

# Policy and Procedure for the Management of Complaints and Concerns

**Division: Trust-wide**

**Document No: CG-20**

Specific staff groups to whom this policy <u>directly</u> applies	Likely frequency of use	Other staff who may need to be familiar with policy
All staff in contact with patients/carers	Daily	Executives/Managers

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<b>Summary of changes since the previous version</b>	Updated job titles, updated Safeguarding flowchart.

## 1. Executive Summary

- 1.1 This policy supports the delivery of our values, to be caring, ambitious, respectful and supportive. North Bristol NHS Trust ('The Trust') strives to provide exceptional healthcare and outstanding patient experience for all its patients/service users. We recognise that there are occasions where this aim is not met, and people feel dissatisfied and/or have complaints or concerns about the care, treatment or service they have received from the Trust.
- 1.2 The Trust wants to hear when patients/service users are unhappy, so we have the opportunity to investigate and try to put things right.
- 1.3 This policy lays out the Trust's commitment to ensuring patients/service users or their representatives feel confident raising complaints or concerns. The Trust wants complainants to feel assured that their complaint or concern will be dealt with in an open and supportive manner, and they will not be treated differently as a result of raising a complaint or concern.
- 1.4 The Trust wants to demonstrate how we learn from complaints and concerns to make changes and prevent the same issues arising again.
- 1.5 The Trust wants to ensure it manages complaints and concerns in an effective and timely manner, in line with the national guidance below:

### 1.5.1 National Guidance

The National Guidance underpinning this policy includes the following:

- The Local Authority Social Services and National Health Service Complaints(England) Regulations 2009 (known as 'The Regulations');
- NHS Constitution (2009);
- Regulation 16 (Receiving and Acting on Complaints) of the Health and Social Care Act 2014;
- Parliamentary and Health Service Ombudsman NHS complaints standards (2022);
- Good Practice Standards for NHS Complaints Handling, Patient's Association, (2013);
- My Expectations for raising Complaints and Concerns, Parliamentary and Health Service Ombudsman, Local Government Ombudsman and Healthwatch England, (2014);
- Listening, Responding, Improving: A guide to better customer care, Department of Health (2009);

- Data Protection Act 1998 and General Data Protection Regulation (GDPR) 2016.

### 1.5.2 **Being Open**

The Trust is committed to 'Being Open' with complainants at all stages of the complaints or concerns process. All staff involved in investigating and responding to complaints and concerns must do so in accordance with Duty of Candour Policy (CG-138)

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## 2. Purpose of the Policy

### 2.1 For complainants:

- 2.1.2 To ensure an accessible mechanism through which they can raise issues of concern or make a complaint.
- 2.1.3 To ensure they are supported through the process with clear information and communication that is accessible to them.
- 2.1.4 To ensure that they receive an honest and timely response that identifies action and learning.
- 2.1.5 To ensure they are treated with empathy and that their care is not adversely affected as a result of having raised a complaint or concerns.

### 2.2 For staff:

- 2.2.1 To ensure they have a clear, supportive process that enables them to feel confident managing complaints and concerns.
- 2.2.2 To ensure they are aware of the policy and their responsibilities.

### 2.3 For the Trust:

- 2.3.1 To describe the Trust's process for managing complaints and concerns in accordance with national guidance.
- 2.3.2 To ensure the process promotes a Just Culture where staff feel supported to be open and transparent about complaints and concerns, which leads to learning, purposeful actions and improvement to prevent the same thing from happening again.
- 2.3.3 To ensure a process that is accessible and promotes equality and diversity.

## 3. Scope of the Policy

- 3.1 This policy applies to all staff across the Trust, including all permanent and temporary employees, volunteers, agencies and agency staff working on behalf of the Trust.
- 3.2 This policy applies to complaints and Patient Advice and Liaison Service (PALS) concerns being received by the Trust.
- 3.3 Enquiries may be received by the Patient Experience Team. These are not included within the scope of this policy. The Patient Experience Team will log all enquiries on the complaints management system to monitor this activity. They will seek to respond to enquiries directly without involving the Divisional Patient Experience Teams unless this is specifically required (for example when the central Patient Experience Team are unable to get a response from a service or team within the division).

