



## Complaints, Comments, Concerns and Compliments Policy (Complaints Policy)

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The Trust will not tolerate unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, gender, sexual orientation, marriage/civil partnership, pregnancy/maternity. The Trust will not tolerate unfair discrimination on the basis of spent criminal convictions, Trade Union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity between people from different groups and foster good relations between people from different groups.

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## **1.0 Policy Statement**

### **1.1 Introduction**

The Trust's Complaints Policy is in line with the revised Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. These regulations introduced a revised procedure for the handling of complaints by local authorities, in respect of complaints about adult social care, and by NHS bodies, primary care providers and independent providers in respect of the provision of NHS care.

These regulations aligned adult social care and health complaints processes into a single set of arrangements. They require the complainant to be involved in the way in which the complaint is handled, by requiring the Trust to offer to discuss this with the complainant. The prescription around the timescales to be followed in terms of investigating a complaint was removed. Less prescription around timescales allows the Trust to assess and deal appropriately with all complaints, allowing these arrangements to meet the needs of the individual case and for proper consideration of learning and service development issues.

A fundamental requirement of the Trust's integrated governance approach is the development of an open and just culture that is receptive to adopting new practices and learning from complaints by involving both the complainant and staff. The Trust recognises the need to identify organisational and system failures that cause complaints rather than focusing on blaming individuals. The Trust's aim is to develop a 'just culture', where staff feel able to identify and report complaints so that improvements can be made. One of the Trust objectives is to be 'a learning organisation'.

The Trust differentiates between complaint investigations and disciplinary investigations. Complaints would only be dealt with under the disciplinary procedure where it is clear that staff have been negligent or have deliberately attempted to disguise errors or dangerous practice.

The Trust complies with the revised Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. This document is the local application of the NHS National Complaints Procedure for the East of England Ambulance Service NHS Trust. The Trust employs a number of policies and procedures which should be read in conjunction with this Complaints, Comments, Concerns and Compliments Policy. Associated documents, policies and procedures are listed in Appendix 1.

### **1.2 Purpose**

This policy sets out how the Trust meets the statutory framework and manages complaints, comments, concerns and compliments.

#### Statutory Framework

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 NHS (Complaints) Regulations 2009 came into force on 1 April 2009. These Regulations:

- Revoked the NHS (Complaints) 2004 Regulations and the 2006 amended (Complaints) Regulations.

- Removed the Healthcare Commission second stage tier and replaced it with the Health Service Ombudsman providing independent review of complaint cases unresolved at local level.
- Unified and simplified complaints handling arrangements through a single set of regulations.
- Brought together individual organisations so that where a complaint crosses boundaries (for example, health and social care or primary and secondary care) they will work together to provide a single coordinated response. This will bring them into line with the Health Service and Local Government Ombudsmen, who already produce single judgements and reports on complaints spanning health and social care.
- Gave complaints handling a greater complainant focus.
- Strengthened the links between complaints feedback and organisational learning.
- Removed the timescale for responding to complaints and introduced a system that allows flexibility in resolving a complaint as quickly as possible.
- Increased the time limit for a complainant to raise a complaint from 6 to 12 months.
- Allow verbal complaints that can be resolved within 24 hours to be registered as a PALS and not as a complaint.

## **2.0 Duties**

### **2.1 East of England Strategic Health Authority**

NHS East of England, the Strategic Health Authority, has a strategic responsibility to monitor the Trust's compliance with legislation, national guidelines and application of the Complaints Policy and are supplied with the Trust Board Papers as well as meeting with the Trust on a monthly basis.

### **2.2 East of England Ambulance Service NHS Trust (EEAST)**

The EEAST is the 'responsible body' and must make arrangements for dealing with complaints in accordance with these regulations for the handling and consideration of complaints so that:-

- a) Complaints are dealt with efficiently.
- b) Complaints are properly investigated.
- c) Complainants are treated with respect and courtesy and are central to the process.
- d) Complainants receive, so far as is reasonably practical -
  - Assistance to enable them to understand the procedure in relation to complaints;
  - Advice on where they may obtain such assistance.
- e) Complainants receive a timely and appropriate response.
- f) Complainants are told the outcome of the investigation of their complaint.
- g) Where lessons are learnt action is taken to make any relevant changes and these to be shared across the organisation.

### **2.3 Trust Board**

The Trust Board is responsible for receiving and reviewing reports from the Chief Executive on the effectiveness of the Trust's Complaints Policy and to ensure that action is taken to address complaints and any adverse incidents and trends. The Trust Board will also monitor the effectiveness of complaints handling and their compliance with the NHS Regulations through the Quality and Risk Assurance Committee.

## **2.4 Chief Executive**

The Chief Executive is the 'accountable officer' and has overall responsibility for the implementation of the Trust's Complaints Policy, ensuring that lessons are learnt from complaints and, where appropriate, remedial action taken. The functions of the 'accountable officer' may be performed by any person authorised by the 'responsible body' to act on behalf of the accountable officer. This responsibility has been devolved to the General Manager - Patient Services.

## **2.5 Quality and Risk Assurance Committee**

The Trust's Quality and Risk Assurance Committee will report to the Trust Board on the operation of the Trust's Complaints Policy. The Committee will consider quarterly reports on complaints activity via the Quality Report, and make recommendations to the Trust Board as appropriate.

## **2.6 Clinical Audit and Patient Experience Group**

The Clinical Audit and Patient Experience Group will consider all reports on complaints and PALS activity and approve or establish recommendations and action plans as required. The group will be responsible for ensuring that trends and themes from complaints are reviewed to ensure that steps are taken to improve the service.

## **2.7 Learning Group**

The Learning Group is responsible for reviewing complaint, PALS, claims, and incident data to establish common trends and themes and specific issues that require detailed investigation and action, so that the Trust manages issues arising from feedback proactively. The group will report to the Clinical Audit and Patient Experience Group and submit reports bi-monthly, making recommendations and suggesting actions for approval.

## **2.8 General Manager Patient Services**

The General Manager - Patient Services is accountable to the Chief Executive to act on his behalf for managing the Trust's Complaints Policy. Where complaints have been risk assessed as 'high' the General Manager Patient Services is responsible to establish if the complaint could constitute a Serious Incident (SI) and if so, take the appropriate action. Where complaints are subject to legal action or appear likely to become so, then the General Manager Patient Services must be notified immediately so that legal advice can be sought from the Claims and Litigation Coordinator.

The General Manager Patient Services will:

- develop Trust wide policies, procedures and strategies for the management and investigation of complaints
- ensure that the Trust follows the principles and practise for complaints as set out in this policy and that the complaints process is managed as set out in the National Health Service Complaints (England) Regulations 2009
- ensure that the Trust is able to comply with the requirements of the Health Service Ombudsman when a complaint case is under review
- be responsible for reporting any trend analysis, and lessons learnt.

## **2.9 Complaints Manager**

The Complaints Manager is accountable to the General Manager Patient Services for the day to day management of the Patient Service department which handles patient

experiences including complaints, PALS, comments, concerns, compliments, requests for information and incident logging. The complaints manager is also responsible for producing statistical information to the Trust Board, Quality and Risk Assurance Committee, the Executive Management Team, Lead Commissioners and other governance level groups to support and inform decision making.

## **2.10 Complaints and PALS Officer**

The Complaints and PALS Officer is responsible for the day-to-day operation of the Trust's Complaints Policy and is the link between the complainant and the investigating manager. The Complaints and PALS Officer is also responsible for:

- Ensuring that the response meets the agreed allocated timeline and that the quality of the report is proportionate to the complaint and addresses all the issues appropriately that the complainant has raised.
- Ensuring all complaints are risk assessed as laid out in the Risk Management Policy and any serious incident is reported immediately to the General Manager Patient Services.
- Ensuring that all complaint investigations comply with patient confidentiality, the Caldicott principles and the Data Protection Act 1998 with particular reference to patient consent and the Human Rights Act.
- Ensuring that all documentation is completed and lessons learnt are recorded on the DATIX system.

