

PALS & Complaints Policy

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Mental Health and LD	
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Version Control Summary

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2.0	23/01/01		Final	
3.0	10/11/03		Revised draft	Updated in accordance with Risk Pooling Scheme for Trusts requirements and national guidance on investigating complaints.
4.0	15/11/04		Revised	Updated in accordance with reform of the NHS Complaints Procedure 2004
5.0	01/09/08		Revised	Updated to reflect NHSLA standards for complaints management process 2008
6.0	21/09/11	Claire McElwee – Complaints Manager	Revised	Updated in accordance with the Local Authority Social Services and NHS Complaints (England) Regulations 2009.
7.0	09/03/16	Claire McElwee – Complaints Manager	Revised - Final	Updated to reflect current practice, including the move of the Complaints to the Assurance Department.
8.0	16/03/18	Duncan Hall Incidents and Complaints Manager	Revised	Updated to reflect current practice, changes to roles and responsibilities and recommendations made following Internal Audit Review

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Executive Summary

- The policy emphasises that its guiding principle is that the process should be complainant-led and collaborative in approach
- The policy describes the framework setting out how staff should deal with complaints about patient care and its services under the Regulations.
- The policy describes the specific duties and responsibilities of various staff groups
- The policy sets out the principles for staff to follow along with specific guidance on complaint handling
- The policy includes details of the various stages of the complaints process including local resolution and the process for escalation to independent review by the Parliamentary and Health Service Ombudsman
- The policy outlines how the organisation aims to improve its services by learning from complaints
- The policy also details the Patient Advice and Liaison Services (PALS) within the Trust

1 Introduction

East London Foundation Trust is committed to continually improving the quality of the care and services it provides. As part of this commitment it invites and welcomes the views of service users, carers and the local community. The guiding principle of its complaints procedure is that it is led by the complainant who will be fully consulted at each stage of the process. No complainant or the patient they represent will be treated less favourably on the grounds of age, creed, colour, disability, ethnic or national origin, medical condition or marital status, nationality, race, gender (at birth or reassigned), or sexuality, nor will a complainant be placed at a disadvantage by making a complaint.

Any complaint must be seen as an opportunity to continuously improve the quality of the services that we provide and to learn lessons from mistakes that may have occurred. Knowledge from handling complaints will be shared and applied across the Trust, to support service user experience, better risk management and effective clinical governance. In addition to this, the Trust is required to comply with the procedures for complaints handling in line with the Local Authority Social Services and NHS Complaints (England) Regulations 2009.

Complaints, criticism or suggestions, whether oral or written made by service users or their representative, as well as information and subject access requests should be taken seriously, handled appropriately and sensitively. The Trust should always make every attempt to resolve complaints within the spirit of the Local Resolution principle. Service users should feel able to approach the staff that provided the service and staff should make every attempt to resolve complaints at an early stage. Complaints staff work alongside the Patient Advice and Liaison Service (PALS) to ensure the complaints process is accessible to all and engage PALS to work with complainants who wish to have a speedy and informal resolution to their concerns.

The process should be fair, open, flexible and conciliatory and should be easy to access for all service users. It is essential that the service user, relative or carer is treated with respect and confident that there will be no adverse consequences as a result of raising concerns. Rigid, bureaucratic and legalistic approaches must be avoided.

As part of its commitment to accessibility, the Trust widely distributes posters and leaflets about the complaints procedures and PALS service within its clinical areas and on its website and provides a Freephone contact number and Freepost address.

2 Purpose

This purpose of this policy is to provide a framework for staff handling complaints within the Trust, to ensure compliance with the objectives of the Local Authority Social Services and NHS Complaints (England) Regulations 2009 (The Regulations) and the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 16. This policy and the processes followed by the Trust is underpinned by the Ombudsman's Principles of Good Complaint Handling and Listening, Responding, Improving: A Guide to Better Customer Care

The Trust needs to have a clear and consistent approach to handling complaints in order that anyone making a complaint can be guaranteed that it will be dealt with in a manner that is expected in the terms of the Regulations. The complaints regulations apply to all NHS bodies, voluntary and independent sector providers under contract to the NHS and local authorities who provide adult social services. This policy can be found on the Trust's intranet site.

This document also underpins the East London NHS Foundation Trust's Patient Advice and Liaison Service (PALS) aims, to improve the quality of service users through listening, respecting and responding to the views of the people who use Trust services, relatives, carers and staff.

The PALS service is designed as a service which will act as an independent facilitator in addressing the concerns of patients, their families or carers with the power to negotiate immediate solutions or resolutions of issues as speedily as possible; provide accurate information on all aspects of the Trust and help make contact with the NHS as easy as possible including how to make a formal complaint about services the Trust provides; and act as a gateway for patients, their carers and families wishing to become involved in shaping local NHS services.

3 Scope

This policy is concerned with the handling of complaints and enquires about the staff and services of East London Foundation Trust and the procedures for local resolution. Staff concerns at work and complaints raised by professionals from within or outside the Trust will be dealt with via separate procedures. It will also uphold the framework that supports patients in meeting their information needs regarding all Trust services.

- 3.1 Complainants can be current or former service users, individuals referred to the Trust or any person who is affected by or likely to be affected by the action, omission or decision of the Trust.
- 3.2 Other people may complain on behalf of an existing or former service user such as carers and relatives. However, their suitability to act as a representative will depend on a service user's explicit knowledge and written consent that a specific person may act on their behalf in relation to the complaint. All complaints from third parties where the patient does not provide consent will be carefully considered and a decision taken about whether an investigation can proceed without the patient's consent. However, in responding, care will be taken not to disclose personal health information without the express consent of the service user. All complaints relating to patient safety and / or quality of care issues will be investigated irrespective of consent.
- 3.3 Where an existing or former service user has died, or where an existing or former service user lacks the capacity to consent, any person may complain on their behalf. Confidential clinical information relating to deceased patients falls under the Access to Health Records Act 1990. Therefore careful consideration must be given about whether the complainant is a suitable representative under this legislation. However, the Complaints Manager has the right not to accept a person as a suitable representative.
- 3.4 If it is decided that the complainant is not a suitable representative of a service user who is unable to give consent, or who has died, the Complaints Manager will inform them in writing, stating why the Trust has reached this decision.
- 3.5 Complainants also have a right to request access to their complaints file. These requests should be handled in accordance with the Trust's Access to Records Policy.
- 3.6 If the Trust receives any complaints about a member of staff allegedly causing harm to a person under the age of eighteen years, they will be investigated under a separate procedure, Management of Child Abuse Allegations Made Against Employees of ELFT. Following the completion of this investigation, a response will be provided under the complaints procedure.
- 3.7 Similarly, if the Trust receives any complaints about a member of staff allegedly causing harm to a vulnerable adult, the Trust will consider whether they should be dealt

with under a separate policy, Management of Safeguarding Vulnerable Adult Allegations Made Against Employees of East London Foundation Trust and a response will be provided as detailed above.

