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Complaints Handling Group Policy

Version 3

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1	This policy used to form part of the Learning From Experience policy and has been extract to form a standalone policy. This policy has been updated to reflect our current processes and national guidance.	
2	Updated to reflect current practice and 3 gradings for complaints. Addition of information on handling habitual and persistent complainants, cross divisional complaints.	
3	Full Review	

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1. Introduction

This policy is intended for use across Calderdale and Huddersfield NHS Foundation Trust (CHFT), which includes Calderdale and Huddersfield Solutions Limited (CHS). Where responsibilities state all staff, managers senior managers and directors, this also includes CHS staff groups.

This Policy describes the requirements and Trust procedures for the investigation and management of improvements, suggestions, concerns and complaints, received across CHFT.

CHFT views any complaint as an extension of our service user's care and the Trust is therefore committed to having an effective procedure in place to handle all concerns and complaints. The Trust will take an active approach to seeking people's views, dealing with complaints and using the information received to learn and improve both the experience of our patients and the quality of the service we provide.

Where it is not possible to rectify a problem, we will provide an open, accountable and effective complaints service. All concerns and complaints will be dealt with on an individual basis, and will be investigated fully, transparently and honestly in a timely manner and where required in partnership with other agencies. Any suggestions and improvements will be shared across the Trust via the Divisional Boards to encourage learning.

CHFT recognises that service users and their representatives have a fundamental right to raise concerns about the services they receive. Accordingly, it is expected that staff will not treat service users and their representatives, unfairly as a result of any complaint or concern raised by them. Any complaints, by service users or their representative, of unfair treatment as a result of having made a complaint will be investigated as a separate complaint and appropriate action will be taken.

We support the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling (2009), My Expectations (2014) and the NHS Constitution which includes a number of patient rights relating to complaints. In summary, these include patients' rights to:

- Have their complaint acknowledged and properly investigated.
- Discuss the manner in which the complaint is to be handled and know the period in which the complaint response is likely to be sent.
- To be kept informed of the progress and to know the outcome including an explanation of the conclusions and confirmation that any action needed has been taken on.
- Take a complaint about data protection breaches to the independent Information Commissioners' Office (ICO) if not satisfied with the way the NHS has dealt with this.

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1.1 Who this policy applies to:

This policy applies to all permanent, locum, agency, bank and voluntary staff of CHFT and any person or persons working in a contractor role acting for or on behalf of CHFT. CHFT employees work very hard to get the job right first time; however, sometimes mistakes can occur. As a CHFT employee you need to follow this policy this policy so that CHFT can ensure compliance to best practice and legal obligations to demonstrate that:

- any service users of CHFT, their family, or members of the public are given the opportunity to seek advice, raise concerns, and/or make a complaint about any of the services it provides
- that a person who raises a complaint, receives a high-quality response in a timely manner
- lessons learned from complaints are acted upon and shared throughout the organisation to improve standards of care and prevent avoidable harm/experience
- complaints are investigated and managed in line with:

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

- www.opsi.gov.uk/si/si2009/uksi_20090309_en_1
- the Parliamentary and Health Service Ombudsman's (PHSO): My expectations for raising complaints and concerns 2014
<http://www.ombudsman.org.uk/myexpectations>

1.2 What is covered by this policy:

This policy covers suggestions, improvements, concerns and complaints made by service users and their representatives.

1.3 Complaints dealt with under this policy:

A complaint can be made to CHFT about any matter reasonably connected with the exercise of its functions including in particular:

- care or treatment provided
- anything to do with the hospital or healthcare environment
- any member of staff in relation to the care and service they provide
- how services are organised if this has affected treatment or care
- complaints about the CHFT's staff or facilities relating to the care provided to any patient in a private pay bed (but not to the private medical care provided by the Consultant outside their NHS Contract)
- care, treatment or an establishment that has been commissioned by the Trust to provide care on behalf of the NHS

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1.4 Complaints that cannot be dealt with under this policy are those:

- Made by a local authority, NHS body or independent provider (service – service)
- Relating to services not provided by CHFT
- From any current or former NHS employee about any matter relating to their employment
- Requests which are made under a subject access request under the General Data Protection Regulations or a request for information under the Freedom of Information Act
- Which are, or have been, investigated by the Health Service Commissioner under the 1993 Act

NOTE: Where complaints are received from General Practitioners regarding a patient, and the general practitioner has the consent of the patient to make the complaint on their behalf; then the complaint will be dealt with under this policy. Where the general practitioner does not have the consent of the patient or wishes to raise concerns about a service then the Patient Advice and Complaints Service/Divisional Team will deal with this outside of NHS Complaints Regulations.

