

# Complaints Handling Policy

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## CONTRIBUTION LIST

Key individuals involved in developing this version of the document

Document Control Panel	
<b>Development and Consultation:</b>	Chief Nurse Associate Chief Nurse for Quality Governance Director of Communications Lead Nurse Patient Experience Policy Review Group Quality and Safety Group Equality & Diversity Manager
<b>Dissemination</b>	Dissemination will be through Staff Briefings and accessed through the Trust's intranet
<b>Implementation</b>	Chief Nurse
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<b>Audit</b>	12 months from the date of implementation
<b>Review</b>	Complaint Manager Quality & Safety Group
<b>Equality and Diversity</b>	West Hertfordshire Hospitals NHS Trust works within the Equality Delivery System Framework. This policy has therefore been impact assessed against our four goals: Goal 1 – Better health outcomes for all Goal 2 – Improved patient access and experience Goal 3 – Empowered, engaged and well-supported staff Goal 4 – Inclusive leadership at all levels
<b>Approved by Group/Committee</b> <i>(include date)</i>	Patient Experience Group (for inclusion of PALS narrative) July 2020
<b>Ratified by Group/Committee</b> <i>(include date)</i>	Policy and Guideline Review Group August 2020 Quality and Safety Group October 2020

## Change History

Version	Date	Author	Reason for change
1	Nov 2015	Maureen Walton	New: Policy re-written to reflect significant change to process ( <i>replaces March 2015 version- now archived</i> )
2	Sept 2018	Beverley Taylor	New: Policy re-written to reflect significant change to process. ( <i>replaces January 2016 version- now archived</i> )
3	November 2018	Tracy Moran	Requirement to include PALS narrative to the Policy
4	July 2020	Brian Haig	Reviewed following concerns raised about triaging process and COVID-19 pandemic
5	May 2021	Angela Barst	Amendments to include Private Patients

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## 1. INTRODUCTION.

A fair, sensitive and accurate response to patient's complaints is one of the ways of improving the quality of care in the Trust. It is important that if things go wrong, they are put right quickly and that lessons are learnt. The Trust recognises that comments, concerns and complaints are a valuable source of information from service users about the quality of the services it provides. It is essential that all complaints and suggestions are received positively, investigated thoroughly and promptly and responded to in an open and empathic manner, with action taken, where appropriate, to prevent a recurrence of the circumstances leading to the complaint.

The primary function of this policy is to ensure that procedures are in place to address the concerns and complaints raised with or about the Trust. This will include providing:

- An explanation
- An apology (where appropriate)
- Assurance that the matter has been looked into and
- If the complaint is founded, confirmation that action has been taken to prevent the same thing from happening again

This policy is consistent with:

- Local Authority Social Services and National Health Services Complaints (England) Regulations 2009.
- The Principles of Good Complaint Handling (Parliamentary and Health Service Ombudsman) 2008.
- Listening, Improving, Responding – a Guide to Better Patient Care (Department of Health 2009).
- NHS Constitution (Department of Health 2009).
- Health and Social Care Act 2012.
- Being Open – communicating patient safety incidents with patients and their carers (NPSA, 2009).
- Review of the NHS Hospital Complaints System – Putting Patients Back in the Picture (Department of Health, 2013).
- Independent Sector Complaints Adjudication Service's Code of Practice for Complaints Management.

The approach to complaints is based upon the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling 2008:

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

This policy also takes into account the recommendations of the Francis Report, including:

- Openness, transparency and candour
- The importance of data narrative as well as numbers
- Complaints amounting to serious incidents should trigger an investigation

The above recommendations and principles are supported by the Duty of Candour which ensures that providers of the NHS Health Services are open and honest with service users when things go wrong with care and treatment and that they provide them with reasonable support, truthful information and a written apology.

## 2. PURPOSE.

The purpose of this policy is to describe the systems in place to effectively manage all complaints received by the Trust in accordance with NHS complaints regulations. It outlines the responsibilities and processes for receiving, handling, investigating and resolving complaints and concerns relating to the actions of the West Hertfordshire Hospitals NHS Trust, staff and services.

This policy applies to all West Hertfordshire Hospitals NHS Trust staff.

## 3. SCOPE.

The policy deals with the handling of concerns and complaints relating to the Trust services, buildings or the environment. Concerns and complaints may be received from patients, patients' relatives, carers, visitors and other service users.

## 4. EQUALITY IMPACT STATEMENT.

The Trust welcomes feedback on this policy and the way it operates. We are interested to know of any possible or actual adverse impact that this policy may have on any groups in respect of gender or marital status, race, disability, sexual orientation, religion or belief, age, deprivation or other characteristics.

The person responsible for the equality impact assessment for this policy is the Chief Nurse.

This policy has been screened to determine equality relevance. The policy is considered to be high in equality relevance particularly in relation to: age, disability, race, gender, religion/belief, sexual orientation, transgender and deprivation.

It is important for staff to remember that complainants may not be able to read or write, may not have English as their first language or may have disabilities which make it difficult for them to express their complaint. There are many groups in our communities that find it hard to access the services that they need. Therefore, it is important that the Trust has arrangements in place to ensure that all groups are given the opportunity to access proper health care services.

The Trust recognises, acknowledges and values differences across all people. Every person will be treated with respect, courtesy and with consideration for their individual background. The Trust will ensure that everyone is treated fairly and conveys equality of opportunity in service delivery and employment practice. Practically, this means that the Trust will anticipate and take steps to meet individual need. This will include making reasonable adjustments to processes and communications to help ensure their accessibility to all.

## 5. FAIR TREATMENT.

The Trust is committed to fair and equal treatment for all complaints regardless of the issues raised by the patient.

- Patients must feel able to complain about any aspects of their care or treatment and be given the opportunity to seek resolution of any issues as quickly as possible
- Patients will be able to raise any concerns via the Patient Advice & Liaison Service (PALS) if they feel uncomfortable making their complaint direct to staff.
- Patient's subsequent treatment will not be affected by the fact he/she has raised a concern or made a complaint.

## 6. DEFINITIONS.

**The Regulations:** Refers to the Local Authority Social Service and National Health Service Complaints (England) regulations 2009.

**Compliment:** An expression of gratitude, thanks and positive feedback received relating to the Trust by a patient, relative, carer, visitor or member of the public.

**Concern:** An expression of dissatisfaction which can be resolved directly by ward staff or are referred to PALS.

**Complaint:** A complaint is any expression of dissatisfaction from a patient or their representative that requires an investigation and a written response.

**Joint Complaint:** A formal complaint involving two or more organisations for which a co-ordinated approach is required.