## **2.11 General Managers and Heads of Departments**

General Managers and Heads of Departments have a responsibility to assist the complaints process to the satisfactory conclusion of the complainant by:

Ensuring that all complaints are allocated to an appropriate manager depending on the grading and seriousness of the complaint.

Ensuring that an action plan has been produced.

Ensuring that the complaint is investigated in a timely manner as determined by the Complaints and PALS Officer.

Ensuring that all aspects of the complaint have been fully investigated and any recommendations are followed up and actioned.

## **2.12 Managers and Front Line Staff**

Individual members of staff have a responsibility to acknowledge and respond to patients' and carers' concerns and comments, ensuring that any necessary remedial action is taken. All staff involved in a complaint will be treated fairly, openly and with dignity throughout the investigation process. Staff who have been named in the complaint will receive feedback on how the complaint was handled and resolved.

The Trust has empowered staff to resolve issues and concerns at a local level whenever possible. A procedure is in place for staff to record and report all complaints, comments, concerns and compliments (see Appendix 2).

## **2.13 Complainants**

It is the Trust's policy that all complaints will be dealt with as quickly as possible with the aim of bringing the complaint to a satisfactory conclusion. The Trust will also ensure that:

All complainants will be treated with respect and dignity.

No discrimination including age, gender, disability, ethnicity, religion, sexual

orientation will occur as a result of making a complaint

The complainant will receive a letter of response from the Chief Executive or his deputy addressing their concerns, with demonstrable lessons learnt, actions taken and an apology if appropriate.

### **3.0 Definitions**

#### **3.1 Complaint**

A complaint can be defined as an expression of dissatisfaction and most complainants are seeking an explanation of what went wrong and why. A key part of the desire for explanation is that the complainant would like to know whether the unsatisfactory incident could happen again and whether the service will be improved as a result of them highlighting the problem. Members of staff who wish to complain may do so but these are dealt with under a different policy (see Section 10).

The Trust wishes to ensure that local resolution of complaints is achieved as quickly as possible. This should normally be achieved through an immediate response by a front line member of staff or manager. Staff are encouraged to deal with complaints as they arise in an open, honest and non-defensive way and apologise, where appropriate, for what may have happened.

This policy clearly identifies who is responsible for dealing with complaints and what happens if the complainant is not satisfied with the response. The policy covers all service areas.

The Trust values complaints as a useful source of information and feedback about the quality of the service that it provides. A clear procedure should enable this feedback which, in addition to trends identified through the Patient Advice and Liaison Service (PALS), may identify where changes in policy or service delivery are appropriate.

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

PALS exist to advise, support and listen to patients, their families and carers. The aim of this service is to support those who come into contact with the NHS and in particular with the Trust with a quick resolution to problems or to concerns that they may have had.

PALS will act as a channel of communication between the patient and the Trust and are particularly well placed to flag up areas where services may need to be improved. The Trust will ensure that staff will work closely with PALS to ensure a patient-centred response.

#### **3.3 Compliment**

A compliment can be defined as an expression of appreciation for a service received. If the compliment is made to an individual member of staff or an ambulance crew, the line manager will write to the staff with a copy of the compliment and place copies on the PR files. Positive feedback and letters of appreciation should be recorded. All letters of appreciation should be forwarded to the appropriate Head of Department or General Manager who will review all such letters and send an acknowledgement to those where an acknowledgement is indicated. The Head of Department or General Manager will ensure that the staff involved are made aware of the comments received and a record made on their personal file. The number of compliments received by the

Trust will be reported to the Trust Board, Quality and Risk Assurance Committee, the Executive Management Team, Lead Commissioners and other governance level groups.

#### **4.0 Aims and Principles**

The East of England Ambulance Service NHS Trust (EEAST) will approach any complaint in an honest and open way, with the prime aim of resolving the problem, satisfying the concerns of each complainant and learning from the experience. The will listen and respond to concerns/complaints by:

- Dealing with each case according to its unique nature and the expectations of the complainant.
- Focussing on outcomes rather than processes.
- Acknowledging the complaint within 3 working days.
- Negotiating an agreed timescale to complete the investigation that is proportionate to the nature of the complaint.
- Ensuring ease of access to the complaints' process for patients and complainants.
- Advising them of the support network available who can offer them a wide range of additional help.
- Informing them of their rights to take their complaint to the Health Service Ombudsman if they are not satisfied with the way in which their complaint has been handled.
- Recording, analysing and identifying trends relating to all complaints and suggestions, with routine reports being submitted to the Trust's Integrated Governance Committee and the Trust Board.
- Acknowledging and responding to every suggestion or complaint, whether received in a written or verbal format.
- Ensuring staff that have contact with patients are appropriately trained in good communications and staff who are likely to deal with suggestions or complaints are trained in the relevant procedures.
- Ensuring sensitive and flexible handling of suggestions and complaints.
- Ensuring staff and managers involved in responding to complaints are engaged throughout the process and have confidence in the fairness of the complaints' procedure.
- Facilitating a joint process in instances where the complaint crosses more than one organisation.

See appendix 2 for full details of the complaint process.

#### **5.0 LEGAL ACTION**

The Patient Services department together with the relevant manager/s will assess the likelihood of the complaint being the subject of legal action and, where appropriate, refer to the General Manager Patient Services in order to seek guidance and legal advice in advance of preparing the response.

In the event of legal action being taken against the Trust, or any individual employee of the Trust, the Corporate Services Manager will be the responsible officer, and will liaise with all relevant parties until a satisfactory outcome is reached. The Corporate Services Manager will report all such matters to the General Manager Patient Services and Complaints Manager on any developments.

All letters which state that legal action is being taken, or that include a claim for compensation, must be forwarded immediately to the Corporate Services Manager. This must not delay the statutory obligation to acknowledge the letter within 3 working days. The Corporate Services Manager will where necessary work with the Trust's solicitors regarding any further action required. Where the complaint can still be resolved without compromising the Trust then this should take place; however all correspondence and actions must be passed to the Corporate Services Manager for advice and action. This does not preclude staff from consulting their professional organisation or trades union for personal advice, but this must not delay the process.

## 6.0 Financial Redress

Financial redress can be made without recourse to legal action. The Ombudsman has made clear her expectation that there is an obligation to put the complainant back in the position they were in before they experienced the problems they encountered. The Trust recognises that there is consequently an obligation to consider financial redress in each appropriate case. Where financial recompense is made, this will not be considered as an admission of liability in relation to any legal action that may ensue. Where a complaint gives rise to legal action, a response to the complaint will still be made.

## 7.0 Incident Investigation and Grading Complaints & PALS

The complaints and PALS process can assist in improving the quality of care and minimising risk by listening to service users and using this as an opportunity for the Trust to learn from their experiences. When examined in conjunction with reported incidents, accident and near misses, complaints and PALS enquiries allow trends to be identified at both a local service and strategic level. Implementation of the lessons learnt should lead to non-recurrence and prevent more serious incidents, complaints or PALS concerns occurring.

All reported complaints or PALS enquiries will be graded according to severity, as well as potential future risk to patients and/or to the Trust. The Complaints and PALS Officer will ensure that all complaints and PALS enquiries are initially graded using the risk assessment procedure as identified in the Risk Management Strategy. A risk matrix is contained within our Patient Safety software system for ease of use and reference. It is however possible that the risk may change during the investigation process and therefore the manager responsible for investigating the complaint or PALS enquiry will review the risk to see if the grading has changed.

