

Item 6.2a

# Making Experiences Count – NHS and Adult Social Care Complaints Process

## Policy and Procedure

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<b>Scope: Trust/Department/Directorate Wide</b> All employees , patients, former patients, Advocates, Care Quality Commission, Strategic Health Authority, NHSLA, Adult Social Care Services, and NHS Parliamentary Ombudsman. Excluded from the scope of the policy are complaints made by staff about the actions of other staff and NHS organisations relating to its exercise of its functions by another NHS organisation.		<b>Classification: Non-Clinical</b>
<b>Replaces: v3.3</b>		
<b>To be read in conjunction with the following documents:</b> The Complaints Policy is governed by the following legislation and statutory requirements: a) <u>NHS Complaints Regulations 2004</u> b) <u>Healthcare Commission Complaints Procedure</u> c) <u>The Parliamentary &amp; Health Service Ombudsman Guidance</u> d) <u>Health Service Commissioners Act 1993</u> e) <u>Statutory Duty of Candour 2014</u> Other LHCH Policies: <ul style="list-style-type: none"> <li>• Data Protection Policy</li> <li>• Health Records Access Policy</li> <li>• Freedom of Information Policy</li> <li>• Policy &amp; Strategy for Risk Management</li> <li>• Policy for Supporting Staff Following Traumatic Stressful Incidents/Complaints/Claims</li> <li>• Policy Against Violence to Staff at Work</li> <li>• Disciplinary Policy</li> <li>• Being Open Policy</li> <li>• Integrated Incidents Complaints &amp; Claims Policy</li> <li>• HR Policies</li> <li>• Safeguarding Policy</li> <li>• Single Equality Scheme</li> </ul>		
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## Policy Statement

A complaint is an expression of dissatisfaction with some aspect of the service provided and can be made by a patient, relative, visitor or carer.

The Liverpool Heart and Chest Hospital NHS Foundation Trust (the Trust) aims to deliver services and care to the highest standards. If these are not met the Trust is likely to receive complaints. It is necessary for the Trust to adopt a policy for managing and responding to complaints. The policy is clearly stated for the benefit of the public, patients and staff.

The Trust recognises that it can learn from the complaints it receives and thereby improve the quality of the services that it provides. Therefore it is in the Trust's interests to assist people in presenting their concerns about its services and care and in achieving a satisfactory outcome to their complaints. The Trust will ensure that patients, their relatives and carers have suitable and accessible information about complaints in the form of leaflets and posters available in all areas giving details of how to make a complaint and information available on the Trust's website and made available in other formats and languages as required.

The importance of properly managing complaints in the NHS is recognised at the highest level and this is reflected in legislation and national policy which the Trust aims to apply in its complaints policy.

The policy supports the content of the Care Quality Commission Document, Essential Standards for Quality and Safety (ESQS) outcome 17 pertaining to complaints management.

### **1.0 Roles and Responsibilities:**

The Trust has a duty to manage complaints in compliance with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

**The Chief Executive (CEO)** has overall accountability for the management of complaints.

**The Deputy Chief Executive** will deputise for the Chief Executive and sign the final response to a complaint in the absence of the CEO.

**The Director of Nursing & Quality** has operational accountability for the management of complaints and the development, implementation and review of the Trust's Complaints Policy & Procedure. He/she should review and approve the final draft responses and action plans for complaints.

**The Medical Director/Deputy Medical Director/Associate Medical Director(s)** is responsible for ensuring that all medical staff comply with this policy.

**The Head of Nursing (Corporate)** will deputise for the Director of Nursing in complaints management as required, has management responsibility for the Patient & Family Support Team and is therefore accountable for delivering an effective complaints handling system.

**The Patient & Family Support Manager** is the designated 'Complaints Manager' and is the lead investigator for complaints. He/she has operational responsibility for the effective and efficient management of concerns and complaints and the recording and monitoring of these. He/she should facilitate awareness-raising through Corporate Induction and Mandatory Training as per the Trust's Training Needs Analysis. He/she will be responsible for supporting the divisional lead in investigating complaints and formulating the complaint response and should share the agreed response with those involved in the complaint and relevant management team

**Patient & Family Support Team** is responsible for supporting the Patient & Family Support Manager in discharging his/her responsibilities and are responsible for providing information and support to patients, relatives and carers independently from clinical services. As part of that role they will support patients, their families/carers and staff and initiate investigations to seek resolution to concerns and complaints.

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**Divisional Heads of Operations/Heads of Nursing** are responsible for ensuring that staff within their area are aware of the processes for advising patients and their families/carers on how to raise their concerns or complaints and that staff fully comply with this policy.

They must engage and assist the Patient & Family Support Team in seeking resolution of complaints and related issues. They should fully co-operate and support the investigation of all complaints and agree complaint responses and action plans.

**The Divisions (Surgery, Medicine, Clinical Support Services & Corporate)** are responsible for implementing any actions and learning to address issues arising from individual complaints and apply lessons learned within their own area. They should ensure action plans are monitored, managed and completed within their directorate and presented at the relevant Governance Meetings. They will be accountable for meeting performance targets in the management of complaints and ensuring feedback is given to the staff involved. They should attend meetings with complainants to represent staff with the aim to reach a resolution.

**Clinical leads** are responsible for providing professional and clinical advice and expertise in the investigation of individual complaints and the formulation of a response. They should attend meetings with complainants and their families in order to reach resolution.

**Heads of Department/Ward Managers and Service Line Managers** are responsible for providing professional expertise in the investigation of concerns and complaints relating to their area and to support the Head of Nursing/Patient & Family Support Team in formulating the response. Should corrective action be required they must formulate an action plan to be sent to the Patient & Family Support Manager, with their response to the complaint. They must ensure action plans are implemented, monitored and completed within their area. They are responsible for presenting action plans that have resulted in complaints within their areas to the relevant Governance Committees.

**Hospital Co-ordinators** are responsible for the efficient management of concerns and complaints raised outside office hours. They must document any issues raised and the actions taken in the patient's health records and inform the Patient & Family Support Manager the following day. Any serious complaints should be escalated to the Manager-on-call immediately if a suitable resolution cannot be achieved.