## 7. WHO CAN COMPLAIN/RAISE A CONCERN?

Generally, it will be the person who has received the service that makes the complaint. However, the Trust appreciates that there are circumstances in which another person can make a complaint on behalf of the patient.

You can complain if you have:

- had or are having NHS care or treatment, or
- visited or used our services or facilities.

You can complain on behalf of someone else with their consent:

- If the patient is a child who is not able to make the complaint on their own behalf; or
- Is a person who has been assessed under the provisions of the Mental Capacity Act 2005 as not having capacity in this matter;
- Where the patient with capacity has given consent for another person to act on their behalf;
- Where a person is deceased (see section 12 for the details of this process)
- If you are acting as an advocate for the patient.
- A member of Parliament (MP).

## 8. COMPLAINTS THAT CANNOT BE DEALT WITH.

The following complaints will not be dealt with under National Health Service Complaints (England) Regulations 2009.

- Consent has not been given by the patient.
- A complaint, the subject matter of which has been previously investigated under these or previous regulations.
- A complaint about an employee about any matter relating to their employment.
- A complaint made by any NHS organisation or private independent provider or responsible body.
- A complaint which has been made orally and resolved to the complainant's satisfaction no later than the next working day.
- Complaint arising out of an NHS body's alleged failure to comply with a request for information under the Freedom of Information Act 2000.
- Matters that have been referred to or have been investigated by the PHSO.
- A complaint which has been previously handled and a final response directing the complainant to the PHSO.
- A complaint about private treatment or costs involved. However, a complaint about private treatment or costs involved will be dealt with by the Trust under this policy and

following the Independent Sector Complaints Adjudication Service's (ISCAS) Code of Practice for Complaints Management.

- A complaint about a primary care provider (GP, dentist, optician, pharmacist), these are now within the remit of NHS England (Tel:0300 311 22 33) or email [england.contactus@nhs.net](mailto:england.contactus@nhs.net)

## **9. TIMESCALES FOR MAKING A COMPLAINT.**

The statutory time limit for making a complaint is 12 months from the date on which the matter being complained about occurred, or 12 months from the date on which the complainant became aware that they have grounds for complaint, whichever is the latest.

If there are good reasons for not having made the complaint within the above timeframe and if it is still possible to investigate the complaint effectively and fairly, the Trust may decide to still consider the complaint.

In circumstances when a complaint is outside of the above timeframes and the Trust is unable to consider the complaint, a complainant who is an NHS patient, will be informed of the reason for that decision and will be informed of their rights to request that the Parliamentary and Health Service Ombudsman (PHSO) considers their case.

In the case of a private patient, the complainant will be informed of the reason for that decision and will be informed of their rights to request that the ISCAS considers their case.

## **10. SUPPORT FOR COMPLAINANTS.**

Some people may need help in making a complaint and there are various advocacy services available. Information about these services is contained in the 'Do you have any Compliments, Suggestions or Concerns about the service you have received' leaflet. There is also a separate 'Raising Concerns' leaflet for the benefit of Private Patients.

## **11. SUPPORT FOR STAFF IN COMPLAINTS.**

Staff must be informed when a complaint has been made against them and should be able to see any letter of complaint. All staff named in a complaint should be kept updated during the process and be informed of the outcome.

West Hertfordshire Hospitals NHS Trust understands that it can be very distressing and stressful for staff to receive a complaint. Anyone involved in a complaint investigation can seek assistance and support from their immediate line manager, the Head of the Department and the Human Resources department at any time. If disciplinary action arises from a complaint the complainant will not be informed of the outcome.

## **12. CONFIDENTIALITY AND CONSENT.**

Complaints will be handled in the strictest confidence at all times. Care must be taken throughout the complaints procedure to ensure that any information disclosed about the service user is confined to that which is relevant to the investigation of the complaint, and only to those people who have a demonstrable need for it in connection with the investigation. Personal information must not be disclosed unless the patient has given permission to do so.

It is not necessary to obtain a patient's express consent to use their personal information to investigate a complaint, the exception being when contacting another organisation for comment; in such circumstances written consent should be requested and received.

If the person making the complaint is not the patient, the Trust will seek the patient's written permission to disclose personal information. Even if the person making the complaint is the patient's next of kin, the wishes of the patient must be sought before releasing any information. If the patient lacks capacity to consent to the complaint, the complaint should be brought,



where possible by the patient's personal or representative in law, such as lasting power of attorney.

Proof of identity as next of kin/personal representative will also be required if the complaint is made on behalf of a person unable to provide consent or in the case of deceased patient in accordance with the Trust's Access to Health Records policy. This is to ensure that the person making the complaint can raise the complaint and is who they state they are. However, when a patient has died or is not competent to give consent, any known wishes regarding disclosure should be respected.

## **COMPLAINT RECORDS MUST BE KEPT SEPARATE FROM HEALTH RECORDS.**

### **13. ROLES AND RESPONSIBILITY OF ALL STAFF.**

Complaints/concerns may be received by staff at Watford General Hospital, Hemel Hempstead Hospital and St Albans City Hospital. All staff are encouraged to seek to resolve complaints and concerns at an early stage. If in doubt staff should initially refer issues to more senior staff or seek guidance and advice from the PALS department.

Every effort should be made to ensure complainants/patients are reassured about their continued or future care at the Trust.

Anyone who asks for information on how to raise concerns about a service, should initially be referred to PALS and given a copy of the leaflet 'Do you have any Compliments Suggestions or Concerns about the service you have received' leaflet.

Private patients should be given the Private Patient 'Raising Concerns' leaflet at the time of their initial appointment or if this is not in Trust premises, at the first occasion they are seen within the Trust, for example, at their pre-operative assessment or prior to their procedure.

All staff will:

- Ensure, before doing anything else, that the patient's immediate health care needs are being met.
- Deal with the concern rapidly and in an informal and sensitive manner, keeping their line manager fully informed of events and outcomes.
- Refer to PALS if needed, who in turn will inform the Complaints team if the concern requires escalating to a formal complaint.

### **14. ROLES AND RESPONSIBILITY.**

The overall duty for the organisation is to ensure that service users are reassured that they will not be treated adversely as a result of making a complaint and that lessons are learnt where errors occur.

The **Chief Executive** will oversee the complaints management process to satisfy themselves that the required quality of service and decisions are achieved and maintained. This includes the responsibility for approving the Trust policy and procedures for the management of complaints and concerns.

