

DOCUMENT CONTROL	
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This policy is applicable to all Trust staff and any person meeting the definition in the Complaint section wishing to make a complaint to the Trust	
Purpose:	
This document outlines the Complaints process Pennine Care NHS Foundation Trust in relation to complaints, as defined in the Complaint Section of this policy.	
Requirement for Policy	
To reflect the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 16.	
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Other Trust documentation to which this policy relates (and when appropriate should be read in conjunction with):	
CO010	Incident Reporting, Management and Investigation Policy
CO018	Personal Injury and Clinical Negligence Claim Policy
CO054	Losses and Compensations Policy
CO011	Information Security Policy
IG002	Data Protection and Confidentiality Policy
Policy Associated Documents:	
TAD_CO003_01	Multi-Agency Complaints Handling

Other external documentation/resources to which this policy relates:	
<i>Complaints Matter</i>	Care Quality Commission (2014) https://www.cqc.org.uk/sites/default/files/20141208_complaints_matter_report.pdf
<i>Listening, Responding, Improving – A guide to better customer care</i>	The Department of Health (2009) https://webarchive.nationalarchives.gov.uk/20130104224421/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_095408?PageOperation=email
<i>My expectations for raising concerns and complaints</i>	London: Parliamentary and Health Service Ombudsman (2014) https://www.ombudsman.org.uk/publications/my-expectations-raising-concerns-and-complaints
<i>Principles of Good Complaint Handling</i>	London: Parliamentary and Health Service Ombudsman (2009) https://www.ombudsman.org.uk/about-us/our-principles/principles-good-complaint-handling
CQC Regulations	
This guideline supports the following CQC regulations:	
Regulation 16	Receiving and acting on complaints

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1. INTRODUCTION

The aim of the policy is to ensure the Trust listens to feedback from service users, carers and their relatives, responds openly and improves services as a result of identifying lessons to be learned. Complaints form a key part of the Trust's mechanisms for seeking continuous improvement and the effective use of this policy is central to quality governance and the implementation of the Trust's Quality Strategy.

This policy has been prepared to comply with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 16.

Pennine Care NHS Foundation Trust aims to ensure complaints made by service users, relatives or their carers are resolved openly and promptly and that both complainants and staff are treated fairly.

To enable this, the process should be:

- *Accessible and well publicised* – through the Trust's website and provision of information leaflets for service users, carers and relatives.
- *Well supported by training* – through Trust Induction (mandatory training for all staff) and specialist investigation training (for members of staff who may be asked to undertake complaints investigations). Complaints training will include "Being Open" principles (CO010).
- *Confidential* – in that only members of staff who are required to be part of the investigation process and management of the complaint will be made aware of the details of the complainant. Information from complaints may be used anonymously for the purposes of organisational learning.
- *Timely* – in that the time taken to respond to the complainant is proportionate to the complexity of complaint.
- *Simple* – in that the process is straightforward and easy to understand.

Pennine Care NHS Foundation Trust assures all service users that their access to the NHS complaints procedure will not negatively affect their care with the Trust at any point.

Assistance will be given to the complainants in accessing the NHS complaints procedure. This includes providing an appropriate and acceptable response to complainants who are unable to read English or who have sight or hearing difficulties.

2. SCOPE

This document outlines the Complaints Policy for Pennine Care NHS Foundation Trust in relation to complaints made by any suitable complainant.

This policy is applicable to all Trust staff.

TAD_CO003_01 outlines the current agreement regarding complaints that cover services provided by two or more organisations, or service delivered by one organisation on behalf of another.

3. DEFINITIONS

The definition of a complaint for the purpose of this policy is an expression of dissatisfaction, either verbal or written, which requires an investigation and a response to be made to the person raising it.

4. COMPLAINTS

4.1 MAKING A COMPLAINT

Persons who may make complaints:

A complaint can be made by any person who is affected by, or is likely to be affected by an action, omission or decision of the Trust.

A complaint may be made by a person acting on behalf of another person in any case where the latter:

- a) Has died;
- b) Is a child;
- c) Is unable to make the complaint themselves because of:
 - Physical incapacity; or
 - Lack of capacity within the meaning of the Mental Capacity Act (2005); or
- d) Has requested the representative to act on their behalf.

Where a representative makes a complaint on behalf of a child, Pennine Care NHS Foundation Trust will consider the complaint if it is satisfied that there are reasonable grounds for the complaint to be made by a representative instead of the child.

In the case of an individual who has died, the representative must be a relative / other individual who, in the opinion of the Complaints Manager, had or has a sufficient interest in the individual's wellbeing and is a suitable person to act as the representative. If the Complaints Manager determines that a person is not suitable, a full explanation outlining the reasons for the decision will be provided. Advice will be sought from the Trust Solicitor as necessary.