Seriousness	Description
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<b>LOW</b>	<p>Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care</p> <p>OR</p> <p>Unsatisfactory service or experience related to care, usually asingle resolvable issue. Minimal impact and relative minimal risk to the provision of care or the service. No real risk of litigation</p>
<b>MEDIUM</b>	<p>Service or experience below reasonable expectations in several ways, but not causing lasting problems. Has potential to impact on service provision. Some potential for litigation</p>
<b>HIGH</b>	<p>Significant issues regarding standards, quality of care and safeguarding of or denial of rights. Complaints with clear quality assurance or risk management issues that may cause lasting problems for the organisation, and so require investigation. Possibility of litigation and adverse publicity.</p> <p>OR</p> <p>Serious issues that may cause long-term harm, such as grossly sub-standard care, professional misconduct or death. Will require immediate and in-depth investigation. May involve serious safety issues.</p>

## 8.0 Being Open

Being open about what happened and discussing complaints promptly, fully and compassionately with patients and/or their carers can:

- Help patients and/or relatives cope better with the after-effects;
- Provide reassurance that everything will be done to ensure a similar type of complaint does not recur;
- Provide an environment where patients and/or their carers, healthcare professionals and managers feel supported when things go wrong;
- Help prevent such events becoming a litigation claim.

Please refer to the Trust's Being Open Policy for more detail.

## 9.0 Lessons Learnt and Aggregation of Data

The Quality and Risk Assurance Committee provides a Trust wide forum where lessons learnt from local investigations can be shared and discussed in a supportive environment.

It is the responsibility of the Clinical Quality and Safety Group to ensure that an effective system of clinical incident reporting and investigation is in place at local level, and that lessons learnt through incidents/near misses, complaints, PALS and claims investigation are shared and disseminated across the Trust.

The Clinical Quality and Safety Group also plays a supportive role to the Clinical Quality Directorate to ensure linkages are maintained across clinical incidents, complaints, PALS and litigation and that this Group supports the localities and the Trust in learning and sharing lessons.

Combined reports from Complaints, PALS, Claims and incidents are provided to the Clinical Audit and Patient Experience Group for review of the amalgamated trends, themes and risks. Action plans are then recommended in order to bring about change and improvements to the service.

Lessons learnt are shared with all staff by special bulletins and uploaded on to the intranet, and the Trust wide email system is used to communicate urgent information. Any specific learning points, common risks or trends will also be communicated internally to relevant individuals or groups and externally to stakeholders. In addition any trends identified will be forwarded to the education lead who will use this information to inform the annual continuous professional development training programme.

Action plans are produced from the Datix system. The complaints manager is responsible for monitoring all action plans. Action plans which are not being delivered in line with the identified timescales are escalated to the Risk Management Group (RMG) for further action.

## **10.0 Training and Guidance to Staff**

An overview of the Complaints Policy and Procedures are incorporated into staff induction programmes. All staff should have an understanding of the complaints process. Further advice and support will be available from the Complaints Manager to help staff deal with complaints. All staff who have patient contact will be trained in equality and diversity, customer care and dealing with stressful and emotional situations.

## **11.0 Staff Complaints**

Staff who have concerns about the care or treatment given to an individual or a particular group or by another member of staff should not use the NHS complaints process, but are encouraged to raise concerns with their line manager where appropriate. Staff should also be made aware of the Trust's Whistle Blowing Policy and Grievance Policy.

## **12.0 Complaints from Other Health and Social Care Professionals**

In accordance with regulations, a complaint from a responsible body (a local authority, NHS body, primary care provider or independent provider) falls outside of the NHS complaints procedure. Therefore the Trust will encourage these organisations to use the external incident reporting procedure to accommodate stakeholder feedback. The PALS team will help to produce any written responses to external organisations as necessary.

## **13.0 External Agencies and Organisations**

Where complaints are received from or via other sources, such as Members of Parliament, Local Authorities or voluntary organisations, these should be passed immediately under confidential cover to the Complaints Manager for action (for arrangements for weekends and public holidays please see Section 18). Information of a confidential nature will not be disclosed to a third party without authorisation from the patient. Where appropriate, the Trust will enter into an agreement with external agencies or organisations on how an individual complaint will be managed, taking into account the Local Authority Social Services and National Health Service Complaints

(England) Regulations 2009.

Complaints that cross over into more than one NHS organisation or public sector body will be dealt with as seamlessly as possible to limit confusion, both for the complainant and for the organisations involved. The Complaints Manager will work with these organisations to ensure that the Trust responds to the relevant aspects of the complaint and that normal procedures and timescales are applied in line with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

#### **14.0 Process for Joint Handling of complaints Between Organisations**

Health and social care organisations are required to work together to ensure coordinated handling and to provide the complainant with a single response that represents each organisations final response. Where a service user wishes to make a complaint about a healthcare related matter they have the choice of doing this either to the organisation providing the service or the Primary Care Trust (PCT) that commissions the service. The PCT may decide that it is best placed to handle the complaint itself, and in such cases, or where other providers are involved, the Trust will afford every cooperation, negotiating the time frame for a response accordingly.

In instances where the Trust receives a complaint involving more than one service provider, the Patient Services Team will discuss this with the complainant and share the complaint with the relevant Organisation, co-ordinating a single, joint response to the complainant within an agreed timeframe. Joint working policies between Organisations will be adhered to in these instances. Joint policies are located in the Patient Services office and can be sourced from the Complaints Manager.

#### **15.0 Consent**

A complaint may be made by any persons who

- receive or have received services from the Trust; or
- are affected, or likely to be affected, by the action, omission or decision of the Trust which is the subject of the complaint.

A complaint may be made by a person acting on behalf of a person mentioned above who

- has died;
- is a child;
- is unable to make the complaint themselves because of physical incapacity; or lack of capacity within the meaning of the Mental Capacity Act 2005;
- has requested the representative to act on their behalf.

Where a representative makes a complaint on behalf of a child, the Trust must not consider the complaint unless it is satisfied that there are reasonable grounds for the complaint being made by a representative instead of the child. If the Trust is not satisfied, the Complaints and PALS Officer must notify the representative in writing, stating the reason for its decision. The Complaints and PALS Officer will then obtain the patient's consent for any personal information to be provided to the complainant.

Consent may be a sensitive issue and the Trust wishes to avoid giving complainants the impression that it is trying to avoid investigating their legitimate concerns. The issue of consent is often resolved when the investigating officer makes a home visit when both complainant and patient are present.

## **16.0 Freedom of Information Act 2000 and data Protection Act 1998**

People are able to apply to the Trust for access to information under the provisions of the Freedom of Information Act 2000 and Data Protection Act 1998. The Trust is required to operate separate procedures for handling complaints involving the Trust's non-compliance with these Acts. This Complaints Policy does not, therefore, apply to complaints related to these Acts which should be referred separately to the Clinical Quality Directorate.

## **17.0 Publicity**

The existence of the complaints procedure and how to access this will be advertised on the Trust website, in appropriate Trust premises and vehicles and included in patient and public information literature.

## **18.0 Equality, Diversity and Human Rights**

In handling and responding to complaints, complainants should be treated fairly with equal opportunities to make their view known. Fairness requires all those who complain to be treated with dignity, respect and compassion. Where reasonable adjustments are appropriate to enable equitable access, these will be facilitated. Regardless of people's differences, everyone who complains has the right not to be discriminated against.

The Trust is committed to ensuring that people are not treated differently as a result of making a complaint. As such, documentation regarding a complaint will be held separately from the patient's medical records, and only those staff participating in the investigation will be party to the full details. If there is evidence that someone has been treated differently by staff as a result of raising a complaint, this will be discussed with Human Resources for action to be taken as appropriate.

