

Policy for Managing Complaints and Concerns

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Relevant Regulations and Standards	Statutory Instrument 2009 No. 309, The Local Authority Social Services and National Health Service Complaints (England) Regulations Care Quality Commission Regulation 16: Receiving and Acting on Complaints
Links to Organisational / Service Objectives, business plans or strategies	Nursing and Midwifery Strategy 2017-20
Accountability	All employees and volunteers are responsible and accountable to the Chief Executive for the correct implementation of this policy. Health care professionals are also accountable according to their professional code of conduct - Health Professions Council for allied health professionals, General Medical Council for doctors and Nursing and Midwifery Council for nurses and midwives.

Executive Summary

The purpose of this policy is to:

1. Set out the principles via which York Teaching Hospital NHS Foundation Trust (YTHFT) handles complaints and concerns.
2. Define the roles and responsibilities for handling complaints and concerns within the Trust and across organisational boundaries.
3. Promote early resolution and a person-centred approach, which focuses on the outcome sought by the person making contact.
4. Define the linkage between the processes for handling complaints and concerns and other formal investigations, including safeguarding, serious incidents and professional standards.
5. Reduce the risk of repeated failures by ensuring that necessary improvements are appropriately identified and acted upon by care groups as a result of feedback. This will be monitored via care group governance arrangements.
6. Ensure that the Trust carries out all duties required under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (the Complaint Regulations); the Care Quality Commission Regulation 16: Receiving and Acting on Complaints; and the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling (2009).

Version History Log

Version	Date Approved	Version Author	Status and location	Details of significant changes
4	29/09/04	P Goff		Incorporates The NHS (Complaints) Regulations 2004
5	29/09/04 Reviewed November 2006	P Goff		Reviewed in the light of The NHS (Complaints) Amendment Regulations 2006
6		P Goff		Incorporates the Trust Policy Template issued in October 2007
7		P Goff		Although compliant with RM standards, the assessor requested more explicit info on how the Trust ensures that patients, relatives and carers are not treated differently as a result of a complaint.
8		M Thirlway	Horizon	Incorporates The NHS (Complaints) Regulations 2009 and aims to comply with RMSAT Standards
9		M Thirlway	Horizon	Incorporates Regulation 19 of the Health & Social Care Act 2010, changes to RMSAT standards and CQC outcomes, and updates to the Trust management structure and commissioning arrangements.
10	March 2015	K Gamble	Intranet	Incorporates overview of Being Open (Duty of Candour) requirements
11	July 2016	H Rowell	Staff Room	Full revision.
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1. Introduction

The Trust is committed to providing safe, effective and high quality services. It is recognised that at times things can go wrong. When concerns or complaints are raised, the Trust has a responsibility to acknowledge the concern or complaint, put things right as quickly as possible, learn lessons, prevent re-occurrence and identify service improvements.

The purpose of this policy is to explain how YTHFT implements the statutory legal framework for the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, and meets the requirements of the NHS Constitution.

The policy makes clear what people should expect when they complain (NHS Constitution) and supports a culture of openness, honesty and transparency (Duty of Candour). Trust practice is informed by the Parliamentary and Health Services (PHSO) good complaint handling guidance and principles of remedy, key recommendations from the Francis and Clwyd & Hart reports along with best practice from the CQC and the Patients Association.

This policy aims to create a culture where Trust staff respond to concerns and complaints as soon as possible and as close to the point of care as possible, i.e. local resolution. In circumstances where early local resolution is not possible, this policy describes the processes in place to ensure concerns and complaints are handled efficiently and investigated thoroughly.

The policy clarifies the roles and responsibilities of Trust staff in assessing, acknowledging and investigating concerns or complaints and ensures that the complainant is listened to, is involved in decisions about how their concern or complaint is handled and receives an open, honest and proportionate response to their complaint.

The policy also promotes the use of patient feedback and experience of care to improve quality and safety. By creating an open culture of listening and responding to concerns and complaints the Trust can resolve mistakes faster, improve the quality and safety of the services it provides and prevent similar problems recurring.

The reporting and monitoring of trends, themes and lessons learnt will be undertaken through the Patient Experience Steering Group to ensure compliance with commissioner, regulatory and good practice requirements.

2. Aims

- To listen, to acknowledge mistakes, explain what has happened and to consider prompt appropriate and proportionate remedies to put things right if necessary.
- To provide a consistent approach to the timely and efficient handling of all concerns and complaints, establishing an agreed complaints plan with the complainant, with an emphasis on early resolution.
- Ensure organisational openness and an approach that is fair to those using and delivering services.
- Respect an individual's right to confidentiality and treat all users of this policy with respect and courtesy.
- Learn from concerns and complaints and use them to improve the quality of

services and to prevent mistakes happening again.

- The Trust will actively seek the views and the comments of its users and encourage a culture of openness.
- Complaints will not be seen in isolation, but as part of the overall service that the Trust provides. Complaints handling will be seen as an integral part of everyone's job.
- Information on complaints trends will be captured, analysed and reported across the organisation to effect improvements in how services and care are provided.
- Staff will be suitably trained and empowered to deal with complaints.
- Expressions of dissatisfaction will, where possible and appropriate, be resolved immediately by the person receiving them.
- The Trust will communicate with its patients and users using language that is easily understood.

The key issues taken into consideration when formulating this policy are that a complainant needs to:

- Know how to complain.
- Feel confident that their complaint will be dealt with seriously.
- Understand that their concerns will be investigated in an unbiased, non-judgmental, transparent, timely and appropriate manner and they will be informed of the findings of that investigation.
- Trust that YTHFT will learn from complaints, feedback and compliments and apply those lessons whilst also learning from and sharing best practice.

The Trust will handle complaints and concerns using the principles set out by the PHSO:

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

3. Scope of policy

This policy covers complaints and concerns made by patients, their representatives or members of the public about care or services provided by YTHFT. The policy covers the handling of complaints across organisational boundaries and the responsibilities for handling complaints where services are sub-contracted to independent providers.

The Trust is not required to consider the complaint in the following circumstances:

- A complaint made by a responsible body (Local Authority, NHS body, primary care provider or independent provider) that provides care under arrangements made with an NHS body.
- Feedback about staff that is not related to their duties within the Trust and issues regarding Human Resources (HR) and recruitment.
- A complaint by an employee relating to their employment. These should be raised as a grievance through appropriate HR policies.