- 3.8 In certain circumstances, it will be appropriate for concerns raised via complaints and PALS to be investigated under the Trust's Incident Policy. Following the completion of this investigation, a response will be provided under the complaints procedure. The complainant will be advised of the incident investigation and invited to contribute to that process as appropriate. They will also be given the choice to have their concerns fully included in the incident investigation or for the complaint to be investigated separately to any other investigation.
- 3.9 All individuals who have an interest in Mental Health Services (service users, carers, relatives, stakeholders or staff) will be treated in an equitable manner, with respect for their views. They will have a right to comment on mental health services provided by the Trust and for their views to be properly considered.
- 3.10 Staff will always be polite and responsive to patients and people that they liaise with in order to address concerns.
- 3.11 Staff will not be judgemental when concerns and issues are raised.
- 3.12 Staff will not raise expectations by giving undertakings that might not be possible to meet.
- 3.13 All those that use the service have a right to privacy and confidentiality.
- 3.14 Staff will endeavour to keep individuals informed of progress and any actions taken or proposed.

4 Duties

Applying the principles contained within this policy is the responsibility of all staff. However, specific duties and responsibilities rest with designated groups and individuals:

- 4.1 The Trust Board
Has a duty to ensure there is a complaints policy and procedures in place and that these are widely publicised and available to all patients and staff and any persons who may be involved in the care of a patient on a personal or professional level. The Trust Board also has a responsibility to regularly review complaints data in order to make service improvements where necessary and ensure that any identified risks are effectively managed.
- 4.2 The Chief Executive
Has overall responsibility for the effective implementation of this policy and for responding to all formal complaints in writing. The Chief Executive is also the person with responsibility for ensuring that the Trust meets its obligations under the Regulations.
- 4.3 The Chief Nurse
Has responsibility for presenting regular complaint reports to the Board and for ensuring that action is taken in light of the outcomes of any investigation.

4.4 Service/Borough Directors

Have responsibility for investigation all complaints relating to their areas of service responsibility and for ensuring that complaints dossiers are completed within the required time frame. Service directors have responsibility for ensuring that appropriately trained staff within their service are assigned to investigate complaints bearing in mind the need for objectivity, seniority, understanding and knowledge necessary to carry out a thorough investigation. Service directors also have a responsibility to ensure that any staff member identified in the complaint/complaints investigation is given the opportunity to participate in the investigation and is given a copy of the original complaint letter and a copy of the final response.

4.5 Associate Director of Governance and Risk Management

Has responsibility for providing the Chief Nurse and the service directors with regular complaints monitoring reports and for monitoring the actions taken by services in light of outcomes of investigations. The Associate Director of Governance and Risk responsibility for reporting compliance to the Service Delivery Board and reporting on a regular basis to the Quality Committee and Trust Board.

4.6 The Incidents & Complaints Manager

Has day to day corporate responsibility for the direction and management of the Trust's integrated incident and complaints processes. The Incidents & Complaints Manager will ensure effective systems are in place for reporting, investigating and managing incidents and complaints and will provide credible, visible and effective leadership.

4.7 The Complaints Team Manager

Has responsibility for managing the complaints function of the Trust which includes ensuring that staff have the appropriate training and support to enable them to respond to informal and formal complaints. The Complaints Team Manager is responsible for monitoring the quality of investigations to ensure that remedial action is taken, in the event of an incomplete investigation and for escalating concerns regarding complaints or investigations to the appropriate Service Director, the Chief Nurse Officer or Chief Medical Officer.

5 Definitions

5.1 Formal complaints

A concern raised by a complainant which has not been able to resolve informally, or where after discussion, the complainant has expressed a wish for their concerns to subject to a formal investigation. Formal complaints can be made verbally or by written means (postal or electronically). All written complaints will be treated as formal complaints. In all cases, staff should provide the complainant with clear and comprehensive information about the range of complaint handling options, to enable them to make an informed decision as to whether they wish for the complaint to be handled informally or formally.

5.2 Local Resolution (Stage 1)

Investigation, response and resolution of formal complaints under the Regulations, brought about by the agency or agencies which the complaint was about. The primary objective of local resolution is to provide the fullest possible opportunity for investigation and resolution of the complaint. The aim should be to resolve complaints at an early stage and provide a response from the Chief Executive. If the complainant is not satisfied with the initial response, the Trust will continue in its efforts to bring about a satisfactory resolution for the complainant.

5.3 Independent Review (Stage 2 – Final Stage)

Under the legislation created by the Regulations, if a complainant is dissatisfied with the outcome of their complaint at the conclusion of the local resolution stage they have the right to ask the Parliamentary & Health Service Ombudsman (PHSO) to independently review their complaint. Information about how to seek an independent review is provided in the complaint response and in the Trust's complaint leaflet. The PHSO may decide that there are no issues to review, refer back for local resolution or undertake its own investigation into the complaint. The Trust will work with the PHSO to respond to formal recommendations made in response to its independent review of a complaint.

5.4 PALS (Patient Advice and Liaison Service) Enquiries

Informal concerns, complaints and enquiries can be received from patients/service users and or their families where the preference of the complainant is for these concerns to be resolved informally.

The Regulations provide that an inquiry, suggestion, comment or issue of concern made orally and resolved to the complainant's satisfaction by the next working day does not need to be dealt with as a formal complaint. It should be normal practice for staff to communicate directly with the complainant and staff should feel empowered to resolve issues without the need for them to go through a more formal complaints process.

