

Concerns and Complaints

Policy & Procedure

CG07

Other related policies:

- Being Open & Duty of Candour Policy CG10
- Guidelines for Supporting Staff involved in Traumatic. Serious Incidents/Complaints or Claims
- Serious Incident Policy CG 03

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Policy on a Page

- All complaints and concerns should be dealt with promptly and efficiently, and learning should be identified to improve patient care
- All formal complaints must be acknowledged in writing within three working days and a full response sent out within the timescale agreed with the complainant (Generally this requires a response to the Complaints team by 15 days, unless otherwise agreed)
- All concerns raised through Patient Advice & Liaison Service (PALS) should be dealt with swiftly and within no more than seven working days
- All complaints should include an action plan that is monitored by the relevant care group to ensure all actions are completed and learning is embedded. Where appropriate actions should be audited for effectiveness.
- Where possible, front line staff should seek to resolve immediate concerns without the need to escalate via PALS or the formal complaints route. However, wherever possible, PALS should be the first point of contact to attempt to resolve the matter for the patient/family/carer
- The complaints team are able to provide support for staff who are asked to provide comments in response to a complaint.
- The outcomes of complaints should be shared with the relevant staff and discussed at appropriate Care Group meetings and other Trust meetings.

1 Introduction

The Trust recognises the importance of having a Trust-wide systematic, accessible and impartial process for dealing efficiently and effectively with concerns and complaints from patients and their relatives. By listening to, and receiving feedback from, our patients and their relatives, this allows the Trust to improve patient safety and the quality of the care and services we provide.

The Trust aims to ensure that all concerns and complaints are dealt with efficiently, are properly investigated and that complainants receive an open, honest, impartial, thorough response outlining any action that is taken to improve services, whilst being fair to all concerned. However, in the event that misconduct and/or serious performance issues on the part of a specific employee are discovered during the course of the investigation, then this may trigger the relevant Trust Policies covering those issues. In the event that the Trust deems it appropriate, working restrictions which can be implemented under those policies (including but not limited to suspension/exclusion on full pay) may be put in place during the course of an investigation carried out pursuant to this policy.

2 Purpose and Scope of policy

This policy, which applies to all staff, outlines the structure and framework for the management of concerns and complaints in the Shrewsbury & Telford Hospital NHS Trust (the Trust). The policy takes account of statutory regulations and guidance and sets out clear standards for the management of concerns and complaints based on the principles of good complaints handling:

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

The purpose of this policy is not to apportion blame, but to investigate complaints thoroughly whilst being fair to all concerned and to learn lessons for improvement in care and service delivery, ensuring that complaints lead to actions that improve the service and prevent future complaints.

The policy is concerned with resolving complaints made by patients, not staff complaints or grievances. Staff should use the appropriate Human Resource policies and procedures if they wish to pursue matters relating to their employment.

3 The Legal Framework

The legal framework for the management of NHS complaints is outlined in the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI 309), the Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2009 (SI 1768) and the [Health and Social Care Act 2008 \(Regulated Activities\) \(Amendment\) Regulations 2015](#)

4 Definitions

A **'complaint'** is defined as any expression of dissatisfaction, either verbal or in writing, about an act, omission or decision, and whether justified or not, which requires a response. Comments, questions, concerns, general enquiries or suggestions are not complaints, although the provision of timely and accurate information and advice is important.

A **'concern'** is any issue causing concern to the patient, relative or carer relating to their care and treatment. Concerns are normally raised informally and are usually resolved at local level by front line staff or by PALS (Patient Advice & Liaison Service).

5 Duties and Responsibilities

5.1 Trust Board

The Trust Board is responsible for ensuring that the Trust follows the principles of sound governance. This includes development of systems of clinical governance and risk management and reviewing the effectiveness of internal controls. The Trust Board, therefore, has a responsibility to ensure that it receives assurance that this policy is being implemented, that lessons are being learnt, and areas of vulnerability are improving.

5.2 Chief Executive

The Chief Executive (the designated responsible person for complaints) has overall accountability for ensuring that the Trust meets the statutory and legal requirements for handling complaints. In the absence of the Chief Executive, the role is delegated to the Deputy Chief Executive or other Executive Director.

5.3 Chief Nurse

The Chief Nurse has delegated executive responsibility for ensuring that the Trust complies with the statutory regulations. The Chief Nurse will ensure that the Trust complies with this policy, that all complaints and concerns are appropriately handled and changes to practice as a result are implemented throughout the Trust.

5.4 Head of PALS and Complaints

The Head of PALS & Complaints is the Trust's designated Complaints Manager, and has lead responsibility for the operational management of all concerns and complaints within the Trust, in accordance with the statutory regulations.

5.5 Patient Services Team

The Patient Services team (Complaints & PALS) has responsibility for the day to day management of concerns and complaints in accordance with this policy and the statutory regulations.

5.6 Care Group Management

The Assistant Chief Operating Officers, Care Group Directors, Care Group Medical Directors, Clinical Directors, Centre Managers, Heads of Department and Heads of Nursing have responsibility for ensuring compliance with this policy within their Care Group/department. They have responsibility for investigating complaints relevant to their area, taking the necessary action to prevent recurrence and monitoring any service improvements made. They also must ensure that their staff are provided with appropriate support during the complaints process.

Consultants, Matrons and Managers are responsible for investigating elements of complaints relating to their area, providing comprehensive reports in response, identifying service improvements, implementing risk reduction measures and monitoring progress of any action taken.

Care group managers must also identify and take forward any appropriate actions under relevant HR policies (e.g. Disciplinary Policy, Employee Performance Management Policy, Managing Attendance and Employee Wellbeing policy).

5.7 All staff

All staff are responsible for the early and effective resolution of concerns and complaints within their area and for resolving any concerns, as they arise. All staff must co-operate fully with any investigation into a complaint.

6 Who may complain

Complaints or concerns may be made by a patient, or any person who is affected, or likely to be affected by the actions, omissions or decisions by the Trust, or by anyone on their behalf, with the patient's permission.

