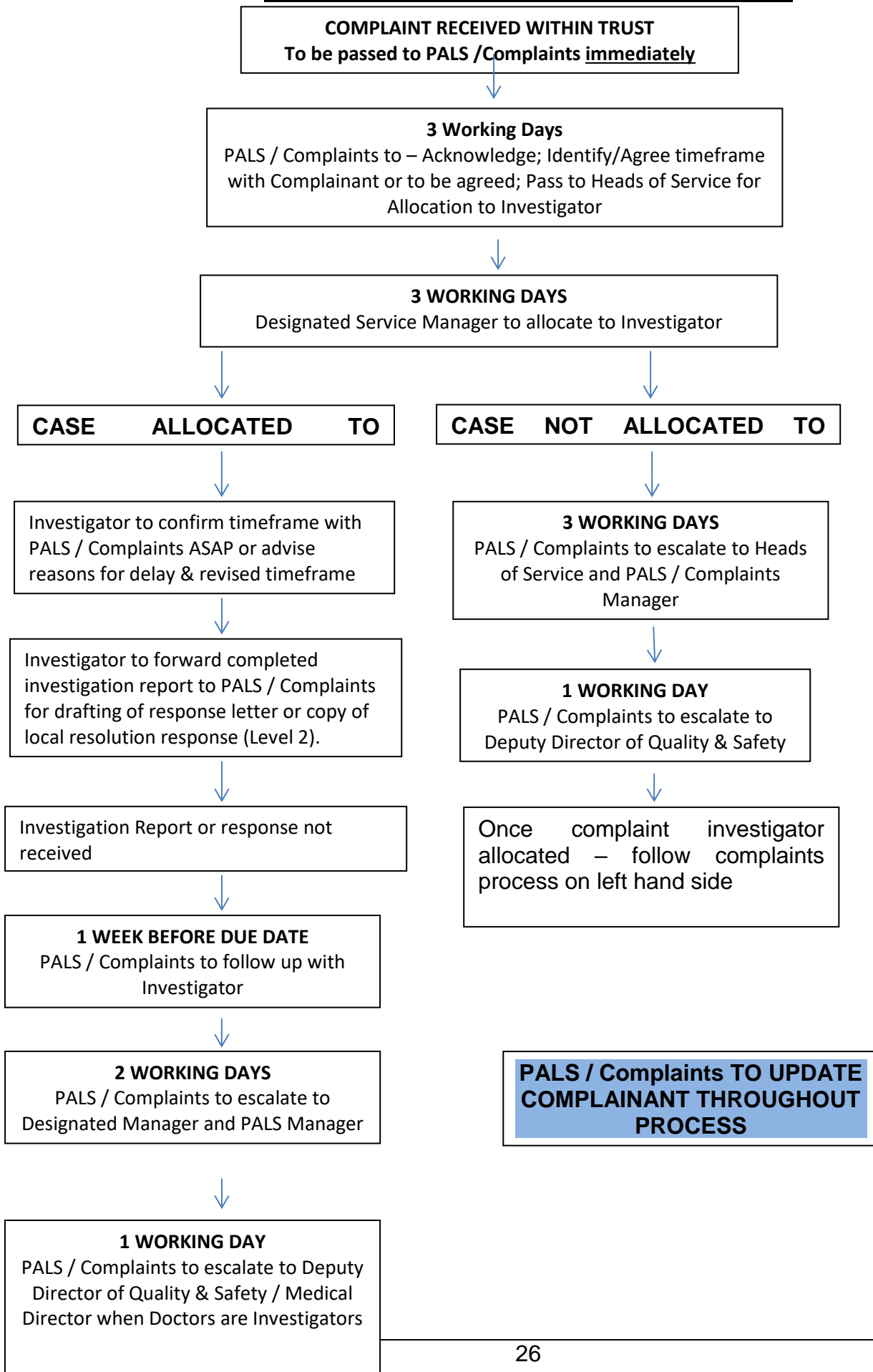
- What is a Complaint?** A complaint is understood to be ‘an expression of dissatisfaction that requires a response’ (Practice Based Complaints Procedures, NHSE 1996). A Level 1 Non-reportable complaint is resolved within 24 hours. Generally, a Reportable complaint is a written complaint, although there are exceptions to this rule. A Reportable` complaint takes more than 24 hours and requires a written response from a service manager / Locality Manager (level 2) or the Chief Executive (level 3 and 4).
- WHAT MIGHT BE COMPLAINED ABOUT?** The NHS Complaints Regulations 2017 states that ‘a complaint may be about any matter reasonably connected with the provision of health care or any other services’. This procedure allows people to express concern about the services they receive from the Trust in accordance with that principle.
- WHO MAY COMPLAIN?** A complaint may be made by –

  - A patient; or
  - Any person who is affected by or likely to be affected by the action, omission or decision of the NHS body which is the subject of the complaint’
  - Representatives can complain on behalf of other people where that person
    1. Has died
    2. Is a child
    3. Is unable by reason of physical or mental incapacity to make the complaint themselves
    4. Has requested the representative to act on their behalf.

