East Sussex Healthcare NHS Trust

# Policy and Procedure for the Recording, Investigation and Management of Complaints, Comments, Concerns and Compliments (4C)

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| Document ID/Reference: | 309 |
| Legacy ID/Reference: | 1246 |
| Version Number: | V5 |
| Document Type (Clinical or Corporate): | Corporate relating to administration/trust wide |
| Target audience: | All staff |
| Senior Responsible Officer (SRO): | Amy Pain, Head of Patient Experience |
| Division and Department: | Corporate/Patient Experience |
| Date originally written: | October 2023 |
| Date created / reviewed: | June 2026 |
| Author of current version: | Carly Driver, Deputy Patient Experience Manager |
| Ratifying Committee / Group: | IGM |
| Date ratified: | June 2026 |
| Next Review Date: | June 2029 |

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**Document title: Policy and procedure for the Recording, Investigation and Management of Complaints, Comments, Concerns and Compliments (4C)**

| Key points of the Document | Applicable to | Key changes since the last version |
|---|---|---|
| • Support the organisation by using comments, concerns and complaints as an opportunity to improve and develop our services and enable our staff to learn and improve the quality of care we deliver. It sets out clear expectations to embed an open, non-defensive approach to learning from feedback. | • Trust wide | • General updates and incorporated Procedure for dealing with unreasonably persistent complainants and unreasonable behaviour |

| Key associated documents | Training requirement | Regulatory requirements: |
|---|---|---|
| • The National Health Service Complaints (England) Regulations (2009) (The Regulations) and the NHS Constitution | • Training is available from the Patient Experience team | • CQC Fundamental Standards:<br>• Safe Care and Treatment<br>• Good Governance<br>• Compliance with other external requirements (e.g. Information Governance)<br>• The National Health Service Complaints (England) Regulations (2009) (The Regulations) |

**Suggested search words:** ‘Complaints’, ‘Concerns’, ‘Compliments’, ‘Comments’

## 1. Introduction and Purpose

East Sussex Healthcare NHS Trust (ESHT) is committed to continuously improving the outcomes for patients and achieving excellence in patient care and the patient experience. ESHT recognises that it is accountable for the services it provides and is dedicated to promoting and adhering to ESHT values and it therefore openly encourages the views, comments and suggestions of patients, their carers and the public.

Complaints are viewed positively as a valuable form of feedback, playing an important role in ESHT Governance and Quality Improvement processes, by maintaining and improving the quality of services provided. It is therefore important that there is a consistent and orderly process for the receiving and handling of such feedback, making positive use of the information gained to avoid similar occurrences by identifying lessons learnt, sharing that learning and to generally improve services. ESHT has adopted the 4C approach for managing patient experience. The 4C approach consists of complaints, compliments, comments and concerns.

This document is written to underpin the delivery of The National Health Service Complaints (England) Regulations (2009) (The Regulations) and the NHS Constitution.

The purpose of this policy is to support the organisation to use comments, concerns and complaints as an opportunity to improve and develop our services and enable our staff to learn and improve the quality of care we deliver. It sets out clear expectations to embed an open, non-defensive approach to learning from feedback.

## 2. Scope

ESHT has a statutory and regulatory duty to ensure that systems are in place for responding to complaints, comments, and concerns in accordance with national and local guidance. ESHT is committed to improving services and reducing the impact of any risks, which could affect the organisation. By appropriately managing and responding to complaints, comments, concerns and compliments (only compliments addressed to the Chief Executive) ESHT is able to learn from them and where necessary put in place controls or mitigating actions in place.

When patients, carers or visitors raise concerns where things have gone wrong, or where we have failed to deliver the level of care or treatment, we promised to, we commit to:

- Saying sorry they are unhappy with the service they feel they have experienced.
- Providing an honest and open response to all the issues raised, in a way which is preferred by them and is accessible.
- Providing a thorough and detailed explanation about events leading up to the complaint or concern.
- Being honest about where things might have gone wrong and say sorry or provide clarity on points of misunderstanding.
- Providing a response stating what the organisation will learn from the experience, with reassurance that we have acted to prevent it from happening again.

This policy applies where the person affected is a person for whom ESHT has responsibility as a healthcare provider, or as a public body and covers complaints relating to the services, facilities and environment provided by ESHT.

This policy must be followed by all staff who are employed by ESHT and those on contracts for services, temporary or honorary contracts, secondments, bank staff, volunteers, and students.

Independent contractors are responsible for the development and management of their own procedural documents and for ensuring compliance with relevant legislation and best practice guidelines. ESHT will provide advice and support as required.

## 3. Definitions used: Explanation of terms

**Being Open**

- Acknowledging, explaining and apologising when things go wrong;
- Conducting a thorough investigation into the concern/complaint;
- Reassuring patients, their families, and carers that lessons learnt will help prevent, wherever possible, complaints from reoccurring;
- Healthcare organisations are required to acknowledge, explain and apologise when a patient is harmed or has died as a result of a patient safety incident. (see our "Duty of Candour and Being Open Policy").

**Care Quality Commission**
The independent regulator of all health and social care services in England.

**Comment**
A comment can be a remark or observation that does not require a formal response but still requires acknowledging and recording.

**Complaint**
A complaint is an expression of dissatisfaction about any aspect of the services which ESHT provides, or the environments they are provided in, for which an investigation and response must be provided in accordance with The Regulations.

**Compliment/Plaudit**
An expression of gratitude as a result of services provided to service users, relatives, carers or members of the public by ESHT staff.

**Concern**
A concern is an issue that can be dealt with quickly and informally by the Patient Experience Team (PALS) via local resolution with the relevant clinical area/unit or department.

**Consent**
Where the complainant is not the patient, it is necessary to request consent from the patient (or evidence of appropriate authority to act if the patient is unable to provide it; for example, due to lack of capacity or if the patient is deceased) to confirm the patient (or their Estate if deceased) is happy for a complaint to be investigated and responded to with disclosures of confidential care being made to someone acting on their behalf.

**Datix (DCIQ)**
Integrated risk management system (software) which is used for centrally recording incidents, complaints, concerns, comments and claims (amongst other risk-based information).

**Duty of Candour**
Regulations which make it a statutory requirement for health service bodies to act in an open and transparent way with relevant persons in relation to care and treatment provided to service users.

**Independent Sector Complaints Adjudication Service (ISCAS)**
ISCAS provide an independent self-referral service to private patients when they feel that a private health service has not investigated a complaint properly, fairly or to their satisfaction.

**Investigation**
Detailed, systematic review of records and collation of statements to uncover facts and determine the truth of the factors (who, what, when, where, why and how) of complaints.

**Patient Advice and Liaison Service (PALS)**
The Patient Advice and Liaison Service (PALS), part of our wider Patient Experience Team, was established in 2001 to provide confidential advice, information, and support regarding NHS services, including concerns and complaints.

**Parliamentary and Health Service Ombudsman (PHSO)**
Also known as the Health Service Ombudsman, they provide an independent self-referral service to the public when they feel that an NHS body has not investigated a complaint properly, fairly or to their satisfaction.

**The Advocacy People**
Provide an independent advocacy service to support people (e.g. writing complaint letters), who would like to make a complaint about their NHS treatment. The service is totally independent of the NHS and is free and confidential to all NHS service users.

## 4. Key Accountabilities and Responsibilities

**Chief Executive**
The Chief Executive has the overall responsibility for the complaint's procedure, including reviewing and signing of complaints. The responsibility of signing complaints can be delegated to a nominated Executive Director.

**Chief of Staff**
The Chief of Staff is responsible for overseeing the governance function of all Patient Experience procedures including the handling of concerns, comments, and complaints.

**Chief Nurse**
The Chief Nurse has professional responsibility for complaints.

**The Board**
The Board has responsibility for ensuring that there are robust systems and processes in place that allow patients, relatives, and carers to raise concerns and complaints. That they are investigated and responded to in a timely manner and that lessons are learnt from both feedback and complaints.

