

UNIQUE IDENTIFIER NO: G-106-2015  
EQUIP-2020-040  
Review Date: August 2026  
Review Lead: Chief Nurse



## Complaints Handling Group Policy

### Version 4

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1	This policy has been updated to reflect our current processes and national guidance.	
2	Updated to reflect current practice stipulated in the Parliamentary & Health Service Ombudsman's (PHSO) complaint handling guidance and NHS Complaints Standards	
3	Full Review	

## Contents

1.	Introduction .....	4
2.	Accountability, roles and responsibilities .....	4
3.	Identifying a complaint .....	5
4.	Who can make a complaint.....	7
5.	Consent .....	8
6.	Timescale for making a complaint.....	9
7.	Complaints and other procedures .....	9
8.	Confidentiality of complaints .....	10
9.	Making sure people know how to complain and where to get support .....	11
10.	What to do when we receive a complaint.....	11
11.	Carrying out an investigation / providing a remedy .....	13
12.	Complaints across multiple organisations.....	14
13.	The final written response .....	14
14.	Referral to the Ombudsman .....	15
15.	Monitoring, demonstrating learning and data recording .....	15
16.	Data protection.....	16
17.	Complaints linked to incidents / patient safety events.....	16
18.	Unresolved complaints.....	16
19.	Habitual and persistent complaints .....	17
20.	Complaints which involve people with a learning disability .....	18
21.	Claims for compensation .....	19
22.	Trust Equalities Statement.....	19
23.	References.....	20

## 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. Co-developed with organisations from across the health sector and advocacy and advice services the [NHS Complaint Standards](#) provide a single vision of good practice for complaint handling. This complaint handling policy describes how we will put into practice the core expectations given in the Standards.

- 1.1 This policy puts existing good practice in one place, providing a more consistent approach to complaints handling across the NHS in England. The policy also 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 (referred to in this guidance as the 2009 and 2014 Regulations).
- 1.2 CHFT views any complaint as an extension of our service users' 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 peoples' 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.

## 2. Accountability, roles and responsibilities

- 2.1 Overall responsibility and accountability for management of complaints lies with the 'Responsible person' (as defined by the Social Services and National Health Service Complaint Regulations 2009). At CHFT, this is the Chief Executive, delegating responsibility to Executive Directors. The 2009 Regulations allow us to delegate the relevant functions of the Responsible Person and Head of Complaints & PALS to our staff where appropriate. We do this to ensure we can provide an efficient and responsive service.

Our Complaints Manager (as defined by the Social Services and National Health Service Complaint Regulations 2009) is the Head of PALS (Patient Advice Liaison Service) and Complaints and they are responsible for managing this policy and for overseeing the handling and consideration of any complaints that the Trust receives.

- 2.2 The Trust has processes in place to make sure that the responsible person and relevant senior managers regularly review insight from the complaints received, alongside other forms of feedback on the organisations care and services. They will make sure action is taken on learning arising from complaints so that improvements are made to our services.

2.3 This will be demonstrated by:

- Leading by example to improve the way we deal with compliments, feedback and complaints
- Understanding the obstacles people face when making a complaint to us, and taking action to improve the experience
- 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 a safeguarding or 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, honest and forthcoming when something goes wrong
- Making sure we listen and learn from complaints and improve services when something goes wrong.

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

### **3. Identifying a complaint**

#### **Everyday conversations with our users**

3.1 Staff within the organisation speak to people who use our service every day. This can often raise issues, questions or worries 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 resolve the issue to their satisfaction quickly and without the need for them to make a complaint.

#### **When people want to make a complaint**

3.2 The Trust recognises that it cannot always resolve issues as they arise and that sometimes people will want to make a complaint. The NHS Complaint Standards define a complaint as: 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. 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'. The Trust will use the language chosen by the patient, service user, or their representative, when they describe the issues raised (for example, 'issue', 'concern', 'complaint', 'tell you about'). Trust staff will always speak to people to understand the issues they raise and how they would like the organisation to consider them.