- 3.4 If an enquiry cannot be dealt with by the central Patient Experience Team in a reasonable time, as agreed with the person making an enquiry, this may be escalated to a 'PALS concern'. Equally, upon receipt of the enquiry, the central Patient Experience Team may review it and feel it is more suitably managed as a 'PALS concern' in which case this will be logged on the complaints management system as such and the division alerted.
- 3.5 Complaints regarding failure to comply with the Data Protection Act or a request for information under the Freedom of Information Act do not fall within the scope of this policy. The Trust has taken the decision that these complaints will be managed by the Information Governance Team who will be guided by the principles and processes of this policy. Any complaint relating to these issues will be logged on the complaints management system by the Complaints Team and passed to the Information Governance Team, who will follow the processes outlined within this policy. These complaints will not be included in national or local reporting. Where it is not appropriate for the Information Governance Team to investigate the complaint or concern (e.g. due to conflict of interest) the Complaints Team will assign a different investigator.

## 4. Definition of Terms

### 4.1 Complaint

A complaint is an issue, or issues raised that require thorough investigation and a formal written response or Local Resolution Meeting (LRM). Often the complainant will have expressed that they wish for their concerns to be dealt with as a complaint. An unresolved PALS concern may also be escalated to a complaint. We aim to respond to complaints within 35 working days. The NHS Complaints Regulations 2009 apply to the management of complaints.

### 4.2 PALS Concern

A PALS concern is an issue, or issues raised that require minimal investigation. Normally a response or resolution should be provided within 5 working days.

### 4.3 Re-opened Complaint

A re-opened complaint is a complaint that has been closed but is re-opened because the complainant is dissatisfied with the response, the complainant wishes to meet to discuss the complaint outcome, or they have questions or queries about the same issues that they feel have not been resolved.

### 4.4 Advocacy services

An independent charity that provides free health complaints advocacy services, who can support complainants through the complaints process.

#### 4.5 Parliamentary and Health Service Ombudsman (PHSO)

The PHSO is an appointed independent regulator responsible for making final decisions on complaints that have not been resolved by the NHS. The PHSO will review whether the Trust has acted properly and fairly and make recommendations for the Trust where it feels the complaint has not been handled or resolved appropriately.

#### 4.6 Ex-Gratia Payments

These are payments that the Trust can, but is not obliged to, make or for which there is no statutory cover or legal liability, including damage to or loss of patients' property.

## 5. Roles and Responsibilities

### 5.1 The Trust Board

- 5.1.1 Receives and reviews monthly information about complaints via the Trust's Integrated Performance Report (I PR).
- 5.1.2 Receives and reviews the Patient Experience Annual Report.
- 5.1.3 Delegates authority to the Patient and Carer Experience Group to receive and review a detailed quarterly analysis of complaints, themes, learning and actions taken.

### 5.2 Chief Executive

- 5.2.1 The Responsible Person under section 4(1) a of the Regulations.
- 5.2.2 Signs off responses to complaints (or delegates this).
- 5.2.3 Delegates the role of executive lead for complaints to the Chief Nursing Officer.

### 5.3 Chief Nursing Officer

- 5.3.1 The executive lead for complaints, responsible for ensuring compliance with the Regulations.
- 5.3.2 Deputise as signatory for complaint responses as required.
- 5.3.3 Will be responsible, with the Chief Medical Officer, for reviewing complaints escalated by the Patient Experience Manager or Head of Patient Experience.

### 5.4 Chief Medical Officer

- 5.4.1 Will be responsible, with the Chief Nursing Officer, for reviewing Complaints escalated by the Patient Experience Manager or Head of Patient Experience.

## 5.5 Other Executive Directors

- 5.4.2 Responsible for advising on any complaints assigned to them by the Head of Patient Experience of the Chief Nursing Officer.
- 5.4.3 Deputise as signatory for complaint responses as required.

## 5.6 Head of Patient Experience

- 5.6.1 Oversees the operation of this policy and appropriately delegates responsibility.
- 5.6.2 Works with the Chief Nursing Officer to determine the organisation's strategy for complaints handling and resolution.
- 5.6.3 Routinely reviews 'dissatisfied' responses prior to Executive sign-off and performs random checks of other draft complaint letters from the Trust to ensure a high quality of response is maintained.
- 5.6.4 Advises on complex complaints, 'high severity' complaints and those that may involve significant patient safety or safeguarding concerns.