**All Trust staff** (including temporary, agency, contract, seconded staff and students) have a responsibility to be aware of and comply with the Trust's Complaints Policy and procedures and, in doing so will advise any patient, their families/carers of the processes used within the Trust to raise concerns or complaints. All staff will consult with their managers, professional and clinical leads, and the Patient & Family Support Team, where appropriate, in seeking resolution of a complaint and related issues. All staff will co-operate with the investigation of individual complaints and where possible try to resolve complaints at ward or departmental level to the best of their ability.

The Patient may act as complainant or give consent to a representative to act on his/her behalf.

The Complainant may present a complaint to the Trust verbally, in person or in writing (including email) and will act in accordance with the wishes or interests of the patient.

Supporting People should support, assist and provide advocacy or translation services to the patient and/or complainant in presenting the complaint to the Trust in accordance with the wishes of the patient.

## **2.0 Standards**

### **2.1 The objectives of this policy are:**

- To ensure the complaint is dealt with in an open and non-defensive way in order to maintain fairness for patient/relative/carer and staff alike.
- To improve quality of service using lessons learned from compliments and complaints. Implementing improvements in service by sharing best practice.
- To ensure all staff are fully trained in the implementation of this policy.
- To resolve concerns and complaints as quickly and effectively as possible.

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- To assist patients/relatives/carers through the process of complaints until their concerns are successfully resolved
- To ensure the Complaints Procedure is easily accessible to all.
- To ensure complaints are managed and escalated appropriately.

## 2.2 Complaints will be managed in the following way:

- Timely
- Accessible
- Accurate
- Confidential
- Fair
- Honest
- Impartial
- Non-defensive
- Understandable
- Non-discriminatory

The Trust recognises that concerns and complaints provide useful management information about the quality of services from the perspective of patients, their families, friends and carers.

Patients, relatives and carers must be assured that if they have to raise any concerns regarding treatment and care that these issues will be dealt with in a professional and caring manner; and that by raising such concerns, their future treatment and care will not be compromised. Staff must also be aware that to discriminate against a patient will result in a disciplinary investigation.

This policy covers all issues related to what the Department of Health refers to as the 4 'C's:

**Compliments** – should be received in a positive and professional manner and shared with those involved with the patient's care.

**Comments** – should be received and acted upon immediately if necessary.

**Concerns** – should be investigated and feedback provided to the patient and/or their relative/carer either verbally or in writing.

**Complaints** – may be made verbally, in person or in writing (by letter, fax or email). However, if it is possible to deal with the matter immediately and locally then this must be done. Every effort should be made to resolve the complaint quickly thereby improving the patient experience. It should be noted that should frontline staff be unable to answer or resolve the patient's concerns then the patient must be given the option of having their concerns escalated to an appropriate level within the organisation.

## 2.3 Access to Health Records

In the course of managing a complaint, access to the health records of the patient will be available to:

- Patient & Family Support Team
- Staff who are the subject of the complaint or assisting in the investigation
- The complainant, subject to the requirements of the Access to Health Records Act 1990 and the Data Protection Act 1998, and having due regard to the confidentiality of third party information.

Where a complainant requests copies of the Health Records and/or x-rays under the complaints procedure these will be released in accordance with the Data Protection Act 1998 or the Access to Health Records Act 1990 (for deceased patients). The Health Records Department will be responsible for organising the release of the relevant records and x-rays, on completion of the appropriate documentation.

## 2.4 Confidentiality

It is imperative that confidentiality is maintained throughout the complaints procedure. Complaint records will be kept separate to health records. Staff should understand that such records must be treated with the same degree of confidentiality as medical records and would be open to disclosure in legal proceedings.

In cases where a patient has authorised someone to make the complaint on their behalf, consent should be sought from the patient for their personal/medical information to be disclosed to the representative. This applies to all levels of complaints.

## 3.0 Protocol

### 3.1 NHS and Adult Social Care Complaints Policy

This policy determines how each and every complaint received by the Liverpool Heart and Chest Hospital is managed, along with the roles and responsibilities of all involved in the process. The complaints procedure is built around achieving the desired outcomes at local level (Local Resolution) by using advocacy and mediation.

### 3.2 Who Can Make a Complaint

A complaint may be made by a patient who has received care or treatment from the Liverpool Heart and Chest Hospital or who is affected, or likely to be affected, by the action, omission or decision of the Trust.

A complaint may be made by a person acting on behalf of a patient who

- (a) has died
- (b) is a child
- (c) is unable to make the complaint themselves because of:
  - (i) physical incapacity; or
  - (ii) lack of capacity within the meaning of the Mental Capacity Act 2005(18); or
- (d) has requested the representative to act on their behalf (e.g. Independent Complaints Advisory Service or a relative or carer)

Although the Trust predominantly provides Adult Healthcare, the Trust does treat a small number of children each year. The Trust does have a named nurse and named doctor acting as Safeguarding Children Leads who are able to advise on the consenting of children.

### 3.3 Duty to Co-operate

The Trust has a duty to co-operate with other health and social care organisations to ensure full co-ordination of the handling of the complaint to ensure the complainant receives a co-ordinated thorough response to the complaint.

Co-operating bodies will need to agree which of the two or more organisations should take the lead in co-ordinating and completing the handling of the complaint and the communication with the complainant. The Trust has a duty to provide to the other organisation information relevant for consideration of the complaint which is reasonably requested by the other organisation and to attend any meeting to support resolution of the complaint.

### 3.4 Consent

When complaints are made on behalf of a patient, the Trust must obtain written consent from the patient before any information can be disclosed. The patient will be asked to indicate whom they would like the final response to be made to i.e. themselves or the person making the complaint on their behalf.

When a complaint is made on behalf of a patient, who has not authorised someone to act on their behalf, care must be taken not to disclose personal health details to the complainant, ensuring that patient confidentiality and data protection is maintained.

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If a relative/carer makes a complaint relating to the care/treatments of a deceased patient, written authority must be sought from the next of kin or immediate family member (e.g. daughter or son) in order for the Trust to investigate a complaint on behalf of the complainant.

If confidential information is required or to be shared with other organisations, the appropriate documentation will be sent to the patient or their representative involved, requesting their consent to investigate the complaint.

