

Patient Complaint & Feedback Management Policy

Author:	PALS and Complaints Manager
Document Owner:	Director of Quality & Patient Safety
Revision No:	9
Document ID Number	POLCGR005
Approved By:	Trust Board
Implementation Date:	October 2022
Date of Next Review:	October 2025

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Document Control / History		
Revision No	Date	Reason for change
1		General review
2		General review
3		New Legislation
4		General review and update
4.1		Insert new section – Complaints requiring reimbursement
4.2		Add QC in monitoring and review table
4.3		General review and update
5.0		General policy review – duty of candour, directorate responsibilities
6.0		Changes in response to new process and responsibilities
7.0		General review and update
8.0		Review and update following KMPG audit
9.0		Trust-wide review of complaint management process
10	September 2022	Review in line with NHSE's newly published policy.

Consultation

Chief Nurse

Associate Director of Patient Experience

Divisional Chief Nurses

Divisional Heads of Quality and Governance

Executive Group

Chief Executive.

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To be read in conjunction with any policies listed in Trust Associated Documents.

1 Introduction

Our Patient First Strategy has been developed to help the Trust ensure that we deliver the best of care for our patients and to support our staff to be the best of people.

This means we want to work in partnership with our staff, patients, their families and carers and system partners to seek opportunities to improve the quality of the care and services we provide.

This policy outlines our commitment to actively listening to the people who use our services, their families and carers to understand what matters to, and is important to them, and form the feedback we receive.

We recognise that there will be times when care and services fall below the high standard we expect, for the people who use our service, their families and carers, or where we don't always get things right. In these situations we pledge to support the people who use our services, their families and carers to raise a concern or complaint or provide comments and suggestions so that we can understand what has caused care and services to fall below expectations. In doing this, we promise that this will not affect their ongoing or future care and treatment or impact on the experience they receive.

Our organisation handles complaints in line with the Local Authority Social Service and NHS Complaints Regulations 2009 (the Regulations)

It is also compliant with Care Quality Commission Regulation 16: Receiving and acting on complaints

2 Purpose / Aim and Objective

The purpose of this policy is to provide a framework for managing complaints and feedback from people who use our services, their families and carers to ensure:

- Complaints and feedback are dealt with in confidence and impartiality, with courtesy and empathy in a timely and appropriate way.
- We provide a flexible approach to investigating complaints and provide complainants with a thorough, open and honest response.
- We are fair to both complainants and staff.
- We use the information we receive from complaints and feedback to gain insight into experiences of our services and use these to improve the quality of the care and services we provide.
- That we comply with our regulatory and statutory duties as per the Local Authority Social Service and NHS Complaints Regulations 2009 (the Regulations) and the Care Quality Commission (CQC) Regulation 16: Receiving and acting on complaints

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- That we follow the six ‘principles for good complaint handling’ as set out by the Parliamentary and Health Service Ombudsman (PHSO);
 - Getting it right
 - Being customer focused
 - Being open and accountable
 - Acting fairly and proportionately
 - Putting things right
 - Fair, Equal and accessible

The PHSO’s ‘Principles for Remedy’ states that all appropriate remedies should be considered for complaints that have been upheld and that this should include financial remedies.

3 Definitions

For the purpose of this policy, the following definitions will apply:

Term	Definition
Complaint	“An expression of dissatisfaction about an act, omission or decision of Medway NHS Foundation Trusts Health Services, either verbal or written, and whether justified or not, which requires a response” (as outlined within the NHS England Complaints Policy 2013, revised in October 2021)
Gillick Competency	The ‘Gillick test or competence’ is used to determine when children under 16 can consent to medical treatment or intervention. To be competent they must have sufficient understanding and intelligence to fully understand what is involved in a proposed treatment, including its purpose, nature, likely effects and risks, chances of success and the availability of other options. However, as with adults, this consent is only valid if given voluntarily and not under undue influence or pressure by anyone else

4 Roles & Responsibilities (Duties)

Chief Executive Officer:

The Chief Executive is the ‘Responsible Person’ (as per The Local Authority Social Services & National Health Services Complaints (England) Regulations 2009, is accountable for ensuring effective management of complaints across Medway NHS Foundation Trust (MFT), and is the responsible signatory for written responses to formal complaints. This role is designated to a nominated deputy in their absence and in line with this policy.

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Chief Nursing Officer:

The Chief Nursing Officer is the designated board member for quality, which includes the management of people's experience, complaints and feedback.

Director of Quality & Patient Safety:

The Director of Quality & Patient Safety has the delegated responsibility for ensuring the efficient and effective implementation of this policy.

Deputy Chief Nursing Officer:

The Deputy Chief Nurse has the delegated responsibility for the monitoring and improvement of the experience of the people who use our services, their families and carers with responsibility for the direct management of the Associate Director of Patient Experience.