## 5.7 Divisional Management Team

(Includes Divisional Directors of Nursing, Divisional Operational Directors and Clinical Directors)

- 5.7.1 Responsible for assigning appropriate investigating managers (IM) to investigate complaints and concerns.
- 5.7.2 Responsible for ensuring all staff within the division are aware of this policy and have received the necessary training for their role as outlined in this policy.
- 5.7.3 Responsible for ensuring the quality of complaint investigations and responses and that they are provided within the required time frames.
- 5.7.4 Ensure that actions arising from complaints are implemented.
- 5.7.5 Ensure that complaints/concerns themes/learning and any breaches of performance are discussed as a standing agenda item at every Divisional Governance Meeting and Divisional Performance Review Meetings.
- 5.7.6 Attend local resolution meetings where this is required or applicable.
- 5.7.7 Ensure that incidents or safeguarding alerts are reported via the Trust governance system when identified in the course of a complaint investigation.
- 5.7.8 Ensure the division is represented by the Chief Nursing Officer (or suitable deputy) at the Trust's Patient and Carer Experience Group meeting (PCEG).

- 5.7.9 Escalate high risk complaints and issues involving Safeguarding to the Head of Patient Experience/Patient Experience Manager and Safeguarding team .

## 5.8 Divisional Patient Experience Team

(Includes Divisional Complaints Co-ordinators, Divisional Patient Experience Managers)

- 5.8.1 This is an overview of the role and responsibilities. For more information regarding specific duties refer to the Standard Operating Procedure (SOP) contained within the Managing Complaints and Concerns Toolkit (CG-20.1)
- 5.8.2 Responsible for the administration processes relating to the management of complaints and concerns within their division. This includes ensuring that the complaints management system is kept updated throughout the process.
- 5.8.3 Responsible for reviewing the severity of complaints and ensuring appropriate escalation within the division. This includes flagging Safeguarding or Incident issues to their Divisional Management Team, Patient Experience Manager or Head of Patient Experience.
- 5.8.4 Review and validate data in respect of breaches of complaints targets (delays in responses or dissatisfied complainants).
- 5.8.5 Responsible for overseeing and tracking implementation of actions arising from complaints.

## 5.9 Patient Experience Manager

- 5.9.1 Responsible for the Trust-wide operational management and coordination of complaints processes set out in this policy and associated standard operating procedures.
- 5.9.2 Oversight of the Trust's responses to complaints to ensure quality.
- 5.9.3 Leads on the delivery of complaint training for staff.
- 5.9.4 Monitors and reports complaint activity within the Trust. Produces data and accompanying narrative for Trust and external national reporting requirements.
- 5.9.5 Reviews responses where the complainant is not satisfied in collaboration with the Head of Patient Experience and relevant Divisional lead.
- 5.9.5 Reviews 'high' severity complaints and advises on these or escalates these to Head of Patient Experience or Chief Nursing Officer as appropriate.

## 5.10 Complaints Manager and Team

- 5.10.1 Oversee day to day operational running of the complaints process in line with this policy and the Regulations.
- 5.10.2 Collect and record equality and diversity monitoring information from complainants.
- 5.10.3 Manage requests from the PHSO.
- 5.10.4 Attend and mediate or note take at Local Resolution Meetings with Investigating Managers/Service Managers where required.
- 5.10.5 Deputise for Patient Experience Manager in reporting complaint activity within the Trust and externally as required.
- 5.10.6 This is an overview of the role and responsibilities. For more information regarding specific duties refer to SOP in the Managing Complaints and Concerns Toolkit.

## 5.11 PALS Manager and Team

- 5.11.1 Oversee day to day operational running of the PALS service in line with this policy and the Regulations.
- 5.11.2 Act as a point of contact within the hospital for patients, service users or their representatives who want to raise concerns.
- 5.11.3 Assist staff and managers in resolving issues locally.
- 5.11.4 Deputise for Patient Experience Manager in reporting PALS (concerns) activity within the Trust and externally as required.
- 5.11.5 This is an overview of the role and responsibilities. For more information regarding specific duties refer to SOP in the Managing Complaints and Concerns Toolkit.

## 5.12 Patient and Carer Experience Group (PCEG)

- 5.12.1 Receive a quarterly complaint response summarising complaint and concern activity, themes, learning and performance in complaint management.
- 5.12.2 Monitor compliance with Regulation 16 of the Health and Social Care Act 2008.

## 5.13 All Staff

- 5.13.1 Have an awareness of this policy in order to inform or signpost patients /service users or their representative to raise their concerns (via PALS or complaints team).

- 5.13.2 Contact their line manager or the Patient Experience Team if they are unsure how to manage a complaint or a concern that they receive from a patient whilst at work.
- 5.13.3 Co-operate with a concern or complaint investigation. This may include attending a local resolution meeting or writing a staff account or a reflective piece.
- 5.13.4 Ensure they do not discriminate against any patient/service user or their representative who may have raised a complaint or concern.
- 5.13.5 Attend relevant complaints training as required in their role.
- 5.13.6 Promote a just culture to the investigation of complaints and concerns.

