

Trust Policy

for

THE MANAGEMENT OF COMPLAINTS AND CONCERNS

A policy recommended for use

In: All Areas

By: All Staff Groups

For: Patients, Relatives and Carers

Key Words: Complaints, Concerns, Local Resolution

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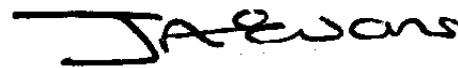
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2	June 2007	Reflects 2006 changes to policy
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4	April 2015	Update to reflect changes to national and local practices. Incorporates Analysis and Learning Policy (CSEC 053), v2, June 2010; Investigating Complaints Policy (CSEC 050), v2, Oct 2010 and Supporting Staff Policy (CSEC 043), v2, Oct 2010

Equality Impact Assessment

This document has been reviewed in line with the Trust's Equality Impact Assessment guidance and no detriment was identified. This policy applies to all regardless of protected characteristic - age, sex, disability, gender-re-assignment, race, religion/belief, sexual orientation, marriage/civil partnership and pregnancy and maternity.

Dissemination and Access

This document can only be considered valid when viewed via the East & North Hertfordshire NHS Trust Knowledge Centre. If this document is printed in hard copy, or saved at another location, you must check that it matches the version on the Knowledge Centre.

Associated Documentation

- AIRP Accident /Incident Reporting Policy (Safety and Security)
- CSEC 049 Adverse Incident Reporting and Investigation Policy
- CSEC 052 Claims Handling Policy
- CSEC 010 Being Open Policy
- HR 025 Raising Concerns at Work Policy
- CSEC 046 Safeguarding Children Policy
- CSEC 021 Safeguarding Adults from Abuse Policy
- IG 02 Information Security & Records Management Policy
- "Hard Truths – The Journey to Putting Patients First" (the Francis Report)
- "Putting Patients back in the Picture" (the Clwyd Report)
- NHS England - Never Events List (updated annually)

Review

This document will be reviewed within three years of issue, or sooner in light of new evidence.

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1. INTRODUCTION

A fair, sensitive and accurate response to patient complaints is one of the ways of improving the quality of care in the NHS. It is important that if things go wrong they are put right quickly and that lessons are learned. Learning from complaints can help staff achieve a higher standard of care and improve services. A complaint can arise from a perception of poor service rather than because of a genuine failure to provide a high quality service. When this occurs, it is often due to poor communication.

2. PURPOSE

The policy describes the process by which complaints are handled within the organisation according to the national regulations. The process described in this policy seeks to facilitate good local resolution and service development. Links between the Patient Advice & Liaison Service (PALS) and Complaints have been strengthened to ensure a consistent approach for anyone wishing to raise comments, concerns and complaints.

This policy relates to how the Trust deals with Concerns and Complaints. If people wish to share their comments, these can be shared via the many surveys undertaken by the Trusts Patient Experience team. If they wish to compliment staff, these can be directed to the staff concerned, the ward, department, the PALS office or to the Chief Executive

The processes described in this policy are based on the following principles from the Parliamentary and Health Service Ombudsman.

Getting it right by:

- Quickly acknowledging where we have made mistakes
- Considering all relevant factors when deciding the appropriate remedy ensuring fairness for the complainant and for staff
- Removing the rigid process driven complaints procedure
- Focus on satisfactory outcomes with swift local resolution

Being customer focused by:

- Apologising for and explaining poor service where appropriate
- Understanding and managing the complainant's expectations
- Dealing with people professionally and sensitively
- Making the process as accessible as possible to everyone who uses our services
- Making our procedures flexible and simple
- Treating each case according to its individual nature
- Ensuring that patients, relatives and their carers are not treated differently as a result of making a complaint

Being open and accountable by:

- Being open and clear about our investigations
- Keeping a clear record of complaints and actions
- Respecting individual's rights to confidentiality

Acting fairly and proportionately by:

- Offering resolution that is fair and proportionate to the complaint
- Treating people without bias, discrimination or prejudice
- Ensuring our investigations are thorough, fair, responsive, open and honest

- Working with colleagues across health and social care where necessary to provide unified complaint responses

Putting things right by:

- Providing an appropriate remedy for each individual case

Seeking continuous improvement by:

- Using the lessons learned from complaints to ensure that mistakes are not repeated
- Recording and using information on the outcome of complaints to improve services
- Encouraging complaints and concerns as a means to help us improve our services
- Learning lessons from individual complaints and ensuring those lessons lead to service improvement
- Sharing lessons learnt and service improvements with our commissioners

3. ROLES AND RESPONSIBILITIES

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.

Chief Executive:

Has overall responsibility for the management of complaints and together with the Trust Board, Executive Directors and Divisions are responsible for ensuring that lessons are learnt and the standard of care and treatment afforded to patients, carers and relatives is improved following the investigation of a complaint. The Chief Executive is responsible for ensuring that this policy is implemented in an effective and timely manner across the organisation.

Legal Services, Complaints & PALS Manager and Senior Complaints Officer:

The Legal Services Complaints & PALS Manager assisted by the Senior Complaints Officer is responsible for the day-to-day management of the Complaints team and to ensure that local and national policies are being adhered to. The Legal Services Complaints & PALS Manager also has overall responsibility for the management of the PALS Team and reports to the Director of Nursing.

Divisional Directors:

Divisional Directors are responsible for ensuring a proactive approach in responding to and learning from complaints relating to their services. Specifically they should, within their area of responsibility:

- Ensure that all staff are fully aware of their responsibilities under this policy and routinely check that they are adhering to the reporting procedures
- Ensure that all complaints are responded to within the timescales requested by the Complaint Case Handlers (CCH) & the PALS team. Where this is not possible because of the complexity of the complaint, the CCH & PALS team must be kept informed so that new timescales can be negotiated with the complainant
- Provide information to the CCH in a format that is understandable to the complainant and answers any questions raised so that a draft response can be prepared for signature by the Chief Executive
- Ensure that members of staff forward any paperwork associated with the complaint to the CCH within the timescale.
- Discuss the complaints and patient feedback within their Divisions to include any lessons learnt
- Ensure that appropriate feedback is given regarding outcome and actions taken to the staff involved

- Ensure that any action plans created following the completion of a complaint are responded to

All employees:

All employees have a responsibility to abide by this policy and any decisions arising from the implementation of it. All members of staff have a duty to ensure that:

- They take immediate action and try their utmost to de-escalate a concern where possible to prevent it from becoming a complaint and refer to PALS if they are unable to achieve this
- They explain that this will not result in adverse treatment as a result of complaining
- They take immediate action where failures have been identified to reduce the likelihood that further harm to other patients / carers will occur in the future
- They give assistance with any complaint investigation
- If requested they make a formal statement which reflects fact, not opinions