- A complaint, the subject matter of which has been investigated previously or has/is being investigated by the PHSO.
- A complaint arising out of the alleged failure to comply with a request for information under the Data Protection Act 1998, or a request for information under the Freedom of Information Act (2000). These should be directed to the Information Commissioner.

However, the Trust will consider each case individually and, as soon as reasonably practicable, notify the complainant in writing of its decision and the reason for the decision.

4. Definition of a concern and complaint

Concern: A patient, their carer or family member or a member of the public wishes to make the Trust aware of an issue, event or incident but does not want a formal investigation and is happy to receive an informal response (most likely to be verbal or email). These are often issues where more immediate action is required, where things are 'going wrong' or general help and support is required. At any point the individual can ask that their concern be investigated as a complaint under the NHS Complaint Regulations (2009).

Complaint: an expression of dissatisfaction with any aspect of the service provided to a patient, their carer or family member or a member of the public which requires the Trust to provide a formal response in line with the NHS Complaints Regulations (2009) regardless of the seriousness of the issues raised.

5. Time limit for making a complaint

The Trust will work in accordance with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, which state that the time limit for making a complaint is 12 months after the date on which the matter which is the subject of the complaint occurred; or the date on which the matter which is the subject of the complaint came to the notice of the complainant.

This will not apply if 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.

In circumstances when a complaint is not being investigated on this basis, the complainant will be informed of the reason for that decision and informed that they may still ask the PHSO to consider their complaint. This decision will be made by the Lead for PALS and Complaints and in consultation with the Chief Nurse.

6. The 5 Stages of the concern/complaint process

6.1 Considering raising a concern or making a complaint

This is the point at which the patient, carer, family or member of the public find themselves unhappy with the service they have received (or are receiving) and are considering speaking up about it. Here there are a number of factors that might determine whether or not the individual will actually go on to make a complaint.

Listening to these concerns is the responsibility of every member of staff and volunteer

and linked to the Trust values. In the first instance, all staff are expected to try to help the individual as close as possible to the time that the issues arise and to seek to achieve early resolution without the need to refer the individual to the PALS or complaints team.

Information about how to raise concerns or make a complaint will be accessible for patients and the public in a range of formats. This will include information displayed in hospitals and the Trust website provides all the information on how to make a complaint or raise a concern (within two clicks from the home page). Information is available on how to contact local Healthwatch and advocacy services. On request, information is available in different languages for people whose primary language is not English and access to an interpreter or translation services can be arranged. Information is available in large print, audio and easy read.

People considering raising concerns or complaints will be reassured that their care/the patient's care will not be adversely affected in any way if they choose to do so.

6.2 Raising a concern or making a complaint

The Trust will enable patients and the public to raise concerns or complaints in various ways, including face-to-face, letter, email, online form, telephone and social media.

Individuals raising a concern or making a complaint will be given information about how to access advocacy services, so they are aware of the support available. The Trust will recognise and engage with an advocate where the person raising the concern or complaint wishes to have this support.

The procedure for managing concerns and complaints is shown in the diagram at Appendix 1. The process will be person-centred and the member of Trust staff receiving the concern or complaint will seek, from the outset, to ascertain the outcome sought and tailor the resolution process accordingly.

Where the person raising the concern or complaint is not the patient, consent will be obtained from the patient to share details of their care with that person. In the case of a third party pursuing a complaint on behalf of a person who has died, the Trust needs to have a record of their identity and their relationship with the deceased.

The Trust is committed to listening to anyone who wishes to raise concerns or make a complaint about the quality of their care regardless of personal characteristics including: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation. The Trust will make reasonable efforts to ensure that peoples' individual requirements are taken into account and that there are no barriers to particular groups' making their voices heard.

6.3 Staying informed

It is the IOs responsibility to contact the person raising a concern or making a complaint and to provide updates and ongoing communications throughout the process.

6.4 Receiving outcomes

Responses to concerns will be provided in the format preferred by the person involved. This may be face-to-face, by telephone, email or letter. The format of complaint responses will be tailored to the wishes and needs of the person making the complaint but will usually be a letter from the Chief Executive.

Wherever possible and with the agreement of the complainant, a face-to-face meeting between the investigating officer, those responsible for the services which are the subject of the complaint, and the person making the complaint will be arranged.

Responses will include details of the evidence considered, who has been involved, a response to each element of the concern or complaint and details of what changes or remedies have/will take place as a result of the complaint. Responses will also include advice about what to do if the person raising the concern or complaint is not satisfied.

In cases where the Trust has been unable to resolve a complaint (which has been managed in line with formal complaints regulations) to the complainant's satisfaction, the complainant has the right to refer their complaint to the PHSO for an independent review.

6.5 Reporting and learning

Every complaint received should be regarded as an opportunity to learn and improve services. Reports of concerns and complaints are an essential part of the Trust's clinical governance system and will be presented monthly to care group management teams. Quarterly reports will be presented to the Patient Experience Steering Group and the Quality & Safety Committee (sub-committee of the Trust Board).

Information on the numbers of concerns and complaints; their subjects; and the learning and action will be made available to the public. This will include publication of Board of Directors papers, information in Quality Accounts, the Trust Annual Report and the publication of a Complaints Annual Report.

Reports will show any themes and trends by subject and/or care group. Narrative comments and commentary will give an insight into the issues raised and the learning. Where themes and trends are evident, the Board and Patient Experience Steering Group will seek assurance that care groups have appropriate improvement actions in place. The mandatory quarterly KO41 return will be submitted to NHS Digital.

Individual members of staff are encouraged to keep copies of their statements and the outcomes of concerns or complaints related to their own practice. Reflective practice will support professional revalidation and personal development.

7. Confidentiality and record keeping

Information about complaints and all the people involved is strictly confidential, in accordance with Caldicott principles. Information is only disclosed to those with a demonstrable need to know and/or a legal right to access those records under the Data Protection Act 1998.

All data will be processed in accordance with Trust policy. Complaints will not be filed on health records, but maintained in a separate case file, subject to the need to record

any information that is strictly relevant to their health record.