The **Chief Executive** is ultimately responsible for all complaints received by the Trust. However, this responsibility is delegated to the **Chief Nurse** as the Executive Director with corporate responsibility for ensuring the Trust has arrangements in place that comply with the regulations, and that appropriate action is taken arising from complaints.

The **Quality & Safety Group** is responsible for ensuring that the Trust is meeting its key performance indicator (KPI) obligations in relation to complaints management and ensures appropriate learning is identified and shared. They will monitor the implementation of the policy and procedure, receive and review complaints reports including details on trends and themes, review issues and ensure that appropriate actions are taken, lessons are learned and making recommendations as necessary.

**Senior Management:** All Divisional Directors/Divisional Managers are responsible for ensuring that the Trust's Complaints Policy and Procedure is implemented across their Divisions and complaints are investigated in accordance with this policy.

High risk complaints will immediately be escalated to the Divisional Manager to ensure that appropriate actions can be taken to manage and mitigate the risk. A complaint is considered to be high risk if it is graded as orange or red on the complaint grading flowchart (Appendix C). The Divisional Manager or nominated person is to ensure that the complainant is contacted by telephone to discuss the complaint and identify any opportunities for immediate resolution. They are to ensure robust investigations are undertaken and satisfactory resolution of complaints, including the implementation of any lessons learned, and any actions identified to improve services are implemented within the appropriate timescales.

Divisional Directors and Divisional Managers are responsible for disseminating the Complaints Policy and Procedure and ensuring that the staff understand the procedure.

The **Complaints Manager** is accountable to the Associate Chief Nurse in all aspects of the complaints policy and procedure as well as the day to day management of the Complaints department.

The **Complaints Team:** The Trust's complaints team will provide all necessary activities to enable the Trust to set its statutory duties and obligations as set out in the relevant Complaints regulations.

The key elements are:

- A central access point (Monday – Friday 8am – 4pm) excluding bank holidays.
- A dedicated telephone number and email address. Tel: 01923 217866  
e-mail: [westherts.complaintsteam@nhs.net](mailto:westherts.complaintsteam@nhs.net)
- Provide details of the Trust's complaint procedure and related NHS procedures to customers and complainants.
- Signpost to appropriate agencies and support groups outside of the NHS.
- Record and log complaints on Datix.
- Review and triage all complaints received.
- Contact the complainant (where possible) within 3 working days to discuss their complaint, confirm the expectations of the complainant and agree a timeframe for a response.
- Acknowledge complaints
- Identify the main issues of the complaint for the Divisional Manager and appropriate Assistant Divisional Managers (ADM's).
- Be the central point of contact for the divisions with regards to complaints.
- Weekly meetings to be held with the divisions to review open complaints.
- Ensure that the complainant is updated as required and made aware of any delays encountered.
- Co-ordination of and support to the division including obtaining consent where appropriate, chase progress of the complaint investigation, send reminders of response deadlines and negotiate extension with complainant when more time is required.
- Maintain an oversight of investigations and quality assurance of all responses ensuring all areas have been addressed and responses detail appropriate apology, as well as actions taken.
- Provide advice to staff on complaints handling.
- Ensure records management is in line with the GDPR.
- Analysis of data and production of reports as required.
- Point of contact and liaison with the Parliamentary and Health Service Ombudsman (PHSO) office.
- Point of contact and liaison with ISCAS, for complaints from private patients which reach Stage 2 of the Complaints process.

- Facilitate and support meetings between Trust staff and complainants.
- Arrange for the response letters to be quality checked by the Executive Team, signed and sent to the complainant.
- All relevant information is saved onto Datix.

## **15. STAGE ONE OF COMPLAINTS MANAGEMENT - LOCAL RESOLUTION.**

See Appendix A for a flow chart of the process for managing complaints

### **15.1 Methods of complaining & raising concerns**

A complaint may be made in writing by email or letter, orally over the telephone or in person. If the complaint is made orally the complainants are encouraged to put their concerns in writing so that an accurate interpretation of events can be forwarded to the division for investigation. The Trust will make patients aware of the opportunity for advocacy support in making complaints through the NHS Complaints Advocacy Service POhWER. This will be achieved through the publication and availability of leaflets.

### **15.2 Triaging of complaints & concerns**

The complaints team will triage all concerns/complaints received on a daily basis. At this point it will be determined whether this is more suitable to be resolved by the PALS team, in which it will follow the PALS process (see Appendix D) or whether it is managed through the formal complaints process

It is important that early resolution of complaints by contact with the complainant is considered and undertaken by the relevant Division, who should consider a proactive approach to complaint resolution by a senior manager or appropriate member of staff making contact with the complainant to offer apologies/explanations if appropriate. Complaints where this is suitable should be identified by the complaints Investigator/Advisor.

### **15.3 Complaints Identified as a Possible Serious Incident, Safeguarding issue or a Divisional Investigation Is Required.**

Should a complaint identify:

- risks that the Trust needs to record on its risk register; or
- A potentially serious or untoward incident; or
- A safeguarding issue

The Complaints team will highlight this to the division whose responsibility it is to make the decision as to whether it falls into the category of a Serious Incident (SI), Divisional Investigation or safeguarding issue. If the complaint is identified as one of the above, then these will take precedence, however any complaint matters not being addressed by the above investigations will need to be addressed and discussions will take place between the relevant Divisions, SI team, Safeguarding and complaints team to identify how best to provide a response covering all aspects of the complaint.

### **15.4 Acknowledgement of the Complaint**

Complaints will be acknowledged within three working days of receipt. Complaints may be acknowledged by letter, email or by phone in accordance with the complaints regulations. Complainants will also be contacted where possible and given the opportunity to discuss with the Complaints Investigator/Advisor the manner in which the complaint is to be handled, the period within which the investigation of the complaint is likely to be completed and a date by which the response is likely to be sent.

### **15.5 Timescales for the Complaint**

Although there is no statutory deadline for providing a response, the Trust aims for complaints to be investigated and responded to within 30 working days or in complex cases, up to 40 working days. This can on occasions take longer and this will be in agreement with the complainant.

The Trust's performance KPI requires that 80% of all complaint responses leave the Trust no later than the timeframe agreed with the complainant.

If there is agreement that the complaint would be better resolved by undertaking a Local Resolution meeting (LRM), then the Trust will aim for that to be arranged and completed within 60 working days from the date this is agreed with the Complainant.

### **15.6 Investigation**

Complaints will be investigated by an appropriate Manager/Complaints Investigator. A clear record of the investigation will be recorded on Datix. All relevant documentation should be attached to this record. Following the conclusion of the investigation, the draft response will be sent to the Chief Nurse for reviewing before being forwarded to the Chief Executive for signature.

