



Complaints Policy

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PURPOSE	To set out the principles and framework for complaints management, investigation, and learning from complaints.
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1 Policy Statement

- 1.1 University Hospitals Birmingham NHS Foundation Trust ('the Trust') is committed to delivering the best in care.
- 1.2 The Trust will aim to resolve concerns at the point of contact wherever possible.
- 1.3 The Trust will ensure that concerns which cannot be resolved at point of contact or via the Patient Advice and Liaison Service ('PALS') are investigated and managed appropriately and in accordance with the wishes of the individual raising the concern.
- 1.4 The Trust welcomes complaints, as it seeks to learn from them in order to drive improvements and further enhance our patients' experience.
- 1.5 It is important for the complainant to feel that they have been listened to, that we have responded to all their concerns and shown an appropriate level of empathy in our response to their complaint.
- 1.6 The Trust will ensure that it complies with current legislation (The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009) ('current legislation') and guidance from the NHS Constitution for England and the Parliamentary and Health Service Ombudsman ('PHSO') when dealing with complaints.
- 1.7 Anyone choosing to make a complaint, or a patient who complains, will not be treated differently as a result of a complaint having been made. To support this process complaint documentation is held separately to the patient's medical records and the importance of this is highlighted in relevant training programmes.

2 Scope

- 2.1 This policy applies to complaints that are dealt with in line with current legislation in relation to the Trust's services, including any satellite services, and all individuals acting on behalf of the Trust including: employees, contractors, volunteers, students, locum/agency staff and those employed on honorary contracts.
- 2.2 This policy applies to concerns that cannot be resolved at the point of contact or through PALS and where the patient/complainant expresses the wish to make a formal complaint and/or where the Trust considers that a concern warrants formal investigation via the complaints process. Please refer to the PALS Policy and Procedure documents for the process for dealing with concerns raised by patients, carers and the public.
- 2.3 The complaints policy is not designed for staff to raise a complaint against another member of staff, except where a member of staff is making a

complaint as, or on behalf of, a patient about services provided by the Trust.

3 Framework

3.1 This section describes the broad framework for the Complaints Policy. Detailed instructions are provided in the associated procedural documents.

3.2 Operational instructions for complaints handling, investigation of complaints, and learning from complaints are detailed in the Complaints Procedure and Complaints Procedure (Habitual or Vexatious Complaints).

3.3 A complaint is defined as ‘an expression of dissatisfaction made orally, in writing or electronically, requiring a response, which cannot be resolved at point of contact or through PALS and which falls within the scope of the NHS Complaints Regulations’. Where complaints fall outside of this scope because they “are out of time” and cannot be resolved at the point of contact, the Complaints Department will deal with them as enquiries, providing relevant documents can be accessed.

3.4 The Complaints Department oversees the complaints process from an administrative and regulatory point of view.

3.5 Complaints Process

3.5.1 Every complaint shall be recorded on the Complaints database (Datix).

3.5.2 Where complaints are received orally, a record will be made, and a written summary of the issues will be provided to the complainant.

3.5.3 Complaints will be acknowledged either orally, electronically or in writing within three working days of receipt.

3.5.4 The Trust will ensure that all complaints receive an appropriate, thorough, specific and timely investigation in accordance with current legislation and the Trust’s associated Complaints Procedure.

3.5.5 Timescales for completion will be agreed between the Complaints Department and the complainant. Where the original timescales cannot be achieved, the Complaints Department will contact the complainant and agree a revised completion date in line with local targets.

3.5.6 Information regarding complaints that may involve incidents, inquests, claims, potential breach of duty or requests for compensation will be shared between the Trust’s Risk and

Compliance Department, Legal Services Department and the Complaints Department.

- 3.5.7 Where it is considered that a complaint investigation may prejudice the outcome of legal proceedings, the complaint investigation may be suspended. Decisions to suspend shall be taken by the Executive Chief Nurse, having taken appropriate advice from relevant staff.
- 3.5.8 Where a complaint includes a request for compensation, the Complaints Department will ensure that this is reported to the Legal Services Department. Reference should also be made to the associated Complaints Requesting Compensation Procedure.
- 3.5.9 Where a complaint relates in whole or in part to an incident that could potentially be considered a serious incident or be subject to Duty of Candour, the Complaints Department will ensure this is reported to the Risk and Compliance Unit.
- 3.5.10 Complaints that involve more than one NHS body will be investigated independently but may receive either separate responses from each organisation or a single co-ordinated response in line with NHS Complaint Regulations and subject to negotiation with the complainant.