Associate Director for Patient Experience:

The Associate Director of Patient Experience has the delegated responsibility for the monitoring and improvement of the experience of the people who use our services, their families and carers with responsibility for leading the strategic development of improvement plans in response to local and national feedback surveys, including FFT and patient experience surveys and developing public engagement.

PALS & Complaints Manager:

The PALS & Complaints Manager is accountable for overseeing the operational and direct line management of the PALS and Complaints Team. Providing expert guidance and or intervention into case management and managing the process for escalation to encourage resolution of complaints at a local level.

Divisional Directors of Nursing:

The Divisional Directors of Nursing are responsible for the delivery of effective quality systems and processes within the division, including the thorough investigation of complaints and feedback, including approval of responses, in line with this policy. They are responsible for developing and implementing improvement action plans arising from complaints and feedback and monitoring effectiveness.

Heads of Nursing, Service Managers, Matrons and Ward Managers:

Heads of Nursing, Service Managers, Matrons and Ward Managers are responsible for the management of complaints and feedback in their area, ensuring that all staff are aware of this policy and that PALS and Complaints are appropriately investigated and responded to within the required timescales, supporting Care Groups to monitor trends and implementing the changes identified through a complaint investigation and feeding this into service meetings to ensure staff are aware of the lessons identified from investigation.

Ensure all staff feel empowered to manage complaints and concerns and that early resolution is a priority to mitigate concerns escalating and encouraging staff to meet with complainants at the earliest opportunity to resolve complaints locally.

Supporting staff in their areas both with investigating complaints and with where they are named in complaints.

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Ensuring all complaints, which are unable to be resolved locally, and comments and feedback is passed to the PALS & Complaints Team to be logged on the Complaints and Feedback management system as appropriate.

Head of Corporate Governance, Legal and Information Governance:

The Head of Corporate Governance, Legal and Information Governance will provide legal advice to the Trust in all matters (except for employment & HR matters) pertaining to the legal queries that relate to complaint management and feedback and will provide advice and support to the PALS & Complaints team and all staff involved in the complaints and feedback process.

Head of Patient Safety:

The Head of Patient Safety will ensure the close liaison with the PALS and Complaints Manager, and the PALS and Complaints Team for all complaints linked or associate to Patient Safety Incidents, which require High Level or Serious Incident Investigation to enable a joined up approach to investigating concerns and communicating with complainants.

Deputy Director of Communications:

The Deputy Director of Communications will be briefed where any complainant expresses their intention to contact the media

All Staff:

All staff have a duty to listen to concerns raised by patients, their families and carers or visitors and to try to resolve these locally seeking advice from their operational management or the PALS and Complaints Team, ensuring;

They are to report informal complaints and concerns that have been resolved locally (at service level) to the PALS and Complaints Team to enable data to be logged onto the PALS and Complaints management system.

Complainants are given a copy of the 'Compliments, Comments and Concerns – PALS and Complaints leaflet (PIL0001824)

The Trust Board:

The Trust Board is responsible for ensuring that the Trust delivers its responsibilities of the NHS constitution, legal and regulatory frameworks. The Trust Board will seek assurance from the Quality Assurance Committee, receiving reports on a quarterly and annual basis.

The Quality Assurance Committee:

The Quality Assurance Committee is responsible for providing the Trust Board with assurance on all aspects of the quality agenda (Patient Safety, Patient Experience, and Quality Assurance & Compliance to regulatory standards). As such, the Quality Assurance Committee will receive reporting through monthly dashboards in addition to quarterly and annual reports.

Quality & Patient Safety Sub-Committee:

The Quality & Patient Safety Sub-Committee, chaired by the Chief Nursing Officer and Chief Medical Officer provides the framework to document, monitor and audit complaints and feedback processes and systems to meet the Trust's goals and objectives, making management decisions as required and providing assurance to the Quality Assurance Group as to the effectiveness of these systems and processes.

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Patient Experience Group:

The Patient Experience is the operational management group to support the implementation, monitoring and delivery of the Patient Experience Strategy and associated policies and procedures.

5 Routes for Complaints & Feedback

The following routes are in place for the people who use our services, their families and carers to make a complaint, raise concerns or provide feedback:

Raising a concern – Don't take your troubles home:

The people who use our services, their family or carer should be able to raise a concern or feedback with any member of staff during their care or treatment with the opportunity for this to be resolved locally without the need for intervention by the PALS or Complaints Team.

Patient Advice & Liaison Service (PALS):

The Patient Advice & Liaison Service (PALS) managed by the PALS and Complaints Manager offers confidential advice, support and information on health-related matters. They provide a point of contact/escalation for the people who use our services, their families and carers.