Complaints must not affect the patients/complainants treatment and the complainant must not be discriminated against. Any identified discrimination will be reported to Human Resources and managed as per Trust policies.

A complete documentary record will be maintained for each concern or complaint on the Datix information management system. This will include all written or verbal contacts with the complainant, staff involved in the investigative process, original complaint, acknowledgement letter, statements, final response and all actions taken in investigating the complaint. The Datix record will include coding for care group, speciality, area, subject and profession to allow meaningful quantitative reports to be produced.

The complaint file is a confidential record and as such will be stored securely and retained for 10 years, in accordance with national policy.

8. Handling of concerns/complaints involving multiple organisations

All NHS and Local Authority Social Care Services are required to work together to provide a single response to feedback made about their services where the issues raised relate to multiple organisations. In cases where a complaint involves more than one NHS provider, commissioner, local authority or third party independent provider, and the complainant wishes, the Trust will work with the other relevant organisations in seeking resolution.

Where it is necessary to share details of the concern or complaint with another organisation, consent will first be sought from the patient. Once consent is received, contact will be made with the other organisation(s) concerned and a joint approach to resolving the complaint or concern will be agreed. The Trust will always seek to collaborate to achieve a single, coordinated resolution process.

9. Concerns/complaints involving sub-contractors

Concerns and complaints and made about services provided by other organisations on behalf of the Trust will be logged and investigated by the Trust. All sub-contractors are expected to comply with this policy and to contribute openly, honestly and fully with investigations and resolution.

10. Concerns/complaints raised by MPs and Elected Members of Local Authorities

Where a concern or complaint is raised by an MP or an elected member of the Local Authority and relates to services provided to an individual, a statement that they are acting for the constituent/resident satisfies the requirement for consent where the person is also the patient to whom the concern or complaint relates. Where this is not the case, consent will be sought as per section 5.2. This is in line with the Information Commissioner's Office guidance.

11. Links with other policies and procedures

The Complaints Team and Investigating Officer have a responsibility to ensure that the complainant is fully informed of any relevant considerations that may alter a complaint investigation or response timeframe.

11.1 Being Open with Patients Policy

Being open involves:

- Acknowledging, apologising and explaining when things go wrong.
- Conducting a thorough investigation into the incident and reassuring patients, their families and carers that lessons learned will help prevent the incident recurring.
- Providing support for those patients, their families/carers and staff involved, to cope with the physical and psychological consequences of what happened.

Saying sorry is not an admission of liability and is the right thing to do. The Duty of Candour is a statutory obligation since November 2014 and reinforces the fundamental obligation to be open and honest in the event of an incident where patient harm has occurred.

11.2 Structured Judgement Case Note Review (SJCR)

The Complaints Team notifies the SJCR Lead Clinician and the safety team of all new complaints about a patient who died in hospital. A SJCR will need to be initiated if not already undertaken, except if a serious incident (SI) has been declared. The SJCR report is shared with the complaint investigating officer to ensure that the reports are consistent and there is joined up learning and understanding about problems and processes that may be associated with mortality and to share best practice.

11.3 Serious Incident Policy

If an existing complaint is referred for investigation as a SI then the complaint process will cease. All issues relating to the questions/concerns raised by the person making the complaint will become part of the SI investigation.

The complainant will be contacted by the existing investigating officer to advise what will happen next and who the investigating officer will be. The person investigating the SI will become the liaison point for the complainant.

11.4 Safeguarding adults and children

Where it is known that the concern/complaint involves a vulnerable adult or child, the Safeguarding Lead will be informed and the most appropriate route of investigation agreed, this may not necessarily be the complaints procedure.

Concerns or complaints which, at the point of initial assessment by the Patient Experience Team have clear safeguarding issues will also be highlighted to the Safeguarding Team for review and the Chief Nurse team will be alerted.

All members of the Patient Experience Team will complete safeguarding training at

Level 1, ensuring that they understand how to identify potential abuse and how to alert the Safeguarding Team of abuse allegations.

11.5 Clinical negligence, personal injury or other claims

In circumstances where the complainant indicates a clear intention to bring legal action for clinical negligence, personal injury or other claim, the use of the complaints procedure is not necessarily prohibited. The Complaints Team will discuss the nature of the complaint with the Legal Services Team to determine whether progressing the complaint might prejudice subsequent legal or judicial action. If there is no legal reason why the complaint should not be investigated, it will continue in accordance with Trust policy.

If there may be issues which could prejudice subsequent legal action the investigating officer will work closely with the Legal Services Team to ensure the complaint response is adequate.

If the person making the concern/complaint indicates that they have already instigated legal proceedings/made a claim for compensation, or are likely to do so, the Patient Experience Team will notify the Legal Services Team. The Legal Services Team will have the opportunity to review the draft response before it is signed off.

NHS England has clarified the position where a complaint is made and a claim is likely or ongoing:

- Where the complainant is taking, or plans to take, legal proceedings, a complaint may only be put on hold where there are exceptional reasons to justify it or the complainant has requested that investigation be delayed.
- Exceptional circumstances for putting a complaint on hold may include formal requests to do so by the police, a coroner or a judge.
- Any concerns about continuing with the investigation of a complaint should be raised during the discussion with the complainant about how the complaint is to be handled in order to allow the complainant's views to be heard.
- If, exceptionally, an NHS body decides to put a complaint on hold against the wishes of the complainant, the complainant should be informed of this as soon as is practicable and provided with a full explanation (in writing, unless requested not to) of the reasons for this.
- Any decision to put the complaint on hold in these circumstances would be expected to be made with the involvement of the NHS body's 'responsible person'.

11.6 Coroners' inquest

If a complaint is made into circumstances which are also the subject of a coroners' investigation similar principles will be followed as for claims. In most circumstances there is no reason to delay a complaint investigation unless requested by the person making the complaint. It can be helpful to provide explanations, and where necessary apologise, to relatives ahead of the inquest, which can take some time to conclude. The investigating officer will keep in touch with the Legal Services Team and share copies of all statements and reports. The Legal Services Team will have the opportunity to review the draft response before it is signed off.