The Board will receive information on complaints, concerns, comments, and compliments monthly and may request additional reports on themes, trends and learning from complaints and concerns.

The Chief Executive and the Board, through the Quality and Safety Committee, are accountable for ensuring that complaints and concerns are investigated and analysed, to prevent their recurrence. This committee will receive a bi-monthly report of patient experience. They must implement changes and review their effectiveness and disseminate learning to healthcare staff. An overview of patient experience activity is also provided annually.

**Integrated Governance Meeting**
The Integrated Governance Meeting has responsibility for ensuring complaints and concerns have been investigated and responded to in accordance with the policy. The Integrated Governance Meeting will receive a bi-monthly report on patient experience including complaints.

**Divisional Directors of Nursing/Allied Health Professionals and Clinical Professions**
Divisional Directors of Nursing/Allied Health Professionals and Clinical Professions have responsibility for:

- Ensuring that their Assistant Directors of Nursing (ADoN), Service Managers (SM), Heads of Nursing (HoN) and Allied Healthcare Professionals (AHP) are appropriately trained in investigating and responding to complaints.
- Reviewing all responses to complaints related to their services.

- Ensuring that improvement plans arising from complaints/concerns are implemented appropriately and effectively and shared with regulatory bodies when requested.
- Ensuring that learning from patient experience feedback is shared via the Divisional Groups.

**Assistant Directors of Nursing (ADoN) Service Managers (SM), Heads of Nursing (HoN) and Allied Healthcare Professional (AHP)**
As above, ADoN's, SM's, HoN's and AHP's must ensure that any complaints or concerns about their service are reported to the Patient Experience Team promptly. Whenever possible, ADoN's, SM's, HoN's and AHP's must call and offer, where appropriate, to meet with complainants in the first instance as part of resolving the complaint or concern and share this with the Patient Experience Team.

ADoN's, SM's, HoN's and AHP's must ensure that their staff are aware of how to deal with concerns and complaints made by patients, or their relatives or carers. Face to face or virtual training is provided by the Patient Experience Team for managers and team leaders.

ADoN's, SM's, HoN's and AHP's are responsible for seeking advice from Safeguarding or the Patient Safety Team (for possible patient safety incidents), prior to carrying out investigations into complaints or concerns. They also collect and provide statements which will support the Patient Experience Team to draft a response to the complainant.

ADoN's, SM's, HoN's and AHP's are responsible for ensuring that complaints and concerns are investigated within ESHT timescales. To gain support ADoN's, SM's, HoN's and AHP's should attend complaints training as defined within ESHT training needs analysis relevant to their role.

ADoN's, SM's, HoN's and AHP's should take the key role in any local resolution meeting held; including leading the meeting, ensuring the complainant feels able to have their say, supporting the staff members to explain and respond, and ensuring evidence of the discussion at the meeting is captured.

ADoN's, SM's, HoN's and AHP's are responsible for ensuring that the staff investigating a complaint, or subject to a complaint, are provided with support during and after the investigation. This may include counselling, clinical supervision and/or training. Final response letters sent to complainants should also be shared with relevant staff as part of the learning.

ADoN's, SM's, HoN's and AHP's are responsible for drawing up improvement plans where the investigation identifies this is needed and adding any potential risk to ESHT's risk register. The improvement plans must be specific with clear timescales and are monitored through to completion by the Patient Experience Team.

ADoN's, SM's, HoN's and AHP's are responsible for sharing feedback within their teams and via appropriate quality meetings when there are lessons to be learned.

**The Patient Experience Team**
The Standard Operating Procedure in Appendix D details the responsibilities of the Patient Experience Team during the process of receiving feedback.

Produce weekly and monthly reports on complaints and patient experience data for key ESHT forums (local requirements should be served by the relevant Governance Team) working towards sharing and identifying learning.

Delivery of appropriate training on the complaints process and how best to review patient experience feedback.

**Complaint Investigator(s)**
A person identified/appointed to lead, oversee and as necessary respond to complaint issues. They should have the appropriate level of training or experience to competently investigate the complaint or seek and complete training as necessary.

They must keep in regular contact with the issuing Patient Experience Officer (Complaints) and adhere to ESHT timescales to help the Patient Experience Officer (Complaints) draft a formal response for the appointed Executive to review and sign.

**All staff**
All staff are expected to:

- Adhere to this policy.
- Watch the complaint handling video on MYLearn.
- Report all complaints, concerns or plaudits to their manager and to the Patient Experience Team upon receipt.
- Co-operate with any investigation into a concern or complaint (see Appendix B for Complaints Handling – Helpful hints and Tips).
- Give patients, their relatives, and carers information about the complaints process in the format of their choice and information on where to seek advice, including advocacy support.
- Not to discriminate against, or treat unfairly, a patient or their representative who has made a complaint, comment or raised a concern.

## 5. Procedure

### 5.1 Identifying the Correct Approach

It is important to listen and react appropriately when patients, carers or relatives express a concern or make a complaint. Not everything that patients, carers or relatives raise as a concern is necessarily a complaint and many of these can and should be resolved informally by the people to whom they are addressed or by their immediate manager. All possibilities should be explored in an attempt to resolve the complaint or concern in a positive and non-judgemental way.

ESHT seeks to distinguish between requests for assistance in resolving a problem locally and informally and an actual complaint that may require an in-depth investigation and written response from our Executive Team. Enquiries and comments from patients, relatives or carers seeking assistance will be dealt with in a flexible manner, appropriate to the nature of the problem. Concerns and complaints will be dealt with in accordance with the procedures set out in this policy.

### 5.2 Concerns and Complaints

Concerns and complaints may be made using our online contact form, made verbally by telephone or in person, via email or in writing through our Patient Experience Team. The online form is available in Easy Read. A word version of the form can also be emailed or posted (Appendix G).

A concern or a complaint taken verbally, over the telephone or during a face-to-face meeting, is just as valid as a written complaint and should be treated with the same consideration and sensitivity. Care should be taken to ensure that sufficient details are gained to allow the issue(s) to be investigated and responded to appropriately.

If the issues cannot be resolved immediately by the service/unit or via the Patient Experience Team (PALS), then the complaint should be escalated to the formal process. Their decision should be based upon information provided by staff about the resolutions available.

All formal complaints must be acknowledged within three working days. Where a complaint has been made directly to a service or individual, the service or individual should immediately forward the complaint to the Patient Experience Team upon receipt.

In addition to the acknowledgement, all complainants will be sent a copy of the 'Complaint factsheet', which explains what can be expected from the complaint's process and can be provided in alternative formats upon request (Appendix E), together with an information sheet on local advocacy services.

ESHT timescale for replying to a concern is 15 working days and 60 working days from receipt for formal complaints. The timescale for replying to complaints regarding the Trust's private unit, Sussex Premier Health, is 20 working days from receipt. If patient consent or evidence of appropriate authority to act for the patient has not been received by the time the complaint investigation has been completed, ESHT will issue a no consent response to respect patient confidentiality.

All complaints are graded (Appendix F) and triaged by the Patient Experience Team to ensure the nature of the issues raised are easily recognised and to establish how it will be handled.

All concerns and complaints will be recorded on ESHT's risk management system (Datix) by the Patient Experience Team.

Where patients find it difficult to complain or are unable to complain, ESHT welcomes complaints from a family member or a patient representative (such as an advocate). When someone complains on behalf of a patient, the Patient Experience Team will need to be satisfied that the patient is aware of the complaint and consents to disclosures of confidential care being provided to the complainant for the purposes of investigation and resolution of the complaint. Where there is doubt about consent, either mental capacity to consent or any suspicion of duress, advice may be sought from the legal or safeguarding teams as appropriate. There are consent forms to be completed; however, the patient may give consent verbally to the Patient Experience Team if they are unable to write or see the form.

Every effort should be made to resolve concerns and complaints as quickly and as easily as possible. Complainants should always be contacted as soon as possible to fully understand the complaint and to offer a meeting where it is deemed helpful and appropriate to do so in the best interests of resolving the issues.

