

## Complaints Procedure

### Introduction

As a Trust we welcome feedback from our patients about their care as this is one of the ways of improving the quality of care we provide. It is important that if things go wrong they are put right quickly and that lessons are learned.

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

### 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.

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 Patient Advice & Liaison Service (PALS) or to the Chief Executive

The processes described in this policy are based on the Parliamentary and Health Service Ombudsman *Five I's – user led vision for raising concerns and complaints* approach to raising complaints following principles from the Parliamentary and Health Service Ombudsman:

1. Considering a complaint
2. Making a complaint
3. Staying informed
4. Receiving outcomes
5. Reflecting on the experience

## 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 via a request to the Patient Advice & Liaison Department (PALS).

There are NHS Advocacy Services who can support someone to make a complaint, or they can give the information over the telephone or face to face to the complaints team. Details of these services are listed at the end of this document.

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.

## Definitions

The Trust welcomes feedback from our patients and visitors as it allows us to further improve the services we offer. Feedback can be:

- A 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
- A Comment: A comment / suggestion made about any services the Trust provides. Positive comments may be treated as compliments
- A 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
- A 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

## Before you make a complaint

If you have concerns, the first step is usually to talk to the person concerned, or ask to see the person in charge. For example, if you have concerns about hospital treatment, try and talk to the person in charge of the ward or clinic.

Any member of staff should be able to tell you how to contact the right person to talk to, or you can speak to PALS.

## Who can complain?

A complaint can be made by:

- A patient of the Trust or 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 Head of Complaints has a sufficient interest in their welfare and is a suitable person to act as a representative.

If in any case it is deemed 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

If you are the parent or named responsible person of a child under 16, you can make a complaint on their behalf, but the complaints team will assess if the child is unable to make a complaint themselves. You can still make the complaint on their behalf, as long as the child gives you permission to do so.

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.

### **If your complaint is about more than one organisation**

If your complaint is about more than one NHS organisation, you only need to send a letter to one of the organisations. They should contact the other organisation and work with them to deal with your complaint. The same procedure is used to complain about adult social services arranged, provided or commissioned by the local authority. So if you have a complaint about both a hospital and adult social care services, you can write just the one letter explaining all the problems, and whoever you address the letter to will contact the other organisation.

### **Complaints not dealt with under this policy**

A complaint that is being investigated by the Parliamentary and Health Service Ombudsman

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

### **Complaints relating to staff and disciplinary processes**

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 will be brought to the attention of the appropriate line manager.

## **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 and the Medical Director.

## **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.

## **Compensation**

Under the NHS national complaints regulations, the Trust has a responsibility to put people back in the position they were in prior to complaining. In general the NHS cannot offer financial compensation although in some circumstances the Trust will agree to financial redress of small amounts, e.g. different resolutions from appointments, changes in policy right through to reimbursement for any financial loss incurred. Decisions regarding financial reimbursement will be made by the senior staff who has been involved with the investigation.

## **What happens once I have made my complaint?**

Your complaint must be acknowledged by the complaints team no later than three working days. This can be done either verbally or in writing. If your complaint has been sent to PALS via email they will forward this to the complaints team. Both services have an automated reply; this email is an acknowledgement that your complaint has been received.

The complaints team, will aim where possible, to contact you by telephone, to discuss the content of the complaint, clarify the expected outcome and agree likely timescales for resolution.

There are no limits on how long it can take to deal with your complaint but it has to be in a reasonable time. The timescale will depend on things like:

- how many staff need to be interviewed
- Access to your medical records
- If other organisations are involved.

We aim to respond to complaints within 35 working days but if your complaint is complex it may take longer. If a delay in responding is anticipated the complaints team will notify you to provide assurance that the complaint is being taken seriously to ensure that the complainant knows the status of their complaint. In the unlikely event that that it takes longer than six months to respond to your complaint in writing, we will write to you and explain the reason why.

