

# Complaints Policy

## HPFT Policy

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**Document on a Page**

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9	15/01/2024	15/01/2027	Head of Corporate Affairs and Company Secretary
<b>Staff need to know about this policy because (complete in 50 words)</b>	<b>Staff may be required to investigate or be involved in investigating a complaint. Staff need an awareness of the legal requirements and expectations for complainants in order to respond appropriately.</b>		
<b>Staff are encouraged to read the whole policy but I (the Author) have chosen three key messages from the document to share:</b>	<ul style="list-style-type: none"> <li>• Complaints are an important measure of the quality of services HPFT provides, staff must know how to respond to and learn from feedback.</li> <li>• Try to resolve concerns as they arise.</li> <li>• When investigating complaints, the organisation must provide a full, open and transparent response in line with the Statutory Duty of Candour.</li> </ul>		
<b>Summary of significant changes from previous version are:</b>	With the introduction of the new Parliamentary and Health Service Ombudsman (PHSO) Complaints Framework in 2023, the PHSO have produced a new Model Handling Procedure for providers of NHS services in England. This revised policy complies with these new Complaints Standards and expectations around Complaints procedures.		

## Contents Page

<b>Part 1</b>	<b>Page:</b>
1. Introduction	5
2. Accountability, roles and responsibilities	5
Complaints management	5
Roles and responsibilities	5
3. Identifying a complaint	6
When people want to make a complaint	6
Feedback and complaints	6
4. Who can make a complaint?	7
5. Timescale for making a complaint	8
6. Complaints and other procedures	9
7. Confidentiality of complaints	9
8. How we handle complaints	9
Making sure people know how to complain and where to get support	9
What we do when we receive a complaint	9
Complaints that can be resolved quickly	10
Early resolution	11
If we are not able to resolve a complaint	12
A closer look into the issues	12
Clarifying the complaint and explaining the process	12
Carrying out the investigation	13
Providing a remedy	13
The final written response	14
Support for staff	14
Referral to the Ombudsman	15
Complaints involving multiple organisations	15
Monitoring, demonstrating learning and data recording	16
9. Habitually demanding, unreasonable or persistent complainant behaviour	16
10. Complaints about a private provider of our NHS services	16
11. Complaining to the commissioner of our service	17
12. Embedding a culture of equality and respect	17
13. Promoting and considering individual wellbeing	17
<b>Part 2 Document Control &amp; Standards Information</b>	
1. Version Control	19
2. Relevant Standards	20
3. Associated Documents	20
4. Supporting References	20
5. Consultation	20

Part 3 Appendices	
1. Roles and responsibilities	21
2. Training and Awareness	24
3. Glossary	25
4. Herts Joint Protocol for Complaints Handling	26



## **1. Introduction**

- 1.1 This complaints handling procedure describes how the core expectations given in the NHS Complaint Standards will be put into practice by Hertfordshire Partnership University NHS Foundation Trust.
- 1.2 This procedure sets out how we handle complaints and the standards we will follow. This procedure follows the relevant requirements as given in the Local Authority, Social Services and National Health Service Complaint Regulations 2009 and the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the 2009 and 2014 Regulations).
- 1.3 It should be read in conjunction with the more detailed guidance modules available on the Parliamentary and Health Service Ombudsman website.

## **2. Accountability, roles, and responsibilities**

- 2.1 Overall responsibility and accountability for the management of complaints lies with the 'Responsible Person'. In our organisation this is the Chief Executive.
- 2.2 We have processes in place to ensure that our senior managers regularly review complaints alongside other forms of feedback. They will make sure action is taken on all identified learning arising from complaints so that improvements are made to our service.
- 2.3 Our senior managers demonstrate this by:
  - Leading by example to improve the way we deal with compliments, feedback and complaints.
  - Understanding the obstacles people face when making a complaint and taking action to improve the experience by removing them.
  - Knowing and complying with all relevant legal requirements regarding complaints.
  - Making information available in a format that people find easy to understand.
  - Promoting information about independent complaints advocacy and advice services.
  - Making sure everyone knows when a complaint is a serious incident or safeguarding or a legal issue and what must happen.
  - Making sure that there is a strong commitment to the duty of candour so there is a culture of being open and honest when something goes wrong.
  - Making sure we listen and learn from complaints and improve services when something goes wrong.

## **Complaints Management**

- 2.4 The Lead Manager for Complaints is responsible for managing this procedure and for overseeing the handling and consideration of any complaints we receive. The Lead Manager for Complaints is also responsible for all service user and carer feedback including compliments, comments and surveys (including the Friends and Family Test).

## Responsibilities

- 2.5 The 2009 Regulations allow us to delegate the relevant functions of the Responsible Person and Lead Manager for Complaints to our staff where appropriate. We do this to ensure we can provide an efficient and responsive service. The roles and responsibilities of staff within our organisation and relevant delegated functions when dealing with complaints are set out in Appendix 1.

### 3. Identifying a complaint

#### Everyday conversations with our users

- 3.1 Our staff speak to people who use our services every day. This can often raise issues that our staff can help with immediately. We encourage people to discuss any issues they have with our staff, as we may be able to sort the issue out to their satisfaction quickly and without the need for them to make a complaint.

#### When people want to make a complaint

- 3.2 We recognise that we cannot always resolve issues as they arise and that sometimes people want to make a complaint. A complaint is an expression of dissatisfaction, either spoken or written, that requires a response. It can be about:
- An act, omission or decision we have made
  - The standard of service we have provided.