Where a written response is required, the Patient Experience Officer (Complaints) will draft a response and send it to the service for divisional approval before submitting it for Executive Team review and signing. Responses must be written clearly and in plain language, with terminology briefly explained, to answer all issues raised. ESHT can provide the response in accessible formats upon request, including Easy Read, Braille and audio.

Information received from a complainant will remain confidential and be communicated only to those staff who need to know.

If the complainant is dissatisfied with ESHT's response then in the first instance, further attempts to resolve the complaint will be made including the offer of a further written response or a face-to-face meeting in person or via a video call. If this does not resolve the complaint, then the complainant has the right to take their complaint to the PHSO for NHS complaints or to ISCAS for private healthcare complaints re Sussex Premier Health and request that they investigate their complaint independently.

**5.3 Concerns/Complaints Involving Multiple Organisations**

Complaints relating to more than one NHS organisation or including the involvement of Local Authority Social Services should be investigated jointly, but with one organisation acting as the Lead Agency to provide the complainant with a single co-ordinated response. The Lead Agency is usually the organisation receiving the complaint or the one where the larger proportion of issues for investigation and response sit.

The overarching principle for joint working is that the focus will always be on the complainant, and all work will be undertaken with due regard to the agreement, understanding and acceptance of the complainant.

### 5.4 Who Can Raise a Comment, Concern or Complaint?

A comment, concern or complaint can be made by:

- A patient or any person affected by or likely to be affected by the action, omission or decision of the NHS body or Sussex Premier Health, that is the subject of the complaint.
- Someone acting on behalf of another person may make a complaint or enquiry on behalf of that person, where that person is unable to make the complaint themselves or has asked the person to make the complaint on their behalf.
- Where the person is an adult but unable to make a complaint themselves, their representative will need to have or have had sufficient interest in the service user or patient's welfare and be an appropriate person to act on their behalf.
- Where the person has asked another person to make the complaint or enquiry on their behalf, ESHT will require the patient's written consent to reply. In these instances, ESHT will send a consent form to the patient requesting they sign and return it to authorise the representative to act on their behalf and for ESHT to reply to the representative on the issues raised in the concern or complaint, making disclosures of confidential care as necessary.
- If the patient has capacity but is physically unable to sign the form, the Patient Experience Team will discuss alternative solutions which may include the acceptance of verbal consent directly from the patient and recording this.
- If the patient does not have capacity to give consent, the Patient Experience Team will request evidence that the patient's representative has the authority to act or is acting in the 'best interest' of the patient to support their healthcare needs.
- If the complaint relates to a patient who has died, or who dies during the investigation of a complaint, ESHT will work with the complainant to obtain an appropriate level of authority in order to make disclosures of confidential care as part of the formal response and to respect the rights of the patient.
- If an informal concern is raised via the Patient Experience (PALS) team on behalf of the patient, only verbal consent is required from the patient in this instance.
- A member of parliament (MP) may contact the Trust on behalf of a constituent wishing to raise informal concerns or a formal complaint. In these instances, the MP will provide signed consent from the constituent to allow the Trust to make enquiries on their behalf. If informal concerns are raised, these are managed and responded to by the by the Patient Experience Team. If a formal complaint is required, then this will be managed by the Patient Experience Team, and response sent directly to the constituent with a copy provided to the MP.

### 5.5 Time Limits on Making a Complaint

The Regulations state at Regulation 12 that a complaint should be made within 12 months of the date of the incident that is the source of the complaint or within 12 months of the date of discovering the source of the complaint. This is for NHS complaints.

However, the Patient Experience Team have the ability to make a Regulation 12 exception if they are satisfied as to why the complaint could not be made earlier and where it is still possible to investigate the facts of the case effectively. In these instances, the Patient Experience Team will explain to the complainant that whilst an investigation and response can be undertaken, this might be limited in detail due to the passage of time and because staff involved may no longer work for ESHT.

Please note that for complaints relating to private healthcare, this should be within six months from the date of the event.

Where it is decided the complaint is out of time and will not be investigated, this will be confirmed in writing, and the complainant will be advised of their right to take their complaint to the PHSO for NHS complaints or ISCAS for private care complaints relating to Sussex Premier Health.

**5.6 Concerns and Complaint Records**
Complaint records should be kept separate from health records, subject to the need to record information which is strictly relevant to the patient's health.

Complaint records must be treated with the same degree of confidentiality as normal medical records and would be open to disclosure in legal proceedings.

Complaint records will be retained for a period of ten years before being considered for destruction as set out at point (4) of the NHS England Corporate Records, Retention and Disposal Schedule.

**5.7 Support for Complainants**
ESHT will be supportive of those who may find it difficult to complain or raise a concern and will ensure that patients, their relatives, or carers, are not discriminated against as a result of raising a concern or complaint.

ESHT will communicate with complainants in the way that best meets their needs. This may be by telephone, email, in writing, or a combination of all of these, or by meeting with them in person if it is helpful and appropriate to do so.

ESHT communications will be provided in a format to meet the complainants needs, for example Easy Read or Braille in line with the Accessible Information Standard.

Communication may need to be in a language other than English. We will provide an interpreting and translation service to assist complainants where required.

Patients and their families should be encouraged to speak openly and freely about their concerns and should be reassured that whatever they say will be treated with the appropriate confidentiality and sensitivity and will not adversely affect their care and treatment.

**5.8 Support for Staff**
Staff who may be the subject of a complaint or asked to contribute to a complaint investigation may be understandably upset, anxious or distressed, or unclear what to do. In these instances, they should seek advice and support from their manager, a member of the Patient Experience Team or by referring to the "Policy for Supporting Staff Involved In Incidents, Complaints or Claims" on the Extranet. Staff can also contact the Wellbeing team via email (esht.wellbeingteam@nhs.net).

The Patient Experience Team will also ensure, wherever appropriate and possible, that drafts of complaint responses are shared with the staff involved to comment on the accuracy of the content at the approval stage and that final versions are shared with the divisional governance team.

**5.9 Reporting and Learning from Comments, Concerns, and Complaints**
Comments, concerns, and complaints are recorded on Datix (DCIQ), which is ESHT's risk management system. Data on this activity, which includes themes and trends, is provided weekly and monthly to divisions and a variety of ESHT forums to review the information and improvement plans to ensure that the organisation is learning from concerns and complaints and updating risk registers as appropriate.

The Patient Experience Team ensures that the KO41a data return is submitted annually to NHS Digital as part of national complaint reporting.

The Annual Patient Experience Report is shared widely within ESHT at the Integrated Governance Meeting (IGM) and Quality and Safety Committee (QSC) and on the ESHT website.

### 5.10 Unreasonable or Unreasonably Persistent Behaviour

Please refer to the Procedure for dealing with unreasonable persistent complaints and unreasonable complaints behaviour (Appendix H).

### 5.11 Special Considerations

This policy and its principles cannot be used:

- By health organisations or Local Authorities to make a complaint about another health authority or organisation.
- By staff working within ESHT or contracted to it to complain about any aspect of their employment, contractual or pension issues.
- To commence legal proceedings.
- If a complaint is also part of an on-going police investigation or legal action, it will be discussed with the relevant police authority or legal advisor and only continue as a complaint if it does not compromise the police investigation or legal action
- To investigate a matter that has already been investigated under The Regulations. It cannot be used to investigate matters which are being or have been investigated by the PHSO.
- To complain about a matter arising out of an alleged failure to comply with a request for information under the Freedom of Information Act 2000. Such complaints should be referred to the Chief of Staff.
- It cannot be used to complain about ESHT's recruitment or employment policies or practices.
- If it is to do with the issuing of a Red/Yellow card under the Violence and Aggression Policy, as there is a separate appeals process.
- Where the complaint relates to alleged theft of a patient's property or verbal or physical assault of a patient, the service/unit/Patient Experience Team must advise the complainant to alert the police, and the service/unit/Patient Experience Team must seek advice from the Safeguarding Team and Human Resources. Complaints of this nature will be logged as an incident and investigated using ESHT's management investigation and/or safeguarding procedures. The complainant will retain the right to take their complaint to the PHSO (for Sussex Premier Health private patient complaints this would be ISCAS) if they believe ESHT has not investigated or responded appropriately. The Patient Experience Team may act as a point of contact for the complainant at the request of the service.
- Where ESHT believes that a complaint does not fall within the remit of The Regulations in this policy, we will provide a written explanation to the complainant setting out the reasons for not dealing with the complaint and advising them on the other options available to them.