Informal Complaints:

The route for the people who use our services, their families or carers to informally raise concerns, issues or feedback for resolution at a service level, with the ability to escalate to a formal complaint should the issue remain unresolved. Submission can be verbal or in writing to the service or the PALS & Complaints Team. The service/care group will manage informal complaints.

- Telephone 01634 825004
- Email: medwayft.pals@nhs.net

Formal Complaints:

The formal route for handling complaints, managed by the PALS & Complaints Team, whereby a complaint can be made by:

- Telephone: 01634 825216
- Email: medwayft.complaints@nhs.net
- Post: The Central Complaints Team
Medway Maritime Hospital
Gillingham
Kent
ME7 5NY

Complaints and concerns received will be assessed and where a formal complaint is received the PALS & Complaints Team will acknowledge the complaint within 3 working days. The Trust aims to respond to formal complaints within 25 working days, although complex complaints may take up to and over 60 days.

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Friends & Family Test:

The Friends and Family Test (FFT) is a service level nationally mandated survey relating to the most recent episode of care and is usually sent by text message, card or electronic submission. The Patient Experience Team are responsible for the management of FFT across the Trust.

NHS Choices / Care Opinion:

Care Opinion is a system where the people who use our services, their families or carers can share their experiences of the care and treatment received at MFT. The Patient Experience Team will respond to feedback and refer concerns to the appropriate route for investigation.

Local Surveys:

The Patient Experience Team is responsible for conducting local surveys of the people who use our services, their families or carers to enable them to share their experiences of the care and treatment received. The Patient Experience Team will respond to feedback and refer concerns to the appropriate route for investigation.

National Surveys:

National Surveys are mandated by the Care Quality Commission and provide an opportunity for the people who use our services and/or their families and carers to provide feedback of the care and treatment received during the set survey period, with National benchmarking results published. The Patient Experience Team are responsible for ensuring the Trust participates within all mandated surveys, producing improvement action plans where required.

6 Who can make a complaint

In line with the Regulations, a complaint may be made by:

- A person who receives or has received a service from Medway NHS Foundation Trust
- A person who is affected, or likely to be affected, by the action, omission or decision of Medway NHS Foundation Trust
- A representative acting on behalf of a person mentioned above who:
 - **Has died** - The complainant must be the personal representative of the deceased. In order to respond to the personal representative, the Trust must ensure it is satisfied that the person is the personal representative. Where appropriate we may request evidence to substantiate the complainants claim to have a right to the information, such as a copy of a Will (to demonstrate their role as Executor) or a Lasting Power of Attorney relating to health care.
 - **Is a child (an individual who has not yet reached the age of 18)** - The Trust must be satisfied that there are reasonable grounds for the complaint to be made by a representative of the child (rather than by the child themselves), and that the representative is making the complaint in the best interest of the child.

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- **Has physical or mental incapacity** - In the case of a person who is unable to make the complaint themselves, because of either physical incapacity or who lacks capacity within the meaning of the Mental Capacity Act 2005, the Trust needs to be satisfied that the complaint is being made in the best interest of that person.
- **Has given consent for the representative to act on their behalf** - The Trust must be satisfied that the personal representative has been given consent to act on behalf of the person mentioned above, and will therefore, need to seek confirmation of this consent, including for complaints raised on behalf of a constituent by a Member of Parliament or through an advocacy service.

Where the Trust is satisfied that the representative is not conducting the complaint in the best interests of the person on whose behalf the complaint is made, the complaint will not be considered under this policy. The Trust must notify the representative in writing of this decision and state the reason for that decision.

7 The Accessible Information Standard

The Accessible Information Standard denotes that people who use our services, their carers and families with a disability or sensory loss should:

- Be able to contact, and be contacted by, services in accessible ways, for example via email, text message or Text Relay.
- Receive information and correspondence in formats they can read and understand, for example in audio, braille, easy read or large print.
- Be supported by a communication professional at appointments if this is needed to support conversation, for example a British Sign Language interpreter.
- Get support from health and care staff and organizations to communicate, for example to lip-read, or use a hearing aid.
- The Trust will seek to make the necessary reasonable adjustments in order to handle any complaint. For people whose first language is not English, we have access to translation and interpreters. We will seek to make the necessary arrangements to handle complaints in Braille or for British Sign Language users.

When receiving an inbound call, an offer should be made to call the complainant back so that they do not incur excessive costs.

Where possible freepost/pre-paid envelopes should be provided to complainants if asking them to return any documents by mail.

The Central Complaints Team is responsible for publishing information about the complaints process including advice on signposting to advocacy services.

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8 Time limit for making a complaint

In line with the Local Authority Social Services & National Health Services Complaints (England) Regulations 2009 a complaint must be made no later than 12 months after the date on which the matter, which is the subject of the complaint occurred, or, if later, the date on which the matter, which is the subject of the complaint, came to the notice of the complainant.