Complaints excluded from consideration/handling under this policy are:

- a) A complaint by a responsible body (for example, a Local Authority, NHS body, primary care provider or independent provider).
- b) A complaint made by an employee about any matter relating to their employment.
- c) A complaint which has been made verbally and is resolved to the complainant's satisfaction in one working day.
- d) A complaint, the subject matter of which is the same as that of a complaint that has been previously been made and resolved in accordance with sub-paragraph c).
- e) A complaint, the subject matter of which has previously been investigated via the NHS Complaints Procedure.
- f) A complaint, the subject matter of which is being or has been investigated by a Local Commissioner under the Local Government Act (1974), or a Health Service Commissioner under the 1993 Act.

- g) A complaint arising out of the Trust's alleged failure to comply with a request for information under the Freedom of Information Act (2000).

If the Trust is unable to consider a complaint made by a service user, relative or carer, a response will be provided explaining the reasons why the Trust is unable to consider the complaint.

4.2 Timescale for making complaints:

A complaint must be made within 12 months of:

- a) The date on which the matter which is the subject of the complaint occurred; or
- b) If later, the date on which the matter which is the subject of the complaint came to the notice of the complainant

The 12 month time limit will not apply if the Trust is satisfied that:

- a) The complainant had good reasons for not making the complaint within that time limit; and
- b) It is still possible to investigate the complaint effectively and fairly.

4.3 Handling of complaint where there is possible legal action

Where the possibility of legal action is intimated before a complaint has been resolved, the Complaints Manager will consider whether by dealing with the complaint it might prejudice the legal action. Where it is thought that dealing with the complaint might prejudice the legal action, resolution of the complaint will be deferred until the legal action is concluded.

In the circumstances described above, advice will be sought from the Trust's Solicitor as necessary.

5. INVESTIGATION AND RESPONSE

The Trust will acknowledge any complaint received no later than three working days after the day on which it receives the complaint.

The acknowledgement may be made orally or in writing. The acknowledgement will be made by the Complaints Department, if the complaint is received directly by that Department. The receiving service may acknowledge the complaint if the complaint is received elsewhere with the Trust, but should notify the Complaints Department of the complaint immediately. The Complaints Department will then ensure that the following requirements have been complied with:

Where a complaint is made orally, the Complaints Department will ensure that an acknowledgement letter is sent accompanied by a written record of the complaint, with an invitation for the complainant to amend the details of complaint to ensure that the written record is an accurate account of the issues that they wish to raise.

The acknowledgement will include an offer by the Complaints Department to discuss with the complainant the manner in which the complaint is to be handled, the timescale within which the investigation of the complaint will be completed and the date when the response will be sent to the complainant.

In the acknowledgement letter, reassurance will be given the complaint will be handled in a sensitive and confidential manner. The acknowledgement letter will also reassure the complainant that the service user's care and treatment will not be negatively affected as a result of accessing the NHS complaints procedure and will invite the complainant to contact the Complaints Department if they feel that it has been. The Complaints Department will address any such allegation with the relevant Quality/Governance Lead for the service concerned.

The Complaints Department will use agreed criteria to categorise the complaints at the point they are received into the Complaints Department, depending on their complexity and severity. The assigned category will be used to assist in deciding the level of investigation to be undertaken and the timescale for response.

The appropriate Borough Quality/Governance Lead will ensure the allocation of an appropriate complaint investigator (s). If the complaint involves medical issues, the Borough Quality/Governance Lead should liaise with the relevant Lead Consultant to obtain medical input into the investigation. If complex, the Complaints Manager may review the complaint with an Executive Director(s), to agree the most appropriate means of investigating the complaint.

If multiple investigators are assigned, one will be the lead investigator and ensure that a holistic view of the whole situation giving rise to the complaint has been taken.

Investigations will be objective, impartial and open, in accordance with the Principles of Good Complaints Handling (Parliamentary and Health Service Ombudsman, 2009). The investigator assigned by the Borough Quality/Governance Lead will be independent of the matters complained and will not have been involved in the situation giving rise to the complaint prior to undertaking the investigation. Where this is not possible (for example, if there is an absence of alternative investigator to undertake the investigation), a full review of the investigation undertaken, including the evidence considered and the conclusions reached, may be undertaken by an objective individual who will be named in the report and complaint response.

The complaint investigator(s) will be provided with guidance via an investigation report template as necessary, to guide the investigation process and explain the required content of the investigation report.

As part of the investigation process, consideration should be given to meeting with the complainant and any representative, to clarify the issues involved and effect mediation. The complaint investigator(s) and Complaints Manager should consider who is best placed to meet the complainant, e.g. a member of the care team, the Complaints Department or the complaint investigator(s).

The investigation process includes providing anyone identified as the subject of a complaint with a full account of the reasons for the investigation, giving them a proper opportunity to talk to the complaint investigator and ensuring they are kept informed of the process by the investigator. These actions must be taken by the person allocated to investigate the complaint unless the Borough Quality/Governance Lead has confirmed to them that alternative arrangements will be made.