If the person making the concern/complaint is not the patient, the Trust will first seek the patient's written permission to disclose personal information.

Where a patient has died, is unable to make a complaint due to physical incapacity/illness, or lacks capacity within the meaning of the Mental Capacity Act 2005(a), a complaint may be made on their behalf, as long as the complainant is conducting the complaint in the best interests of the patient and where the complainant is a suitable person to act on the patient's behalf. When reaching this decision, consideration must be given to all relevant factors, such as closeness of the complainant's involvement with the patient. Consent to respond to a complaint will be sought from the patient's next of kin prior to disclosure of any information. If the Head of PALS & Complaints is not satisfied that the complainant is acting in the best interests of the patient, the complaint must not be considered under the Regulations. The Trust will notify the complainant in writing, stating the reason for the decision.

With children and young adults, the Regulations refer to a 'child' as anyone who has not yet reached the age of 18 years of age. With children, the representative making a complaint on their behalf must be a parent, guardian or other adult person who has parental responsibility for the child.

Children under 16 years are not automatically presumed legally competent to make decisions about their health care, however may give consent if they are Fraser competent. Once a child reaches the age of 16 years, they are presumed in law to be competent to give consent. However, it is still considered good practice to encourage them to involve their family in decision making.

Where the child is in the care of a local authority or a voluntary organisation, the representative making the complaint must have the appropriate authority to act. If the Head of PALS & Complaints believes that the complainant is not conducting the complaint in the best interests of the child, the complaint must not be considered under the Regulations.

7 Complaints excluded from this policy

The following complaints are excluded from the Regulations and as such, this procedure does not apply:

- A complaint made by another NHS organisation or local authority not acting on behalf of the patient;
- A complaint by an employee relating to their employment;
- A complaint about private care provided by staff outside of their NHS contract;
- A complaint that is made orally and is resolved to the complainant's satisfaction not later than the next working day after the complaint was made;
- A complaint that has previously been investigated and resolved under the NHS Complaints Regulations;
- The complaint is being, or has been investigated by the Parliamentary & Health Service Ombudsman;
- A complaint arising out of the alleged failure to comply with data subject requests under the Freedom of Information Act 2000;

Where any of these apply, the Head of PALS & Complaints will make a decision as to whether a separate investigation is required and will advise the complainant in writing of the decision.

8 Time scale for receipt of complaints

A formal complaint should be made no later than 12 months after the date on which the subject of the complaint occurred, or if later, the date when the complaint first came to the notice of the complainant. The Head of PALS & Complaints has the discretion to extend this time limit where there is a reasonable explanation for the delay and where it is still possible to investigate the facts of the case

fairly and effectively. In all cases, the Head of PALS & Complaints will write to the complainant explaining the decision made.

9 Referral to External Agencies

During the course of an investigation, it may become necessary to notify external agencies particularly where a serious incident has occurred e.g. Police, Health & Safety Executive, Care Quality Commission, Professional body, Medicine and Healthcare products Regulatory Agency (MHRA). This decision will be made following consultation with the Chief Nurse as necessary.

10 Complaints that may lead to a legal claim, police investigation or investigation by the Health & Safety Executive

The fact that a complainant indicates that they intend to take legal action, or that they have already submitted a claim, should not prevent the Trust from responding to a complaint. However, it is considered good practice to consult with the Trust's legal department to ensure that any investigation will not prejudice any legal or judicial action.

Where an investigation is on-going into a criminal offence, the Trust will consult with the police to determine whether progressing with the complaint might prejudice subsequent legal or judicial action. If so, the Trust will notify the complainant in writing that further investigation is not possible until the police investigation is complete. The same applies to any on-going investigation by the Health & Safety Executive.

11 Being Open

'Being Open' involves apologising and explaining what has happened to patients and/or their carers who have been involved in a patient safety incident/complaint, outlining lessons learnt and any remedial action. The Trust will ensure that all communication with patients, relatives and staff following receipt of a complaint is open and honest. Promoting a culture of being open is, therefore, a prerequisite to improving patient safety and in the handling of complaints raised by patients or their advocates. For further information staff should refer to the Trust's Being Open Policy.

If a complaint or concern identifies a serious incident that has not been previously recorded and investigated, the Head of PALS & Complaints will notify the Patient Safety Team, in accordance with the Trust's contractual duty of candour.

12 Respect for individuals raising concerns or complaints

The Trust expects all staff to treat patients and/or complainants with respect at all times, and, where a complaint or concern is raised, staff should ensure that the patient's on-going health needs are met. The fact that a concern or complaint is made should not have any adverse effect upon a patient's care. Staff should also ensure that documentation relating to the patient's complaint (complaint letter or response) is not filed in the patient's notes. This will ensure confidentiality for both the patient and any member of staff named in the complaint.

Under no circumstances should staff display any form of discrimination towards the patient and/or complainant as a result of a complaint or concern being raised. If any form of discrimination is proven, then the Trust's disciplinary procedures will be invoked and where applicable, the matter may be referred to a professional body.

In addition, during any complaints investigation, if the conduct of a member of staff is felt to breach recognised standards, the matter will be referred to the relevant director to consider if the Trust's disciplinary procedures need to be invoked.

13 Process for handling concerns

13.1 Handling concerns by front line staff

Concerns may arise out of a need for information or a problem that can be dealt with immediately, and may be resolved quickly by members of staff who are directly involved in the patient's care. Staff should aim to resolve these issues on the spot, as the offer of an explanation and an apology will often resolve the matter and improve the patient's experience. For advice on handling patient enquiries see Appendix 1.

If staff are unable to deal with the concerns raised, the issues are too complex, or it is not possible to resolve the matter, they should refer the matter to their immediate manager, Matron, or PALS Team who will attempt to resolve matters. If this occurs out of normal working hours, staff should notify the Clinical Site Manager, who should seek to try and resolve matters, as far as reasonably possible. If this is not possible, details of the concerns should be passed to the PALS team on the next working day.