1.5 Who can complain under this policy:

The Local Authority, Social Services and NHS (England) Complaints Policy (2017) and the Good Practice Standards for NHS Complaints Handling (September 2013) specify that complaints may be made by:

- a person who receives or has received services from CHFT; or
- any person who is affected or likely to be affected by any action, omission or decision of CHFT
- a person who is acting as a representative of:
 - a person who has died
 - a child
 - a person who is unable to make the complaint themselves because of lack of physical incapacity or lack of mental capacity
 - any individual who has otherwise asked the representative to act on their behalf

1.6 Time limit for making a complaint under this Policy

The Local Authority, Social Services and NHS Complaints (England) Regulations 2009 require that a complaint must be made within twelve months of:

- the date on which the matter which is the subject of the complaint occurred; or

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- the date on which the complainant became aware of the matter which is the subject of the complaint.

Where a complaint is made outside this time limit the Head of Legal Services and Complaints / Assistant Patient Advice and Complaints Manager may exercise discretion to waive the time limit where it can be demonstrated, and satisfied that:

- the complainant had good reasons for not making the complaint within the time limit; and
- providing it is still possible to investigate the complaint effectively and fairly.

NOTE: Complaints made outside the established time limits can prove difficult to investigate and extremely problematic to resolve, not least because of the inevitable doubts over memories of events some time previously. This is a relevant factor to be considered in determining whether it will be possible to investigate a 'late' complaint effectively.

If it is not possible to waive the time limit and the complaint is not accepted into the Complaints Procedure, an explanation of this will be provided to the complainant.

2. Purpose

The purpose of the policy is to make sure CHFT procedures are fully compliant with the Local Authority, Social Services and NHS Complaints (England) Regulations 2009 meets NHS Resolution (NHSR) Risk Management Standards for Acute Trusts (RMST) and Care Quality Commission (CQC) Outcome 17 and supports Sections 2a and 3b of the NHS Constitution.

Our approach is to consider issues thoroughly and objectively and share our findings openly, honestly and in a timely manner. This policy and procedure is based on the Local Authority, Social Services and NHS Complaints (England) Regulations 2009 and Principles of Good Complaint Handling from the Parliamentary and Health Service Ombudsman (PHSO).

2.1 Policy Aims

The aim of this policy is to provide all those involved in the complaints process with a clear understanding of CHFT's expectations and requirements. The Trust approach to managing concerns and complaints will be to listen and respond to concerns raised by service users and/or their representatives, to learn from their experiences and improve services accordingly. CHFT's arrangements for the handling of complaints will ensure that:

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- Complaints are dealt with efficiently
- Complaints are properly investigated
- Complainants are treated with respect and courtesy
- Complainants will be involved in decisions about how their complaints are handled and considered as far as reasonably possible
- Complainants will be kept updated on the progress of the investigations and if the response is delayed, complainants will be notified and advised when to expect the response will be completed by
- Complainants receive a timely and appropriate response, with an acknowledgement and apology where appropriate for any upset or distress caused
- Complainants are told the outcome of the investigation of their complaint and;
- Following completion of the complaint, action is taken if necessary to ensure lessons are learned and to improve the quality of service provided.

2.2 Key Principles

This policy sets out the following key principles in handling complaints and concerns:

- Complaints and concerns will be view as an extension of the care provided to the service user
- Complaints and concerns will be dealt with in a fair, flexible and conciliatory manner, encouraging open communication between all parties
- High standards of conduct are expected from all staff always to ensure that service users and their representatives will be treated respectfully, courteously and sympathetically
- The requirement to maintain confidentiality during the complaints process will be absolute (unless indicated otherwise); All service users and their families and carers will be advised how they can raise a concern or make a formal complaint via information leaflets and posters available on all wards and clinical service units and the internet
- All people who make complaints will be advised of the various independent support agencies that are available to assist them in making their complaint
- As far as reasonably possible, people who make complaints will be involved in decisions about how their complaints are handled and considered
- CHFT will aim to resolve complaints within CHFT as part of local resolution (first stage of the national complaints procedure), wherever possible
- Complainants receive a meaningful apology when appropriate
- CHFT will co-operate with other organisations when a complaint involves other outside organisations
- No person who makes a complaint will be discriminated against on the grounds of religion, gender, race / ethnicity, disability, age or sexual orientation or because they have made a complaint

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- Violence, racial, sexual, verbal or any other forms of harassment are unacceptable and will not be tolerated on the part of staff or people who make complaints

2.3 Support

The needs of those affected are a primary concern for CHFT as part of its processes for the investigation of complaints. It is important that affected patients, staff, families and carers are involved and supported throughout the investigation.

Making a complaint can be daunting and evidence confirms many people who might wish to complain do not because they do not know how to or they find the process intimidating. The Independent Complaints Advocacy Service (ICA) has been established to assist people who wish to complain. It will aim to ensure persons who raise concerns have the support they need to articulate their concerns and navigate the complaints system so that their concerns can be resolved more quickly and effectively. The service can be accessed through a variety of routes including PALS and Complaints staff. It will advertise locally through a variety of means agreed with ICA Managers.

