

**Policy control document**

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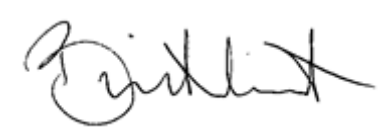
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Chair of approving committee

Britta Klinck

Signature



Title

Chief Nurse

Date

12<sup>th</sup> March 2024

All policies are copy controlled. When a revision is issued previous versions will be withdrawn. An electronic copy will be posted on the Trust Intranet for information.

## Change control

Number of pages (excluding appendices) 18
<p><b>March 2024</b></p> <p>Review of policy ongoing to incorporate changes due to ongoing work with new NHS Complaints standards. Author confirmed current policy is still fit for purpose. New review date approved by Chief Nurse</p> <p>August 2020 revisions -</p> <ul style="list-style-type: none"><li>• Appendix 4 summaries the key process elements of the policy on one page.</li><li>• Inclusions of recordings made by complainants or patients/services users.</li><li>• Inclusion of independent investigations in relation to responding and sharing learning.</li><li>• Inclusion of how to manage and escalate disputes in outcomes of investigations and escalation process.</li><li>• Updated IO flow chart (appendix 4)</li><li>• Updated expectation of training requirement for IOs</li><li>• Updated expectation of who creates the action plan following completion of an investigation.</li><li>• Update within appendix 7 relating to definition of demanding/repetitive and vexatious complainants.</li><li>• Inclusion of responsibilities about who needs to share information with named staff (appendix 3)</li><li>• Other minor amendments to the policy including the change in the name of a committee.</li></ul> <p>November 2020 revisions -</p> <ul style="list-style-type: none"><li>• Inclusion of the MP process flow chart (appendix 5).</li><li>• Additional reference to S75 agreements under multi-agency working – no change in practice.</li></ul> <p>June 2021 revisions -</p> <ul style="list-style-type: none"><li>• Inclusion of recording of meetings (audio and video)</li><li>• Complex Complaints or those involving multiple internal services</li></ul>
Any change to code or merging with other policies
<p>Consultation with:</p> <p>A number of the changes follow learning from past complaint investigations or feedback from complainants. The changes in policy have been implemented in practice, so the revisions are to ensure the policy is in line with changes made in the last year. The most recent change in relation to the MP concerns was consulted with the WRM and Ops SMT members.</p>

## Concerns, Complaints & Compliments Policy & Procedure

### CORP25

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## Introduction

This document outlines our commitment to dealing with concerns, complaints, MP queries and compliments about the services provided by Oxford Health NHS Foundation Trust (referred to as "the Trust"). It also provides information about how we manage, respond to and learn from complaints made about our services. When a complaint is first raised we always consider the wellbeing of the patient and take immediate actions as required. Including considering if there are any safeguarding concerns or allegations and that the appropriate processes are followed.

A complaint is defined as "an expression of dissatisfaction made to an organisation where they have received services.... which requires a response." (Patients' Association, 2013, p4).

There is substantial evidence that shows the importance of listening to concerns as an early warning sign of issues in care and an opportunity to improve the quality of patient care.

The Trust will treat complaints seriously and ensure that complaints, concerns and issues raised by patients, relatives and carers are properly investigated in an unbiased, non-judgemental, transparent, timely and appropriate manner. The outcome of any investigation, along with any resulting actions will be explained to the complainant by the Trust.

Appendix 4 provides a flowchart of how complaints are managed and Appendix 5 summarises how MP concerns are managed.

The key issues taken into consideration when formulating this policy are that patients/ complainants<sup>1</sup> need to:

- Know how to make a complaint.
- Feel comfortable that their complaint will be dealt with seriously.
- Understand that their concerns will be investigated, and they will be informed of the findings of that investigation.
- Be confident that the Trust will learn from complaints, feedback and apply those lessons learnt, whilst also learning from and sharing best practice.

## Aims

The Trust aims to provide the highest possible quality of health care. However, it is recognised that there will be times when people using the Trust's services and their relatives and carers may be dissatisfied with the treatment or services they have received. This document sets out how people may raise concerns

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<sup>1</sup> Wherever we refer to a complainant we also mean their authorised representative.

and complaints and how staff should seek to resolve these. It also sets out how compliments and praise will be recorded.

The Patient Advice and Liaison Service (PALS) provides an opportunity for the early prompt resolution of concerns as they occur. This informal resolution helps to reduce the need for patient's/service users, relatives, carers and members of the public to seek resolution through the formal complaint procedure. Where appropriate, staff should seek assistance from PALS staff in resolving issues in this way.