In addition our Trust values are pivotal to the way in which we view and address complaints that come into the organisation. Our values are:



We put our PATIENTS first, focussing on the patient to provide high quality care and a service that is tailored to the individual



We strive for excellence and continuous IMPROVEMENT, taking personal responsibility for making things happen and achieving results



We VALUE everybody, considering and showing respect for the opinions, circumstances and feelings of colleagues and members of the public



We are OPEN and honest, ensuring that we communicate with tact, diplomacy and transparency, that information is accurate and that others feel able to ask questions



We work as a TEAM, working effectively as a team member and developing strong working relationships to achieve common goals

The Complaints & PALS teams:

The Complaints & PALS teams will: -

- Reinforce to the complainant that they will not be treated adversely as a result of making a complaint
- Contact the complainant where possible within three working days of receipt to discuss their complaint, identify any opportunities for immediate resolution, confirm the expectations of the complainant and agree a timeframe for a response.
- Log the complaint and write to the complainant outlining the process to be followed for investigation in line with the NHS Complaints Procedure
- Provide contact details and a leaflet explaining the process
- Obtain third party consent where necessary, e.g. husband complains on behalf of his wife, consent would be required from the wife before the investigation could progress.
- Inform the Trust's Legal Services Department of any complaint that ought to be drawn to their immediate attention, e.g. where an individual is stating they wish to sue the Trust. However this does not preclude the complaint investigation continuing.
- Liaise with contributors to the investigation to maintain a timescale for response and to be in a position to notify the individual where delays are expected.
- Prepare a response, having sought approval where necessary or requested, to ensure the accuracy of the response content, prior to passing to the Chief Executive for approval and signature.
- Where the concern is being dealt with by the PALS team, they will either obtain responses from the staff involved and respond directly to the person raising the concern or ensure that a suitable member of staff contact the person raising the concern direct.

Reporting and Committees:

- The Executive team receive a monthly Divisional Floodlight report that identify Complaints by ward area.
- Each division receives information on their complaints performance as part of the divisional performance review process and through monitoring by the Patient Experience Committee.
- The Risk and Quality Committee (RAQC) receives a report every four months on trends for Complaints PALS Concerns and Claims

In addition, complaints are discussed at meetings within the divisions. These may include, Divisional Board, Specialty Board or Clinical Governance meetings.

Discussions, action and learning from these reports will be evidenced by the minutes of these meetings and the monitoring of any associated action plans.

4. DEFINITIONS

- Compliment: An expression of gratitude, thanks and positive comments directly at the Trust, services and staff by a patient, relative, carer, visitor or member of the public
- Comment: A comment / suggestion made about any services the Trust provides. Positive comments may be treated as compliments
- Concern: An expression of dissatisfaction that either takes less than 48 hours to resolve or where the individual raising the concern clearly says they are not making a complaint
- Complaint: An expression of dissatisfaction that takes longer than 24 hours to resolve or where the individual clearly states that they are making a complaint

A fundamental component of this policy is for staff to deal with an issue appropriately when it occurs, so the person raising the concern feels that further action is not required. Should they require further action they would need to seek advice from PALS.

Complaints can be verbal or written. The medium used does not dictate how the complaint should be processed. If the format of the complaint is not clear, then the nature of the complaint must be discussed further with the complainant to clarify what action the complainant wishes to be taken.

Where a complaint or concern is made in writing, it is treated as being made on the date on which it is received by the Complaints & PALS teams.

Anyone can raise / make a compliment, comment or concern (with appropriate consent) about a service provided, however, there are further details below about who can make a complaint.

5. WHO CAN COMPLAIN

A complaint can be made by:

- A patient of the Trust or
- Any person affected by or likely to be affected by the action, omission or decision of the East and North Hertfordshire NHS Trust

A complaint can be made by a person (representative) acting on behalf of another person in any cases where that individual:

- Has died
- Is a child (16 years or younger)
- Is unable to by reason of physical or mental incapacity to make a complaint themselves
- Has requested the representative to act on their behalf

In the case of a patient or person affected who has died or who is incapable, the representative must be a relative or other person who, in the opinion of the Senior Complaints Officer, had or has a sufficient interest in their welfare and is a suitable person to act as a representative.

If in any case the Senior Complaints Officer (in conjunction with the Legal Services Complaints & PALS Manager) is of the opinion that a representative does or did not have a sufficient interest in the person's welfare or is unsuitable to act as a representative, they must notify the person in writing, stating the reason.

In the case of a child, the representative must be a parent, guardian or other adult person who has care of the child and where the child is in the care of a local authority or a voluntary organisation, the representative must be a person authorised by the local authority or the voluntary organisation

Where a complaint is made by a third party e.g. made by a wife on behalf of her husband, the Complaints department must obtain written authorisation in order to respond to the complaint from the third party. This is not necessary if the response does not contain any confidential information such as generic information e.g. car parking, service issues etc.

Complaints can be accepted verbally, via text message, e-mail or in writing. In the case of text messages and e-mails, the complainant should be made aware that due to confidentiality it is unlikely that the Trust will respond via text or e-mail.

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 PALS officer if the patient feels uncomfortable making their complaint direct to staff or via feedback forms provided
- If a patient is admitted; then complains on discharge; and is then readmitted- his/her subsequent treatment must not be affected by the fact he/she has made a complaint.

6. EXPECTATIONS

A flow chart detailing decisions to be made on receipt of a complaint is shown at [Appendix 1](#).

6.1 Oral Complaints

Oral Complaints (including telephoned complaints) made to staff on wards, in clinics, at reception desks or to departmental managers should be resolved, if possible, by the person who has the authority to do so for that area. The opinion of the Consultant or Professional responsible for the care of the patient must be sought if a complaint refers to matters of clinical judgement.

Complaints should be handled without delay in a considerate and sensitive manner. Where appropriate they can be recorded on the oral complaints form ([Appendix 2](#)) and the line manager must be informed of these complaints. This form should then be forwarded to the Complaints office to be logged onto the complaints database.

6.2 Registration of complaints

All written complaints addressed to the Chief Executive should be passed immediately to the Complaints department. They will then maintain a record of all the complaints received, allocating each complaint an individual reference number and log the complaint on the DATIX database.

A complaint must be made within 12 months of the date on which the matter, which is the subject of the complaint occurred or within 12 months of the date on which the matter, which is the subject of the complaint, came to the notice of the complainant.