13.2 Concerns raised via PALS

Where concerns are raised via PALS the PALS Advisor will attempt to resolve the matter. Concerns may be made in person, by phone or by e-mail. The PALS Advisor should acknowledge receipt within one working day and agree a timescale for response with the aim of responding fully to all concerns within seven working days of receipt. The PALS Advisor may require information and assistance from clinicians and managers to resolve the concerns prior to providing feedback to the patient or relative; feedback may be given verbally, in writing or in person. Serious concerns should be brought to the attention of the Head of PALS & Complaints or their deputy immediately and if necessary, handled as a formal complaint or a serious incident. Patients and families may also prefer to make a formal complaint at the outset and the PALS team should advise them accordingly.

It may become apparent during the course of dealing with a PALS concern, that the matter needs to be dealt with as a formal complaint; in such cases, the PALS advisor should speak with the PALS Manager or Head of Patient Experience and Complaints to agree for the case to be escalated.

In all cases, the PALS Advisor will record all information on Datix. This process is outlined in the flowchart – Appendix 2.

14 Process for handling Formal Complaints (Local Resolution)

14.1 Receipt of complaint

A formal complaint may be made orally, in writing or electronically. All written complaints received by individual members of staff should be forwarded to the Complaints Department immediately on receipt. If the complaint is received orally, staff must make a written record of the complaint and provide a copy for the complainant.

On receipt of a complaint, a member of the Complaints Team will undertake an initial assessment to determine how the complaint should be handled and the timeframe for response (see section Investigation). Wherever possible, a member of the Complaints Team will make telephone contact with the complainant to discuss the handling of the complaint, the complainant's expectations and the timeframe for response. Details of the discussion should be confirmed in writing and in all cases the Head of PALS & Complaints or Complaints Case Manager must acknowledge receipt of the complaint in writing within three working days following receipt of the complaint.

14.2 Links with Patient Safety/Legal Services/Health & Safety

Wherever possible, a complaint will be aggregated with any associated incident report or claim that is relevant and a link made in the Complaints module of Datix. This will ensure that there is triangulation between all three and any previous investigation or information is used in the investigation of the complaint.

All complaints received are discussed at the weekly Rapid Review meeting, where all incidents rated moderate harm or above, and all new claims are also discussed. This also allows for triangulation of themes.

14.3 Investigation

Each complaint will require an investigation at a level that is appropriate to the severity of the complaint with the aim of resolving it speedily and efficiently. Some complaints require minimal investigation and a prompt response, whereas others require more formal investigation (see table below). Complaints that are considered complex (high risk, involves several departments, several episodes of care or another organisation) will require a longer investigation period, this should be negotiated with the complainant.

Initial assessment of complaint	Type of complaint	Level of investigation and response period
Low level - formal complaint	Simple, non-complex complaints e.g. Cancelled outpatient appointment/admission Waiting time, Communication	Low level of investigation required. Response period – within 30 working days
Medium level – formal complaint	Several issues relating to clinical care Several wards/departments involved	More detailed investigation involving clinical matters. Response period – within 45 working days
Complex level – formal 1complaint	Complex complaint involving several specialities or more than one organisation. Issues may have been investigated as a serious untoward incident or may have the potential for legal action.	Investigation by clinicians with option to obtain advice from Clinical Director/Lead Clinician Response period – up to 60 working days

The Head of PALS & Complaints and Complaints Case Managers will co-ordinate the investigation process in all cases. A copy of the complaint is forwarded to the investigating clinician(s) and/or manager for investigation. The complaint will also be copied to the Care Group Director and the Care Group Medical Director. On receipt of the complaint, the investigating clinician/manager will undertake a thorough investigation of the issues raised in the complaint with the relevant staff involved and respond within ten working days, unless an extension has been agreed with the Head of PALS and Complaints.

For complaints involving medical care, it is the responsibility of the patient's consultant to provide a detailed report of the patient's care and address the complaint; this may involve the need to investigate events with junior medical staff. If the complaint is complex involving a number of specialties or the complaint is serious and involves the patient's consultant, in accordance with good practice, the investigation may be led by a Lead Clinician, Clinical Director or Care Group Medical Director.

With complaints involving nursing/midwifery care, it is the responsibility of the Head of Nursing/Midwifery and Matron to oversee the investigation of complaints for their area.

With high risk complaints, the investigation may be conducted by a Clinical Director/Clinical Lead or a multidisciplinary team supported by the Patient Safety team. Other expert opinion or independent advice may be sought.

14.3.1 Investigation Process

The following process should be used in all complaints:

The investigating manager/clinician(s) will need to establish the facts; this may include a review of the patient's health records and information obtained from statements or interviews conducted with staff

(all witnesses shall be informed that their evidence may be relied on in as part of the investigation under this, or any other Trust, policy). A timeline or chronology of events is a useful tool to use in the process, which will enable the investigating manager/clinician to identify any gaps in information / processes and any critical problems that arose. Once complete, the investigating manager/clinician must identify actions and learning arising from the complaint.

On completion of the investigation, the relevant clinician or manager will produce a comprehensive response and forward this and the identified learning to the Case Manager within in the expected deadline.

This response should include the following, as appropriate:

- a summary of the patient's care and/or events;
- an outline of the investigation process;
- details of the staff involved;
- answers to all aspects of the complaint within the investigating manager/clinician's remit;
- any statements from staff or notes of interviews held;
- an apology, where appropriate;
- copies of any policies, procedures or national guidance, which are relevant to the case; and
- an outline of any agreed action or risk reduction measures.

Support is available from the Complaints Case Manager or Head of PALS & Complaints in terms of what should be included in the response.

Timescales will be set for the response to be received; if the investigating manager/clinician (s) requires further time, they should discuss this with the Complaints Case Manager or Head of PALS & Complaints, who will then ensure that the complainant is kept up to date with progress.

In all complaints, it is the responsibility of the relevant Centre Manager, Clinical Director/Lead Clinician, Head of Nursing/Midwifery or Matron to monitor any actions arising from the complaint and to update the Patient Services Team of their progress.

The Assistant Chief Operating Officers or Care Group Directors have overall responsibility for ensuring that staff follow this process.

