

# Handling Complaints & Concerns Policy

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## Executive Summary

### What is a complaint?

- A complaint is any expression, verbal or written, of dissatisfaction with our service.
- Any member of staff can deal with complaints.
- The Trust treats complaints as opportunities to:
  - Learn from mistakes.
  - Improve the quality of our services.
- A complaint must be made within 12 months of the date on which the matter occurred, or within 12 months of the date on which the matter came to the notice of the complainant. The Patient Experience Manager will send to the complainant a written acknowledgement of their complaint within 3 working days.
- If necessary, an investigation will be made into the incident causing the complaint, and any lessons learnt implemented in the Trust. Any investigation should be completed in line with the Investigation Toolkit, Analysis and Improvement Policy.
- The Patient Experience Manager must prepare a written response to the complainant, which summarises the nature and substance of the complaint, describes the investigation and summarises its conclusions.

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## 1. Introduction

This document outlines our commitment to dealing with complaints about the service provided by Queen Victoria Hospital NHS Foundation Trust. It also provides information about how we manage, respond to and learn from complaint made about our services.

In doing to, it meets the requirements of the Local Authority Social Services and National Health Service Complaints [England] Regulations (2009), conforms to the NHS Constitution and reflects the recommendations from the Francis Report (2013).

We will treat complaints seriously and ensure that complaints, concerns and issues raised by patients, relatives and carers are properly investigated in an unbiased, non-judgemental, transparent, timely and appropriate manner. The outcome of any investigation, along with any resulting actions will be explained to the complainant.

The key issues taken into consideration when formulating this policy are that a complainant<sup>1</sup> needs to:

- Know how to complain;
- Feel confident that their complaint will be dealt with seriously.
- Understand that their concerns will be investigated and they will be informed of the findings of that investigation.
- Trust that Queen Victoria Hospital will learn from complaints, feedback and praise and apply those lessons whilst also learning from and sharing best practice.

This policy applies to all employees of the Trust in all locations including Non-Executive Directors, temporary employees, locums and contracted staff.

This policy does not cover:

- Complaints made by an employee of the Trust about any matter relating to their contract of employment. Please seek advice from HR or your trade union representative for complaints of this nature.
- A complaint arising out of the Trust's 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.

## 2. Definitions:

A complaint or concern is an expression of dissatisfaction about an act, omission or decision of Queen Victoria Hospital, either verbal or written, and whether justified or not, which requires a response.

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<sup>1</sup> Whenever we refer to a complainant we also mean their authorised representative

### 3. Purpose

We are committed to high quality care for all as a core principal of our vision and purpose. We will ensure that patients and their representatives can seek advice, provide feedback or make a complaint about the services we commission or the policies we have developed and implemented.

When dealing with complaints we aim to adhere to NHS England's organisation value's principles and follow the 'Good Practice Standards for NHS Complaints Handling' (Sept 2013) outlined by the Patients Association:

- Openness and Transparency - well publicised, accessible information and processes, and understood by all those involved in a complaint.
- Evidence based complainant led investigations and responses. This will include providing a consistent approach to the management and investigation of complaints.
- Logical and rational in our approach.
- Sympathetically respond to complaints and concerns in appropriate timeframes.
- Provide opportunities for people to offer feedback on the quality of service provided.
- Provide complainants with support and guidance throughout the complaints process.
- Provide a level of detail appropriate to the seriousness of the complaint.
- Identify the causes of complaints and to take action to prevent recurrences.
- Effective and implemented learning - use 'lessons learnt' as a driver for change and improvement.
- Ensure that the care of complainants is not adversely affected as a result of making a complaint.
- Ensure that NHS England meets its legal obligations.
- Act as a key tool in ensuring the good reputation of NHS England.

We support the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling (2009), My Expectations (2014) and the NHS Constitution which includes a number of patient rights relating to complaints. In summary, these include patients' rights to:

- Have their complaint acknowledged and properly investigated.
- Discuss the manner in which the complaint is to be handled and know the period in which the complaint response is likely to be sent.
- To be kept informed of the progress and to know the outcome including an explanation of the conclusions and confirmation that any action needed has been taken on.
- Take a complaint about data protection breaches to the independent Information Commissioners Office (ICO) if not satisfied with the way the NHS has dealt with this.

### 4. Scope

This policy applies to the handling of complaints or concerns relating to services provided by Queen Victoria Hospital.

The Patient Experience Manager may exercise their judgement, in conjunction with any appropriate member of staff, to identify feedback that fits the definition of a complaint provided in this policy. In these instances, the complaint process provided in section 12 will be applied with an explanation provided to the complainant with their acknowledgement why a complaint has been raised.

## **5. Duties**

### **5.1. Chief Executive Officer (CEO)**

The CEO has overall accountability for ensuring that this policy meets the statutory requirements as set out in the regulations. The CEO is responsible for approving and signing complaint response letters. Regulations 4 (2) allows the functions of the responsible officer to be performed by whoever has delegated responsibility in place for signing of complaints by the CEO:

- Chief Nurse
- Medical Director
- Director of Finance
- Director of Operations

### **5.2. Chief Nurse**

The Chief Nurse has overall responsibility for the day to day management of complaints and PALS and to ensure that local and national policies are being adhered to.