Where the patient does not have the capacity to give consent, the next of kin must give their consent for the complaint to be investigated. Where the patient is vulnerable, due consideration must be given to appropriate advocacy being provided to assist and support the patient in giving the consent (refer to Mental Capacity Act 2005) and an Independent Mental Capacity Advocate (IMCA), if appropriate, must be contacted. With regard to Ethnic Minority Service Users appropriate interpretation service must be made available.

**NB** Next of Kin has no standing at law, however if the patient is unable to consent, the next of kin may be able to provide the treating clinicians with relevant information to assist in their decision making process. However, if the next of kin has a Lasting Power of Attorney, they can be involved in the decision making process.

### 3.5 Healthwatch

Healthwatch currently provides an external independent advocacy. This is a means of supporting complainants through the NHS and Adult Social Care Complaints procedure. Its aims are to provide satisfactory support and advice for the complainant and if appropriate to liaise on their behalf with the organisation. There is a statutory requirement to provide advocacy as an option during the complaints procedure at all levels, for the benefit of those complaining.

### 3.6 Time Limits for Submitting a Complaint

The complaint must be made no later than 12 months from time of, or knowledge of the event. This timeframe however depends upon the personal circumstances of the complainant. The Trust will review all 'out of time' complaints on an individual basis. The Chief Executive will take the final decision if a complaint submitted out of time should be investigated.

### 3.7 Complaints not required to be dealt with

The following complaints are not required to be dealt with in accordance to the Regulations 2009.

- A complaint that is made verbally and is resolved to the complainant's satisfaction no later than the next working day.
- A complaint by a responsible body for example a local authority, NHS body, primary care or independent provider.
- A complaint by an employee of a local authority or NHS body regarding any matter relating to that employment
- A complaint arising out of the alleged failure by a responsible body to comply with a request for information under the Freedom of Information Act
- A complaint that has been previously investigated under –
  - this policy & 2009 regulations
  - the 2004 or 2006 regulationsa relevant complaint procedure in relation to a complaint made under such a procedure prior to 1.4.2009



## **4.0 Process for Listening and Responding to Complaints/Concerns**

### **4.1 Receipt of Concerns or Complaints**

All staff are responsible for resolving issues raised by patients/families or carers in the first instance and must attempt to provide a resolution to the issues raised where possible. If they are unable to resolve the concerns, they should escalate this to their supervisor or manager. If the manager cannot resolve the complaint to the complainant's satisfaction then they must escalate to a senior member of staff who should try to resolve the concern or complaint. If a concern or complaint is not resolved then they should seek advice from the Patient & Family Support Team who will advise on the most effective way to deal with the concern or complaint raised.

If a concern/complaint is made verbally and cannot be resolved to the complainant's satisfaction by the next working day, it is important that staff document the concerns and identify what steps they have taken in order to resolve the issues in the patient's health records if appropriate.

### **4.2 Concerns or Complaints Received by or Escalated to Patient & Family Support Team**

When concerns and complaints are received by or are escalated to the Patient & Family Support Team they will act as facilitators to help resolve the concern/complaint quickly, efficiently and fairly. A member of the team will acknowledge receipt by contacting the complainant immediately if possible, but certainly within 3 working days, in order to negotiate how the concern or complaint will be handled.

Clarification should be sought about what the person's concerns or complaints are; their expectations about possible outcomes and how they would like to receive their response. If a person states they wish their concerns to be dealt with informally they are recorded as a contact or concern. The Patient & Family Support Team will triage concerns raised and if they are of the opinion they can be dealt with informally then they will advise the complainant of this.

A timeframe for responding to complaints raised is negotiated with the Patient & Family Support Team and complainant and recorded in the Complaint Initial Contact Form (Appendix 1). This is in accordance with the issues raised and the grade that the complaint is being dealt with and level of investigation required. The opportunity for the grade and timeframe to be reassessed during the investigation will remain open and will be communicated to all appropriate personnel including the complainant.

All complaints that are raised directly with the Patient & Family Support Team can originate from a telephone call, email, referral by a member of staff/patients or their relatives/ carers may present in person to the team.

All complaints will be triaged by the Patient & Family Support Team to determine how they will be best managed and graded (see section 4.3). All complaints are shared electronically with the appropriate management team and Head of Governance upon receipt. Complaint investigations are co-ordinated by the Patient & Family Support Manager who will liaise with local managers and the appropriate Divisional Heads of Nursing/Operational Leads during the investigation. Complaints graded high to extreme will be escalated to the Director of Nursing upon receipt and complaints graded extreme are escalated to a member of the Executive Team. All investigations are supported by the Patient & Family Support Manager.

The Patient & Family Support Manager will highlight to relevant Divisional Heads of Nursing/Operational Leads if any complaints received (regardless of grade) contain multiple issues or if there is a theme or trend in the type of complaint, area or individual(s) concerned.

All complaints graded high/extreme will be immediately communicated and copied to the relevant Head of Nursing/Divisional Lead and or Director of Nursing.

### 4.3 Complaint Grading and Response Times

The following table will be used as a guide only for the Patient & Family Support Team when grading complaints. All the issues raised and the severity of the concerns will be taken into consideration when grading each complaint. The appropriate lead for the Divisional Heads of Nursing/Operational Leads must review and agree and/or amend the grading of complaint when approving the draft response.

Grade	Rationale	Response Time
<b>LOW</b>	<p><b>Concerns raised that are simple non-complex issues</b>  Unsatisfactory service or experience not directly related to care where there is no impact or risk to provision of care.  <b>Examples:</b>  Cancelled appointments  Delays in clinic  Waiting times for admission or appointments  Transport arrangements  Minor or single breakdown in communication  Access &amp; Parking including disabled  Catering  Translation services  <b>No real risk of litigation</b></p>	1-10 days
<b>MEDIUM</b>	<p><b>Concerns relating to service or if experience is below reasonable expectation but not causing lasting problems.</b>  <i>Complaints at this level require a detailed level of investigation.</i>  <b>Examples:</b>  Clinical Care , medical, nursing and or AHP – clarity regarding care or condition  Poor patient or family experience, Cancelled operations/procedures  Delayed discharge or arrangements  Infection Prevention – requiring clarity regarding condition  Miscommunication – Clinical and non-clinical ,  Misinformation – Clinical and non-clinical  Privacy &amp; Dignity or cultural needs not met  Private Patient invoicing or facilities  Facilities &amp; environment  Loss of property  Service provisions  Failure to provide extra support when required  <b>Some potential for litigation</b></p>	10-20 days
<b>HIGH</b>	<p><b>Concerns relating to a single or multiple issues relating to a period of care, or when service or experience is below reasonable expectation and may have caused lasting problems.</b>  Complex complaints that may involve more than one clinician or specialty or more than one organisation.  <i>Complaints at this level require immediate in-depth investigation.</i>  <b>Examples:</b>  Clinical care (medical, nursing or AHP) – failure to meet care needs, issues regarding standards, quality of care and safeguarding, care that has caused long standing problems for the patient, serious issues that may cause long-term damage such as grossly substandard care, professional misconduct or death. Medical errors or serious harm  Poor patient or family experience below reasonable expectation  Attitude and behaviour of staff  Catalogue of errors or poor communication or misinformation  Failure to provide extra support when required or meet disability needs</p>	25 days