It is important to recognise that complaints investigations can have a significant impact on staff who were involved.

Staff involved in the complaints investigation process must be given support, which may include some or all of the following: Support from their line manager or professional lead, the opportunity to access professional advice from their relevant professional body or union, staff counselling services and occupational health services. They should also be provided with information about the stages of the investigation and how they will be expected to contribute to the process.

CHFT recognises that individual members of staff may experience higher levels of stress if they become the subject of a complaint. CHFT is committed to supporting staff through the complaints process by offering guidance and by recognising the opportunities for personal development that may arise from the outcome of complaints. Line managers have the primary responsibility for providing this support to staff and can draw on further advice and guidance from the Patient Advice and Complaints Department. Where necessary additional support, including counselling, can be arranged through the occupational health service. Staff also have access to support from their professional or trade union organisations.

CHFT is clear that the investigation itself is separate to any other legal and/or disciplinary process. CHFT will advocate justifiable accountability when required but will operate a policy of zero tolerance for inappropriate blame and those involved must not be unfairly exposed to punitive disciplinary action, increased medico-legal risk or any threat to their registration by virtue of

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involvement in the investigation process.

Staff who are unhappy with the way they have been dealt with under the complaint's procedure may raise the matter through the CHFT's Grievance Procedure

3. Definitions

Suggestion/Improvement/Concern: Issues raised which require assistance to reach a swift and satisfactory resolution, usually within 72 hours, but do not require formal investigation.

Complaint: According to the Department of Health a 'complaint' is an expression of dissatisfaction about the service which CHFT provides, for which a response must be provided.

4. Open and Honest

The core professional standards are set out in *Good medical practice for doctors* and in *The Code: Standards of conduct, performance and ethics for nurses and midwives*, *HCPC Code of Conduct*, *NHS Code of Conduct for NHS Managers (2005)* and *Nolan Principles (2019)*; state that doctors, nurses and midwives must:

- Be open and honest with patients if something goes wrong with their care
- Act immediately to put matters right if that is possible; and
- Promptly explain to patients what has gone wrong and the likely long-term and short-term effects

NOTE: The Nursing and Midwifery Council (NMC) and the General Medical Council (GMC) ran a consultation on new joint guidance to help doctors; nurses and midwives comply with their professional duty to be open and honest with patients about their care. The consultation is entitled 'Openness and Honesty when things go wrong: the professional duty of candour'.

4.1 Statutory Duty of Candour

On 1 October 2014, new requirements for a statutory duty of candour came into force for NHS bodies as part of wider regulations developed by the CQC in line with their strategy for 2013-2016, '*Raising standards, putting people first.*' The intention of this regulation is to ensure that providers are open and transparent with people who use services and other 'relevant persons' (people acting lawfully on their behalf) in general in relation to care and treatment. It also sets out specific requirements that providers must follow when things go wrong with care and treatment, including informing people about the incident, providing reasonable support, providing truthful information and an apology when things go wrong. The regulation applies to registered persons when they

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are carrying on a regulated activity. The CQC can prosecute for a breach of parts 20(2) (a) and 20(3) of this regulation and can move directly to prosecution without first serving a Warning Notice. Additionally, CQC may also take other regulatory action.

Further information can be found in CHFT Duty of Candour Policy 2015.

Failure to adhere to the values and principles set out by CHFT, in relation to complaints handling, may be subject to an internal investigation under HR processes.

5. Accessibility of Patient Advice and Complaints Service

Clear information on how to make a complaint must be made available to the public through leaflets throughout Trust premises and information on the Trust website.

All staff dealing with complaints must consider the needs of vulnerable people such as adults with learning difficulties, children, some older people or people with disabilities, (such as visual impairment or hearing impairment), and will offer support from relevant agencies to such individuals.

All staff dealing with complaints will consider the need for language or sensory support in order to make sure that the complaints procedure is accessible to all.

6. Consent

Where a complaint is made by a representative then they must demonstrate that they have the appropriate authority or consent to act.

Consent is not required from MPs when they act directly on behalf of a constituent as CHFT may assume that the MP has obtained sufficient consent to release relevant confidential information (see section 17 S1 2002 (2905)); however, consent is required when acting on behalf of a third party (e.g. complaint by a daughter on behalf of her mother being represented by the MP).