#### Feedback and complaints

- 3.3 People may want to provide feedback instead of making a complaint. In line with DHSC's NHS Complaints Guidance people can provide feedback, make a complaint, or do both. Feedback can be an expression of dissatisfaction (as well as positive feedback) but is normally given without wanting to receive a response or make a complaint.
- 3.4 People do not have to use the term 'complaint'. We will use the language chosen by the service user, or their representative, when they describe the issues they raise (for example, 'issue', 'concern', 'complaint', 'tell you about'). We will always speak to people to understand the issues they raise and how they would like us to consider them. For further explanation of what is and isn't a complaint please see the guidance module 'Identifying a complaint'.
- 3.5 The following concerns are not dealt with through the Complaints Process:
- A complaint by an employee of HPFT relating to their employment.
  - A Subject Access Request (request for information under the Freedom of Information Act 2000)

For more information about the types of complaints that are and are not covered under the 2009 Regulations please see The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

- 3.6 If we consider that a complaint (or any part of it) does not fall under this procedure we will explain the reasons for this. We will do this in writing to the person raising the complaint and provide any relevant signposting information.
- 3.7 Complaints can be made to us:
- in person

- by phone, usually via the PALS line
- in writing, by email or online
- via the HPFT website online webform

We will consider all accessibility and reasonable adjustment requirements of people who wish to make a complaint in an alternative way. We will record any reasonable adjustments we make.

- 3.8 We will formally acknowledge complaints in writing within three working days of receiving it.
- 3.9 We may receive an **anonymous or a general complaint** that would not meet the criteria for who can complain. In this case we would normally take a closer look into the matter to identify if there is any learning for our organisation unless there is a reason not to do so.

#### **4. Who can make a complaint**

- 4.1 Any person may make a complaint to us if they have received or are receiving care and services from HPFT. A person may also complain to us if they are affected or likely to be affected by any action, inaction or decision by HPFT.
- 4.2 If the person affected does not wish to deal with the complaint themselves, they can appoint a representative to raise the complaint on their behalf. There is no restriction on who may represent the person affected. However, they will need to provide us with their consent for the representative to raise and discuss the complaint with us and to see their personal information. This includes advocates, members of parliament and professional carers.
- 4.3 If the person affected has died, is a child (aged under 12) or is otherwise unable to complain because of physical or mental incapacity, then the complaint may be made on their behalf by a representative. There is no restriction on who may act as representative but there may be restrictions on the type of information, we may be able to share with them. We will explain this when we first look at the complaint.
- 4.4 If a complaint is brought on behalf of a child we will need to be satisfied that there are reasonable grounds for a representative bringing the complaint rather than the child. If we are not satisfied, we will share our reasons with the representative in writing.
- 4.5 If at any time we see that a representative is not acting in the best interests of the person affected we will assess whether we should stop our consideration of the complaint. If we do this, we will share our reasons with the representative in writing. In such circumstances we will advise the representative that they may complain to the PHSO if they are unhappy with our decision.

#### **5. Timescale for making a complaint**

- 5.1 Complaints must be made to us within 12 months of the date the incident being complained about happened, or the date the person raising the complaint found out about it, whichever is the later date.

- 5.2 If a complaint is made to us after that 12 month deadline, we will consider it if:
- we believe there were good reasons for not making the complaint before the deadline, and
  - it is still possible to properly consider the complaint.
- 5.3 If we do not see a good reason for the delay or we think it is not possible to properly consider the complaint (or any part of it) we will write to the person making the complaint to explain this. We will also explain that, if they are dissatisfied with that decision, they can complain to the PHSO.

## **6. Complaints and other procedures**

- 6.1.1 We make sure our complaints staff are properly trained to identify when it may not be possible to achieve a relevant outcome through the complaint process on its own. Where this happens, staff will inform the person making the complaint and give them information about any other process that may help to address the issues and has the potential to provide the outcomes sought.
- 6.1.2 This can happen at any stage in the complaint handling process and may include identifying issues that could or should:
- trigger a patient safety investigation
  - involve a coroner investigation or inquest
  - trigger a relevant regulatory process, such as fitness to practice investigations or referrals
  - involve a relevant legal issue that requires specialist advice or guidance.
- 6.2 When another process may be better suited to cover other potential outcomes, our staff will seek advice and provide clear information to the individual raising the complaint. We will make sure the individual understands why this is relevant and the options available. We will also signpost the individual to sources of specialist independent advice.
- 6.3 This will not prevent us from continuing to investigate the complaint. We will make sure that the person raising the complaint gets a complete and holistic response to all the issues raised, which includes any relevant outcomes where appropriate. Our complaints staff will engage with other staff or organisations who can provide advice and support on the best way to do this.
- 6.4 If an individual is already taking part or chooses to take part in another process but wishes to continue with their complaint as well, this will not affect the investigation and response to the complaint. The only exceptions to this are if:
- the individual requests or agrees to a delay
  - there is a formal request for a pause in the complaint process from the police, a coroner or a judge.

In such cases the complaint investigation will be put on hold until those processes conclude.



- 6.5 If we consider that a staff member should be subject to remedial or disciplinary procedures or referral to a health professional regulator, we will advise the person raising the complaint. We will share as much information with them as we can. Where the person raising the complaint chooses to refer the matter to a health professional regulator themselves or where they subsequently choose to, it will not affect the way that their complaint is investigated and responded to. We will also signpost to sources of independent advice on raising health professional fitness to practise concerns.

## **7. Confidentiality of complaints**

- 7.1 We commit to maintaining confidentiality and protecting privacy throughout the complaints process in accordance with UK General Protection Data Regulation and Data Protection Act 2018. We will only collect and disclose information to those staff who are involved in the consideration of the complaint. Documents relating to a complaint investigation are securely stored and kept separately from medical records or other patient records. They are only accessible to staff involved in the consideration of the complaint.
- 7.2 Complaint outcomes may be anonymised and shared within our organisation and may be published on our website to promote service improvement.

## **8. How we handle complaints**

### **Making sure people know how to complain and where to get support**

- 8.1 We publish clear information about our complaints process and how people can get advice and support with their complaint through their local independent NHS Complaints Advocacy service and other specialist independent advice services that operate nationally.
- 8.2 We will make sure that everybody who uses our services (and those that support them) know how they can make a complaint by having our complaints policy and/or materials that promote our procedure visible on our website.
- 8.3 We will provide a range of ways to do this so that people can do this easily in a way that suits them. This includes providing access to our complaints process online and in different formats to ensure it is accessible for everyone.
- 8.4 We will make sure that our service users' ongoing or future care and treatment will not be affected because they have made a complaint.