The Complaints & PALS Department will provide guidance and clarification to staff where it is not easy to determine how a concern or complaint should be dealt with. However, it should be noted that the decision for how a concern/complaint is addressed ultimately rests with the person raising the matter.

Where a person is dissatisfied with informal resolution of a concern, they have the right to pursue the matter through the complaint procedure.

The key objective of this policy and procedure is:

- For staff to promptly and fully resolve concerns at an appropriate level. Wherever possible, and where the "complainant" is agreeable, resolution should initially be sought at team level.

Further objectives are:

- To provide patients/service users, their relatives and carers, and members of the public with clear options about how they may raise concerns and complaints. Including the support available to them to make a complaint.
- To safeguard patients.
- To ensure that all staff are aware of the options available to patients, their relatives and carers for raising concerns and complaints. Additionally, to ensure that all staff are appropriately trained to respond to concerns and complaints.
- To ensure that concerns and complaints are dealt with openly, fairly and thoroughly.
- That people raising concerns and complaints are treated with respect and a complaint does not impact on the care or treatment provided to them or the person they are making a complaint on behalf.
- To ensure that the Trust learns from concerns, complaints and MP queries and that improvement plans are implemented.
- To ensure that concerns and complaints play a key role in informing service and quality improvements.

## Legal and policy framework

This document describes the policy and procedures for the Trust in responding to concerns and complaints. It is set within and supports the requirements and principles of the Complaint Regulations (UK Government, 2009), NHS Constitution (DoH, 2015) and the Health and Social Care Act Regulations (CQC, 2015).

## Who can make a complaint

A complaint may be made by the person who is affected by the action, or it may be made by a person acting on behalf of a patient in any case where that person:

- is a child (an individual who has not attained the age of 18 years old). In the case of a child, we must be satisfied that there are reasonable grounds for the complaint being made by the representative of the child, and furthermore that the representative is making the complaint in the best interests of the child.
- is a relative or carer of a patient.
- Has died. In the case of a person who has died, the complainant must be the personal representative of the deceased. The Trust needs to be satisfied that the complainant is the personal representative. Where appropriate we may request evidence to substantiate the complainant's claim to have a right to the information.
- A person (a representative) acting on behalf of a person who is unable to make the complaint themselves because of physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005. The Trust needs to be satisfied that the complaint is being made in the best interest of the person on whose behalf the complaint is made.
- Has given consent to a third party acting on their behalf. In the case of a third party pursuing a complaint on behalf of a person affected we will request the following information:
  - ✓ Name and address of the person making the complaint;
  - ✓ Name and either date of birth or address of the affected person; and
  - ✓ Contact details of the affected person so that we can contact them for confirmation that they consent to the third party acting on their behalf.

This will be documented in the complaint file and confirmation will be issued to both the person making the complaint and the person affected.

- Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs.
- Is an MP, acting on behalf of and by instruction from a constituent.
- Members of the public who are affected, or likely to be affected, by the action, omission or decision of the trust.

If the Complaints & PALS Manager is of the opinion that a representative does or did not have sufficient interest in the person's welfare, or is not acting in their best interests, we will notify that person in writing.

### **Matters excluded from this policy**

The following complaints will not be dealt with under the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009):

- Any complaint made by a member of staff about any matter relating to his or her contract of employment or about the conduct of another member of staff. Such matters should be addressed through the relevant Human Resource policy.
- A complaint which relates to the Trust's alleged failure to comply with a data subject request under the Data Protection Act 1998 or a request for information under the Freedom of Information Act 2000. Initially the Trust will aim to resolve concerns through local resolution. If this is not possible then the complaint should be referred to the Information Commissioner.
- A complaint about which the Trust is taking or is proposing to take disciplinary proceedings against the member of staff who is the subject of the complaint.
- A complaint which necessitates referral to the professional regulatory bodies.
- A complaint which necessitate an independent inquiry into a serious incident under Section 84 of the NHS Act 1977.
- A complaint which has already been investigated in accordance with the NHS Complaints Regulations 2009.
- A complaint which relates to any scheme established under Section 10 (superannuation of persons engaged in health services) or Section 24 (compensation for loss of office etc) of the Superannuation Act 1972(a), or the administration of those schemes.

Investigation of other aspects of the complaint will only be undertaken if they do not, or will not, compromise or prejudice the concurrent investigation.

