

POLICY FOR LISTENING AND RESPONDING TO CONCERNS AND COMPLAINTS

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PURPOSE AND SCOPE

At the Countess of Chester Hospital, patient safety and care are at the heart of everything we do. This policy provides information about the legislation, the processes we have adopted, and the timescales we are required to meet. The purpose of this policy is to ensure the concern/complaint is dealt with in an open and non-defensive way in order to maintain fairness for patient/relative/carer and staff alike.

- to improve quality of service using lessons learned from compliments, concerns and complaints. implementing improvements in service by sharing best practice.
- to ensure all staff are fully trained in the implementation of this policy.
- to resolve concerns and complaints as quickly and effectively as possible.
- to assist patients/relatives/carers through the process of complaints until their concerns are successfully resolved
- to ensure the complaints policy & procedure is easily accessible to all.
- to ensure complaints are managed and escalated appropriately.

This policy, which applies to all staff, outlines the structure and framework for managing concerns and complaints in the Countess of Chester Hospital NHS Foundation Trust (the Trust). The policy takes account of statutory regulations and guidance. It sets out clear standards for the management of concerns and complaints based on the principles of good complaints handling as set out by the Parliamentary and Health Service Ombudsman

- Getting things right
- Being customer-focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement.

EQUALITY IMPACT STATEMENT

The author of this policy has undertaken an Equality Impact Assessment (EIA) and concluded that there is no negative impact on any protected equalities groups. The completed EIA form is included in **Appendix 1**.

LEGAL FRAMEWORK

The legal framework for the management of NHS complaints is defined in the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI 2009:309) and the Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2009 (SI 2009:1768) and the Health and Social Care (Community Health and Standards) Act 2003.

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DEFINITIONS

A complaint is any expression of dissatisfaction with the Trust's care, services or facilities that requires a response. Comments, questions, concerns, general enquiries or suggestions are not complaints, although provide timely and accurate information and advice.

ROLES AND RESPONSIBILITIES

The **Chief Executive** (the Designated Responsible Person) has overall accountability and is the Executive lead for ensuring compliance with the Statutory Regulations. In the absence of the Chief Executive, the delegation of the role goes to the appointed deputy.

The **Medical Director** will deputise for the Chief Executive and sign the final response to a complaint in the absence of the CEO and ensure that all medical staff comply with this policy.

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

The **Deputy Director of Nursing** will deputise for the Director of Nursing & Quality in complaints management as required. He/she has management responsibility for the Patient & Family Support Team and is, therefore, accountable for delivering an effective complaints management and handling system.

The **Divisional Boards** will receive short summary style monthly reports with open complaints details and cumulative information on closed concerns and complaints. These reports will include top level location, theme and speciality data to enable the necessary action to prevent recurrence and monitor any service improvements. They also must ensure that their staff are provided with appropriate support during the complaints process.

The **Trust's Board of Directors** will receive annual and quarterly reports to ensure adequate controls are in place to manage and learn from complaints. Monthly Key Performance Indicators (KPI) reports relating to numbers of open complaints, timeliness and PHSO interest are provided to the board to assure performance by employing a dashboard.

The **Head of Complaints** is the Trust's designated Complaints Manager and is responsible for managing all concerns and complaints within the Trust under the Regulations.

Complaints Caseworkers are responsible for managing the complaints process, facilitating and collating thorough responses, supporting and keeping the complainant informed of progress.

Patient Experience Advisor and Assistants support patients, carers and relatives, representing their views and resolving concerns in partnership with Trust staff.

All Clinical Directors, Divisional Directors, Heads of Department and Divisional Directors of Nursing have responsibility for ensuring compliance with this procedure within their division. They are responsible for investigating relevant complaints, taking the necessary action to prevent

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recurrence and monitoring any service improvements made within the timescales required by the NHS Complaints Regulations. They also must ensure that their staff are provided with appropriate support during the complaints process.

Consultants, Heads of Nursing, Matrons and Managers are responsible for investigating elements of complaints relating to their area, providing comprehensive reports in response, identifying service improvements, implementing risk reduction measures, and monitoring the progress of any action taken within the timescales required by the NHS Complaints Regulations. Failure to comply with these timescales will escalate to the relevant Divisional Director of Nursing.

All staff are responsible for the early and effective resolution of concerns and complaints within their area and for resolving any concerns as they arise. They must also co-operate fully with any investigation into a complaint. The key to effective complaint handling is dealing with concerns in real-time, thus preventing escalation from informal concern to a formal complaint.

Weekly Triangulation Meeting (Complaints, Legal & Risk)

The meeting provides an opportunity for all potentially severe incidents, Coronial, litigation and complaints to be reviewed at a very early stage to triangulate, identify potential risks and determine the necessary route for further escalation and/or investigation.