The Complaint Investigator(s) should detail the investigation that they have undertaken in their investigation report. This should include the full details of the standards applied (for example, national guidance, professional standards, Trust policy and service operating procedures) and the evidence considered (for example, clinical records, the complainant's account of events, the staff account of events and witness's account of events).

Where any documents or records are referred to, full references should be provided, including dates and page numbers (where applicable).

Where staff are interviewed, or written statements obtained, the statement / interview record should be returned to the Complaints Department, via the Borough Quality/Governance Lead, with the completed investigation report.

All staff involved in a complaint investigation should be informed of the support services that are available to them. The Complaints Department's information sheet 'Information for members of staff involved in a complaint' should be provided to all staff involved in the complaint by the Complaint Investigator.

The complaint investigator's report must respond fully to each aspect of the complaint as identified in the record of the complaint, along with any other issues that the complaint investigator identifies. It should contain:

- a) Explanations of the action taken to investigate the complaint;
- b) Copies of any documents which support the investigation;
- c) Specify any recommendations or improvements required on the basis of the investigator's findings; and
- d) A formulation as to whether each aspect of the complaint is upheld, not upheld or unsubstantiated.

The complaint investigator should also clearly indicate in their investigation report to the Complaints Department if information that they do not want to be disclosed to the complainant is included in their report and the rationale as to why.

To ensure that information is relayed correctly, and bearing in mind that evidence may be required at a later stage (for example, by Trust Solicitors, Member of Parliament or the Parliamentary and Health Service Ombudsman), copies of any supporting documentation related to the report should be forwarded with the report findings to the Complaints Department.

Where it is identified that the matter the complaint relates to should be or is being investigated as a Serious Untoward Incident (SUI) or if is already being investigated under the Incident Reporting, Management and Investigation Policy, the case this will be discussed by the Complaints Manager, Borough Quality/Governance Lead and Risk Department Management Team to ensure that the Trust's requirements regarding both the response to complaints and the investigation of incidents are met.

Where it is identified that the matter the complaint relates to should be or is being investigated under any human resource procedures, the case this will be discussed by the Complaints Manager, Borough Quality/Governance Lead and relevant human resources staff to ensure that the Trust's requirements regarding both the response to complaints and the human resource procedure are met.

The investigation report will be submitted, by the complaint investigator(s) to the relevant Borough Quality/Governance Lead. The Borough Quality/Governance Lead will then undertake a quality check against the agreed standard and address any issues with the complaint investigator before submitting the report to the Complaints Department.

Upon receipt of the complaint investigation, the Complaints Department will draft a response to the complainant, in the format agreed with the complainant.

Upon receipt of the investigation report, the Complaints Department will review it and ensure safety lessons are shared with outside stakeholders as necessary.

If a response cannot be sent within the agreed timescale, the Complaints Department will notify the complainant in writing or by telephone and explain the reason why. A new timescale will then be agreed between the complainant and the Complaints Department.

Where the complaint raises particularly complex issues or the investigation into that complaint has been ongoing for more than six months, the Complaints Manager will highlight the case at a senior level within the Trust (e.g. Associate Director / Managing Director / Executive Director).

A final reply to the complaint will be sent at the conclusion of the investigation in the format agreed with the complainant. Responses will include the following:

- a) An explanation of how the complaint has been considered
- b) An explanation of events
- c) The conclusions reached, including any matters for which remedial action is required.
- d) An apology where appropriate.
- e) Confirmation as to whether the Trust is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken.
- f) Details of the complainant's right to take their complaint to the Parliamentary and Health Service Ombudsman,

First class post or, exceptionally, special delivery mail will be used in correspondence with complainants.

Recommendation will be made by the complaint investigator to ensure that any opportunities for improving the services offered by the Trust are taken. The Borough Quality/Governance Lead will ensure that an action plan is formed and implemented in relation to the recommendations. The Borough Quality/Governance Lead will monitor this on a monthly basis at the Local governance forum(s) to ensure that all recommendations are actioned.

Once provided with a written response, the complainant will be sent a questionnaire requesting feedback on how their complaint was handled. If a questionnaire is not being sent to a complainant, the reason for this will be clearly documented by the Complaints Manager. Feedback from the questionnaires will be provided by the Complaints Manager through the Local governance forum(s)/the Trust's Complaints Annual report.

The Complaints Manager may, in any case where he/she thinks it appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purpose of resolving the complaint. In such cases the Trust must ensure that appropriate conciliation or mediation services are available.

All communication regarding complaints must be recorded on the complaint file held in the Complaints Department. Correspondence should be date stamped upon receipt and all conversations should be recorded in a file note, with the date and participants' names all detailed.