## **Stage one – Local Resolution**

We aim to resolve your complaint at the first attempt and this can be done in person, over the telephone, in writing or via a meeting. A face to face meeting may be preferable to a written response. If you would like to attend a meeting the complaints team would be happy to facilitate this for you.

It is helpful to provide as much information as you can, including dates of treatment when the complaint concerns medical and/or nursing care. We would also like to know the desired outcome and expectations from making the complaint.

If concerns are made in person or over the telephone a written record will be made and sent to the complainant for amendment if necessary.

A complaint should be made within 12 months of the events that you are unhappy about. When a complaint is made outside the time limit, we will consider your reasons for not complaining sooner and still investigate and respond if we can as we understand that it can take time to think about or be ready to make a complaint.

The investigation of the complaint will be co-ordinated by a member of the complaints team, approved by a Divisional Director and/or the Director of Nursing, signed by the Chief Executive.

We may need to look at your medical records in order to answer your complaint. Please let us know straightaway if you have any questions or concerns about this.

It is possible to receive information including the response to your complaint via e-mail. Once an e-mail has left the hospital it is no longer secure and you will be required to confirm that you accept the risks that information could be accessed by third parties.

If you are dissatisfied with the response the complaints team will discuss with you how we can resolve any outstanding issues. This can be to have a further written response or a meeting. It is often the case that a meeting with the senior staff who have assisted with the investigation can be much more successful in achieving a satisfactory outcome.

## **Stage two – Parliamentary & Health Service Ombudsman**

If you feel that your complaint has not been satisfactorily resolved you have the right to ask the Parliamentary and Health Service Ombudsman (PHSO) to review your complaint. The PHSO is an independent body established to undertake independent investigations into complaints relating to the NHS in England.

In most cases the PHSO will not investigate a complaint unless it has already been made to the hospital and all other options of resolution have been explored.

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

## **Support for Complainants**

If you require support or advocacy from a source outside the hospital you can contact:

### **POhWER - Independent Complaints Advocacy Service**

PohWER is an independent service who gives information about how to complain and can provide you with an advocate to support you if you need more help.

They can be contacted via Telephone: 0300 123 4044 or via Email: [info@hertshelp.net](mailto:info@hertshelp.net)

## **Healthwatch Hertfordshire**

Healthwatch Hertfordshire is an independent organisation which ensures people have a say in important decisions about health and social care services in their area. Healthwatch work with care providers to improve services by sharing feedback from the public.

They can be contacted in writing at:

1 Silver Court  
Watchmead  
Welwyn Garden City  
Hertfordshire  
AL7 1LT

Or via Telephone: 01707 275978 and Email: [info@healthwatchhertfordshire.co.uk](mailto:info@healthwatchhertfordshire.co.uk)

## **Citizens Advice Bureau**

The Citizens Advice Bureau provides guidance on making a complaint. Information can be found via their website:

<https://www.citizensadvice.org.uk/health/nhs-and-social-care-complaints/complaining-about-the-nhs/nhs-complaints-procedure/>

## **Parliamentary and Health Service Ombudsman**

The Parliamentary and Health Service Ombudsman (PHSO) is an independent body established to undertake independent investigations into complaints relating to the NHS in England. You can write to the PHSO at: Parliamentary and Health Service Ombudsman, Millbank Tower, Millbank, London, SW1P 4QP. Alternatively, you can visit their website at [www.ombudsman.org.uk](http://www.ombudsman.org.uk) or via telephone 0345 01504033.

## **Action Against Medical Accidents (AvMA)**

AvMA provide free and confidential advice to patients who are considering pursuing compensation when they feel that their treatment has been negligent and caused harm. You can write to them at: Action against Medical Accidents, Freedman House, Christopher Wren Yard, 117 High Street, Croydon, CR0 1QG. Alternatively, you can visit their website at [www.avma.org.uk](http://www.avma.org.uk) or via telephone 0845 1232352.