When a complaint is made outside the time limit, it will be for the Senior Complaints Officer (if necessary in conjunction with the Legal Services Complaints & PALS Manager) to decide whether or not to waive the time limit. The discretion to vary the time limit should be used flexibly and with sensitivity. If the decision is not to investigate the complaint, the complainant can request that the Parliamentary and Health Service Ombudsman consider it.

6.3 Acknowledgment of Complaints

On receipt of a written complaint a member of the complaints department will, where possible, contact the complainant by telephone, to discuss the content of the complaint, clarify the expected outcome and agree likely timescales for resolution. The Complaints department will send the complainant a written acknowledgement of the complaint within three working days of the date on which the complaint was received by the Complaints Team.

The Complaints Case Handler will identify and contact those individual(s) that are required to contribute to the investigation. The Senior Complaints Officer will be available to help and support those individuals as necessary.

6.4 Investigation

To ensure complaints are investigated at the appropriate level, and receive a commensurate response, all complaints should be systematically graded in a manner that reflects the process used in the investigation of incidents. The degree of investigation required will reflect the severity of the matter complained about.

The criteria for Grading of Complaints and a 'Grading Complaints' flowchart are shown at [Appendices 3 & 4](#) and demonstrate the process. If the CCH subsequently considers that the initial grading of the complaint was inappropriate then they can amend the grading either during or at the end of the investigation.

A simple, non-complex, complaint to which a response can be written with little or no referral for additional comment or information will fall into the Band 1 (Green) category. These complaints will essentially be more of an enquiry and may be able to be addressed directly by the CCH.

Where a complaint has been graded as Band 2 (Yellow) there will be a few issues for investigation, which may span more than one department or specialty. These cases may require a review of the medical records and discussions with healthcare professionals. They may not, however, require formal statements to be taken.

Band 3 (Orange) complaints will require a more in-depth investigation and may require formal statements or interviews to be undertaken. Any statements must be returned to the CCH. These complaints will always require some clinical input and the medical records should be reviewed to ensure a consistent and accurate response is prepared.

If the CCH decides that the complaint is more serious and should be categorised as in Band 4 (Red) the complaint should immediately be referred firstly to either the SCO or the Legal Services Complaints & PALS Manager who may advise referral to either the Director of Nursing or Medical Director. A decision will then be made as to the appropriate level of investigation required in accordance with the Trust's policy for the Adverse Incident Reporting and Investigation. The Investigating Officer should also advise the Complaints Team of these actions.

Where an individual member of staff has been complained about the CCH should, wherever possible, seek his/her views and comments on the complaint. The CCH will need to consider if that staff member may need support and refer to the relevant section in this policy. If the

complaint concerns medical treatment then the treating clinician will need to be consulted. Where there is a significant difference of view between the health care professional and the complainant it may be advisable to obtain an opinion from an appropriate third party.

The CCH may seek access or request any documentation or information that will assist with producing a response. This will usually require access to the medical records.

Staff within wards and departments may be approached by the CCH to provide or coordinate a response on behalf of their department / ward.

The CCH will set out timescales for those contributing to the investigation.

If a delay in responding is anticipated, contributors must notify the Case Handler, outlining the reason(s) for any delay and providing a new date for response. The Case Handler will then notify the complainant and attempt to agree an extension of the timeframe. If an agreement to extend the deadline cannot be reached, the complainant will be notified in writing of the delay and whilst acknowledging their refusal of the new deadline.

The complaint investigation response detailing the investigation into the issues raised by the complainant and also any remedial action that has been identified to ensure the reason giving rise to the complaint does not recur (where appropriate only), should be forwarded to the Case Handler, along with a copy of any comments obtained as a result of the investigation.

The Case Handler will compile the response and check that all of the complainant's issues have received a full and open response. The response will be checked/approved by contributors where appropriate or requested.

The final response, along with the investigation papers and the original complaint letter will then be sent to the Chief Executive for signature.

Complaint correspondence is not to be filed in the health records of the patient in order to promote a culture whereby a complaint does not affect patient care.

6.5 Response

The CCH must prepare a written response to the complainant, which summarises the nature and substance of the complaint, describes the investigation and summarises its conclusions. This response will be drawn from the facts and information obtained during the investigation and will where appropriate state if the complaint has been upheld/partially upheld or not upheld.

The response must be signed by the Chief Executive, except in cases where for good reason the Chief Executive is not able to sign it, in which case it may be signed by a person acting on his behalf.

The response must be sent to the complainant within the agreed timeline, and where this cannot be achieved, the complaint must be advised as soon as reasonably practicable.

A copy of the final response will be sent to Divisions involved, who will share it with all staff involved in that complaint.

6.6 Complaints and Disciplinary Procedures to be separated

The Complaints Procedure will be kept separate from the disciplinary procedure. The complaints procedure is concerned only with resolving patients' complaints with the aim of satisfying the complainant while being fair to staff and to learn essential lessons for improving the service. If a complaint investigation discloses information about conduct or capability, which indicates a need for disciplinary action, then a separate process of investigation will be initiated.

When a complaint indicates a need for referral to any of the following:

- a) An investigation under the disciplinary procedure
- b) One of the professional regulatory bodies
- c) An Independent inquiry into a serious incident under Section 84 of the National Health Service Act 1977
- d) An investigation of a criminal offence

the Complaints Department should at once pass the relevant information to the Director of Nursing to consult other appropriate Executive Directors to make a decision on whether to initiate such action. This reference may be made at any point during the Complaints process.

Matters relating to that part of a complaint that becomes the subject of a disciplinary investigation will not be dealt with under the complaints procedure and the complainant should be advised accordingly. This will not prevent other matters in the complaint from being investigated and resolved with the complainant.

When any action under (a-d) above has been concluded, if there are any outstanding issues from the original complaint that remain unresolved, the complaints procedure may be recommenced.

Staff are to be encouraged to participate fully in an investigation and be allowed to seek advice from their professional organisation or other appropriate body. In addition, the trust will support staff involved in the investigation of a complaint either through the line management structure, or, if preferred, another source recognised by the Trust as appropriate.

The Trusts approved document describing the process for ensuring all staff involved in a complaints investigation are adequately supported, is available on the intranet along with guidance for staff on dealing with complaints and concerns.

7. MATTERS EXCLUDED FROM CONSIDERATION

The following complaints are excluded from the scope of the arrangements: -

A complaint made by an NHS or Local Authority Social Care body which relates to the exercise of its functions by another NHS or Local Authority Social Care body.

A complaint made by an employee of the East and North Hertfordshire NHS Trust about any matter relating to their contract of employment.