6. GOVERNANCE PROCESSES AND MONITORING

The Complaints Department is responsible for maintaining a comprehensive data record of all complaints and for producing monthly, quarterly and annual monitoring reports for the Trust Board and other forums as detailed below.

Information on complaints, trends and service improvements resulting from complaints and informal concerns will be reported as follows:

- a) Monthly data to the Quality Committee and local governance forums;
- b) Ongoing exception reporting via the Trust's governance structures up to Quality Committee; and
- c) Annual Report. This will be reported Trust-wide, at local governance forums and will be made available to the CQC upon request.

A six-monthly review of the results from the Complaints Questionnaire will be conducted by the Complaints Manager to monitor the procedure in accordance with this Complaints Policy. The Complaints Manager will be responsible for formulating action plans to address any concerns or problems detailed in the Questionnaire responses. The action plans will be implemented and monitored through local governance forums.

Some complaints may require external agency involvement. The process for involving and communicating with internal and external stakeholders to share lessons learnt will vary depending upon the circumstances of the complaint.

Managers will involve and communicate with internal stakeholders to ensure they are sufficiently supported during the complaints process and assist in sharing 'lessons learnt' from the complaint or from analysing complaints. This process could involve sharing information through direct contact, reports, presentations, briefings and bulletins.

Where a joint response to a complaint is produced by a number of organisations, the joint investigation report must include any necessary recommendations and the method by which they will be implemented and monitored. On completion of the joint investigation report, the parties involved in producing it should agree on the response and any necessary action plan before the response is sent to the complainant.

The Complaints Manager should consider the necessity to, where appropriate, inform the following agencies of any serious complaints:

- Local CCG's
- Local Child Safeguarding Board
- Social Services Department
- Police
- Local Adult Safeguarding Board

7. RESPONSIBILITIES

The post holder with responsibility for the management of complaints is the Complaints Manager. This post is accountable to the Executive Director of Nursing and Healthcare Professionals who, in turn, is responsible to the Chief Executive and Board of Directors for the proper management of complaints, under The Local Authority Social Services and National Health Service (England) Regulations 2009.

The Chief Executive will ensure that action is taken, if necessary, in the light of the outcome of the complaint. The Chief Executive will approve and sign written responses to complaints. In the absence of the Chief Executive an appropriately appointed senior executive will undertake this.

The Complaints Manager will:

- a) Be accessible to anyone wishing to make a complaint and provide advice on the process.
- b) Co-ordinate the administration of the complaints process.
- c) Be responsible for ensuring key performance indicators are met and escalating within the Trust where they are not being.
- d) Ensure fairness and objectivity at all time.

Managing Directors, Associate Directors, Modern Matrons and Service Managers will monitor the way in which their services handle complaints and concerns, in terms of speed and efficiency of investigation, ensuring immediate action is taken when required. This will include ensuring that the allocated complaint investigator is provided with all the information available and facilitating meetings with staff, as appropriate. Service Managers are responsible for ensuring that the appropriate support is offered to staff involved in complaints.

The Borough Quality/Governance Lead will ensure that, where applicable, the allocated Complaint Investigator receives the complaint investigation template and any relevant documentation. On completion, the Borough Quality/Governance Lead will ensure the completed investigation report is submitted to the Complaints Manager along with supporting documentation, following quality screening of the report.

The complaint investigator should complete the report, in line with the agreed format and submit it to the Divisional/Borough Governance Lead.

The role of all staff:

All Trust staff must be familiar with the Complaints Policy and be able to advise service users, relatives or their carers on how to make a complaint or raise a concern. Staff have a personal responsibility to try and resolve problems and concerns fully and quickly when they arise, to avoid service users and carers feeling the need to submit a complaint. This includes ensuring service users and carers are aware of and have access to policies such as Losses and Compensations Policy without needing to submit a complaint.

If staff receive verbal comments, concerns or complaints from service users, their carers or their relatives, the member of staff should establish the facts and clarify whether a complaint is being made. Staff are encouraged, in conjunction with their line manager and, if appropriate, PALS, to deal with concerns to which they can provide an immediate

response. The aim is to resolve the matter causing concern, to reassure the person raising the concern, to learn from that person's experience and to eliminate the potential for similar problems occurring in the future.

If a member of staff is able to resolve a complaint that has been made verbally by the end of the working day following the day on which it was made, the member of staff should immediately notify the Complaints Department indicating that no further action is required.

If a member of staff receives a concern and has the agreement of the person raising it to address that concern, the member of staff should inform the Complaints Department, indicating the action that they are undertaking and confirming that the complainant has been made aware of the following:

- a) The support available to them to make a complaint including PALS (Patient Advice and Liaison Service) and ICAS (Independent Complaints Advocacy Service); and
- b) Their rights within the NHS Complaints Procedure, by providing the complainant with a copy of the Trust's 'Comments and Complaints' leaflet.