Where there is a conflict of interest (for example the complainant is a relative or close personal friend of the investigating clinician or manager, or the complaint relates to a member of staff who is a relative of the investigating clinician or manager), the investigating clinician or manager must immediately declare this conflict to the Head of PALS & Complaints or the Complaints Case Manager and a decision will be made as to who else can provide comments instead.

Should the investigating manager/clinician(s) find that there are acts of misconduct or serious poor performance on the part of an employee that may warrant disciplinary action in accordance with the relevant Trust policy, they shall immediately notify the Complaints Case Manager or Head of PALS & Complaints following which disciplinary action may be instigated? The Trust may continue with the investigation under this policy in parallel to any disciplinary action.

14.3.2 Joint Internal Complaints

As described above, it may be necessary for some complaints to be managed jointly with another department, e.g. HR or the Patient Safety Team. In such cases, it should be clearly documented which department is taking the lead.

In cases where the Complaints Department is not taking the lead, copies of any statements, meeting notes, etc. should be sent to the Department to be included in the complaints file. Staff involved in the

investigation should be made aware that this will be done. The response should be agreed with all involved in the investigation.

14.4 Responding to formal complaints

On completion of the investigation, the Complaints Team will draft a response to the complainant, on behalf of the Chief Executive, ensuring that all aspects of the complaint are answered fully with a clear and open explanation of events. Where appropriate, an apology will be offered and details of any actions and/or learning outlined. A meeting may also be offered with the complainant and the relevant clinician/manager to resolve any concerns. In some instances, e.g. following a bereavement, it may be beneficial to offer a meeting following the initial receipt of the complaint.

The Trust will aim to investigate and forward a full response to complaints within the timescale agreed (this timeframe will be determined by the Complaints Case Manager or Head of PALS & Complaints following the initial assessment of the complaint, and in consultation with the complainant. If any delay occurs during the investigation, a member of the Complaints Team will contact the complainant, either by phone or in writing, explaining the reason for the delay, as soon as this is anticipated and will agree a revised response time. The Complaints Team must keep the complainant informed of progress at regular intervals until closure.

All response letters are from the Chief Executive, but will be signed by another Executive Director on behalf of the Chief Executive. In the event that the complainant is unhappy with the initial response, the Trust may undertake further investigation and respond in writing, or a meeting with senior representatives of the Trust may be offered.

15 Learning and improving from complaints

Good complaints handling is not limited to providing a response or remedy to the complainant but should also focus on ensuring that the feedback received through complaints is used to learn lessons and contributes to service improvement.

Following investigation of a complaint, Managers should:

- Include details of any risk reduction measures, lessons learnt and actions taken as a result of the complaint in their final report.
- Where appropriate, include an action plan with an identified lead person and target completion dates.
- Monitor progress of the action plan until complete
- Report progress to the Complaints Team

Where no learning or actions are identified from the investigation, a nil return must be sent to the Complaints Team, as confirmation that learning and actions have been considered.

Whilst the Complaints Team will facilitate and co-ordinate this process, it is essential that the appropriate Care Group or department takes responsibility for implementation of risk reduction measures and dissemination of information amongst staff and across Care Groups, as appropriate. Care Groups should ensure that learning from complaints is included as part of their governance reporting structure. The Complaints Team will provide data on closed and open actions to ensure that all actions are followed up.

Where appropriate actions and / or changes in practice should be audited within the care group to ensure they are effective, linking with the clinical audit team as necessary.

The Quality & Safety Committee and Trust Board will receive a quarterly and annual report providing qualitative and quantitative data and learning from complaints. In addition, learning from complaints is shared with the Care Groups, and with the Transforming Care Steering Group, to ensure that this links with other improvement working within the Trust.

16 Handling joint complaints between organisations.

If a complaint received involves more than one NHS provider or provision of care by the Local Authority, the Trust has a duty to co-operate and work closely with other organisations to ensure that the complainant receives a full response to their concerns.

On receipt of the complaint, the Head of PALS & Complaints or Complaints Case Manager will contact the complainant within three working days to acknowledge receipt of the complaint and to determine how the complaint will be handled. Following receipt of the complainant's consent, or the patient's consent if the complainant is not the patient, the Head of PALS & Complaints will contact all other organisations involved, to determine which organisation will take lead responsibility. The organisation with the major component of the complaint will normally take the lead, and will co-ordinate the investigation with the other organisations and agree timescales for response. Any draft response will be shared with each organisation before being sent to the complainant.

If a complaint is solely concerned with services provided by another hospital or organisation, the letter will be sent to the appropriate Trust/organisation, with the complainant's or patient's permission.

17 Parliamentary & Health Service Ombudsman

If a complainant is not satisfied following completion of Local Resolution they may refer their complaint to the Parliamentary & Health Service Ombudsman. The Parliamentary & Health Service Ombudsman will review the case, and may advise the Trust of further action that could be taken to achieve resolution. Alternately, they may decide to investigate the case. In all cases, the Head of PALS & Complaints will act as the point of contact and will provide assistance to the Parliamentary & Health Service Ombudsman, as required.

Following completion of any investigation, the Parliamentary & Health Service Ombudsman will produce a report detailing their findings and recommendations. Where action is required, the Head of PALS & Complaints will co-ordinate a response to the complainant and outline any action undertaken by the Trust. The Trust will review progress of all agreed actions until complete.

18 Advice and support for complainants

Assistance will be given to any person wishing to raise a concern or complaint, including the provision of interpreter services where the patient's first language is not English. Assistance will also be given to any person who has a sensory impairment or learning difficulty. Additional assistance or support may be obtained from the appropriate Advocacy Service (Healthwatch Shropshire, Healthwatch Telford, or Community Health Council for patients residing in Wales).

19 Unreasonably persistent complaints

In a minority of cases, complainants can become vexatious and persistent in pursuit of their complaint, despite reasonable attempts to resolve matters. This can result in a disproportionate amount of time and resources and may place undue strain upon the staff that are required to deal with them. Appendix 5 identifies complaints that may be considered unreasonable and suggests ways of responding to these.