Quality Governance Group (QGG)

The Quality Governance Group is an Executive Led assurance group. Patient experience (inclusive of complaints) forms part of the terms of reference and annual work programme The Group meets monthly and monitors the key performance indicators for the range of quality governance function.

Patient Experience Operational Group (PEOG)

This Group reports to the QGG and comprises of staff, Governors and laypeople. It monitors learning from complaints and ensures that improvements are implemented in services when required with feedback to give confidence. The group meets bimonthly.

Formal Reporting Responsibilities

Governance of complaints, concerns, and compliments is actively monitored to review the safety, effectiveness, and responsiveness of our service for our patients and their families. This information is disseminated throughout the organisation to different levels of management. The reporting schedule is as follows:

Name	Responsible	Recipient	Frequency
Open /reopened complaints status and KPI Update	Deputy Head of Complaints	Divisional Triumvirate Head of Complaints	Weekly
Divisional Governance Status Report	Deputy Head of Complaints	Divisional Committee	Monthly
Complaint Status Report	Deputy Head of Complaints	QGG	Monthly
Complaint Status Report	Deputy Head of Complaints	PEOG	Bimonthly

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Divisional Governance Complaints/concerns/compliments Insights Report	Deputy Head of Complaints	Divisional Committee QGG Q&S Committee	Quarterly
Analysis and aggregation of incidents, complaints, and claims	Deputy Head of Complaints	Director of Nursing	Biannual
K041a Audit	Deputy Head of Complaints	NHS Digital	Annual
Annual Complaints, Concerns and Compliments Performance and Insights Report	Head of Complaints	Q&S Committee	Annual

BEING OPEN

'Being Open' involves explaining what has happened to patients and/or their carers who have been involved in a patient safety incident/complaint, apologising where expectations have not been met, outlining lessons learnt, and any remedial action taken. The Trust will ensure that all communication with patients, relatives and staff following receipt of a complaint is open and honest.

Complaints and concerns are a valuable source of feedback on our services from patients and the public. As a Trust, we encourage feedback from patients and the public. We aim to use this as an opportunity to improve the service quality.

DUTY OF CANDOUR

The *Health and Social Care Act 2008 (Regulated Activities) Regulations 2014*: Section 20 stipulates that every healthcare professional must be open and honest with patients when something goes wrong with their treatment or care, which causes or has the potential to cause harm or distress. This legislation means that healthcare professionals must:

- Tell the patient (or, where appropriate, the patient's advocate, carer or family) when something has gone wrong
- Apologise to the patient (or, where appropriate, the patient's advocate, carer or family)
- Offer an appropriate remedy or support to put matters right (if possible)
- Explain fully to the patient (or, where applicable, the patient's advocate, carer, or family) the short-term and long-term effects of what has happened.

[The Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2008/18/section/20)

WHO MAY COMPLAIN

Complaints or concerns may be made by a patient, affected or likely to be affected by the actions, omissions, or decisions of the Trust or by anyone on their behalf, with the patient's permission can make a complaint (see section relating to Confidentiality).

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Where a patient has died or lacks capacity due to physical incapacity or lacks capacity within the meaning of the Mental Capacity Act 2005, S2(1), [Mental Capacity Act 2005 \(legislation.gov.uk\)](https://www.legislation.gov.uk) a complaint may be made on their behalf. where the complainant is conducting the complaint in the best interests of the patient. If the Head of Complaints is not satisfied that the complainant is acting in the best interests of the patient, the complaint must not be considered under the Regulations. The Trust will notify the complainant in writing, stating the reason for the decision.

The PHSO states in its publication 'Complaint Standards NHS Pilot, Who can make a complaint - consent and confidentiality, at S3.2 that it is good practice to gain written permission for the Trust to access medical records as part of a complaint investigation.

CONSENT

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

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

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

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

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

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

With children, the representative making a complaint on their behalf must be a parent, guardian or another adult person who has care of the child. The representative must have the proper authority to act when the child is in the care of a local authority or a voluntary organisation. If the Head of Complaints believes that the complainant is not conducting the complaint in the best interests of the child, the Regulations state that the complaint cannot be considered, and a letter of refusal is sent to the party making the complaint in agreement with the Chief Executive

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If a child makes a verbal complaint, wherever possible, this should be handled by the staff within the department/ward who are trained to communicate with children. If the child is Fraser competent, the child can raise a complaint. Assistance may also be required by the Head of Complaints or appropriate advocacy services to help resolve issues. Staff should also discuss the complaint and outcome with the child's parents/guardian. Staff must also be aware that this may need the support of the Safeguarding Team.