	Privacy & Dignity Discrimination Issues relating to Consent/Confidentiality Infection prevention/control, hospital acquired infection <b>High probability of litigation</b>	
<b>EXTREME</b>	<b>Multiple issues relating to serious failures of care or service causing serious harm or death. Complaints with clear quality assurance or risk management issues that may cause long lasting problems for the organisation. High probability of litigation and/or adverse publicity or serious issues that may cause long-term damage such as grossly substandard care, professional misconduct and/or death.</b> Highly complex complaints that may involve more than one clinician or specialty or more than one organisation. <i>Complaints at this level will require a high level of investigation and an Executive should be informed immediately.</i> <b>Examples:</b> Clinical care or events resulting in serious harm or death Gross professional misconduct Abuse or neglect Criminal Offence Safeguarding <b>High probability of litigation and strong possibility of adverse national publicity.</b>	30 – 40 days

#### 4.4 Investigation process

The Patient & Family Support Team will inform staff involved that a complaint has been received and provide them with a copy of the complaint letter or a written summary of the verbal complaint. Staff will be given an opportunity to review the patient's health records and provide statements and/or meet with the team to enable them to collate the information for the response. All staff must provide a comprehensive response to complaints within the timeframe set by the Patient & Family Support Team.

All statements must contain:

- A summary of the patient's care and treatment or issue and address each point relating to their area of expertise. A comprehensive chronological timeline account of events (including dates/times) of what happened giving reasons for their actions and omissions. Information should also be included where the evidence can be found to back up these facts.
- Copies of appropriate annotation from health records (or reference to where this can be found in health records) if necessary.
- Information to identify others involved from their area, with a full account obtained from them and for this information to be included in the statement, providing their full name and job title.
- Answers to any specific questions detailed in the complaint relating to their area of expertise.
- Any action that will be taken to ensure the issues do not reoccur which should be detailed on a separate action plan.
- An apology if appropriate.
- Details of improvements or actions to be taken if these are required

Staff should aim to provide a response to complaints within 7 working days, should additional time be required this should be negotiated with the Patient & Family Support Team. Staff will be given a date when the response is required by. If responses are not received by this date, the Patient & Family Support Team will send an electronic reminder. If responses are not received in a timely manner then this will be escalated to the Heads of Nursing Corporate who must support the Patient & Family Support Team in obtaining responses.

If responses received are inadequate or do not answer the specific questions required, the Patient & Family Support Team will escalate this to the relevant Head of Nursing or Division Operations Lead who will support the Patient & Family Support Team by contacting the individual members of staff.

The Patient & Family Support Manager will provide support and training to new members of staff who are required to investigate complaints and provide responses.

If corrective action is required the staff should return their statement electronically along with a Complaint Action Plan (Appendix 2). This should address each issue raised and detail what action will be taken and how this will be implemented and monitored.

The nominated lead must agree the action plan with appropriate Head of Nursing. The nominated lead will be responsible for implementing changes in practice as a result and that lessons are learnt across the directorates as appropriate. The nominated lead will also be required to present the action plan and discuss the issues raised and lessons learnt at the relevant Governance Meeting.

#### **4.5 Complaints Graded High/Extreme**

For complaints graded High/Extreme the investigation will be undertaken in the same way as described previously but the level of investigation will be more in-depth and comprehensive. Complex clinical complaints may require root cause analysis investigation. A meeting may be held between all involved in the complaint to discuss the content and collate the required information or give instructions of what information is required. This meeting will be facilitated by the Patient & Family Support Manager/and or the Head of Nursing Corporate.

The response date will be agreed with the complainant and updated throughout the investigation process. Where there are a number of organisations involved the timeframe for resolution can be up to 30-40 working days or longer should the investigation not be complete.

If any complaints received outline that staff may have failed to adhere to the Trust's Values and Behaviours, the complainants will be initially invited to meet with the relevant Divisional Head of Operations and/or Head of Nursing to discuss their concerns further. Following the meeting they will make a decision on the best way to manage their complaint.

#### **4.7 Complaint Responses/Meetings**

A response date is negotiated with the complainant when the complaint is acknowledged and it is agreed how the complainant would like to receive a response. A response can either be written (including email), verbal or at a meeting with staff involved. The response should always meet the needs of the complainant and may be required in a different format (for example audio, large print or Braille). If the complainant requests a verbal response, the details of the response given will be recorded in the complaint file.

Should the complainant request a meeting to resolve the concerns or any outstanding concerns following receipt of a written response, relevant medical and senior nursing staff will be required to attend. Head of Nursing/Clinical Leads and relevant managers will be asked to attend the meeting to represent any staff members involved in the complaint. The relevant Head of Nursing/Head of Operations should also be in attendance and will act as Chair. Meeting notes will be taken which will not be verbatim but be a summary of the main points of the meeting and a summary of any agreed actions will be documented. A copy of the agreed meeting notes will be sent to the complainant within 25 working days.

Should a request be made by the complainant to record the meeting, permission from all those in attendance should be sought with the agreement that the recording is made solely to capture discussions relevant to identifying and responding to issues raised in the complaint and it be agreed that this should not be used for any other purpose. Should the meeting be recorded by the Trust, a copy of the recording will be given to the complainant following the meeting.