## 6. Procedure

### 6.1 Examples of when this policy does not apply

This policy does not apply to complaints or concerns in the following circumstances:

- 6.1.1 Raised by another NHS organisation or a private/independent provider or responsible body (including the local authority or GP practice).
- 6.1.2 Raised by an employee regarding their employment.
- 6.1.3 The subject of which has been previously investigated in accordance with the regulations.
- 6.1.4 Investigated by the Parliamentary and Health Service Ombudsman (PHSO).
- 6.1.5 Where there are legal proceedings already underway with the Legal Team. (see below for more information on legal claims).
- 6.1.6 Where the Trust is made aware of criminal proceedings and police investigations taking place. If the complaint/concern alleges a criminal offence this will be immediately referred to the police for investigation and this policy will not apply.
- 6.1.7 There is a separate procedure for handling persistent and/or unreasonable complainants. This is available in the Managing Complaints and Concerns toolkit.

### 6.2 Who can raise a concern or make a complaint?

- 6.2.1 In accordance with The Regulations:
  - a) Any current or former patient/service user of the Trust
  - b) Any person affected by or likely to be affected by the action, omission or decision of the Trust

- c) The patient/service user/person affected is a child and is considered Gillick/Fraser competent.
- 6.2.2 Gillick/Fraser competent means a child under the age of 16 can consent for their own medical treatment if they demonstrate sufficient understanding and maturity. The Trust is committed to applying this principle to a child under the age of 16 who wishes to raise a complaint or concern about the care they have received. The child will be offered support by the Patient Experience Team, and signposted to any additional resources such as independent advocacy or carers support organisations if required.
- 6.2.3 Where a representative wishes to make a complaint or raise a concern on behalf of a child under 16, they must have consent from the child or young person or, the Patient Experience Team must consider the child is not Gillick/Fraser competent, and that the representative is acting in the child's best interest.
- 6.2.4 The representative should be the child's parent/legal guardian, or have consent from the child's parent/legal guardian to act. Where the child is in the care of the Local Authority or a Voluntary Organisation, the representative must be someone who is authorised to act.
- 6.2.5 Where the complaint or concerns relate to a person over 16 years of age, consent must be sought from the individual.
- a) A complaint/concern may also be raised by a person acting on behalf of ('a representative') one of the above where:
- a.1) The patient/service user/person affected has specifically requested that the representative act on their behalf. This will be evidenced by written consent from the patient/service user/person affected or Power of Attorney for Health & Welfare.
- a.2) The patient/service user/person affected has died. The representative will need to demonstrate their authority to act through grant or probate, executor of the will or have consent from the patient's personal representative.
- a.3) The patient/service user/person affected has physical or mental incapacity (within the meaning of the Mental Capacity Act 2005). The representative will need to demonstrate that they have legal authority (Power of Attorney for Health & Welfare or Court of Protection's deputyship order for personal welfare) to make decisions for the patient.
- 6.2.6 If an MP contacts the Trust to raise concerns on behalf of their constituent, the trust can assume that the individual patient/service user/person affected has given consent for the MP to do this.

- 6.2.7 If the representative is unable to demonstrate their authority to act on behalf of the patient, the Trust may take a best interest decision to investigate the complaint and communicate with the representative. The Trust may choose to limit the amount of information it shares with the representative to ensure confidentiality for the patient.
- 6.2.8 If the complainant passed away before the complaint or concern is concluded, the Trust may contact the complainant's personal representative to ask whether they would still like to progress with the complaint or concern or, whether they would like this closed.
- 6.2.9 Any questions regarding consent to act as a representative should be raised with the Patient Experience Manager or Head of Patient Experience.

### 6.3 Timeframe for raising a complaint

- 6.3.1 A complaint should be made within 12 months of the event(s) taking place that have given rise to the complaint or, within 12 months of the complainant becoming aware of events that have given rise to the complaint.
- 6.3.2 Exclusions may apply where the complainant was so affected by events that they were not able to express their concerns within 12 months. The Trust may also consider complaints outside this timeframe where there was good reason for the delay, and it is still possible to investigate the complaint properly. This decision will be taken at the Trust's discretion. If we do not see a good reason for the delay or we think it is not possible to properly consider the complaint (or any part of it) we will write to the person making the complaint to explain this. We will also explain that, if they are dissatisfied with that decision, they can complain to the Parliamentary and Health Service Ombudsman

### 6.4 How to make a complaint or raise a concern

#### 6.4.1 In writing

Complaints or concerns may be made in writing or by email. Complaints or concerns received by any staff member should be forwarded to the Complaints Team without delay. Complaints or concerns may also be made online through the Trust's website.