In all cases, staff should provide the complainant with clear and comprehensive information about the range of complaint handling options, to enable them to make an informed decision as to whether they wish for the complaint to be handled informally or formally. In all instances, staff must clarify with the complainant concerns are and what the desired outcome is. Where the complainant accepts the response as being satisfactory and appropriate there will usually be no need for further action. However, it is important for staff to recognise that there may be issues that need to be brought to the attention of senior managers in the organisation such as issues of patient safety.

The Trust has a dedicated PALS team whose function is to support individuals navigate through services with concerns that can be resolved quickly and without a formal process being undertaken.

PALS enquiries should be resolved within 48hrs to the individual's satisfaction. If this is not achievable the formal complaints route should be pursued in accordance with the individual's wishes.

Please see section 10 (page 16) for further details of the PALS interface and functions.

5.5 Complaints not required to be dealt with (Regulation exemptions)

Under the Regulations 2009, there are types of complaints that the Trust is not required to investigate under a formal complaints procedure; please see **appendix 6** for details.

6 Principles of Complaints Handling

The guiding principle of all complaint handling is that it should be complainant-led and collaborative in approach. This should involve the Complaints Department actively seeking out the views of the complainant at each stage of the process. In handling complaints, the Trust endeavours to adhere to the Ombudsman's Principles of Good Complaint Handling including:

- Getting it right by acting in accordance with the law and relevant guidance
- Being customer focused
- Listening to the complainant to understand their concerns and the outcome they are seeking
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement

6.1 Time Limits for Formal Complaints

Under the aforementioned regulations, complaints must be made within twelve months of the event complained about or twelve months of the complainant becoming aware of the issues. The Trust has the power to exercise its discretion to investigate complaints outside of this time frame. In such cases, a desktop review will be undertaken to establish whether a viable investigation may be undertaken.

6.2 Confidentiality

It is essential when dealing with complaints that employees of the Trust observe the legal obligation not to release information relating to the patient to a third party without appropriate consent.

6.3 Protecting Complainants and Patients

The Trust is committed to ensuring that patients, their relatives and their carers are not treated differently as a result of making a complaint. It is Trust procedure that all records relating to the complaint and its investigation are held separately from the patient's clinical records. Information about the complaint should only be disclosed between members of staff on a need to know basis and where it has a direct bearing on the patient's clinical care.

6.4 A Comprehensive Duty of Care

When handling and investigating complaints the Trust has an obligation to address all issues of concern, including those expressly stated in the complaint, as well as any other concerns which are identified during the process of complaints handling and investigation e.g. safeguarding and equality issues.

6.5 Consent

Where a complaint is raised by a third party, written consent will be sought from the patient for the complaint to be investigated under the complaints and for confidential clinical information to be disclosed. However, as stated above, any concerns relating to patient safety will be investigated by the Trust. This section will not apply where the patient lacks capacity; the patient is a child or has died which are dealt with under separate headings.

6.6 Capacity

Where a patient lacks capacity, the Trust will assess whether the complainant is an appropriate representative and is acting in the best interests of the patient. Where capacity is uncertain, a clinician's view on capacity will be sought before any personal information is disclosed.

6.7 Complaints received about a child

In line with the regulations, where a representative makes a complaint on behalf of a child, the Trust will consider whether it is satisfied that it is reasonable for the complaint to be made by the representative instead of the child. If the Trust is not satisfied, it will notify the representative in writing, stating reasons for its decision.

6.8 Complaints relating to the care of deceased service users

When dealing with complaints regarding the care of a deceased service user, careful consideration must be given to what information can be disclosed to the complainant. In such circumstances staff should be guided by principals of the Access to Health Records Act 1990 (deceased patients only) where applications for records or personal information can only be granted to legal representatives of the estate or to someone having a claim arising out of the death.

6.9 Appropriate Representation

With reference to consent, capacity and representation, the Complaints Department will consider whether the complainant is a suitable representative of the patient and if it is not satisfied it will notify the representative in writing and state the reason for its decision. In doing so, the Complaints Department will take account of relevant legislation such as the Data Protection Act, Access to Health Records Act and the Mental Capacity Act. In any event the Trust will review the concerns raised and report internally on its finding and apply learning as necessary.

6.10 Interagency Complaints

Interagency complaints will be handled under the lead organisation's complaints procedure. When the Trust receives a complaint which appears to span more than one organisation, including the local authority, the complainant will be contacted to establish whether they require a single or joint response and to obtain their agreement, if necessary, to share the complaint with the other organisation(s). When required, the Trust will work with the other organisation(s) to ensure co-ordinated handling and to provide the complainant with a single response which covers all aspects of the complaint.

6.11 Information for the complainant

The Trust is committed to ensuring that information about how to access the complaints procedure is widely available in an accessible form. On receipt of a complaint, the complaints department will ensure that any additional information required by the complainant is provided.

6.12 Support for the complainant

The support needs of the complainant should be established at the outset in order for the complaint process to be as accessible as possible. This should take into the potential need for involvement of PALS, Advocacy and Interpreting and Translation Services. Details of advocacy services are provided to every complainant when acknowledging their complaint.

6.13 Being Open/Duty of Candour

Open effective communication with service users, their relatives and carers is central to the process of complaint handling and addressing negative experiences of the care and service provided. It is important the Trust acknowledges where mistakes have been made and apologises. The Trust must also explain what happened in terms of care and service delivery problems, any remedial response and longer term action required in order to minimise the likelihood of recurrence.

In cases where moderate and above harm has been or is suspected to have been caused, the Trust will undertake its responsibilities under Duty of Candour in accordance with the applied statutory framework, in line with the incident reporting

policy. Complaints pertaining to harm being caused will be cross referenced against the Trust's incident management system to ensure an incident report has been raised.

6.14 Support for Staff

It is important that staff who are subject to a complaints investigation, have confidence in the Trust's complaints procedures and experience it as being fair and objective. The Trust will provide general training for its staff on the complaints procedure as part of its induction, as well as specific training session on its complaints policy and procedure. Staff can access advice about the complaints procedures and how they might be supported, from their line manager and the complaints department. In addition, as noted, staff will be provided with a copy of any complaint where they are named and a copy of the Trust's response. Regular reports are provided to each Directorate to enable managers to ensure that staff are adequately supported. As part of the support process the line manager must ensure that all staff are aware of how to seek additional support. If the staff member is experiencing difficulties associated with the complaint then a referral to Occupational Health services should be made. The Trust has an 'Employee Assistance Programme' in place. The scheme is a 24 hour, 7 days a week, free and confidential support service available to all Trust employees.