### **What we do when we receive a complaint**

- 8.5 We want all service users, their family members and carers to have a good experience while they use our services. If somebody feels that the service received has not met our standards, we encourage people to talk to staff, or the Patient Advice and Liaison Service to see if we can resolve the issue promptly.
- 8.6 We want to make sure we can resolve complaints quickly as often as possible. To do that, we train our staff to proactively respond to service users and their representatives and support them to deal with any complaints raised at first point of contact.

8.7 All of our staff who have contact with service users (or those that support them) will handle complaints in a sensitive and empathetic way. Staff will make sure people are listened to, get an answer to the issues quickly wherever possible, and any learning is captured and acted on.

Our staff will:

- listen to you to make sure they understand the issue(s)
- ask how you have been affected
- ask what you would like to happen to put things right
- carry out these actions themselves if they can (or with the support of others)
- explain why if they can't do this
- capture any learning if something has gone wrong, to share with colleagues and improve services for others.
- reassure you that your healthcare will not be adversely affected by raising concerns.



### **Complaints that can be resolved quickly (PALS Enquiries)**

8.8 Our frontline staff often handle complaints that can be resolved quickly at the time they are raised, or very soon after. We encourage our staff to do this as much as possible so that people get a quick and effective answer to their issues.

8.9 If a complaint is made and resolved within ten working days, it does not need go through the remainder of this procedure. Our trust refers to these as “PALS Enquiries”. (Please see Patient Advice and Liaison Service Policy). For this to happen, we will confirm with the person making the enquiry that they are satisfied that we have resolved the issues for them.

- 8.10 If we cannot resolve the PALS Enquiry, we will handle it in line with the rest of this procedure and it will be treated as a complaint.
- 8.11 Our staff will acknowledge all complaints, within three working days. Staff will also discuss with the person making the complaint how we plan to respond to the complaint.

### **Early resolution**

- 8.12 When we receive a complaint, we are committed to making sure it is addressed and resolved at the earliest opportunity. Our staff are trained to identify any complaint that may be resolved quickly. If staff consider that the issues cannot be resolved quickly, we will take a closer look into the issues (see section 8.18 onwards).
- 8.13 When our staff believe that an early resolution may be possible, they are authorised to take action to address and resolve the issues raised and put things right for the person raising them. This may mean giving a quick explanation or apology themselves or making sure a colleague who is more informed of the issues does. Our staff will resolve complaints in person or by telephone wherever possible.
- 8.14 If we think a complaint can be resolved quickly, we aim do this in around 10 working days. However, this can take longer if the additional time means the complaint is more likely to be resolved for the individual. We will always discuss with those involved what we will do to resolve the complaint and how long that will take.
- 8.15 If we can answer or address the complaint, and the person making the complaint is satisfied that this resolves the issues, our staff have the authority to provide a response on our organisation's behalf. This will often be done in person, over the telephone, or in writing (by email or letter) in line with the individual circumstances.
- 8.16 We will share a summary of the complaint and how we resolved it with the person making a complaint. This will make sure we build up a detailed picture of how each of the services we provide is doing and what people experience when they use these services. We will use this data to help us improve our services for others. For further information see the [PHSO guidance module on early resolution](#).

### **If we are not able to resolve a complaint**

- 8.17 If we are unable to find an appropriate way to resolve the complaint to the satisfaction of the person making it, we will look at whether we need to take a closer look into the issues (see below).

### **A closer look into the issues**

- 8.18 Not every complaint can be resolved quickly (due to its complexity or seriousness). In these cases, we will ensure that the complaint is allocated to a Complaint Investigator, who will take a closer look into the issues raised. This will always involve taking a detailed and fair review of the issues to determine what happened and what should have happened.
- 8.19 We will make sure staff involved in carrying out a closer look are properly trained to do so. We will also make sure they have:

- the appropriate level of authority and autonomy to carry out a fair investigation
- the right resources, support and appropriate level of protected time in place to carry out the investigation, according to the complexity of each case.

8.20 Where possible, complaints will be looked at by someone not involved in the events complained about. If this is not possible, we will explain to the person making the complaint the reasons why it was assigned to that person. This should address any perceived conflict of interest.

### **Clarifying the complaint and explaining the process**

8.21 The Complaint Investigator will:

- engage with the person raising the complaint (preferably in a face-to-face meeting or by telephone) to make sure they fully understand and agree:
  - the key issues to be looked at
  - how the person has been affected
  - the outcomes they seek
- signpost the person to support and advice services, including independent advocacy services, at an early stage
- make sure that any staff members subject to a complaint are made aware at the earliest opportunity (see 'Support for staff' below)
- agree a suitable timescale for how long the investigation will take with the person raising the complaint, depending on:
  - the complexity of the complaint
  - the work that is likely to be involved
- keep the person (and any staff subject to the complaint) regularly informed and engaged throughout
- **explain how they will carry out the closer look** into the complaint, including:
  - what evidence they will seek out and consider
  - who they will speak to
  - who will be responsible for the final response
  - how the response will be communicated.

### **Carrying out the investigation**

8.22 Staff who carry out investigations will give a clear, balanced explanation of what happened and what should have happened. They will reference relevant standards, policies and guidance to clearly identify if something has gone wrong.

8.23 The Complaint Investigator will make sure the investigation clearly addresses all the issues raised. This includes obtaining evidence from the person raising the complaint and from any staff involved in the investigation. If the complaint raises clinical issues the Complaint Investigator will obtain a clinical view from someone who is suitably qualified. Ideally, they should not have been directly involved in providing the care or service that has been complained about.