11.7 Disciplinary investigation

Cases regarding professional conduct, where a complaint is found to be justified, may require an internal disciplinary investigation to be undertaken. Such an investigation may result in the involvement of one of the professional regulatory bodies and/or Police/Trust Security & Emergency Resilience Service depending on the nature of the allegation.

Appropriate action will be taken in accordance with the Trust Disciplinary Procedure. In such circumstances, the complainant will be informed that a disciplinary investigation will be undertaken but that they have no right to be informed of the outcome of the investigation.

Any other issues raised in the complaint which do not form part of the disciplinary or criminal investigation may continue to be dealt with under this policy. The Medical Director and Chief Nurse will be informed as appropriate.

12. Roles and responsibilities

12.1 Trust Board

The Trust Board has a monitoring and assurance role to receive regular reports that the policy and procedures for dealing with concerns and complaints is working effectively; to monitor complaints performance, themes and trends from complaints; and ensure systematic learning and appropriate actions are taken in response to concerns and complaints.

12.2 Chief Executive

The Chief Executive has overall accountability for ensuring compliance with the Complaint Regulations and the CQC standards and fulfils the role of the responsible person under the Regulations. The Chief Executive also has specific responsibility for authorising and signing off responses to all formal complaints including letters to the PHSO. The Chief Executive may delegate this function to another person authorised to act on his/her behalf.

12.3 Chief Nurse

The Chief Nurse has executive responsibility for patient experience, including complaint management, and for ensuring that there is an effective and patient-centred system in place for welcoming feedback and responding to and learning from concerns and complaints.

The Chief Nurse team will review all complaints as they are received and identify those requiring escalation to the Quality and Safety Group for consideration as SI's and confirm that any necessary safeguarding review or investigation is underway.

The Chief Nurse team is responsible for the quality of complaint responses and must give approval for every written response before it is signed by the Chief Executive. They will check that an appropriate investigation has been carried out, that the questions asked receive a clear response, that the response is appropriately empathetic and that, where failures have occurred, that an appropriate apology and remedy are offered and learning is identified.

12.4 Patient Experience Lead for Complaints and PALS

The Patient Experience Lead for Complaints and PALS is responsible for the function of the 'complaints manager' as required by the Complaint Regulations. Actions will be delegated to the Patient Experience Team as appropriate. They will oversee the concerns and complaints procedure in liaison with others involved, including the designated investigator at the local resolution stage, other health organisations and the PHSO as necessary.

The patient experience lead is responsible for ensuring that the Policy and Procedure for Handling Concerns and Complaints is up to date and is implemented effectively across the Trust. They will ensure that appropriate measures are in place for staff training and to monitor compliance.

They will ensure that the necessary monthly, quarterly and annual reports are submitted to the Board, NHS Digital, Patient Experience Steering Group, as appropriate, and that these are shared with care groups.

12.5 Patient Advice and Liaison (PALS) Adviser

The PALS Adviser will:

- Receive feedback which may be in writing (face to face, email, letter or online form); or notes of a face-to-face meeting with Trust staff or a telephone call.
- Assess whether the feedback is regarding care provided by YTHFT.
- Acknowledge the feedback and establish preferred method of contact. If the feedback is not about care provided by YTHFT, the adviser will explain the correct organisation to contact and offer to forward on the feedback.
- Give a timescale (10 days), which will be confirmed when the investigating officer makes contact.
- If contact is from a third party, seek the patient's verbal consent to share information. If necessary, also seek consent to share information with other organisations involved. When consent is required, the PALS process timeline will start on the day consent is received. Without consent PALS can only pass on the concerns to the relevant area. The requirement for consent does not apply if the patient is a child or lacks capacity but PALS should ascertain if the caller holds Power of Attorney if the enquiry relates to best interest concerns.
- Escalate feedback identified as meeting the criteria for extreme risk, with serious safeguarding or professional conduct issues immediately to the Chief Nurse. Escalate other issues requiring immediate attention to the appropriate individuals, e.g. safeguarding team, information governance team and professional standards team.
- Identify the care group or care groups responsible for leading and contributing to the investigation. Log the feedback on Datix, creating a separate subject for each main issue raised. Upload a copy of the feedback and any other relevant documents.
- Notify the nominated care group manager/ head of nursing of the feedback.
- Maintain oversight of the timescale for response via the Datix dashboard and seek to resolve and/or escalate any delays.
- Once issue resolved, close the Datix record, recording the outcome and any learning.
- Complete regular audits of compliance with Trust policy and agreed

improvement actions to monitor completion.

- Provide training sessions for Trust staff to develop the skills of investigating officers.

12.6 Complaints Officers

The Complaints Officer will:

- Receive the complaint which may be in writing (face to face, email, letter, online form or via PALS); or notes of a face-to-face meeting with Trust staff or a telephone call.
- Assess whether the complaint is regarding care provided by YTHFT.
- Acknowledge complaint in writing via preferred method (email, letter). Explain that the investigating officer will make contact within 3 working days. If the complaint is not about care provided by YTHFT, the complaints officer will explain the correct organisation to contact and offer to forward on the complaint.
- Give a timescale (30 days), which will be confirmed when the investigating officer makes contact.
- Information will not be disclosed to a third party until the complainant has given consent to the disclosure of that information. If necessary, also seek consent to share information with other organisations involved in the complaint or concern. When consent is required, the complaints process timeline will start on the day all necessary consent is received. If consent is not received the complaint will be withdrawn.
- Escalate complaints identified as meeting the criteria for extreme risk, with serious safeguarding or professional conduct issues immediately to the Chief Nurse. Escalate other issues requiring immediate attention to the appropriate individuals, e.g. safeguarding team, information governance team, and professional standards team.
- Identify the care group or care groups responsible for leading and contributing to the investigation. Log the complaint on Datix, creating a separate subject for each main issue raised. Upload a copy of the complaint, acknowledgement and any other relevant documents.
- Notify the care group manager and head of nursing (copy to nominated deputies and matron) of the complaint by sending a link to the Datix record. Support the nominated investigating officer, as required, to discuss the issues raised, agree the resolution plan and provide any required guidance on planning and carrying out the investigation.
- Support new investigating officers with meeting the complainant if required.
- Maintain oversight of the timescale for response and seek to resolve and/or escalate any delays.
- For written responses, receive draft report from the care group. Ensure that the draft has been reviewed and approved by the appropriate individual.
- Pass draft, with a copy of the complaint, to the Chief Nurse/Deputy Chief Nurse for review and final approval.
- When approval received undertake final proof read and arrange signature by the Chief Executive. Scan and send original signed response to the complainant. Send copies to any advocates involved or other agencies.
- Close the Datix record, recording the outcome, people involved and any learning.
- Complete regular audits of compliance with Trust policy and agreed improvement actions to monitor completion.