If any party makes a complaint verbally, which satisfies the current Regulations, then that verbal complaint should be accepted. A copy of the response should be sent to the complainant to confirm that the written summary accurately represents their verbal complaint.

CONFIDENTIALITY

The Common Law rule of Confidentiality applies to the management of formal NHS complaints within a Trust. Disclosure of information should only occur once the party whose medical records will need to be accessed has given consent for this to happen.

Under the General Data Protection Regulations and the Data Protection Act 2018, medical records have now been defined as Special Category Personal data. The disclosure of such data in a complaint investigation requires explicit consent from the party to whom those medical records apply.

ACCESS TO HEALTH RECORDS

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

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

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

Under no circumstances should staff place correspondence relating to a complaint in patient's health records. It is poor practice to place complaint documents within the patient's medical records. This is bad practice because all medical records are disclosable to the patients, given certain conditions. This also ensures the Confidentiality of complaint reports made by named staff. Finally, if some legal process arises, such as a claim or inquest, it is good practice that all complaint documents are secured by the Complaints Team and logged into Datix.

PROCESS FOR LISTENING AND RESPONDING TO CONCERNS

Some concerns may be resolved quickly and effectively by members of staff who are directly involved in the patient's care. Many concerns arise out of a need for information, and staff should aim to resolve

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these issues locally. The offer of an explanation and an apology will often resolve matters and prevent further escalation.

If staff feel unable to deal with the complaints raised, the issues are too complex, or it is not possible to resolve the matter quickly, they should refer the matter to their immediate manager, Matron, Head of Nursing or the PALs Team, who will attempt to resolve concerns. Out of hours, staff should contact the clinical site coordinator for advice.

Concerns raised via the PALs Help desk

Where concerns are raised via the PALs Help Desk, the PALs Team Advisor will attempt to resolve the matter via liaison with the services involved. The Advisor will agree on a timescale for response. It will aim to achieve this as soon as practically possible. The PALs Team may require information and assistance from clinicians and managers to resolve the concerns. Feedback may be given verbally, in writing or in person. The PALs Team will record all information on the Patient Experience module of Datix.

PROCESS FOR LISTENING AND RESPONDING TO COMPLAINTS

A formal complaint may be made orally, in writing or electronically. If received orally, the Trust must make a written record of the complaint and provide details to the complainant. On receipt, all written complaints should be forwarded to the Deputy Head of Complaints immediately for triage.

Complaints excluded from the procedure

The time limit for making a formal complaint by a complainant (or their representative) is twelve months from the date of the incident that has been complained about or the date on which the complainant became aware of that complaint issue. If this date is later than the date of the problem being complained about. The twelve-month time limit may be varied at the discretion of the Chief Executive. It will depend on individual circumstances and on whether it is felt that an effective investigation can be undertaken.

It may sometimes be appropriate to respond even after a long time has elapsed, especially if concerns about patient safety are being raised. Still, the complainant should be advised that any response is likely limited due to the time elapsed and is outside the normal complaint process. When it is determined that it is impossible to respond due to the time that has passed, the Trust will notify the complainant in writing, stating the reason for the decision.

The following complaints are excluded from the Regulations, and as such, this procedure does not apply:

- Another NHS organisation or local authority made a complaint.
- A complaint by an employee relating to their employment.
- A complaint about private care provided by staff outside of their NHS contract.
- A complaint is made orally and resolved to the complainant's satisfaction not later than the next working day after the complaint was made.
- A complaint previously investigated and resolved under the NHS Complaints Regulations.
- The complaint has been investigated by the PHSO or the Information Commissioner's Office (ICO).
- Where the complaint arises out of the alleged failure to comply with data subject requests under the Data Protection Act 2018 and GDPR

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- A complaint arises from the request for information as defined under the Freedom of Information Act 2000.
- A complaint relates to any scheme established under section 10 (superannuation of persons engaged in health services etc.) or section 24 (compensation for loss of office, etc.) of the Superannuation Act 1972[5] or to the administration of those schemes;
- A challenge to entitlement for NHS treatment;
- The management of individual staff members, including the use of Trust policies relating to capability, competency and disciplinary processes and issues relating to professional registration and fitness to practice or those involving potential fraud or bribery.

Where any of these apply, the Chief Executive will advise the complainant in writing of the decision not to investigate under the complaint's procedure, redirecting via the appropriate mechanism where possible.

Effectively, a formal NHS complaint can only be made about issues relating to the care or service given by NHS staff working in an NHS organisation. Where waiting list initiatives are in place and NHS staff are working in facilities provided by private healthcare providers, as long as NHS staff work at the facility under a recognised initiative and no payment is taken from the patients, this can also be a situation where a complaint can be made, if considered appropriate.