20 Documentation

The Head of PALS & Complaints is responsible for developing and maintaining information relating to all concerns and complaints via the integrated risk management database (Datix).

The Patient Services team will maintain a central electronic file for each complaint which includes:

- all internal and external communication;
- all reports and statements obtained during the complaint investigation, including any root cause analysis undertaken

- notes of any telephone conversations and meetings conducted,
- action plans

Files will be kept for a minimum of ten years following the conclusion of any investigation, in accordance with the Records Management Code of Practice for Health and Social Care 2016, and then destroyed as confidential waste.

Under no circumstances should staff file correspondence relating to a complaint in a patient's health records. This is to maintain the confidentiality of both the patient and any member of staff involved in the complaint. Staff should also be aware that documentation relating to concerns and complaints may be disclosed to a complainant in the event of a subsequent claim.

21 Support for staff

The Trust recognises it can be extremely distressing for staff when they are involved in a complaint investigation whether this is an internal review or an external investigation conducted by the Parliamentary & Health Service Ombudsman. Therefore, staff involved in any part of the complaints process may require additional support from their immediate line manager throughout this process.

21.1 Immediate Support

The line manager should be the first point of contact for staff involved in a complaint. The Patient Services Team is also available to provide appropriate support to any member of staff throughout the life of the complaint.

21.2 Further action and support where staff are experiencing difficulties

Managers and Heads of Department have a responsibility to ensure that their staff are appropriately supported during this process and in serious cases, or where the member of staff is experiencing difficulty, must advise staff of the availability of the support available.

On-going support is available from the following:

- Occupational Health Service
- The Chaplaincy Team, who are available for all staff to speak on an informal and strictly confidential basis
- Medical Educational Supervisor, Supervisor of Midwives or other team member.

Some staff may still find it difficult to work due to stress even when support, information and guidance are offered. Other alternatives should be discussed with the staff member and this may result in a risk assessment undertaken by their line manager supported by Human Resources.

22 Training

The process for raising concerns and complaints is also included in the Trust's training programme, including training at the induction for HCAs, the Preceptorship training and the Midwifery study days. Additional training for individuals or groups of staff in complaints handling is provided, as appropriate.

23 Review of process

This policy will be reviewed every three years unless monitoring of the document shows that a review is required or in response to national or local policy.

24 Equality Impact Assessment (EQIA)

This document has been subject to an Equality Impact Assessment and is anticipated to have a positive impact by enabling concerns to be raised and addressed.

25 Process for monitoring compliance

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring (job title)	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Quarterly & annual report	Quarterly and annual reports	Head of PALS & Complaints	Quarterly and annually	Quality & Safety Committee Trust Board
Care Group Performance Reports	Care Group Performance Meetings	Care Group Director	Monthly	Care Group Boards

26 References

The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009 (309)

The Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2009 (SI 1768)

Principles of Good Complaints Handling. Parliamentary and Health Service Ombudsman 2009

Listening, Improving, Responding: A Guide to Better Customer Care. Department of Health 2009

Making Amends: a consultation paper setting out proposals for reforming the approach to clinical negligence in the NHS. Department of Health 2003

Being Open – Communicating Patient Safety Incidents with Patients and their Carers. National Patient Safety Agency 2009

Records Management Code of Practice for Health and Social Care 2016

[The Health and Social Care Act 2008 \(Regulated Activities\) \(Amendment\) Regulations 2015](#)

Department of Health Making Experience Count Toolkit - Persistent and Unreasonable Clients 2009

Department of Health. Handling Complaints in the NHS. Good Practice Toolkit

Policy on Unreasonably Persistent Complainants. Parliamentary and Health Service Ombudsman

[My expectations for raising concerns and complaints \(Local Government Ombudsman, Healthwatch, Parliamentary and Health Service Ombudsman, November 2014\)](#)

27 Associated Documentation

This Policy should be read in conjunction with the following

- Being Open & Duty of Candour CG10
- Guidelines for Supporting Staff involved in Traumatic, Serious Incidents/Complaints or Claims
- Serious Incident Policy CG 03

Appendix 1 Handling concerns and enquiries on the spot – Guidance for staff

Even the best managed ward or departments will receive complaints at some point from patients and relatives. People may express concerns or complain because they are anxious, upset, in pain or are frightened. Whatever the reason, it is important that patients and relatives feel able to express their concerns without feeling that care may be affected in any way.

Any member of staff can successfully deal with a complaint or an enquiry by a patient or their relative. If someone wishes to make a complaint, use this checklist to help.

Remember if someone complains.....