- Provide training sessions for Trust staff to develop the skills of investigating officers in investigation and complaint response writing.

12.7 Care Group Manager and/or Head of Nursing/Midwifery

The Care Group Manager and/or Head of Nursing/Midwifery have responsibility for ensuring the complaints procedure is in place and operating in their areas.

They are responsible for ensuring that each concern or complaint allocated to their care group for investigation is subject to a timely investigation which is proportionate to the issues raised and focused on the outcome sought by the person raising the issues. They may delegate this function to another person authorised to act on their behalf.

They are responsible for both the quality and timeliness of investigations.

For formal complaints this means:

- Allocating an investigating officer and agreeing with them the scope of the investigation and the resolution plan.
- Ensuring that there is appropriate nursing and medical oversight of the complaint, findings of the investigation and response by engaging with the relevant matron and/or clinical director.
- Ensuring that the person making the complaint is kept informed if there are any delays.
- Receiving the investigation findings and, where the person involved requests a written response, the draft response letter from the investigating officer. They will ensure that it responds to all the questions/issues raised in the complaint; is written in a clear and empathetic style and with a level of detail which is appropriate for the person making the complaint. If the complaint is partially upheld or upheld, learning points and improvement actions should be clearly identified.
- Send the final draft to the Patient Experience Team.
- Manage open cases via Datix dashboard.

The Care Group Manager/Head of Nursing/ Midwifery will ensure that a system is in place within the care group to review themes from concerns and complaints and ensure that identified actions for improvement are completed and that training is in place for all staff groups.

12.8 Investigating Officer (IO)

- The IO will be appointed by the Care Group Manager/Head of Nursing/ Midwifery.
- A proactive approach to resolving the concern/complaint is encouraged and should be taken wherever possible. This may involve telephoning the complainant/advocate or inviting the complainant in for a meeting with those involved in their care.
- The IO reviews the complaint in detail and seeks early advice as appropriate from colleagues and/or the Complaints Team regarding the issues raised.
- Contacts the person complaining via telephone, face-to-face, email or letter to introduce themselves within three working days. This is to discuss the issues raised and the outcome sought. Confirms with the person complaining the key issues for investigation, the timescale for response and method via which they

would like to receive the outcome: i.e. a letter or face-to-face meeting. Logs the contact on Datix. The IO should reassure the complainant that care will not be affected as a result of the complaint.

- For medium or low risk complaints, it may be possible to conclude and close the complaint at this stage by giving an explanation and apology. (In any conversation at this stage the IO must be mindful of the need for patient consent before disclosing any information about their health or care). If the person complaining agrees that no further resolution is required, the conversation and outcome of the complaint must be fully documented in the Datix record before advising the Care Group Manager and the Complaints Team that the case can be closed. If necessary a follow up letter may be sent to confirm the telephone discussion and complete resolution.
- Assembles evidence, which may include medical records, appointment letters, staff statements policies/procedures/protocols, notes from interviews with staff etc.
- Obtains a senior nursing and/or medical opinion when required.
- Uses the evidence gathered to complete the investigation. This may require the use of tools such as: a timeline and/or root cause analysis to identify what happened and what caused the problems that occurred.
- Where possible draws conclusions about whether each aspect of the complaint is upheld on the basis of the evidence. Where it is not possible to conclude 'beyond reasonable doubt', a conclusion based on 'balance of probability' will be made. Sometimes it may not be possible to draw a conclusion, even to the level of balance of probability. In such cases it is acceptable for the investigation to be inconclusive.
- Identifies any errors, gaps in care or other failings and ensure that an appropriate improvement action is identified for each one.
- Documents the findings of the investigation. Where a full written response is required, completes a draft letter to the person complaining. If the person complaining wishes to receive the outcome in a meeting, completes an internal investigation report, in an appropriate format, to support this meeting.
- The IO will send the completed draft response to the assigned manager/head of nursing.
- The IO must ensure that any response detailing matters of medical care or clinical judgement is agreed by the clinician concerned before it is sent to the Complaints Team for review.
- If the outcome of the investigation has been communicated face-to-face, a letter should be sent summarising, in brief, key points covered in the meeting. The expectation for what will be included in the letter should be set during the meeting. It will not be verbatim minutes of the meeting.
- The IO will ensure any member of staff about whom a complaint is made is advised of the final outcome. The staff member must be offered support by the IO and any necessary support arranged.
- The IO is responsible for ensuring that all information is logged and that all relevant documents are uploaded on to Datix.

12.9 All staff

All staff have a responsibility to respond to any concern or complaint raised to them by patients or visitors, with an emphasis on early resolution. Permanent staff should ensure that temporary staff are aware of this policy and any locally agreed arrangements in place in the department in which they are working.

All staff have a responsibility to deal with a concern or complaint in an open, constructive and non-judgemental manner. Where possible, the staff member will resolve the matter immediately or as soon as possible, or refer to a more senior member of staff on duty at the time.

All staff have a responsibility to direct patients and carers to appropriate information regarding how to give feedback and how to raise a concern or complaint. All staff who deal with or investigate concerns or complaints should possess the necessary skills to undertake this role. Staff are responsible for accessing appropriate training.