The time limit shall not apply if the Trust is satisfied that the complainant had good reasons for not making the complaint within that time limit and, notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly.

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.

Those wishing to complain should be encouraged to do so as soon as possible after an event so that the investigation can be timely and most effective.

9 Complaints from children and young people

When deciding whether a child is mature enough to make decisions, including pertaining to making a complaint or raising concerns, the Trust will consider whether a child is 'Gillick Competent' or whether they meet the 'Fraser Guidelines'

As such, there is no minimum age for a young person to raise concerns about the care they have received. The PALS & Complaints Team will offer the young person support, and signpost to any additional resources such as Support, Empower, Advocate Promote (SEAP) Advocacy and carers support organisations as required.

10 Complaints received on behalf of others

Where a complaint is made on behalf of an existing or former person who uses our services, consent must be obtained from the person to disclose personal health information and the results of any investigation in order to maintain and uphold our duty of confidentiality.

The person who is the subject of the complaint will therefore be asked to return a consent form providing this consent, after which the timescales for resolution will begin.

Where personal representation is made on behalf of a person who has died, evidence will be sought to confirm eligibility to access the information.

Where a complainant does not have the consent of the subject complaint or evidence to prove eligibility to access the information, care should be taken not to disclose personal health information; however matters of a non-personal or non-clinical nature such as systems and processes e.g. referral process may be included within any response provided to a complainant.

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11 Complaints brought by Members of Parliament on behalf of constituents

Is it frequent practice for Members of Parliament (MPs), in receipt of complaints about health services from members within their constituency, to address personal letters to the Trust Chair or Chief Executive.

Such letters will be acted on in the same way as for a formal complaint, with consent from the subject of the complaint sought, with the timescale for resolution beginning once received.

Where a complainant does not have the consent of the subject complaint or evidence to prove eligibility to access the information, care should be taken not to disclose personal health information; however matters of a non-personal or non-clinical nature such as systems and processes e.g. referral process may be included within any response provided to a complainant.

12 Complaints brought by Commissioners on behalf of complainants

Complainants may raise concerns with commissioners such as NHS Kent & Medway or NHS England.

There is an expected response timescale of 15 working days; however, there may be times when this is not possible due to the complexity of the complaint. This is ascertained on a case-by-case basis and the commissioners will be informed of any potential delay as soon as possible, and the timescales negotiated accordingly.

13 Serious Allegations and Disciplinary Action

Whilst the Trust operates a no blame culture to ensure effective and continuous quality improvement, during the course of a complaint investigation it may be necessary to consider Human Resources (HR) processes such as Disciplinary Action. Where this is required, information gathered during the complaint investigation may be made available to the HR process.

However, the Trust has a duty to maintain staff confidentiality and will not share information regarding action taken against staff with the complainant.

Where a complaint indicates the need for a referral to the disciplinary procedure or one of the professional regulatory bodies such as the NMC or GMC, or has the potential to be a criminal offence, the Chief Nursing Officer and Chief Medical Officer must be notified.

The Complaints procedure will only commence where the investigation will not compromise or prejudice a concurrent HR or police investigation and will have been considered by the Head of Corporate Governance, Legal and Information Governance.

14 Complaints and Legal Action

Complainants have the right to seek independent legal advice, in terms of the care that has been provided, as with any other party.

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A complainant advising that they wish to pursue their case through the legal route does not mean that the complaint investigation should immediately stop.

Any complaint referencing negligence or made by a solicitors on behalf of a complainant must be flagged to the Head of Corporate Governance, Legal and Information Governance where in consultation a view as how to proceed will be taken.

15 Complaints about more than one provider

Sometimes complaints received will include concerns raised against the services of another provider or statutory body.

Where these complaints relate solely to another organisation or statutory body the response provided to the complainant will be to direct them to the complaints process for the required organisation.

Where the complaint relates to services provided by both the Trust and another organisation the PALs and Complaints Team will confirm if the complainant wishes to contact the other organisation separately, or provide consent for the Trust to contact the organisation on their behalf, to agree a lead organization to collate the combined responses.

Should the responses from contributing organisations be disproportionately delayed after all reasonable steps have been made for its inclusion, a response containing the response from MFT may be sent to the complainant advising them that there is information outstanding and that the alternate organisations have been reminded of their obligation to send this information to them directly.

Where the Trust is contacted by another organisation or statutory body to provide a response for inclusion within their response, the Trust must be satisfied that the relevant consent is in place, after which the response will follow the usual formal complaints process, and will not be excluded from data reporting.

16 Acknowledgement

Where a complainant has specified the way in which they wish to be addressed all communication from the acknowledgement stage onwards will follow that request, including the use of pronouns.