Please also refer to The Regulations for exclusions.

## 6. Equality & Health Inequalities Impact Assessment (EHIA)

This policy has no significant equality impacts therefore this form was not applicable.

## 7. Sustainability Healthcare Principles

This is reflected by promoting digital communication to reduce paper use, ensuring processes are inclusive, accessible, and person-centred, and handling complaints efficiently to make best use of resources. The policy also supports learning from complaints to drive service improvements and prevent recurrence, contributing to long-term sustainability while remaining compliant with the NHS Complaints (England) Regulations 2009.

## 8. Dissemination and Implementation

The policy is available on the Trust's extranet alongside the training mentioned below to support staff.

## 9. Competencies and Training Requirements

The Patient Experience Team has designed a training video available on MyLearn for staff to access on "Patient Experience – PALS" and/or "Complaint Handling" training.

The Patient Safety Team also offer “Root Cause Analysis” training which would complement those who undertake the “Introduction to Complaint Handling” training.

## 10. Monitoring Compliance and Effectiveness

Please see table.

## 11. References

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
- The NHS Constitution

**Document Monitoring Table**

| Element to be measured | Lead(s) | Tool for Monitoring | Frequency | Responsible Individual / Group for review of results/report | Responsible group for acting on recommendations/ action plan | Responsible group/ committee for ensuring action plan/lessons learned are Implemented |
|---|---|---|---|---|---|---|
| % of complaints responded to within agreed timeframe | Head of Patient Experience | Datix | Weekly Monthly | IGM/QSC, Individual Performance Review | Head of Patient Experience | IGM/QSC |
| Number of complaints overdue (not responded to in time) | Head of Patient Experience | Datix | Weekly Monthly | IGM/QSC, Individual Performance Review | Head of Patient Experience | IGM/QSC |
| Number of complaints reopened / referred to the PHSO/ISCAS | Head of Patient Experience | Datix | Weekly Monthly | IGM/QSC, Individual Performance Review | Head of Patient Experience | IGM/QSC |

## Appendix A: Governance section

### Appendix A.1: Version Control Table

| Version number and issue number | Date | Author & Job title | Reason for Change | Description of Changes Made |
|---|---|---|---|---|
| V2 | June 2015 | Amy Reilly, Head of Patient Experience | Updated | Major change to reflect organisational (structure) changes new requirements and legislation |
| V3.0 2017281 | October 2017 | Amy Reilly, Head of Patient Experience | Updated | Changes to reflect new processes |
| V3.1 | August 2018 | Amy Reilly, Head of Patient Experience | Updated | Amended to reflect the process of learning from complaints |
| V3.2 | October 2018 | Darren Langridge-Kemp, Patient Experience PALS and Complaints Manager | Updated | Change to wording of section 5.6.5 |
| V3.3 | June 2022 | Darren Langridge-Kemp, Patient Experience PALS and Complaints Manager | Complaints have moved from under Hazel Tonge to Richard Milner | Richard Milner would like this document to have a full review and re-write. Extension to review date from November 2020 to December 2022 |
| V4 | January 2023 | Amy Pain, Head of Patient Experience and Carly Driver, Deputy Patient Experience Manager | Updated | Amended to reflect change in division alignment and processes. |
| V4.1 | November 2023 | Carly Driver | Updated | Amended timeframe and title change |
| V4.2 | May 2024 | Carly Driver | Updated | Updated Appendices B, D and F |
| V.5 | June 2026 | Carly Driver | Updated | General updates and incorporated Procedure for dealing with unreasonably persistent complaint and unreasonable complaint behaviour (Appendix H) |

Appendix A.2: Consultation Table

**This document has been developed in consultation with the groups and/or individuals in this table:**

| Name of Individual or group | Title | Date |
|---|---|---|
| Patient Experience Team | Patient Experience Team | June 2026 |
| Integrated Governance Meeting | Integrated Governance Meeting | |

## Appendix B: Equality and Health Inequalities Impact Assessment (EHIA)

This policy has no significant equality impacts therefore this form was not applicable.

**Appendix C: Complaints Handling – Helpful hints and Tips**

# Complaints Handling
# Helpful Hints and Tips

Our health, and that of our loved ones, is a highly emotive subject; sometimes, we are talking about recent health and well-being, whilst at other times we are talking about the difference between life and death or more tragically, when death has occurred. The feelings everyone has about their health, and that of loved ones, can trigger all sorts of reactions and behaviours which are not always rational or appropriate. But they happen, and we should try and avoid being defensive if someone complains about the care or treatment they have been given.

The reason we have a formal complaints process is twofold; firstly, it is a statutory requirement (laid before Parliament and coming into effect in July 2004) that we have a process for handling and investigating complaints, and secondly it is an opportunity for us as part of our commitment and willingness to receive and be open and transparent about feedback, including complaints, and our response to it.

So if you find yourself in the position of being asked to comment on or provide a response to a complaint, please think about and consider the following:

- It's really hard, but try not to start off by taking it personally or being defensive – everyone is entitled to raise a complaint about something that concerns or upsets them and the complaint is their perspective or a reflection of their feelings as a result of an event, valid or otherwise. This is why we undertake complaint investigations to understand what happened from both sides, what the evidence tells us, and if systems or processes need to change as a result;

- Before you start any investigation, think about what you need and what support you might want – do you want to have a chat with someone in the Complaints Team, or a peer, a supervisor, a manager in your senior team? Don't feel you are on your own – ask for help or support if you want it;

- Always be open, truthful and transparent – sometimes we find just saying "I am sorry X happened" is often all a complainant wants, and the "Saying Sorry" leaflet published by NHS Resolution in 2017 (which is attached to the same email as this factsheet) tells you more about what saying sorry does and does not mean;

- Be factual and only respond with what can be evidenced because that very evidence may be called upon by the Complaints Team or the Health Service Ombudsman at a later date. Don't refer to anything if you cannot evidence it – as the saying goes, if it's not written down it didn't happen;

- Use a laypersons language when providing your response – the Complaints Team are not clinically trained and need to be able to explain your comments in simple terms that patients and relatives can understand. But if you need to refer to a clinical diagnosis or procedure, please give us a very brief explanation as to what it is as that will help, as will explaining clinical abbreviations that may be straightforward in your head, but mean nothing to those without your clinical expertise;

- Remember that just because a clinical event has happened to a patient or has been explained to them/their relative doesn't mean they know or will remember what it is/means, so as before, please use laypersons terms;

- Only provide information in your response that is relevant to the question(s) you have been asked - so for example you don't need to reference patient observations or test results unless they are actually related to the question(s) asked or the complaint;