13. Training and resources

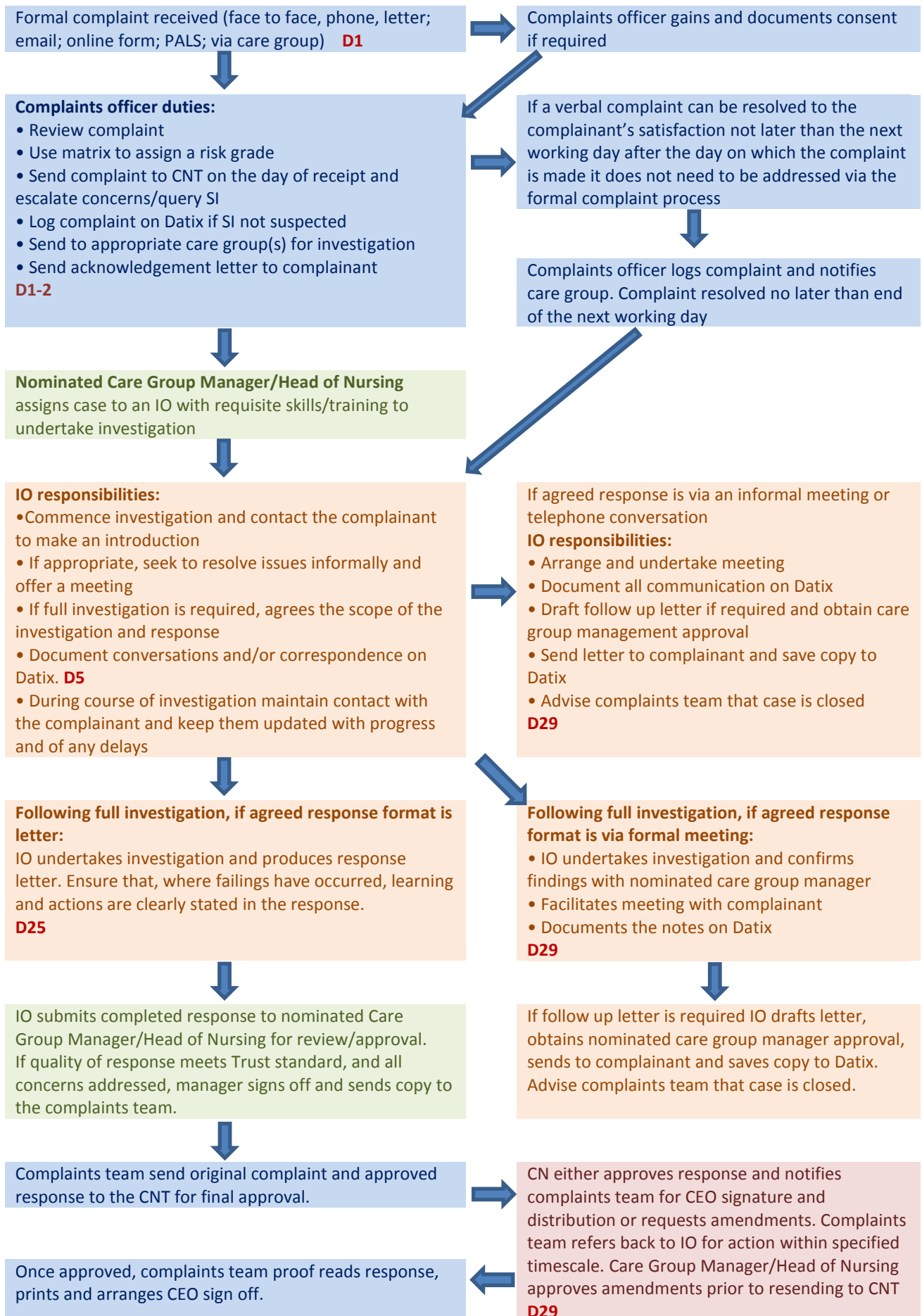
This policy will be displayed on the Trust website and staff intranet and sent to Care Groups for cascade to all staff groups.

All staff need to know how to react and what to do if someone raises a concern/makes a complaint as their initial response may help to resolve the situation quickly and/or provide reassurance to the complainant that their concerns will be dealt with appropriately.

Those staff who are identified as IOs for formal complaints will receive training directly from the Patient Experience Team on how to manage a formal complaint. Where other staff (i.e. front line) feel further training is required on how to manage concerns or deal with conflict this requirement will be identified (in conjunction with their line manager) and be managed as a training need through the Trust's Learning and Development Team.

Bespoke training sessions can also be delivered by the Patient Experience Team for individuals and teams as and when required.

Appendix 1: Process Flow for Complaint Management



Appendix 2: Grading complaints

There are four levels: low, medium, high and extreme. Identifying the correct grade is vital to ensuring that the concern/complaint is resolved appropriately. This will help ensure that any risks to this patient's care and to other patients in future are effectively managed.

Grade	If any one factor in the medium or high categories fits the concern/complaint then it should be placed into this category.
Low	<p>Patient received an unsatisfactory service but issue not directly related to their clinical care or safety.</p> <p>No harm to patient.</p> <p>No impact on the patient's overall NHS care.</p> <p>No/minimal impact on patient/complainant's dignity and respect.</p> <p>Issue can be rapidly resolved directly between the Trust and the complainant.</p> <p>No real risk of litigation.</p> <p>No media or MP interest.</p>
Medium	<p>Patient received an unsatisfactory service in several ways.</p> <p>One or more issue relates to the patient's clinical care or safety.</p> <p>Minor injury to patient but with no long-lasting problem or risk of minor harm to patient or low risk of more serious harm.</p> <p>Issue led to detrimental impact on patient's overall NHS care.</p> <p>Patient/complainant perceived a significant breach of their/the patient's dignity and respect.</p> <p>Issue can be resolved directly between the Trust and the complainant but it may take time to achieve this.</p> <p>Some potential for litigation.</p> <p>Some local media interest.</p> <p>MP involved.</p> <p>The issue has occurred more than once for this complainant leading to repeated negative impact on care.</p>
High	<p>Patient received a significantly sub-standard service which highlights clear quality assurance or risk management issues.</p> <p>Serious injury to patient or patient death or significant risk of serious injury or death.</p> <p>Issues while in the Trust's care led to a significant impact on the patient's overall NHS care which highlights clear quality assurance or risk management issues.</p> <p>Serious safeguarding or professional misconduct issues involved.</p> <p>Patient/complainant was subject to a serious breach of their dignity, respect or human rights.</p> <p>Litigation a strong possibility.</p> <p>Widespread media interest.</p>
Extreme	<p>Issue is registered and being investigated as a serious incident.</p> <p>Issue is not registered as a serious incident, but the seriousness of the issues raised requires a senior clinical owner for the investigation and oversight by the Chief Nurse or Medical Director.</p>

Appendix 3: Procedure for managing persistent or unreasonable contacts

1. Introduction

The Trust is committed to dealing with all complainants fairly and we do not normally limit the contact complainants have with the Trust. However, we do not expect our staff to tolerate behaviour by complainants which is, for example, offensive or threatening, or which because of frequency of contact, hinders the work of the Trust. In these circumstances the Trust will take action to manage this behaviour.