The Chief Nurse will, as part of the routine exception report on risk management to the Board, include reference to any relevant complaint or potential organisational learning.

### **5.3. Patient Experience Manager**

The Patient Experience Manager is the Trust's appointed individual to manage, handle and co-ordinate complaints under the NHS Complaints Procedure. The Patient Experience Manager is supported by the Chief Nurse and is part of Nursing and Quality. Specifically, in respect of complaints handling the Patient Experience Manager will:

- Ensure that patients and their relatives are not treated differently or discriminated against as a result of raising concerns.
- Is aware of their responsibilities with regard to complaints, and is sympathetic and responsive to any concerns that are expressed.
- Any complaints investigation is conducted in a professional, thorough manner, striking a suitable balance between confidentiality and openness. It must be fair to both the complainant and any staff involved. Wherever possible, the complaint should be managed within the designated timeframes.

- Ensure that learning and improvements that have been made as a result of complaints and that these are acted upon and that there is continued learning from complaints.
- Ensure the NHS Complaints Procedure is followed and that any changes to national guidance are adopted where relevant to Foundation Trusts;
- Be the named point of contact for complainants;
- Register and acknowledge complaints on Datix, the Trust's Risk Management System.
- 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.
- Conduct the investigation, drafting a response for the Chief Executive or delegated Executive Director;
- Provide bi-monthly reports to the Quality and Governance Committee which incorporates data on PALS, complaints, claims and patient surveys. This report will show:
  - the number of PALS and complaints received
  - the subject matter of complaints
  - number of complaints referred to the Parliamentary and Health Service Ombudsman including outcome of review
  - lessons learnt
- Identify best practice to ensure effective complaints handling and evaluate positive and negative feedback from complainants wherever possible;
- Provide support and guidance for all staff with complaints handling at local resolution;
- Offer debriefing sessions;
- Deliver training for all staff through the Customer Care programme.
- Ensure the recommendations made by the Health Service Ombudsmen are implemented
- Provide information and advice to make using our health services as easy as possible;
- Listen to questions, suggestions, concerns and act on the spot to resolve issues as quickly as possible;
- Work in partnership with patients and staff to answer questions and concerns;

- Ensure that patients, relatives and carers have suitable and accessible information about, and clear access to, procedures to raise concerns informally;
- Ensure comments and suggestions on improving services are taken seriously;
- Work with departments to ensure patients get the right information in the right way and at the right time;
- Help patients gain access to their medical records.

#### **5.4. Heads of Nursing / Managers / Clinical Directors / Lead Clinician / Matrons**

Heads of Nursing/Managers/Clinical Directors/Lead Clinicians/Matrons (in their absence, senior person on duty) are responsible for:

- Investigating complaints / concerns that have been raised within their department / care group;
- Providing timely responses to facilitate early resolution;
- Taking action to minimise/prevent recurrence;
- Ensuring that systems are in place to feedback to staff outcomes, actions taken and lessons learned from complaints and concerns.

#### **5.5. Business Unit Managers**

Business Unit Managers are responsible for:

- Ensuring compliance with the targets in the NHS Complaints Procedure;
- Encouraging swift resolution;
- Ensuring themes and issues from complaints and concerns raised are discussed at Directorate meetings.

#### **5.6. All staff**

All employees have a responsibility to:

- Be proactive and highlight issues to their line manager that could impact on patient and visitor experience;
- Respond to requests for information from the Patient Experience Manager in a timely manner to facilitate swift resolution;
- Understand the complaints procedure and the role of PALS in resolving concerns;
- Take an active role in handling and resolving complaints and concerns;
- Be responsive to lessons learned from complaints and concerns;

- To apologise if necessary and adhere to the guidance in the Being Open Policy (available on the Trust intranet).

### **5.7. Quality and Governance Committee**

The Trust's performance in relation to complaints handling is monitored quarterly by the Quality and Governance Committee, reported to the Trust Board and included in the annual report. Annual figures on complaints and complaints handling are provided to The Department of Health as part of the KO41 return.

## **6. PALS (Patient Advice and Liaison Service)**

Although PALS is not a complaints service it is often the first point of contact for someone who has concerns. The service is also available to assist staff in advising clients how they may proceed. The strength of PALS is that the service is often able to provide 'on the spot' help, support and information. Where PALS is unable to resolve concerns by the next working day, or where resolution would require considerable investigation clients are referred to the formal complaints procedure.

The PALS service will ensure that patients, relatives and carers have suitable and accessible information about, and clear access to, procedures to raise concerns informally.

### **6.1. PALS will aim to:**

- Provide information and advice to make using our health services as easy as possible
- Listen to questions, suggestions, concerns and act on the spot to resolve issues as quickly as possible
- Work in partnership with patients and staff to answer questions and concerns
- Make sure comments and suggestions on improving services are taken seriously
- Work with departments to ensure patients get the right information in the right way and at the right time
- Help patients gain access to their medical records
- Provide advice on how to make a formal complaint where appropriate
- Provide information on voluntary organisations, support groups and advocacy groups
- Help to guide people through the complexities of the different services provided
- Provide information on local and national health services
- Seek the views of patients and the public on the quality of services to help make sure that they are of the highest standards
- Ensure the Trust acts on feedback received

PALS is not a referral service intended to replace the problem-solving skills of staff within the Trust. It is a supplementary and complementary service intended to act as a safety net for patients who feel that their concerns have not been adequately answered, have not felt able to talk to staff directly about their concerns or wish to have independent support to address concerns.