Employee Assistance Programme Tel: 0800 282 193.

6.15 Dealing with Aggressive/Threatening or Vexatious and Persistent Complainants

On rare occasions despite the best efforts of staff, complainants may be aggressive, threatening, vexatious or persistent. This may negatively impact both on their own and or other's investigations, health & Wellbeing and the Trust's resources.

Where complainants repeatedly contact the complaints department or the clinical services where they are being treated with the same issues, where the substance of a complaint continually changes or the complainant continually raises new issues, the complaints department will discuss with the Incidents & Complaints Manager and Associate Director of Governance and Risk Management and other senior staff as required to agree an appropriate management plan.

If the actions of the complainant are considered to be inappropriate, the complainant will be informed via email or letter of the Trust's consideration to implement the Persistent Complainants procedure. If this procedure is implemented, a letter signed by the Chief Executive will be sent to the complainant outlining the plan; please see **appendix 5**.

7 The Complaints Procedure

Complaints should, whenever possible, be resolved at the time by front line staff. If the complaint is resolved to the complainant's satisfaction it does not need to be handled via the Trust's formal complaints procedures. In situations where front line staff are unsure about the seriousness of the complaint or if it is felt that issues of patient safety are involved, advice should always be sought from the Complaints Department. All written complaints must be passed to the Complaints Department and handled in accordance with the formal complaints procedure.

- 7.1 On receipt of a formal complaint, the Complaints Department will establish whether the complaint falls within the remit of the regulations which includes consideration of whether the complaint is within the time limit for formal complaints. In deciding to exercise its discretion and waive time limits, the Trust will reach decisions on a case by case basis. If a decision is made not to waive time limits, the complainant will be informed in writing of the decisions and the reasons.
- 7.2 The Complaints Department will record the complaint on Datix (the Trust complaints database). Complaints will be graded according to seriousness (high to very low). The investigation of any complaint that has an initial 'high' grading will be prioritised. All high graded complaints will be brought to the attention of the Chief Nurse and Chief Medical Officer via the Trust's serious incident grading panel where a decision will be made as to whether this case will be investigated as a serious incident. Following an SI review, the outcomes will be reviewed by the Serious Incident Committee.
- 7.3 The starting point for the complaint handling procedure will always be to contact the complainant to establish how they would like their complaint handled including whether or not they wish to meet with the investigating officer/s, the method of communication and any other special instructions and requirements including support needs. Also at this point, consideration will be given to any interpreting and translating needs.
- 7.4 Where issues raised by the complainant are also the subject of other investigation procedures e.g. police or serious incident review, the Complaints Department will liaise with the complainant to communicate the boundaries of the complaint investigation in relation to the other investigation procedures. The Complaints Department will also work in tandem with the other investigating teams or agencies to ensure the most effective and timely outcome.
- 7.5 When interagency complaints are received, the Complaints Department will contact the complainant to establish if they wish their complaint to be handled jointly or separately and to obtain their consent for their complaint to be passed on to other if required.
- 7.6 The Complaints Department will acknowledge receipt of complaints either verbally or in writing within three working days. Where the complainant has provided a telephone number, the Complaints Department will always telephone the complainant to acknowledge receipt and to discuss how they would like their complaint handled. Complaints that are acknowledged verbally will also receive a written acknowledgement within five working days. Where a complaint is received verbally, the acknowledgement will also include a summary of the discussion and offer an opportunity for the complainant to comment or amend if necessary.
- 7.7 Where it is not possible to contact the complainant by telephone, the Complaints Department will write to the complainant asking that they make contact within a timescale, to discuss how they would like their complaint handled. The complainant will be advised that if they do not make contact within this timescale, an investigation will proceed.

- 7.8 Whereas the Regulations do not stipulate any timescales for complaints investigations and responses, the Trust aims to respond to all formal complaints within 25 working days of the above discussions taking place. In circumstances where complaints are complex, being investigated under other procedures, involve other agencies or witnesses are not available, investigation will take longer and in such cases, time scales will be negotiated with the complainant.
- 7.9 There may be times when extensions to investigation time frames are required. All complaint investigation extension requests must be made by the Complaints Team Manager to the Incidents & Complaints Manager and Associate Director of Governance and Risk Management for approval. Please see **appendix 4** for extension process.
- 7.10 All information relating to the complaint will be forwarded by the Complaints Department to the directorate responsible for the investigation, with accompanying process documentation, including an investigation plan setting out the issues to be reviewed. The Trust has specific templates for the recording of verbal complaints and for documenting complaints investigation which are held by the Complaints Department.
- 7.11 Support and monitoring of the investigation process will be carried out by the individual directorate according to its complaints management and governance arrangements. Compliance with time scales is the responsibility of the Complaints Department which may also provide further support and direction if required.
- 7.12 Where it becomes evident that a response will not be sent within the agreed time scale, the Complaints Department will contact the complainant to apologise, provide reasons for the expected delay and timescale for the response to be provided.
- 7.13 After investigating the complaint, the directorate will submit a complaint investigation report (dossier) with all the relevant supporting information.
- 7.14 On completion of the investigation, a response will be prepared either by the directorate or the Complaints Department on behalf of Chief Executive to the complainant in response to the issues contained within the complaint. These should aim to satisfy the complainant that their concerns have been taken seriously, offer an explanation and if appropriate, an apology. It should also refer to any remedial action that has and will be taken. The response will be reviewed and personally signed by the Chief Executive. Following signature by the Chief Executive the response will be forwarded to the complainant within the agreed timescale. A copy of the signed final response, together with any attachments will be placed within the complaint file. Please see **appendices 1 and 2**, complaints handling process charts.
- 7.15 The response will encourage the complainant to contact the Trust, should if they are dissatisfied with the response or require clarification. In such a case, the Trust will undertake further action as necessary to resolve any outstanding issues and to bring about a more satisfactory resolution for the complainant. If after further attempts at local resolution, the Trust reaches the view that nothing further may be achieved, the complainant will be advised of this and provided with details of how to seek an independent review by the HSO.
- 7.16 The Trust's Associate Director for Consumer Relations and Legal Affairs will review any claims for compensation that form part of a complaint, once the investigation of the complaint has been concluded and responded to. In all instances, where a claim is indicated at any stage of a complaint, by any party or source (i.e. complainant and or the PHSO), the complaints department should notify the consumer relations and legal affairs team as soon as they are made aware of any potential/actual claim.