The member of staff should also ensure that their manager and Borough Quality/Governance Lead is informed of the concern and that it is recorded and reported appropriately.

If a member of staff receives a concern or complaint that they are either unsure of how to deal with or that the complainant does not want them to attempt to resolve, they should immediately seek advice from their manager, Borough Quality/Governance Lead or the Complaints Department.

If a member of staff is unsure of how to respond to any concern or complaint that they receive, they should contact the Complaints Department on 0161 716 3083 immediately to discuss.

8. JOINT WORKING

Where it appears that the complaint contains material which solely involves another NHS body, Local Authority Social Services or other external agency, the Complaints Department will acknowledge the letter within three working days and ask the complainant whether they wish the details of the complaint to be sent to the NHS body, Local Authority or other external agency and, if they do so wish, thereafter send the relevant details to the NHS body, Local Authority or other external agency within three working days.

Where a complaint spans more than one NHS organisation, Local Authority Social Services or other external agency, the Complaints Department will discuss with the relevant complaints manager(s)/Department who will take the lead in coordinating the handling of the complaint and communicating with the complainant to ensure that the complainant receives a coordinated response. One complaints department will be nominated to co-ordinate the investigation and to be the main point of contact for the complainant during the investigation.

TAD_CO003_01 details the process for multi-agency complaints handling.

9. SUPPORT IN THE COMPLAINTS PROCESS

9.1 Support for the complainant

During staff training sessions (see Section 13 for further details of the sessions) staff are informed of the importance of only disclosing information regarding concerns/complaints to those who need to know. Staff are also reminded that the care and treatment of service users should not change as a result of a complaint being raised.

Complainants and/or service users must also receive written or verbal reassurance that they will not be treated differently as a result of making a complaint. They will also be provided with the Complaints Department's contact details with whom they can raise any concerns that they may have about their care or treatment being affected by the making of a complaint.

Independent complaints advocacy is available for people who would like to access independent help in raising their concerns. Information about this service is provided to complainants when the complaint is acknowledged.

The Trust PALS service may support and assist service users and carers in resolving concerns and will provide information on the Trust's complaints procedure.

9.2 Support for involved employees

Supporting staff following an incident which may lead to a complaint

Pennine Care NHS Foundation Trust has a responsibility to provide support to the staff involved in an incident, including where the incident may lead to a complaint. This includes staff directly affected by an incident, through injury or trauma. It also includes support for staff providing information to any subsequent complaint investigation. The level and extent of support required will be dependent upon each situation.

Initial support will be given to staff at the point of the incident by the Manager in Charge / Team Leader. This will include the staff member's immediate safety, physical health and emotional welfare. When a serious incident has occurred, the Team / Ward Manager should consider if the Staff Wellbeing Service or The Trust's Occupational Health Service would be helpful for staff involved in the incident, particularly if the member of staff is experiencing difficulties associated with the event. The Team / Ward Manager is responsible for maintaining communication with the staff members involved and ensuring that there is adequate support available especially if the staff members experience difficulties associated with the event. Managers should ensure that regular meetings are arranged with staff members to monitor that the level of support is adequate.

Staff support is available within the Trust, and contact information is available on the Trust's intranet. Staff should be made aware of, and supported to access these services if appropriate. The Staff Wellbeing Service will advise regarding further additional external support, if assessed to be required, for as long as is required.

The Line Manager / Ward Manager should ensure that continuing support is available for staff throughout and following any complaint investigation process. This may include emotional support internally via the Staff Wellbeing Service, and also practical assistance and training where needed. For any staff in training, including trainee doctors/nurses

students and/ other health care professionals, appropriate educational contacts should be notified as appropriate.

Pennine Care NHS Foundation Trust positively promotes the reporting of acts of violence and aggression against staff. The Trust is a participant in the joint protocol established between all Greater Manchester NHS Trusts, Greater Manchester Police and Crown Prosecution Service. Every assistance will be given by managers in terms of co-operation, and providing evidence and witness statements by members of staff in those cases where the aggrieved member of staff supports action by the police.

9.3 During the complaint investigation process

All Trust employees involved in a complaint will be told the nature of the complaint and kept informed of what is happening by the person nominated as the complaint investigator.

Initial support for employees involved in complaints will be made available through discussion with their Line Manager. The Line Manager can arrange for the staff member to meet with the Complaints Manager or can recommend other ongoing avenues of support, including access to staff counselling. The Line Manager may also consider whether referral to the Occupational Health Department would be helpful for staff involved in a complaint, particularly if the member of staff is experiencing difficulties associated with the complaint.

A copy of the Complaints Department's 'Information for members of staff involved in a complaint' leaflet will be provided by the complaint investigator to any staff involved in the complaint who want a copy of the leaflet.

Guidance and training on how to construct a statement for an investigation is available from the Complaints Department.