3.6 Response and Being Open

- 3.6.1 The Trust will observe the principles of Being Open as set out in the Being Open Policy by offering full and honest explanations, observing Duty of Candour requirements where appropriate. An apology will be provided where appropriate to do so.
- 3.6.2 The complainant will be provided with information about the complaints process, including how to access an advocacy service.
- 3.6.3 All complainants will be given details of the Parliamentary and Health Service Ombudsman (PHSO), as they have the right to request an independent review, following completion of local resolution within the Trust's complaints process.
- 3.6.4 Where the Trust's response has not satisfied the complainant and where there is scope for further investigation and response, a further response will be provided to the complainant within an agreed timescale, following an additional investigation. The further response may take the form of a letter, a meeting or a telephone call, in accordance with the complainant's wishes wherever possible.

3.6.5 Where the Trust's response has not resolved the complaint to the complainant's satisfaction and there is no scope for further investigation, nor any additional information can reasonably be provided to the complainant, then the Trust will explain that local resolution is complete and will remind the complainant of their right to request an independent review via the PHSO. The Trust may itself approach the PHSO to ask it to consider accepting the case under section 10 of the Health Service Commissioners Act (1993).

3.6.6 The Trust will ensure that staff learn from complaints and that this is disseminated across the Trust via relevant staff, reports, forums and other mechanisms. It is important that any learning is also shared with complainants in the Trust's response to their complaint. Please refer to the Trust's Complaints Procedure for further information.

3.7 Habitual or Vexatious Complaints

3.7.1 Where complaints are considered to be habitual or vexatious, the complainant will be handled in accordance with the Complaints Procedure (Habitual or Vexatious Complaints).

3.8 Supporting Staff

3.8.1 The line manager is responsible for the provision of primary support for staff involved in a complaint.

3.8.2 For longer term support, their line manager can offer Staff Support Services. Staff Support Services offer one-to-one counselling and long term support. This service is independent of the management structure and is completely confidential. The line manager must ensure the member of staff is aware of the Staff Support Service and give them the Staff Support Service information leaflet. The line manager can obtain Staff Support leaflets from the Occupational Health and Safety Department or they can be accessed via the Intranet.

3.8.3 If a staff member is experiencing difficulties associated with an event related to a complaint, which have not been resolved following the process above, discussion should be considered by their line manager, in consultation with the member of staff and a Human Resources Manager using the appropriate policy or procedure.

3.9 Staff performance issues

3.9.1 The Trust investigates complaints to establish **what** went wrong rather than **who** did wrong.

3.9.2 During the course of an investigation, if it is identified that there may be concerns regarding the performance, capability or competence of any individual, then the appropriate Divisional Management Team should consider a further investigation in accordance with the Trust's Managing Poor Performance Policy and associated procedure.

4 Duties

4.1 Chief Executive

The Chief Executive will review, approve, and sign all final responses to complaints. In the absence of the Chief Executive, complaints will be reviewed and final responses signed by the person with delegated authority.

4.2 Chief Nurse

The Chief Nurse has executive responsibility for effective complaints handling and compliance with this policy.

4.3 Executive Directors

Executive Directors are responsible for ensuring complaints in their corporate areas of responsibility are responded to and that learning is implemented.

4.4 Head of Patient Experience

The Head of Patient Experience has responsibility for ensuring that all complaints are investigated appropriately, responded to in an effective and professional manner, and that the Trust meets its statutory obligations and local targets.

4.5 Head of Patient Relations

The Head of Patient Relations has responsibility for leading the Complaints Department and ensuring it functions in accordance with this policy and its associated procedures, which will be reviewed and updated as required.