A complaint that has been or is being investigated by the previous complaints regulations, the Healthcare Commission or the Parliamentary and Health Service Ombudsman.

A complaint arising out of an NHS bodies alleged failure to comply with a data subject request under the Data Protection Act 1998 or a request for information under the Freedom of Information Act 2000.

It may not be clear whether the complainant wants an explanation and apology, with assurances that any failures in service will be rectified for the future, or whether the complainant is in fact seeking information with litigation in mind. Prima facie evidence of negligence should not delay a full explanation of events and if appropriate, an apology (an apology is not an admission of liability).

The complaints procedure is concerned only with resolving complaints and not with investigating disciplinary matters. The purpose of the complaints procedure is not to apportion

blame amongst staff, but to investigate complaints with the aim of satisfying complainants whilst being fair to staff. It also offers an opportunity to improve service delivery.

Some complaints may identify information about serious matters and the Trust may feel it appropriate to consider disciplinary investigation at any point during the complaints procedure. Consideration as to whether or not disciplinary action is warranted is a separate matter for management. Where the findings of a complaint investigation raise a management concern regarding the conduct or performance of an individual, this should be brought to the attention of the appropriate line manager.

Appendix 5 provides guidance on dealing with persistent and unreasonable complainants.

8. HANDLING AND CONSIDERATION OF COMPLAINTS BY THE PARLIAMENTARY & HEALTH SERVICE OMBUDSMAN (PHSO)

Where a complainant is not satisfied with the results of an investigation and the Trust cannot resolve the complaint under local resolution, the complainant will have the option of taking their complaint to the Parliamentary and Health Service Ombudsman for review.

Full copies of any relevant files, including the complaint file and the patient's medical notes, will be made available to the Ombudsman on their request and production of a valid consent form.

The Ombudsman will only investigate complaints by, or on behalf of, individuals who claim to have suffered hardship or injustice as a result of a failure of service, or a failure to provide a service, or – save where the complaint is about clinical judgement – maladministration. Where clinical judgement is involved, the Ombudsman has access to professional advice to determine whether the actions or decisions complained of were based on a reasonable and responsible exercise of professional judgement of a standard which NHS patients could reasonably be entitled to expect in the circumstances.

The Ombudsman is not able to investigate complaints until the NHS Complaints Procedure has been invoked and exhausted unless in the circumstances of a particular case she judges that these conditions would be unreasonable.

9. ACTIONING COMPLAINTS

A complaint is usually an expression of dissatisfaction that is made directly to a member of staff. The member of staff should attempt to resolve any concerns and respond directly to the complainant.

If the member of staff receiving the complaint does not have the ability, by way of authority or expertise to provide a suitable response, they must refer the matter to their immediate supervisor.

Complainants must be informed that PALS is available to assist them with their complaint.

Out of hours, any issues that cannot be resolve on the spot should be referred to the Duty Matron/Night Manager who will then try to address the concerns with the complainant or refer them to PALS by leaving a message on their voicemail.

10. GENERAL FRAMEWORK

10.1 Protocol for the Handling of Social Care and Health Complaints

In accordance with the Local Authority Social Services and NHS Complaints (England) Regulations 2009, agencies within Hertfordshire have developed a joint protocol for the handling of complaints that cross organisational boundaries. A copy of this protocol can be found on the Knowledge Centre.

10.2 Email correspondence with complainant

If the complainant wishes any responses to their complaint via e-mail, they should be made aware that once the e-mail has left the hospital server, it is no longer secure. If they accept this and confirm that they accept the risks that 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 the staff are unable to verify the e-mail address and recipient.

10.3 POhWER - Independent Complaints Advocacy Service

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

10.4 Legal implications

If the complainant has either instigated formal legal action or notified the Trust in writing that he or she intends to do so, the Senior Complaints Officer should seek the advice of the Trust's Legal Services Department. If it is considered that the complaint investigation would prejudice the legal claim, the complaint should be stopped. The complainant will be notified in writing on this decision as necessary.

If the police become involved at any stage during a complaint, the complaint will be suspended until the police have confirmed that continuation of the hospital's investigation will not prejudice their own investigation. The complainant will be notified in writing of this decision as necessary.

10.5 Media Interest

Staff should refer any media interest in a complaint to the Head of Public Affairs or another member of staff in the Communications department. The Head of Public Affairs is notified where any complainant expresses their intention to contact the media.

10.6 Redress

Under the national regulations, the Trust has a responsibility to put people back in the position they were in prior to complaining. Redress could mean numerous different resolutions from appointments, changes in policy right through to re-imbusement for any financial loss incurred. Decisions regarding financial reimbursement will usually require consideration by the Losses and Special Payments Committee.

10.7 Risk assessment/Grading

As already described in Section 6.4, all complaints will be graded at the outset of the complaints investigation.

Any complaint that details circumstances indicative of a 'Never Event' (NHS England) should be flagged up immediately to the Director of Nursing or Medical Director for investigation as a Serious Incident.

10.8 Meetings

Informal resolution meetings at the early stages of a complaint may not require recording in detail but a note should be made of the discussion and the outcome of the meeting. However, all formal 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 file and a copy will be made available to the complainant.

10.9 Mediation

In certain circumstances where the views of the Trust and the complainant are different, it may be appropriate to use local mediation (independent negotiation to resolve differences) to resolve a complaint and this should be seen as a positive way forward to resolving complaints locally. Mediation can be requested by staff, the complainant or their representative, but all parties have to agree to mediation and abide by their decision. If all parties agree to mediation, this will be arranged via the Complaints Team. Any charges involved will be picked up by the Division leading on that individual complaint. Mediation may be offered via appropriately trained internal mediators, or using external mediators. Any arrangements for mediators must be discussed with the Legal Services Complaints and PALS Manager in the first instance.

10.10 Equality and diversity

The Trust is committed to make its complaints procedure as easily accessible as possible. With this in mind, the complaints information can be translated into any language as necessary through request to the PALS department.

10.11 Recording Concerns, Comments and Compliments

In addition to complaints, the PALS Team will also record concerns, comments and compliments on the DATIX database.

Concerns are areas of dissatisfaction made by a patient, visitor or relative where they have expressly stated they do not wish to make a complaint. Any concerns are dealt with by the PALS team as quickly as possible and a response provided back to the individual concerned, usually verbally. Concerns can escalate into complaints in which case this policy will be followed.

Comments can be received from a variety of sources such as comment cards, surveys, letters etc and will be used to inform service development. Positive comments will be recorded as compliments and where possible passed on to the staff involved to ensure they are aware of the positive things said about them.