It is the responsibility of all staff to deal with and resolve concerns on the spot and PALS will support staff in achieving this through effective training and advice. However, sometimes concerns may not be resolved to the patient's satisfaction; the patient requires support from somebody outside of the immediate situation or requires further advice or assistance. The patient may contact the PALS service directly or staff may do this with the patients consent.

The Patient Experience Manager has responsibility for the PALS service, ensuring that the requirements of patients, relatives and carers are met and their concerns are dealt with quickly and effectively. PALS forms part of Quality and Risk.

## 7. Accessibility

- The Trust is committed to make its complaints procedure as easily accessible as possible. All users of our service should be able to make a complaint and their needs related to their race, gender, sexual orientation, age, disability, and religion or belief must be accommodated. The Trust will try to do this by:
- Providing complaints management information in different languages and formats (e.g. audio tape and web based and easy read) to meet the needs of individuals. Requests should be made to the Patient Experience Manager.
- Providing support through Patient Experience or signposting to independent advocacy services.
- Using trained interpreters, when required, and ensuring interpreting services are aware of the complaints management process.
- Meeting complainants when face to face contact is necessary, at mutually agreeable venues.
- Undertaking training and awareness sessions to increase awareness of the needs of diverse groups to ensure that contact whilst making a complaint is appropriate and empathetic.
- Ensuring that those with physical, mental impairment or learning disabilities are able to access the service.
- Building relationships with statutory capacity (IMCA), mental health (IMHA) and general (ICAS) advocates who support service users who may wish to make a complaint.

- Ensuring that complainants are treated with courtesy and that they receive appropriate support throughout the handling of a complaint; and reassured that the fact that they have complained will not affect their future treatment.
- The Patient Experience Manager will follow up any concerns the complainant has on their future treatment and report to the Chief Nurse for action if the concerns are justified.
- The Trust is committed to the fair treatment of all, regardless of age, race, disability, gender, gender reassignment, nationality, race, religion or belief, responsibility for dependents, sexual orientation or any other personal characteristic.
- Assertively obtaining information from the complainant and the subject of the complaint, if different, about their age, gender and gender identity, ethnic background, disability, sexual orientation and religion and belief (the six equality strands) and using this information to improve the accessibility of the complaints management process to the public.
- Considering the payment of reasonable expenses to facilitate the attendance of complainants at meetings.

## 8. Who can make a complaint

A complaint may be made by the person who is affected by the action, or it may be made by a person acting on behalf of a patient in any case where that person:

- Is a child; (an individual who has not attained the age of 18)

In the case of a child, we must be satisfied that there are reasonable grounds for the complaint being made by a representative of the child, and furthermore that the representative is making the complaint in the best interests of the child.

- Has died;

In the case of a person who has died, the complainant must be the personal representative of the deceased. NHS England needs to be satisfied that the complainant is the personal representative. Where appropriate we may request evidence to substantiate the complainant's claim to have a right to the information.

- Has physical or mental incapacity;

In the case of a person who is unable by reason of physical capacity, or lacks capacity within the meaning of the Mental Capacity Act 2005, to make the complaint themselves, NHS England needs to be satisfied that the complaint is being made in the best interests of the person on whose behalf the complaint is made.

- Has given consent to a third party acting on their behalf;

In the case of a third party pursuing a complaint on behalf of the person affected we will request the following information:

- Name and address of the person making the complaint;
- Name and either date of birth or address of the affected person; and
- Contact details of the affected person so that we can contact them for confirmation that they consent to the third party acting on their behalf.

This will be documented in the complaint file and confirmation will be issued to both the person making the complaint and the person affected.

- Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs.
- Is an MP, acting on behalf of and by instruction from a constituent.

If the Patient Experience Manager is of the opinion that a representative does or did not have sufficient interest in the person's welfare, or is not acting in their best interests, we will notify that person in writing.

## 9. How to complain

Information about giving feedback or making a complaint can be found on the QVH website <http://www.qvh.nhs.uk/>

A complaint can be made:

By telephone: 01342 414000

By e-mail: [qvh.pals@nhs.net](mailto:qvh.pals@nhs.net)

By post: Chief Executive, Queen Victoria Hospital NHS Foundation Trust, Holtye Road, East Grinstead, West Sussex, RH19 3DZ

We will endeavor to make the necessary reasonable adjustments in order to receive, investigate and respond to any complaint. For people whose first language is not English, we have access to translation and telephone interpreting service.

For the avoidance of doubt, a working day is considered Monday to Friday between 8.30am and 4.30pm. A complaint or concern received outside of working hours, across a weekend or bank holiday period, will not be considered received until the first working day following receipt.