4.6 Complaints Department

The Complaints Department is responsible for:

4.6.1 Receiving complaints.

- 4.6.2 Logging correspondence on a post log.
- 4.6.3 Referring new complaints to the relevant Divisional Management Team for 'triaging' in accordance with 4.7.3 below.
- 4.6.4 Inputting new complaints on Datix – linking to existing records for the same patient including claims, incidents, PALS records or inquests.
- 4.6.5 Acknowledging receipt of written concerns and complaints.
- 4.6.6 Compiling a hard copy complaint file to include the complaint, correspondence (including emails), relevant patient data obtained from the relevant patient administration system, cover sheet (see Appendix 3 of Procedure document), and a copy of the signed response.
- 4.6.7 Risk assessing complaint cases (see Appendix 2 for guidance used).
- 4.6.8 Ensuring “serious complaints” (see definition in Procedure Document) are copied to the Risk and Legal Departments.
- 4.6.9 Any concerns or complaints of a serious nature relating to alleged inappropriate/abusive actions of a member of Trust staff/other individual must be immediately escalated to a senior member of the Patient Relations management team. (see 5.3.5 to 5.3.7 of the Complaints procedure for full details).
- 4.6.10 Deciding whether a complaint is deemed “out of time” under the NHS Complaints Regulations, and whether the Trust will nonetheless investigate it as a complaint, or as an enquiry outside of the Regulations, or reject it.
- 4.6.11 Assessing whether a complaint should be managed under the Complaint Procedure (Habitual or Vexatious Complaints) see associated procedure for details.
- 4.6.12 Co-ordinating the management of all complaints in line with the Complaints Policy and Complaints Procedure.
- 4.6.13 Ensuring contact with the complainant to acknowledge the complaint and to agree a plan for investigation and response.
- 4.6.14 Escalating overdue complaint responses in accordance with the escalation procedure (see Complaints Procedure).
- 4.6.15 Ensuring contact with the complainant throughout the life of the complaint.

- 4.6.16 Drafting final responses within agreed timeframes, ensuring that empathetic language is used, appropriate apologies are provided, all the questions raised in the original complaint have been adequately addressed and technical terms explained or removed.
- 4.6.17 Acting as point of contact for the PHSO.
- 4.6.18 Copying complaint files for potential PHSO complaints when requested by PHSO.
- 4.6.19 Keeping PHSO tracking document up-to-date.
- 4.6.20 Monitoring complaint activity and highlighting non-compliance via reports as requested by Trust groups or committees.
- 4.6.21 Monitoring response timescales and ensuring deadlines are met wherever possible.
- 4.6.22 Arranging and facilitating meetings with complainants.

4.7 **Divisional Management Team**

The above are responsible for ensuring that:

- 4.7.1 Support is provided to staff involved with complaints.
- 4.7.2 They are familiar with policies and associated procedures for handling concerns and complaints.
- 4.7.3 'Triaging' of new complaints is completed in a timely manner and the outcome advised to the Complaints Department within two working days of receipt.
- 4.7.4 An Investigating Officer is appointed and complaints are appropriately investigated, in a timely manner in line with the Complaints Procedure.
- 4.7.5 Escalation emails from Complaints colleagues are acted upon, ensuring that outstanding responses are provided by divisional colleagues.
- 4.7.6 Final responses are reviewed and approved and that any actions or improvements agreed are implemented in their areas of responsibility.

- 4.7.7 Any service improvements or learning outcomes that have arisen as a result of the investigation are identified within the response.
- 4.7.8 Actions and learning from complaints are implemented within the Divisions and completion monitored through Divisional Clinical Quality Groups.
- 4.7.9 Ensuring divisional colleagues comply with requests for availability for meetings within the required timeframe.

4.8 **Line Managers, Matrons, Ward and Departmental Managers and Heads of Departments**

Must ensure that staff for whom they have responsibility are:

- 4.8.1 Supported when involved with complaints.
- 4.8.2 Familiar with policies and associated procedures for handling concerns and complaints.
- 4.8.3 Aware that concerns should be resolved locally where possible; and that they should refer to the PALS Policy and Procedure documents for further details.
- 4.8.4 Informed about the action to take if a patient or their representative wishes to make a formal complaint to the Trust.
- 4.8.5 Aware of their responsibility for informing line managers promptly, where concerns cannot be resolved at point of contact.
- 4.8.6 Ensure that actions agreed as a result of complaints investigations are completed and confirmation, including any supporting evidence, is provided to the Complaints department.