### **Alternative investigations**

Where a complaint investigation highlights the need to act under any of the processes noted above, before the complaint investigation has been

completed, it will be communicated to the complainant that the complaint investigation has been paused whilst the other process i.e. Serious Incident or Human Resources investigation is undertaken. It will be the Complaints and PALS Teams responsibility (or delegating senior manager) to ensure the complainant is kept informed during this paused period. Once the other process has been completed either the complainant will be informed the investigation has re-started or they will be informed of the conclusion of the other investigation. The outcome of human resource investigations will not be shared with complainants.

### **Timescales for making a complaint**

Complaints must be made no later than:

- twelve months after the date on which the matter which is the subject of the complaint occurred; or
- twelve months after the date on which the matter which is the subject of the complaint came to the notice of the complainant.

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

If there are good reasons for not having made the complaint within the above timeframe and, **if it is still possible to investigate the complaint effectively and fairly**, the trust may decide to still consider the complaint, for example, longer periods of complaint timescales may apply to specific clinical areas. Where a complaint is made outside of this timeframe the Complaints & PALS Manager may exercise discretion to admit the complaint to the procedure if they are satisfied that:

- a) the complainant had good reasons for not making the complaint within that time limit.
- b) notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly.

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

### **Consent**

Where a complaint is made by a third party about a patient/service user's care e.g. by a relative, carer, friend, MP or advocate, written consent will be obtained



from the patient/service user before any confidential information is disclosed to the complainant.

Should the patient/service user not provide consent, or should the complainant not wish the Trust to approach the patient/service user for consent, then the complaint will still be investigated. A written reply will be made to the complainant but will not contain any information which is confidential to the patient/service user.

In circumstances where the patient/service user expressly asks that the complaint is not investigated, then the complainant will be advised of this and the investigation terminated unless specific risk issues that warrant internal investigation have been identified. Any part of the complaint which directly relates to the complainant, for example, issues of communication, should continue to be investigated and a response made to the complainant.

Should the Complaints & PALS Manager consider that a complainant is not acting in the interests of the patient/service user or does not have sufficient interest in that person's welfare then he/she should discuss this with the Chief Executive to determine whether the person is suitable to act as a representative for the patient/service user. Where it is felt that the person is not a suitable representative, they should be advised in writing of this and of the reasons for this decision.

In the case of a child, the representative must be a parent, guardian or other adult person who has care of the child. Where the child is under the care of the local authority or a voluntary organisation the representative must be authorised by the local authority or voluntary organisation. If a complaint is made on behalf of a 16 or 17-year-old patient/service user, unless there is clear medical evidence that they lack mental capacity, then the patient's expressed authority will be obtained before responding to the complaint, if it involves disclosing confidential patient information.

If a complaint is made on behalf of a child under 16 years old who is 'Gillick competent' (i.e. of sufficient intelligence and maturity to consent to treatment), then their agreement should be obtained before responding to the complaint, if doing so will involve disclosing confidential patient information.

If, however a complaint is made on behalf of a child under the age of 16, who is not Gillick competent, then no authority from the child will be needed prior to responding to those with parental or guardian responsibility.

## **Grading of concerns and complaints**

All concerns and complaints will be graded by the Complaints & PALS Manager using the Trust's Complaints Grading Matrix. The grading of each complaint is reviewed by a group of senior managers and clinicians. A copy of the Complaints Grading Matrix is attached as Appendix 6 to this document.

## **Response Times**

The Trust will ensure that all complaints are acknowledged within 3 working days of receipt.

The Trust will endeavour to respond to all formal complaints graded green and yellow within 35 working days and for orange and red graded complaints, within 60 working days. These timescales are suggested and will be agreed between the investigating officer and the complainant. There are no national SI 2009 309 set timescales for the resolution of complaints other than to state that the NHS Trusts must send the complainant a written response, signed by the authorised person, as soon as reasonably practicable after completing the investigation. This should be within 6 months of the date the complaint was received or a longer period if agreed with the complainant. If a response is not sent within a 6-month timescale, then the Trust must notify the complainant in writing and explain the reason for the delay. The Trust should send the complainant a response as soon as reasonably practicable after this period.

The Trust recognises the importance of ensuring that complaints are responded to promptly and within a timescale which is appropriate to the complaint that has been raised. Therefore, any extension to the timescales must be agreed by the investigating officer with the Complaints and PALS Team and then with the complainant.

We aim to respond to queries raised by constituents via their MP within 25 working days.

## **Authorised signatories**

The regulations (SI 2009 309) allow the functions of the responsible person to be performed by any person authorised by the responsible body (i.e. the Trust) to act on behalf of the responsible person. This means that there is no requirement for a final letter of response to come from the Chief Executive. The Chief Executive has delegated the sign off of all complaints graded green, yellow or orange to the Clinical Director/ Service Director in the relevant Directorate. The Chief Executive will approve/ sign off complaints graded as red and responses to MPs.