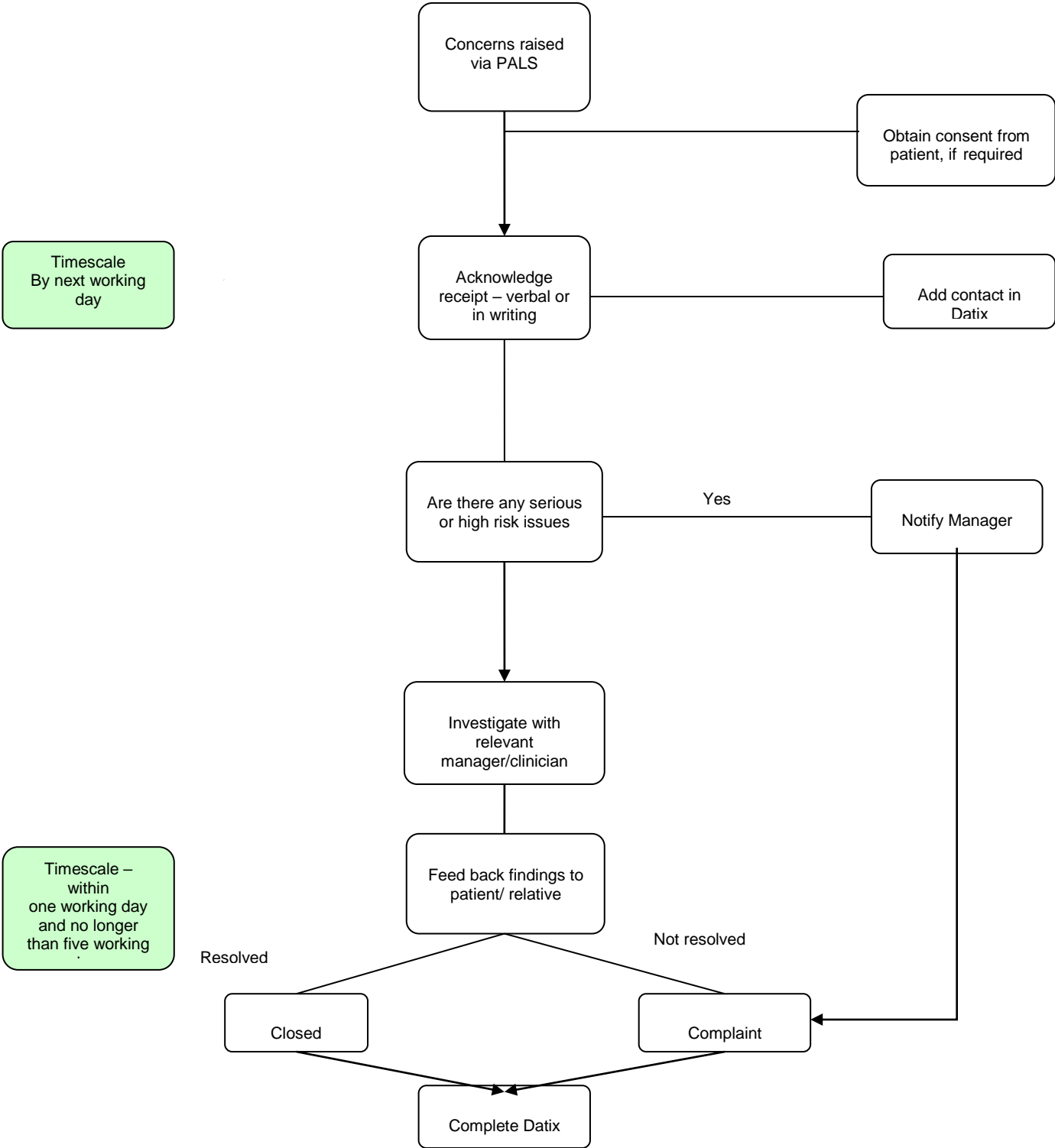
- First ensure that the health needs of the patient continue to be met.
- Remain calm. Be friendly and always introduce yourself.
- Respect the person's need for privacy – take them to a quiet area/room if possible. You may also wish to take someone else with you.
- Listen carefully to what they have to say and, if necessary, make notes.
- Give the patient/relative time to express their concerns. Ask questions to check that you have understood what they are saying and to gain additional information. Summarise the key issues.
- Try and put yourself in the patient's shoes. Would you feel happy if their experience had happened to you or your relative?
- Apologise for the problem and the fact they had reason to complain. An apology can often remedy a potentially difficult situation and is not an admission of liability.
- If possible, try and explain why the problem might have arisen. If necessary, find out additional information from other staff to be able to answer the concerns.
- If appropriate, offer apologies for any weakness or failures in the service and explain what action you intend to take.
- Empathise. Don't be defensive and never blame or criticise other colleagues, departments or Trust policies etc.
- If possible, offer a solution, or refer to someone who can. Check that the person is satisfied with the outcome. Thank them for bringing their concerns to our attention.

If you feel unable to deal with the complaint yourself or the person making the complaint is still unhappy, then refer to your immediate manager. If this happens out of hours, contact the clinical site co-ordinator or on call manager.

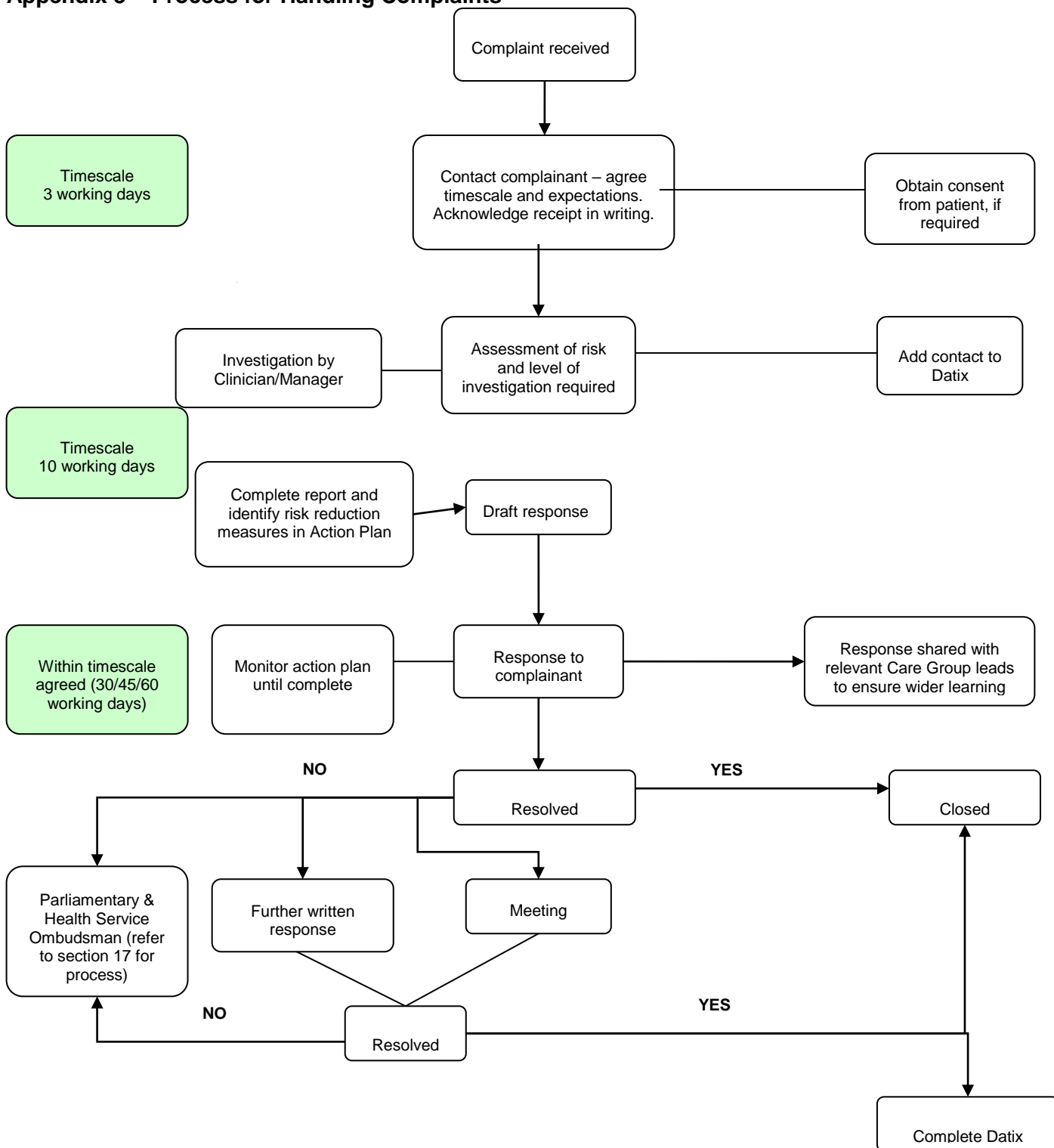
Ensure that you log details of the concern and its resolution in line with local procedure for your area.