#### 6.4.2 By telephone

- a) Complaints or concerns raised by telephone may be directed to the Complaints or PALS team. The team will review the issues raised and agree with the complainant whether these should be treated as a complaint or a concern.
- b) If the complainant decides they would like to make a complaint, the Complaints team will make a written record of this and send this to the complainant to confirm and approve.

- c) If a member of staff receives a complaint or concern by telephone, they should listen to the complainant. The member of staff should then advise the complainant to contact the Complaints Team or PALS Team and provide them with the contact details.

#### 6.4.3 In person

- a) A complaint or concern may be raised in person to a member of staff. In the first instance staff should listen and try to resolve the issues quickly and fairly; this may mean involving their line manager. If this is not possible, the staff member should inform the complainant about PALS and, if appropriate take them to the PALS office or provide them with contact information.
- b) Complainants may visit the PALS team office which is accessible to patients in the main hospital building. The PALS team will listen to the issues raised, and agree with the complainant how best to manage these (as a concern or complaint). The PALS team will record the issues on the complaints management system.
- c) If the complainant wishes to raise a complaint the PALS team will provide the complainant with contact details for the Complaints Team.

### 6.5 Supporting people to make a complaint/concern and ensuring accessibility of the process

- 6.5.1 The Trust is committed to delivering the NHSE project, Ask Listen Do and the requirements of the Accessible Information Standard. This ensures that anyone who wishes to make a complaint or raise concerns is supported to do so and there is equitable access to this process. To do this, the Trust will make adjustments as necessary to support a person raising a complaint or concern. This may include organising an interpreter, using lay language and easy read formats or written communication in another language.
- 6.5.2 In addition, the Trust will ensure that all complainants are aware of how to contact an advocate to support them through the complaint process. The Trust suggests independent advocacy whose information will be shared with all complainants at the start of the process.
- 6.5.3 The Trust collects equality and diversity monitoring information in order to ensure everyone accessing the service receives fair treatment and equal access. This also allows us to understand whether there are any equality and diversity trends in the issues raised through complaints and concerns.

### 6.6 Step by step process to be followed for managing complaints

- 6.6.1 The process followed for the management of complaints and concerns is encompassed in the SOP found in the Managing Complaints and Concerns Toolkit. The toolkit will be reviewed and updated once the new Trust complaints management system is in place in 2024.

## 6.7 Grading a complaint/concern

- 6.7.1 The Patient Experience Team will assess each complaint or concern on receipt in order to assign it a severity score. This will be recorded on the complaints management system by the Patient Experience Team.
- 6.7.2 The Divisional Patient Experience Team (with divisional triumvirate where applicable) will review the severity score when they receive the complaint or concern. They will determine whether the complaint or concern requires further escalation (e.g. to Patient Experience Manager, Head of Patient Experience or Safeguarding) and the most appropriate action if it scores 'high'. See the 'Assessing the Severity of Complaints/Concerns' guidance in the Managing Complaints and Concerns Toolkit for guidance on how to assign a score and how to escalate a 'high' scoring complaint.
- 6.7.3 The Investigating Manager (IM) should review the score once the investigation has been completed. The division should ensure any change is updated on the complaints management system.

## 6.8 Staff Account

- 6.8.1 Staff may be asked to provide an account as part of the complaint/concern investigation. This may be done informally and recorded on the complaints management system, or the 'Staff Account' template can be completed. This can be found in the Managing Complaints and Concerns Toolkit. This should be uploaded to the complaints management system following completion.
- 6.8.2 Staff should be aware that everything recorded in the complaints management system is disclosable under the Data Protection Act.
- 6.8.3 Staff who do not feel comfortable writing an account should discuss this with their line manager. It may be suggested that the staff member completes a reflective piece rather than an account. This should be agreed with the Investigating Manager. A template for this can be found in the Managing Complaints and Concerns Toolkit.