The Operational Procedure for the PALS service is attached at [Appendix 6](#)

11. INVOLVING EXTERNAL AGENCIES

11.1 Complaints involving other NHS organisations

Any complaint, which involves other NHS organisations, will be co-ordinated by the organisation that initially received the complaint. Consent must be sought from the complainant to approach the other agencies and receive information relevant to the complaint. The co-ordinating organisation will send the response to the complainant.

11.2 Complaints brought by Members of Parliament on behalf of their constituents

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.

11.3 Complaints regarding private care

This complaints procedure will cover any complaint made about the Trust's nursing staff or facilities relating to their care in the Trust's private beds. However, it does not allow for complaints about the private medical care provided by the consultant. In these situations, complaints should be sent to the consultant directly and copied to the Medical Director.

11.4 Fraud and Corruption

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

11.5 Coroners Cases

The fact that a death has been referred to the Coroner's Office does not mean that all investigations into the complaint need to be suspended. It is important for the Trust to initiate proper investigation irrespective of the Coroner's inquiries and where necessary to extend these investigations if the Coroner so requests.

However, a joint protocol for the investigation of Patient Safety Incidents has been agreed between the Trust, Hertfordshire Police and the Coroner for Hertfordshire. The complaints department will refer to, collaborate with, and be guided by, these agencies where a complaint relates to an incident within the scope of the protocol.

12. ARCHIVE AND DESTRUCTION

All complaints files will be retained for a minimum of 10 years.

13. LEARNING LESSONS FROM COMPLAINTS

Complaints should not be regarded solely as a negative response to the Trust's provision of care, facilities etc but as a method for identifying areas for learning or improvement.

Monitoring and learning from Complaints is an important function within the Clinical Governance Arrangements of the Trust.

When the draft response is scrutinised by the CCH they will identify any actions to be taken or any lessons that have been learnt and incorporate these into the response.

As part of their Divisional Patient Experience Action Plans, which are monitored by the Patient Experience Committee, divisions will identify where complaints have led to any changes in service delivery or any other actions taken as a result.

Complaint Reports, provided to Divisions, will be considered at the relevant divisional meeting and recommendations identified from any PHSO investigations will be circulated to all Divisions through the rolling half day exception reports.

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

The reports to the Risk & Quality Committee (RAQC) also identify learning from complaints and this is shared with the local Clinical Commissioning Group (CCG). The Rolling Half-Day gives an opportunity for team analysis of learning and action planning.

14. TRAINING

As part of the Induction process all new Trust employees are made aware of their individual responsibility in relation to the Local Resolution of complaints and are given a leaflet on 'Dealing with Complaints & Concerns'.

Additional training on complaints procedures is provided on an ongoing basis, either as part of planned training courses to specific staff groups eg Clinical Support Workers or at departmental level on request.

Training in 'Root Cause Analysis' (RCA) a tool that can be used in the investigation of complaints, claims and incidents, is delivered jointly by the Legal Services Complaints & PALS Manager and Senior Clinical Risk Management Advisor at least annually.

15. SUPPORTING STAFF

Following receipt of a complaint the line manager, in consultation if necessary with their Senior Manager, must consider the need for information and support for affected staff. Staff may require support because they are the focus of an investigation or they are giving evidence relating to an investigation, for example during an inquest.

A key feature of the process will be the need to provide support to individuals at a time that they may find stressful whilst maintaining a non-judgemental stance on the 'rights and wrongs' of situations. The main aims are:

- To value, support and protect staff
- To provide support in the 'best interests' of the individual concerned
- To provide individuals with appropriate and relevant information necessary for them to provide a positive input into any investigation
- To minimise negative effects on staff caused by involvement in investigations
- To reduce instances of staff leaving or being absent from the profession due to poor experiences of investigations
- To reduce instances of inappropriate suspension/exclusion of staff
- To protect patients and improve service provision

Examples of *immediate* support that should be considered are:

<u>Practical:</u>	transport, getting home, collecting children
<u>Information and Advice:</u>	handouts, leaflets, talk-time, explaining the next steps
<u>Debriefing:</u>	either in groups or one-to-one
<u>Drop-ins:</u>	giving staff the opportunity to discuss the complaint

Managers will need to consider ongoing or follow-up interventions depending on the needs of the individuals concerned and the severity of the complaint.

Where a complaint is escalated for investigation as an IRI or SI, staff should consult the Adverse Incident Reporting and Investigation Policy.

16. COMPLAINT & PALS REPORTS

The Trust Complaints Department maintains a register of all complaints within the DATIX database. A summary of all complaints and PALS concerns logged, is presented quarterly in a report to the Risk & Quality Committee (RAQC). In addition, complaints reports are presented to the RAQC and Patient Experience Committee monthly and to Divisions and Specialities via assorted dashboards.

An annual report on Complaints and PALS is also prepared for the Trust Board, and published to local stakeholders.