The Trust will respond to the concerns outlined in the complaint. The response will include:

- An explanation of how the concerns were investigated.
- The conclusions reached in relation to the complaint.
- An apology if appropriate.
- Information regarding any remedial action and learning identified as a result of the complaint.

### **15.7 Dissatisfied Complainants**

If a complainant remains dissatisfied with the outcome of the complaint, the Complaints Investigator/Advisor will discuss with them the manner in which resolution can be achieved. This can include a meeting being offered between the complainant and relevant service leads to discuss any on-going concerns or an additional response may be provided in order to reach a resolution. If a complainant is dissatisfied with their response, they must re-approach the Trust within three months of the date on their initial response letter.

### **15.8 Local Resolution Meetings**

All Local Resolution Meetings will be routinely recorded using digital recording equipment. This recording forms the official record of that meeting and replaces the need for handwritten minutes. Meeting recordings will form part of the complaint records and a copy will be made available to the complainant.

## **16. STAGE 2 OF COMPLAINTS MANAGEMENT – THE PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN (PHSO) OR THE INDEPENDENT SECTOR COMPLAINTS ADJUDICATION SERVICE.**

Where a meeting and/or further responses do not result in a satisfactory resolution of the complaint, the complainant will be reminded of their right to ask the PHSO for an independent review of their complaint. In the case of private patients, there is right to ask ISCAS for an independent review of their complaint.

Full copies of relevant documentation and the patients' medical notes will be made available for the PHSO or ISCAS, whichever organisation is relevant for the particular complainant.

## **17. Patient Advice & Liaison Service (PALS)**

### **RECORDING OF CONCERNS, COMMENTS AND COMPLIMENTS - PALS**

PALS (Patient Advice & Liaison Service) exists to ensure that the NHS listens to patients, their relatives, carers and friends and answer their questions and resolve their concerns as soon as possible to prevent the concern from escalating to a formal complaint.

## 17.1 Functions of PALS

- To provide users with information about the NHS and help with other health-related enquiries
- To help resolve concerns or problems encountered by NHS users
- To provide information about the NHS complaints procedure and how to get independent help where users decide they may want to make a formal complaint
- To provide information about, and signpost or refer to, agencies and support groups outside the NHS
- To inform users about getting more involved in their own healthcare and the NHS locally
- To improve the NHS by listening to concerns, suggestions and experiences and ensuring that people who design and manage services are aware of the issues raised
- To act as early warning system for NHS Trusts and monitoring bodies by identifying problems or gaps in services and reporting them

## 17.2 Administration and hours

The PALS team is available between the hours of 9am and 4pm, Monday to Friday, with the exception of statutory bank holidays.

The PALS team will contact complainants by telephone where possible. This will also apply to discussions and negotiations with members of staff, unless it is felt a 'face to face' discussion will be more productive.

Voice mail will be checked every hour with the aim to return all calls within 1 working day. All messages are logged, recording the date and time.

Any concerns are dealt with by the PALS team as quickly as possible and a response provided back to the individual concerned. The PALS team aims to resolve all concerns within 5 working days. However, some concerns dealt with by PALS may be expressions of dissatisfaction, requiring a response and may, therefore, be considered a complaint requiring handling in accordance with the complaints handling legislation

PALS Tel: 01923 21798 [westherts.pals@nhs.net](mailto:westherts.pals@nhs.net)

## 17.3 Location and access

The Trust's PALS team is based on the ground floor in the main hospital building therefore providing easy access to assistance or to address any enquiries or concerns raised by or on behalf of a patient in relation to NHS services. The team can assist with all enquiries and will provide a signposting service where necessary. The team are also on hand to assist visitors and others to access various services, such as interpretation services.

PALS staff will ensure that where possible individual needs in accessing and using the PALS service are identified and met and where necessary, reasonable adjustment is made. This includes meeting the needs of people with learning disabilities or expressive communication problems or disorders.

PALS staff will show users empathy and demonstrate recognition that social and cultural diversity, values and beliefs may influence their interaction with PALS.

## 17.4 Confidentiality, consent and safeguarding

PALS staff will comply with the Trust Confidentiality Policy. PALS will provide a confidential service and gain verbal consent from the patient where possible. In the case of incapacity, a view of the patient's best interest will be taken with regards to sharing the concerns with staff members. Information will also be shared with the Safeguarding Lead in accordance with the Trust Safeguarding Adults policy. Safeguarding children lead will be contacted if required.

Positive comments will be recorded as compliments and where possible passed on to the staff involved ensuring they are aware of the positive things said about them.

## **18. GENERAL FRAMEWORK**

### **18.1 Complaints Record Keeping**

The Complaints & PALS teams aim to be a paperless working environment relying on DATIX to record information. All relevant documentation and information of a complaint must be fully and accurately documented. The original complaint, relevant emails and investigation information will be stored on the Datix database system by members of the Complaints & PALS teams. In accordance with the NHS Complaints Procedure, copies of concern/complaint correspondence must not be kept in the patient's medical records, subject to the need to record any information which is strictly relevant to their health. If any complaint correspondence is found in the medical notes by any member of staff it must be sent to the Complaints or PALS team immediately.

### **18.2 Email correspondence with complainant**

If the complainant wishes any responses to their complaint via e-mail, they should be made aware that once the email has left the hospital server, it is no longer secure. If they accept this and confirm that they accept the risks that the information could be accessed by third parties once in the public e-mail system, then responses can be sent in this way. Staff should always seek to send a test e-mail first to identify that it is correct before information is sent. Complaint responses cannot be sent via e-mail if staff are unable to verify the email address and recipient.

### **18.3 POhWER – Complaints Advocacy**

All complainants have access to information about independent complaints advocacy services, which offer independent help, guidance or support when making a complaint. This information is available from PALS or the Complaints team directly via the complaints leaflet or via the POhWER website – [www.pohwer.net](http://www.pohwer.net).

### **18.3 Claims and Legal Action**

The complaints procedure may continue even if the complainant indicates an intention to take legal action or make a claim of clinical negligence. Where clinical negligence claim is initiated before a complaint has been resolved the matter will be discussed with Legal Services to consider whether responding to the complaint could prejudice the legal action. If this is considered to be the case, resolution of the complaint will be deferred until the legal action is concluded. This must be fully explained to the complainant.

### **18.4 The Provision of Redress and Ex- Gratia Payments**

Remedying injustice or hardship is a key feature of the Ombudsman's Principles for Remedy suggesting that where there has been maladministration or poor service, the public body restores the complainant to the position they would have been in had the maladministration or poor service not occurred.