3.5 If the Trust considers that a complaint (or any part of it) does not fall under this policy, an explanation will be given in writing to the person raising the complaint and this will include details of any signposting information required.

3.6 Complaints can be made to us:

- In person
- By telephone
- In writing
- By email

The Trust will consider all accessibility and reasonable adjustment requirements of people who wish to make a complaint in an alternative way. A written record will be documented on any reasonable adjustments the organisation makes.

3.7 The Trust will acknowledge a complaint within three working days of receiving it. This can be done in writing, electronically or verbally.

3.8 The Trust may receive an anonymous or general complaint that would not meet the criteria for who can complain (see below). In this case the Complaints department 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.

3.9 The Trust is responsible for ensuring that complaints are considered in accordance with the law and this policy. This policy is underpinned by the following principles.

1. The Statutory Duty of Candour, which came into force in November 2014. This involves giving patients accurate, truthful, and timely information when mistakes are made, or treatment does not go to plan. Saying sorry when things go wrong is vital for the patient, families and carers who should receive a meaningful apology; one that is a sincere expression of sorrow or regret for the harm that has occurred. This policy therefore must be applied in association with the Trust's Duty of Candour Policy.

2. The Parliamentary and Health Service Ombudsman (PHSO) 2009 guidance details the 'Principles of Good Administration': Principles of Good Complaints Handling and Principles for Remedy.' These principles outline the approach to be taken by public bodies when delivering good administration and customer service, and how to respond when things go wrong. They underpin the Ombudsman's assessment of performance, their vision of good complaint handling and their approach to put things right.
3. The following six themes within each of the principle documents are:
  - Getting it right
  - Being customer focused
  - Being open and accountable
  - Acting fairly and proportionately
  - Putting things right
  - Seeking continuous improvement

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

- 4.1 As set out in the Social Services and National Health Service Complaint Regulations 2009 , any person may make a complaint to the Trust if they have received or are receiving care and services from our organisation. A person may also complain to the Trust if they are not in direct receipt of our care or services but are affected, or likely to be affected by, any action, inaction or decision by our organisation.
- 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 the Trust with their consent for their representative to raise and discuss the complaint with the Complaints department and to see their personal information (including any relevant medical records).
- 4.3 If the person affected has died, is a child or is otherwise unable to complain because of physical or mental incapacity, a representative may make the complaint on their behalf. There is no restriction on who may act as representative but there may be restrictions on the type of information the Trust may be able to share with them. This will be explained when the Complaints team first look at the complaint.
- 4.4 If a complaint is brought on behalf of a child (under 16 years of age) the Trust needs to be satisfied that there are reasonable grounds for a representative bringing the complaint rather than the child. If the Trust is not satisfied, an explanation will be shared with the representative in writing. There is a separate leaflet for children wishing to make a complaint.

- 4.5 If at any time the Complaints department feel that a representative is not acting in the best interests of the person affected, the team will assess whether the Trust should stop the consideration of the complaint. If the organisation does this, the Complaints department will share the reasons with the representative in writing. In such circumstances the Complaints department will advise the representative that they may complain to the Parliamentary and Health Service Ombudsman if they are unhappy with our decision.
- 4.6 The Trust will promote equality of access to making a complaint and will ensure that people from minority and disadvantaged communities are given full and equal access to the PALS and Complaints process. We acknowledge that it may be difficult for some people to express their concerns and the Trust will encourage and support people to voice their opinions where appropriate. The PALS and Complaints team will be an important point of contact, and/or referral to an external agency can be arranged to facilitate this.

## 5. 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 Members of Parliament (MPs) when they act directly on behalf of a constituent. CHFT may assume that the MP has obtained sufficient consent to release relevant confidential information, 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 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 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.

### 5.1 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 (GP) regarding a patient, and the GP has the consent of the patient to make the complaint on their behalf; the complaint will be dealt with under this policy. Where the GP does not have the consent of the patient, or wishes to raise concerns about a service then the issues will be considered by the Trust's Risk Management Team as a "service to service" incident.