The Trust is committed to pro-diversity and anti-discriminatory practice. Information is available in accessible formats, including different languages on request that inform the public about our complaints process. The Complaints Manager will liaise on a regular basis with the Trust lead for Equality, Diversity and Human Rights to ensure that the accessibility of the process is maintained and reasonable adjustments are made to facilitate the needs of those who might otherwise not be able to make a representation to the Trust. Examples of reasonable adjustments include translation services (for example, language line) or other formats if required.

It is acknowledged that health inequalities within the East of England Ambulance Service NHS Trust are recorded across a range of diverse characteristics, with some population groups experiencing a significantly higher percentage of serious illness or injury than others which lowers life expectancy and increases morbidity. EEAST is working in partnership across the health and social care organisations to support reduction of health inequalities.

The purpose of this policy is to ensure that the Trust receives feedback from the regional population to whom it provides a service. The Trust recognises that there are

diverse clinical needs within the population and with the people who are in contact with the service. Patients, family and the general public will be treated in accordance with the Trust values: <sup>1</sup>Respect, Dignity and Compassion, with a commitment to quality of care, improving working lives, working with others to the benefit of our patients, and ensuring that everyone counts. The Trust endorses a Human Rights based approach<sup>2</sup>, of Fairness, Respect, Equality, Dignity and Autonomy. Individuals will be afforded these values and principles irrespective of age, marital status, disability, race, nationality, gender, religion, sexual orientation, gender, reassignment, ethnic or national origin, beliefs, domestic circumstances, social and employment status, political affiliation or trade union membership, HIV status or other relevant condition. The Trust will take measures to ensure that all forms of unlawful or unfair discrimination are avoided and will take action where it is identified as having taken place. Service development and redesign will be evidence based to ensure best practice.

An Equality Impact Assessment initial screening has been undertaken on this procedural document and in line with Trust policy further equality impact assessment initial screening will be undertaken as specific policies, procedures and guidelines are developed, and where indicated, a full impact assessment will be undertaken and the report published to the Trust website.

## 19.0 Complaints and Disciplinary Procedure

The use of the Trust's Complaints Policy is separate from the Disciplinary Policy. If a complaint indicates the possible need for the following:

- Referral for an investigation under the disciplinary procedure
- Referral to a professional regulatory body
- Fatal accident inquiry
- Investigation of a criminal offence

Such a complaint should be passed to the relevant Heads of Department or General Manager for consideration and action (arrangements for Out of Hours, weekends and public holidays, see Section 18).

## 20.0 Habitual or Vexatious<sup>3</sup> Complaints

Very occasionally complainants will persist with a complaint that staff consider has reached a conclusion through the complaints procedure. A protocol for handling such situations to protect both staff and complainants can be found in Appendix 3.

## 21.0 Complaints Received During Out of Hours

Any complaint made outside of normal office hours will normally be received in the Health Emergency Operations Centre (HEOC). The HEOC Duty Supervisor will assess the complaint and response required in conjunction with the complainant and On Call Senior Manager. Relevant information regarding the complaint will be passed to the Complaints and PALS Officer at the start of the next working day. Advice can

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<sup>1</sup>

[http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/@ps/documents/digitalasset/dh\\_113645.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_113645.pdf)

<sup>2</sup> [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_088970](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_088970)

<sup>3</sup> Definition : not having sufficient grounds for action and seeking only to annoy

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also be sought from the General Manager Patient Services (or nominated deputy) who is usually available for contact by mobile telephone outside of normal office hours.

## **22.0 Review**

This Complaints Policy will be reviewed by the Risk Management Group, and approved by the Executive Management Team. The Quality and Risk Assurance Committee will provide assurance to the Trust Board by ensuring that all complaints, reports and trends are discussed, challenged and comply with national trends guidance. The policy will be approved by the Trust Board every two years or on receipt of any revised National Guidance, whichever is the sooner.

## 23.0 Process of Monitoring Compliance and Effectiveness

What	Who	How	Frequency	Evidence	Reporting arrangement	Acting on recommendation	Change in practice and lessons to be shared
Duties	General Manager or Assistant General Manager involved	Review of processes and responsibilities.  The Patient Safety Software System	Annually	Review report outputs	Issues with process will be raised to the relevant manager for resolution.	The General Manager or Assistant General Manager is responsible for taking any action	Required changes 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. Lessons will be shared with all the relevant stakeholders.
Listening and responding to concerns / complaints of patients, their relatives and carers	General Manager or Assistant General Manager involved	The Patient Safety Software System  Patient Services department will monitor quality of investigations and communication	Ongoing for each individual complaint	Emails, file notes, meeting notes and letters demonstrate compliance with the correct process	Issues with process will be raised to the relevant manager for resolution.  The lead is expected to read and interrogate any report to identify deficiencies in the system and act upon them	The General Manager or Assistant General Manager is responsible for taking any action.  Required actions will be identified and completed in a specified timeframe.	Required changes 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. Lessons will be shared with all the relevant stakeholders.
	General Manager or Assistant General Manager involved	The Patient Safety Software System  Patient Services department will monitor quality of investigations and communication	Ongoing for each individual complaint	Emails, file notes, meeting notes and letters demonstrate compliance with the correct process	Issues with process will be raised to the relevant manager for resolution.  The lead is expected to read and interrogate any report to identify deficiencies in the system and act upon them	The General Manager or Assistant General Manager is responsible for taking any action.  Required actions will be identified and completed in a specified timeframe.	Required changes 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. Lessons will be shared with all the relevant stakeholders.

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What	Who	How	Frequency	Evidence	Reporting arrangement	Acting on recommendation	Change in practice and lessons to be shared
Handling of joint complaints between organisations	Complaints Manager	Interrogation of the patient safety software system and audit of final response letters	Annually	Published report approved by the Clinical Audit and Patient Safety Group	The group are expected to read and interrogate any report to identify deficiencies in the system and act upon them	Required actions will be identified and completed in a specified timeframe by the Complaints Manager.	Required changes 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. Lessons will be shared with all the relevant stakeholders.
Ensuring that patients, their relatives and carers are not treated differently as a result of raising a concern / complaint	Complaints Manager	Survey of complainants regarding satisfaction with the complaint process	Annually	Published report approved by the Clinical Audit and Patient Safety Group	The group are expected to read and interrogate any report to identify deficiencies in the system and act upon them	Required actions will be identified and completed in a specified timeframe by the Complaints Manager.	Required changes 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. Lessons will be shared with all the relevant stakeholders.
Process of improving as a result of concerns / complaints raised.	Patient Services Department	Production of monthly and quarterly reports for review by the Risk Management Group, Clinical Audit and Patient Safety Group, Clinical Quality and Safety Group, and the Quality and Risk Assurance Committee	Monthly, quarterly and annually.	Bi- and Reports produced and archived. All data taken from the Patient Safety Software System	The committees and groups are expected to read and interrogate any report to identify deficiencies in the system and act upon them	Required actions will be identified and completed in a specified timeframe.	Required changes 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. Lessons will be shared with all the relevant stakeholders.

## 24.0 References

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- All employment, information and anti-discrimination legislation (as applicable).
- Parliamentary and Health Service Ombudsman's Principles
- Department of Health " A guide to better customer care"
- East of England Ambulance Service NHS Trust relevant policies and procedures
- Standards for Better Health (DH July 2004)

## Appendices

- Appendix 1 Trust Associated Policies and Procedures
- Appendix 2 Complaints Procedure – Guidance for Staff
- Appendix 3 Procedure for Handling Habitual or Vexatious Complainants
- Appendix 4 Patient Advice and Liaison Service
- Appendix 5 Complaints Procedure – Summary Flowchart and Timescales

## **APPENDIX 1 - TRUST ASSOCIATED POLICIES AND PROCEDURES**

The following is a list of related policies and procedures (this should not be viewed as exhaustive).