An acknowledgement to a complaint:

- Must be within 3 working days
- Will be in writing unless in exceptional circumstances where it may be verbal (if made verbally it must be followed up in writing as soon as is possible)
- Must include an offer to discuss the handling of the complaint (if not already taken place)
- Must include an offer to discuss the timeframe for responding to the complaint (if not already taken place)
- Should include a summary of what the complaint is about and, where unclear, offer to discuss the desired outcome.

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- When the complaint has been made verbally, it must include the written statement, which has been recorded as the formal complaint.
- Must include information about local NHS Complaint Advocacy Services (and consideration be given to providing information about specialist advocacy services such as when the complaint may also be a serious incident or claim)
- Will address any issues of consent; and must include details of the complaints handler who will be the point of contact for the complainant throughout the complaints process.

17 Investigation

An investigation into a complaint may involve access to the patients records and witness statements or testimonials from staff involved in the care of the patient. Consideration will be given to other supporting documents, including Datix reports.

In the event that the investigation is likely to take longer than the original timeframe identified at the acknowledgement stage, the complainant will be contacted to be advised of a new timeframe for responding and an explanation given as to the reason for the delay.

Staff who are the subject of a complaint will be offered support and guidance in the first instance by their Line Manager.

18 Response

A response to a complaint must:

- Include an explanation of how the complaint has been considered
- Provide information about who has been involved in the investigation
- Include a meaningful apology where it is due
- Refer to any records, documents or guidelines that have been considered
- Conclude and evidence how a decision was reached
- Tell the complainant what has been done to put things right where appropriate
- Signpost the complainant to the next steps, including details of the Parliamentary and Health Service Ombudsman (PHSO)

Before sharing a response with the complainant, consideration should be given to any response, which may contain sensitive, unexpected and/or potentially harmful information, which may be delivered at a sensitive time (such as the anniversary of a death).

For multi-organisational complaints, in which the Trust is the leading organisation, a copy of the complaint response will be shared with the other organisation(s).

The Trust aims to respond to complaints within 25 working days for non-complex complaints and 60 working days for more complex complaints. If the Trust has not provided a response within the required timeframes, the complainant must be written to every 25 working days to outline the expected timescales for closure. After six months, the complainant should be notified of their right to approach the PHSO without waiting for local resolution to be completed.

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The Trust aims to respond to 85% of non-complex complaints within 25 working days.

Where a complainant is dissatisfied with the response(s) received from the Trust and/or either party feels that local resolution has been exhausted, they may refer the complaint to the PHSO for an independent review.

19 Response Timeframes

Following initial review and triage, complaints will be categorised to the following groups and timeframes for response:

Category	Definition	Timeframe for response	Response by
Red	Complex complaints that include a number of different organisations and services Complaints that involve other processes such as safeguarding or serious incident investigation Complaints that relate to a deceased person	60 Working Days	Chief Executive Officer
Amber	Complex complaints that include different services within the	25 Working Days	One of the following: Director of Quality and Safety Divisional Director of Nursing and Quality Director of Midwifery Divisional Medical Director
Green	Concerns registered by the PALS Team	10 Working Days	PALS and complaints Manager
Re-Opened	Where a complainant requests clarification or is not satisfied with the response	25 Working Days	Chief Executive Officer

20 Re-Opened Complaints

Re-Opened complaints may be received where the complainant either requests clarification on elements of the original response letter or may not be satisfied with the response they have received.

Complainants will be assessed to see if further resolution is appropriate, if so complainants should be offered the opportunity to meet with staff to discuss their concerns and a further response provided.

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If complainants remain dissatisfied once the management of their complaint is complete, they should be directed to the Parliamentary and Health Service Ombudsman (PHSO).

21 Local Resolution Meetings

Local Resolution Meetings should be offered and used where appropriate to enable the swift resolution of concerns and complaints.

It is not standard practice to provide formal minutes or recordings of local resolution meetings; however, there are times when this should be considered, offered or provided such as for complex cases, or where there is a duty under the accessible information standard.

Before closing a resolution meeting the member of staff conducting the meeting should agree the key points of the concern/complaint and the action agreed to be taken with the attendees and this should be briefly summarized in a response to the complainant.

Complainants are welcome to bring a family member, friend or advocacy for support to a local resolution meeting, but will not be permitted to bring anyone acting in a legal capacity.

22 Safeguarding and Patient Safety Concerns

There may be circumstances in which information disclosure is in the best interest of the patient, or the protection, safety or wellbeing of a child or adult at risk. In these circumstances, a complaint will be escalated as necessary in line with the Trusts safeguarding policies and procedures.

The PALS and Complaints Manager is responsible for ensuring that all staff in their team have access to the Safeguarding policies and all current contact details and local escalation processes.