## **Confidentiality**

Complaints will be handled in the strictest of confidence in accordance with the NHS England Confidentiality Policy and will be kept separately from patient health records. Care will be taken that information should only be disclosed to those who have a demonstrable need to have access to it.

Suitable arrangements are in place for the handling of patient identifiable data to meet the compliance of the Data Protection Act and other legal obligations such as the Human Rights Act 1998 and the common law duty of confidentiality. The Caldicott Report sets out several general principles that health and social care organisations should use when reviewing its use of patient and client information.

The designated Caldicott Guardians are responsible for ensuring that confidentiality is maintained.

Confidentiality will be maintained in such a way that only managers and staff who are leading the investigation know the contents of the case. Anyone disclosing information to others who are not directly involved in this may be dealt with under the disciplinary procedures.

## **Improving Services**

Good quality complaints handling is vital to ensure continuous improvement in the quality and safety of care provided by the Trust. To ensure openness, quality, consistency and robustness of investigations and responses the Trust has an internal Complaints Review Panel which reviews a sample of completed investigations cases on a quarterly basis.

Concerns and complaints provide the Trust with an opportunity to identify when improvements to services and to individuals' practice need to be made. Staff should be reassured that complaints are not about apportioning blame. Saying sorry is not an admission of legal liability and NHS Resolution will not withhold cover for a claim because an apology or explanation has been given. If members of staff have any queries, they should contact the Trust Solicitor and Risk Manager. Disciplinary action against staff will only be instigated where staff have acted maliciously or have been grossly negligent in carrying out their duties.

If there are any upheld elements following the investigation into a complaint, a complaint improvement plan (action plan) will be developed by the relevant service (team manager or service manager). Implementation of actions will be monitored by the Complaints & PALS Department and escalated to relevant senior managers as needed. The Complaints & PALS Manager will report learning and outcomes of complaints to Directorates and to the Trust-wide

Quality Governance Group or equivalent (a sub- committee of the Quality Committee).

### **Discrimination**

The Trust wishes to encourage feedback of its services. It is therefore imperative that any patient/service user who makes a complaint (or whose carer or relative makes a complaint) is not discriminated against because of the complaint. Such behaviour from any member of staff will not be tolerated and appropriate disciplinary procedures will be implemented should the need arise. The Trust will ensure that patients, relatives, carers and members of the public are reassured that they will not be discriminated against as a result of raising a concern or complaint. Complainants will be advised of how they can raise concerns about any discrimination they believe they have experienced.

### **Complaint Records**

All concerns, complaints and MP queries will be recorded on the Trust's Ulysses System. Complaint records will be kept separate from patients health records, subject to the need to record in the health record information, which is strictly relevant to the person's health, illness or safeguarding. Complaint records will be kept by the Trust for a maximum of ten years.

### **Recording of meetings (audio and video)**

A formal record of the meeting can be an audio or video recording. At the meeting, the Chair must also notify all attendees that recording will take place prior to the commencement of the recording. At the start of the recording, the chair must confirm the date of the meeting, the attendees, and the reason for the meeting. The recording must stop at the formal close of the meeting. Attendees who were not present at the start of the meeting must also be notified that recording is taking place. A copy of the recording must be shared with attendees within a reasonable timeframe.

Any recordings will be stored with the complaint file in a secure and restricted area managed by the Complaints & PALS Team.

### **Recordings made by complainants (or patient/service user)**

Complainants or patients/service users can share recordings made by either the complainant or patient/service user as part of their complaint. This information will form part of the complaints investigation and will be reviewed by the investigating officer. Further guidance can be sought from the Integrated Information Governance Policy (CORP 19).

### **Equal Access**

Interpretation, translation, sign-language services or other appropriate support will be provided to anyone in need of such services. The Trust's Head of

Inclusion will be able to support staff and patient's/service users to access information and support in the right language or format for their needs.

### **Habitually demanding/repetitive/vexatious Complainants**

The decision to declare someone as a habitually demanding, repetitive or vexatious complainant must be taken in accordance with the appropriate procedure set out in Appendix 7 of this policy. Although members of staff are encouraged to respond in a professional and helpful manner to the needs of all complainants, occasionally nothing further can reasonably be done to assist the complainant or to solve their concerns. In certain circumstances, it may also be appropriate for staff to involve the police (as per the procedure set out in the appendices to the Policy For Reporting And Learning From Incidents And Deaths, Including Serious Incidents at RMHS1) or for staff to summon assistance in accordance with the Policy on Reducing Restrictive Interventions (formerly the Prevention & Management of Violence and Aggression, CP29) which applies to incidents originating from members of the public, as well as from patients or service users.