## 6. Timescale for making a complaint

6.1 Complaints must be made to the Trust within 12 months of the date the incident being complained about happened, or the date the person raising the complaint found out about it.

6.2 If a complaint is made to the Trust after the 12 month deadline, the Head of Complaints will consider it if:

- There were good reasons for not making the complaint before the deadline.
- It is still possible to properly consider the complaint.

6.3 If a decision is made by the Trust that there is not a valid reason for the delay or if it is not possible to properly consider the complaint (or any part of it), the Complaints department will write to the person making the complaint to explain this. If the explanation given by the Trust is not to the complainant's satisfaction, the letter will have included information to signpost them to the Parliamentary and Health Service Ombudsman.

**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.

## 7. Complaints and other procedures

7.1 The Trust ensures that all staff who deal with complaints are properly supported and trained to identify when it may not be possible to achieve a relevant outcome through the complaints process. This can happen at any stage in the complaint handling process and may include identifying issues that could or should:

- Trigger a patient safety event investigation
- Trigger the Trust safeguarding adults or the children and young peoples' safeguarding policies
- Involve HM Coroner investigations or inquests
- Trigger a relevant regulatory process, such as fitness to practice investigations or referrals
- Involve a relevant legal issue that requires specialist advice or guidance.

- 7.2 When another process may be better suited to cover other potential outcomes, Trust staff will seek advice and provide clear information to the individual raising the complaint. The Complaints department will make sure the individual understands why this is relevant and the options available.
- 7.3 The Trust will make sure that the person raising the complaint gets a complete and holistic response to all the issues raised. This includes any relevant outcomes where appropriate. The staff member dealing with the complaint will engage with other staff or organisations who can provide advice and support on the best way to do this.
- 7.4 The reporting of a death to the Coroner's Office does not mean that all investigations into a complaint need to be suspended. It is important to initiate proper investigations regardless of Coroner's inquests and, where necessary, to extend these investigations if the Coroner so requests.
- 7.5 If a Coroner's Inquest is opened during the complaints process, the Trust's Legal Services Department will ascertain if a complaint has/is being pursued and raise at the weekly mortality, incidents, complaints, claims and inquest governance meeting and both will highlight that a complaint is ongoing/complete.

## **8. Confidentiality of complaints**

- 8.1 The Trust will handle complaints in adherence with the Mental Capacity Act (2005), Care Act (2014) and will maintain confidentiality and protect privacy throughout the complaints process in accordance with UK General Protection Data Regulation and Data Protection Act 2018. The Trust 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.
- 8.2 Complaint outcomes may be anonymised and shared within our organisation and may be published on the Trust website to promote service improvement.
- 8.3 Complaints received referencing allegations of failure under the Freedom of Information Act (2000) and/or Data Protection legislation will be handled through the complaints process to ensure the context of the complaint is not lost and consistency of the complaint response is maintained.

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

- 9.1 The Trust will make sure that everybody who uses (or is impacted by) the organisations services (and those that support them) know how they can make a complaint by having the complaints procedure and/or materials that promote our procedure visible in public areas and on the Trust website.
- 9.2 The Trust will make sure that service users' ongoing or future care and treatment will not be affected because they have made a complaint.

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

- 10.1 The Trust hopes that all people, patients, their family members and carers to have a good experience while they use the organisations services. If somebody feels that the service received has not met the Trust standards, we advocate that people talk to staff who are dealing with them and/or to contact the Trust's Patient Advice and Liaison Service (PALS) to see if the issue can be resolved promptly.
- 10.2 The Trust want to make sure complaints are resolved quickly. To do that, staff are trained to proactively respond to service users and their representatives and support them to deal with any complaints raised at first point of contact.
- 10.3 All Trust staff who have contact with patients, 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 the service user to make sure they understand the issue(s)
- Ask how they have been affected
- Ask what they 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 cannot do this, and explain what is possible
- Capture any learning to share with colleagues and improve services for others.