## 6.9 Local Resolution Meetings

- 6.9.1 An LRM should be offered to every complainant.
- 6.9.2 This is offered at the start of the complaints process and in the complaint response. See the Managing Complaints and Concerns Toolkit for more details on the LRM including guidance and template letters.
- 6.9.3 For concerns, it may be appropriate that an informal meeting is arranged in order to resolve the issues face to face. This meeting may take the format of an LRM.

- 6.9.4 Staff who are required to give an account or attend an LRM should be supported throughout the investigation by their line manager. Formal and informal debriefing should be offered to all those involved in the complaint and information should be given on the support services available i.e. Occupational Health, Employee Assistance Programme, wellbeing support.

## **6.10 Complaints involving multiple divisions**

- 6.10.1 Where a complaint or concern involves more than one division, the Patient Experience Team will designate a 'lead' division, whose Divisional Governance Team will coordinate the investigation and response, in line with this policy.

## **6.11 Complaints relating to other organisations**

- 6.11.1 If a complaint is received that has issues relating to another NHS organisation or social care organisation, the Patient Experience Team, with the complainant's agreement, will need to liaise with other organisation to ask them to provide their response to the issues raised. The Trust will try, where possible to provide one single written response which captures all issues raised against all organisations. The Trust will work with other organisations to agree at the outset which organisation should lead the complaint and coordinate a response.
- 6.11.2 If a complaint is received that relates solely to the services of another organisation, with the agreement of the complainant, a copy of the complaint letter will be forwarded to the other organisation for investigation and the response will be sent directly to the complainant by that organisation.

## **6.12 Complaints involving other internal processes**

### **6.12.1 Incidents**

- a) When receiving and assessing complaints, it is important to consider whether it represents an incident or set of incidents. In such cases, the patient safety team or divisional quality governance team should be consulted with. When this occurs, consideration should be given to the most appropriate way to understand what has happened. Depending on the nature and severity of a related incident, there will be a range of options available which may result in a patient safety review/investigation.
- b) If the incident is subject to a patient safety review it is appropriate for this to continue with the learning forming the complaint response. In such cases, it is important to discuss this with those involved in leading the review and other involved parties to agree a plan and timescales for responding. Where patient safety reviews occur, there is an expectation that those affected should be actively involved in the review process.

### 6.12.2 Legal Claims/Proceedings

- a) In instances when a complaint and a legal claim are brought at the same time, the complaints process will still apply unless this is explicitly contrary to the advice of the Trust's legal advisors or insurers.
- b) If the complainant indicates that they intend to bring a legal claim, the Trust Legal Team should be notified. Equally, where the Patient Experience Team review the complaint/concern and feel there may be a case of negligence or indication of possible legal action, they should speak to the Trust's Legal Team.
- c) In circumstances where a complaint is ongoing after a letter of claim has been received by the Trust, a discussion should take place between the Patient Experience Team and Legal Team about the most appropriate way to manage the patient's complaint/claim.

### 6.12.3 Financial Remedy

- a) Financial remedy is listed as a principle in the PHSO's Principles for Remedy. The Finance Team are responsible for managing and administering the Trust's policy on ex-gratia payments. Information and Guidelines on ex-gratia payments are available on the Trust intranet.
- b) This does not include requests for compensation or a claim relating to personal injury, or negligence. This would be a legal claim which should be directed to the Legal Team.

### 6.12.4 Coroner's inquest

- a) It is generally appropriate to investigate a complaint, or a concern raised and to provide a response to the complainant where there is a Coroner's Inquest. The Patient Experience Team should inform the Trust's Legal Team if this is the case to ensure appropriate communication is made with the Coroner's Office.

### 6.12.5 Safeguarding

Please see below at Appendix 1

## 6.13 Records

- 6.13.1 Correspondence relating to complaints and concerns will not be regarded by the courts as privileged. This means that all correspondence and papers generated in the course of a complaint investigation, including staff accounts etc. may have to be disclosed if a claim for negligence is subsequently brought.

- 6.13.2 In accordance with the Data Protection Act, complaints and concern documentation is classified as personal data. Patients are able to request copies of their complaint or concerns files in the same way as health records.
- 6.13.3 Complaint and concerns records should be stored separately from patient medical records. Any requests for patient medical records should be made by Subject Access Request to the Information Governance Team.

## 6.14 Confidentiality

- 6.14.1 It is not necessary to obtain a patient's expressed consent to use personal information to investigate a complaint regarding that patient.
- 6.14.2 Care must be taken to ensure that any information disclosed about the patient is limited to what is relevant to the investigation and only disclosed to those people who have a 'need to know' for the purpose of the investigation.
- 6.14.3 The Head of Information Governance and the Caldicott Guardian are responsible for providing guidance on the security and confidentiality of patient information. They will provide advice and guidance to the Patient Experience Team in terms of confidentiality, data protection and consent to share information.