All draft written responses to complaints will be written by the relevant Divisional Heads of Nursing/Operational Leads and/or Patient & Family Support Manager and reviewed by the Head of Nursing Corporate who will assess and sign the Complaint Plan to agree or amend the grading of the complaint upon the review of the final draft.

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The complaint file and response must be reviewed and signed off by the Chief Executive. In the absence of the Chief Executive, the Deputy Chief Executive will sign the complaint response.

All responses must:

- Acknowledge the person's right to complain and thank them for bringing the matter to our attention.
- Contain an expression of condolence where bereavement has occurred.
- Address each issue or question raised and comply with the duty of candour. Meaning responses must be open and transparent about their care and treatment, including when it has gone wrong.
- Avoid technical terms and medical terminology should be written/spoken in plain English.
- Be sympathetic in tone and contain an apology where appropriate.
- Inform the complainant if any lessons are to be learnt and what actions have been taken to prevent a reoccurrence and/or make improvements in service.
- Clearly state if an investigation has revealed the complaint unfounded or that the complainant's expectations of service are unrealistic.
- Clearly state if an investigation has revealed that the patient or complainant has not acted or behaved appropriately.
- Inform the complainant of the options available to them if they remain dissatisfied including arranging a meeting.
- Identify risks, if any, which have arisen as the investigation has progressed and ensure that these are encompassed in the action plan.

## **5.0 Process for handing complaints between more than one organisation**

Where a complaint is complex and/or involves more than one Trust or Social Care organisation, the organisation receiving the complaint must contact the other agencies and decide jointly who will lead the investigation and provide the final response.

A complaint plan will be agreed with the complainant which identifies how the investigation is to be undertaken, who the lead investigation officer will be and which organisation is responsible for keeping the complainant informed at all times. This is considered a more reasonable approach both from the complainant's aspect and the organisations involved. However, it must be born in mind that each organisation's policy may determine that each organisation may have to respond separately. In either case the patients/service user's full written consent must be gained before the complaint and confidential information is shared with other organisations.

## **6.0 Process for Managing Dissatisfaction**

### **6.1 Dissatisfaction and Additional Letters of Complaint**

Following the Trust's response, should the complainant express any dissatisfaction or require further clarification of information contained within the response, the letter will be acknowledged and a response date negotiated with the complainant in accordance to the grade of the original complaint. Should any new or additional information be contained within the letter, then the complaint will be re-graded and this will be agreed with the Division's Head of Nursing /Head of Operations Assistant.

### **6.2 Independent Conciliation**

There is also the option of using a trained conciliator who is neutral to both parties and their role is to give impartial support to both sides by working through the issues raised. The conciliator has no advisory or decision-making role they are purely facilitating the parties to find their own solutions. The conciliator has to behave impartially and it is their responsibility to support everyone in order to achieve a successful resolution. If required the appointment of a conciliator can be arranged by the Trust.

### **6.3 Independent Review**

To aid local resolution a report may be requested from an independent clinician or healthcare professional to obtain a high degree of independence during the investigation. The results of this investigation will be shared with the complainant.

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## **7.0 Process for Ensuring Patients/Relatives & Carers are not treated differently as a result of raising a concern or a complaint**

The Trust is committed to ensure that patients, their relatives and carers are not discriminated against following raising their concerns or making a complaint and this is supported by:

- Statement in written response asking patients to inform the Trust if they feel they have been treated any differently as a result of raising a concern or making a complaint.
- Detailed in the leaflet 'How to raise your concerns or comments on the services we provide'.
- Highlighted in complaints mandatory training and on induction to staff
- Reassurance is given verbally when patients/relatives/carers present to make a complaint or raise a concern

### **7.1 Discrimination**

Discrimination is unacceptable. It is in the best interest of the Trust as well as its employees to utilise the skills of its workforce. Our aim is to ensure that no patient or employee is discriminated against either directly or indirectly on the basis of race, disability, gender, including trans-gender, age, sexual orientation, religion, belief, HIV status, caring responsibilities or any other relevant characteristic or need. The Trust is committed to the elimination of discrimination of any kind. This policy must be applied equitably across all employees and service users.

### **8.0 Level of Investigation**

All staff, in accordance with Trust guidance, will when required, provide information during the course of an investigation of a concern or complaint. The level of investigation of a complaint will be determined on the nature of the complaint made and the grade. The Head of Nursing Corporate and/or Divisional Heads of Nursing/Operational Leads/Associate Medical Director will collectively make the decision on the level of investigation required.

For example, some complex clinical complaints may require more comprehensive investigation including Root Cause Analysis or review from another consultant. Once the complaint has been graded the level of investigation will be determined. Any serious untoward complaints, for example, those that may be detrimental to the Trust, of litigious nature, involve serious allegations or may involve the media will be escalated to the Executive Team immediately.

### **8.1 Referral to Regulatory Bodies**

If at any stage during the complaints procedure the investigation indicates any evidence or reason to refer to any of the following:

- (a) An investigation within the disciplinary procedure
- (b) One of the professional regulatory bodies
- (c) Referral to the Coroner
- (d) Referral to the Police – an investigation of a potential criminal offence

The Patient & Family Support Manager will be guided by the Director of Nursing & Quality to refer to the appropriate body.

### **9.0 Organisational Learning from Complaints**

- Following receipt of a complaint, a decision will be made on whether or not an investigation is required.
- The complaint will be risk assessed/triaged.
- An investigating officer will be appointed from the relevant division and investigation initiated in partnership with the Patient & Family Support Manager. In the case of cross boundary partnership, this maybe a member of another organisation and a decision will be made on who will lead on the complaint.
- Once the investigation is complete, if any actions are required to prevent a similar complaint arising, an action plan will be formulated detailing the issues, action required and desired outcome. This will be produced as soon as possible and agreed with the action plan lead with the appropriate Head of Nursing or Assistant Medical Director and

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then will be reviewed by the Director of Nursing & Quality and Chief Executive upon review of the final response.