Appendix 2 Process for Handling concerns via PALS

Concerns and Complaints – Policy and Procedure



Appendix 3 Process for Handling Complaints



Appendix 4 Guidance for staff writing statements as part of a complaint investigation

As a member of staff who comes into contact with the public, patients and relatives, there may be times when a complaint is made about an event that you have been involved with. On these occasions you may be asked to write a statement on the events surrounding the incident. In other words, you may be asked to give an account of your involvement.

It is understandable that at times like these you may feel worried. It is important to remember that with any investigation our aim is to be scrupulously fair to both the complainant and the staff involved. The aim of the investigation is purely to establish the facts and find out what and why something happened so that the Trust can provide the complainant with a full explanation. It is not used to apportion blame to any individual and you should not feel threatened in any way by this.

Your manager or the Complaints Team will be able to advise you and offer help in producing any statement or account of your involvement. The following points will also help you to write a clear and concise report of events.

- First remember that you are entitled to have access to any relevant records or documents whilst making your statement. So do make sure that you have access to the patient's casenotes.
- Before writing consider the following 5 principles: Who, where, when, how and why.

Your statement should include

- What you said
 - What you did
 - What you saw
 - What you didn't do and why
-
- Your statement should be a full and complete account of your involvement in the events leading up to and during the alleged incident in the complaint. If you do not remember the patient/event say so and state that your statement is based upon the records you made at the time.
 - Begin your statement by providing your full name, designation and department
 - Set out your professional qualifications, including the year obtained with an explanation of any abbreviations where relevant.
 - Record any relevant training and experience you have had.
 - State how you came into contact with the person (patient or relative).
 - Record events in chronological order being accurate with dates and times and refer to entries made within the nursing and medical notes where appropriate. Detail each visit to the patient, examinations and treatment performed giving dates and times.
 - Write in the first person, e.g. at 16:00hrs I gave Mr Smith a cup of tea. I saw that he was breathing heavily and sweating. His pulse rate was 98 beats per minute.
 - Outline precisely what care you gave to the patient including medication given and its effect and observations carried out and whether these were within normal limits.

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- If at any time you sought advice or discussed the patient’s care with other members of staff state who these were and their designation. Refer to all other staff or witnesses by their full name and status (do not refer to them by first name only).
- Provide reasoning for any actions taken e.g. why did you ask the doctor to review a particular patient.
- Do not express opinions on what might have happened or what other people may have done. Avoid hearsay or speculation.
- Address any allegations made.
- If you refer to any supporting documentation e.g. guidelines followed, attach this to your statement.
- Always sign and date your statement
- A vital part of any investigation of a complaint into a patient’s care is a review of the patient’s records. When asked to prepare a statement in relation to your involvement with the patient, you may have to rely entirely on what you documented in the patient’s records at the time. For this reason, all entries made in a patient’s casenotes should provide a detailed, legible and chronological account of the patient’s stay with all entries being signed, dated and timed. Good record keeping will support any statement you are required to produce.
- The complainant has the right to see any statements, so please ensure that you explain any medical terms that they may not understand.

The investigating manager / clinician will be asked to complete a statement form, the template for which is below:

COMPLAINT STATEMENT FORM NHS Trust

A separate form should be used for each person providing a statement.

Patient		Unit Number		Complaint Ref.	
Name of Person Completing Statement		Role		Date Completed	DD/MM/YYYY
Complaint Case Manager					
Summary of Statements required				Statement due by	DD/MM/YYYY

Please supply any relevant background information you wish to (including a chronology) below, and please answer the specific questions raised on the following pages using this statement form. Please also complete the learning section following each question.

Background Information:

Concerns and Complaints – Policy and Procedure

NHS Trust

Specific Questions:

No.	Issue/Question/Concern	Datix Subject Code	Response <small>(including names and role of any staff you have spoken to as part of your investigation, statements obtained from staff (please attach these with your response) and details of any relevant policies/procedures)</small>																						
1			Staff members Response																						
<p>Learning (This field must be completed - if you feel that there are no lessons to be learnt from this complaint and no changes in practice required, please input N/A and give a clear reason for this)</p> <p><i>Questions you may wish to consider when identifying learning:</i> What are the issues that need addressing and what could you possibly do to address these issues? What are the possible implications of not addressing these issues Who else might you need to involve (e.g. other managers, the complaints team, the education team, etc.) What resources could possibly be helpful? What obstacles might you face, and how could you possibly minimise and overcome these? How and where could you share learning from this complaint?</p> <p>Learning identified:</p>																									
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">Action required to implement learning</th> <th style="width: 20%;">Who will do this?</th> <th style="width: 20%;">By when will this be done?</th> <th style="width: 20%;">How will you measure the effectiveness of this action</th> <th style="width: 20%;">If this action has already been completed, please provide details</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>						Action required to implement learning	Who will do this?	By when will this be done?	How will you measure the effectiveness of this action	If this action has already been completed, please provide details															
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<p>Will you be sharing this complaint at any meetings? Y/N</p> <p><i>If yes, please provide details below and send the outcome of that discussion and any further actions to salf.complaints@nhs.net</i></p> <p>Meeting name:</p> <p>Date:</p>																									