Where a complaint is made on behalf of a person who has died, The Patient Advice and Complaints Department will check that the person making the complaint is the deceased patient's next of kin or is acting with their authority. Where this is not the case, the Patient Advice and Complaints Department will obtain the consent of the next of kin in writing. In doing so, the Trust will offer the next of kin the opportunity to review the complaint that has been made

Where a representative makes a complaint on behalf of a child or a person who lacks capacity, prior to investigating the complaint CHFT staff will satisfy

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themselves that there are reasonable grounds for the complaint to be made by the representative rather than by the child or the person who lacks capacity. CHFT staff will also satisfy themselves that the representative is conducting the complaint in the best interests of the person on whose behalf the complaint is being made. If not satisfied, the representative will be notified in writing of the reasons for refusing to investigate the complaint.

Young people aged 16 and 19 – unless there is clear medical evidence that they lack mental capacity, then their express authority should be obtained before responding to the complaint if it will involve disclosing confidential patient information.

Children under the age of 16 – if a complaint is made by a child who is ‘Gillick competent’ (i.e. of sufficient intelligence and maturity to consent to treatment), then their agreement should be obtained before responding to the complaint if doing so will involve disclosing confidential patient information. Young people are encouraged to have their own voice and will be supported to provide their own feedback be that positive or supporting the young person to make a complaint.

NOTE: Where a complaint is made on behalf of a child under the age of 16 who is not Gillick competent then no authority from the child will be needed to respond to those with parental responsibility.

7. Data Protection

Staff must always be mindful of the General Data Protection Regulations 2018 and their NHS responsibilities in terms of patient confidentiality, particularly where a complaint is made by a representative on behalf of another individual. Staff must also be aware that all documents generated in the course of a complaint investigation (including internal memoranda/comments etc) are generally liable to be disclosed under the General Data Protection Regulations or in any subsequent legal claim.

Complaint investigations will be conducted in a confidential manner and only those members of staff who need to be involved in the investigation will be, in order to protect patient and staff confidentiality.

On acknowledgment of the complaint, complainants will be informed that it may be necessary to access their health record and to disclose information within it to those staff conducting the investigation and involved in preparing the response.

8. Learning from Complaints

CHFT will learn from complaints by identifying trends at a local and strategic level, which will assist in the prevention and recurrence or more serious

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incidents or other similar complaints occurring in the future.

Divisional Directors, Associate Directors of Nursing, Directors of Operations, General Managers, Matrons and Lead Investigators are responsible for preparing action plans arising from individual complaints and for ensuring that these are implemented. Action plans should cross reference to actions of other providers (e.g. other NHS Trusts or social services departments) where appropriate, with a link to quality improvement practices across CHFT.

Learning from complaints is a critical part of complaints management. Lead Investigators will be responsible for providing feedback, in respect of complaint outcomes, to appropriate individuals who can take action and ensure lessons are learned. Lessons are also required to be shared across relevant meetings at ward/department, Directorate, Divisional and Trust level.

Internally, this will be through the provision of reports to the Board of Directors on a quarterly basis, through the quarterly Complaints Report and by specifically highlighting reports from the Parliamentary and Health Service Ombudsman in these reports.

Any theme or issue recognised which poses an immediate risk to CHFT will be escalated to the relevant Executive Director outside of the normal reporting Schedule.

Each Division within CHFT will devise a structure framework for learning from complaints to ensure that all learning is shared across the Division.

9. Claims for Compensation

Requests for compensation should be processed in accordance with the CHFT's Claims Policy in line with CNST/NHSR procedures rather than through the Complaints Procedure.

10. Duties (Roles and Responsibilities)

Ultimately, all staff members within the Trust have responsibilities in relation to complaints management, with certain members of the Trust having specialist functions.

10.1 Board of Directors

The Board of Directors is accountable for ensuring that effective controls are in place to support effective complaints management and organisational learning.

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10.2 Chief Executive

The Chief Executive is the responsible person as detailed in the NHS Complaints (England) Regulations 2009. S/he is responsible for ensuring compliance with the arrangements made under these Regulations, and in particular ensuring that action is taken if necessary, in the light of the outcome of a complaint. This responsibility may be delegated as appropriate.

The Chief Executive will delegate responsibility for the signing of complaint responses to the following staff in the following order:

- i. Deputy Chief Executive and Executive Director of Nursing
- ii. Medical Director
- iii. Nominated Executive Director

10.3 Deputy Chief Executive and Executive Director of Nursing

The Deputy Chief Executive and Executive Director of Nursing is responsible for complaints management within the Trust. S/he will report regularly to the Board of Directors through the Patient Experience Group, in relation to complaints activity and performance, and will liaise with other senior members of the Trust as required.

10.4 Head of Legal Services and Complaints

The Head of Legal Services and Complaints, under the guidance of the Assistant Director of Quality, is the senior manager with responsibility for complaints policy development and for managing the procedures for handling complaints in accordance with the regulations.