- The action plan will identify which member of staff is responsible for the recommendation within the timescale. The lead is responsible to ensure the actions are complete and implemented.
- The Head of Nursing/Divisional Head of Operations concerned will manage this process and the assigned lead for the action plan must present the action plan at the relevant Division Governance Meeting.
- The Patient & Family Support Manager will append any action plans in the monthly complaints report which is produced and presented at each Governance Meeting to promote shared learning across the organisation.
- The Head of Nursing/Divisional Head of Operations must forward any updated completed action plan together with any additional evidence to support the implementation of the changes to the Patient & Family Support Manager once all actions are completed. The action plan and any additional evidence will be filed in the relevant complaint file.
- Information regarding complaints, the risks and trends will be shared with all staff in attendance at the Divisional Governance Meetings.
- The Head of Nursing/Divisional Head of Operations or lead from the division are responsible for cross fertilisation of the lessons learnt where appropriate and should disseminate all staff. Ward Managers are responsible to communicate lessons learnt to staff within their area and colleagues.

## 9.1 Staff Learning from Complaints

The Patient & Family Support Manager writes to each individual Consultant on an annual basis prior to the commencement of the consultant appraisals. The letters detail:

- The number of complaints the Trust has received involving their patients in the annual time period
- A summary of the complaint
- The status of the complaint e.g. if this is closed etc., and if any action was necessary
- If the complaint has progressed to a claim

Copies of the letters are sent to the Medical Director, Associate Medical Director and/or the Clinical Leads for each specialty who may be carrying out the appraisal. Consultants are invited to contact the Patient & Family Support Manager should they require any further information.

The appropriate Head of Nursing/Divisional Operations Lead/Associate Medical Director will discuss with individuals should they be subject to more than one complaint.

## 10.0 Complaints Received Out of Hours

The Hospital Co-ordinator must make an accurate record of the complaint and forward the details electronically to the relevant Head of Nursing and Patient & Family Support Manager the next working day. If it is felt that there is a risk to a person's safety, the Hospital Co-ordinator must take immediate action in order to ensure the safety of that person. All complaints categorised as High or Extreme should be escalated to the Manager-on-Call immediately. If the Hospital Co-ordinator is unclear as to how a complaint should be managed at the time of receipt, any such complaint must also be escalated to the Manager-on-Call.

## 11.0 Parliamentary NHS and Adult Social Care Ombudsman

The Chief Executive must provide information about the complainant's right to take their grievances to the Ombudsman if they remain dissatisfied following an internal investigation and/or Mediation/Conciliation.

All complainants have the right to refer complaints to the Ombudsman unless the circumstances of a particular case indicate to the Ombudsman that such a course would be unreasonable, he/she may not undertake investigations unless he/she is satisfied that Local Resolution has been exhausted. It must therefore be made perfectly clear to the complainant when the local resolution process is considered to have been completed.

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Leaflets explaining the Ombudsman's procedures are available by accessing [www.ombudsman.org.uk](http://www.ombudsman.org.uk) reference for reading however are:-

- Principles of good complaints handling
- Principles of Good Administration
- Principles for Remedy

## **12.0 Persistent and Unreasonable Complainants**

From time to time there will be circumstances when a person may pursue a complaint to the point where it becomes unreasonable, despite every effort by the Trust to try and resolve the issues/perceived issues.

The Chief Executive and the Director of Nursing & Quality will make a joint decision as to whether any further action needs to be taken:

The Zero Tolerance Policy will be invoked if anyone threatens and or uses physical violence towards staff including harassment, personal abuse or discrimination of any kind.

The Trust will not hesitate to exclude patients or their relatives, friends or carers from the hospital if their behaviour is deemed to be unacceptable; however staff must review this exclusion on each and every visit to the hospital by the individual. If a patient has previously had an exclusion order placed on them and subsequently attends as an emergency, the Trust will treat the patient until such time as the emergency situation is resolved and their exclusion status will then be reviewed.

## **13.0 Trust Accountability**

In accordance with Department of Health Circular (88) 37 the Chief Executive is the designated officer and is accountable for the thorough investigation of complaints within the Trust.

The Trust must have in place an effective complaints system and processes supported by regular monitoring. Complaints information is maintained by the Patient & Family Support Team on the annual complaints electronic spreadsheet. Details of all concerns are recorded as a Patient & Family Support Contact on paper and filed.

The Trust has simple, readily available, written information about the rights to complain, advice about how to use the complaints procedure, help available to complainants from staff, and the Patient & Family Support Team. The Trust has an easy read version of 'How to raise your concerns' available.

## **14.0 Reporting Structure**

The Patient & Family Support Manager will provide reports to internal stakeholders

- Chief Executive
- Trust Board through Integrated Complaints, Incidents & Claims Report
- Quality & Patient and Family Experience Committee
- Divisional Governance Committees
- Information Team

And when required to external stakeholders

- Strategic Health Authority
- Care Quality Commission
- Parliamentary Health Service Ombudsman
- H M Coroner
- PCT Commissioners
- Adult Social Care Organisations
- Healthwatch

This will ensure that safety lessons are shared with internal and external stakeholders.



## **15.0 Integrated Incidents/Complaints and Claims Data**

The Risk Manager will produce reports to demonstrate there is a systematic approach to the analysis of incidents, complaints and claims.

These bi-annual reports will summarise:

Data relating to incidents, complaints, and claims for both quarters including the numbers reported, a breakdown across the directorates, level of severity, local actions and Trust wide learning and external reporting if any.

## **16.0 Relationship with the Legal Department**

Even if a complainant's initial communication is via a solicitor's letter it cannot be assumed that the intention is to take legal action. This must be clarified with the complainant and if appropriate advice should be sought from the Trust's Legal Services Manager.

If, during the course of the complaint investigation, it becomes apparent that there is a possibility that there may have been negligence on the part of the Trust, the Patient & Family Support Manager must discuss the details with the Trust's Head of Legal Services and Risk Manager and agree the way forward. The existence of negligence does not prevent a full explanation being given and if appropriate, an apology. An apology is not an admission of liability.

## **17.0 Risk/Incident Reporting**

Staff must complete the Trust's Incident Reporting Form as soon as an incident is identified/occurs. An incident form must be completed before the end of the shift in which the incident has occurred in line with the Trust's Risk Management Strategy. The Patient & Family Support Manager will request any incident reports and action plans for consideration during the complaints investigation, should an incident have been reported.