## 7. Distribution and Implementation

### 7.1 Staffing Training

- 7.1.1 This policy and guidance is available for staff on the Trust intranet. Training sessions will be provided for staff depending on their role in the process. All staff should be aware of this policy and, as part of their induction be told about this policy, its application and their responsibilities (e.g. to inform patients/complainants of how to raise a complaint/concern, to partake in a complaint/concern investigation as required).
- 7.1.3 Staff who are required to deal with local resolution may wish to undertake training to support them in resolving concerns locally. Training can be arranged by contacting the Patient Experience Team on 0117 414 4573.
- 7.1.4 Staff who have responsibility for administrating, investigating or overseeing complaints may find it helpful to complete complaint training. Bespoke training on complaint response letter writing, how to conduct LRMs or how to complete investigations can be arranged by contacting the Patient Experience Team on 0117 414 4573.
- 7.1.5 The Patient Experience Team are happy to provide any ad-hoc training as identified and required by staff.

## 7.2 Dissemination

- 7.2.1 This policy will be disseminated to the Patient Experience Team (Complaints and PALS) and training provided as required by the team.
- 7.2.2 This policy will be shared with the Divisional Governance/Patient Experience Teams including Divisional Directors of Nursing or equivalent for review and approval.
- 7.2.3 The Divisional Governance/Patient Experience Teams will ensure those involved in the management of complaints or concerns are updated on the policy changes.
- 7.2.4 The policy will be updated on the Trust Intranet.
- 7.2.5 The policy will be made available online. Alternative formats will be made available upon request (including other languages, easy read, braille, large print and audio). Leaflets and website information will be updated to reflect changes.

## 8. Monitoring Effectiveness

(Quality checking, audit and reporting)

### 8.1 Divisions

- 8.1.1 Divisional Leads will ensure that complaints and concerns are discussed at their monthly Divisional Governance Meetings.
- 8.1.2 Divisions should consider the number of complaints and concerns received, those overdue or not completed within agreed timeframe, those returned or re-opened and the main themes and learning.
- 8.1.3 Divisions should review actions arising from complaints/concerns, ensuring these have an owner and progress is updated.

### 8.2 The Patient and Carer Experience Group

- 8.2.1 The Patient and Carer Experience Group will maintain oversight of Trust Complaints through quarterly reporting (corporate and divisional) and shared learning of action plans and improvements.

### 8.3 The Patient Experience Team

- 8.3.1 Provides information to NHS England as required, including submission of the KO41a return.
- 8.3.2 Collects Equality and Diversity data and shares data with PCEG and NHS England as required.

- 8.3.3 Provides monthly complaints and concerns data for the IPR (Integrated Performance Report) and accompanying narrative for Board review.
- 8.3.4 Provide quarterly complaints reports for PCEG discussion and review.
- 8.3.5 The Patient Experience Manager is responsible for monitoring the policy in line with national regulations and policies, best practice and guidelines.

#### **8.4 Complaints Lay Review Panel**

- 8.4.1 The Complaints Lay Review Panel meets quarterly and review a random selection of complaint responses to ensure quality. Feedback is then provided to the Divisional Patient Experience Teams.

#### **8.5 Complainant's Feedback**

- 8.3.7 The Trust is committed to hearing about and learning from complainants' experiences of our complaints or concerns process. Following closure of their complaint, the Patient Experience Team will send complainants a survey to capture their feedback. There is a separate survey for complaints and for concerns. Results from the survey will be reported to the Patient and Carer Experience Group and will contribute to ongoing service improvement themes.

#### **8.6 Staff Feedback**

- 8.6.1 Staff may be asked to complete a survey or provide feedback about their experience of the complaints or concerns process. Staff will be asked to do this by the Patient Experience Team. All feedback is anonymous and is intended to provide insight into how the complaints/concerns process could be improved for staff, whether the process is supportive and to identify training needs.

#### **8.7 Monitoring Actions**

- 8.7.1 For the majority of feedback, where possible, resolution and improvements must occur quickly, at the time of the issue being raised.
- 8.7.2 Where improvements cannot be readily made, It is the responsibility of the Investigating Manager (IM) to ensure any improvement actions are followed through. This will be monitored via Divisional Governance Meetings.
- 8.7.4 Case studies that demonstrate actions taken in response to complaints or learning and improvements will be shared on the Trust website to demonstrate how the Trust is using complaints and concerns to make changes. Quarterly complaints reports and the annual complaints review will also be made available to the public.
- 8.7.5 See Monitoring and Audit (point 10 of this policy), for a table outlining the specific monitoring requirements associated with this policy.