The Head of Legal Services and Complaints will ensure that:

- CHFT's complaints handling policy reflects national regulations and guidance
- Systems and processes are sufficient to provide the Chief Executive with assurance that robust arrangements are in place
- CHFT meets all performance standards in respect of complaints management
- Systems are in place to ensure that the Board of Directors, Chief Executive and managers throughout CHFT receive regular reports on key performance indicators and are made aware of trends in complaints so that they can take action through the relevant clinical governance and risk management processes
- An annual report on complaints is provided to the Board of Directors and published, to provide an assurance to the Board of compliance with Care Quality Commission outcome 17 and NHSR Risk Management Standards

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10.5 Assistant Patient Advice and Complaints Manager

The Assistant Patient Advice and Complaints Manager, together with Head of Legal Services and Complaints, supported by the Patient Advice and Complaints administrative staff, are responsible for implementing this policy.

The Assistant Patient Advice and Complaints Manager, together with Head of Legal Services and Complaints, will ensure that:

- all complaints that are received are triaged (Appendix ?)
- all allegations of abuse or negligence are reviewed in line with CHFT's Safeguarding Adults and Safeguarding Children Policies
- all complaints received are processed in line with this policy
- staff are supported through the complaints process
- appropriate responses to the required standard are prepared in conjunction with Divisional and Directorate staff, within the relevant timescales
- trends in complaints are identified and drawn to the attention of senior managers and regular key performance indicator and trend analysis reports are provided
- they provide support to front line staff in dealing with immediate situations and provide advice to all staff with regard to formal and informal resolution of complaints
- queries or concerns about draft responses are raised with the relevant Division so that an appropriate response is provided to the complainant
- A programme of staff training in complaints handling is developed and implemented across the Trust

The Assistant Patient Advice and Complaints Manager, together with Head of Legal Services and Complaints, will review and approve all complaint responses, with the assistance of the Clinical Governance Manager, prior to the response being prepared for signature.

10.6 Divisional Directors

Divisional Directors are responsible for ensuring that the standards referred to in this policy are followed for their Division. They will ensure that investigations are undertaken appropriately and in a timely manner. They ensure that the Trust does not suffer reputational or financial penalty due to maladministration of complaints.

Under the direction of the Deputy Chief Executive and Executive Director of Nursing, The Divisional Directors will ensure that their Directorates comply with this Complaints Policy and undertake appropriate investigation, using Root Cause Analysis as necessary.

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The Divisional Director will ensure that there is an adequate process within the Division for an appropriate investigator to be appointed.

The Divisional Director will:

- Quality assure all complaint responses to ensure that they answer all issues raised as honestly and as comprehensively as possible.
- Ensure an action plan is developed to complete any actions identified in the investigation
- Ensure compliance with action plans to improve service provision
- Ensure there is an agreement between their Divisional counterparts for the investigation of cross-divisional complaints.

The Divisional Director may nominate a colleague with the Divisional Triumvirate to undertake these duties.

10.7 Divisional Lead for Complaints

The Division will identify a lead for complaints to manage and assist with the investigation of patient complaints in line with this policy, instigating any immediate action required for reasons of health, safety and security. The Divisional Lead will be responsible for ensuring complaints are dealt with in a timely manner.

10.8 Lead Investigator

The Division will appoint a lead investigator for each complaint.

The Lead Investigator may delegate all or part of the investigation to a suitably qualified and/or experienced colleague but will retain overall responsibility for the quality and content of the investigation and complaint response.

The Lead Investigator will made and maintain contact the Complainant.

As far as reasonably possible the Lead Investigator will involve the Complainant in the investigation of the complaint.

The investigation will be overseen by the Lead Investigator and may involve collecting verbal or written statements from current or former staff, and examination of the relevant documentation and other sources of evidence.

Completing a written report summarising the investigation into all concerns raised and ensuring that the response covers all issues.

Provide a written overview to the investigation that evokes the tone and sentiment to be conveyed in the response.

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Once the complaint response is completed, the Lead Investigator will ensure that any action and learning is progressed and developed and shared with the relevant staff.

Ensuring timescales within the investigation are met.

Meeting with Complainants.

Ensuring risk registers are maintained if any risks are identified and that any serious issues are escalated within the Division as necessary.

Ensuring staff involved in complaints receive feedback on the investigation and action plan.

10.9 Patient Advice and Complaints Department

The Trust's Patient Advice and Complaints Department will deal with enquiries and concerns from members of the public and will be the point of contact for anyone wishing to raise a concern orally away from the ward or department.

If the Patient Advice Team is able to provide a mutually agreeable solution to issues within 72 hours, or with the agreement of the individuals this will be recorded as a concern.