Sometimes complaints are made by a party who, for reasons, decide that they will insist on their details remaining confidential. This anonymity presents a problem where a name is not given, so consent is not given. In these circumstances, a general investigation will take place, with the result being reported to the Director of Nursing.

Complaints

On receipt of a complaint, the Case Handler will aim to acknowledge the complaint within one working day but at least within three working days, either verbally or in writing. An initial assessment will determine how the complaint should be handled and the timeframe for response (see table below).

The complaint will be forwarded to the relevant Divisional Triumvirate (Associated Medical Director, Divisional Head of Operations and Head of Nursing) and the Lead investigator from the division will be given an expected date of response who will review the complaint and send out requests for reports to the parties involved.

The Complaints Handler will communicate with the complainant throughout the investigation process and re-negotiate the timeframe should this be necessary.

Wherever possible, a complaint will be linked with any associated incident report or claim that is relevant and a link made in the Patient Experience module of Datix. This linkage will ensure there is a triangulation between all three processes and any previous investigation or information used in the complaint investigation.

Safeguarding Concerns

Where this assessment raises a suspicion that might amount to a safeguarding concern, the Head of Complaints will immediately liaise with the Trust's Safeguarding Team, which will, if appropriate, initiate the Trust's safeguarding procedures. The Safeguarding Team will investigate and share the outcome with the Head of Complaints. During that time, the Trust's complaints procedure will be paused pending the result of a safeguarding investigation.

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Where a decision is made to investigate a complaint via safeguarding procedures, the Head of Complaints will update the complainant to advise of the change in process and what the complainant may now expect regarding investigation timescales and potential outcomes.

Legal Concerns

Where a legal matter arises in parallel with the complaint, namely a pending inquest or a claim, the Complaints Team will seek advice from the Legal Department. In these circumstances, a complaint cannot be halted just because a claim has not been settled. Therefore, the Complaints Team must work with the Legal Department to ensure that both investigations are shared and, if needed, permission from the National Health Service Resolution (NHSR) given before the release of the complaint response.

If an inquest is due to take place, the Legal Department will again share investigation information. The complaint investigation will be fast tracked to complete within six weeks. The complaint process is brought to the attention of the Coroner, seeking their approval to disclose the complaint response or to pause the complaint process until the inquest has been heard and the verdict given.

Duty of Candour

Where a complaint reviewed by the Divisional Directors of Nursing contains issues relating to Duty of Candour, they will forward that complaint to the appropriate party, ensuring that they keep the Complaints Team fully informed.

Investigation

Each complaint will require an investigation at a level appropriate to the severity of the complaint to resolve it efficiently. Some complaints require minimal investigation and prompt response, which may be given verbally. In contrast, others require more formal investigation and complete written response. (See table below). Complaints considered complex (high risk, involves several specialities/ across divisions, several episodes of care or another organisation) would require a more extended investigation period.

Initial assessment of the complaint	Type of complaint	Level of investigation and response period
Low level - formal complaint	Simple, non-complex complaints involving one area or department e.g. cancelled outpatient appointment or admission, waiting time.	A low level of investigation is required. A response may be provided in writing. Response period to the complainant – within 20-25 working days
Medium level – formal complaint	Several issues relating to clinical care. This may involve a small number of areas.	A more detailed investigation involving clinical matters. Response signed by Chief Executive Response period to the complainant – within 40 working days
Complex level – formal complaint	A complex complaint involving several specialities/divisions or more than one organisation. Issues may have been	An investigation by clinicians with the option to obtain advice from Clinical Director/Lead Clinician.

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	investigated as a serious untoward incident or may have the potential for legal action.	Response signed by Chief Executive Response period to the complainant – up to 65 working days.
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The Deputy Head of Complaints will determine the complexity of investigation and document this within the Datix module. This will ensure compliance data is accurately captured for monitoring and assurance. In addition to the above assessment, the Deputy Head of Complaints will grade the complaint by estimating the probability of the risk occurring, the frequency, and the impact or severity. Further individual time frames may, at times, need to be jointly negotiated with services and the complainant.

The Deputy Head of Complaints will coordinate the investigation process, through the nominated Complaints Caseworker, in all cases. A copy of the complaint is forwarded to the appropriate Divisional Director of Nursing. They will then inform those involved in the complaint to provide a report/statement. These requests will be copied into the Complaints Caseworker. Investigating clinician(s) and manager for investigation (giving an initial ten working day timeframe for response). Upon receipt of the complaint, the investigating clinician/manager will thoroughly investigate the issues raised in the complaint with the relevant staff involved. Where it is felt on initial triage that the complaint highlights serious shortcomings, the relevant Division Clinical, Nursing and Management Leads are to be informed.