## 10. Complaints that cannot be dealt with under this policy

The following complaints will not be dealt with under the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009):

- A complaint made by an employee about any matter relating to their employment

## 11. Timescales for making a complaint

Complaints must be made not later than:

- Twelve months after the date on which the matter which is the subject of the complaint occurred; or
- Twelve months after the date on which the matter which is the subject of the complaint came to the notice of the complainant.

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. We may decide to still consider the complaint, for example, longer periods of complaint timescales may apply to specific clinical areas.

## 12. The complaint process

All complaints will be acknowledged no later than three working dates after the day the complaint is received (the acknowledgement will be made either by telephone, email or letter) and an offer will be made, as appropriate, to discuss with the complainant the following:

- An action plan for handling the complaint
- Timescales for responding
- The complainants expectations and desired outcome
- The Patient Experience Manager will capture relevant information about the case and ensure this is accurately recorded.

The Patient Experience Manager will ensure that an explanation of why a complaint has been raised is provided where a complainant may not feel they've made a complaint.

The complainant can expect that:

- They will be kept up to date with the progress of the complaint
- If a case has passed the 30 working day target, the complainant (and advocate if relevant) should receive an update every 10 working days thereafter the target has been surpassed. This could be telephone, e-mail or letter.
- They can expect to receive a quality response with reassurance that action had been taken to prevent a recurrence, if appropriate.
- They will be informed of any learning.

On receipt of the investigation comments/report a response to the complaint will be prepared and the Patient Experience Manager will include information on the next stages of the complaint procedure should the complainant wish to take matters further.

Where the complainant involved more than one NHS body, discussions will take place between the bodies concerns about the most appropriate body to take the lead in coordinating the complaint and communicating with the complainant.

Where QVH receive a complaint involving several bodies, permission will be sought from the complainant before sharing or forwarding a complaint to another body. Consent will need to be obtained to forward the complaint to any other organisation.

As soon as it is reasonably possible after completing the investigation, and within the timescale agreed with the complainant, we will send a formal response in writing to the

complainant which will be signed by the Chief Executive or nominated Executive Director.

The response will include:

- An explanation of how the complaint has been considered.
- An apology if appropriate.
- An explanation based on facts.
- The conclusions reached in relation to the complaint including any remedial action that is considered appropriate.
- Confirmation that the Trust is satisfied any action has been or will be actioned.
- Where possible, we will respond to complainants about any lessons learnt.
- Information and contact details of the Parliamentary and Health Service Ombudsman as the next stage of the NHS complaints process.

A key consideration is to make arrangements flexible; treating each case according to its individual nature with a focus on satisfactory outcomes, organisational learning and those lessons should lead to service improvement.

If at any time during the complaint process the complainant or their representative or advocate decides they would like to withdraw the complaint this request can be made either verbally or in writing. The withdrawal of a complaint will be acknowledged in writing.

### **13. General Framework**

#### **13.1. Independent Complaints Advocacy Service (ICAS)**

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 Patient Experience Manager directly via the complaints leaflet or via the ICAS website - [www.seap.org.uk](http://www.seap.org.uk). All complaint acknowledgement letters will also have a copy of the complaints leaflet enclosed.

ICAS are only available to support people in making complaints about the NHS and will not be available to help with complaints about social care.

#### **13.2. 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, and if it is considered by the Patient Experience Manager 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.

#### **13.3. Media Interest**

Staff should refer any media interest in a complaint to the Director of Communications and Corporate Affairs who should be briefed where any complainant expresses their intention to contact the media.

#### **13.4. Redress**

Under the new 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-imbursement for any financial loss incurred.

For any financial reimbursements, if during the course of the complaint investigation, the Trust is found to be at fault and the complainant has suffered financial loss, the Patient Experience Manager will assess each case and in turn will provide any financial re-imbursements as appropriate. The Patient Experience Manager will make contact with the complainant, assess the claim for re-imbursement and make a decision accordingly.

#### **13.5. Meetings**

Where complaint meetings take place, it is important to record accurately the discussion and outcome of that meeting. If appropriate use digital recording equipment to accurately record the meeting as long as agreement has been obtained from all parties present. Meeting recordings will be held as part of the complaint file.

Meeting recordings will be made available on request to the complainant.

#### **13.6. 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). 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 Patient Experience Manager. Any charges involved will be picked up by the Directorate leading on that individual complaint. Mediation may be offered via appropriately trained external mediators. Any arrangements for mediators must be discussed with the Chief Nurse in the first instance.

### **14. Duty of Candour**

**14.1.** Within the Francis Inquiry report into Mid Staffordshire NHS Foundation Trust, there was a recommendation that a statutory duty of candour be introduced for health and care providers. The NHS Constitution requires all healthcare commissioners and providers of NHS services (including CCGs) to be open about mistakes and always tell patients if something has gone wrong.

**14.2.** This is further to the contractual requirement for candour for NHS bodies in the standard contract, and professional requirements for candour in the practice of a regulated activity.

**14.3.** Every member of staff in NHS organisations has a duty to be open and honest with patients, their families, carers and representatives. This includes when things go wrong; welcoming and listening to feedback and addressing concerns promptly and in a spirit of co-operation (NHS Constitution).