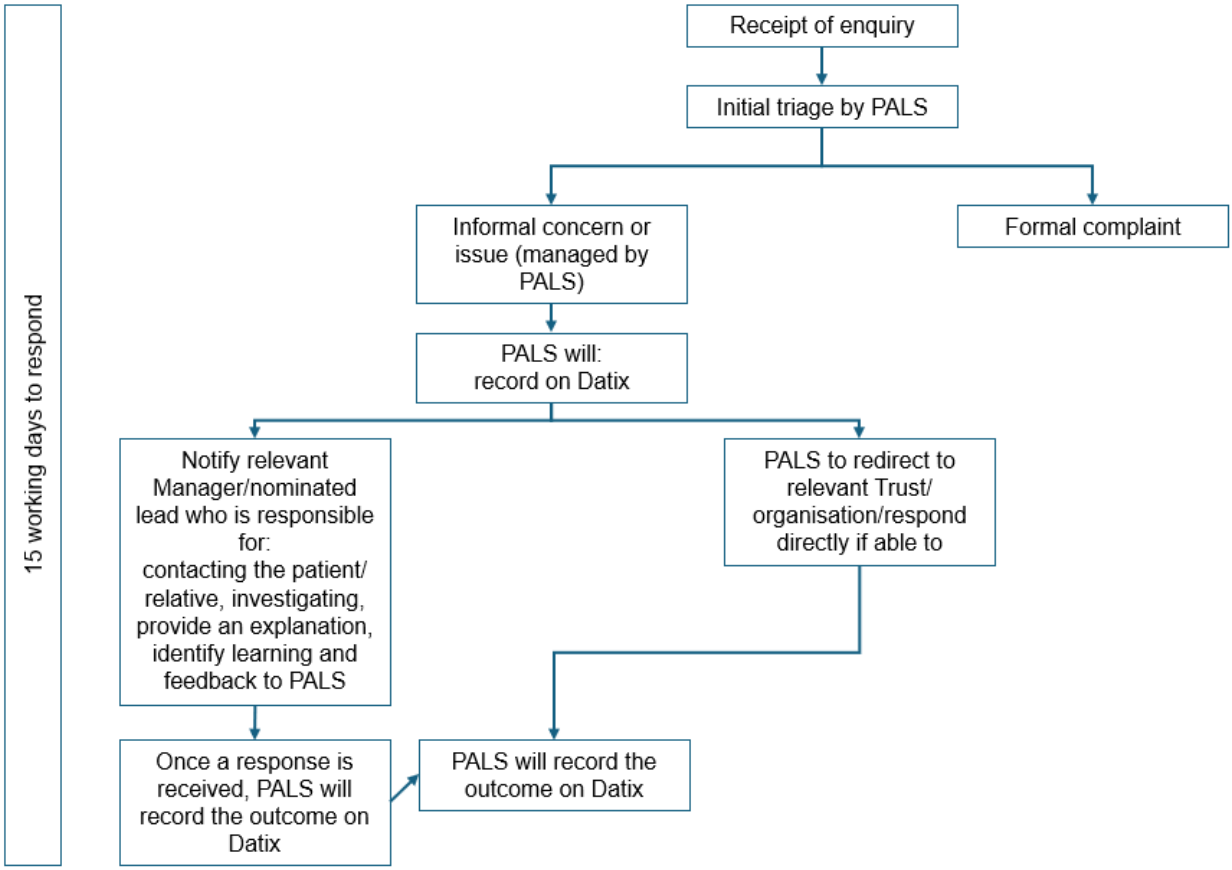
- Always provide your statement as quickly as you can – the Trust has to comply with strict response timescales for complaints that are monitored at Trust Board level and measured by providers such as Clinical Commissioning Groups (CCG's) – if you can't provide your statement straightaway, please tell the Complaints Team so they know what is happening, when you can provide it and offer any help you may need;

- Never make derogatory remarks about the content of the complaint, the complainant and/or their relatives or about your colleagues, and do not use inappropriate language in emails or statements – every single communication in respect of a complaint investigation is held on the complaint file and if the complainant or a regulatory body such as the Health Service Ombudsman or the Care Quality Commission (CQC) request a copy of the complaint file, your remarks will be made available to them (which might not make you or the Trust look particularly professional); and

- Lastly, if you are ever in doubt about what to do or what to say, or even where to begin with a complaint, please get in touch with the Complaints Team – unfortunately, complaints will not go away if you ignore them and by leaving your response to the last minute does not help you or the Trust, particularly if the lateness of your response makes the formal response overdue.

The Complaints Team are always available, ready and willing to help!!!

## Appendix D: Process for patient feedback



# Handling Formal Complaints – Standard Operating Procedure (SOP)

| Day(s) Are Measured in Working Days | Action |
|---|---|
| Day 1 – Complaint Received | The complaint is received by the Patient Experience Team (Complaints) and assessed to ensure it is something for our organisation, determine if it is something that could be handled by the Patient Experience Team (PALS) for a faster and more local resolution, and if we are the appropriate agency to lead if it spans multiple agencies. Once complaint competencies are met, the Patient Experience Administrator will: |
| | 1. Log the complaint in Datix under the patient's name, adding the complainant's details if they are not the patient, to include address (postal and email if provided), date of birth, hospital number, and assign it a complaint status. |
| | 2. Create an electronic file in the Digital Complaints Folder for all documentation generated/received during the complaint investigation. |
| | 3. If the patient's medical records are not on Evolve, log a request on iFit for the medical notes to be despatched to the Patient Experience Administrator or telephone Apex Way to log a request. |
| | 4. If the patient's episode of care is related in part or in full to an Emergency Department, review NerveCentre. |
| | 5. Assign to the Patient Experience Officer (Complaints) aligned with the primary division. |
| | 6. The original complaint is scanned and inserted into the Datix record and saved in the relevant electronic file. |
| Day 1-3 | 1. The Patient Experience Administrator will, via Datix, send the complainant a formal letter of acknowledgement, signed by the Chief Executive which sets out the complaint response timescale; the type of letter sent will be dependent on any requirement for patient consent/authorisation. The letter encloses a copy of our Complaints Factsheet and a leaflet on how to access advocacy services. |
| | 2. If patient consent is required, we will also write to the patient directly to request that they complete and return a consent form. |
| | 3. If the patient does not have capacity to give consent or is deceased, the complainant will be asked to provide evidence of authority to act on the patient's behalf. |
| | 4. If consent is required to share the complaint with a third party (for example GP, Ambulance Service or Adult Social Care) as part of the investigation (and to permit us to share with them a copy of our response), we will also ask the complainant to complete and return a third-party consent form to enable us to do this. |
| | 5. All letters (manually created or generated by Datix) are saved in the relevant electronic file, and Progress Notes entry is updated. |
| | 6. Generate a triage log in Datix and save in the relevant section of the electronic file, capturing the:<br>- Complaint number;<br>- Patient's hospital number;<br>- Date the complaint was received;<br>- Date the division response is due by;<br>- Patient's name; |

| | |
|---|---|
| | - Complainant's name if not the patient. |
| | 7. Generate a draft response template in Datix and save in the relevant section of the electronic file. |
| By Day 5 | 1. The Patient Experience Officer (Complaints), using a combination of the complaint and the patient's medical records, Evolve and NerveCentre as relevant/appropriate, will review the complaint, grade it in accordance with the Complaints Grading Matrix and record this in the "Risk Grading (Complaints)" field of Datix, and then using the triage log saved in the relevant electronic file to record the:<br>- Risk grading (high, moderate or low);<br>- Datix ID if there is an associate patient safety incident;<br>- Name of the Lead Investigator; and<br>- The question(s) that will form the basis of the investigation and response, together with a record of which staff have been identified as needing to answer it/them. If staff cannot be identified, the Patient Experience Officer (Complaints) will speak to the Lead Investigator to seek clarity/confirmation. |
| | 2. The Patient Experience Officer (Complaints) according to the Complaints Grading Matrix shares the complaint with the relevant senior staff as appropriate giving a short explanation on the rationale for the risk rating. A copy of the email is saved in the relevant electronic file and Progress Notes entry is updated.<br>- High risk (a complaint where the action or omission of Trust staff has placed a patient at risk of or suffered significant harm).<br>- Moderate risk (a complaint involving aspects of clinical care).<br>- Low risk (a complaint that does not involve any aspect of clinical care). |
| | 3. If a complaint is classed as high risk or as directed by the Chief Nurse/Chief Medical Officer, the case will be scheduled by the Patient Safety Team to be discussed at the Weekly Patient Safety Summit (WPSS):<br>- If at WPSS it is deemed that the case will be taken forward via the Patient Safety Incident Response Framework (PSIRF) then either a) the complaint will be closed with a letter being sent to the complainant advising of how their concerns will be managed by PSIRF or b) a complaint response will be sent addressing issues that fall outside of the PSIRF process. |
| | 4. The Patient Experience Officer (Complaints) will make attempts to contact the complainant by telephone if a number has been provided, or email if provided and there is no reply to attempts to reach them by telephone, to introduce themselves, clarify any issues if needed and discuss the complaint/process that will be undertaken. Progress Notes entry is updated. |
| | 5. The triage log, original complaint, "Complaints Handling Hints and Tips" guide and "Saying Sorry" leaflet (created by NHS Resolution) is sent by the Patient Experience Officer (Complaints) from the generic Complaints mailbox to the staff who have been identified as needing to answer the questions, copied to key/senior staff as requested by each division, by email; the email also sets out the date by which their response must be received by the Patient Experience Team (Complaints). A copy of the distribution email is saved in the relevant electronic file, and Progress Notes/Current Stage entry is updated. |
| | 6. Staff statements/responses are, as received, saved in the relevant electronic file by the Patient Experience Administrator, Progress Notes entry is updated, and staff are linked in the Datix record as necessary. |