Potential moderate or severe harm - complaint investigations

The following process will ensure that our complaints suggesting moderate or serious harm are investigated as patient safety incidents.

- Complaint received and logged by Complaints Team; if the Divisional Associate Director Of Nursing (ADON) identifies moderate or severe harm, a Rapid Review is to be completed and presented at the Executive Serious Incident Panel, where a decision will be made to either:
 - Pause and undertake a Patient Safety Investigation, or;
 - Continue as a complaint.
- ADON to seek nomination from relevant Clinical Divisional Medical Director and Head of Nursing, a senior clinician (medical or nursing) independent of patient's care to lead/coordinate investigation.
- Investigations should be conducted to a standard of Level 1 incident investigations in line with the Policy for the Investigation of Incidents and within given timescales. The Complaints Team should be advised of any anticipated delays at the earliest opportunity so that the patient can be contacted, and expectations managed.
- Findings, learning and action plans for improvement should initially be submitted to the Clinical Divisional Medical Director and Divisional Director of Nursing for quality assurance (and then passed to the Complaints Team for submission to the SI Panel for approval and for a response to be prepared)

See below for the above outlines in process flow format.

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STEP	RESPONSIBLE
Complaint received and logged	Complaints Team
Identify Moderate / Severe harm	ADON
<pre> graph TD A[Complaint received and logged] --> B[Identify Moderate / Severe harm] B --> C{Rapid Review} C --> D[Pause and go through SI process] C --> E[Assign Lead] </pre>	SI Panel
Assign Lead	ADON
Level 1 investigation	Lead Investigator
Learnings / Action Plan submitted for QA review	Lead Investigator
Submit to SI Panel for review	Lead Investigator
Response Drafted	Lead Investigator
Send Reponse and close	Complaints Team

Investigation reports from such complaints should also be discussed at the appropriate Divisional Governance Boards.

Complaints received relating to open Serious Incidents

On occasions when additional issues within a complaint sit outside the scope of the Incident Investigation, the complaints team will address these in parallel with, but separate from, the Incident Investigation. The aim will be to provide a coordinated response to all the complainant's issues. In this scenario, the Head of Complaints will document the proposed investigation plan, including who's

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responsibility it is to liaise with the complainant and share this with both the complainant and the relevant Quality Governance Business Partner.

The following process is to be used in all complaints

The Head of Complaints will determine the timeframe following an initial complaint assessment and in consultation with the complainant. If any delay occurs in the investigation, the Complaints Caseworker will telephone or write to the complainant explaining the reason for the delay as soon as anticipated and will agree on a revised response time.

The investigating manager/clinician(s) will need to establish the facts; this may include a review of the patient's health records, computer records, and information obtained from statements or interviews conducted with staff. A timeline or chronology of events is a helpful tool to use in the process, which will enable the investigating manager/clinician to identify any gaps in information and any critical problems that arose. Once complete, the investigating manager/clinician should identify actions and learning arising from the complaint.

Upon completion of the investigation, the relevant clinician or manager from the Division will produce a comprehensive report and forward this to the Complaints Caseworker within the expected deadline. This report should include:

- a short summary of the patient's care and events;
- an outline of the investigation process;
- an apology, where appropriate (start and finish of response)
- details of the staff involved;
- answers to all aspects of the complaint using headed paragraphs.
- an apology, where appropriate (start and finish of response)
- any policies, procedures or national guidance which are relevant to the case (see Parliamentary and Health Service Ombudsman Clinical Standards Section)
- an outline of any agreed action or risk reduction measures.
- In all complaints, it is the responsibility of the Senior Clinician, Senior Nurse, Manager or Business Performance Manager to ensure that an action plan is in place, where appropriate, on completion of the investigation and to monitor its progress.
- With high-risk complaints, the investigation may be conducted by a Clinical Director, or a multidisciplinary team supported by the Patient Safety team. Other experts/expert opinion/independent advice may be sought.

Where it is evident that timescales will not be met, the relevant clinician/ manager should inform the appropriate Complaints Caseworker of the delay and indicate when it is anticipated the report will be available at the earliest opportunity so the complainant can be advised of a potential delay. The Complaints Caseworker will issue a prompt to the relevant clinician/manager two days before the due date. If the information is not received by the due date, the matter will be immediately escalated to the relevant Divisional Management Team.