**14.4.** Being open and honest about what happened is not an admission of liability and discussing complaints promptly, fully and compassionately with patients, family, carers or representatives can:

- Help patients, family or carers cope with the after effects,
- Provide reassurance that everything will be done to ensure the type of incident that resulted in their complaint does not happen again,
- Provide an environment where patients, family, carers, healthcare professionals and managers feel supported when things go wrong, and;
- Help prevent events becoming litigation claims

More information on the Duty of Candour can be found in the corresponding policy.

## **15. Recording Concerns, Comments and Compliments**

In addition to complaints, the Patient Experience Manager also records concerns, comments and compliments on a 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 Patient Experience Manager 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. Concerns are themed and reported quarterly to the Patient Engagement Group.

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.

All compliments will be recorded by the Patient Experience Manager and reported in the same way as complaints, concerns and comments. Compliments will also be passed onto the staff involved to ensure they are aware of the positive things said about them.

## **16. Involving External Agencies**

### **16.1. Complaints involving other NHS organisations**

Any complaint which involves other NHS organisations will be co-ordinated by the organisation which 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. If the complaint originated at this Trust the Patient Experience Manager will

communicate with the complainant and the other organisations to obtain information and responses along with learning outcomes and completed actions.

#### **16.2. 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.

#### **16.3. Complaints regarding private care**

This complaints procedure does not allow for complaints about private medical care provided by a consultant. In these situations, complaints should be sent to the consultant directly.

#### **16.4. 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.

### **17. Confidentiality**

Complaints will be handled in the strictest of confidence and will be kept separately from patients medical records. Care will be taken that information should only be disclosed to those who have a demonstrable need to have access to it.

Suitable arrangements are in place for the handling of patient identifiable data to meet the compliance of the Data Protection Act and other legal obligations such as the Human Rights Act 1998 and the common law duty of confidentiality. The Caldicott Report sets out a number of general principles that health and social care organisations should use when reviewing its use of patient information.

The designated Caldicott Guardian is responsible for ensuring that confidentiality is maintained.

Confidentiality will be maintained in such a way that only managers and staff who are leading the investigation know the contents of the case. Anyone else disclosing information to others who are not directly involved in this may be dealt with under disciplinary procedures.

### **18. Consent**

There is an expectation that when capturing consent for the use and sharing of information, that the patient has made any informed decision and clearly understands the processing and potential sharing of their information. Staff must also understand the expectations of confidentiality that the information is provided under.

Information will not be disclosed to third parties unless the complainant or appropriate authorised party who has provided the information has given consent to the disclosure of that information.

Consent should be pursued. If by the 30<sup>th</sup> working day consent has not been received the complaint should be disclosed and categorised as a concern.

## **19. Advocacy Services**

Since April 2013, individual local authorities have a statutory duty to commission independent advocacy services to provide support for people making, or thinking of making, a complaint about their NHS care or treatment. Arrangements will vary between local authority areas. Complainants will be advised to contact their local Healthwatch.

## **20. Referrals to the Parliamentary and Health Service Ombudsman (PHSO)**

If a complainant remains dissatisfied with the handling of the complaint by Queen Victoria Hospital, they can ask the PHSO to review the case.

The PHSO may investigate a complaint where, for example:

- A complaint is not satisfied with the result of the investigations undertaken by Queen Victoria Hospital.
- The complainant is not happy with the response from Queen Victoria Hospital and does not feel that their concerns have been resolved.
- Queen Victoria Hospital has decided not to investigate a complaint on the grounds that it was not made within the required time limit.

We will provide information on how to contact the PHSO when issuing the formal written response.

When informed that a complainant has approached the PHSO, we will cooperate fully with the PHSO and provide all information that has been requested in relation with the complaint investigation.

## **21. Reporting and Learning Lessons From Complaints, Comments, Feedback and Compliments**

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 or improvement.

Lessons can be learnt from individual complaints and from information identified through aggregation and analysis of Claims, Complaints and Incidents. This process is detailed in the Risk Management and Incident Reporting Policy located on the intranet/policies and procedures/risk management folder for further information. This includes the escalation and communication process.

The overall purpose of reporting is to:

- Enable patients and their representatives to see that their comments and complaints are being dealt with and that any complaint investigations have been thorough and fair

- Enable QVH to demonstrate that comments, concerns and complaints are taken seriously
- Provide a record of how complaints have been resolved and what action plans are in place
- Enable Directorates to monitor the action plans from complaints and share learning
- Ensure that feedback from compliments, comments enquiries and complaints lead to improvements in the planning and delivering services
- Enable themes and trends from complaints, concerns and compliments to be shared with commissioners, Healthwatch and others in order to provide assurance that lessons are being learnt.

The Risk Team, Patient Experience Manager, Operational leadership team, Medical leadership team and Nursing leadership team will ensure any actions for learning from a complaint or claim are captured in the relevant action plan, including the “learning from incidents complaints and claims action plan” which is reviewed and monitored by the Quality and Governance Committee. In order to do so, greater transparency of each complaint will be provided to specific senior roles.