| | |
|---|---|
| | 7. When consent and/or evidence of authority to act is received, this is saved in the relevant electronic folder by the Patient Experience Administrator and a letter of acknowledgement is sent to confirm receipt. Progress Notes entry is updated. |
| | 8. Once all statements/responses are received and saved in the relevant electronic folder, the Patient Experience Officer (Complaints) will draft the response. Progress Notes entry made to confirm date the response was ready to draft. The content of the draft response is dependent on whether consent and/or evidence of authority to act has been received. |
| Day 30 | 1. If staff statements/responses are outstanding, the Patient Experience Officer (Complaints) will send a reminder to staff to advise their comments will shortly be due.<br>2. Progress Notes entry is updated |
| Day 35 | 1. If staff statements/responses are outstanding, the Patient Experience Officer (Complaints) chases staff who have not answered their question(s).<br>2. The Patient Experience Officer (Complaints) provides the complainant with an update on their complaint.<br>3. Progress Notes entry is updated. |
| Day 40 | 1. If staff statements/responses are outstanding, the Patient Experience Officer (Complaints) chases staff who have not answered their question(s).<br>2. Progress Notes entry is updated. |
| Day 45 | 1. If staff statements/responses are outstanding, the Patient Experience Officer (Complaints) will escalate all outstanding issues to the Deputy Patient Experience Manager (Complaints) to chase staff who have not answered their question(s).<br>2. Progress Notes entry is updated. |
| By Day 50 | 1. The draft response should now have approvals from the investigation team, Divisional Director of Nursing and, if appropriate, Chief of Service and Clinical or Professional Lead, and be submitted to the Chief Executive (for high risk rated complaints) or Chief of Staff (for low and moderate risk rated complaints) with a link to the relevant electronic file for review and approval to sign and send out.<br>2. Progress Notes entry is updated to confirm date of draft response approvals, and the date sent to the Chief of Staff or Chief Executive. |
| | 3. A summary of the complaint investigation and an outcome code are recorded in Datix.<br>4. If the investigation has identified SMART action(s), the Patient Experiencer Officer (Complaints) will record these in Datix to ensure implementation of identified action(s) are followed up and evidenced. |
| | 5. The Patient Experience Officer (Complaints) provides the complainant with an update on their complaint.<br>6. If the draft response is not ready for signing by the Chief of Staff at this stage, the Deputy Patient Experience Manager (Complaints) will chase again/escalate to the appropriate senior staff in the relevant division, Progress Notes entry is updated. The Deputy Patient Experience Manager (Complaints) also advises the Head of Patient Experience of potential target date breach. |
| By Day 55 | 1. The complaint response is reviewed by the Chief Executive (for high risk rated complaints) or Chief of Staff (for low and moderate risk rated complaints).<br>2. Once approved, the Chief Executive or Chief of Staff will authorise the Patient Experience Administrator to add their digital signature. |

| | |
|---|---|
| | 3. The Patient Experience Administrator adds the Chief Executive's or Chief of Staff's digital signature to the complaint response, amends the date as necessary, saves the signed version of the letter in Word and PDF formats in the relevant electronic file, prints, and posts it out including a leaflet about our post complaint survey. |
| | 4. The complaint record is closed by the Patient Experience Administrator in Datix using the date the complaint response is sent out. Progress Notes entry is updated to reflect the date the complaint response and any copies required were sent out. A PDF version of the response is also saved in Datix. |
| By Day 60 | 1. Any complaint response which needs to be shared with a third party (and only where consent has been acquired) is sent out by the Patient Experience Administrator. |
| | 2. A copy of the signed complaint response is emailed to the relevant Governance Team to share with staff and ensure any actions or learning agreed is implemented. |

**Complaints Escalation Process**

| **60 Working Day Case** | **Action** | **By Whom** |
|---|---|---|
| Day 30 | A reminder is sent to staff by email if complaint investigation findings/statements have not been received. | Patient Experience Officer (Complaints) |
| Day 35 | If complaint investigation findings/statements are outstanding, a telephone/Teams call is made to staff who have not answered their question(s) to chase and followed up with an email. A note of the chaser is made in Progress Notes.<br>The complainant is provided with an update on their complaint. A note of the chaser and update is made in Progress Notes. | Patient Experience Officer (Complaints) |
| Day 40 | If complaint investigation findings/statements are outstanding, a further telephone/Teams call is made to staff who have not answered their question(s) to chase and followed up with an email on the back of the first chaser email. | Patient Experience Officer (Complaints) |
| Day 45 | If complaint investigation findings/statements are outstanding, the Patient Experience Officer (Complaints) escalates the case to the Deputy Patient Experience Manager (Complaints) on the back of the second chaser email. A note of the file escalation is made in Progress Notes.<br>A chaser (third) by email is sent by the Deputy Patient Experience Manager (Complaints). A note of the third chaser is made in Progress Notes. | Patient Experience Officer (Complaints)<br><br>Deputy Patient Experience Manager (DPEM) |
| Day 50 | A telephone/Teams call is made to staff who have not answered their question(s) to chase and followed up with an email on the back of the third chaser email/or escalated to the appropriate senior staff in the division. The Deputy Patient Experience Manager (Complaints) alerts the Head of Patient Experience of | Deputy Patient Experience Manager |

| | | |
|---|---|---|
| | a potential target date breach. A note of the fourth chaser is made in Progress Notes.<br>The Patient Experience Officer (Complaints) provides the complainant with an update on their complaint. | Patient Experience Officer (Complaints) |
| Day 55 | If the complaint draft response is not ready for signing by the Chief Executive or Chief of Staff, the Deputy Patient Experience Manager (Complaints) chases again (and escalates to the relevant Divisional Director of Nursing), Progress Notes entry is updated. | Deputy Patient Experience Manager |

**Appendix E: Complaints Factsheet**

East Sussex Healthcare NHS Trust

# Complaints Factsheet

This factsheet explains what we will do with the complaint you have raised about your experience, or that of a relative, friend or loved one, in respect of the care, treatment, services or amenities provided by the Trust. We treat all complaints seriously, and aim to resolve them within the timescales set out in the acknowledgement letter that accompanies this factsheet. You can also be assured that making a complaint will never affect ongoing or future care or treatment at the Trust, and complaints are never filed in a patient's medical records.

## What can I expect from raising a complaint?

We acknowledge all complaints received within three working days and after reviewing your complaint (in conjunction with your medical records if necessary), we will undertake a full investigation. If you have given us your telephone number or email address, we will also try to contact you to discuss your complaint.

We will then ask appropriate members of staff to provide a response to the complaint issues you have raised, and we may ask for a review of clinical care to be undertaken where appropriate. We will also endeavour to provide you with an update on the progress of your complaint and if we experience any delays in completing the complaint investigation, we will contact you to advise of this.