**GILICK COMPETENCE** - A rule for judging legal capacity in children under the age of 16 years, established in the case *Gillick v West Norfolk & Wisbech Area Health Authority* (1985) 2 A11 ER 402. Such children are deemed to be capable of giving valid consent to healthcare treatment without parental knowledge or agreement provided they have sufficient intelligence and understanding to be fully aware of the nature, purpose, and hazards of the treatment.

**Mediation** - To listen and represent the views of both parties, to assist resolution of the complaint.

**Management of Complaints / Escalation Process**



## **APPENDIX C COMPLAINT HANDLING GUIDANCE**

### **1 INTRODUCTION**

1.1 The principle of the NHS Complaints Procedure is that complaints and concerns are dealt with positively as an integral part of service provision, so that problems do not escalate unless they need to. Complaints are an opportunity to identify areas for improvement and to ensure that lessons can be learned to continuously improve the services provided by the Trust.

### **2 RESPONDING TO CONCERNS, COMMENTS AND COMPLAINTS**

2.1 It is important that all staff respond to expressions of dissatisfaction from service users carers and the public. Responding appropriately will give reassurance to complainants whilst recording any learning arising from such responses can help service improve.

2.2 While senior staff, with PALS and Complaints team support, will respond to formal complaints any staff may find themselves engaging with a discontented service user and recording such issues as a level 1 PALS concern or complaint ensures that the Trust recognises this important work staff do.

### **3 MEETINGS/DISCUSSIONS/CONCILIATION**

3.1 Upon receipt of the complaint the Investigator should always consider if contacting or meeting would be helpful. If so, this should be arranged as soon as possible, and a record must be kept of the discussion which should be agreed with those present, as a fair representation of the discussion. If a meeting is not appropriate, the Investigator should consider contacting the complainant to discuss the complaint. Again a record should be kept of the conversation. If a meeting or contact is not appropriate the Investigator should record the reasons on the Investigation Report.

3.2 The PALS and Complaints team can assist in facilitating a meeting between the respective parties, if appropriate.

3.3 Mediation should be considered and offered as soon as possible throughout this process, where appropriate. Offering Mediation may be considered in the formal response to the complaint if it was not felt to be appropriate earlier in the complaint.

### **4 GOOD PRACTICE FOR INVESTIGATORS**

4.1 Be aware of the timescale and the importance of conducting a thorough investigation.

4.2 Work closely with the PALS and Complaints team, ensuring that they are updated regarding timeframes and relevant aspects of the investigation.

4.3 Liaise with any other relevant person and seek advice where appropriate.

4.4 Ensure that the investigation is undertaken in a supportive way for all involved.

4.5 Contact the complainant, either by telephone or offer a meeting. If this is not appropriate, document the reasons.

4.6 This meeting/discussion should:

4.6.1 Explain the investigation procedure



- 4.6.2 Clarify the complaint and all its individual parts
  - 4.6.3 Clarify what the complainant wants in terms of solution or outcome, if that has not already been done within the complaint or via the PALS and Complaints team
  - 4.6.4 Check whether the complainant needs any support to understand the discussion properly or throughout the process, if that has not already been done via the PALS and Complaints team.
- 4.7 Throughout this meeting/discussion the Investigator should accept how the complainant feels, and allow him/her to express any strong emotions (acceptance does not mean agreement. You can accept the way someone feels without agreeing with them).
- 4.8 Obtain the relevant documents, such as files, log books and timesheets.
- 4.9 Read background on the complaint, including any relevant clinical and/or other records, legal, administrative and clinical policies, procedures, guidance, codes of conduct, best practice, etc. Remember that any unvalidated entries in RiO will not be printed. A full record can be printed through Business Intelligence.
- 4.10 Assess whether the complaints procedure is the most appropriate way of handling this complaint or if it needs to be handled together with another process. Consider alternative possible procedures such as mediation, Serious Incidents, Safeguarding, legal action, disciplinary. If the complaints procedure is not appropriate, discuss the alternatives with the PALS and Complaints team. Local Resolution might still need to be concluded following that process. SI's that have also been raised as a complaint should be investigated jointly. If the SI has already been coordinated it is important to ensure a consistent approach and any disparities in outcomes are addressed.
- 4.11 If the media is involved maintain strict confidentiality and notify the Heads of Service/Designated Manager/ PALS and Complaints team / Communications Team.
- 4.12 All reasonable attempts should be made to contact staff who have been complained against or who might be a witness to events complained about, even if they are no longer employed by the Trust. Reasons must be documented and reported to PALS and Complaints team if this is not felt to be possible.
- 4.13 Produce a chronology from the relevant sequence of events from the files and identify the names of the staff most directly involved in the content of the complaint.
- 4.14 Analyse the complaint into its different elements.