Lessons learnt from complaints must be shared across the Trust through the Trust Board, Quality and Governance Committee, Directorate and Ward Manager’s meetings as a method of ensuring changes do occur. It is the responsibility of the Patient Experience Manager to ensure these forums are provided with information on lessons learnt. Directorate meetings must regularly (minimum quarterly) have complaints as a meeting agenda item to ensure there is a clear focus on complaints and preventative measures.

Lessons learnt from complaints are also shared with the Trust Board as part of the bi-monthly Quality Report. – detailed in the Risk Management and Incident Reporting Policy.

A monthly complaint meeting with the Patient Experience Manager and Chief Executive is held where new and closed complaints are discussed in detail.

If the Patient Experience Manager notes that despite lessons learnt being shared there are still recurring issues, they should ensure Directorate or corporate issues are being addressed using the most applicable forum.

A template report produced by the Patient Experience Manager ensures standard information is routinely included in monthly reports.

An annual report will be prepared on complaints handling for the Directorates, Trust Board, and published to local stakeholders to demonstrate, not only how many complaints were received and how they have been handled by the Trust, but also how lessons have been learnt from complaints and actions taken to avoid re-occurrence. This report will also reflect the number of compliments received.

## **22. Training and support for staff**

Being involved in a complaint can very stressful for staff, especially if they are being personally criticised. The complaints management process is not designed to apportion blame but rather to help identify if anything has gone wrong so that corrective action can be taken to alleviate any distress it has caused and to prevent similar incidents occurring.

Training in handling of complaints is included in the Trust's new starter's induction training programme or bespoke training can be given either to individuals or departments either on request or if required.

All staff involved must be able to call upon guidance and support from within the organisation. This should come from their line manager, or Patient Experience department. Staff may also wish to obtain support from their Professional Organisation or Trade Union. Further guidance is within the Risk Management & Incident Reporting Policy.

To enable a full and thorough investigation to take place, the issues raised within the complaint must be shared with those being complained about. Managers should therefore ensure that staff are shown a copy of any letter of complaint concerning them, before being interviewed as part of the investigation.

Managers should also ensure that any member of staff mentioned in the response to a complaint receives a copy of the final response to the complaint.

Staff will be made aware of the need not to discriminate against people who raise concerns or complaints via the induction and training in complaints handling.

### **23. Record Keeping**

Keeping clear and accurate records of complaints is important and these should be retained for a period of ten years.

### **24. Data Protection**

The Data Protection Act 1998 protects personal data which includes information about staff, patients and carers. The NHS relies on maintaining the confidentiality and integrity of its data to maintain the trust of the community. Unlawful or unfair processing of personal data may result in the Trust being in breach of its Data protection obligations.

Complaints correspondence should be held separately from medical records for reasons of confidentiality. The only instance where this may not apply is if the complaint relates to a clinical matter, information on which may be required for future care. In this case, a note should be included in the medical records to the effect that further correspondence is held by the Patient Experience Manager.

### **25. Equality Impact Assessment**

This policy and protocol has been equality impact assessed in accordance with the Trust's impact assessment toolkit. Completed assessments are available upon request from

[qvh.eqia@nhs.net](mailto:qvh.eqia@nhs.net).

## 26. Monitoring Compliance with this Policy

Compliance with the policy and procedures laid down by this document will be monitored by the Patient Experience Manager.

The Patient Experience Manager will be responsible for the monitoring, revision and updating of this document. This policy will be kept under review in light of operational experience and national guidance. The first review will take place two years from this issue.

We will demonstrate how we use feedback to learn and improve. An annual report will be produced, which will detail:

- Number of complaints
- Number of complaints received considered to be based on solid evidence or good reasons (complaints upheld)
- Issues and key themes that the complaints have raised
- Lessons learnt
- Actions taken, or being taken, to improve services as a result of the complaints made
- Number of cases which we have been referred to the Parliamentary and Health Service Ombudsman
- Include reporting on praise and other feedback and how that information has been shared
- Production of bi-monthly reports for the Quality and Governance Committee will be produced and include identification of trends and highlight issues for audit.

Activity being monitored	Methodology to be used for monitoring	Responsibility for monitoring	Frequency of monitoring and reporting	Process for review, action and improvement
The process for listening and responding to concerns /complaints	Audit of complaints to check timeliness of responses.	Patient Experience Manager and Chief Nurse	Annual	Quality and Governance Committee review and ensure actions for improvement completed
The process for handling joint complaints between organisations	Review of complaints where joint working did not result in patient satisfaction.	Patient Experience Manager and Chief Nurse	Annual	Quality and Governance Committee review and ensure actions for improvement completed

Activity being monitored	Methodology to be used for monitoring	Responsibility for monitoring	Frequency of monitoring and reporting	Process for review, action and improvement
The process for ensuring that patients, their relatives and carers are not treated differently as a result of raising a concern/complaint	Review of patient satisfaction survey and re complaints.	Patient Experience Manager and Chief Nurse	Annual	Quality and Governance Committee review and ensure actions for improvement completed
The process by which the organisation aims to improve as a result of concerns/complaints being raised	Review of learning from incidents, claims and complaints action plan by Quality and Governance Committee	Patient Experience Manager and Chief Nurse	Every 2 months	Quality and Governance Committee and ensure actions for improvement completed