8 Improvement through learning from complaints

- 8.1 Effective complaint handling is an important driver for service improvement. The Trust welcomes complaints as an opportunity to learn and improve its services and seeks to adopt a non-defensive approach to complaints.

Where applicable, complaint investigations result in recommendations and actions for improving service provision. Resultant actions are monitored both by the directorate and the Trust's corporate Governance & Risk Management Department.

- 8.2 The Trust collates complaints data including numbers of complaints, response times, complaint themes which form part of regular integrated governance reports which are considered at Trust wide Committee level. This data is used to inform the Training Needs Analysis and high level discussion about identified themes and issues relating to Trust wide quality and safety issues.
- 8.3 The Trust holds twice yearly learning from complaints events with a focus on evaluating the complaints processes within the Trust and improving patient safety and experience. A range of stakeholders are invited to attend the events including complainants, commissioners, health watch, service representatives and local advocacy groups.
- 8.4 Individual teams are expected to regularly review outcomes of complaints about their service, to gain insight into shortcomings in service delivery, with a view to identifying wider areas for improvement.
- 8.5 Where an individual staff member is the subject of a complaint investigation, it is a requirement that the staff member's supervisor and/or line manager discusses the complaint investigation and outcome with the staff member, to ascertain whether or not there are any individual practice issues that need to be addressed or from which learning can be derived. Support will also be provided through this process.

9 Monitoring and Control

- 9.1 This document will be ratified by the Quality Committee and any review of it will also be agreed and signed off by the Quality Committee.
- 9.2 This document will be disseminated to all staff via the Trust e-mail system and will be accessible to all staff via the Trust intranet and members of the public via the Trust website. Implementation of this document is detailed in the policy implementation plan that will accompany it at the review stage.
- 9.3 Monitoring of compliance with the procedures and principles within this policy is done via the quarterly Integrated Governance Report provided to the Quality Committee, by local directorate governance reporting and day to day oversight by the Complaints Manager and Incidents & Complaints Manager.
- 9.4 Complaints data is recorded using the Datix complaints module and reports are regularly produced that capture the numbers of complaints received, the category of complaint and the outcome of the complaint. In responding to complaints, the Trust always offers the complainant the opportunity of further work to resolve any outstanding concerns to bring about a satisfactory solution.
- 9.5 The Trust will have regard to the number of cases referred to the PHSO, this being an indication of how satisfied complainant are with the Trust's complaint handling. In addition, the Trust will take account of the outcome of the PHSO's review of its complaints handling and any lessons that can be applied to increase compliance with the regulations thereby improving the experience of its services users.

10 PALS- Patient Advice and Liaison Service

As a result of early intervention, PALS expects to reduce the number of issues that escalate into a formal complaint. It is the choice of the individual to use either the complaints procedure or PALS. There is no requirement for individuals to use the PALS before they can make a formal complaint.

PALS does not aim to reduce complaints to the Trust but to work with individuals to obtain the best possible outcome for them and to ensure the Trust learns from the persons experience.

PALS will not become involved in related issues when the complaints procedure has been initiated nor will it become involved in issues that have been through or exhausted the complaints procedure. PALS will however, monitor the outcome for individuals who access formal complaints through PALS.

- 10.1 It is important that all enquiries coming to the PALS department are recorded and monitored. Those enquiries that involve signposting and minimal involvement from the PALS staff and do not require personal records will be recorded locally (directorate wide) in a book. The nature of the enquiry will be entered onto Datix and the information given.

Monitoring of these entries will identify information gaps and these will be reported in the PALS reports.

- 10.2 PALS operate an open referral system by which anyone can self-refer or refer someone to PALS. As such, individuals may contact PALS:

- In person (by drop-in* or appointment*).
- By telephone
- Through Trust staff
- By returning a completed PALS card.
- By referral of an external source.
- By email

*PALS clinics where applicable

The service is accessible Monday to Friday from 9.00am to 5.00pm via a Freephone facility to ensure free and easy access to the service. Outside these times an answer machine will be available where individuals can leave brief details and they will be contacted as soon as the message has been retrieved.

In addition, the Trust has a postal free address for surface mail and an electronic mail address for users to contact over the Internet.

PALS FREEPHONE: 0800 783 4839

PALS FREEPOST:
FREEPOST RTXT-HJLG-XEBE
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11 References

1. The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009
2. Department of Health - Listening, Responding, Improving: A Guide to Better Customer Care (2009)
3. The Health Service Ombudsman - Principles of Good Complaints Handling (2008)
4. Secretary of State for Health – Government Response to the House of Commons Health Select Committee Sixth Report of Session 2010-2011: Complaints and Litigation (2011)
5. Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 16

Appendices

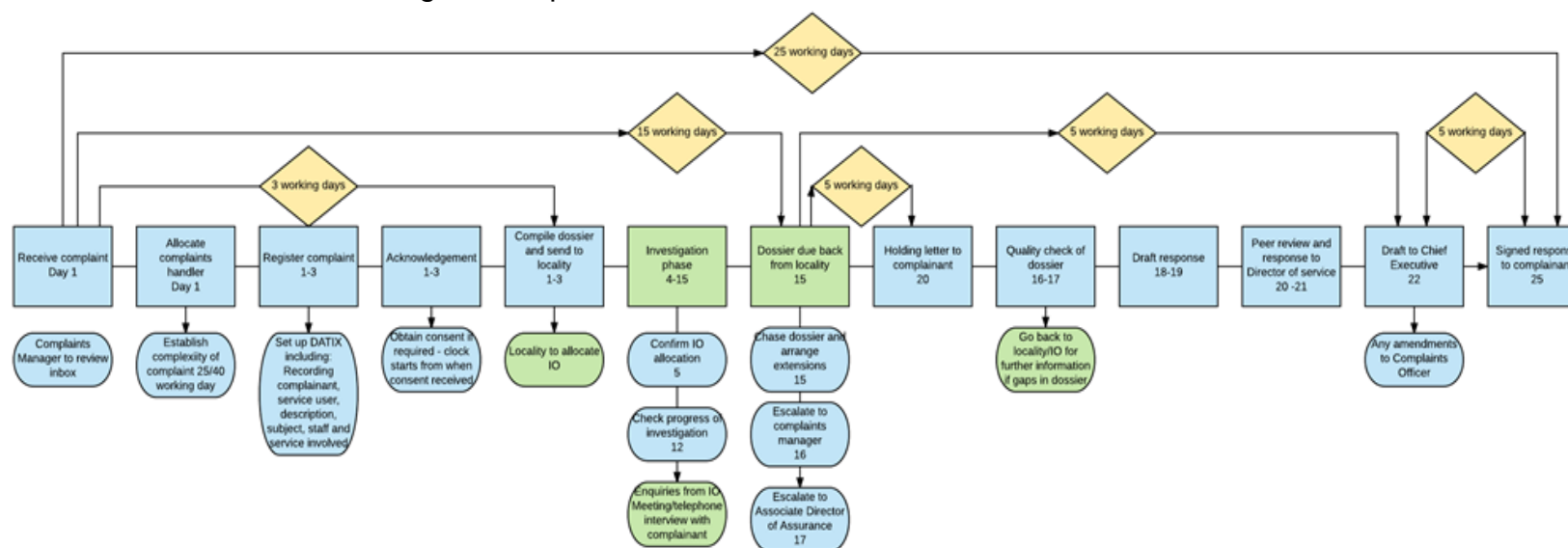
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Complaints Process