8.24 We will complete our investigation within the timescale set out at the start of the investigation. Our timescales are: 35 working days for a new complaint and 60 working days for a reopened complaint. Should circumstances change we will:

- notify the person raising the complaint immediately and seek an extension to the timeframe.
- explain the reasons for the delay
- provide a new target timescale for completion.

We may need to pause the clock in situations such as seeking consent but will restart it as soon as we have the information required to continue our investigation.

- 8.25 If we cannot conclude the investigation and issue a final response within six months (unless we have agreed a longer timescale with the person raising the complaint within the first six months) the Responsible Person or a Senior Manager will write to the person to explain the reasons for the delay and the likely timescale for completion. They will then maintain oversight of the case until it is completed, and a final written response issued.
- 8.26 We are continuing to improve our complaints process and we aim to contact the complainant, before sending the final written response. This will be by telephone, in a meeting or in writing, the outcome of our investigation and the actions we intend to take, with all of the parties to the complaint. This will be decided on a case-by-case basis and will be based on the complexity of the issues and the identified impact. The Complaint Investigator will always consider any comments they receive before issuing a final written response.

### **Providing a remedy**

- 8.27 If, following the investigation, the Complaint Investigator identifies that something has gone wrong they will seek to establish what impact the failing has had on the individual concerned. Where possible they will put that right. If it is not possible to put the matter right, they will decide, in discussion with the individual concerned and relevant staff, what action can be taken to remedy the impact.
- 8.28 In order to put things right, the following remedies may be appropriate:
- an acknowledgement and a meaningful apology for the error
  - reconsideration of a previous decision
  - expediting an action
  - changing policies and procedures to prevent the same mistake(s) happening again and to improve our service for others.

### **The final written response**

- 8.29 As soon as practical after the investigation is finished, the Complaint Investigator will co-ordinate a written response and send a draft letter to the Complaints Team for checking. The response will include:
- a reminder of the issues investigated, and the outcome sought
  - an explanation of how we investigated the complaint
  - the relevant evidence we considered
  - our findings
  - an explanation of whether or not something went wrong that sets out what happened compared to what should have happened, with reference to relevant standards, policies and guidance
  - if something did go wrong, an explanation of the impact it had
  - an explanation of how that impact will be remedied for the individual
  - a meaningful apology for any failings

- an explanation of any wider learning we have acted on/will act on to improve our service for other users
- an explanation of how we will keep the person raising the complaint involved until all action has been carried out
- confirmation that we have reached the end of our complaint procedure
- details of who you can contact should you wish to discuss the letter
- details of how to contact the PHSO if the individual is not satisfied with our final response
- a reminder of where to obtain independent advice or advocacy.

The Complaints Team will draft a cover letter from the Chief Executive and both will be sent to the Chief Executive for final approval. Once approved, the letters will be sent to the complainant and other interested parties.

### **Support for staff**

- 8.30 We will make sure all staff who look at complaints have the appropriate: training, resources, support and protected time to respond to and investigate complaints effectively. See Appendix 2.
- 8.31 We will make sure staff being complained about are made aware and will give them advice on how they can get support from within our organisation, and external representation if required.
- 8.32 We will make sure staff who are complained about have the opportunity to give their views on the events and respond to emerging information. Our staff will act openly and transparently and with empathy when discussing these issues.
- 8.33 The Complaint Investigator will keep any staff complained about updated. These staff will also have an opportunity to see how their comments are used before the final response is issued.

### **Referral to the Ombudsman**

- 8.34 In our response on every complaint we will clearly inform the person raising the complaint that if they are not happy with the outcome of our investigation, they can take their complaint to the PHSO (Parliamentary and Health Service Ombudsman) or LGO (Local Government Ombudsman).
- 8.35 If the complaint is about detention under the Mental Health Act, or a Community Treatment Order or Guardianship we will inform the person making the complaint that if they are not happy with the outcome, they can take their complaint to the Care Quality Commission.

### **Complaints involving multiple organisations**

- 8.35 If we receive a complaint that involves other organisation(s) (including cases that cover health and social care issues) we will make sure that we investigate in collaboration with those organisations. The Complaints Team for each organisation will agree who will be the 'lead organisation' responsible for overseeing and coordinating consideration of the complaint.
- 8.36 The Complaint Investigator for the lead organisation will be responsible for making sure the person who raised the complaint is kept involved and updated throughout. They will also make sure that the individual receives a single, joint response.

See Appendix 3 Joint Working Protocol

### **Monitoring, demonstrating learning and data recording**

- 8.37 We expect all staff to identify what learning can be taken from complaints, regardless of whether mistakes are found or not.
- 8.38 Our Senior Managers take an active interest and involvement in all sources of feedback and complaints, identifying what insight and learning will help improve our services for other users.
- 8.39 We maintain a record of:
- each complaint we receive
  - the subject matter and outcome
  - equality monitoring to ensure equity of our services
  - whether we sent our final written response to the person who raised the complaint within the timescale agreed at the beginning of our investigation.
  - an action plan in response to the complaint
- 8.40 We measure our overall timescales for completing our consideration of all complaints against these targets:
- 100% of complaints will be responded to within 35 working days unless an extension to the timescales has been agreed by the complainant.
  - 100% of reopened complaints will be responded to within 60 working days unless an extension to the timescales has been agreed by the complainant.
- 8.41 We monitor all feedback and complaints over time, looking for trends and risks that may need to be addressed.
- 8.42 In keeping with the Regulations section 18, as soon as practical after the end of the financial year, we will produce and publish a report on our complaints handling. This will include how complaints have led to a change and improvement in our services, policies or procedures.

## **9. Habitually demanding, unreasonable or persistent complainant behaviour**

- 9.1 A habitual or unreasonably persistent complainant is someone who repeatedly raises the same issue, despite having been given a full response. Their behaviour may also be abusive and unreasonably demanding on staff time.

This process is intended establish a procedure whereby the complainant can be treated equitably and fairly.