The Patient Advice and Complaints Department will also:

- Administer the CHFT's Patient Advice and Complaints Inbox
- Advise members of the public on the complaint procedure if contacted directly
- Register concerns and complaints received centrally on the CHFT's Information System
- Provide reports to CHFT on compliance with quality indicators associated with complaints
- Offer advice, guidance and training to groups where required
- Facilitate the process with regard to multi-agency complaints
- When required obtain consent from the patient or next of kin, when required

10.10 All staff

Frontline staff are usually best placed to address issues and complaints raised by those who use CHFT's services. By taking prompt and effective action many issues can be addressed without the need for recourse to the formal complaints procedure. This approach is better for the complainant and for staff. It reduces tension and conflict, demonstrates understanding and empathy and builds confidence in CHFT staff and services.

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All staff have a responsibility to ensure that:

- They observe and comply with this policy and associated procedures;
- They proactively address issues raised by those who use CHFT's services in order to minimise the number of complaints.
- Where faced with a verbal concern they make every effort to rectify the problem immediately by:
 - Investigating the issues and providing a response;
 - Contacting the most appropriate person to find out the information required, if necessary seeking advice from their line manager;
 - Passing the issue on to a named person and informing the complainant why they have done so, who this is and when they can expect a response.
- They co-operate fully with complaint investigation and resolution;
- They support the implementation of action plans arising from complaints.
- They protect the interests of adults at risk, young people, and children.
Reference to the CHFT's Safeguarding Team is advised if staff are unsure about this aspect.

11. Severity Rating

All complaints will be allocated a severity rating of Green, Amber or Red using the likelihood and consequence matrix see Appendix 2.

12. Process for Complaints Management / Investigation

Verbal complaints received in wards and departments by staff will be addressed promptly and fully by those staff, involving more senior management within the Division as appropriate. This is the most effective method of dealing with complaints; it reduces tension and conflict, demonstrates understanding and empathy and builds confidence in Group staff and services.

Verbal complaints received by PALS will be addressed promptly and fully by those staff, involving more senior management within the Division as appropriate.

Written complaints or verbal complaints where a written response has been requested will be risk assessed by the Head of Legal Services and Complaints / Assistant Complaint Manager.

All complaints received by the CHFT will be acknowledged by the Patient Advice and Complaints Department (i.e. when a letter comes to the CEO, it is forwarded to the Patient Advice and Complaints Department same day and who will acknowledge the complaint). This will minimise delays and any confusion regarding appropriate process.

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If the individual(s) who has raised a concern contacts the CEO office during an investigation, it will be referred back to the Patient Advice and Complaints Department, who will allocate an appropriate person to have a discussion with the individual(s)/ service user.

All formal complaints will receive a signed response letter.

A standard operating protocol for investigating complaints named 'Protocol for the Investigation of Complaints' will be developed to accompany this policy and will be reviewed yearly and updated accordingly.

13. Cross-Organisation Complaint Investigations

Please refer to CHFT's protocol for the investigation of Complaints.

14. Complaints linked to Incidents

Upon receipt of a complaint, or during the investigation of a complaint, it may become apparent that the incident has occurred.

Should the incident trigger the statutory Duty of Candour, the complaint will be investigated under the incident process and the complainant's concerns will be addressed within the incident investigation and Root Cause Analysis, as part of the statutory Duty of Candour.

Upon conclusion of an incident investigation, where the service user's concerns have been addressed through the incident process, should the service user and/or family of the service user remain unhappy with the outcome of the investigation, their additional concerns will be investigated through the complaints process.

15. Unresolved Complaints

Where the Complainant is not satisfied with the response to a complaint, the Head of Legal Services and Complaints / Assistant Patient Advice and Complaints Manager will review the Complainant's additional concerns and decide what action, if any, will be undertaken to resolve the complaint.

Where the Head of Legal Services and Complaints / Assistant Patient Advice and Complaints Manager has concluded that CHFT has made all reasonable efforts to resolve the concerns of the Complainant, the complainant will be advised that they should raise the complaint with the PHSO.

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16. Responding to the Parliamentary and Health Service Ombudsman (PHSO)

The remit of the PHSO is to assess complaint cases where the local resolution has been unsuccessful. Once CHFT has forwarded contact details for the PHSO onto the complainant it is up to the complainant to pursue their case with the PHSO.

In circumstances whereby the PHSO contacts CHFT for information relating to a complaint that they have been asked to review, the following actions will need to be taken:

- The Complaints Department should contact the relevant service to advise;
- The service should provide all requested documentation and information to the complaints team within a timely fashion;
- The Complaints Department should provide the PHSO with the information requested within the timescale where practicable.

17. Habitual and Persistent Complainants

There are a small number of occasions when there is nothing further which can be done to assist a complainant to rectify a real or perceived problem. These complaints take up a disproportionate amount of staff time and resources and dealing with the complainants can cause undue stress to staff.

Such complaints are considered to be habitual or persistent, by virtue of being unreasonably demanding. Where a complaint meets two or more of the following criteria it may be defined as being a habitual and persistent complainant.