## 27. References

- A Review of the NHS Hospitals 'Putting Patients Back in the Picture' - Clwyd Hart, October 2013
- Local Authority Social Services and National Health Service Complaints [England] Regulations (2009)
- Caldicott Report 1997
- Duty of Candour 2013
- Equality Act 2010
- Freedom of Information Act 2000
- Human Rights Act 1998
- Listening, Responding and Improving – A Guide to Better Customer Care (2009)
- Principles of good administration. Parliamentary and Health Service Ombudsman (2009)
- Principles of good complaints handling. Parliamentary and Health Service Ombudsman (2009)
- Principles for remedy. Parliamentary and Health Service Ombudsman (2009)
- Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry Executive Summary February 2013
- The Data Protection Act 1998
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
- PHSO- 'My expectations for raising a concern or complaint'

**Appendix A – Complaint Form**

full version of form is available on Qnet

Your details (complainant).	Please provide us with your contact details.
Title e.g. Mr, Mrs, Ms, Miss	
First Name	
Surname	
Date of Birth	
Address	
Postcode	
Daytime contact number (9am-5pm)	
Mobile telephone number (9am-5pm)	
E-mail address  <i>Please note that we cannot guarantee the security of information sent by e-mail. Please do not give us your e-mail address unless you agree to us communicating with you by e-mail.</i>	

Patient details. If you are not the patient please ask the patient to sign the declaration at the end of this form to give his/her permission for you to act as his/her representative.

Title e.g. Mr, Mrs, Ms, Miss	
First Name	
Surname	
Date of Birth	
Address	
Postcode	
Your NHS number (if known)	
Daytime contact number (9am-5pm)	
Mobile telephone number (9am-5pm)	
E-mail address	
<p><i>Please note that we cannot guarantee the security of information sent by e-mail. Please do not give us your e-mail address unless you agree to us communicating with you by e-mail.</i></p>	

What service is your complaint about?

Where did the incident/s happen that led to your complaint? Please be as specific as possible.

When did the incident/s happen that led to your complaint? If more than one date, please specify when the incident occurred below.

Date	Time
------	------

Or indicate the time period when the incidents occurred.

From	To
------	----

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From	To
------	----

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Please describe the circumstances that led to your complaint. Please include details of:

- Who was involved
- How it has affected you
- What was said and done
- What you think the service failed to do, or did wrongly

If there is not enough space please continue on a separate piece of paper and attach it to this form.

What do you think the hospital should do to put things right? (please tick)

Apology	Explanation
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Further appointment

Other (please  
specify

If there has been a delay in telling us of your complaint, please state why.

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We will send you an acknowledgement within 3 working days of receiving your communication. We try to respond as quickly as possible and will aim to reply within 25 working days.

### Declaration

I give my consent for you to pass the information contained on this form to the appropriate service for consideration. I also understand that the appropriate service may share relevant information in order to complete the investigation into my complaint.

If you are not the patient making the complaint, you must obtain the patient's consent to act as his or her representative – please ensure that you sign the first signature box identifying that you are the complainant and that the patient signs the second signature box giving consent for you to act on their behalf.

Complainant's signature

Date

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I give permission for the complainant to act as my representative and I understand that confidential information may be disclosed to appropriate services and to my representative if appropriate to the case.

Patient's signature (if s/he is not the  
complainant).

Date

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Thank you for taking the time to bring your complaint to our attention.

**Please return this form to:** Patient Experience Manager, Queen Victoria Hospital,  
**FREEPOST RCC2987**, Holtye Road, East Grinstead, West Sussex RH19 3DZ

## Appendix B - Guidance notes for complaints meetings

Meetings can be a particularly effective way of diffusing a potential complaint, resolving an on-going complaint or clearing up outstanding issues following a final response to a complaint. It is often far easier to discuss issues and avoid misinterpretation through verbal communication rather than correspondence.

You may find some staff will say “we’ve already been through this and have answered their concerns”, but maybe the complainant did not understand it or wants clarification. Therefore, a meeting should be seen as a tool to assist resolution of the matter and lessen the likelihood of an escalation of the issue.

### Checklist

- Check with the complainant what the issues are and who will be attending with them.
- Determine with them where and when the meeting will be and which staff should attend. (It may be best in some cases to meet at an off-site, neutral venue at a time negotiated between both parties.)
- Ensure the venue is appropriate. Have water, tissues etc. available.
- In difficult cases you may wish to set a deadline at which the meeting will end.
- Before the meeting, review the circumstances and review the details with staff who are involved, and with staff who will be at the meeting, to maintain honesty and consistency.
- Ensure everyone who is involved is kept up-to-date: clinical staff, secretaries, Patient Experience Manager etc.
- If you feel the complainants or their family may be intimidating to a staff member you may take the decision not to have that staff member at the meeting.
- Ensure staff that come to the meeting are briefed and offered support; they should not be left to take the full brunt of a complainant’s anger etc. Know exactly what action junior staff took and offer support to them, even if it was not the most appropriate action at the time.
- Begin with introductions and your understanding of the reasons for the meeting.
- Have a note-taker at the meeting so that you can concentrate on the issues at hand. Also, they can summarise and agree any follow-up action at the end of the meeting and the notes can be used to write the response following the meeting.
- **Listen** – ask the complainant to outline **their** key issues. Clarify outstanding issues from those that might already have been addressed.
- Accept blame and apologise if necessary.
- At the end of the meeting **summarise the key points and any actions agreed/who will undertake them**. Tell the complainant what will happen next and when.