Financial redress will not be appropriate in every case but the Trust will consider proportionate remedies for those complainants who have incurred additional expenses as a result of poor service or maladministration.

This does not include a request for compensation involving allegations of clinical negligence or personal injury where a claim is indicated.

Where ISCAS has not been able to provide the desired outcome, the following advice applies to private patients:

- Compensation and refunds – compensation is not achievable under the ISCAS Code: the term 'compensation' implies that there is a duty on the provider to

compensate you for something wrong, and to prove that you, you need to take the matter to the courts. Refunds are also outside the remit of the Code and are a matter for the courts.

- Revision surgery – there is no requirement on providers to offer revision surgery, however it is considered to be relevant as part of the ISCAS Code, which expects providers to take action to put things right.
- Suspend the registration of a healthcare professional – ISCAS does not become involved in any processes to suspend a healthcare professional, however, the Code expects providers to bring relevant matters to the professional regulator and take steps to protect patients where it feels that the professional has not met professional standards and where this may impact on patient safety.
- Undertake investigatory visit to subscribers – ISCAS shares information with the relevant healthcare regulator but does not undertake visits. For more information see ISCAS website.

### **18.5 Multi-Agency Complaints**

Complaints can feature more than one service or organisation and the 2009 Regulations permit responsible bodies to agree that one body should take the lead in the handling of a complaint. Where it is considered appropriate for the Trust to take the lead in handling a multi-agency complaint it will do so and will work closely with the other agencies involved to ensure that the complaint is properly investigated and the issues complained about are addressed.

Where the Trust is not the lead agency but a party to the complaint, it will ensure full co-operation and relevant sharing of information with the lead agency.

Where the Trust is the lead agency in handling a complaint and for any reason finds an agency to be uncooperative in assisting with the proper handling of the complaint, the agency will first be reminded of its obligations under the Regulations and any relevant legislation. If this does not resolve the issue then the lack of co-operation will be clearly identified in the complaints response. It will then be a matter for the complainant to decide whether they wish to raise these matters with the PHSO, ISCAS or other relevant body.

### **18.6 Mediation**

The Trust is not in a position to provide a formal mediation service for complainants who are having difficulty resolving a complaint. If appropriate, the Trust will advise the complainant of the services of an Independent Complaints Advocacy Service such as POHWER and explain that is established to assist complainants with the management of their complaint.

### **18.7 Complaints brought by a Member of Parliament (MP) on behalf of their constituent**

MPs in receipt of complaints about health services from constituents often address personal letters to the Chairman or Chief Executive. These are acted upon in the same way as any other complaints. Consent will be required if responding to the MP.

### **18.8 Fraud and Corruption**

Any complaint, which concerns possible allegations of fraud and corruption, will be passed to the counter fraud and management service in accordance with the Trust policy on fraud and corruption.

## **19. PUBLICITY**

Information on how to make a complaint will be made available in leaflet form, on posters and on the Trust website. Leaflets and posters will be distributed throughout the Trust and be available at all sites. Locations will be responsible for ensuring that they have a supply of

leaflets. Leaflets are available, upon request to the PALS and Complaints team, in different languages, and in different formats. They are also available on the Trust internet.

Information for private patients on how to make a complaint will be available in leaflet form and will be given to patients at the start of their treatment in the Trust.

## **20. VEXATIOUS AND PERSISTENT COMPLAINANTS**

The Trust is committed to treating all complaints equitably and recognises that it is the right of every individual to pursue a complaint. The Trust therefore endeavours to resolve all complaints to the complainant's satisfaction. However, on occasions, the Trust may consider that a complainant who persists in making complaints raising the same or similar issues repeatedly, despite having received full responses to all the issues they have raised, to be identified as a persistent complainant. Where a complainant is considered persistent in nature, the Trust's 'Procedure for the Handling Persistent Complainants' (Appendix B) will be followed.

## **21. ZERO TOLERANCE**

The Trust operates a zero tolerance policy for complainants who chose to be rude or abusive in the manner in which they communicate their complaint. In these instances, the Trust may protect its staff by limiting the communication channels open to the individual making the complaint. This may include individuals who are persistent or vexatious complainers.

## **22. LEARNING LESSONS FROM COMPLAINTS**

Complaints should not be regarded as a negative response to the Trust's provision of care, facilities etc. but as a method for identifying areas for learning and or improvement. Divisions will identify where complaints have led to any changes in service delivery or any other actions taken as a result. The Divisional Manager or an appropriate person will develop a plan of any actions identified as a result of the complaint and a timescale of how these actions will be implemented. A named person will be identified within the division whose responsibility it will be to ensure that the actions are completed.

This is to be recorded onto an action plan which is to be sent to the Complaints or PALS team for reporting purposes and to be uploaded to the appropriate complaint file in Datix. A copy to be retained by the service and division involved.

The Trust will publish an annual report on complaints handling and share this with stakeholders. This will include a summary of 'lessons learnt'.

The Complaints and PALS Teams provide information to the Patient Experience Group, PSEC and Quality & Safety group, based on the Key Performance Indicators and include learning and outcomes.

## **23. PRIVATE PATIENTS**

Complaints by private patients will be held to the same standards, key performance indicators and compliance monitoring as complaints from NHS patients.

## **24. PROCESS FOR MONITORING COMPLIANCE AND EFFECTIVENESS**

### **24.1 Standards include the following:**

**NHS complaints regulations** The NHS complaints procedure is currently regulated by Statutory Instrument 2009 No. 309, The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, effective from 1 April 2009.

### **Care Quality Commission (CQC) Standards**

The CQC is responsible for monitoring the performance of Health Trusts against the Regulations set out in the **Health and Social Care Act 2008 (Regulated Activities)**



**Regulations 2014**, which came into force in April 2015. Section 2 of the Regulations lists the Fundamental Standards including:

- **Receiving and acting on complaints (Regulation 16)** “Any complaint received must be investigated and necessary and proportionate action must be taken in response to any failure identified by the complaint or investigation”.
- **Duty of candour (Regulation 20)** “A health service body must act in an open and transparent way with relevant persons in relation to care and treatment provided to service users in carrying on a regulated activity”.

#### **The NHS Constitution**

- Section 2a (page 8) of the NHS Constitution lays down the rights of patients and the public and the commitment of NHS organisations in terms of complaints and redress.
- Section 3b (page 11) lays down the responsibility of NHS staff to welcome and listen to feedback and address concerns promptly and in the spirit of cooperation.