- Persistence by the individual in pursuing an issue or complaint after the NHS complaints procedure has been fully and properly implemented and exhausted
- Changing the substance of the issue or complaint, continually raising new issues or continually raising further concerns / questions whilst the complaint is being addressed or upon receipt of a response in order to prolong contact (new issues which are significantly different from the original complaint will not be included within this category and may need to be addressed as separate complaints)
- Unwillingness to accept documented factual evidence or to accept that facts can be difficult to verify if a long period of time has elapsed
- Will not identify the precise subject matter of the complaint
- Harassing any member of staff or being personally abusive or verbally aggressive or racially abusive (see CHFT's Violence and Aggression Policy) - Meeting this criterion alone will be sufficient to determine the complaint to be unreasonably demanding without the need for a second

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- criterion to be met and to suspend all contact with the complainant
- Threatening or using actual physical violence (see CHFT's Violence and Aggression Policy) - Meeting this criterion alone will be sufficient to determine the complaint to be unreasonably demanding without the need for a second criterion to be met and to suspend all contact with the complainant
- Meetings or face-to-face / telephone conversations tape recorded by the complainant without the prior knowledge or consent of other parties involved
- Unreasonable demands / expectations made and failure to accept these may be unreasonable
- Repeated refusal to follow alternative avenues open to the complainant (e.g. refusal to refer the complaint to the PHSO)

CHFT reserves the right to restrict and ultimately end communication on complaints that are classed as habitual and persistent. This approach will only be used after all reasonable measures have been taken to try to resolve the complaint through the NHS complaints procedure with, where appropriate, the involvement of independent advice, support or conciliation services.

It is accepted that in the initial contact a person making a complaint to the Trust may act out of character, for example aggressively, and allowances will normally be made for this. However, unacceptable behaviour that continues through several contacts will be considered against the background of this policy.

When the complaint has been identified as being habitual and persistent the complainant will be advised in writing that their actions are prejudicing the continued investigation of their complaint or that there is nothing further that the Trust can do to assist. The letter from the Patient Advice and Complaints Manager / Assistant Patient Advice and Complaints Manager will clearly identify why the complaint is unreasonably demanding and will list the circumstances in which the individual may legitimately continue to raise their concerns. This might include:

- explaining the complaints procedure and help that is available;
- imposing a time limit on further discussions;
- meetings or on drawing the complaint to a conclusion;
- declining contact with the complainant unless clearly pre-arranged;
- declining contact with the complainant either in person, by telephone, fax, letter or email, providing one form of contact remains open, or
- alternatively restrict contact to a third party

Where these actions do not bring about a change in behaviour and the complainant's behaviour continues, then a report will be prepared for the Chief Executive. The Chief Executive (or nominated deputy) will determine what further action may be taken and will advise the complainant in writing.

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These actions may include:

- an agreement and code of behaviour for both parties to sign which sets out the circumstances in which the Trust will continue to investigate the complaint
- declining all further contact regarding the complaint
- Where appropriate pursuing a legal remedy

Even after the above steps have been implemented it is important to recognise that further contact from the complainant on different matters is not to be automatically considered unreasonably demanding, unless such contact is of a nature designed to consume staff time to such an extent that it prevents ongoing work and the provision of service to other individuals.

Withdrawal of habitual and persistent status may be achieved if the complainant demonstrates a more reasonable approach. The Chief Executive (or nominated deputy) will determine whether habitual and persistent status may be withdrawn. If this is the case the complainant will be notified in writing and normal contact will be resumed.

18. Complaints which involve Patients with a Learning Disability

Organisations have legal and statutory duty to ensure that children, young people and adults have equal access to services. This means providing specific support to people and families to ensure that they are not disadvantaged by issues relating to disability. These simple principles can help organisations and practitioners meet their duties and improve how they deal with feedback, concerns and complaints in health care, social care and education for autistic people, people with a learning disability and families:

To ask:

- The organisation asks people about their experiences and makes it easy for people to do this
- The organisation makes sure that the person, their family or advocate know how to give feedback, raise a concern and make a complaint
- People feel able to speak up when they have feedback, a concern or complaint. Everyone knows when a concern or complaint is a safeguarding or a criminal issue, and what must happen

To Listen:

- The organisation really listens to what has been said and is not defensive
- The organisation and staff have the skills to listen and understand what it feels like for the person

To Do:

- The organisation does something positive about it in good time and tells the person what they are doing to put it right

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- The organisation learns from the feedback, concern or complaint and changes things so the service can improve
- The organisation improves its services by working with the people that use them, listening to and learning from people's experiences

There is a range of 'Ask', 'Listen', 'Do' resources for anyone who handles feedback, concerns and complaints. These resources help providers understand the issues that autistic people, people with a learning disability and families face. They also offer practical advice which can be used in staff training, for example, to understand more about reasonable adjustments and the difference they can make. These resources are available through the LD Matron.