### **Trust Policies and Procedures**

Risk Management Strategy  
Risk Management Policy  
Disciplinary Policy  
Grievance Policy  
Serious Incidents  
Being Open Policy  
Information Governance Policy  
Whistle Blowing Policy  
Release of Information Policy  
Freedom of Information Policy  
Learning Policy  
Investigation Guidance policy  
Claims Policy

### **Locality Policies and Procedures**

Dealing with Doctors Disciplinary Matters  
Out-of-Hours (OOH) Service - Communications Hub  
Investigative Skills Course

### **National Guidance and Regulations**

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

*The Local Authority Social Services & NHS Complaints (England) Regulations (2009) Making Experiences Count, DoH*

[http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH\\_075652](http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_075652)

*Listening, responding, improving: a guide to better customer care -*

<http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicy>

## **APPENDIX 2: COMPLAINTS PROCEDURE – GUIDANCE FOR STAFF**

### **1.0 GENERAL**

All complaints must be treated seriously and dealt with promptly, sensitively and in a confidential manner.

The purpose of the Complaints Procedure is not to apportion blame, but to investigate complaints and, as far as possible, to satisfy complainants, in addition to learning lessons for improvement in service delivery. The Complaints Procedure is separate from the Disciplinary Policy (Managing Staff Conduct and Performance Procedure). Some complaints may identify information about serious matters, which indicate a need for investigation. Should this situation arise, this will be handled as a separate process, in accordance with the Trust's Disciplinary Policy.

Correspondence relating to the investigation of complaints must always be kept separate from patients' clinical records. In accordance with Department of Health Guidelines 'For the Record: Managing NHS Records – March 1999', complaint case papers should be retained for a minimum period of 10 years.

Complainants may have a right to copies of documents relating to them, both manual and computerised. If a case proceeds to a request for review by the Parliamentary and Health Service Ombudsman, written comments made by managers, together with any relevant clinical records, may need to be made available to the complainant and to the Parliamentary and Health Service Ombudsman<sup>4</sup>.

**All complaints which indicate in writing explicitly the intention to take legal action must be referred to the Claims and Litigation Coordinator before any further action is taken. This must not delay the statutory obligation to acknowledge the letter within 3 working days.**

### **2.0 COMPLAINTS PROCESS**

#### **2.1 Who can complain and what can they complain about?**

A complaint may be made by a person who receives or has received services from the Trust or a person who is affected, or likely to be affected, by the action, omission or decision of the Trust which is the subject of the complaint.

The potential subject of a complaint is therefore wide and not just related to clinical care. Each complaint must be taken on its own merit and responded to accordingly. If the patient or affected person is unable to complain then someone acting with their consent can complain on their behalf. If the patient or affected person is unable to act through physical incapacity, or through lack of capacity within the Mental Capacity Act 2005 then consent is not needed. Complaints may also be made in respect of deceased patients, usually by the next-of-kin, although the release of personal information may be limited, in accordance with the

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<sup>4</sup> Whether a document is disclosable must be considered with reference to the primary purpose for which it was made and the provisions of the Data Protection and Access to Medical Records Act. Not all documents requested by the patient, and/or the Parliamentary and Health Service Ombudsman will necessarily be disclosable or capable of disclosure without the patient's consent and legal advice may be required.

provisions of the Access to Health Records Act 1990.

## **2.2 Types of Complaint**

### Reportable within the NHS Complaints Regulations 2009

An oral complaint that is formalised in writing (by either the complainant or a manager of the Trust) or a written (including electronic) complaint, regarding an incident which has occurred during the previous twelve months, or within twelve months of the complainant becoming aware of the matter which is the subject of the complaint.

### Not reportable within the NHS Complaints Regulations 2009.

- Oral complaint that was resolved to the complainant's satisfaction no later than the next working day after the day on which the complaint was made.
- Complaints from a responsible body
- Complaint from an employee of a local authority or NHS body about any matter relating to that employment.
- Complaint the subject matter which was previously investigated and resolved.
- A complaint the subject matter of which has previously been investigated under the 2004 and 2006 regulations
- A relevant complaints procedure in relation to a complaint made under such a procedure before 1st April 2009;
- A complaint the subject matter of which is being or has been investigated by a Local Commissioner under the Local Government Act 1974(a), or a Health Service Commissioner under the 1993 Act.
- A complaint arising out of the alleged failure by a responsible body to comply with a request for information under the Freedom of Information Act 2000
- 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.
- Comment or concern received via PALS helpline or other phone/personal/written (including electronic) contact with the Trust.
- Where the complainant does not want their comments to be treated formally under the provisions of the Complaints Regulations 2009.

## **2.3 Time Limit for Initiating a Complaint**

Normally a complaint should be made within twelve months from the date of the incident that caused the problem, or within twelve months of the date of discovering the problem. There is, however, discretion to extend this time limit if the complainant had good reason for not making the complaint sooner and notwithstanding the delay it is still possible to investigate the complaint effectively and fairly. This decision is normally determined by the Complaints Manager.

## **2.4 Local Resolution and Review.**

There are now only two stages to the complaints procedure and every effort should be made to resolve the complaint locally. Local resolution can be defined as resolving a complaint within the organisation without the involvement of the Health Service Ombudsman, but could involve independent advocacy or a mediation service. Where this has been exhausted without the complaint being resolved to the complainant's satisfaction, then the Trust will advise the complainant of their rights to contact the Health Service Ombudsman and provide them with the details to do so.

## **2.5 Time Limit for Responding to Complaints**

- 2.5.1 When a complaint is received orally a written record of the complainant's personal details (name, address, contact phone number etc) and the subject matter of the complaint should be recorded. This record should then be sent to the complainant asking them to clarify that the details are correct and that they are happy with the time scale of 25 working days. Where complainants are unhappy with this time scale, this should be referred to the Complaints and PALS Officer who will discuss the matter further with the complainant to agree the time scale.
- 2.5.2 Written (including electronic) complaints will be initially logged and where possible will be contacted to establish and agree the time scale for a written response. The Trust will normally respond to a complaint as soon as possible and with agreement from the complainant will work towards a time scale of 25 working days. This period may decrease if the complainant is unhappy with the length of time suggested or may increase if there are genuine problems that are prohibiting the investigation to complete within the time scale.
- 2.5.2 Once the time scale has been agreed an acknowledgement letter is sent within three working days. This acknowledgement letter will explain the complaints process and indicate that a written response will be given within the agreed timescale and if still unresolved, a letter detailing progress will be sent. The letter will also include information where the complainant can seek independent support during the process.
- 2.5.3 A copy of the Trust's leaflet, 'Complaints... patient experiences making things easier' will be included with the acknowledgement letter. Additionally, the complainant will be invited to complete and return an enclosed Ethnic Data Form. Doing so is entirely voluntary.
- 2.5.4 The complaint will be registered on to the Trust's electronic database, graded using the Datix system which is in accordance with the Risk Management Strategy and progress monitored.
- 2.5.5 The Complaints and PALS Officer will review the complaint and submit the file to the relevant Heads of Department or General Manager for investigation (including nomination of the investigating officer). Within 15 working days of the registration of the complaint, the investigating officer will:
- Wherever appropriate, visit the complainant to ascertain the facts and give reassurance that the matter is being properly investigated
  - Interview all relevant persons associated with the complaint
  - Maintain a detailed written record of the investigation and interviews including the production of written statements and recommendations as appropriate.
  - Prepare a comprehensive report, including main issues investigated and remedies taken or suggested, and submit these together with all paperwork relevant to the investigation to the Heads of Department or General Manager.
- 2.5.6 Once the investigation is complete the Head of Department or General Manager will produce a draft response letter for the Complaints Manager to review. Any changes will be shared with the Head of Department or General Manager before the final letter is passed to the Chief Executive for approval. Periodically the General Manager Patient Services will monitor the quality of the final letters to ensure they capture all the key points of the complaint and that lessons learnt have been realised and actioned.