## **5 CONDUCTING INTERVIEWS**

- 5.1 Consider whether it is helpful to hold any meetings away from the environment that may be causing distress.
- 5.2 Arrange the order of interviews in a logical sequence as relevant to the particular complaint.
- 5.3 Identify a list of interviewees and notify them that you wish to hold interviews with as much notice as possible.
- 5.4 Inform interviewees that they may be accompanied by a friend or trade union representative.
- 5.5 Share the complaint or relevant parts of the complaint with the interviewee/staff involved or complained against as soon as possible.
- 5.6 Explain the complaint clearly to the interviewee.

- 5.7 Consider whether a witness of a particularly difficult interview is needed – this is also a good way of training new investigators.
- 5.8 Interviews should be conducted in as informal and relaxed a manner as possible.
- 5.9 Prepare the line of questioning for each interviewee:
- I. Use open not leading questions.
  - II. Do not express opinions in words or attitude.
  - III. As single not multiple questions, i.e. one question at a time.
- 5.10 Try to separate hearsay evidence from fact by asking interviewees how they know a particular fact.
- 5.11 Persist with questions if necessary. Do not be afraid to ask the same question twice. Make notes of each answer given.
- 5.12 Deal with conflicts of evidence by seeking corroborative evidence. If this is not available, consider meeting with conflicting witnesses.
- 5.13 Make a formal record of the interview from the written notes as soon as possible while the memory is fresh. Show the interviewee the formal record, ask if he has anything to add, and to confirm the record as accurate.
- 5.14 If appropriate, visit the area complained about unannounced to check normal practices.

## **6 DRAFTING REPORTS**

- 6.1 Draft your report and pass copy to the PALS and Complaints team. This should include:
- List of interviewees, identifying any witnesses, people involved or complained against, together with job role and job title
  - Record of relevant policy, practice, legislation, code of conduct, best practice.
  - Your analysis and findings for each point of complaint.
  - An overall conclusion.
  - Your recommendations and response to the complainant's desired outcome.
  - Any learning.
  - Any issues that should be considered by the Trust but are not appropriate for sharing with the complainant.
  - Any points that should be shared with other agencies, ie Local Authority, Commissioners, etc.
  - Learning & Actions, including the scope for sharing (i.e. Service, Service Line, Trust).
  - Evidence based decision making, with fair approach and an open, honest and transparent approach ensuring a Duty of Candour when responding to complaints.
- 6.2 Consider comments and amend the report as necessary.
- 6.3 The final report should be passed to the PALS and Complaints team who will either draft the response, or finalise the draft if the Investigator has already drafted it.
- 6.4 Investigators must adhere to all relevant legislation (i.e. Data Protection Act, Human Rights Act, Health and Safety Act, etc).

## **7 GUIDANCE FOR STAFF NAMED IN A COMPLAINT OR STAFF WHO MAY BE WITNESSES TO EVENTS THAT HAVE LED TO A COMPLAINT**

**7.1 The NHS Constitution says that staff members should aim** ‘To be open with patients, their families, carers or representatives, including if anything goes wrong; welcoming and listening to feedback and addressing concerns promptly and in a spirit of co-operation. Staff should contribute to a climate where the truth can be heard and the reporting of, and learning from, errors is encouraged.’

Whilst the Trust has no wish to apportion blame, it is recognised that in some cases individual staff members may be named in a complaint, or have a complaint made against them. Where this is the case, it is important to investigate and respond to complaints whilst being fair to all parties.

Any investigation into a complaint must be carried out in as supportive a way as possible. This should involve meeting, discussing the complaint and taking formal statements from staff. It is essential that a formal statement is taken to avoid any misunderstanding later, and to ensure that there is an accurate record of the discussion, if the complaint proceeds to the next stage of the process. Likewise, if formal interviewing is undertaken by the Investigator, a record should be kept of the questions and answers at that session.

## **7.2 Support staff can expect from the Trust in respect of the complaints process**

As indicated in the NHS complaints procedure, it is essential for all NHS organisations to be scrupulously fair to the complainant and to any staff involved in the complaint. All those involved in the process within the Trust should strive to remain objective at all times and to treat the resolution of each complaint as a learning process. Support is available throughout the complaints process as follows:

- Via the line manager (who is often the Investigator). It is important that any investigation is undertaken as supportively as possible.
- Workforce Directorate.
- Union Representative.
- The PALS and Complaints team is happy to talk through the complaints process with staff if that is felt to be helpful.
- Occupational Health.
- Staff Support Service.