- 9.2 Behaviours exhibited may be:
- Abusive or aggressive towards staff (in writing, verbally or physically).
  - Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted.
  - They make excessive demands on the time and resources of staff with lengthy phone calls, numerous or lengthy emails or letters expecting immediate responses and fail to accept that these may be unreasonable.

- They are unwilling to accept the response, repeatedly arguing points with no new evidence, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.

This procedure must be used in conjunction with the Compliments, Concerns and Complaints Policy and Procedure and the Non-physical and Physical Assaults (Violence and Aggression) Policy.

9.3 When a person has been identified as habitually demanding or persistent the decision about the steps taken to manage their behaviours will be taken by the Managing Director of the service and the clinical team together with the Lead Manager for Complaints. Approval will be sought from the Deputy Chief Executive.

9.4 Steps will be taken which are reasonable and support the complainant's ongoing healthcare needs and also support the service. These steps may include limiting the amount of contact an individual can make within a set period, e.g. one call or email per week.

Details of the full process can be found in the Standard Operating Procedure (SOP).

## **10. Complaints about a private provider of our NHS services**

10.1 This complaint handling procedure applies to all NHS Services we provide.

10.2 Where we outsource the provision of NHS Services to a private provider we will ensure that they publish, maintain and operate a complaints procedure in line with current NHS complaints guidance.

## **11. Complaining to the commissioner of our service**

11.1 Under section 7 of the Regulations, the person raising the complaint has a choice of complaining to us, as the provider of the service, or to the commissioner of our service, the Integrated Care Board. If a complaint is made to our commissioner, they will determine how to handle the complaint in discussion with the person raising the complaint.

11.2 In some cases it may be agreed between the person raising the complaint and the commissioner that we, as the provider of the service, are best placed to deal with the complaint. If so, they will seek consent from the person raising the complaint. If that consent is given, they will forward the complaint to us and we will treat the complaint as if it had been made to us in the first place.

11.3 In other cases, the commissioner of our services may decide that it is best placed to handle the complaint itself. It will do so following the expectations set out in the Complaint Standards and in a way that is compatible with this procedure. We will co-operate fully in the investigation.



## 12. Embedding a culture of equality and respect

- 12.1 The Trust promotes fairness and respect in relation to the treatment, care and support of service users, carers and staff.
- 12.2 Respect means ensuring that the particular needs of ‘protected groups’ are upheld at all times and individually assessed on entry to the service. This includes the needs of people based on their age, disability, ethnicity, gender, gender reassignment status, relationship status, religion or belief, sexual orientation and in some instances, pregnancy and maternity.
- 12.3 Working in this way builds a culture where service users can flourish and be fully involved in their care and where staff and carers receive appropriate support. Where discrimination, inappropriate behaviour or some other barrier occurs, the Trust expects the full cooperation of staff in addressing and recording these issues through appropriate Trust processes.
- 12.4 Access to and provision of services must therefore take full account of needs relating to all protected groups listed above and care and support for service users, carers and staff should be planned that takes into account individual needs. Where staff need further information regarding these groups, they should speak to their manager or a member of the Trust Inclusion & Engagement team.
- 12.5 Where service users and carers experience barriers to accessing services, the Trust is required to take appropriate remedial action.

<b>Service user, carer and/or staff access needs</b> (including disability)	The Trust makes provision to ensure that all service users, carers and other’s with sufficient interest are able to raise a concern or complaint, or give a compliment by providing access to advocates, PALS and Complaints literature in different languages, on request, and ensuring that responses are provided in an accessible format as agreed with the complainant. It is also clearly set out that complainants will not suffer discrimination by raising a concern or complaint.
<b>Involvement</b>	It is made clear that complaints are valued as a means of learning from poor experience of mistakes and for improving the services we offer.
<b>Relationships &amp; Sexual Orientation</b>	The compliments, concerns and complaints processes are open to all service users, carers and others with sufficient interest regardless of relationship or sexual orientation
<b>Culture &amp; Ethnicity</b>	The use of advocacy and interpretation services should ensure that complainants from ethnic minority groups receive an appropriate response to their concerns and complaints.
<b>Spirituality</b>	Where concerns or complaints raise issues about spirituality these will also be raised with the Spiritual Care team to ensure successful resolution.
<b>Age</b>	The use of advocacy services is encouraged for service users or carers who struggle with making a complaint due to their age. Older people with dementia are able to use the easy read complaints leaflet. CAMHS services have a modified ‘Compliments, Complaints Feedback’ leaflet. People can also access the procedure through the Trust website.
<b>Gender &amp; Gender Reassignment</b>	The process provides equal treatment for men, women and transgender people

<b>Advancing equality of opportunity</b>	The Experience Team will continue to develop ways to ensure that all those who wish to do so feel able to raise a complaint or concern, have the issues investigated and receive an open, honest and proportionate response.
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### **13. Promoting and Considering Individual Wellbeing**

13.1 Under the Care Act 2014, Section 1, the Trust has a duty to promote wellbeing when carrying out any of their care and support functions in respect of a person.

Wellbeing is described as relating to the following areas in particular:

- Personal dignity (including treatment of the individual with respect);
- Physical and mental health and emotional wellbeing;
- Protection from abuse and neglect;
- Control by the individual over day to day life including over the care and support provided and the way in which it is provided;
- Participation in work, training, education, or recreation;
- Social and economic wellbeing;
- Domestic, family and personal;
- Suitability of living accommodation;
- The individual's contribution to society.

13.2 There is no hierarchy, and all should be considered of equal importance when considering an individual's wellbeing. How an individual's wellbeing is considered will depend on their individual circumstances including their needs, goals, wishes and personal choices and how these impact on their wellbeing.