The Trust uses the 'Think Family' principles of safeguarding and in line with the Children Act 1989 / 2004 and The Care Act 2014 will liaise with the Trust safeguarding team if there are:

- Concerns of possible abuse, neglect or self-neglect for the person regardless of their age or setting this may have occurred in, this may include domestic violence.
- The behaviour of a member of staff toward a patient, their family or carer, i.e. staff allegation.
- The behaviour of the person/complainant toward another person or member of staff, where it is recognised that there are concerns that meet those as outlined in the PREVENT awareness training and / or WRAP 3 Prevent training, regarding individuals that may be drawn towards radicalisation i.e. change in language, fixed dialogue, inability to see another's point of view, withdrawn, isolated, new friends, distancing from family and friends.

23 Confidentiality

The Trust has a legal duty to maintain the confidentiality of personal information. As

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such, we will not access or share information pertaining to complaints without acting within the General Data Protection Regulations 2018 (GDPR) and the Access to Health Records Act 1990.

All complaints records will be kept separate from health records, subject to the need to record information which is strictly relevant to their health in the person's health records. As such, correspondence regarding complaints will not be included in people's records, however, informal discussions about concerns and actions taken to address them may and can be documented in health records.

Correspondence should be attached to the electronic complaint file held in the complaints management system, with entries made to document progress and all letters regarding the complaint will be marked 'Private and Confidential'

It is not necessary to obtain the person's express consent to use their personal information when investigating a complaint as this is implied by the complainant asking the Trust to investigate the matter.

24 Exceptions to this policy

Any allegations of fraud or financial misconduct should be referred to the Trusts Accredited Security Management Specialist.

There may be circumstances in which information disclosure is in the best interest of the people who use our services, or the protection, safety or well-being of a child or adult at risk. In these circumstances, a complaint will be escalated as necessary in line with our safeguarding policy.

The following complaints are excluded from the scope of the NHS complaints procedure and this policy:

- A matter that has already been investigated under the complaint regulations
- A complaint, which is or has been investigated by the PHSO.
- A complaint made by a Trust employee about any matter relating to their contract of employment.
- A complaints made by another NHS body which relates to contractual arrangements with the Trust.
- A complaint relating to a failure to comply with a request for information under the Freedom of Information Act 2000.
- A matter arising out of an alleged failure to comply with a data subject request under the General Data Protection Regulations 2018.
- If a complaint is also part of an ongoing police investigation or legal action, it will be discussed with the relevant police authority or legal advisor and only continue as a complaint if it does not compromise the police investigation or legal action.

In circumstances such as these, the Trust will write and explain the reasons for not dealing with the complaint.

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The PALS & Complaints Team will forward/escalate a complaint made by a member of the public about an employee relating to their behavior outside of work/personal lives, to Employee Relations.

25 The safety of PALS and complaints personnel

Most contact with complainants is by telephone, email or post. However, there may be either planned or unscheduled meetings face to face with complainants and appropriate measures need to be in place to support staff in the engagement. For unscheduled meetings, it may be wise to meet the complainant with a colleague with appropriate experience to ensure the safety of staff.

For scheduled meetings, a neutral and safe venue should be sought. Managers should be aware of the location and duration of the meeting. Staff should be aware of any necessary security measures required to maintain the safety of staff.

26 Support for staff involved in a complaint

It is recognised that any incident, claim or complaint may be upsetting for staff, and that staff involved may need support. Complaints may also be stressful for the team as a whole, requiring openness and sensitivity with an opportunity to discuss the event.

Support should be offered to any staff member involved, via their line manager; however, it is the duty of the person involved in investigating a complaint to continue to consider and monitor the wellbeing of staff involved taking necessary steps as required to support them, such as referral to occupational health or wellbeing and support services.

27 Guidance for habitual, vexatious and unreasonably persistent complainants

There are a small number of complainants, who, because of the frequency of their contact with the Trust, hinder the Trust's consideration of their, or other people's complaints. These are referred to as 'persistent or vexatious complainants' and in exceptional cases, where this contact is unreasonable, we will take action to limit their contact with the Trust, however this is intended to be a measure of last resort after all reasonable and practicable measures have been taken.

Definition of a persistent and/or unreasonable complainant

There is no one single feature of unreasonable behavior, however examples may include those who;

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

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- Continue to focus on a 'trivial' matter to an extent that it is out of proportion to its significance. It is recognised that defining 'trivial' is subjective and careful judgment must be applied and recorded.
- Change the substance of a complaint or seek to prolong contact by continually raising further issues in relation to the original complaint. Care must be taken not to discard new issues that are significantly different from the original issue. Each issue of concern may need to be addressed separately.
- Consume a disproportionate amount of time and resource.
- Threaten or use physical violence against staff.
- Have harassed or been personally abusive or verbally aggressive on more than one occasion (this may include written abuse e.g. emails).
- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual.
- Make excessive telephone calls or send excessive numbers of emails or letters to staff.
- Continue to write directly to the Chief Executive, a service or individuals having been directed to contact the PALS & Complaints Team or an intermediary.