4.9 **Investigating Officers**

- 4.9.1 Investigating Officers are appointed by the Divisional Management Team and are responsible for the timely and robust investigation of complaints in accordance with local targets.
- 4.9.2 For complaints about the attitude, conduct or clinical practice of a consultant then the appropriate Clinical Service Lead will be the Investigating Officer. If the complaint is about a Clinical Service Lead then the relevant Divisional Director will conduct the investigation. For complaints about members of other staff groups, such as nurses, then the Investigating Officer will

usually be that individual's line manager or another, more senior member of staff from that service.

4.10 **Patient Advice and Liaison Service (PALS)**

4.10.1 PALS staff will liaise with people raising concerns and Complaints department colleagues to determine whether an investigation under the Trust's Complaints Policy and Procedures would be a more appropriate method of resolution, ensuring that the person raising the concern is in agreement with the decision wherever possible.

4.10.2 There are some circumstances where escalation to a complaint is required regardless due to the seriousness of the concern raised (see PALS procedure section 3.2.8 to 3.2.10 for more details).

5 **Implementation and Monitoring**

5.1 **Implementation**

5.1.1 A copy of the Complaints Policy will be made available to all staff via the Trust Intranet will be disseminated through the Trust's management structure.

5.1.2 Complaints awareness training will be delivered to all staff on induction and ad hoc training tailored to individual needs is available on request.

5.2 **Monitoring**

Appendix 1 provides full details on how the policy will be monitored by the Trust.

6 **References**

6.1 Legislation.gov.uk (February 2009) *The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*, [Online], Available: <http://www.legislation.gov.uk/ukxi/2009/309/contents/made> [04.01.12] London: The Stationery Office.

6.2 The Parliamentary and Health Service Ombudsman (PHSO):

6.2.1 Health Service Commissioners Act 1993

6.2.2 PHSO (February 2009) *Principles for Good Complaint Handling*, [Online], Available: http://www.ombudsman.org.uk/data/assets/pdf_file/0005/1040/Principles-of-Good-Complaint-Handling.pdf [04.01.12].

- 6.2.3 PHSO (February 2009) *Principles for Remedy*, [Online], Available: http://www.ombudsman.org.uk/_data/assets/pdf_file/0009/1035/Principles-for-Remedy.pdf [04.01.12].
- 6.2.4 PHSO (February 2009) *Principles of Good Administration*, [Online], Available: http://www.ombudsman.org.uk/_data/asset/s/pdf_file/0013/1039/Principles-of-Good-Administration.pdf Appendix 1[04.01.12].
- 6.2.5 PHSO (October 2011) *Report on Complaints about Disability Issues*, [Online], Available: http://www.ombudsman.org.uk/_data/assets/pdf_file/0020/11369/Report-on-complaints-about-disability-issues-FINAL-web-version.pdf [04.01.12].

7 Associated Policy and Procedural Documentation

- 7.1 Being Open Policy
- 7.2 Claims Handling Policy and Procedure
- 7.3 Complaints Procedure
- 7.4 Complaints Procedure (Habitual or Vexatious Complainants)
- 7.5 Complaints Requesting Compensation Procedure
- 7.6 Governance Interface Protocol
- 7.7 PALS Policy and Procedure
- 7.8 Policy for the Reporting and Management of Incidents including Serious Incidents Requiring Investigation
- 7.9 Training Catalogue

Appendix 1

MONITORING OF COMPLIANCE	MONITORING LEAD	REPORTED TO PERSON/GROUP	MONITORING PROCESS	MONITORING FREQUENCY
Process for listening and responding to complaints	Chief Nurse	Chief Executive's Advisory Group	Formal reports	Monthly
		Board of Directors	Formal reports	Quarterly
		Clinical Quality Committee	Formal reports	Quarterly
		Care Quality Group	Formal reports	Bi-Monthly
		Patient Experience Group	Formal reports	Quarterly
		Divisional Clinical Quality Groups	Formal reports	Quarterly/Monthly
		Quality Account	Formal reports	Quarterly
Survey of complainants	Chief Nurse	Care Quality Group	Formal report on survey	Annually
Annual report on complaints	Chief Nurse	Board of Directors	Formal reports	Annually
Annual audit of complaints	Chief Nurse	Care Quality Group	Formal report on audit	Annually
Compliance with the investigation process and learning of lessons outlined in the policy and procedure	Chief Nurse	Executive RCA group	Review of a sample of complaint cases	By exception
		Divisional Clinical Quality Groups	Formal reports around actions from complaints	Quarterly/Monthly