13.3 In addition to the general principle of promoting wellbeing there are a number of other key principles and standards which the Trust must have regard to when carrying out activities or functions:

- The importance of beginning with the assumption that the individual is best placed to judge their wellbeing;
- The individual's views, wishes, feelings and beliefs;
- The importance of preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist;
- The need to ensure that decisions are made having regard to all the individual's circumstances;
- The importance of the individual participating as fully as possible;
- The importance of achieving a balance between the individuals wellbeing and that of any carers who are involved with the individual;
- The need to protect people from abuse or neglect;
- The need to ensure that any restriction on the individuals rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary

## Document Control & Standards Information

Every procedural document will require a document control information section which will contain the following:

### 1. Version Control

Every procedural document must have a version control table showing the current version and previous versions to aid tracking and ensure that staff are working to the current document.

A Full Review results in the reviewed version becoming the next whole number e.g. Version 2.

An Interim Update where minor changes are made takes the next part number e.g. Version 2.1.

The date and the author, together with the current version number, following the rules above, are also stated on the front cover once ratified and this published version remains live until the next new version is published.

The full date the new version is published is noted in the document's version control table and the superseded document is taken off the Policy Website, as of that date to be archived and listed on the Archive Database.

Version control for the Procedural Document Management System

Version	Date of Issue	Author	Status	Comment
1	Feb 2002	Complaints Manager	Archived	Superseded
2	May 2007	Complaints Manager	Archived	Superseded
3	Sep 2008	Complaints Manager	Archived	Superseded
4	Jun 2009	Complaints Manager	Archived	Superseded
5	Dec 2010	Complaints Manager	Archived	Superseded
6	21 May 2013	Complaints Manager	Archived	In new Trust format.
6.1	23 Feb 2015	Complaints Manager	Archived	Updated to include revisions from the MHA Code of Practice 2015
7	30 <sup>th</sup> March 2017	Complaints Manager	Archived	Full review
7.1	25 <sup>th</sup> May 2018	Complaints Manager	Archived	Reviewed under GDPR
7.2	2021	Interim Lead Manager for Complaints	Archived	Interim policy changes
8	16/07/2021	Interim Lead Manager for Complaints	Superseded	Full review to reflect changes to PHSO framework.
9	15/01/2024	Interim Deputy Head of Experience	Current	

## 2. Relevant Standards

Relevant standards might be external and those upon which the procedural document is based or guide by.

## 3. Associated Documents

Many Trust procedural documents are related or link in some way to each other. Authors should consider which other procedural documents to include in the Associated Documents list.

## 4. Supporting References

When writing a procedural document any references used to evidence the content of the document should be listed in this section

See examples below:

- Journal Article: Author or organisation, (year) title of the article, publication, volume, issue, page, publisher.
- Book: Author, year, title of book, edition, publisher
- Guidance: Organisation (year) title, place of publication, publisher e.g. Department of Health (2001) Reference guide to consent for examination or treatment. London: Department of Health.
- Legislation: Name of Act and year. (chapter no:), place of publication, publisher e.g. Higher Education Act 2004. (c.8), London: HMSO.
- Website references as appropriate.

## 5. Consultation

The Consultation section of the Policy Management System advises on the types of people to invite to express their views and give constructive suggestions to improve the draft policy being worked on.

In the case of the Procedural Document Management System, the following have been consulted so far.

<b>Job Title of person consulted</b>
Deputy Chief Executive
Head of Corporate Affairs and Company Secretary
Service User Council
Carer Council
Youth Council
Head of Safer Care and Standards
Head of Information Rights
Deputy Head of Involvement and Volunteering

## Appendices

### Appendix 1 - Roles and responsibilities

The roles and responsibilities of staff within our organisation, when dealing with complaints, are set out below [names/job titles to be added by individual organisation]. Regulations 4(2) and 4(3) of the 2009 Regulations allow us to delegate any complaints handling function to relevant staff where appropriate.

Role	Responsibility	Delegations
Chief Executive	<p>Overall responsibility for making sure we:</p> <ul style="list-style-type: none"> <li>• comply with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and the Health and Social Care Act 2014</li> <li>• comply with the NHS Complaint Standards and this procedure</li> <li>• take any necessary remedial action.</li> </ul> <p>They are also responsible for:</p> <ul style="list-style-type: none"> <li>• reporting externally on how we learn from complaints</li> <li>• signing the final written response to the complaint (unless delegated to an authorised person).</li> </ul>	<p>In cases where an early resolution is possible, we delegate responsibility for responding to the complaint to staff who are coordinating the resolution.</p>
Head of Corporate Affairs and Company Secretary	<p>Support the Chief Executive in meeting their responsibilities as stated above.</p> <p>They are also responsible for:</p> <ul style="list-style-type: none"> <li>• checking the final written response to the complaint before it moves to the CEO for approval.</li> <li>• Line management of Lead Manager for Complaints</li> </ul>	
Senior Managers	<p>Senior Managers are responsible for:</p> <ul style="list-style-type: none"> <li>• overseeing complaints and the way we learn from them</li> <li>• overseeing the implementation of actions required as a result of a complaint, to prevent failings occurring again</li> <li>• contributing to the investigation of complaints</li> <li>• deputising for the Responsible Person, if authorised.</li> </ul> <p>Senior Managers retain ownership and accountability for the management and reporting of</p>	

	<p>complaints. They are responsible for preparing, quality assuring or signing the final written response. They should therefore be satisfied that the investigation has been carried out in accordance with this procedure and guidance, and that the response addresses all aspects of the complaint.</p> <p>Senior Managers will review the information gathered from complaints regularly (at least quarterly) and consider how services could be improved or internal policies and procedures updated. They will report on the outcomes of these reviews via the organisation's governance structure.</p> <p>Senior Managers are also responsible for ensuring that complaints are central to the overall governance of the organisation. They will make sure that staff are supported both when handling complaints and when they may be the subject of a complaint.</p>	
<p>Lead Manager for Complaints</p>	<p>The Lead Manager for Complaints is responsible for the management of the procedures for handling and considering complaints.</p> <p>The Lead Manager for Complaints, in conjunction with other senior manager(s) acting on his or her behalf (as above), will be involved in a review of the quarterly reports. They will use this review to identify areas of concern, agree remedial action and improve services.</p> <p>They are also responsible for the management and oversight of the Experience Team which includes the PALS and Complaints function.</p>	
<p>Complaint Investigator</p>	<p>The Complaint Investigator is the person allocated to oversee and co-ordinate the investigation of the complaint and for the response to a complaint which has not been resolved at Early resolution (stage 1).</p> <p>They are responsible for making sure that there is a closer look into the issues raised, with the support and input of others. They will make sure that the information and responses they receive from the person making the complaint, and from staff being complained about, clearly addresses all of the issues raised.</p> <p>The Complaint Investigator will be trained in investigative techniques. Where possible they will also be trained in advanced dispute resolution skills.</p>	