## **18.0 Disciplinary Issues arising out of a complaint**

All staff are committed to ensure they each adhere to the Trust's Values and Behaviours in line with the delivery of the Patient Experience Vision, providing excellent, compassionate, safe care for every patient every day. If complaints received detail that staff have failed to adhere to the Trust's values and behaviours, the complainants will be initially invited to meet with the relevant Divisional Head of Nursing or Operations to discuss the complaint further. Following the meeting they will make a decision on the best way to manage the complaint. After investigation if the evidence is that the staff member has not adopted the Trust's values and behaviours they will be dealt with under the disciplinary policy. In the event that there is no firm evidence that the member of staff has not adhered to the Trust's values and behaviours, consideration will be given to any previous complaints or concerns raised involving the individual.

The Trust's Complaints Policy and Disciplinary Policy must be kept separate as disciplinary action does not form part of the complaints process. During the course of a complaints investigation, if it is apparent that staff have failed to adhere to the Trust's Values and Behaviours, these omissions will be included in the action plan and any issues relating to this will be managed by the line manager concerned.

In the course of the investigation of the complaint, if it becomes apparent that misconduct or negligence has occurred then this will be progressed by the disciplinary policy. Staff have a right to confidentiality and under the complaints process the outcome of the disciplinary process will not be disclosed to the complainant.

## **19.0 Support for Staff Involved in the Complaints Process**

The Trust offers a qualified confidential Counselling Service, to which staff can self refer. This information is given to all employees at staff induction and reiterated to all staff at mandatory training. The contact number is available from Human Resources.

## **20.0 Equality and Diversity**

The Trust is committed to an environment that promotes equality and embraces diversity in its performance as a service provider. It will adhere to legal and performance requirements and will

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mainstream equality and diversity principles through its policies, procedures and processes. This policy should be implemented with due regard to this commitment.

To ensure that the implementation of this policy does not have an adverse impact in response to the requirements of the Equality Act 2010, the Trust will monitor the impact of this policy and this policy will be Impact Assessed in line with the Trust's Single Equality Scheme during the consultation process.

The Trust will take remedial action where necessary to address any unexpected or unwarranted disparities and monitor complaints to ensure that this policy is implemented fairly.

The Trust will endeavour to make reasonable adjustments to accommodate any complainant with particular equality and diversity requirements in implementing this policy and procedure. This may include accessibility of meeting venues, providing translation, arranging an interpreter to attend meetings, providing additional support, extending policy timeframes to enable translation to be undertaken or assistance with formulating any written statements.

## **21.0 Policy Implementation Plan**

This policy and procedure complies with the Local Authority Social Care Service Complaints (England) Regulations 2009 and includes Risk Management NHSLA Standards for Acute Trusts. The policy will be reviewed and changes made as necessary to comply should there be any changes to the aforementioned standards or regulations.

The following experts/groups were consulted in the development of this policy:

- Chief Executive
- Director of Nursing & Quality
- Heads of Nursing/Divisional Leads
- Quality & Patient Experience Committee
- Risk Manager
- Patient & Family Support Team

### **21.1 Promotion, awareness-raising and training**

The Complaints Policy and its associated procedures will be promoted throughout the Trust to ensure that all staff are aware of its requirements and their own role and responsibilities. This will be done at Mandatory Training and Corporate Induction.

The Divisional Leads have key responsibility to ensure that this policy is implemented in their areas.

### **21.2 Implementation Plan**

General awareness of ratification of this policy is given via the Chief Executives Bulletin.

**Divisional Heads of Nursing/Operations will ensure** awareness raising of this policy is disseminated within their directorates and departments.

**The Patient & Family Support Manager** ensure awareness about the Complaints Policy & Procedure is given to all staff at mandatory training and corporate induction. The team will also provide general guidance and support to staff when required.

**Service Line Managers, Heads of Department, Hospital Co-ordinators and Ward Managers** should ensure that any training needs for this policy are met.

## **22.0 Training and Resources**

Complaints management must be included in the following training sessions for staff:

- The Trust's Induction Programme
- The Trust's Mandatory Training

The Trust's expectations in relation to staff training on this policy is identified in the training needs analysis. See Appendix 3.

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### 23.0 Monitoring and Review

This policy will be reviewed every two years or when necessary should there be any changes to the aforementioned standards or regulations.

Compliance with the requirements of this policy will be monitored against NHS Litigation Authority (NHS LA) minimum requirements as set out below. A monitoring report will be produced by the Patient & Family Patient & Family Support Manager and where the report identifies deficiencies, an action plan to address these. The monitoring report and the action plan will be presented to the Patient and Family Experience Committee which will be responsible for reviewing the action plan on a quarterly basis until the actions are complete.

NHS LA Level 1 and level 3 criteria are monitored; the level 3 criteria are highlighted in bold.

	NHS LA minimum criteria	Page No. / section reference in policy	Who will monitor?	What form will monitoring take	How often / frequency?
	<b>The Trust has an approved documented process for listening, responding and improving when patients, their relatives and carers raise concerns / complaints that is implemented and monitored.</b>				
A	Duties	Section 1 page 2	Patient & Family Support Manager	Audit of individual complaint files	At least every 3 years
<b>B</b>	<b>Process for listening and responding to concerns / complaints of patients, their relatives and carers.</b>	<b>Section 4 Pages 8-12</b>	<b>Patient &amp; Family Support Manager</b>	<b>Audit of individual complaint files</b>	At least every 3 years
C	Process for the handling of <i>joint complaints</i> between organisations.	<b>Section 5 Page 12</b>	Patient & Family Support Manager	Audit of individual complaint files	At least every 3 years
D	Process for ensuring that patients, their relatives and carers are not treated differently as a result of raising a <i>concern / complaint</i> .	<b>Section 6 Page 13</b>	Patient & Family Support Manager	Audit of individual complaint files	At least every 3 years
<b>E</b>	<b>Process by which the organisation aims to improve as a result of concerns / complaints being raised.</b>	<b>Section 8 Page 14-15</b>	<b>Patient &amp; Family Support Manager</b>	<b>Audit of individual complaint files. Audit of action plan progress from minutes for Surgery Anaesthesia and Critical Care, Cardiology and Chest Medicine, Support Services Governance meetings</b>	At least every 3 years

## 24.0 References

'Acting on Complaints', the Government's revised policy and proposals for a new NHS Complaints Procedure (EL(95)37, EL(95)121 and EL(96)19 respectively.