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

It is important to ensure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of factors to bear in mind when considering imposing restrictions upon a complainant, which include but are not limited to:

- Ensuring the person's case is being, or has been dealt with appropriately, and that reasonable actions will follow, or have followed, the final response.
- Have confidence that the person has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent.
- Checking that new or significant concerns are not being raised, that require consideration as a separate case.
- Applying criteria with care, fairness and due consideration for the client's circumstances, bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss or significant/sudden changes to the complainant's lifestyle, quality of life or life expectancy.
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour, and the impact upon staff.
- Ensuring that the complainant has been advised of the existence of the policy and has been warned about, and given a chance to amend their behaviour. Consideration should also be given as to whether any further action can be taken prior to designating the person's contact as unreasonable or persistent. This might include:
 - Raising the issue with a Director with no previous involvement, in order to give an independent view.

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- Where no meeting with staff has been held, consider offering this at a local level as a means to dispel misunderstandings (only appropriate where risks have been assessed).
- Where multiple departments are being contacted by the complainant, consider a strategy to agree a cross-departmental approach.
- Consider whether the assistance of an advocate may be helpful
- Consider the use of ground rules for continuing contact with the complainant. Ground rules may include:
 - Time limits on telephone conversations and contacts.
 - Restricting the number of calls that will be taken or agreeing a timetable for contacting the service.
 - Requiring contact to be made with a named member of staff and agreeing when this should be.
 - Requiring contact via a third party e.g. advocate.
 - Limiting the complainant to one mode of contact.
 - Informing the complainant of a reasonable timescale to respond to correspondence.

Process for managing persistent and/or unreasonable behavior:

Where a person's contact has been identified as persistent and/or unreasonable, the decision to declare them as such will be approved by the Chief Nursing Officer and/or Chief Executive, who will write to the complainant to inform them that;

- Their complaint is being investigated and a response will be prepared and issued as soon as possible within the timescales agreed.
- That repeated calls regarding the complaint in question are not acceptable and will be terminated.
- Their complaint has been responded to as fully as possible and the Trust believes the local resolution route has been fully exhausted, and they should contact the PHSO.
- That any further correspondence will be acknowledged, but will not be responded to unless there are new concerns.
- A behavior contract is required and further contravention could lead to the Trust seeking judicial sanction under the Harassment Act 1997 or by referral to the police.

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

Where new complaints or concerns are raised these will be managed in the usual way.

It should be noted that identifying a person as persistent and/or unreasonable with regard to their complaint must not impact on their ability to receive care and treatment. Where there are concerns regarding a person's conduct or behaviour whilst receiving care and treatment these should be managed via the security management policy; violence, aggression, sanctions and redress POLC5032.

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28 Monitoring and Review

What will be monitored	How/Method/Frequency	Lead	Reporting to	Deficiencies/ gaps Recommendations and actions
Policy review	First review in one year and then every three years	Author	Policy Compliance Group	
Patient Experience	Quarterly Reports	Associate Director Patient Experience & PALS & Complaints Manager	Quality Assurance Committee	

29 Training and Implementation

The Trust will provide training and support for all staff required to deal with complaints from or on behalf of the Trust.

The PALS and Complaints team will be responsible for ensuring that all staff receive the relevant training in complaint management provided by the Trust in order to address their specific needs.

The divisions will ensure staff are aware of this policy.

All staff need to know how to react and what to do if someone makes a complaint, as the initial response may either help to immediately resolve the situation or provide the complainant with the reassurance that their concerns will be treated appropriately.

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23 Equality Impact Assessment Statement & Tool

All public bodies have a statutory duty under The Equality Act 2010 (Statutory Duties) Regulations 2011 to provide “evidence of analysis it undertook to establish whether its policies and practices would further, or had furthered, the aims set out in section 149(1) of the [Equality Act 2010]”.

The policy owner must insert here a statement to summarise how they have assessed the policy for impact on the protected characteristics under the Equality Act 2010. Guidance on how to do this can be found in the Guidance Note on Equality Impact Assessment [[AGN00168 - Equality Impact Assessment guidance note](#)].

Is there any evidence that some groups are affected differently?