Once the investigation has been finished, the Patient Experience Team will prepare a written response. The Chief Executive will read your complaint, the investigation records and then the written response that has been prepared and if the response is satisfactory, it will be signed and sent to you. If the Chief Executive has questions about the investigation or the response, it will be returned to the Patient Experience Team to address these and ensure that the final response meets our quality standards.

## What will you learn from my complaint?

You will be assured to know that we find complaints to be a very helpful source of feedback and any actions and/or learning identified as a result of your complaint will be shared with the relevant staff, wards or units. We have internal processes to ensure these actions and/or learning are logged, tracked and implemented to prevent similar issues from happening in the future, as it is important that no-one else has the same experience you have had cause to complain about.

## What can I do if I am not happy with your response?

If you are not happy with our response to your complaint, please contact the Patient Experience Team in the first instance to let us know.

We can, in discussion with you, re-open your complaint and look again at any issues you feel we have not dealt with to your satisfaction or that require further clarification. We can also

arrange for you to speak with relevant managers or clinical staff (subject to any restrictions), as this may provide further explanations or clarifications you need to help answer your questions.

It is important to us that we make every effort to resolve your complaint locally and, as far as it is possible, to your satisfaction. However, there may be occasions when we are unable to achieve this and in these cases, you have the right to ask the Health Service Ombudsman to review your complaint. The contact details for the Parliamentary and Health Service Ombudsman are set out below.

Write To: Parliamentary and Health Service Ombudsman
Millbank Tower
Millbank
London
SW1P 4QP

Telephone: 0345 015 4033

Email: phso.enquiries@ombudsman.org.uk

Website: www.ombudsman.org.uk

# Other formats

If you require this leaflet in a different format, such as large print or an alternative language, please contact the Patient Experience Team:

Dial 0300 13 14 500 and select extension 770358.

## Appendix F: Complaints Grading Matrix

Complaints Grading Matrix

| Risk Grading | Descriptor | Share Complaint With |
|---|---|---|
| HIGH | • a complaint where the action or omission of Trust staff has placed a patient at risk of or suffered significant harm, up to and including death; and/or<br>• a complaint raising safeguarding concerns against the Trust; and/or<br>• a complaint presenting a significant reputational risk to the Trust. | Division, Chief Executive, Chief of Staff, Chief Medical Officer, Chief Nurse, Deputy Chief Nurse, Head of Patient Experience, Deputy Patient Experience Complaints Manager<br>Copy to:<br>- Legal Team (esht.healthcarelitigation@nhs.net)<br>- Associate Director of Clinical Governance<br>- Patient Safety (esht.patientsafetyteam@nhs.net) |
| MODERATE | • a complaint involving aspects of clinical care, but where the above criteria has not been met. | Division, Chief of Staff, Chief Medical Officer (If Medical), Chief Nurse, Deputy Chief Nurse (If Nursing), Head of Patient Experience, Deputy Patient Experience Complaints Manager |
| LOW | • a complaint that does not involve any aspect of clinical care and where the above criteria has not been met. | Division Only |

## Appendix G: Concern and Complaints Form

NHS
East Sussex Healthcare
NHS Trust

The Trust is committed to learning from all the feedback that it receives, and concerns complaints can often help to identify where changes or improvements to standards or practices may be required to enhance the experience of patients and their relatives.

We want it to be easy for patients or relatives to make a concern or complaint and so if you have any questions or require assistance completing this form, please telephone our Patient Experience Team on 0300 131 4784 or 0300 131 5309.

| **Patient Details** | **Your Details (If You Are Not The Patient)** |
|---|---|
| Title: Mr/Mrs/Miss/Ms/Other (Please State) | Title: Mr/Mrs/Miss/Ms/Other (Please State) |
| First Name: | First Name: |
| Surname: | Surname: |
| Address: | Address: |
| Postcode: | Postcode: |
| Telephone Number: | Telephone Number: |
| Email Address: | Email Address: |
| Date of Birth: | Relationship To Patient: |

**NB:** if you are not the patient, we will need evidence that you have the authority to receive details of confidential patient care and treatment in order to answer your complaint.

| | |
|---|---|
| What Is The Date(s) Of The Incident That Is The Source Of Your Concern Or Complaint? | Date(s): |
| Which Site(s) Does Your Concern Or Complaint Relate To? | Conquest Hospital<br>Eastbourne District General Hospital<br>Other Hospital (Please State)<br><br>At Home/In The Community (Please State) |
| Which Department(s) Does Your Concern Or Complaint Relate To? | Department(s): |
| Please give us a summary of your concern or complaint below; it will help us if you can be as specific as you can about key details. | |

| |
|---|
| |
| Thinking about the concern or complaint you have made, what are the specific questions you would like us to investigate and respond to you on? |
| Question 1 |
| Question 2 |

| |
|---|
| |
| Question 3 |
| Question 4 |
| Question 5 |
| Question 6 |

*(Please continue on a separate sheet if needed)*

Once you have completed this form, you can email it to us as an attachment (please do not send it in a photographic format) at esh-tr.patientexperience@nhs.net or post to:

The Chief Executive
Patient Experience Team (Complaints)
East Sussex Healthcare NHS Trust
St Anne's House
729 The Ridge
St. Leonards-on-Sea
East Sussex
TN37 7PT

If you need your correspondence from the Patient Experience Team in a larger font, different format or a different language, please indicate below:

□ In a larger size font (please tell us below what size font)

□ In a different format (please tell us below what format this is)

□ In a different language (please tell us below which language)

Do you have any other specific communication needs? Please let us know so we can assist you.

**Appendix H: Procedure for dealing with unreasonably persistent complaints and unreasonable complaints behaviour**

## 1. Introduction

East Sussex Healthcare NHS Trust (ESHT) is committed to dealing with all complaints fairly and impartially and to provide a high-quality service to complainants. Having a procedure on unreasonably persistent complainants and unreasonable complaint behaviour helps ESHT to deal with complainants in ways which are consistent and fair.

## 2. Purpose

This policy enables ESHT to deal fairly and honestly with persistent complainants where all other routes to resolution have been exhausted. Ensures other patients and ESHT staff are not negatively impacted by repeated, persistent, and unreasonable complaints.

## 3. Definitions

ESHT has defined 'unreasonable' and 'unreasonably persistent' complainants as those who, because of the frequency or nature of their contacts with ESHT, hinder the Trust's consideration of their, or other people's, complaints.

### Unreasonably Persistent Complainant Behaviour

Examples of unreasonably persistent complainant behaviour include:

- Introduction of information that has little or no bearing/relevance to the complaint, but expect it to be taken into account and commented on.
- Raising large numbers of detailed but unrelated questions and expecting them to be fully answered.
- Unreasonably pursuing a complaint with multiple ESHT departments and services and at the same time and/or with other parties e.g. MPs, Councillors or the Parliamentary Health Service Ombudsman (PHSO).
- Making excessive demands on the time and resources of staff whilst a complaint is being investigated e.g. excessive telephoning, sending e-mails to numerous ESHT staff, writing lengthy complex correspondence at regular intervals and expecting immediate responses.
- Submission of complaints, after the complaints process has been completed, about the same issues as the original complaint but with additions/variations which the complainant contests make it a 'new' complaint and would like to have addressed through the complaints process.
- Refusal to accept the decision reached/outcome of the complaint, repeatedly contesting the point and complaining about the decision.
- This list is not exhaustive and unreasonably persistent complainant behaviour is not limited to one, or a combination of any, of the above.

### Unreasonable Complainant Behaviour

Unreasonable complainant behaviour includes abusive, offensive, harassing or threatening communication or contact, and/or where the complainant repeatedly does not engage in the process of seeking a resolution. Examples include:

- Refusal by a complainant to specify the grounds of a complaint, despite offers of assistance by ESHT staff.
- Refusal by a complainant to co-operate with the complaints process, whilst still wishing for their complaint to be resolved.
- Refusal to accept issues raised that are not within the remit of the ESHT complaints
- process.
- Insistence that a complaint be dealt with in ways which are incompatible with the ESHT complaints process.
- Making unreasonable complaints about staff dealing with a complaint and seeking to have those staff removed/replaced.