### **Complaints that can be resolved quickly**

- 10.4 The Trust frontline staff often handle complaints that can be resolved quickly at the time they are raised, or very soon after. The organisation encourages staff to do this as much as possible so that people get a quick and effective answer to their issues.
- 10.5 In keeping with the Social Services and National Health Service Complaint Regulations 2009, if a complaint is made verbally (in person or over the phone) and resolved within 72 hours, it does not need go through the remainder of this

policy. For this to happen, the Complaints department will confirm with the person making the complaint that they are satisfied that the issues raised are resolved. If the Trust cannot resolve the complaint within that timescale the Complaints department will handle it in line with the rest of this policy.

- 10.6 The Trust is committed to ensuring the complainant receives as much information as possible. A Local Resolution Meeting (LRM) provides staff with the opportunity to provide a detailed explanation and enables the complainant to seek clarification and ask additional questions as appropriate and these can be recorded with all attendees' agreement.

### **Acknowledging complaints**

- 10.6 For all other complaints, the Trust will acknowledge them (either verbally or in writing/email) within three working days.
- 10.7 If the Trust can answer or address the complaint early, and the person making the complaint is satisfied that this resolves the issues, Trust staff have the authority to provide a response on the Complaints department behalf. This will often be done in person, over the telephone, or in writing (by email or letter) in line with the individual circumstances.

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

- 10.8 The staff member (or investigating officer) dealing with the complaint will:
- Engage with the person raising the complaint 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 specifically complained about are made aware at the earliest opportunity
    - share a realistic timescale for how long the investigation is likely to take with the person raising the complaint, depending on:
      - the content and complexity of the complaint
      - the work that is likely to be involved agree how they will keep the person (and any staff specifically complained about) regularly informed and engaged throughout

## 11. Carrying out the investigation

- 11.1 All Trust staff who carry out complaints responses and investigations will give a clear and balanced explanation of what happened and what should have happened. They will reference standards, policies, procedures and guidance to clearly identify if something has gone wrong.
- 11.2 All Trust staff 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 or specifically complained about.
- 11.3 If the complaint raises clinical issues, they 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.

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

- 11.4 The Trust will aim to complete the investigation within the timescale shared with the person making the complaint at the start of the investigation. The Trust's local target is within 40-60 working days, however NHS standards suggest a complaint should be resolved within 6 x months, depending on complexities. Should circumstances change we will:
  - Notify the person raising the complaint (and any staff involved) immediately
  - Explain the reasons for the delay
  - Provide a new target timescale for completion.
- 11.5 The Trust will inform the person raising the complaint if the investigation and final response cannot be concluded within 6 months. Our Responsible Person or a Senior Manager will contact the person to explain the reasons for the delay and the likely timescale for completion. Oversight of the case will be regularly maintained by Senior Management until it is completed, and a final written response issued.
- 11.6 The decision to vary the deadline for the completion of a complaint response must be agreed early in the complaint handling process with the complainant and via the Head of PALS and Complaints.

### Providing a remedy

- 11.7 Following the investigation, if the person investigating the complaint 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 for the individual and any other people who have been similarly affected. 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.

11.8 In order to put things right, the following remedies may be appropriate:

- An acknowledgement, explanation and a meaningful apology for the error
- Expediting an action
- Waiving (or recompensing) a fee or penalty
- Issuing a payment or refund
- Changing policies and procedures to prevent the same mistake(s) happening again and to improve our service for others.

## **12. Complaints across multiple organisations**

12.1 If the Trust receives a complaint that involves other organisation(s) (including cases that cover health and social care issues) the Trust will make sure that an investigation is completed in collaboration with those organisations with consent from the complainant. The people handling the complaint for each organisation will agree who will be the 'lead organisation' responsible for overseeing and coordinating consideration of the complaint.

12.2 The person investigating the complaint 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 if that is their request.