- 2.5.7 The complainant will be kept informed of progress throughout the investigation.
- 2.5.8 In exceptional circumstances the Complaints Manager can seek authorisation from the complainant to extend the 25 working day time limit. Possible reasons for an extension may be due to the complexity of the case or unavailability of important witnesses or the belief that the extension will enable local resolution of the complaint. Before the complainant is contacted to give their agreement to an extension the Complaints Manager should discuss the complaint with the General Manager Patient Services or delegated officer and seek their agreement. The seeking of such an extension must be an exception and if approved the reasons clearly noted on the complaint file.
- 2.5.9 No pressure should be placed on the complainant to agree to the extension, but they may in suitable cases consider it appropriate to explain to the complainant that a comprehensive response may not be possible to achieve in 25 working days. Any extension must be agreed with the complainant that is proportionate to the time needed to complete the investigation effectively.
- 2.5.10 If the complainant is unwilling to agree to the extension the Trust must do everything to meet the 25 working day deadline, and continue to make every effort to reach agreement with the complainant about an extension, if this is appropriate. If an extension is not agreed and the deadline missed the Trust will provide a full explanation to the complainant and seek to provide a full response as swiftly as possible.
- 2.5.11 The Complaints and PALS Officer will contact investigating managers ten working days after receipt of complaints to enquire about progress and offer support. Fifteen days after receipt, if the report from the investigation is not available, the Complaints Manager will contact investigating managers again to progress completion of the investigation.
- 2.5.12 At 20 days, if the report from the investigation is still not available, the Complaints Manager will inform the General Manager Patient Services who in turn will contact the Head of Department and General Manager (and copy the relevant Director) to ensure the expeditious completion of the investigation.
- 2.5.13 The Complaints Manager will work with all managers to identify any learning and to implement any remedial action needed to improve services;
- 2.5.14 In the response letter the complainant will be invited to contact the Complaints Manager if they have any further concerns or are dissatisfied with the response received. They will also be advised of their right to request a review of their case by the Health Service Ombudsman;
- 2.5.15 The complaints database will be completed and all necessary information noted.
- 2.5.16 The relevant Manager will brief staff involved following the Chief Executive's response;
- 2.5.17 The relevant Director or Associate Director will report all complaints to the Chief Executive at the Executive Management Team quarterly, where complaints should be a standard agenda item.

**Complaints addressed to someone other than the Chief Executive, the General Manager Patient Services, Complaints Manager or Complaints and PALS Officer must immediately be passed to the Complaints and PALS Officer.**

### **3.0 PRINCIPLES OF GOOD COMPLAINT HANDLING <sup>5</sup>**

The Trust understands that mistakes sometimes happen and promote an open culture to find out what went wrong and to put things right where they can. The Parliamentary and Health Service Ombudsman which is responsible for investigating complaints that cannot be resolved locally has published 'Principles of Good Complaint Handling'. In summary the six principles are:

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

The Trust has embraced these principles into the way it manages the complaint process. It is also encouraging staff and managers to follow good practises such as:

- Visiting the complainant at an early stage to discuss the complaint in detail, at a venue convenient for the complainant.
- Listen to the complainant so that there is a full understanding of the key issues to be resolved.
- Respond in the right way by having an action plan.
- Offer details of further support that the complainant can access to help them throughout the process.
- Keep to the agreed time lines and ensure that the complainant is kept regularly involved of developments.
- Offer an apology where one is needed.
- Communicate in plain English and refrain from using technical terms or ambulance jargon.
- Ensure that learning is taken from specific complaints and is embedded into the system for the future.

### **3.1 Outcome**

In investigating a complaint, the Trust will endeavour to:

- a) discover what happened and what went wrong;
- b) help the complainant to discuss the problem with those concerned;
- c) ensure the complainant receives an apology, where this is appropriate;
- d) identify what can be done to make sure the problem is not repeated.

### **4.0 ACTION BY STAFF:**

#### **4.1 Response by Front Line Staff**

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<sup>5</sup> Complaints' managers should receive training in respect of conciliation and mediation skills

Each Trust vehicle will have literature displayed prominently advising patients and carers to contact the PALS free phone number or to write to the Trust's Chief Executive with any comments or concerns. Where possible queries and concerns should be dealt with quickly and resolved locally.

- Staff should try to resolve concerns or complaints as quickly as possible, with an apology where appropriate;
- Concerns or complaints from patients or their carers to any member of staff should be noted and taken seriously. Whenever possible an immediate response (usually oral) should be given;
- All complaints and PALS comments resolved by frontline staff should be recorded and forwarded immediately to the Complaints and PALS Officer.
- Any necessary remedial action should be taken or, where this is not possible, the first-line manager should be informed to enable them to initiate resolution;
- Resolution of a complaint should not involve preferential treatment or priority being given to the complainant over and above that for other patients;
- The complainant must be kept informed about progress and, where appropriate, a written response sent by the manager explaining the outcome and including any necessary remedial action taken as a result of the complaint;
- In the case of a reportable complaint that falls within the NHS complaints regulations 2009 (section 1.2) the complainant should be encouraged and helped to complain by contacting the Complaints and PALS Officer.
- All staff should assist in the process of identifying the underlying cause.
- Staff should be prepared to submit a statement where the complaint is being investigated under the NHS complaints system. This should be done as soon as possible so that events are still fresh in the memory.

## **5.0 MEDIATION**

In some circumstances, if the complainant remains unhappy with the outcome of the complaints investigation, mediation may be appropriate. This provides an opportunity for the complainant and the employee complained against to meet in the presence of a mediator. Mediators are lay people who are experienced in managing meetings, handling conflict and dealing with emotional situations. Concerns can be discussed in confidence and a way forward agreed.

## **6.0 RELEASING CLINICAL NOTES / PATIENT CONFIDENTIALITY**

The decision to release clinical notes or any other patient sensitive information is subject to the Access to Health Records Act 1990, the Data Protection Act 1998 and the Trust's Confidentiality Policy. Clinical notes will not be released without the written consent of the patient or, in the case of a child under 16, the consent of the parent or guardian. In cases where the patient is unable to give consent (e.g. because of his/her mental health), the Complaints and PALS Officer should use their knowledge of the circumstances and exercise discretion in deciding whether the case notes should be released to the legitimate representative of the patient. Where there is any doubt about this decision the Complaints and PALS Officer should consult with the Complaints Manager.

Advice on patient confidentiality and release of information is available from the Claims and Litigation Coordinator or Caldicott Guardian.

## **APPENDIX 3 - PROCEDURE FOR HANDLING HABITUAL OR VEXATIOUS<sup>6</sup> COMPLAINANTS**

### **1.0 INTRODUCTION**

- 1.1 Habitual and/or vexatious complainants are becoming an increasing problem for NHS staff although this Trust does not experience this to any great extent. The difficulty in handling such complainants places a strain on time and resources and causes undue stress to staff that may need support in difficult situations. NHS staff are trained to respond with patience and empathy to the complainant's needs and feelings, but there are times when there is nothing further, which can reasonably be done to assist them or to rectify a real or perceived problem.
- 1.2 In determining arrangements for handling such complaints, the need to ensure an equitable approach is crucial. Staff are presented with two key considerations:
- To ensure that the complaints procedure has been correctly implemented as far as possible and that no genuine element of a complaint is overlooked or inadequately addressed. In doing so, it should be appreciated that habitual or vexatious complainants can have issues, which contain some genuine substance.
  - To be able to identify the stage at which a complainant has become habitual or vexatious.
- 1.3 One approach is an approved procedure, which is incorporated into the complaints policy. Implementation of such a procedure would only happen in exceptional circumstances.
- 1.4 Information on the handling of habitual and vexatious complainants should also be made available to the public as part of the material on the complaints process as a whole.