NHS complaints reform April 2003 'Making things right' giving interim and final guidance on the implementation of the procedure which came into force on 30<sup>th</sup> July 2004. The Healthcare Commission from this date managed the second stage of the complaints process.

Policy For Making Experiences Count NHS and Adult Social Care Complaints Process – Royal Liverpool and Broadgreen University Trust. October 2008.

'Spotlight on Complaints', A report on second-stage complaints about the NHS in England February 2009. Making Experiences Count (Amendment to Regulations) April 2009

Equality Act 2010

## APPENDIX 1

### Complaint Initial Contact Form

Date complaint received: Type of contact: Letter/ In-person/email/phone		Date Acknowledged:		
Complaint Reference:		Name of person raising concern (if different):		
Patient Name:		Relationship to patient (where appropriate):		
Patient's date of birth:		Consent Required:		
Patient's hospital no:		Authorisation form sent:		
Incident (PRISM) no, if applicable:		Authorisation form received:		
Patient address:		Address of person raising concern:		
Home telephone:		Home telephone:		
Mobile:		Mobile:		
Email address:		Email address:		
What is the preferred response type: (Written/Verbal/Meeting)		Does the complainant have any special requirements (e.g. interpreter, disability, learning difficulties):		
Directorate:				
Speciality:				
Ward/Area:				
Patient & Family Support Team Investigating Lead:		Another Trust Involvement: Y/N		
LG KH JMc TM		Trust/Name of Lead:		
Summary of complaint/issues:				
If verbal complaint, points agreed to be responded to: (bullet each item)				
Grade of complaint:	Low	Medium	High	Extreme
Negotiated response date:				

<b>Consultant responsible for patient:</b>		
<b>Responses Requested from:</b>	<b>Response Deadline:</b>	<b>Date Received:</b>
<b>Corrective Action Required:</b> Y/N	<b>Action Plan Required:</b> Y/N	<b>Attached:</b> Y/N
<b>Details given of Healthwatch Advocacy service:</b>		
<b>Are there any sensitive issues that may indicate a risk or need escalating to Senior Manager or Exec: Y/N</b> <i>(e.g. Media interest, MP involvement, risk to reputation of organisation, equality and diversity issues such as learning difficulties or discrimination etc.)</i> <b>Detail:</b>		
<b>Issue escalated to:</b> <b>Date:</b>		

Review and Sign-off (please date)	
	Signature & Date
Draft completed by Patient & Family Support Manager	
Draft Shared with Staff involved	
If applicable Approved by Legal Manager	
Approved by Head of Nursing	
Approved by Head of Nursing Corporate	
Approved by Director of Nursing	
Sent to CEO for sign off	

## APPENDIX 2

### COMPLAINT ACTION PLAN

<b>Case Sheet number:</b>	
<b>Directorate Lead:</b>	
<b>Named Lead for Action Plan:</b>	
<b>Review Date:</b>	
<b>Implementation of Action Plan to be Reviewed by:</b>	
<b>Date to be presented to Directorate Governance:</b>	

Issue	Objective	Deadline For Completion	Action & Progress	Lead	Outcome & Completion Date	Evidence how these issues been shared within the team/directorate/wider organisation

## APPENDIX 3

### Complaints– Learning Needs Analysis

Please tick as appropriate

	Staff Group	✓ if appropriate outlining any exclusions within this staff group	Frequency	Suggested Delivery Method (traditional / face to face / e-learning / handout)	Does training need to be included in Trust wide Mandatory learning programme for this staff group (✓ if yes)
Nurses	All Registered Nurses	✓	Annual	F/F	✓
	HCA / Support Workers	✓	Annual	F/F	✓
Allied Health Professionals	ECG / Pulmonary Function	✓	Annual	F/F	✓
	Pharmacy	✓	Annual	F/F	✓
	Physiotherapy	✓	Annual	F/F	✓
	Radiology	✓	Annual	F/F	✓
Non-Clinical	Admin	✓	Annual	RWB	✓
	Manager	✓	Annual	RWB	✓
	Exec / Non-Exec Directors	✓	Annual	RWB	✓
Ancillary	Domestic	✓	Annual	F/F	✓
	Porters	✓	Annual	F/F	✓
Medical	Consultants	✓	Annual	F/F	✓
	Junior Doctors	✓	Annual	F/F	✓
Temporary	Any	✓	Annual	F/F	✓

F/F = Face to Face    RWB = Risky Work Book (e-learning)



<b>Endorsed by:</b>		
<b>Name of Lead Clinician/Manager or Committee Chair</b>	<b>Position of Endorser or Name of Endorsing Committee</b>	<b>Date</b>
Raj Jain	Patient and Family Experience Committee	
Hazel Holmes	Director of Nursing	
Sue Pemberton	Deputy Director of Nursing	
Cath Barton	General Manager – Cardiology & Chest Medicine	
Ann Conley	General Manager – Cardiology & Chest Medicine	
Lisa Salter	Assistant Director of Nursing (ADNS) Patient Experience/Corporate	
Clare Pratt	ADNS Cardiology & Chest Medicine	
Justine French	ADNS Surgery, Critical Care & Anaesthesia	
Sandra Roberts	Manager – Critical Care	
Joan Matthews	Risk Manager	
June Teaney, Lisa Tierney	Matron	
Alison Gallie	Patient & Family Support Officer	
Kathleen Holmes	Patient & Family Support Officer	
Jacqui McGillivray	Volunteer Co-ordinator/ Patient & Family Support Team	
Lisa Gurrell	Patient & Family Support Manager	
Helen Martin	Patient Safety Lead	

Record of Changes to Document - Issue number: 3.4				
Changes approved in this document:			Date: 15.3.15	
Section Number	Amendment ( <i>shown in bold italics</i> )	Deletion	Addition	Reason
Page1	<b><i>Two additional policies added to be read in conjunction with</i></b>	Na	<ul style="list-style-type: none"> <li>• HR Policies</li> <li>• Safeguarding Policy</li> </ul>	Change of process
	<b><i>Job Titles throughout paper</i></b>		No addition, just amendment	Change of organisation
				Change of process
				Change of process