The formal procedure should be used only as a last resort and after all reasonable measures have been taken to try to resolve complaints through the Trust concerns and complaints policy and procedure.

Judgement and discretion must be used in applying the criteria to identify potential serial or unreasonable complainants and in ensuring that the action to be taken in each specific case is proportionate to the actions of the person concerned.

This procedure covers people whose issues have been addressed as concerns or who have made formal complaints.

2. Purpose of this procedure

This procedure is designed to ensure that people making regular contact with the Trust are treated fairly and compassionately.

It also is designed to ensure that staff are protected from unreasonable demands made by repeat or unreasonable complainants.

3. Definition of a persistent or unreasonable complainant

A complainant or anyone acting on their behalf might be deemed to be a persistent or unreasonable complainant where previous or current contact with them shows that they meet two more of the following criteria:

- Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
- Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response, whilst the complaint is being addressed. Care must be taken not to disregard new issues, which are significantly different from the original complaint. These might be new health issues for which the person requires support or new concerns which need to be addressed as separate complaints.
- Are unwilling to accept documented evidence of treatment given.
- Deny receipt of an adequate response despite correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of Trust staff and, where appropriate, advocacy services, to help them specify their concerns, and/or where the issues identified are not within the remit of the Trust to investigate.
- Focus on a trivial matter to an extent which is out of proportion to its significance

and continue to focus on this point. It is recognised that determining what is a trivial matter is subjective and careful judgement must be used in applying this criterion.

- Have threatened or used actual physical violence towards staff or their families or associates at any time. This will cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will then be pursued through written communication. All such incidents should be documented as Datix incidents.
- Have in the course of addressing a registered complaint, had an excessive number of contacts with the Trust placing unreasonable demands on staff. A contact might be in person or by telephone, letter or email. Discretion must be used in determining the precise number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case.
- Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates (this may include written abuse e.g. emails). Staff must recognise that complainants might act out of character at times of stress, anxiety or distress and should make reasonable allowances for this. They should document all incidents of harassment as Datix incidents.
- Are known to have recorded meetings or face-to-face or telephone conversations without the prior knowledge and consent of other parties involved.
- Display unreasonable demands or expectations, and fail to accept that these might be unreasonable, e.g. insist on responses to complaints or enquiries being provided more quickly than is reasonable.
- Consume a disproportionate amount of time and resources.
- 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.

Please note this list is not exhaustive.

4. When to start the repeat/unreasonable process

The first step is to ensure that the usual concerns or complaints resolution process has been correctly and fully implemented so far as possible and that no material elements of the person's concerns are overlooked or inadequately addressed. Staff should appreciate that repeat or unreasonable complainants might have issues which contain genuine substance. The need to ensure a fair approach is essential.

If all reasonable efforts have been made to resolve the person's concerns and their contact (regularity and/or content) remains unreasonable the following step-wise procedure will be followed. If written correspondence is not appropriate for the person concerned, appropriate adjustments will be made.

5. Process

Informally notifying the person concerned that we consider that their contact is becoming unreasonable and explaining the reasons for this. If appropriate, provide a copy of this procedure to explain what will happen if the behaviour persists. If appropriate, explain what change is required for their behaviour to be considered reasonable.

Formally write to the person concerned to set out the concerns about their behaviour, that it has been classified as repeat or unreasonable, and the reasons why. Ask them to agree to a set of clearly stated measures to limit their contact or modify their behaviour. These may include:

- Limiting contact to a single person (deputies and out of hours arrangements to be stated as necessary).
- Requirements for standard of behaviour e.g. to cease threatening, abusive or inappropriate language.
- Limiting contact to a certain type e.g. written only.
- Being clear about issues that the Trust can no longer respond to and that the Trust will not enter into further correspondence about these.
- Being clear about the circumstances in which new issues will be considered, how to raise these, and the timescale for receiving a response.

The consequences of not complying with these measures should be clearly stated. These may include:

- Further limitations on the methods and or timing of contact via which the Trust will communicate.
- Involvement of other agencies e.g. the police or solicitors.

A timeframe should be given after which the arrangements will be reviewed and, if appropriate the restrictions removed.

This letter should be signed by the Chief Executive or nominated deputy.

If the person concerned does not comply with the requirements set out in the letter sent at step 2, the consequences described should be acted upon.

Withdrawing repeat status

Any restrictions on contact with the Trust should be reviewed after the agreed time period. If the complainant has demonstrated a more reasonable approach to contacts with the Trust the restrictions should be removed. A letter will be sent to the person involved to confirm this action.

Roles and responsibilities

- Any member of staff concerned about the behaviour of a complainant should seek advice from the Patient Experience Team.
- The Lead for Patient Experience should be made aware and the situation escalated to senior management as required.
- The Patient Experience Team will engage with relevant colleagues to agree a management plan. The Chief Nurse and Deputy Chief Nurse will be made aware of this plan.
- The Patient Experience Team will check that handling plans are implemented in full. Other colleagues will complete the actions allocated to them and notify the Patient Experience Team.

- The Patient Experience Team will ensure that cases are reviewed at the appropriate time.
- The Chief Executive (or deputy) is responsible for signing letters under this procedure.
- The Chief Nurse and Deputy Chief Nurse are responsible for ensuring that this process is fit for purpose and implemented appropriately by the Patient Experience Team.