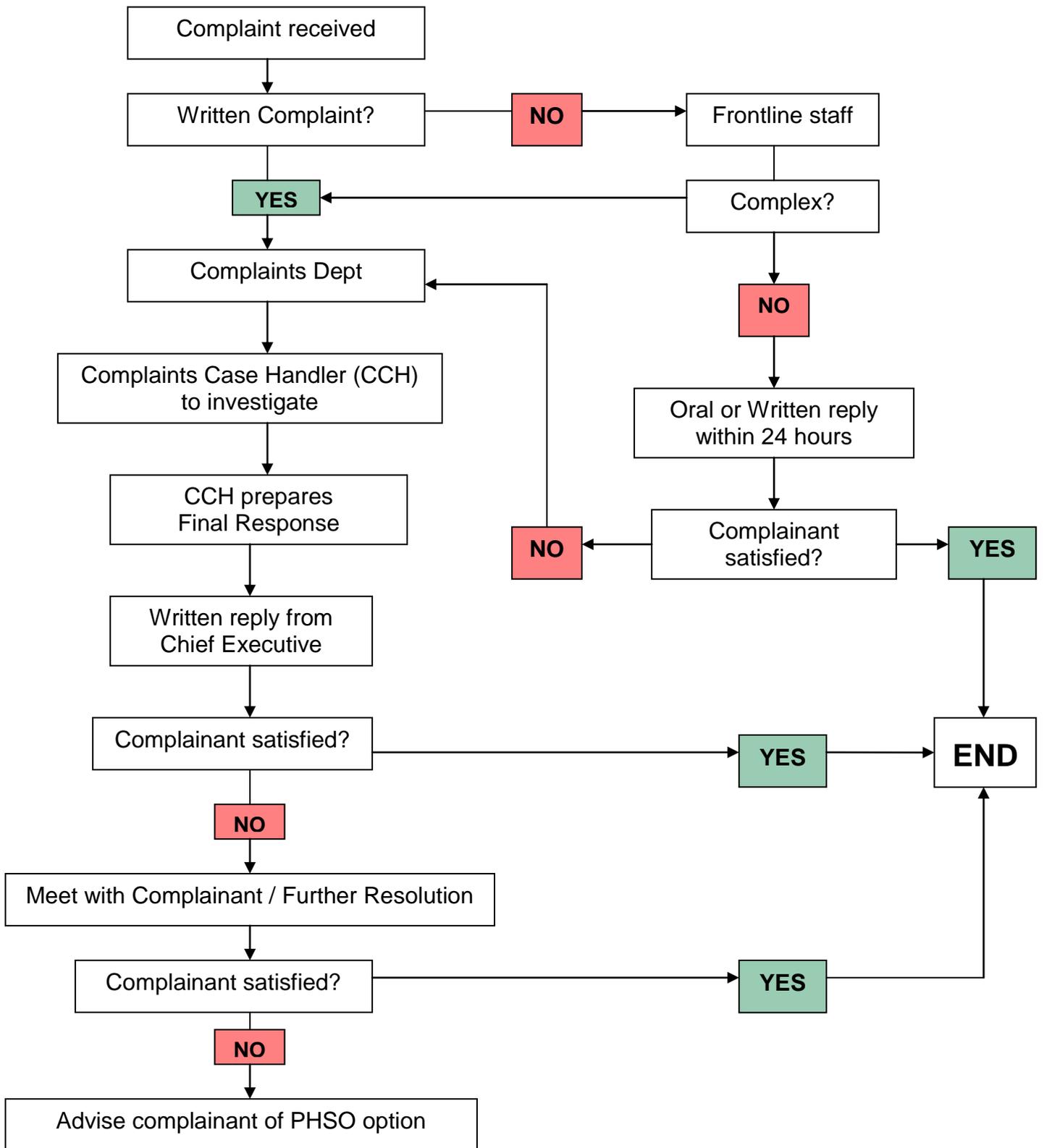
17. MONITORING

A customer satisfaction questionnaire will be sent to a selection of complainants three times a year. Questions asked will determine efficacy of the complaints process.

Effective monitoring of this policy is invaluable in ensuring complaints are managed appropriately and lessons are learnt so that changes can occur.

APPENDIX 1

Complaints Process Flow Chart / Decision Tree



APPENDIX 2

Logged	<input type="checkbox"/>
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**EAST & NORTH HERTFORDSHIRE NHS TRUST
ORAL COMPLAINT RECORDING FORM**

All oral complaints dealt with by any member of staff should be recorded at the time when the complaint is made. **To comply with the new NHS Complaints Procedure, this form should then be photocopied, a copy given to the complainant, and the original passed to the Complaints Office to be recorded.**

THIS FORM IS FOR STAFF USE ONLY

Copy given to Complainant

Copy sent to Complaints Department

COMPLAINANT:	
Address:	Patient Relative Carer Other
Telephone Number(s):	Other
Patient's Name (if different from above)	Ward / Directorate Location: Date: Time
Patient Hospital No. / Date of Birth:	
Nature of Complaint:	
Action Taken:	
Record of Further Action to be Taken:	
Resolved to Complainant's Satisfaction	Yes / No
Signature of Complainant:	
Signature of Staff Member:	Title:
Print Name:	Date:

APPENDIX 3**CRITERIA FOR GRADING OF COMPLAINTS**
(according to complexity and risk of recurrence)**BAND 1 (GREEN)**

<ul style="list-style-type: none"> Essentially an enquiry where the complainant has asked to make a complaint either in writing or verbally 	
<ul style="list-style-type: none"> Only one or two areas complained about 	
<ul style="list-style-type: none"> Issues are clear and easily addressed - perhaps by way of a standard response 	
<ul style="list-style-type: none"> No injuries or financial loss 	
<ul style="list-style-type: none"> Probable/almost certain that events will recur 	

BAND 2 (YELLOW)

<ul style="list-style-type: none"> Two or three issues raised across one or two specialties/departments 	
<ul style="list-style-type: none"> Issues raised are more complex than Band 1 but are easily addressed and investigated by appropriate staff and responded to in a letter from the Chief Executive 	
<ul style="list-style-type: none"> Minor injuries and/or low financial loss 	
<ul style="list-style-type: none"> Likely that events may recur 	

BAND 3 (ORANGE)