## **13. The final written response**

13.1 As soon as practical after the investigation is finished, the person carrying out the investigation will co-ordinate a written response, quality checked by the nominated Divisional member of staff, and the Head of Complaints and then signed by the Trusts Responsible Person (or their delegate). They will send this to the person raising the complaint. The response will include:

- A reminder of the issues investigated
- An explanation of how we investigated the complaint
- The relevant evidence we considered
- What the outcome is
- An explanation of whether or not something went wrong that sets out what happened compared to what should have happened, with reference to relevant legislation, standards, policies, procedures and guidance
- If something went 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

- Confirmation that we have reached the end of our complaint procedure
- Details of how to contact the Parliamentary and Health Service Ombudsman if the individual is not satisfied with our final response

## **14. Referral to the Ombudsman**

14.1 In every complaint response, the Trust will clearly inform the person raising the complaint that if they are not happy with the outcome of the investigation, they can take their complaint to the Parliamentary and Health Service Ombudsman.

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

15.1 The Trust expect all staff to identify what learning can be taken from complaints, regardless of whether mistakes are found or not.

15.2 The Trust 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.

15.3 The Trust+ maintains a record of:

- Each complaint we receive
- The subject matter
- The outcome
- Whether a final written response to the person who raised the complaint within the timescale agreed at the beginning of our investigation was sent out.

15.4 To measure organisations overall timescales for completing consideration of all complaints and the delivery of the NHS Complaint Standards, the Trust seeks feedback on our service from:

- 10% of people who have made a complaint
- Staff who have been specifically complained about
- Staff who carried out the investigation.

15.5 The Trust monitors all feedback and complaints over time, looking for trends and risks that may need to be addressed.

15.6 In keeping with the Social Services and National Health Service Complaint Regulations 2009, section 18, as soon as practical after the end of each financial year, the Trust will produce and publish a report on the organisations complaint handling. This will include how complaints have led to a change and improvement in our services, policies or procedures.

## **16. Data Protection**

- 16.1 All Trust staff must 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.
- 16.2 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.
- 16.3 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.

## **17. Complaints linked to Incidents**

- 17.1 Upon receipt of a complaint, or during the investigation of a complaint, it may become apparent that a patient safety event (incident) has occurred.
- 17.2 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, as part of the terms of reference to the patient safety event learning response.
- 17.3 Upon conclusion of an incident investigation/review, where the service users 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, it will be determined if the outstanding issues can be addressed by the relevant Divisional Patient Safety Event Review Panel and if not, their additional concerns will be investigated through the complaints process.

## **18. Unresolved Complaints**

- 18.1 Where the Complainant is not satisfied with the response to a complaint, the Head of PALS and Complaints and the Complaints Manager will review the Complainant's additional concerns and decide what action, if any, will be undertaken to resolve the complaint.
- 18.2 Where the Head of PALS and Complaints and the 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.



## 19. Habitual and Persistent Complainants

- 19.1 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.
- 19.2 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 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)
- 19.3 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.
- 19.4 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 Head of PALS and Complaints 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

19.5 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 CEO. The CEO (or nominated deputy) will determine what further action may be taken and will advise the complainant in writing. 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

19.6 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.

19.7 Withdrawal of habitual and persistent status may be achieved if the complainant demonstrates a more reasonable approach. The CEO (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.

## **20. Complaints which involve people with a Learning Disability**

20.1 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.

20.2 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.

## **21. Claims for Compensation**

- 21.1 The Legal Services Department will be informed if correspondence or other communication is received under the NHS Complaints Procedure where the complainant indicates an intention to take legal action or requests compensation in respect of a complaint. The Legal Services will also be informed by the relevant Division, CEO or his/her delegate if an incident is likely to generate substantial compensation, is publicly or media sensitive, if the complaint involves a fatal accident; including an unexplained death, involves the misdiagnosis of a life-threatening illness or involves potential professional misconduct.

If the complainant's initial communication is via a solicitor's letter it should not necessarily be inferred that the complainant has decided to take formal legal action. It may be that an open and sympathetic response giving an appropriate explanation and apology plus assurances that any failure in service will be rectified for the future, will satisfy the complainant.

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

## **22. Trust Equalities Statement**

- 22.1 The Trust 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.

- 22.2 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:

- (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.

## 23. 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)
- 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