Appendix 4: Process for monitoring compliance and effectiveness

The policy will be monitored against the following key performance indicators:

Minimum requirement	Monitoring Process	Responsible individual/ committee/ group	Frequency of monitoring	Responsibility for review of results	Responsibility for developing an action plan	Responsibility for monitoring of action plan
All complaints will be acknowledged within three working days	Performance Audit	Patient Experience Lead	Quarterly	Patient Experience Steering Group (PESG)	Patient Experience Lead	PESG
Complainants will receive a response within the timescale agreed at the outset of the investigation	Quality and safety section of Board report	Patient Experience Lead	Monthly	Chief Nurse Care Group Management teams	Care Group management teams	Board of Directors
	Patient Experience report	Patient Experience Lead	Monthly and quarterly	PESG	Care Group management teams	PESG
	Operational Performance Assurance reports	Patient Experience Lead	Monthly	Chief Nurse team	Care Group management teams	Chief Nurse team
Number of complainants dissatisfied with their initial response	Patient Experience report	Patient Experience Lead	Monthly and quarterly	PESG	Care Group management teams	PESG
Number of complaints investigated by the PHSO which are partially upheld or upheld	Patient Experience report	Patient Experience Lead	Monthly & quarterly	PESG	Care Group management teams	PESG

Dissemination and Training

Method of dissemination	<p>Patient Experience intranet page</p> <p>Intranet document library</p> <p>Staff bulletin</p> <p>Care group managers and heads of nursing for dissemination to all relevant staff</p>
Training	<p>The Lead for Patient Experience is responsible for ensuring that adequate training is provided for staff regarding this policy.</p> <p>Care Group Managers and Heads of Nursing are responsible for</p>

ensuring investigating officers have the requisite investigation skills.
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Appendix 5: External references and Trust associated documentation

- Statutory Instrument 2009 No. 309, The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- The NHS Constitution, the NHS belongs to us all (for England, 21 January 2009), Department of Health, January 2009.
- Listening, Responding, Improving – A guide to better customer care, Department of Health, 26 February 2009.
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 17 - Good Governance.
- The Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling (2009).
- The Parliamentary & Health Service Ombudsman vision for NHS complaints and concerns: My Expectations for Raising Complaints and Concerns (November 2014).
- The Patients' Association Good Practice Standards for NHS Complaints Handling (September 2013) which were commissioned following the failures in complaints management at Mid-Staffordshire Hospitals.
- Care Quality Commission Regulation 16: Receiving and Acting on Complaints.
- Clwyd & Hart: A Review of the NHS Hospitals Complaints System: Putting patients back in the picture (2013).
- Francis report (2013).
- YTHFT Investigating officer user guide.

Appendix 6: Equality Analysis

To be completed when submitted to the appropriate committee for consideration and approval.

Name of Policy: Complaints and Concerns Policy and Procedure	
1.0	What are the intended outcomes of this work? For anyone affected by the work of the Trust to be able to raise a concern or a formal complaint and receive an open, timely response which addresses the issues that matter to them.
2.0	Who will be affected? Patients, carers, members of the public, hospital staff.
3.0	What evidence have you considered? Feedback about the process from: <ul style="list-style-type: none"> ➤ People who have raised concerns or complaints in the past ➤ Groups representing deaf & blind/partially sighted service-users ➤ Advocacy groups ➤ Investigating officers ➤ Healthwatch York ➤ Healthwatch North Yorkshire
3.1	Age: A child or young person (under 16) has the right to raise a concern or make a complaint and they will be supported to do so using the same principles as giving consent to treatment. Complaints will be kept confidential except in very exceptional cases where the child or young person is at risk of harm. Younger and older people do not have to put their complaint in writing – they can talk it through with someone if they prefer. If they do not want to make a complaint themselves, they can give permission for someone else to make a complaint on their behalf such as a partner, parent, friend or an advice worker. Information about raising complaints and concerns has been produced in an easy read format. If the complainant requires independent advice and support they will be signposted to local advocacy services as part of the process.
3.2	Disability: Information about how to raise concerns/complaints will be made available in different formats, including audio description, easy read and large print. Video remote interpreting (VRI) is available for sign language. Members of staff delivering the policy will be required to make early contact with those raising concerns/complaints through their preferred method, ensuring that communication and information needs are identified and recorded. If the complainant requires independent advice and support they will be signposted to local advocacy services as part of the process.
3.3	Gender Reassignment: this characteristic will not impact on the ability to raise a concern or complaint.
3.4	Marriage and civil partnership: this characteristic will not impact on the ability to raise a concern or complaint.
3.5	Pregnancy and Maternity: this characteristic will not impact on the ability to raise a concern or complaint.
3.6	Race: Service users whose primary language is not English can access interpreting and translation services on request. In addition, information can be provided in other languages upon request. If the complainant requires independent advice and support they will be signposted to local advocacy services as part of the process. We can provide complaint responses either through a face to face meeting, supported by an interpreter or through a complaints letter which is translated into the patient's identified language.
3.7	Religion or Belief: this characteristic will not impact on the ability to raise a concern or complaint.
3.8	Sex: this characteristic will not impact on the ability to raise a concern or complaint.
3.9	Sexual Orientation: this characteristic will not impact on the ability to raise a concern or complaint.
3.10	Other Identified Groups: Carers/relatives: this characteristic will not impact on the ability to raise a concern or complaint. If the complainant requires independent advice and support they will be signposted to local advocacy services as part of the process. People with no fixed address and no phone number: complaints and concerns can be raised in a range of ways to allow flexibility, including face to face. We will ascertain how the individual would like us to keep in contact with them and respond to their concerns, making necessary adjustments. If the complainant requires independent advice and support they will be signposted to local advocacy services as part of the process.
4.0	Engagement and Involvement
4.1	Was this work subject to consultation? Yes
4.2	How have you engaged stakeholders in constructing the policy <ul style="list-style-type: none"> ➤ Quarterly complainant survey ➤ Healthwatch North Yorkshire ➤ Healthwatch York ➤ Local Advocacy groups ➤ Patient Governors ➤ Staff complaint management survey ➤ Care Group Managers listening exercise
5.0	Consultation Outcome
5.1	Eliminate discrimination, harassment and victimisation: Positive impact through promoting openness and good communication
5.2	Advance Equality of Opportunity: No impact.
5.3	Promote Good Relations Between Groups: Positive impact.

5.4	What is the overall impact? Positive ➤ Listened to individual experiences of making concerns/complaints. ➤ Listened to staff feedback about delivering the previous policy.
6.0	Name of the Person who carried out this assessment: Justine Harle, Patient Experience Lead
7.0	Date Assessment Completed: 12 November 2019
8.0	Name of responsible Director: Heather McNair, Chief Nurse

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