The Complaints Department will send a copy of the Trust's final response and any reinvestigation response to the Borough Quality/Governance Lead. The Borough Quality/Governance Lead will forward a copy of this response to staff named in the complaint. This will be monitored by the Borough Quality/Governance Lead and the Service Managers through the Local governance forum(s).

Upon receipt of the copy of the response, staff involved in the complaint will be given the opportunity to discuss the outcome with their Line Manager and/or the Borough Quality/Governance Lead and Complaints Manager.

10. CONFIDENTIALITY AND CONSENT

10.1 Confidentiality

All information in relation to complaints and their investigation must be handled within the guidelines outlined within the Data Protection and Confidentiality Policy and the Information Security Policy for Pennine Care NHS Foundation Trust.

All communication in relation to complaints should be documented. It is important to note that these documents are used in investigations and by external bodies, (for example the Parliamentary and Health Service Ombudsman). They must contain as much detail as possible, including date, time and signature, where appropriate.

Files and documentation relating to complaints will be stored centrally within the Complaints Department. Copies of complaints correspondence must not be placed in service users' files and must be treated as confidential at all times. Advice should be sought from the Complaints Manager where clarity is needed.

The Complaints Department will be responsible for ensuring that complaints records are afforded the same confidentiality as clinical records and that records are easily accessible should further investigation be required.

All correspondence relating to the complaints process will be marked "Private and Confidential" and instruction of where undelivered post should be returned to (without making reference to Complaints Department).

10.2 Consent

Where someone, other than the service user, writes to complain about a service user's care and/or treatment, the Complaints Department will obtain written consent from the service user to confirm that they agree that the representative is complaining on their behalf and that they consent to details of their care and treatment being disclosed to the complainant/representative to respond to the complaint, if required.

If it is felt that a service user may not have the capacity to consent to the disclosure of their details, the Complaints Department will request confirmation of the individual's capacity to give informed consent to the disclosure of information from the person's Consultant Psychiatrist or Clinical Team.

Where capacity is judged to be lacking, the Trust's Caldicott Guardian will decide whether, in the absence of the individual's consent, it is in the individual's 'best interests' to disclose information to the complainant.

In the case of an individual who has died, the representative must be a relative / other individual who, in the opinion of the Complaints Manager, had or has a sufficient interest in the individual's well-being and is a suitable person to act as the representative. If the Complaints Manager determines that a person is not suitable, a full explanation outlining the reasons for the decision will be provided. Advice will be sought from the Trust Solicitor as necessary.

In cases where an MP is complaining on behalf of one of their constituents and they state that they have received their constituent's permission, then it should be assumed to be the case providing that the MP is able to give sufficient information to identify the persons involved and are able to provide sufficient details regarding the nature of the complaint. Information should only be disclosed on a need-to-know basis. Nothing more than the relevant information pertaining to a complaint should be given in the final response.

In cases where an MP or Advocate is representing a person who is acting on behalf of a service user, consent must be obtained from the service user. Information must not be disclosed without the permission of the service user.

11. PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN

Where a complainant is dissatisfied with the outcome of the Local Resolution stage of the Complaints process, he/she has the right to apply to the Parliamentary and Health Service Ombudsman to consider the complaint.

The Trust should ensure that individuals making complaints are given accurate information about the role of the Parliamentary and Health Service Ombudsman and are made aware of their right to complain to her should they remain dissatisfied with the outcome of their complaint.

12. IMPLEMENTATION AND TRAINING

Information leaflets for service users and staff (including bank and agency staff) are available across the Trust. Service Managers are responsible for ensuring that the leaflets are available within their services.

Mandatory training for all newly appointed staff, covering the Complaints Policy and complaints handling, is given within the Trust Corporate Induction. Please see the Training Needs Analysis. The Learning and Development Department will notify the recruiting manager by email of any non-attendance at Trust Induction. The recruiting manager is responsible for ensuring attendance at a future date.

Additional training for Complaints Investigating Officers will be made available through the Learning and Development Department and will be available to staff throughout the Trust. The Complaints Manager will record attendance at training for Investigating Officers on an attendance register. The completed register will be provided to the Learning and Development Department, who will notify the authorising manager by email of any non-attendance, for the authorising manager to action.

Training will be delivered by the Complaints Department, in liaison with Learning and Development Department.

The Complaints Department will also consider providing ad-hoc training sessions on the complaints process and/or the investigation of complaints for specific staff groups upon request.

13. PROCESS FOR DEALING WITH UNREASONABLE AND PERSISTENT COMPLAINTS

Complaints are processed in accordance with this policy and the Trust will make every effort to achieve a satisfactory outcome for each complainant. Staff are trained to respond to the needs of all complainants with patience and empathy; however, a small number of persistent and/or unreasonable complainants can be a significant problem for staff and can take up a disproportionate amount of time and resources. There are times when nothing further can reasonably be done to assist a complainant, or to rectify a real or perceived problem.