### **24.2 Complaints Key Performance indicators**

Key performance indicators have been identified in conjunction with the Clinical Commissioning Group (CCG) and are as follows:

- Each complaint must be acknowledged within 3 working days from the day on which it was received. A minimum of 95% compliance is required.
- All complaints will be logged on Datix including the subject matter and outcome.
- The findings of the investigation must be outlined in the response to the complainant, clearly outlining learning and improvements.
- Complainants should receive a full response to their concerns within 30 or 40 working days depending on the complexity of the complaint following receipt of the original complaint. There may be occasions this is not possible and the timescales where possible be renegotiated with the complainant. The Trust’s performance indicators require that 85% of all complaint responses leave the Trust no later than the timeframe agreed with the complainant.

### **24.3 PALS Key Performance indicators**

- All PALS enquiries resolved within agreed timescales as detailed in Appendix C.

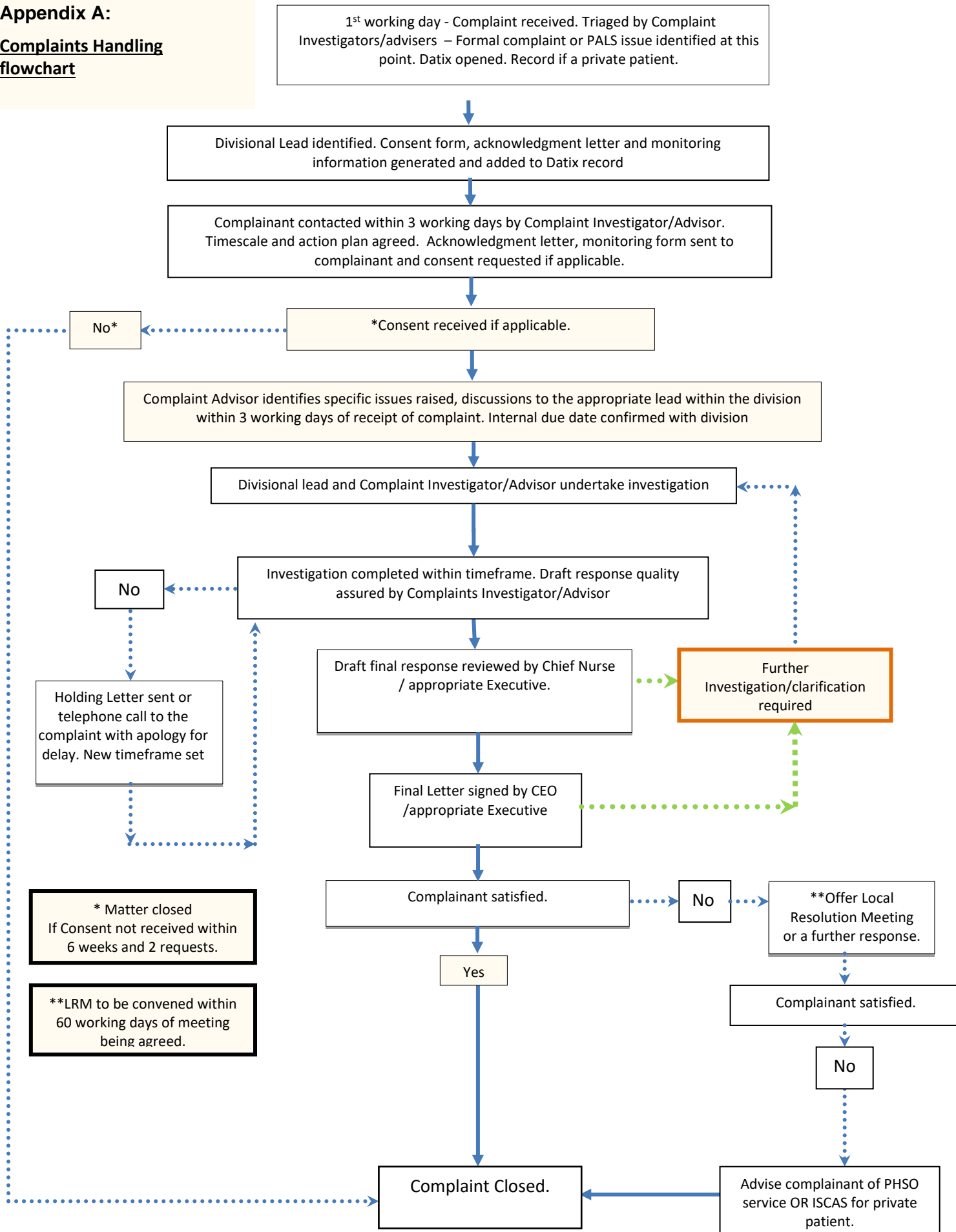
## 24.4 Compliance Monitoring

Compliance to the above standards and key performance indicators will be monitored by the Complaints and PALS Teams in the following ways:

<i>What key element(s) need(s) monitoring as per local approved policy or guidance?</i>	<i>Who will lead on this aspect of monitoring? Name the lead and what is the role of the multidisciplinary team or others be if any.</i>	<i>Which tool will be used to monitor/ check/ observe/ Assess/ inspect/ authenticate that everything is working according to this key element from the approved policy?</i>	<i>How often is the need to monitor each element? How often is the need complete a report? How often is the need to share the report?</i>	<i>What committee will the completed report go to?</i>
<b>Element to be monitored</b>	<b>Lead</b>	<b>Tool</b>	<b>Frequency</b>	<b>Reporting arrangements</b>
Compliance with the PALS standard operating procedure by all responsible staff within PALS service	Senior Nurse Resolution, PALS & Interpreting  Lead Nurse Patient Experience	PALS tracker  KPI's within Patient Experience & Carer Strategy	Weekly  Monthly	Review with Lead Nurse Patient Experience Patient Experience Group meeting with escalation to Patient & Staff Experience Committee if required
Learning implementation and action plan compliance	Complaints Manager  Associate Chief Nurse		Bi monthly  Annual	Safety and Quality Committee  Board report
Timescales of response	Complaints Manager	Datix	Monthly  Bi monthly	IPR CCG Clinical Quality Review Meeting  Clinical Outcomes Committee Safety and Quality Committee

These reports will provide information about the complaints and concerns received the timescales of the response, trends across services and learning which has been identified, and performance in relation to the formulation of required action plans. The committees will use this information to monitor compliance across all of the key performance indicators.

**Appendix A:**  
**Complaints Handling**  
**flowchart**



## Appendix B:

### Procedure for Handling Vexatious & Persistent Complainants

## PROCEDURE FOR HANDLING VEXATIOUS & PERSISTENT COMPLAINANTS

### 1. INTRODUCTION

Persistent complainants can place a strain on resources and cause undue stress. All staff are trained to respond with patience and understanding to the needs of all complainants but there are times when nothing further can be done to assist them or rectify a real or perceived problem.