### **2.0 PURPOSE OF THIS PROCEDURE**

- 2.1 Complaints about services provided by the Trust are processed in accordance with the NHS complaints procedure. During this process staff inevitably have contact with a small number of complainants who absorb a disproportionate amount of NHS resources in dealing with their complaints. The aim of this procedure is to determine situations where the complainant might be considered to be habitual or vexatious and to suggest ways of responding to these situations.
- 2.2 It is emphasised that this procedure should only be used as a last resort and after all reasonable measures have been taken to try and resolve complaints following the NHS complaints procedure, for example, through local resolution, conciliation, or involvement of the Independent Complaints Advocacy Service (ICAS).
- 2.3 Judgement and discretion must be used in applying the criteria to identify potential

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<sup>6</sup> Definition : not having sufficient grounds for action and seeking only to annoy  
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habitual or vexatious complainants and in deciding action to be taken in specific cases.

- 2.4 The procedure should only be implemented following careful consideration by, and with the authorisation of, the Director of Clinical Quality.

### 3.0 DEFINITION OF A HABITUAL OR VEXATIOUS COMPLAINANT

- 3.1 Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious complainants where previous or current contact with them shows that they follow **two** or more (or are in serious breach of one) of the following criteria:

3.1.1 Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.

3.1.2 Change the substance of a complaint, continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint has been addressed. Care must be taken not to discard new issues, which are significantly different from the original complaint. These may need to be addressed as separate complaints.

3.1.3 Unwilling to accept documented evidence of treatment given as being factual, e.g. patient report forms, treatment/travel disclaimer or Computer Aided Dispatch (CAD) print outs; or deny receipt of an adequate response in spite of correspondence specifically answering their concerns; or do not accept that facts can sometimes be difficult to verify if a long period of time has elapsed.

3.1.4 Do not clearly identify the precise issues which they wish to be investigated, despite the reasonable efforts of Trust and, where appropriate ICAS to help them specify their concerns, and/or where the concerns identified are not within the remit of the Trust to investigate.

3.1.5 Focus on a trivial matter to an extent, which is out of proportion to its significance, and continue to focus on this point. (It is recognised that determining what a 'trivial' matter is can be subjective and careful judgement must be used in applying this criteria).

3.1.6 Have threatened or used actual physical violence towards any member of staff. This will in itself cause personal contact with the complainant and/or their representative to be discontinued and the complaint will thereafter only be pursued through written communication.

3.1.7 Have in the course of addressing a formal complaint had an excessive number of contacts (or unreasonably made multiple complaints) with the Trust, placing unreasonable demands on staff. A contact may be in person or by telephone, letter, fax or e-mail. Discretion must be used in determining the precise number of 'excessive contacts' applicable under this section, using judgement based on the specific circumstances of each individual case.

3.1.8 Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint, or their families/associates. (It is recognised that complainants may sometimes act out of character at times of stress, anxiety or distress and, where appropriate,

allowances should be made for this, provided it is not detrimental to the staff concerned.) All incidents of harassment or aggression should be documented, reported and investigated in accordance with the Trust's accident and incident reporting procedure.

3.1.9 Are known to have tape recorded meetings, or any conversations held either face to face or over the telephone without the prior knowledge and consent of the other parties involved. It may be necessary to explain to a complainant at the outset of any investigations into their complaint(s) that such behaviour is unacceptable and can, in some circumstances, be illegal.

3.1.10 Display unreasonable demands or expectations and fail to accept that these may be unreasonable once a clear explanation is provided to them as to what constitutes an unreasonable demand (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or recognised practice).

#### **4.0 OPTIONS FOR DEALING WITH HABITUAL OR VEXATIOUS COMPLAINANTS**

4.1 Where complainants have been identified as habitual or vexatious in accordance with the above criteria, the Complaints Manager will determine what action to take, ensuring the General Manager Patient Services is informed. The Complaints Manager will implement such action and will notify complainants promptly in writing of the reasons why they have been classified as habitual or vexatious complainants and the actions to be taken.

4.2 This notification must be copied promptly for the information of others already involved in the complaint, such as operational managers, Independent Complaints Advocacy Service, MPs etc. A record must be kept for future reference of the reasons why a complainant has been classified as habitual or vexatious and the action taken.

4.3 The Complaints Manager may decide to deal with habitual or vexatious complainants in **one or more** of the following ways:

4.3.1 Try to resolve matters, before invoking this procedure, by drawing up a signed 'agreement' with the complainant (and if appropriate involving the relevant staff member in a two way agreement) which sets out a code of behaviour for the parties involved if the Trust is to continue processing the complaint. If these terms are contravened consideration would then be given to implementing other action as indicated in this section.

4.3.2 Once it is clear that complainants meet any one of the criteria in (3), it may be appropriate to inform them in writing that they may be classified as habitual or vexatious complainants copy this procedure to them and advise them to take account of the criteria in any other dealings with the Trust. In some cases it may be appropriate, at this point, to copy this notification to others involved in the complaint and to suggest that the complainant seeks independent advice in taking their complaint further.

4.3.3 Decline further contact with the complainant apart from written correspondence or through a third party, for example ICAS. A suggested statement has been prepared for use if staff are to withdraw from a telephone conversation with a complainant. This is shown in 6.2 overleaf.

- 4.3.4 Notify the complainant in writing that the Trust has responded to the points raised and has tried to resolve the complaint, that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that further communications on the current complaint will not be responded to.
- 4.3.5 Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the East of England Strategic Health Authority, Department of Health or other relevant agencies.
- 4.3.6 Inform the complainant that in extreme circumstances the Trust reserves the right to pass unreasonable or vexatious complaints to the Trust's solicitors and/or, if appropriate, the police.
- 4.3.7 In cases where the complaint is made against the Chair or Chief Executive of the Trust, then the decision about whether the complainant is deemed to be habitual or vexatious will be taken by a Non-Executive Director of this Trust, together with a Non-Executive Director from another area.

## **5.0 WITHDRAWING HABITUAL OR VEXATIOUS STATUS**

- 5.1 Once complainants have been determined as habitual or vexatious there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach or if they submit a further complaint for which the normal complaints procedure would appear appropriate.
- 5.2 Staff should previously have used discretion and careful judgement in recommending habitual or vexatious status at the outset and similar discretion and judgement should be used in recommending that this status be withdrawn.
- 5.3 Where this appears to be the case, a discussion will be held with the General Manager Patient Services and, subject to his/her approval, normal contact with the complainant and application of the NHS complaints procedures will be resumed.

## **6.0 GUIDANCE FOR STAFF HANDLING HABITUAL OR VEXATIOUS COMPLAINANTS**

- 6.1 The following form of words – or a very close approximation – should be used by any member of staff who intends to terminate a telephone conversation with a complainant. Grounds for doing so could be that the complainant has become unreasonably aggressive, abusive, insulting or threatening to the individual dealing with the call or in respect of other NHS personnel. It should not be used to avoid dealing with a complainant's legitimate questions/concerns, which can sometimes be expressed extremely strongly. Careful judgement and discretion must be used in determining whether or not a complainant's approach has become unreasonable.

### **6.2 Form of words**

*'I am afraid that we have reached the point where I believe your approach is unreasonable and I have no alternative, but to end this conversation. Your complaint(s) will still be recorded and dealt with by the Trust as appropriate, but I am now going to end this telephone conversation.'*

### **6.3 Follow up action**

The incident should be reported through the completion of an accident/ incident report form. In respect of future means of communication with the complainant and any further action deemed necessary, advice should be sought from the General Manager

Patient Services.

#### 6.4 **Continuing with Clinical Care**

Where the complainant requires clinical treatment this should continue, unless the case falls within the Procedure for Withholding of Treatment. Where the complaint is against staff who are providing care to the complainant their care where possible should be transferred to a different clinician, following discussion with the relevant manager. Support to all staff involved is available from their line manager, the Director of their service or the General Manager Patient Services.