- Repeatedly directly contacting staff involved in the complaint or its resolution in a rude, aggressive or otherwise inappropriate manner.
- Changing the basis of a complaint as the investigation proceeds and/or denying statement he/she made at an earlier stage.
- Digitally recording meetings and conversations without the prior knowledge and expressed consent of other persons involved.

This list is not exhaustive and unreasonable complainant behaviour is not limited to one or a combination of any of the above.

## 4. Accountabilities and Responsibilities

**Chief of Staff**
Responsible for reviewing potentially unreasonable complainant behaviour raised by staff teams and determining whether this falls within the scope of this policy and the remedies within it. Issuing first warnings to complainants. Issuing a decision to treat a complainant as exhibiting unreasonable behaviour and the sanctions and remedies associated with this.

**Head of Patient Experience**
Review concerns raised by staff teams against the assessment process set out in section 5. Keep the Chief of Staff updated on any unreasonably persistent complainants or unreasonable behaviours and support the Patient Experience Team in such cases.

**Patient Experience Team (Complaints and PALS)**
Raise any concerns relating to unreasonably persistent or demonstration of unreasonable behaviour with the Head of Patient Experience Once someone has been designated as unreasonably persistent or demonstrating unreasonable behaviours contact with the complainant will be restricted.

## 5. Process

| | |
|---|---|
| Step 1 | Patient Experience Team highlight an issue. |
| Step 2 | Head of Patient Experience assesses whether the 4c Policy has been followed. |
| Step 3 | Head of Patient Experience assesses whether all other remedies have been exhausted, if not refers to Patient Experience Team. |
| Step 4 | Chief of Staff reviews the case. |
| Step 5 | Chief of Staff issues a warning letter to the complainant. |
| Step 6 | Head of Patient Experience refers to Chief of Staff if the behaviour continues. |
| Step 7 | Chief of Staff reviews against policy criteria and identifies appropriate action. |
| Step 8 | Chief of Staff issues persistent complainant letter. |

### 5.1 Assessing Whether the Action is Necessary

The following factors together with any other relevant factual information, will be used to assess whether all other avenues to support resolution have been exhausted (this will be completed by the Head of Patient Experience and Chief of Staff)

- Is the complaint being investigated correctly and in accordance with ESHT procedure
- for investigating complaints?
- Is there another, more specific, path the complainant to follow e.g. reopening the complaint or Local Resolution Meeting (LRM)?
- Are the timescales being adhered to?
- Has the complainant been advised of any delays that may have occurred?
- Are the considerations/decisions reached as part of the investigation, being reached correctly?

- Have communications with the complainant been adequate, clear, coordinated and documented?
- Has consideration been given to the possibility of external factors such as grief/bereavement, poor physical health, mental health difficulties or learning disabilities?
- Is the complainant providing any significant new information that might affect ESHT view/handling of the complaint?
- Have any meetings taken place between the complainant and ESHT staff? If not, unless there is a known risk about such a meeting, would this be likely to help the situation? The complainant may be accompanied by an advocate, if he/she wishes, if it is considered that a meeting may help the situation.
- Is more than one department or service area being contacted by an unreasonably persistent complainant? If so, consideration could be given to setting up a meeting to agree a cross-service approach and allocate a staff member to co-ordinate communication between ESHT and the complainant.

**5.2 Applying Restrictions**
**Sanctions and Remedies**

**5.2.1 Stage 1 Action First Warning**
Before applying any restriction, the complainant will be given a warning in writing that if the actions continue, ESHT may decide to treat him/her as an unreasonably persistent complainant and explain why.

**5.2.2 Stage 2 Action**
If the inappropriate complaints behaviour continues a range of action to manage the impact of inappropriate complaints behaviour is available to the Chief of Staff. Action will be appropriate and proportionate to the nature and frequency of the complainant's contact with ESHT. It is important, however, to ensure that Policy and Procedure for the Recording, Investigation and Management of Complaints, Comments, Concerns and Compliments (4C) has been followed.

The following is a list of some possible actions for managing a complainant's involvement with ESHT:

- Placing time limits on telephone conversations and contacts.
- Restricting the number of telephone calls that will be taken e.g. one call on one specified day of any week.
- Limiting the complainant to one contact medium e.g. telephone, letter, e-mail and/or requiring the complainant to communicate with one named member of staff.
- Requiring personal contacts to take place in the presence of a witness.
- Refusing to register/process further complaints about the same matter.
- This list is not exhaustive and local case-by-case factors may be relevant in deciding appropriate action.

**5.3 Completed/Closed Complaints**
Where a complaint has gone through the complaints procedure and it has been explained to the complainant that if he/she is still not satisfied then he/she can take the complaint to the PHSO, should correspondence from the complainant continue, then the Head of Patient Experience, with the agreement of the Chief of Staff, will write to the complainant to inform him/her that the matter is at an end. It will be explained that ESHT will not enter into further correspondence about the complaint, and any further letters on the same subject will be read and placed on file but will receive no acknowledgement or response.

**5.4 Dealing with Unreasonable Complainant Behaviour**

ESHT has a duty to ensure the health, safety and welfare of its staff and it does not expect staff to tolerate language or behaviour by complainants which is abusive, offensive, harassing or threatening. Members of staff who feel threatened or intimidated by the language or behaviour of complainants should report their concerns to the Head of Patient Experience and record this in Datix as an incident. The Head of Patient Experience will then consider:

- whether to write to the complainant, requiring them not to repeat the behaviour and, if necessary, setting conditions and restrictions for further contact with staff.

**5.5 Telephone Contact**
During a telephone conversation, if staff consider that the caller is becoming aggressive and/or offensive, they will inform the caller that they will terminate the conversation unless such behaviour ceases. If these behaviours continue, the member of staff will terminate the call and make a note of the content of the call in the complaint record in Datix explaining why the call was terminated.

Repeated calls of this nature are considered to be unacceptable and should be reported to the Head of Patient Experience to determine appropriate action.

**5.6 Application of the Procedure**
If the decision is made to apply the procedure, the Head of Patient Experience will write to the complainant to:

- Inform him/her that the decision has been taken to invoke the procedure and why.
- Explain what it means for his/her contacts with ESHT.
- Explain how long any restrictions will last.
- Explain what the complainant can do to have the decision reviewed.
- Enclose a copy of the procedure with the letter.

**5.7 Record Keeping**
Adequate records must be kept of all contacts with unreasonably persistent complainants and complainants behaving unreasonably. The information should be treated as confidential and only shared with those who may be affected by the decision. Key information to be recorded includes:

- When a decision is taken to apply, or not to apply, the procedure and why following a request to do so by a member of staff.
- When a decision is taken to make an exception to the procedure after it has been applied, e.g. if extenuating circumstances subsequently come to light.
- When a decision is taken, and the reason, not to put a further complaint from the same complainant through the complaints procedure.
- When a decision is taken not to respond to further correspondence, having made sure that any further correspondence/communication, etc from the complainant do not have any significant new information.

**5.8 Future Complaints by the Same Complainant**
When/if the complainant makes a complaint about a new issue this should be treated on its merits and a decision will need to be taken on whether any restrictions which have been applied before are still appropriate/necessary.

**5.9 Review of Decisions**
Reviews of decisions to restrict a complainant's contacts, or ESHT responses to those contacts, should be carried out in accordance with agreed timescales or at least every six months by the appropriate member of staff in liaison with Patient Experience Management Team. If no further contact has been received from the complainant over a period of six months, consideration may be given to cancelling the restrictions. However, urgent assessment will be necessary to re-introduce them if the behaviours which led to the original decision recommences.