The Trust must make reasonable adjustments for complainants with learning disabilities which include home visits, meeting in a safe place, easy read complaints information and having someone present to take notes or providing the complainant with an audio recording of the meeting.

19. Trust Equalities Statement

CHFT aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. We therefore aim to ensure that in both employment and services no individual is discriminated against by reason of their gender, race, disability, age, sexual orientation, religion or religious/philosophical belief or marital status.

This policy has been through the Trust's EQUIP (Equality Impact Assessment Process) to assess the effects that it is likely to have on people from different protected groups, as defined in the Equality Act 2010.

20. Monitoring Performance, Compliance and Effectiveness

Compliance with this policy will be monitored as outlined in the table below:

Criteria	Monitoring Mechanism	Responsible	Frequency	Monitoring Committee
Listening and responding to complaints	Compile reports using Datix information to include: Number of complaints received and compliance with the agreed deadline for complaint response; and analysis of themes	Head of Legal Services and Complaints	Monthly	Board Performance Report

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	Summary of open complaints to Divisional Directors		Weekly	
Improvements made as a result of concerns/complaints being made	Compile report of changes in practice as a result concerns/complaints	Divisional Complaint Leads	Quarterly Complaints Report	Patient Experience and Caring Group Quality Committee

20.1 Annual Complaints Report

As detailed in section 18 of the Local Authority, Social Services and NHS Complaints (England) Regulations 2009 CHFT is required to produce an annual complaints report that:

- (a) specifies the number of complaints which the responsible body received;
- (b) specifies the number of complaints which the responsible body decided were well-founded;
- (c) specifies the number of complaints which the responsible body has been informed have been referred to:
 - (i) the Health Service Commissioner to consider under the 1993 Act; or
 - (ii) the Local Commissioner to consider under the Local Government Act 1974; and
- (d) summarise:
 - (i) the subject matter of complaints that the responsible body received;
 - (ii) any matters of general importance arising out of those complaints, or the way in which the complaints were handled;
 - (iii) any matters where action has been or is to be taken to improve services as a consequence of those complaints.

The Trust has a duty to send a copy of the report to the Clinical Commissioning Group who commissions services from the Trust and also to ensure that this report is available to any person on request.

21. References

Supporting References and Bibliography:

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

- Data Protection Act 2018
- Freedom of Information Act
- NHS Constitution (DH, 2009)

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- The Principles of Good Complaint Handling (Parliamentary and Health Service Ombudsman, 2008)
- Department of Health (2009) Listening, improving, responding: a guide to better customer care
- NHSLA Litigation Authority guidance about complaints
- My Expectations for Raising Complaints and Concerns (Parliamentary & Health Service Ombudsman, 2014)
- National Health Service Litigation Authority (2002). Litigation Circular No: 02/02: Apologies and Explanations, February 2002.
- NHSLA (2012) NHSLA Risk Management Standards 2013-14 for NHS Trusts
- Care Quality Commission Core Standards

RISK ASSESSMENT TOOL

The risk assessment tool adopts a 3-step process which first **categorises the consequences** of a complaint then **assesses the likelihood of recurrence** of the incidents or events giving rise to the complaint. Finally a **risk level is assigned** to the complaint.

Consequence Categorisation Table

The following table assists in determining how to categorise the consequence of a complaint or the subject matter of a complaint.

Category	Description
Serious	Issues regarding serious adverse events, long-term damage, grossly substandard care, professional misconduct or death that require investigation. Serious safety issues. Probability of litigation high.
Major	Significant issues of standards, quality of care, or denial of rights. Complaints with clear quality assurance or risk management implications or issues causing lasting detriment that require investigation. Possibility of litigation.
Moderate	Potential to impact on service provision/delivery. Legitimate consumer concern but not causing lasting detriment. Slight potential for litigation.
Minor	Minimum impact and relative minimal risk to the provision of care or the service. No real risk of litigation.
Minimum	No impact or risk to provision of care

Likelihood Categorisation Table

Likelihood	Description
Frequent	Recurring – found or experienced often
Probable	Will probably occur several times a year
Occasional	Happening from time to time – not constant, regular
Uncommon	Rare – unusual but may have happened before
Remote	Isolated or “one off” – slight/vague connection to service provision

Risk Assessment Matrix

Having assessed the consequence and likelihood categories using the tables above, the risk assessment matrix below can be used to determine the level of risk that should be assigned to the complaint.

RISK GRADING					
Consequence	Likelihood of recurrence				
	Frequent	Probable	Occasional	Uncommon	Remote
Serious	HIGH				
Major					
Moderate			MEDIUM		
Minor					
Minimum					LOW