In determining arrangements for handling such complainants, staff are presented with two key considerations.

The first is to ensure that the complaints procedure has been correctly implemented so far as possible and that no material element of a complaint is overlooked or inadequately addressed. In doing so it should be appreciated that even persistent complainants may have issues which contain some genuine substance. The need to ensure an equitable approach is therefore crucial. The second is to be able to identify the stage at which the complainant has become unreasonably persistent.

**It is emphasised that the identification of a complainant as persistent should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the NHS complaints procedure.**

### 2. IDENTIFYING A PERSISTENT COMPLAINANT

A persistent complainant may display some or all of the following behaviour:

- The complainant changes the substance of a complaint or continually raises new issues or seeks to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed.
- The complainant is unwilling to accept documented evidence of treatment given as being factual, e.g. drug records, General Practitioner manual or computer records, nursing records
- The complainant denies receipt of an adequate response in spite of correspondence specifically answering their questions.
- The complainant does not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- The complainant does not clearly identify the precise issues which he/she wishes to be investigated,
- The complainant does not accept that the concerns identified are not within the remit of the Trust to investigate.
- The complainant persists in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
- The complainant makes an excessive number of contacts with the Trust and places unreasonable demands on staff.
- The complainant is known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.

- The complainant makes unreasonable demands and fails to accept that these may be unreasonable (e.g. insists on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).

### **3. AGGRESSIVE / ABUSIVE COMPLAINANTS**

Staff should be aware that some complainants may:

- Threaten or use actual physical violence towards staff or their families or associates.
- Harass or be personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. This will include racial harassment. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this. They should document all incidents of harassment).

### **4. OPTIONS FOR DEALING WITH A PERSISTENT, AGGRESSIVE OR ABUSIVE COMPLAINANT**

Where a complainant persists with displaying any of the above behaviour, the Patient Experience Manager, in agreement with a relevant senior manager and Chief Officer, should take the following action:

- Warn the complainant that if they persist with the approach they are taking, they will be classed as a persistent complainant.
- Warn the complainant that in extreme circumstances the Trust reserves the right to pass unreasonably persistent complaints to the Trust's solicitors.
- If appropriate, draw up a signed agreement with the complainant which sets out a code of behaviour for the parties involved if the Trust is to continue processing the complaint.
- Consider involving the Local Security Management Services (LSMS) should the Trust consider such action necessary for the protection of its members.

If any of the above actions do not elicit the required behaviour, the patient / complainant will be advised that they are being classed as an unreasonably persistent complainant, the reasons why will be clarified and a temporary suspension of all contact with the complainant or investigation of a complaint will be noted. Legal advice or guidance from the relevant agencies such as the Counter Fraud and Security Management Services.

This notification may be copied for information of others already involved in the complaint, e.g. staff, Patient Advisory Services or Member of Parliament and a record kept for future reference of the reasons why a complainant has been classified as persistent.

### **5. WITHDRAWING 'PERSISTENT COMPLAINANT' STATUS**

Where a complainant subsequently demonstrates more reasonable behaviour on submission of a further complaint, a discussion will be held with the Chief Officer and appropriate senior manager regarding the complainant's status. Subject to their approval, normal contact with the complainant and application of the NHS complaints procedures will then be resumed.

### **6. REVIEW OF PROCEDURE**

This procedure will be reviewed and revised every 3 years as appropriate in line with the Trust's Complaints Policy and Procedure on a yearly basis.