	<p>This will enable them to seek a mediated resolution to the concern or complaint at any time during the investigation of the issues.</p>	
<p>All staff</p>	<p>We expect all staff to proactively respond to service users and their representatives and support them to deal with any complaints raised at the 'first point of contact'. We will provide training so they can do this.</p> <p>We expect all of our staff who have contact with patients, service users, or those that support them, to deal with complaints in a sensitive and empathetic way. This includes making sure that people are aware of our local independent advocacy provider and/or national sources of support and advice.</p> <p>We expect all staff to listen, provide an answer to the issues quickly, and capture and act on any learning identified.</p>	

## Appendix 2 - Training and Awareness

Write a breakdown of all staff groups training requirements and the frequency of training required by each group. This must be done in the form of a table and should include details of who will provide the training. Where no formal training is required, describe the informal method of raising staff awareness of the procedural document.

<b>Course</b>	<b>For</b>	<b>Renewal Period</b>	<b>Delivery Mode</b>
Complaints Training	Mandatory for all staff	None	Online
Investigating and Responding to Complaints Training	Any staff asked to investigate complaints	None	Face to face
Senior Leads Complaints Training	Anyone wanting further information about dealing with complaints	None	Online
Responding to and Learning from Feedback	Managers responsible for gathering and using feedback for improvement	None	Face to face



## Appendix 3 – Glossary

### **GLOSSARY**

<b>HPFT</b>	Hertfordshire Partnership University NHS Foundation Trust
<b>PALS</b>	Patient Advice and Liaison Service
<b>PHSO</b>	Parliamentary and Health Service Ombudsman
<b>LGO</b>	Local Government Ombudsman

# Hertfordshire Joint Protocol for the Handling of Social Care and Health Care Complaints

This Protocol complies with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

## Participating Organisations

East & North Herts NHS Trust (ENHT)

Herts and West Essex Integrated Care Board (ICB)

East of England Ambulance Service Trust

Herts Community NHS Trust (HCT)

Herts County Council Adult Care Services (ACS)

Spectrum Herts Drug and Alcohol Recovery Services (CGL)

Herts Partnership University NHS Foundation Trust (HPFT)

Isabel Hospice

Herts Urgent Care

POhWER  
(Generic and Complaints Advocacy)

West Herts Hospitals Trust

NHS England

# Hertfordshire Joint Protocol for the Handling of Social Care and Health Care Complaints

## 1. Introduction

- 1.1 New complaints handling regulations were implemented in April 2009 and require a single response to a complaint that includes more than one NHS organisation and social care services. Hertfordshire's Joint Protocol provides the framework and sets a standard for communication between all partner organisations providing NHS care. The protocol does not replace the complaints procedures of participating organisations and should be read in conjunction with each organisation's procedures. Although the focus of this protocol is adults services it is also appropriate for services for children across the statutory services (paragraph 4.3)
- 1.2 This protocol complies with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and is informed by the Department of Health Best Practice Guidance, *Listening Responding, Improving – a guide to better customer care (February 2009)* and the Department of Health Advice Sheet 2 *Joint Working on Complaints*.
- 1.3 The protocol is to be followed by staff in all the participating organisations when dealing with complaints that concern the provision of both social care and health care across different organisations.

*Note: Each organisation must inform the complainant that the investigation is being carried out under the joint protocol.*

- 1.4 Where the complaint concerns the services of a non NHS provider agency and/or independent contractors, these organisations will be encouraged to participate in the joint approach outlined in this protocol.

## 2. The purpose of the protocol

- 2.1 This protocol brings participating organisations together to provide a unified, and effective complaints service for people who may be dealing with a number of health and social care organisations.
- 2.2 The protocol provides a framework for collaboration throughout 'Local Resolution' to ensure:
  - people have the means to complain and to express concerns regardless of age, gender, culture, ethnic origin or ability and the process for doing so (when the complaint involves more than one organisation) remains consistent and easy to use.
  - a person-centred approach to complaints planning **and** the person complaining receives a single, co-ordinated response

- regular and effective communication between responsible complaints managers and service complaints leads in participating organisations and between responsible complaints managers, service 'lead' and the person complaining
- the complaints are assessed /triaged to determine the level of investigation required including possible use of other procedures, for example, *Safeguarding* procedures (adults, children and young people)
- learning points arising from complaints covering more than one organisation are identified and addressed by each organisation

### 3. Role of the complaints managers

- 3.1** The designated complaints manager(s) in each participating organisation is responsible for managing the complaints service and for implementing this protocol. Each complaints manager should clarify who deputises if s/he is absent. This will be recorded and updated as necessary. Complaints Managers will hold a list of *Contact Details for Participating Organisations*.
- 3.2** Complaints managers will co-ordinate actions required, agree who will take the lead role in completing a single, co-ordinated response for the complainant and co-operate fully with each other throughout the process.
- 3.3** If the complaints managers are unable to reach agreement about any matter covered by this protocol, they should refer the matter promptly to the responsible senior manager in the organisation(s) for resolution.
- 3.4** Complaints managers are responsible for ensuring that any learning / action points (including any shared learning) for the participating organisation(s) are recorded and reported to the responsible senior operational managers for inclusion in each organisation's performance reporting framework.

### 4. The protocol - how it works in practice

- 4.1** When a joint approach to a complaint is indicated, a complaints manager will take the lead in co-ordinating the response.