The Trust has 25 working days to investigate and respond to a formal complaint. This is broken down as:

- 3 working days to log, acknowledged and complete a dossier
- 3 weeks from receipt of complaint for the investigation to be completed.
- 4 weeks from receipt of complaint the complainant should be updated
- 5 weeks from receipt of complaint a response should be issued.

The different tasks at each stage are depicted below:



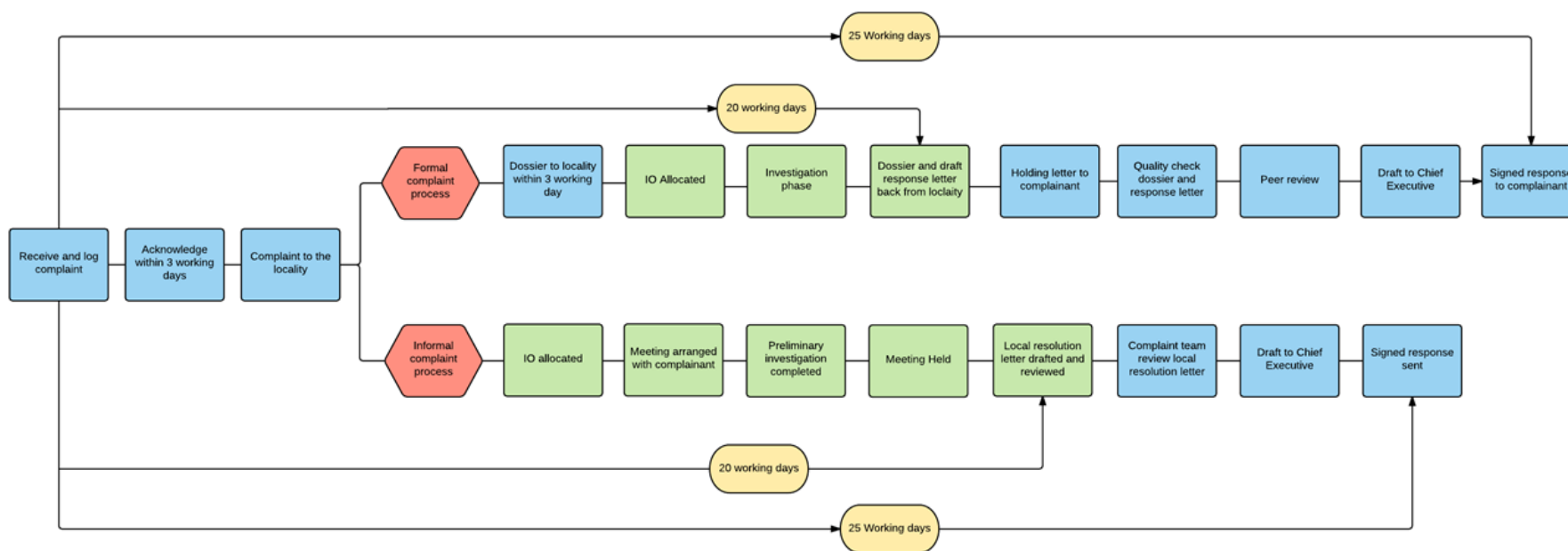
For complex and joint complaints, the timeframe will increase to 40 days (or more dependent on the complexities and agreement of the complainant), the majority of the additional time is provided to the locality to investigate these type of complaints.

Directorate Led Complaints Handling process

Once a complaint is received it is acknowledged straight away by the complaints department and sent to the directorate to be presented to their complaints panel who will decide if it should be dealt through the formal process or whether staff should attempt to locally resolve it.