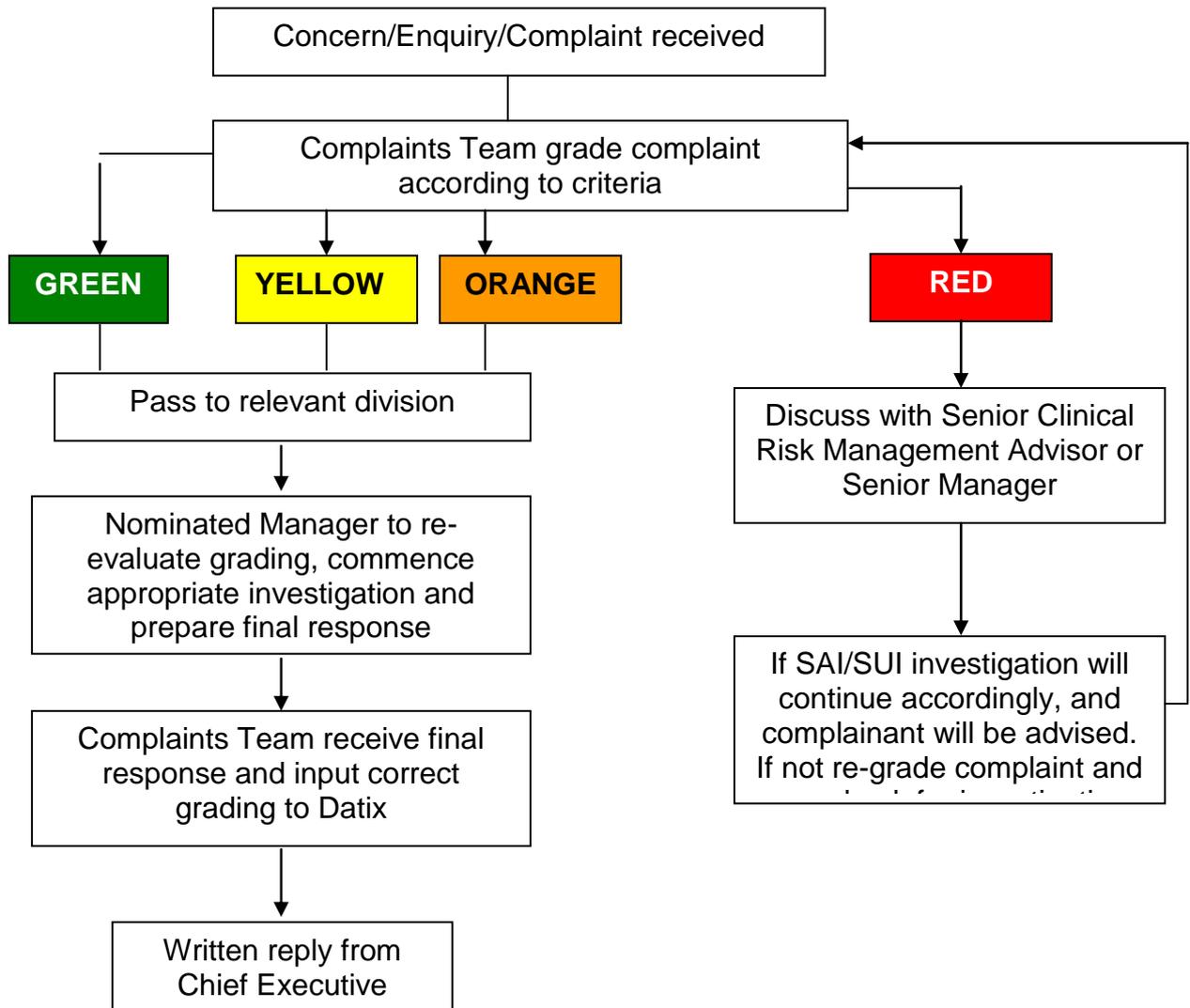
<ul style="list-style-type: none"> Three or four more complex issues in one or more specialties/departments 	
<ul style="list-style-type: none"> A number of family members raising different issues 	
<ul style="list-style-type: none"> Ward/department staff may need to be interviewed to establish events 	
<ul style="list-style-type: none"> Clinical input is required to formulate a response 	
<ul style="list-style-type: none"> Moderate injuries or where the patient's treatment/length of stay has been affected 	
<ul style="list-style-type: none"> Possible risk of events recurring 	

BAND 4 (RED)

<ul style="list-style-type: none"> Multiple complex issues raised in two or more departments or specialties and/or over an extended period of the patient's journey 	
<ul style="list-style-type: none"> A Serious Adverse Incident with the potential for major consequences 	
<ul style="list-style-type: none"> A Serious Untoward Incident 	
<ul style="list-style-type: none"> Gross misconduct/Major Financial Loss 	
<ul style="list-style-type: none"> Rare risk of recurrence 	

APPENDIX 4

Grading Complaints Flow Chart



APPENDIX 5

PROTOCOL FOR DEALING WITH INTRACTABLE COMPLAINTS

Introduction

Complaints about services provided by the Trust are processed in accordance with the NHS complaints procedures. These complaints consume varying amounts of resource depending on the context and seriousness of the allegations disclosed. There is also, however, a small number of complaints which consume the time and energy of staff out of all proportion to the significance of the allegations made.

This protocol aims to assist in identifying some of the more common situations of this type, and suggest ways of responding to such situations. It should be read as an addendum to the East and North Hertfordshire NHS Trust Complaints Policy, and should also be interpreted in the light of relevant sections of the Trust's other policies.

NHS staff are at all times expected to deal with complaints about the NHS services, patiently, courteously, thoroughly, professionally, and within the Regulations governing complaints. Training for staff in the handling of complaints will be provided. There are, however, times when, after a thorough investigation, there is nothing further that can reasonably be done to answer all complainants' concerns to their satisfaction. Complainants who are unable, or refuse, to acknowledge this position are an increasing problem for NHS staff.

The difficulty in handling such complainants is placing a strain on time and resources and is causing unacceptable stress for staff that may need extra support in these difficult situations.

The challenge for the NHS is to support staff in their attempts to bring such situations to a conclusion in a manner which, where possible, can be accepted by the complainant and, if not, clearly and courteously states that facts and explains the reasons why the NHS cannot help further. High quality training, and continuing professional and personal support for NHS complaints staff are essential if these objectives are to be achieved consistently.

Identifying the 'Intractable' or 'Vexatious' Complainant

Complainants (whether acting on their own or on another person's behalf) are all, in some way, expressing dissatisfaction with a service provided which requires a response from the NHS. Very often complainants are themselves under considerable stress of one kind or another at the time and this can show itself in a variety of ways. They may act out of character at times of stress, anxiety or distress, and it is necessary to be sensitive and make allowance for this.

Sometimes, however, a point is reached where the conduct of the complainant makes it impossible to continue work on the complaint. This may arise where a complainant:

- Persists in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
- Seeks to prolong a complaint by changing the substance of the complaint. (Care must be taken not to discard new issues, which are significantly different from the original complaint. These might need to be addressed as separate complaints.)
- Refuses to accept validated documentary evidence of treatment given as being factual e.g. drug records, medical records, nursing notes.

- Denies receipt of a substantive response to a complaint despite evidence of it having been sent.
- Refuses to accept that different perceptions of incidents can occur, and verification of the facts can be impossible when a long period of time has elapsed.
- Does not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts of the staff, and where appropriate, a recognised advocate to help them specify their concerns.
- Refuses to accept that the concerns identified are not within the remit of the organisation to investigate.
- Maintains a disproportionate focus on a 'minor' aspect of a complaint after discussion with complaints staff, to the extent that it becomes out of proportion to its significance within the complaint as a whole. (Defining 'minor' can be subjective judgement, and must be used with caution in applying the criteria).
- Makes unrealistic or unreasonable demands on staff.

Process for dealing with the complainant who becomes 'intractable' or 'vexatious'

Staff will first need to check that the complainant meets one or more of the criteria identified above. This decision must be taken jointly by the Senior Complaints Officer and a member of the Clinical Team responsible for the care of the patient. A recommendation will be made to the Chief Executive by these teams and the Chief Executive will take the final decision. The basis on which this decision is made will be documented in the Complaint file.

They should also make sure that:

The complaints procedure is being correctly applied and that all material elements of a complaint that have been identified during the process are being, or have been, addressed. In doing so it should be appreciated that all complaints, even those that seem most trivial, may contain issues of some substance. It is critical that staff maintain an impartial and equitable approach.

There is nothing more within the terms of the Complaints Procedure that the staff could reasonably be expected to do to help the complainant.