Factors to consider in identifying the lead organisation include:

- which organisation is the primary focus of the complaint
- which organisation first received the complaint (if the seriousness and number of complaints are about the same for each)
- whether the person complaining expresses a clear preference
- impact on the organisations' governance arrangements
- which organisation is likely to have ongoing contact with the complainant
- consent

- 4.2** For the majority of joint approach complaints, the lead organisation will be determined by the organisation which is the primary focus of the complaint.
- 4.3** Instances will occur when a joint approach involves children and adult social care and health services across Hertfordshire. For example, when complaints arise concerning services to disabled young people in transition. In such cases the NHS complaints procedure will need to be used in conjunction with the relevant social care procedure.
- 4.4 Role of the complaints lead** - the lead complaints handler will co-ordinate the response as follows:
- Ensure the complaint has been acknowledged within **three working days** and, if not already obtained, seek consent for the sharing of information for the complaint investigation.
  - In some instances, the complainant will have written to or copied their letter to other participating organisation about their complaint. Organisations that have been copied into letters would not normally acknowledge receipt of the letter.
  - When a joint approach is indicated, notify the complaints manager(s) involved and agree the basis for a co-ordinated response. Ensure that the complaint is assessed and an approach to resolution / appropriate level of investigation, with timescales agreed with the complainant.
  - If the complaint is complex and/or involves a number of organisations the lead partner should consider the need for a meeting with the secondary partners/ responsible managers to agree the action/complaint plan. Such a meeting will have priority and should facilitate, not delay the investigation.

**Note: consider a conference call to avoid delay.**

- Contact the complainant and/or their advocate/representative to agree the approach including timescales and what the complainant wants to happen as a result of making their complaint, in line with the organisation's policies. Check knowledge of / access to local advocacy agencies able to assist the complainant (POhWER ICAS, MIND etc.).
- Collate the outcome of each partner organisation's investigation, draft final response and, if necessary, seek approval from all the agencies involved prior to 'signing off' as agreed. A deadline for this must be specified within timescales. If there is to be a delay advise the complainant and discuss the option of separate responses,
- *Note: When contextual changes have been made, it is essential that the final response is agreed by the lead partner and all the secondary partners before it is sent. Complaints managers will facilitate this. Organisations must take responsibility to do this in a timely manner.*

- Ensure that participating organisations remain responsive to options for achieving speedy and effective resolution, for example, by arranging a complaints resolution meeting.
- The response will carry the lead organisation's 'logo' and will make it clear which organisation has contributed to each part of the response providing a clear account of what has taken place, the decision-making process, the findings and learning for each organisation.
- The complainant will be given the option to discuss the response with the relevant organisations for further local resolution
- The complainant must be advised of their right to refer their complaint to the responsible Ombudsman

#### **4.5** Role of the complaints managers in the secondary organisations:

- Co-operate fully in completing a single, co-ordinated response
  - Maintain contact with the lead organisation to advise on progress and agree draft final response prepared by lead partner, if needed.

**4.5** When conflicting information is received from the different organisations, discussions must take place to resolve the differences to avoid confusion when responding to the complainant

## **5. Timescales**

**5.1** Timescales will be agreed between participating organisations and the complainant.

**5.2** Secondary organisations will record the reason for any variation to their own organisation's timescales. All organisations need to communicate with each other if the investigation cannot be completed within the agreed timescale.

**5.3** Where extensions are required, the responsible organisation will communicate with the complainant and agree a revised timescale with them. Extensions to timescale should not be the norm.

**5.4** Each organisation should provide their contribution to the response without delay.

*Note: Where there is an unreasonable delay from one or more participating organisations, the lead organisation will consider sending a partial response. The organisation(s) responsible for the delay will apologise in the subsequent response.*

## **6. What happens if the complainant is not satisfied with the joint response?**

- 6.1** If the person complaining is not fully satisfied with the first response, the lead organisation will review the complaint response with the complainant taking care to check what aspects of the complaint(s) are resolved /not resolved and what the complainant wants to happen as the next step and inform the secondary organisations.
- 6.2** An organisation may withdraw from the joint process at this point if the complaints concerning that organisation are resolved. In turn, this may require a review as to which organisation now acts as the lead partner in completing a review of the complaint.
- 6.3** Participating organisations will need to consider options for further work within Local Resolution or whether Local Resolution should now be concluded. Practice may differ between organisations as to how far Local Resolution will be extended to include further review/investigation. This should be taken into account when completing the joint response (see section 4)
- 6.4** The responsible Ombudsman may also check the thoroughness of the first response and may invite the participating organisations to consider further options for resolution.
- 6.5** In the event of the participating organisations being unable to agree the resolution of a complaint, or unable to agree a way forward in expediting resolution, the matter will be referred to the responsible senior managers in each organisation.

## **7. The Protocol – principles for handling complaints**

- 7.1** Feedback from people using our services and their carers tells us about the quality and effectiveness of the services we provide and the services we commission. Our ability to *listen*, *respond* and *improve* is a hallmark of good customer care.
- 7.2** The Ombudsmen have devised a set of principles as a guide to public bodies in putting things right speedily and effectively and these are embodied in local publications. The principles are:
- Getting it Right
  - Being Customer Focused
  - Being Open and accountable
  - Acting fairly and proportionately
  - Putting things right
  - Seeking continuous improvement
- 7.3** Organisations should also share best practice and guidance in all aspects of good customer care, communicating effectively, writing response letters, and learning from complaint findings.

	<i>we are...</i>	<i>you feel...</i>
<b>Our Values</b>	<b>Welcoming</b>	✔ Valued as an individual
	<b>Kind</b>	✔ Cared for
	<b>Positive</b>	✔ Supported and included
	<b>Respectful</b>	✔ Listened to and heard
	<b>Professional</b>	✔ Safe and confident

**Our  values**  
 Welcoming Kind Positive Respectful Professional