## **APPENDIX 4 - PATIENT ADVICE AND LIAISON SERVICE (PALS)**

### **1.0 PALS SYSTEM**

The Patient Advice and Liaison Service (PALS) is an informal mechanism for patients, their relatives or carers to comment on services provided by the Trust. They will also form part of the data gathering by the Patient Advice & Liaison Service to identify trends, gaps in service and share good practice.

- All vehicles will display information regarding the 'free' telephone service.
- All staff will be aware of the service, what it offers and how to access it.
- The Trust will aim to deal with all comments received via PALS with similar standards of responsiveness and thoroughness as employed for complaints.
- The Patient Services Team will be the first point of contact for all PALS contacts in office hours. Out-of-hours the Trust has a voicemail service and calls to this are reviewed as soon as the office re-opens.

### **2.0 ACCESS TO PALS**

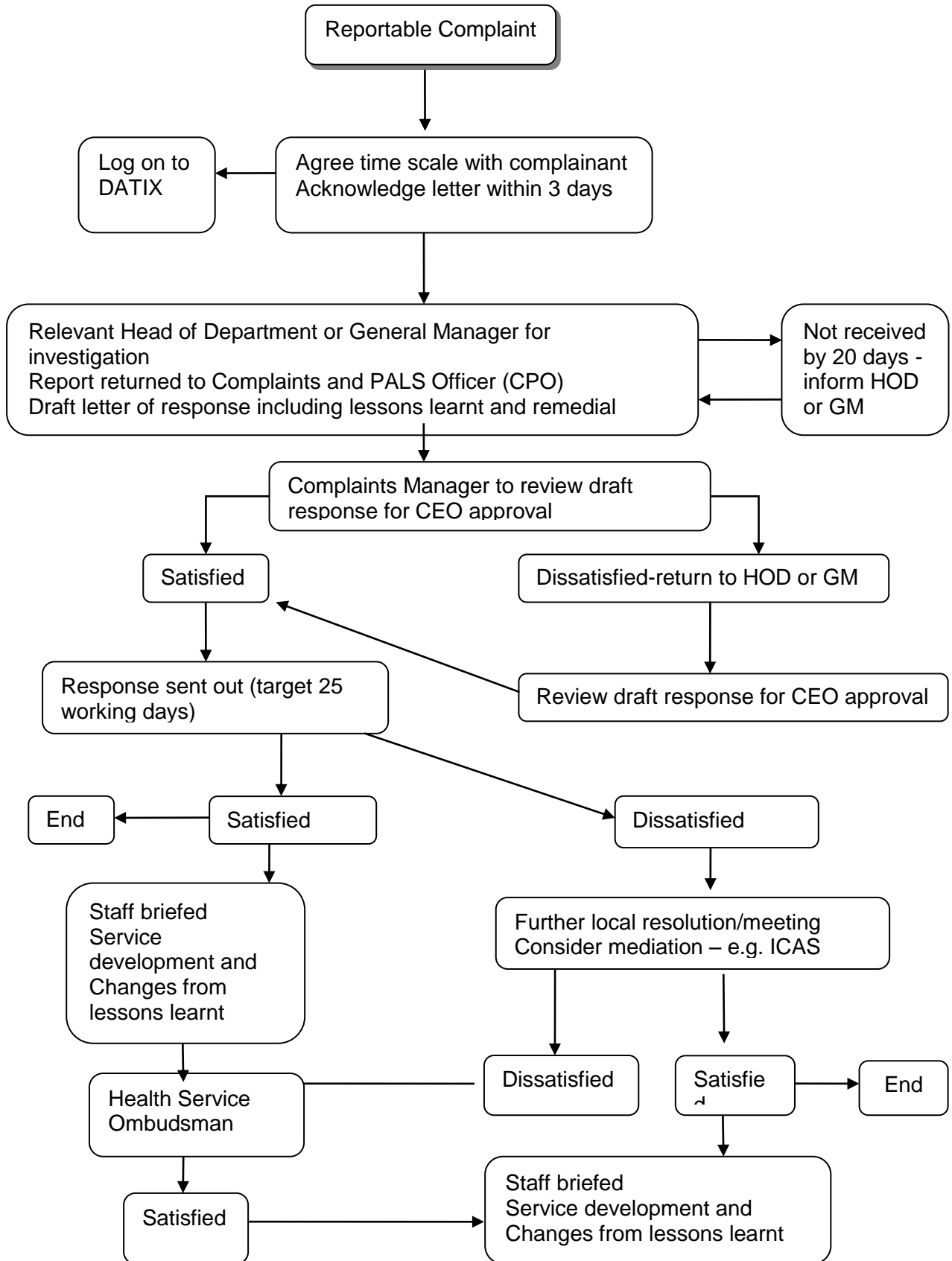
PALS is about promoting a culture of good customer care and all Trust staff should undertake a PALS role, giving advice or information to patients, carers or relatives or signposting them to other relevant help.

PALS is accessed by the public by a free phone number, email address and also through the Trust Website

The telephone line is staffed during office hours with a voicemail service when the office is closed. If the matter is urgent the caller can access the Duty Supervisor within the Emergency Operations Centre. If the comment received requires an urgent response this will be undertaken by the Duty Supervisor.

## APPENDIX 5 - COMPLAINTS PROCEDURE

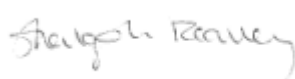
### 1. Complaints Procedure



## 2. COMPLAINTS PROCEDURE - SUMMARY OF TIMESCALES

Event	Time Allowed
Original complaint	12 months from event, or 12 months of becoming aware of a cause for complaint – subject to discretion to extend. <b>(Regulation standard)</b>
<b>Local Resolution</b>	
Non reportable Complaint	Dealt with on the spot or resolved by the next day to the satisfaction of the complainant. Where the complainant does not wish to proceed under the complaints procedure (PALS)
Reportable Complaint	Not resolved on the spot or next working day. Where the complainant wishes the complaint to be investigated further under the complaints procedure.
Acknowledgement letter	3 working days of receipt <b>(Regulation Standard)</b>
Complaints & PALS Officer contact investigating manager to enquire about progress	10 working days of receipt <b>(EEAST Proposed standard to complainant)</b>
Complaints Manager contact investigating manager to progress completion of investigation	15 working days of receipt <b>(EEAST Proposed standard to complainant)</b>
Formal complaint - full response by Trust with letter signed by Chief Executive	25 working days of receipt. <b>(EEAST Proposed standard to complainant)</b>
Time limit for complaint to receive a response	6 months from the date of receipt of complaint or longer if agreed <b>(Regulation standard)</b>
Complainant referring their case for Review to the Health Service Ombudsman	No time limit. <b>(Regulation standard)</b>

**Appendix 6 Equality Impact Assessment Summary**

<b>Executive Summary Page for Equality Impact Assessment:</b>	
Document Reference:	Document Title: Complaints Policy
Assessment Date:	Document Type: Policy
Responsible Director: Sheilagh Reavey	Lead Manager: Emma de Carteret
Conclusion of Equality Impact Assessment: Whilst there is insufficient data to establish the accessibility of the policy at present, work is being carried out to determine this. It is not anticipated that there will be any adverse impact on any group.	
Recommendations for Action Plan: To utilize the equality data gathered during the review of the complaints policy	
Risks Identified: There are potential issues with accessibility with the policy; however the Trust has processes in place to be able to provide the document in any format.	
<b>Approved by a member of the executive team:</b>	
Name: Sheilagh Reavey	Position: Director of Clinical Quality
Signature: 	Date: 23 June 2011
<b>This whole document should be stored with the master document and a final approved electronic copy must be sent to the Equality &amp; Diversity Lead at Bedford Office</b>	