Appendix 5 Handling Persistent and Unreasonable Complaints

Introduction

In a minority of cases, some people can become unreasonably persistent in pursuit of their complaint despite reasonable attempts to resolve matters. This can result in a disproportionate amount of time and resources and may place undue strain upon staff who are required to deal with them. The aim of this policy is to identify situations where complainants may be considered persistent or unreasonable and to suggest ways of responding to these.

It is important to remember that a person making a complaint may be distressed due to events that have happened, they may be bereaved, or have health problems and, therefore, they may act out of character at times of stress. Some may find it difficult to communicate; others may appear to show aggression, have a mental illness or be lonely and lack support. These factors should be taken into consideration when dealing with any member of the public who makes a complaint and before implementing this policy.

It should be emphasised that this process should only be used when all reasonable measures have been taken to try and resolve complaints through the NHS Complaints Procedure. The Head of PALS & Complaints will only implement this process following discussion with the Chief Nurse.

Definition of a persistent or unreasonable complainant

Complainants may be considered persistent or unreasonable where previous or current contact with them meet two or more of the following criteria (or one, in extreme circumstances):

Where complainants:

- Persist in pursuing a complaint where the complaints procedure has been fully and properly implemented and exhausted or refuse to accept the remit of the complaints procedure
- Change the substance of their complaint or add trivial or irrelevant issues to prolong contact with the Trust. Care must be taken not to disregard new issues where they are genuinely identified late in the investigation and are significantly different to the original complaint. These will need to be addressed as separate complaints
- Repeated focus on conspiracy theories and/or will not accept documented evidence of treatment given e.g. information in a patient's records, computer records or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Have, in the course of making a complaint had an excessive number of contacts with the Trust placing unreasonable demands on staff. A contact may be in person, telephone or in writing.
- Do not clearly identify the precise issues, which they wish to be investigated despite reasonable efforts made by Trust staff or advocacy service to help them.
- Have harassed or been verbally abusive or aggressive on more than one occasion towards staff dealing with their complaint, or failed to engage with staff in a manner which is considered appropriate e.g. repeated use of unacceptable language. Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress. All incidents should be documented.

- Focus on a relatively trivial matter to an extent that is out of proportion to its significance. It is recognised that this can be subjective and, therefore, careful judgment must be used in applying this criterion.
- Have threatened or used actual physical violence towards staff at any time. If this applies, no other criterion is necessary to invoke the policy. All incidents should be documented.

Options for handling persistent or unreasonable complaints

Where complainants are identified as persistent or unreasonable, in accordance with the above criteria, the Head of PALS & Complaints will discuss, and agree any further action with the Chief Nurse. The following will be considered prior to taking action:

- Ensure that the complainant's issue have been dealt with appropriately and that reasonable action has followed;
- Ensure that any new or significant issues have been considered;
- Apply criteria with fairness, and due consideration for the complainant's circumstances (any known physical or mental health conditions, impact of bereavement or sudden change in lifestyle that may explain their behaviour);
- Consider the proportionality of any restrictions enforced in comparison with the level of unreasonableness or behaviour of the complainant;
- Consider whether there are further actions that can be taken to resolve the matter; and
- Try to resolve matters, before invoking the policy, by outlining to the complainant the type of behaviour expected if the Trust is to continue investigating the complaint under the NHS Complaints Procedure.

Where all the above have been considered and the complaint is considered persistent and/or unreasonable, the Chief Executive or Chief Nurse will notify the complainant in writing of any action taken and the reasons why the Trust feels that this is necessary. Details of this will be recorded in the complaints file and complaints database.

The options to consider are as follows:

- If a complainant is abusive or threatening, it is reasonable to require him/her to communicate only in a particular way. The Trust may, therefore, withdraw contact with the complainant in person, by telephone, by fax, by letter or any combination of these provided that one form of contact is maintained. It may also be helpful to nominate one individual to maintain contact; this will normally be the Head of PALS & Complaints
- Place time limits on any telephone conversations and personal contact and only in the presence of a witness
- Require any future contact via an advocate e.g. Community Health Council, Healthwatch Shropshire, etc.
- Advise the complainant that the Trust will not deal with correspondence that is abusive or contain allegations that lack substantive evidence.
- Notify the complainant in writing that the Chief Executive has responded fully to all the issues raised and that continuing contact on the matter will serve no useful purpose. The complainant will be notified that the investigation into their complaint is complete and that any further correspondence relating to the issues previously addressed will be acknowledged but not answered.

- Temporarily suspend all contact with the complainant or investigation of the complaint whilst seeking legal advice.
- In extreme circumstances inform the complainant that the Trust reserves the right to pass persistent or unreasonable complaints to the Trust's solicitor and this may result in legal action.
- Where staff have been threatened, assaulted or harassed the Trust will consider whether it is appropriate to refer the matter to the police for investigation

Withdrawal of Persistent or Unreasonable status

Having deemed a complainant as persistent or unreasonable, this status may be withdrawn at any time. This should be exercised with discretion where for example, the complainant agrees and demonstrates a more reasonable approach or they submit a further complaint for which the normal complaints procedure would appear appropriate. The Head of PALS & Complaints will discuss options with the Chief Nurse and if considered appropriate, the Trust's complaints procedure will apply and the complainant notified.

Support

The Trust recognises that persistent or unreasonable complainants can place undue stress upon staff who may require additional support from their immediate manager. See section on support in main policy.