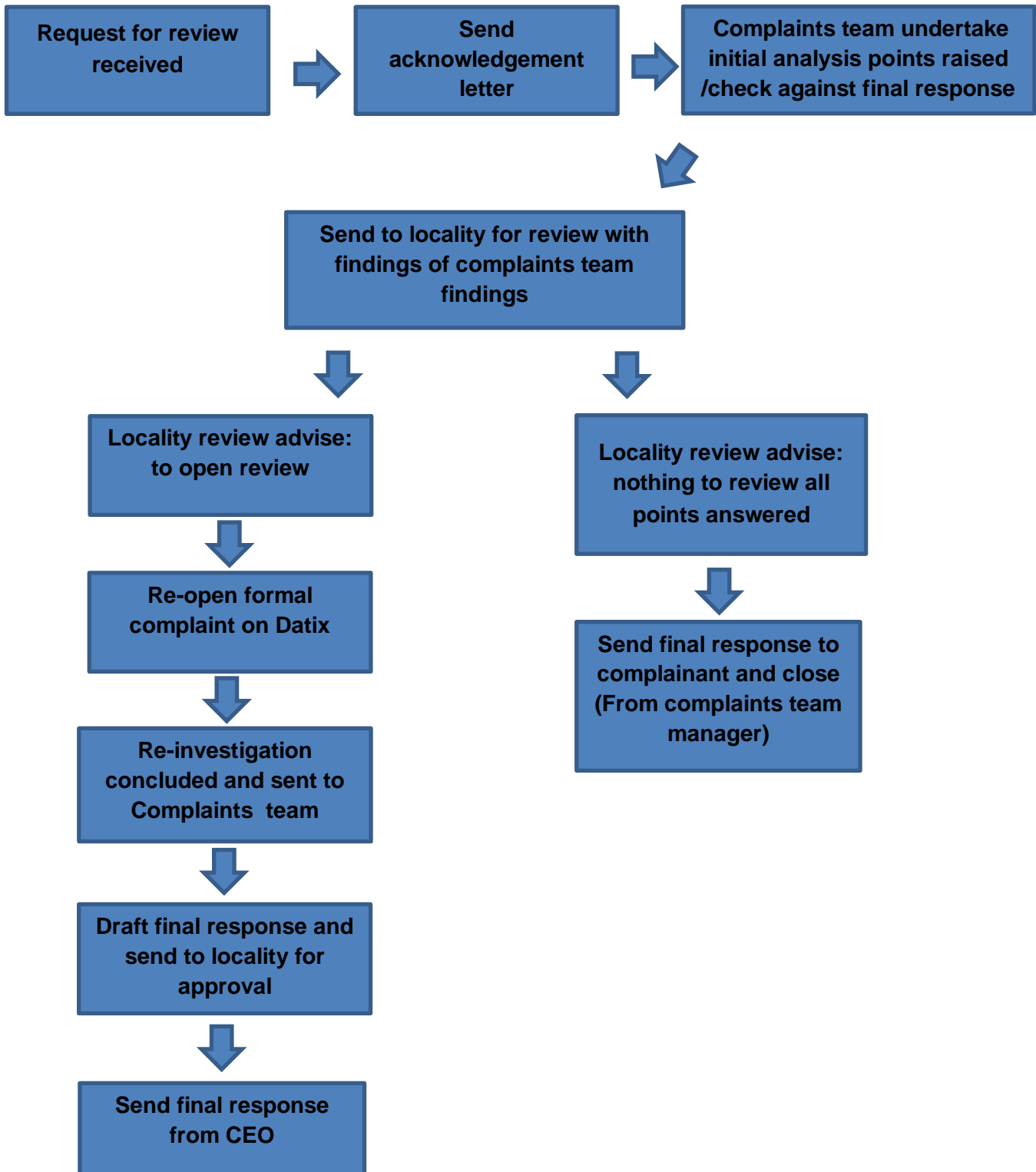
If the Panel decides to locally resolve the case and this is successful then the locality will send a letter summarising the findings. The complaints team will send a closing letter confirming that the matter has been resolved and close the case (guidance below on closing cases).

If the complaint is progressed formally then the complaints team will create a dossier as normal. The locality then has four weeks, from the date of receipt of the complaint, to complete the dossier and draft the response letter. The complaints department will then peer review the response; provide feedback before sending to the Chief Executive’s PA for final approval and signature.



Complaint response review/comeback process

If a complainant is unhappy with the response to the complaint then the case can be reviewed.



Complaint investigation extensions process

There are occasions where an extension is required to complete the investigation.

All extension requests must be forwarded to the Incidents & Complaints Manager for approval.

Valid reasons for an extension include:

- Complexity – once an investigation commences it may become apparent that additional time is needed to undertake a thorough investigation
- Number and type of points raised by complainant – sometimes these include in excess of twenty points. Where there is a high number or the concerns raised cover several areas it may be necessary to grant an extension
- Absence of key witnesses/interviewees (where it is not possible to meet/interview within the timescale)
- Investigation report does not capture all the points raised and further investigation is required

Circumstances where an extension will not be granted:

- Acknowledgement / dossier not completed on time
- Inability to appoint an Investigating Officer
- Inability to keep to agreed timescales for no valid reason
- Annual leave of IO
- workloads

Following the outcome decision, the complaints officer should contact the complainant to advise them of the planned extension and rationale and the revised completion date. If an extension has not been granted and there is an expected delay in responding, the complainant should be informed of the expected delay in providing their response. In all cases Datix must be updated with the outcome decision and summary of contact with the complainant.

Extension timeframes must account for the time required by the investigating officer together with two weeks for the complaints team to draft the response and go through the internal quality checking process.

If a complainant has agreed to an extension then Datix should be completed. The timescale section should be changed to *open with agreed extension*. If the complainant refuses the extension then the timescale section should be changed to *open breached 25 days*. The extension section also needs to be completed with the new target dates being added in the primary complaint chain.

Extensions should be obtained as soon as possible and not left to the last minute.

Persistent Complaints process

Introduction

Unreasonable persistent complainants, although they are a small part of the complaints the Trust receives, they represent a particular problem in the resolution of complaints. The difficulty in handling such complainants places a significant strain on time and resources and can be demoralising for staff. The Trust's staff are trained to respond sensitively to the needs of all complainants, but there are times when there is nothing further that can be done to assist them or to rectify a real or perceived problem. This procedure has been created to ensure a joint understanding of what is considered as acceptable and unacceptable behaviour.

Implementing this procedure should be a last resort and after all reasonable measures have been taken to try to resolve complaints following the Trust policy and procedure.

The procedure is also designed to protect and support staff who are the subject of persistent complainants and to maintain the integrity of the complaints procedure.

Definition of unreasonably persistent behaviour

Complainants may be deemed to be unreasonably persistent where current or previous contact with them shows that they have met two or more (or are in serious breach of one) of the following criteria:

- Persisting in pursuing a complaint where the NHS complaints process has been fully and properly implemented and exhausted. For example, where investigation is deemed to be 'out of time' or where the PHSO has declined a request for independent review.
- Persisting in pursuing a complaint with the Trust in preference to contacting the PHSO for independent resolution
- Repetition of a previous complaint where the Trust Complaints procedures has been implemented and exhausted.
- The substance of a complaint is changed or new issues are raised persistently or complainants seek to prolong contact by unreasonably raising further concerns or questions during the complaints process or upon receipt of a response whilst the complaint is being dealt with. Care must be taken not to disregard new issues which differ significantly from the original complaint – these may need to be addressed as separate complaints.
- Complainants who are unwilling to accept documented evidence of treatment given as being factual or deny receipt of an adequate response despite correspondence specifically answering their questions/concerns. This could also

extend to complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.