## **7.3 What should staff members do if they are named in a complaint?**

If a staff member is named in a complaint, they should have access to the allegations made against them, and they will need to respond to those allegations. The Investigator will interview and/or take a formal statement from the staff member named in the complaint. Staff must assist the investigation and respond to complaints in a timely way as required by the investigation. Staff must ensure that all relevant information and records are shared with the Investigator as required.

## **7.4 What staff members can expect if they are named or involved in a complaint**

The staff member should have a clear understanding of the complaints process, and if that is not the case, they should be fully informed of the process.

The local manager/investigator should ensure that all staff involved in a complaint are kept informed of progress.

Staff are entitled to know what the allegations are within a complaint so that they can respond to the allegations.

The final response should be shared with the staff member in a supportive way by the local manager/investigator, as a form of debrief, following the complaint. In a particularly complex complaint, this ‘debrief’ should be undertaken in a formal way.

It is hoped that complaints can be resolved as soon as possible under Local Resolution, but where that is not the case, it is important that managers keep their staff informed if a complaint has been re-opened or progresses to the next stage of the process.

Staff should be informed if the complaint progresses to Parliamentary and Health Service Ombudsman [PHSO] or the Local Government Ombudsman [LGO] as the next stage of the complaints process and that they might be required to respond further to the complaint issues.

Content of statements taken in response to a complaint could be used to inform the complaint response and shared with the Ombudsman if the complaint does progress to the next stage of the complains process.

**7.5 Procedure if a staff member is unhappy with the way that a complaint has been handled by the Trust**

- I. The staff member can complain about the way that a complaint has been handled by the Trust via the Trust's Grievance Procedure.
- II. If the staff member remains dissatisfied following the outcome of the Trust's Grievance Procedure in respect of the way that a complaint has been handled by the Trust, they can ask the PHSO or LGO to review their complaint.

## APPENDIX D

## KMPT PROCEDURE FOR INTRACTABLE COMPLAINTS

1. There are exceptional circumstances when a person may pursue a complaint to the point where it becomes ineffective and unreasonable, despite every effort by the Trust to try and resolve the issues /perceived issues by:

- Ensuring that the Trust's Complaints Policy has been correctly implemented as far as is possible; and
- Ensuring that no material element of a complaint has been overlooked or inadequately addressed.

2. A complaint may be regarded as Intractable if, during previous or current contact with the Trust, if one or more of the following criteria is met:

- 2.1. Threaten/use physical violence towards staff. Harassment, personal abuse or aggressiveness towards staff.
- 2.2. Persistence in pursuing a complaint where the procedure has been fully and properly implemented and exhausted.
- 2.3. Have unreasonable demands or expectations and fail to accept that these may be unreasonable.
- 2.4. Constantly raises new issues or changes the focus of the original complaint to seek to prolong correspondence.
- 2.5. Unwillingness to accept factual documented evidence e.g. medical records and charts or does not accept the facts can sometimes be difficult to verify when a very long period of time has elapsed.
- 2.6. Focus on the trivial, which is out of proportion to its significance and is repeated during all communication.
- 2.7. Unreasonable demands upon staff by making an excessive number of contacts.
- 2.8 The complainant is a relative, friend or carer of a patient, where the patient does not have a personal complaint (assuming that there are no capability issues concerning the patient).

3. Intractable (including habitual or complaints of aggressive nature ) complaints will be assessed by a virtual panel comprising the Complaints Manager, the Executive Director Nursing and Governance and the Chief Executive who will decide within one week whether the complaint is intractable and should be classified as such.

4. The panel will review the complaint documentation and reach a decision about whether further work can be done or if the complaint is intractable. If the complaint is classified as intractable, PALS and Complaints team will write to the complainant stating:

- 4.1 The Trust has fully considered and responded to the concerns raised in the original complaint
- 4.2 Despite efforts by the Trust to answer/resolve the complaint to the complainant's satisfaction, there is nothing more to add and therefore the correspondence is at an end.
- 4.3 Further letters from the complainant concerning the issues raised will not be responded to.
- 4.4 If the complainant remains dissatisfied then they must take the complaint up with the PHSO.

## **APPENDIX E**

## **PROCEDURE FOR DEALING WITH DEFERRED COMPLAINTS**

In some cases it may be felt that a complaint has arisen because of a patient's condition rather than service delivery. While it is important that fair consideration is given to the complaint there may be occasions when it is felt that responding could be detrimental to the patient. A clear process should be followed which should include reviewing the issues carefully, discussion with the clinical team and perhaps putting the complaint on hold until the patient is well and better able to discuss their concerns. Thus, the complainant can then agree which issues remain a concern and should proceed through the complaints procedure. Any serious or very specific issues raised should be processed immediately. Regular updates should be provided to the PALS and Complaints team to monitor the situation and ensure that the complaint is progressed as soon as possible.