Protected Characteristic	Could there be an adverse impact? Yes/No/ Unknown	Relevance None/Low/ Medium/High	Proportionality (likelihood of risk/impact)		Notes
			None/Low/ Med/High	+ve / -ve	
▪ Age	No	None	None		
▪ Disability	No	Low	Low	+ ve	<ul style="list-style-type: none"> • Independent advocacy service • hearing loop • meeting to support the complainant • Learning Disabilities Team • Engage support from charitable organisations i.e. Kent autistic trust etc.
▪ Gender / Sex	No	None	None		
▪ Gender Identity	No	None	None		
▪ Race	No	Low	Low	+ ve	Translation service available
▪ Religion or belief	No	None	None		
▪ Sexual orientation	No	None	None		
▪ Pregnancy & Maternity	No	None	None		

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▪ Marriage / Civil Partnership	No	None	None		
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Questions

1	Does the proposal ...	
a	• promote equality of opportunity?	No change
b	• eliminate unlawful discrimination?	No change
C	• good community relations?	n/a
D	• amount to illegal discrimination?	No
e	• create an inequality?	No
2	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable? Is the impact of the case likely to be negative and if so can the impact be mitigated? Can we reduce the impact by taking different action: what alternatives are there to achieving the aim?	

30 References

Document	Ref No
References:	
Trust Associated Documents:	
Violence, aggression, sanctions and redress policy	POLC5032.
Corporate Safeguarding Policy	POLCPCM082

31 Appendices

Appendix 1 – Flowchart for managing AMBER / BLUE (non-complex) complaints



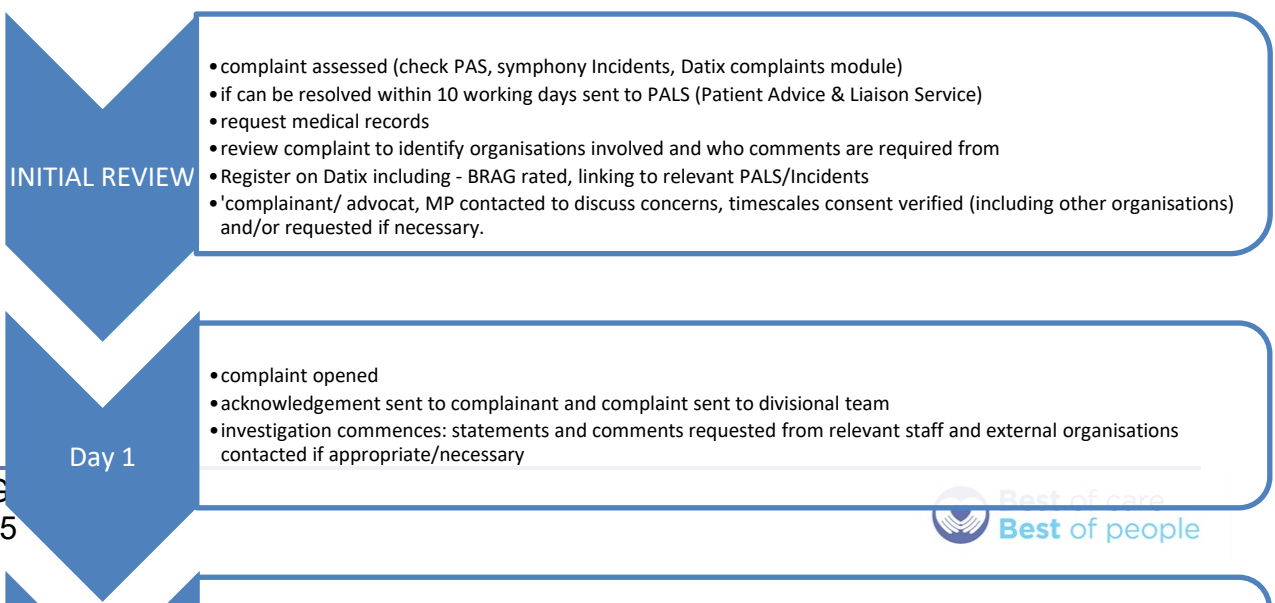
- complaint assessed (check PAS, symphony Incidents, Datix complaints module)
- if can be resolved within 10 working days sent to PALS (Patient Advice & Liaison Service)
- request medical records
- review complaint to identify organisations involved and who comments are required from
- Register on Datix including - BRAG rated, linking to relevant PALS/Incidents
- *complainant/ advocat, MP contacted to discuss concerns, timescales consent verified (including other organisations) and/or requested if necessary and scope of investigation completed.



- complaint opened
- acknowledgement sent to complainant and complaint sent to divisional team.
- investigation commences: statements and comments requested from relevant staff and external organisations contacted if appropriate/necessary

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Appendix 2 – SOP for managing RED (complex) complaints



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Appendix 3 – Complaints, Comments and Concerns leaflet.



PIL00001805 PALS
Complaints Leaflet f

Appendix 4 – Making a formal complaint – what happens next?



New leaflet -
Making a formal cor

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