- Complainants do not identify clearly the precise issues they wish to be investigated despite reasonable efforts to help them do so by Trust staff and/or other agencies, e.g. by referral to Independent Complaints Advocacy, conciliation/mediation.
- The concerns identified are not within the remit of the Trust to investigate.
- Complaints focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It should be recognised that determining what is trivial can be subjective and careful judgement must be used in applying the criterion.
- Aggressive, rude or physical violence has been used or threatened towards staff or their families/associates at any time. This will in itself cause personal contact with complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication. All such incidents should be documented on Datix and reported, as appropriate, to the police.
- Complainants have, in the course of pursuing a registered complaint, had an excessive number of contacts with the Trust placing unreasonable demands on staff. Such contacts may be in person, by telephone, letter, fax or electronically. Discretion must be exercised in deciding how many contacts are required to qualify as excessive, using judgement based on the specific circumstances of each individual case.
- Complainants have harassed or been abusive, including racist, sexist or homophobic abuse, or verbally aggressive on more than one occasion towards staff dealing with their complaint. If the nature of the harassment or aggressive behaviour is sufficiently serious, this could, in itself, be sufficient reason for classifying the complaint as unusual. Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this. All incidents of harassment or aggression must be documented on Datix and dated.
- Requests may be considered unreasonable by the nature and scale of service expected. Examples of which are requesting responses within an unreasonable timescale or insisting on speaking with only certain members of staff or by contacting many staff members and third parties which could be detrimental to investigating the complaint.

- Complainants have been known to have electronically recorded meetings or conversations 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 investigation into their complaint(s) that such behaviour is unacceptable and can, in some circumstances, be illegal.
- Complainants have made defamatory comments about staff to the media (local, national and or social media).

Options for dealing with unreasonable, persistent complainants

When the complainant is deemed to be considered as an unreasonable, persistent complainant, the Complaints Team in consultation with the Incidents & Complaints Manager and the Associate Director of Governance and Risk Management will write to the complainant advising them that their behaviour may be considered to be unreasonable and or excessively persistent. They will be asked to consider their further contact with the Trust. The letter will advise the complainant that if there is no change in their behaviour the Persistent Complaints Procedure will be invoked.

This procedure maybe implemented at any time during a complaint investigation; however the implementation will not stop the complaint investigation.

This notification must be copied promptly for the information of others already involved in the complaint. A record must be kept, for future reference, of the reasons why a complainant has been classified as unreasonable or excessively persistent and the actions taken. All supporting evidence in dealing with this type of complaint must be documented and retained on the complaint file for future reference.

The Trust may decide to deal with persistent complainants in one of the following ways:

- Where complainants have been identified in accordance with the above criteria, the chief executive, in consultation with the complaints manager and the clinical team will determine what action to take.
- Try to resolve matters before invoking this procedure, and/or the sanctions detailed within it, by drawing up a signed agreement with the complainant setting out a code of behaviour for the parties involved if the Trust is to continue dealing with the complaint. If this agreement is breached consideration would then be given to implementing other actions as outlined below. Clinicians should be consulted and involved in drawing up such an agreement.
- Decline further contact with the complainant either in person, by telephone, fax, letter or electronically or any combination of these, provided that one form of contact is maintained. Alternatively, further contact could be restricted to liaison through a third party.
- Inform complainants that in extreme circumstances the Trust reserves the right to refer persistent complainants to the Trust's solicitors and/or, if appropriate, the police.
- Temporarily suspend all contact with complainant(s), or investigation of a complaint, whilst seeking legal advice or guidance from the NHS England or the Department of Health. This must not however, intervene with the provision of care and service delivery to any individuals involved in the complaint who are in direct receipt of care from the Trust.

Withdrawing persistent complainant status

Once complainants have been classified as unreasonably persistent, there needs to be a mechanism for withdrawing this status if, for example, complainants subsequently demonstrate a more reasonable approach or if they submit a further complaint for which the normal complaints procedures would be appropriate.

When recommending that such status should be revoked, discussions will be held with the chief executive, the clinical team and the complaints department and, subject to approval, normal contact with complainants and application of the NHS complaints procedures will be resumed.

Implementation of the policy will be kept under review and a decision will be made on the continuation/cessation of the status. Clinical teams and front line staff should work closely with the chief executive and complaints department in reviewing the policy.

Complaints not required to be dealt with under a formal process

(As taken from the Regulations 2009)

The following complaints are not required to be dealt with in accordance with these Regulations:

- (a) a complaint by a responsible body;
 - (b) a complaint by an employee of a local authority or NHS body about any matter relating to that employment;
 - (c) a complaint which:
 - (i) is made orally; and
 - (ii) is resolved to the complainant's satisfaction not later than the next working day after the day on which the complaint was made;
 - (d) a complaint the subject matter of which is the same as that of a complaint that has previously been made and resolved in accordance with sub-paragraph (c);
 - (e) a complaint the subject matter of which has previously been investigated under:
 - (i) these Regulations;
 - (ii) the 2004 Regulations, in relation to a complaint made under those Regulations before 1st April 2009;
 - (iii) the 2006 Regulations, in relation to a complaint made under those Regulations before 1st April 2009; or
 - (iv) a relevant complaints procedure in relation to a complaint made under such a procedure before 1st April 2009;
 - (f) a complaint the subject matter of which is being or has been investigated by:
 - (i) a Local Commissioner under the Local Government Act 1974(19); or
 - (ii) a Health Service Commissioner under the 1993 Act;
 - (g) 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(20); and
 - (h) a complaint which relates to any scheme established under section 10 (superannuation of persons engaged in health services, etc.) or section 24 (compensation for loss of office, etc.) of the Superannuation Act 1972(21), or to the administration of those schemes.
- (2) Where a responsible body decides that a complaint is a complaint specified in paragraph (1):

(a) it is not required to consider the complaint, or consider it further, under these Regulations; and

(b) except where the complaint is a complaint specified in paragraph (1)(c), it must as soon as reasonably practicable notify the complainant in writing of its decision and the reason for the decision.

(3) Where a complaint specified in paragraph (1) is part of, or is connected with, another complaint which is not so specified, nothing in this regulation prevents that other complaint being handled in accordance with these Regulations.