## **Appendix C - Guidance for dealing with persistent and/or unreasonable contact**

### **1 Introduction**

This guidance covers all contacts, enquiries and complainants. It is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint within the Handling Complaints & Concerns Policy.

Persistent contact may be as a result of individuals having genuine issues and it is therefore important to ensure that this process is fair and the complainant's interests have been taken into consideration.

### **2 Purpose of the procedure**

To assist the organisation to identify when a person is persistent or unreasonable, setting out the action to be taken.

### **3 Definition of an habitual or vexatious complainant**

There is no one single feature of unreasonable behaviour. Examples of behaviour may include those who:

- Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted.
- Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff, and where appropriate, the relevant independent advocacy services could assist to help them specify their complaint.
- Continually make unreasonable or excessive demands in terms of process and fail to accept that these may be unreasonable e.g. insist on responses to complaints being provided more urgently than is reasonable or is recognised practice.
- Continue to focus on a 'trivial' matter to an extent that it is out of proportion to its significance. It is recognised that defining 'trivial' is subjective and careful judgment must be applied and recorded.
- Change the substance of a complaint or seek to prolong contact by continually raising further issues in relation to the original complaint. Care must be taken not to discard new issues that are significantly different from the original issue. Each issue of concern may need to be addressed separately.
- Consume a disproportionate amount of time and resources.
- Threaten or use actual physical violence towards staff.
- Have harassed or been personally abusive or verbally aggressive on more than one occasion (this may include written abuse e.g. emails).
- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual.
- Make excessive telephone calls or send excessive numbers of emails or letters to staff.

### **4. Actions prior to designating a person's contact as persistent and/or unreasonable**

It is important to ensure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of considerations to bear in mind when considering imposing restrictions upon a complainant.

These may include:

- Ensuring the person's case is being, or has been dealt with appropriately, and that reasonable actions will follow, or have followed, the final response.
- Confidence that the person has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent.
- Checking that new or significant concerns are not being raised, that requires consideration as a separate case.
- Applying criteria with care, fairness and due consideration for the client's circumstances – bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss or significant/sudden changes to the complainant's lifestyle, quality of life or life expectancy.
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour, and the impact upon staff.
- Ensuring that the complainant has been advised of the existence of the policy and has been warned about, and given a chance to amend their behaviour.

Consideration should also be given as to whether any further action can be taken prior to designating the person's contact as unreasonable or persistent.

This might include:

- Raising the issue with a Director with no previous involvement, in order to give an independent view.
- Where no meeting with staff has been held, consider offering this at a local level as a means to dispel misunderstandings (only appropriate where risks have been assessed).
- Where multiple departments are being contacted by the complainant, consider a strategy to agree a cross-departmental approach.
- Consider whether the assistance of an advocate may be helpful.
- Consider the use of ground rules for continuing contact with the complainant.

Ground rules may include:

- Time limits on telephone conversations and contacts.
- Restricting the number of calls that will be taken or agreeing a timetable for contacting the service.
- Requiring contact to be made with a named member of staff and agreeing when this should be.
- Requiring contact via a third party e.g. advocate.
- Limiting the complainant to one mode of contact.
- Informing the complainant of a reasonable timescale to respond to correspondence.
- Informing the complainant that future correspondence will be read and placed on file, but not acknowledged.

- Advising that the organisation does not deal with calls or correspondence that is abusive, threatening or contains allegations that lack substantive evidence. Request that the complainant provides an acceptable version of the correspondence or make contact with a third party to continue communication with the organisation.
- Ask the complainant to enter into an agreement about their conduct.
- Advise that irrelevant documentation will be returned in the first instance and (in extreme cases) in future may be destroyed.
- Adopting a 'zero tolerance' policy. This could include a standard communication line, for example: "The NHS operates a zero tolerance policy, and safety of staff is paramount at all times. Staff have a right to care for others without fear of being attacked either physically or verbally."

## **5. Process for managing persistent and/or unreasonable behaviour**

Where a person's contact has been identified as persistent and/or unreasonable, the decision to declare them as such is made jointly by the Patient Experience Manager and the Chief Executive/Chief Nurse.

A letter from the Chief Executive/Chief Nurse will be sent to the complainant, informing them that either:

- Their complaint is being investigated and a response will be prepared and issued as soon as possible within the timescales agreed.
- That repeated calls regarding the complaint in question are not acceptable and will be terminated, or;
- Their complaint has been responded to as fully as possible and there is nothing to be added.
- That any further correspondence will not be acknowledged.

All appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation.

If the declared complainant raises any new issues then they should be dealt with in the usual way.

## **6. Record Keeping**

Ensure that adequate records are kept of all contact with persistent and/or unreasonable contact.

Consideration should be given as to whether the organisation should take further action, such as reporting the matter to the police, taking legal action, or using the risk management or health and safety procedures to follow up such an event in respect of the impact upon staff.