## 9. References

- Accessible Information Standard (2017), NHS England;
- Ask Listen Do, NHS England (2018);
- Duty of Candour Policy CG-138;
- Data Protection Act 2018 (DPA18);
- Department of Health Guide - Listening, Responding, Improving: A guide to better customer care, (February 2009);
- The Data Protection Act (GDPR) 2018;
- Gillick competency and Fraser Guidelines, NSPCC, online resource;
- Health and Social Care Act, 2008. Regulation 16;
- Healthwatch England, Shifting the mindset: a closer look at NHS complaints(January 2020);
- Healthwatch, PHSO LGO 'My Expectations for Raising Complaints and Concerns' (2014);
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009;
- NHS Constitution (2008) Department of Health;
- The Patient's Association (2013), The Good Practice Standards for NHS Complaints Handling;
- NHS Complaints Standards (2022), The Parliamentary and Health Service Ombudsman;

## 10. Monitoring and Audit

What will be monitored	Monitoring/Audit method	Monitoring responsibility (individual/group/committee)	Frequency of monitoring	Reporting arrangements (committee/group the monitoring results are presented to)	How will actions be taken to ensure improvements and learning where the monitoring has identified deficiencies
<p><b>Complaints/ concerns investigated within timescales agreed with the complainant</b></p> <p><b>(90% target for complaints)</b></p>	<p>Data extraction from the complaints management system</p> <p>Weekly Divisional Complaint/Concern Tracker</p>	<p>Complaints/PALS Manager, Patient Experience Manager and Divisional Teams</p>	<p>Weekly/Monthly</p>	<p>Board, PCEG, Divisional Governance Committees.</p> <p>(Through weekly tracker/ IPR/Quarterly Report)</p>	<p>Recovery plans will be drawn up with specific targets and timeframes.</p> <p>Nominated leads will take forward.</p>
<p><b>Complaints acknowledged within 3 working days (in line with the Regulations)</b></p>	<p>Data extraction from the complaints management system</p>	<p>Complaints/PALS Manager, Patient Experience Manager</p>	<p>Monthly</p>	<p>PCEG</p>	<p>Recovery plans will be drawn up with specific targets and timeframes.</p> <p>Nominated leads will take forward.</p>

<b>Number of re-opened/returned cases and reasons for this</b>	Data extraction from the complaints management system	Complaints/PALS Manager, Patient Experience Manager and Divisional Teams	Monthly	PCEG and Divisional Governance Committees.  Integrated Performance Report (IPR) to Trust board	Required changes to practice will be identified and actioned within a specific time frame.  Nominated leads will take each change forward. E.g Staff training
<b>Number of complaints referred to the PHSO and outcome</b>	The complaints management system/Information request from PHSO to corroborate	Complaints Manager, Patient Experience Manager	Quarterly/Annually	PCEG/Board	Required changes to practice will be identified and actioned within a specific time frame.  Nominated leads will take each change forward.
<b>Quality of response</b>	Randomised audit of complaint responses	Complaints Lay Review Panel	Bi-Monthly	Relevant divisions & PCEG	Required changes to practice will be identified and actioned within a specific time frame.  Nominated leads will take each change forward. E.g. letter response training

<p><b>Learning and Actions from complaints and concerns</b></p>	<p>Data extraction from the complaints management system</p> <p>Progress against actions logged, kept updated. Evidence provided and actions closed on completion</p>	<p>Divisional Patient Experience/Governance Teams</p>	<p>Monthly/Annually</p>	<p>PCEG Board</p>	<p>Required changes to practice will be identified and actioned within a specific time frame.</p> <p>Nominated leads will take each change forward.</p>
<p><b>Patients, relatives and carers are not treated differently as a result of a complaint</b></p>	<p>Complainant feedback survey &amp; Equality Monitoring Form</p>	<p>Patient Experience Manager</p>	<p>Quarterly</p>	<p>PCEG</p>	<p>Required changes to practice will be identified and actioned within a specific time frame.</p> <p>Nominated leads will take each change forward. Lessons will be shared with all relevant stakeholders.</p>

## Appendix 1 Safeguarding and Complaints: Flowchart