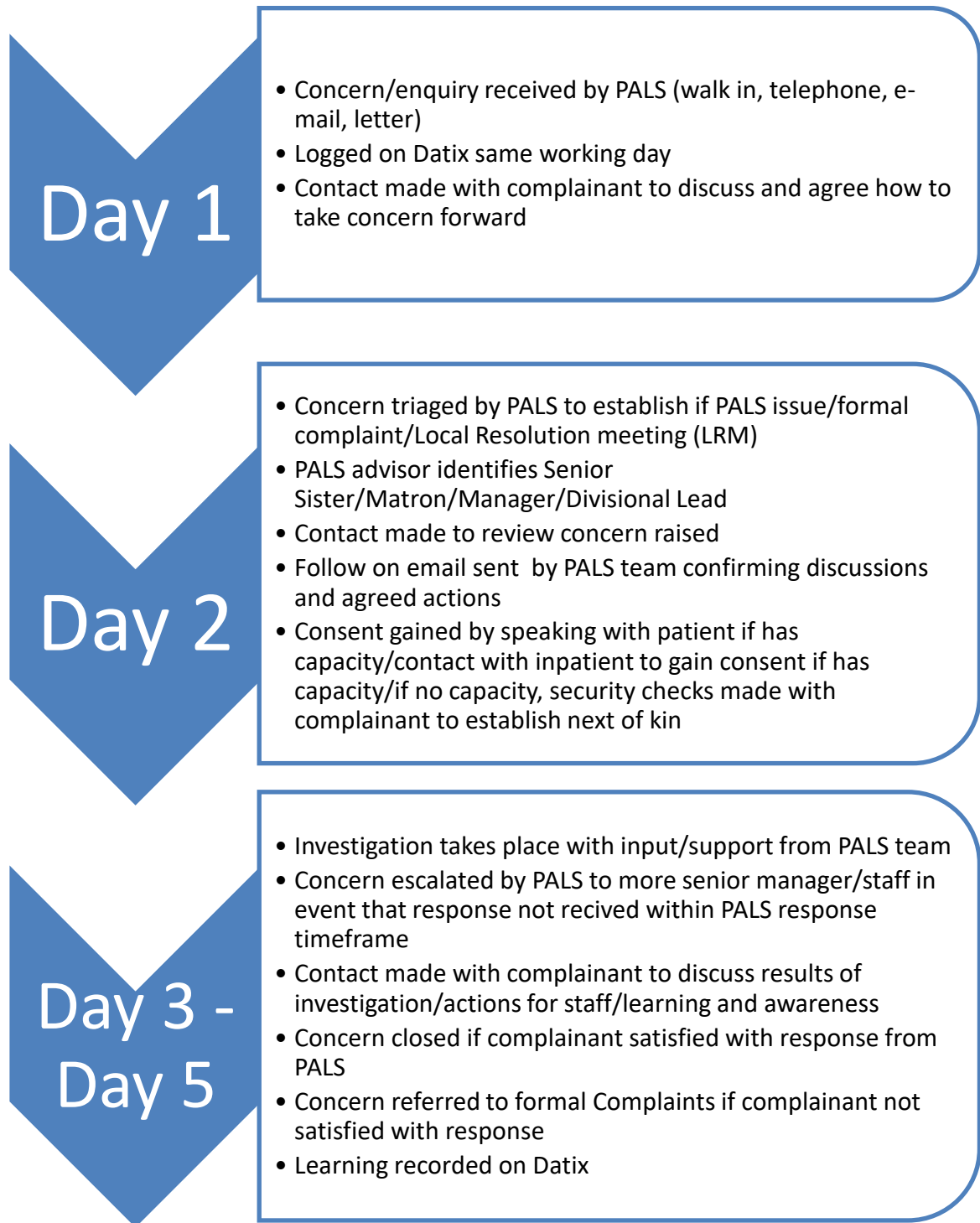
**Appendix C:**

**Sign off sheet**

**SIGN OFF SHEET**

<b>Datix Number.</b>	
<b>Patient/Complainant</b>	
<b>NHS or private</b>	
<b>Date opened</b>	
<b>Complaint date sent to Division for investigation.</b>	
<b>Date Investigation completed</b>	
<b>Date draft response signed off by Divisional Manager (or nominated Divisional lead)</b>	
<b>Outcome</b> <b>Upheld, upheld with actions, not upheld, Partially upheld.</b>	
<b>Date draft sent to Executive team for final review</b>	
<b>Comment sheet:</b>	

**Appendix D:**  
**PALS flowchart**



## 1. Equality Impact Assessment

		Yes/No	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:	No	
	Race	No	
	Ethnic origins (including gypsies and travellers)	No	
	Nationality	No	
	Gender	No	
	Culture	No	
	Religion or belief	No	
	Sexual orientation including lesbian, gay and bisexual people	No	
	Age	No	
	Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
	Marriage & Civil partnership	No	
	Pregnancy & maternity	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	N/A	
4.	Is the impact of the policy/guidance likely to be negative?	No	
5.	If so can the impact be avoided?	N/A	
6.	What alternatives are there to achieving the policy/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	No	

If you have identified a potential discriminatory impact of this procedural document, please refer it to (Insert name and position) together with any suggestions as to the action required to avoid/reduce this impact.

For advice in respect of answering the above questions, please contact (Insert name and position).





### 3. Policy Ratification Form

**Name of Document: Complaints Handling Policy**

**Ratification Date:**

Name of Persons	Job Title	Date
Divisional Support (Direct Line Manager / Matron / Consultant / Divisional Manager)		
Consultation Process (list of stakeholders consulted / staff groups presented to)		
Endorsement By Panel/Group		
Name of Committee	Chair of Committee	Date
Quality and Safety Group		

Document Checklist		Yes / No
1.	Style & Format	
	Is the title clear and unambiguous?	
	Is the font in Arial?	
	Is the format for the front sheet as per Appendix 1 of the policy framework	
	Has the Trust Logo been added to the Front sheet of the policy?	
	Is it clear whether the document is a guideline, policy, protocol or standard operating procedure?	
2.	Rationale	
	Are reasons for development of the document stated?	
3.	Content	
	Is there an introduction?	
	Is the objective of the document clear?	
	Does the policy describe how it will be implemented?	
	Are the statements clear and unambiguous?	
	Are definitions included?	
	Are the responsibilities of individuals outlined?	
4.	Evidence Base	
	Is the type of evidence to support the document identified explicitly?	
	Are key references cited?	
	Are supporting documents referenced?	
5.	Approval	
	Does the document identify which committee/group will approve it?	
6.	Review Date	
	Is the review date identified?	
	Is the frequency of review identified? If so is it acceptable?	

Document Checklist		Yes / No
7.	Process to Monitor Compliance and Effectiveness	
	Are there measurable standards or Key Performance Indicators to support the monitoring of compliance with and effectiveness of the document?	
	Is there a plan to review or audit compliance with the document?	

Name of Person completing Ratification Form	Job Title	Date

Ratification Group/Committee	Chair	Signature	Date
Quality and Safety Group			

## Useful addresses:

Name	Address	Purpose/Responsibility
<b>Chief Nurse</b>	Watford General Hospital Vicarage Road Watford Herts WD18 0HB	Responsible for overseeing the complaints procedure within the Trust
<b>Complaints Manager</b>	Watford General Hospital Willow House Vicarage Road Watford Herts WD18 0HB Tel: (01923) 217866 Email: <a href="mailto:whertstr.complaintsteam@nhs.net">whertstr.complaintsteam@nhs.net</a>	Provides advice and support in relation to NHS services Responsible for the day to day administration of this procedure
<b>PALS Manager</b>	Watford General Hospital Willow House Vicarage Road Watford Herts WD18 0HB Tel: (01923) 244366 ex 3866 Email: <a href="mailto:pals@whht.nhs.uk">pals@whht.nhs.uk</a>	Provides advice and support in relation to NHS services Responsible for the day to day administration of this procedure
<b>NHS England</b>	PO Box 16738 Redditch B97 9PT Tel: 0300 311 22 33 Email: <a href="mailto:england.contactus@nhs.net">england.contactus@nhs.net</a>	Responsible for the management of complaints arising from primary care, military, offender health and specialised services
<b>POhWER (People of Hertfordshire Wants Equal Rights) ICAS</b>	Hertlands House Primett Road Stevenage Herts SG1 3EE <a href="http://www.pohwer.net">http://www.pohwer.net</a>	Provides advocacy support to people who wish to make a complaint against the NHS.
<b>Healthwatch England</b>	Douglas Tilbe House Hall Grove, Welwyn Garden City Herts AL7 4PH Tel: 01707 275978 <a href="http://www.healthwatchhertfordshire.co.uk/">http://www.healthwatchhertfordshire.co.uk/</a>	Independent consumer champion for health and social care in England. Ensures that voices of patients and service users reach the ears of the decision makers
<b>The Parliamentary &amp; Health Service Ombudsman (PHSO)</b>	Millbank Tower Millbank London SW1P 4QP Tel: 0345 015 4033 Fax: 024 7682 1960	Referral body for complainants when a complaint cannot be resolved at local level.
<b>Independent Sector Complaints Adjudication Service (ISCAS)</b>	4th Floor 70 Fleet Street London EC4Y 1EU T: 0207 536 6091 Email: <a href="mailto:info@iscas.org.uk">info@iscas.org.uk</a>	Referral body for private patient complainant when a complaint cannot be resolved at local level.