This section of the policy offers guidance to staff on the procedure for managing persistent or unreasonable complainants operated by the Trust. It provides information on the

process that should be followed and the options open to complainants if the Trust decides to designate them as 'persistent or unreasonable'.

This policy should only be used as a last resort and after all reasonable measures have been taken to resolve a complaint.

13.1 Managing persistent or unreasonable complainants

The handling of persistent or unreasonable complainants can be difficult and it can place unwarranted demands on time and resources. It can also cause undue stress to staff, who may need to be supported in a difficult situation. Line Managers should ensure that staff are supported through the complaints process (see Section 10 of this policy) and should seek further advice from the Complaints Manager as required.

When handling persistent or unreasonable complainants, Trust staff should ensure that the complaints procedure has been implemented correctly, so far as possible, and that no material aspect of a complaint has been overlooked or inadequately addressed. Even persistent or unreasonable complaints may have substance and it is essential that in dealing with such complaints, staff maintain an equitable approach.

If it is possible that this process will be invoked, all dealings with a particular complaint or complainant should be fully and carefully recorded.

The purpose of this process for dealing with unreasonable and persistent complainants is:

- a) To identify situations in which a complainant may be deemed persistent or unreasonable and to suggest means by which those situations may be managed; and
- b) To protect staff from the nuisance, abuse and threatened or actual harm that may be caused by such complainants.

13.2 Criteria for identifying persistent or unreasonable complainants

Complainants to whom this policy may apply include those who:

- a) Refuse to accept the remit of the process to be undertaken.
- b) Request actions that are not compatible with the process, or place unreasonable demands on staff and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).
- c) Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response, or whilst the complaint is being addressed. (Care must be taken not to discard new issues that are significantly different from the original complaint. These might need to be addressed as separate complaints).
- d) Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts by Trust staff and, where appropriate, the free advocacy available to those complaining about the NHS, to help them specify their concerns and/or where the concerns identified are not within the remit of the Trust to investigate.
- e) Submit concerns or complaints about the same issues that have previously been appropriately and fully considered and responded to.

- f) Focus on a trivial matter to an extent that is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what a 'trivial' matter is can be subjective and careful judgement must be used in applying this criterion).
- g) Are unwilling to accept documented evidence of care and treatment given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- h) Have an excessive number of contacts with the Trust, in the course of addressing a registered complaint, placing unreasonable demands on staff. (A contact may be in person, or by telephone, letter, e-mail or fax. Discretion must be used in determining the precise number of 'excessive contacts' applicable under this section and each case must be judged according to its own circumstances).
- i) Fail to engage with staff in a manner which is deemed appropriate: e.g. repeatedly using unacceptable language; secretly recording telephone calls or meeting without consent (in contravention of the Data Protection Act, 1998); refusing to adhere to previously agreed communication plans or behaving in an otherwise threatening or abusive manner on more than one occasion, having been warned about this.
- j) Have threatened or used actual physical violence towards staff or their families or associates at any time – this will, in itself, cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication. (All such incidents should be reported using the Trust's Incident Reporting, Management, and Investigation Policy)

Where behaviour that might otherwise make the complainant persistent or unreasonable is, or may be, the result of mental or physical ill health, careful thought should be given to the desirability and implications of invoking this process.

13.3 Actions prior to designating a complainant 'unreasonable or persistent'

Consideration should be given as to whether any further action can be taken prior to designating the complainant as 'unreasonable' or 'unreasonably persistent'. This might include:

- a) Where no meeting with staff has been held, the Complaints Manager will consider offering this as a means to dispel misunderstandings and move matters forward – this option will only be appropriate where risks have been assessed, and a suitably senior member of staff can be present.
- b) Where multiple departments are being contacted by the complainant, the Complaints Manager will consider setting up a strategy to agree a cross-departmental approach.
- c) The Complaints Manager will consider whether the assistance of an advocate might be helpful and offer to find an independent one where this has not previously been taken up.
- d) The Complaints Manager may issue a warning letter explaining that if the complainant's actions continue, the Trust may decide to treat him or her as an unreasonably persistent complainant and explain why.

13.4 Options for dealing with persistent or unreasonable complainants

In the first instance, the Complaints Manager will be approached to discuss the complaint and to negotiate the possible application of this policy. The Complaints Manager will be responsible for liaising with all parties to negotiate the application of this policy.