Responding to Complaints

On completion of the investigation, the investigating Divisional manager/clinician will draft a response to the complainant on behalf of the Chief Executive with support from the Complaints Caseworker. The Caseworker will ensure that all aspects of the complaint are answered entirely, giving a clear and honest explanation of events. Where appropriate, an apology will be offered, and details of any corrective action outlined. A meeting may also be provided with the complainant and the relevant clinician/manager to resolve any concerns; in some instances, this may be undertaken following the initial receipt of the complaint.

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The Trust will aim to investigate and forward a complete response to complaints within the timescale agreed. The Trust Board and Quality Governance Group will monitor this deadline with remedial action ordered where necessary.

Where omissions in care are identified, a full explanation will be given and an apology. To note an apology is not an admission of liability.

Complaint Meetings

The complainant should routinely be offered a meeting to resolve the complaint or any outstanding complaints following receipt of a written response, relevant medical and senior nursing staff will be required to attend. Head of Nursing/Associate Medical Director will chair the Meeting and other managers involved may be asked to attend the meeting. Meeting notes will be taken, which will not be verbatim but be a summary of the main points of the meeting, and a summary of any agreed actions will be documented. A copy of the agreed meeting notes will be sent to the complainant within 25 working days.

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

Referral to External Agencies

During an investigation, it may become necessary to notify external agencies where a serious incident has occurred, e.g. NHS England, NHS Integrated Care Board, HM Coroner, Police, Health & Safety Executive, or Care Quality Commission. This decision will be made following consultation with the Executive Lead and time permitting the Executive Serious Incident Panel.

It may also become necessary to obtain external clinical advice during an investigation where it is felt that an independent opinion of a patient's care is required to aid the resolution of the complaint. This decision will be made by the Head of Complaints, following consultation with the Director of Nursing & Quality and the Medical Director.

The consent form sent out to all complainants, with the acknowledgement letter, will cover permission for such referrals to external agencies to the Trust.

Complaints that may lead to a police investigation

If a police investigation is ongoing into a possible criminal offence, the Trust will consult with its legal advisors and the police to determine whether progressing with the complaint could prejudice the investigation and place the Trust in a problematic situation concerning unintended police obstruction.

Process for managing complainant dissatisfaction

Following the Trust's response should the complainant express any dissatisfaction or require further clarification of information contained within the response, the letter will be acknowledged and a response date negotiated with the complainant in accordance to the grade of the original complaint.

Any new or additional concerns will be considered and responded to.

Independent Conciliation - there is also the option of using a trained conciliator who is neutral to both parties and their role is to give impartial support to both sides by working through the issues raised.

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The conciliator has no advisory or decision-making role; they are purely facilitating the parties to find their own solutions. The conciliator has to behave impartially, and it is their responsibility to support everyone in order to achieve a successful resolution. If required, the appointment of a conciliator can be arranged by the Trust.

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

PROCESS FOR ENSURING THAT PATIENTS AND COMPLAINANTS ARE NOT TREATED DIFFERENTLY AS A RESULT OF RAISING CONCERNS OR MAKING A COMPLAINT

The Trust expects all staff to treat patients and complainants with respect at all times, and where a complaint or concern is raised, the team should ensure that the patient's ongoing health needs are met. The fact that a concern or complaint is made should not have any adverse effect on a patient's care. Under no circumstances should staff display any form of discrimination towards either the patient or complainant due to a complaint being raised. The Trust's disciplinary procedures will be invoked if any form of discrimination is proven. Where applicable, the matter may be referred to a professional body.

Assistance will be given to any person wishing to raise a concern or complaint, including providing interpreter services where the patient's first language is not English. Assistance will also be given to any person who has a sensory impairment. Staff may use the Hospital Communication Book to support patients with learning difficulties who wish to raise concerns. Additional assistance or support may be obtained from the appropriate Advocacy service (Healthwatch for patients residing in England or the Community Health Council for patients in Wales).

HANDLING OF JOINT COMPLAINTS BETWEEN ORGANISATIONS

If a complaint involves more than one NHS provider or provision of care by the Local Authority, the Trust will work closely with other organisations to ensure that the complainant receives a complete response to their concerns.

Upon receipt of the complaint, the Case Handler will aim to contact the complainant within three working days to acknowledge receipt and determine how the complaint will be handled. Following receipt of the complainant's or the patient's consent, if the complainant is not the patient, the Case Handler will contact all other organisations to determine which organisation will take the lead responsibility. The organisation with the major component of the complaint will generally take the lead. It will coordinate the investigation with the other organisations. Any draft response will be shared with each organisation before being sent to the complainant. One response will be sent to the complainant, an agreed amalgamation of the two draft responses.

If a complaint is solely concerned with services provided by another hospital or organisation, the Deputy Head of Complaints will forward the complaint letter to the appropriate Trust/organisation with the complainant's permission.