Having done this and discussed the position with the complainant, hopefully achieving some level of mutual understanding and agreement, a letter from the Chief Executive of the Trust clarifying the position that the complaint has reached, and setting parameters for a code of behaviour and lines of communication should be sent. If these terms are contravened, consideration should then be given to implementing other action.

The letter should state, "Any further communication received from you/your representative on this complaint will be acknowledged but no further discussion on this complaint will be entered into".

NB: wording on receipt of further communication should 'acknowledge' and not 'thank' the complainant for it.

The letter should also repeat the information (already given in previous correspondence) that if the complainant remains dissatisfied with the Trust's response he/she has the right of appeal to

the Ombudsman. Details of how to contact the Ombudsman, including full address and telephone number should be included (again) with the letter.

Where treatment of the patient is ongoing:

The Chief Executive will write to the complainant explaining the points outlined above and stating that future contact should be limited to the patient's consultant or lead clinician (as appropriate). Any complaints reported to the complaints department that have been raised previously, will be logged as a verbal complaint and referred to the clinical team. New complaints will be logged through the Complaints procedure. Where the behaviour of the patient causes serious difficulties in continuing to provide effective treatment, the clinical team will review whether an alternative provider should provide treatment.

In all cases where complainants have been classified as intractable, a formal note will be made in the Complaints file.

In extreme cases the Trust reserves the right to take legal action against the complainant.

Withdrawal of intractable complaint status

All new complaints from the same complainant should be dealt with in accordance with the appropriate complaint procedures in the normal way.

If at a later date the complainant demonstrates a more reasonable approach, staff may use their discretion in recommending that the 'intractable' status be withdrawn.

APPENDIX 6

PATIENT ADVICE & LIAISON SERVICE

Operational Procedure

1. INTRODUCTION

The publication of “Creating a Patient Led NHS: Delivering the NHS Improvement Plan” in March 2005, required that patients should be given the information and practical support they need to make healthy life style choices that will keep them well. NHS services should evolve to provide personalised care by listening and responding to patients. It is therefore important to have an efficient and responsive PALS in the Trust to provide a gateway for patients to air their views and to receive information and support, when they need it.

The PALS in East and North Hertfordshire NHS Trust, aims to provide a fast and appropriate access to help, advice and information to those users of our services who require assistance or support.

2. SCOPE

- 2.1 The service is available to patients, their relatives and carers or friends (referred to as patients throughout this document) using health services provided or commissioned by the East and North Hertfordshire NHS Trust. It will also offer information and advice to anyone contacting it.
- 2.2 The service will operate on a “one stop shop” approach to avoid the need for users to explain their problem more than once.
- 2.3 The service is managed by the Legal Services, Complaints and PALS Manager and is currently funded for 2.0 whole time equivalent (WTE) posts.

3. KEY OBJECTIVES

- 3.1 To provide assistance in the quick and efficient resolution of questions and concerns raised by service users through negotiation and liaison with Trust staff, other local NHS staff, health and health related organisations and where appropriate, other PALS.
- 3.2 Give accurate and appropriate information in line with the Trust’s Concerns and Complaints Policies to individuals wishing to access the NHS complaints procedure.
- 3.4 The service will steer patients towards the complaints process when necessary and provide guidance and information.
- 3.5 Provide feedback arising from the patients and publics’ perspective about the services the Trust provides.
- 3.6 The PALS officers have the power to negotiate immediate solutions with the relevant ward/department manager.

4. OPERATIONAL GUIDANCE FOR STAFF

- 4.1 The PALS staff will operate a drop in service in the main corridor at the Lister Hospital.
- 4.2 QEII Hospital, Mount Vernon Cancer Centre (MVCC) and Hertford County Hospital (HCH) may access the PALS by phone or email.

- 4.3 The PALS staff will sit in the PALS office where they have the facility to conduct confidential interviews, when necessary.
- 4.4 The service is available Monday to Friday between the hours of 8.30 to 6 pm. An answer phone service is available out of hours. Patients are advised through the answer phone message how the Duty Matron can be contacted out of hours.
- 4.5 The PALS officers or their volunteers will visit the ward areas on a regular basis to raise awareness of the PALS and establish communication links.
- 4.6 The PALS officers will visit patients on the wards when requested.
- 4.7 All contacts will have a concern sheet completed and be logged on the Datix database.

5. SERVICES OFFERED

The Patient Advice and Liaison Service:

- 5.1 Displays patient information leaflets.
- 5.2 Liaises with other agencies such as Social Services, NHS Direct, Citizens Advice Bureau, the Chaplaincy, translation, interpreting and Mental Health Liaison services.
- 5.3 Has access to the Internet and is able to download appropriate and relevant information for patients.
- 5.4 Is the central point for the co-ordination of interpreter services in accordance with the trust policy.

6. CONFIDENTIALITY

- 6.1 PALS staff will adhere to the Trust's Confidentiality and Data Protection policy and comply with all relevant statutory regulations.
- 6.2 PALS staff will treat all information received about patients and staff in strict confidence.
- 6.3 Information regarding a patient will not be disclosed to a third party without the express consent of the patient.

7. ADVERTISING THE SERVICE

- 7.1 A PALS information leaflet is available in all hospital waiting areas and wards
- 7.2 PALS officers will facilitate the translation of PALS information leaflets if necessary.
- 7.3 The hospital website has details of services provided by PALS. www.enherts-tr.nhs.uk

8. ROLES & RESPONSIBILITIES

8.1 Legal Services, Complaints and PALS Manager:

- To be responsible for the overall management of the Patient Advice and Liaison Service.
- To ensure the PALS and Complaints team liaise effectively when dealing with patient's concerns in accordance with Trust policies.
- To provide information to the Patient Experience Committee on a bi-monthly basis which will identify any trends in PALS contacts.

- To report on trends identified through PALS contacts every four months to the Risk and Quality Committee and annually to the Trust Board, as part of the Complaints and PALS report.

8.2 **PALS Officers/Assistant/Volunteers**

- To provide a confidential listening service and rapid response to patients' concerns.
- To provide information on all aspects of the Trust and its services to ensure contact with the NHS is as easy as possible.
- To assist in the development of systems to support patients to express their concerns.
- To appropriately progress patients' concerns.
- To identify areas of good and bad practice from information gathered from their contact with the public.
- To be a catalyst for change within the Trust by providing regular feedback to key staff.
- To report any trends that develop to the Legal Services, Complaints and PALS Manager
- To assist in the provision of relevant staff education regarding PALS.
- To provide access to the interpreting and translation service.