Where a complainant is identified as persistent or unreasonable in accordance with this policy, the Complaints Manager, in conjunction with the Medical Director and Director of Operations may decide to take any one, or more, of the following measures:

- a) Placing time limits on telephone conversations and personal contacts.
- b) Restricting the number of calls that will be taken or made.
- c) Requiring contact to be made with a named member of staff.
- d) Requiring contact to be made through a third person (such as an advocate).
- e) Limiting the complainant to one mode of contact.
- f) Requiring any personal contact to take place in the presence of a witness.
- g) Refusing to register and process further concerns or complaints about the same matter.
- h) Only acknowledging the correspondence that is received after the completion of a case.
- i) Informing the client that future correspondence will be read and placed on file, but not acknowledged.
- j) Advising that the Trust does not deal with correspondence that is abusive or contains allegations that lack substantive evidence.
- k) Request that the complainant provide an acceptable version of the correspondence or make contact through a third person to continue communication with the Trust.
- l) Ask the complainant to enter into an agreement about their conduct. (Breach of any such agreement might result in the taking of one or more of the other steps set out here).
- m) Advise that irrelevant documentation will be returned in the first instance and, in extreme cases, may be destroyed.
- n) Inform the complainant that the Trust will, or may, pass any further communication to its solicitors for advice and/or action.

Once a restriction is put in place, a letter will be issued to inform the complainant about the decision; what it means for the future contact with the Trust; how long the restrictions will remain in place; how long the restrictions will remain in place; and what they can do to have their position reviewed. The complainant will be provided with a copy of the policy.

13.5 Withdrawing persistent or unreasonable status from a complainant

Once complainants have been determined as persistent or unreasonable there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach, or if they submit a further complaint for which normal complaints procedures would appear appropriate. Staff should previously have used discretion in recommending persistent or unreasonable status at the outset and discretion should similarly be used in recommending that this status be withdrawn when appropriate. Such a decision may only be taken by the Medical Director, Director of Operations and Complaints Manager acting jointly.

Once a complainant who had been deemed persistent or unreasonable has been deemed no longer to be such, normal contact will be resumed with him/her and the NHS Complaints Procedure will once again apply.

13.6 Appeal

If a complainant, or someone with authority to act on their behalf, disagrees with the decision to deem him/her persistent or unreasonable, they may put their reasons in writing and address them to the Trust Chairman. Upon receipt of such a communication, the Trust Chairman will consider it as a request by the complainant for withdrawal of persistent or unreasonable status. The Trust Chairman will reconsider the decision to impose such status on the complainant and will do so in consultation with the Medical Director, Director of Operations and the Complaints Manager.

14 CONTACT DETAILS

For advice on this policy please contact the Trust Complaints Department on 0161 716 3083 Monday to Friday 09:00 to 17:00.

Out of hours advice should be sought from the Senior Manager on call.

15. EQUALITY IMPACT ANALYSIS

As part of its development, this document was analysed to consider / challenge and address any detrimental impact the policy may have on individuals and or groups protected by the Equality Act 2010. This analysis has been undertaken and recorded using the Trust's analysis tool, and appropriate measures will be taken to remove barriers and advance equality of opportunity in the delivery of this policy / procedure

16. FREEDOM OF INFORMATION EXEMPTION ASSESSMENT

Under the Freedom of Information Act (2000) we are obliged to publish our policies on the Trust's website, unless an exemption from disclosure applies. As part of its development, this policy was assessed to establish if it was suitable for publication under this legislation. The assessment aims to establish if disclosure of the policy could cause prejudice or harm to the Trust, or its staff, patients, or partners. This assessment has been undertaken using the Trust's Freedom of Information Exemption Guide, and will be reviewed upon each policy review.

17. INFORMATION GOVERNANCE ASSESSMENT

This Policy has been analysed to ensure it is compliant with relevant information law and standards as in place at the time of approval, and are consistent with the Trust's interpretation and implementation of information governance components such as data protection, confidentiality, consent, information risk, and records management.

Compliance will be reviewed against any changes to legislation / standards or at the next review of this document.

18. SAFEGUARDING

All staff have a responsibility to promote the welfare of any child, young person or vulnerable adult they come into contact with and in cases where there are safeguarding concerns, to act upon them and protect the individual from harm.

All staff should refer any safeguarding issues to their manager and escalate accordingly in line with the Trust Safeguarding Families Policy and Local Safeguarding Children/Adult Board processes.

19. MONITORING

The effective application of this policy, including adherence to any standards identified within will be subject to monitoring using an appropriate methodology and design, such as clinical audit.

Monitoring will take place on a biannual basis and will be reportable to the Quality Group via the Clinical Effectiveness and Quality Improvement Team.

20. REVIEW

This policy will be reviewed three-yearly unless there is a need to do so prior to this; e.g. change in national guidance.

21. REFERENCES

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Francis, R., 2013 Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry. Available from:

<http://webarchive.nationalarchives.gov.uk/20150407084231/http://www.midstaffpublicinquiry.com/report> [Accessed 29th June 2018]

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The Parliamentary and Health Service Ombudsman. 2014 My expectations for raising concerns and complaints. London: Parliamentary and Health Service Ombudsman.

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Local Authority Social Services and National Health Service Complaints (England) Regulations 2009