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LEARNING AND IMPROVING FROM COMPLAINTS AND FOLLOW-UP OF ACTION PLANS

Good complaints handling is not limited to providing a response or remedy to the complainant. It should focus on ensuring that the feedback received through complaints is used to learn lessons and contributes to service improvement.

Following an investigation of a complaint, Managers should:

- Please include details of any risk reduction measures, lessons learnt, and actions taken due to the complaint in their final report.
- Where appropriate, include an action plan with an identified lead person.
- Monitor progress of the action plan until complete
- Report progress to the Head of Complaints
- Share lessons within and across Divisions

Whilst the Complaints team can facilitate and coordinate this process, it is for the appropriate division or department to take responsibility for implementing risk reduction measures and disseminating information amongst staff.

Lessons learnt from complaints are disseminated through:

- Quarterly aggregated reports to the Quality Governance Group
- Discussion at Divisional Clinical Governance meetings – monthly reports provided
- Individual complaint reports discussed at Divisional Governance Board meetings
- Debriefing and training/educational sessions with staff groups
- Through ward/departmental safety briefings, case reviews
- Redacted complaints as requested to Commissioners and Specialised Commissioning
- Monthly complaint summaries from the 'patient voice' to Patient Experience Operational Group for cascading of organisational learning

ANALYSIS AND AGGREGATION OF INCIDENTS, COMPLAINTS AND CLAIMS

Wherever possible, a complaint should be linked with any associated incident report or claim that is relevant and a link made in the Complaints module of Datix. This will ensure that there is a triangulation between all three and that any previous investigation or information is used in the complaint investigation.

An aggregated report is produced six-monthly by the Head of Complaints, Legal Services Co-ordinator, and the Deputy Director of Nursing & Governance, which includes qualitative and quantitative data for the Trust's Board of Directors and the Quality and Safety (sub-board) Committee. This report is shared with the Integrated Care Board (ICB) as part of the quality contractual arrangements.

The report will contain:

- Qualitative and quantitative analysis
- Trends analysis
- Triangulation of incidents, claims and complaints, including the risk profile
- Compliments and comments
- Outcomes and actions
- Dissemination of the report

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UNREASONABLY PERSISTENT COMPLAINTS

In a minority of cases, complainants can become unreasonably persistent in pursuing their complaints despite reasonable attempts to resolve matters.

It should be emphasised that this process should only be used when all reasonable measures have been taken to try and resolve complaints through the NHS Complaints Procedure. The Head of Complaints will only implement this process following a discussion with the Chief Executive Officer.

Options for handling persistent or unreasonable complaints.

The Deputy Head of Complaints will discuss and agree on any further action with the Chief Executive if complainants are identified persistent. The following will be considered before acting:

- Ensure that the complainant's issue has been dealt with appropriately and that reasonable action has followed.
- Ensure that any new or significant problems have been considered.
- Apply criteria with fairness and due consideration for the complainant's circumstances (any known physical or mental health conditions, impact of grief, loss of significant or sudden change in lifestyle that may explain their behaviour)
- Consider the proportionality of any restrictions enforced in comparison with the level of unreasonableness or behaviour of the complainant.
- Consider whether there are further actions that can be taken to resolve the matter and
- Try to resolve matters, before invoking the process, by outlining to the complainant the type of behaviour expected if the Trust is to continue investigating the complaint under the NHS Complaints Procedure.

Having deemed a complainant persistent this status may be withdrawn at any time. This power should be exercised with discretion where for example, the complainant agrees and demonstrates a more reasonable approach or submit a further complaint for which the standard complaints procedure would appear appropriate. The Head of Complaints will discuss options with the Chief Executive. If considered appropriate, the Trust's complaints procedure will apply, and the complainant will be notified.

STAGE 2: COMPLAINTS – REFERRAL TO PARLIAMENTARY & HEALTH SERVICE OMBUDSMAN

Some complaints will be escalated by the complainant to PHSO when they have not been satisfied with the outcome of the local resolution. It is therefore crucial that in investigating complaints, clinicians and other staff are aware of the standards the PHSO will apply when considering such complaints. If the Parliamentary & Health Service Ombudsman decides to investigate the complaint, the Deputy Head of Complaints will act as the point of contact and assist as required.

The Trust will be required to provide copies of all relevant documents as requested by the PHSO. The PHSO will have sought consent from the complainant, and it is appropriate to accept that consent is given when receiving a request for documents from the PHSO.

Often the PHSO will explain to the Trust why the complainant has escalated the complaint to them. This explanation from the PHSO is an opportunity to review the complaint and decide if the Trust

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wishes to make any further disclosure, which might assist the PHSO and reduce the length of time for the further investigation at stage 2.

It should not be assumed that the opportunity to provide further information during stage two will only contain admissions. It is an appropriate time to defend the local resolution complaint conclusions robustly.

Following completion of any investigation, the Parliamentary & Health Service Ombudsman will produce a report detailing their findings against the Clinical Standards (see earlier section) and recommendations - which may include financial remedy (see earlier Sections). A draft response will initially be provided for the Trust to consider and comment upon before issuing the final report.

Once the final report is received, the Deputy Head of Complaints will, if required by the PHSO, coordinate a response to the complainant and, in conjunction with Divisional Directors/Clinical Directors/ Divisional Leads, produce an action plan where applicable. The Trust will review the progress of any agreed action until all agreed actions are complete.

The final report will be tabled and discussed at the Patient Experience Operational Group and shared with the ICB via the agreed quality schedule.

As appropriate, additional training for individuals or groups of staff in complaints handling is provided.

SOURCES/REFERENCES

- The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009 (309)
- The Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2009 (SI 1768)
- Principles of Good Complaints Handling. Parliamentary and Health Service Ombudsman 2009
- Listening, Improving, Responding: A Guide to Better Customer Care Department of Health 2009
- Making Amends: a consultation paper setting out proposals for reforming the approach to clinical negligence in the NHS Department of Health 2003
- Being Open – Communicating Patient Safety Incidents with Patients and their Carers. National Patient Safety Agency 2009
- [Records Management Code of Practice for Health and Social Care 2016](#)
- The Health & Social Care (Community Health and Standards) Act 2003
- Department of Health Making Experience Count Toolkit - Persistent and Unreasonable Clients 2009
- Department of Health. Handling Complaints in the NHS. Good Practice Toolkit www.doh.gov.uk
- Hard Truths: The journey to putting patients first, Department of Health, 2014
- Policy on Unreasonably Persistent Complainants. Parliamentary and Health Service Ombudsman www.ombudsman.org.uk

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- The Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry (The Francis Report)
- <https://www.gov.uk/government/publications/report-of-the-mid-staffordshire-nhs-foundation-trust-public-inquiry>
- Culture Change in the NHS; Applying the lessons of the Francis Inquiries 2015
- Parliamentary and Health Service Ombudsman www.ombudsman.org.uk
- [My Expectations](#), Parliamentary and Health Service Ombudsman 2015
- A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture (Clwyd-Hart Report)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255615/NHS_complaints_accessible.pdf
- Acute care toolkit 11: Using Data To Improve Care, Royal College of Physicians, 2015
- Complaints Matter; Care Quality Commission 2017
- Complaints and Raising Concerns, UK Parliamentary Health Committee, 2015
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 20
- The Parliamentary and Health Service Ombudsman's Clinical Standard (published August 2018)
- PHSO Guidance on Financial Remedy 2018
(<https://www.ombudsman.org.uk/sites/default/files/Our-guidance-on-financial-remedy-1.pdf>)
- National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011

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Procedure for Listening and Responding to Concerns and Complaints

APPENDIX 1 – EQUALITY IMPACT ASSESSMENT

Title	Policy for Listening and Responding to Complaints		
What is being considered?	Policy <input checked="" type="checkbox"/>	Guideline <input type="checkbox"/>	Decision <input type="checkbox"/>
	Other (please state)		
Who may be affected?	Patients <input checked="" type="checkbox"/>	Staff <input checked="" type="checkbox"/>	Public <input checked="" type="checkbox"/>
	Partner agencies <input checked="" type="checkbox"/>		
Is there potential for an adverse impact against the protected groups below? Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex (gender), Sexual Orientation or the Human Rights articles?	Yes <input type="checkbox"/>		No <input type="checkbox"/>
	<input checked="" type="checkbox"/>		

If you are unsure and would like advice, please contact the Equality & Diversity Manager –

On what basis was this decision made?	
National Guideline / Report (DH / NICE / NSPA / HSE / other)	<input type="checkbox"/>
Engagement feedback	<input type="checkbox"/>
Previous Equality Impact screening	<input checked="" type="checkbox"/>
Trust Committee / Multi Agency meeting	<input type="checkbox"/>
Concerning the general duty of the Equality Act 2010, the above function is deemed to have no inequality relevance.	
Equality relevance decision by Date	Title / Committee

The Equality Act 2010 has brought a new equality duty to all public authorities, which replaced the race, disability and gender equality duty. This Equality Relevance Assessment assures the steps the Countess of Chester Hospital NHS Foundation Trust is taking in meeting its statutory obligation to pay due regard to:

- Eliminate unlawful discrimination, harassment, victimisation, and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

For further information or guidance, please contact the Equality & Diversity Manager.