### **Multi-agency Complaints**

Where a complaint relates to services provided by the Trust and to services provided by another Trust or the Local Authority, the Complaints & PALS Manager will work with the Complaints Manager of the other organisation(s) to agree joint arrangements for investigating the complaint and ensure a coordinated response, in accordance with the Complaint Regulations. One point of contact for the complainant will be agreed and a joint response provided, unless the complainant has indicated a preference to receive separate responses.

This policy is also in line with the Section 75 agreements with the Local Authorities, where we are contracted to provide social care services; the Trust will lead on the investigation and respond to relevant complaints and will liaise with the Local Authority if a joint response is required.

Where a complaint relates solely to another external organisation the Complaints & PALS Manager will, with the permission of the complainant (and patient), seek to forward the complaint onto the relevant person.

### **Management of concerns about flexible and agency workers**

Investigations of complaints involving flexible workers should be managed by the relevant Directorate where the "worker" was complained about. Complaints will be managed in accordance with the procedure set out in the Temporary Staffing Guide for Managers which is available on the intranet.

### **Complex Complaints or those involving multiple internal services**

Where complaints are received about multiple internal services or multiple investigations are happening, a case conference will be held at the beginning of the process with senior members of staff organised by the complaints case handler (including the Chief Nurse or deputy) and repeated as required. This will also include either a panel or conference call to sign off the outcome of the investigation and share learning.

### **Internal Investigations**

The Trust must ensure that all investigations are fair, open and thorough. When senior managers allocate a complaint or MP concern for investigation, it is often not appropriate for the investigating officer to be from the same team as where the complaint is made about. However, in some circumstances it will be most appropriate for the team or ward manager to investigate the complaint. The Complaint and PALS Manager will keep an overview to ensure the investigating officer has the appropriate skills and independence to carry out the investigation.

On rare occasions where there may be a dispute in the outcome of the investigation between the Directorate (service area and clinical director) and the investigating officer, this must be escalated to the Complaint and PALS Manager immediately. No further action will be taken until the outcome of the investigation has been appropriately reviewed. In the first instance the issue will be taken to the Weekly Clinical Review Meeting to identify who will review the investigation and outcome, to decide the next steps. The dispute will also be escalated to the Chief Nurse or Medical Director.

### **External Investigations**

On rare occasions the Trust will seek an external investigator. The Complaints & PALS Manager will be responsible for identifying an appropriate external investigator and agreeing Terms of Reference with the complainant, relevant Directorate and the external investigator. The Directorate will be responsible for the cost of the external investigation once completed.

The Trust will write to the complainant to share the outcome from the external investigation, ensuring that the findings of the investigation are clearly outlined, details of learning, where appropriate, are provided and that apologies are given for people's experiences or failures in the service. This should be completed within a reasonable timeframe and the complainant must be kept informed of progress. The Service Manager will be responsible for writing the complaint improvement plan (action plan) as required and this will be monitored by the Complaints and PALS Team.

### **Support for patients, carers and relatives (advocacy services)**

It is recognised that raising a concern or making a complaint is stressful and that the Trust should try to support patients, carers and relatives through the process. PALS will assist those complainants who find it difficult to make a complaint in writing; have special needs; require information in a different format (with reference to the Accessible Information Standard 2016) or find the experience daunting. All complainants are to be made aware of any appropriate independent bodies such as SEAP (independent complaints advocacy service) or other local advocacy services, who can support them through the process.

### **Being Open & Duty of Candour**

The Trust is committed to the principle of openness and having open and honest communication with patient's/service users or with those that have parental responsibility. The commitment to openness extends to carers or relatives but only with the expressed consent and permission of the patient/service user to ensure the patient's rights are advocated and confidentiality adhered to.

From the end of November 2014 all Foundation Trusts are required to comply with the Duty of Candour and tell patients if their safety has been compromised and harm has been caused. The Trust will ensure that patients (and carers, if appropriate) receive a prompt apology for any incidents when this has occurred, whether a complaint has been made or information has been requested and ensure that lessons are learnt to prevent them from being repeated. Full details of the Duty of Candour are given in the Being Open Policy (CORP 24).

### **Support for staff**

It is essential that all members of staff who are involved or named in a complaint or concern receive appropriate support. Each Directorate has a responsibility to provide support to staff involved in a complaint investigation. The level and extent of support required will be dependent on each case and everyone's identified needs. Staff can expect to be treated fairly and will be;

- Be told if they are named in a complaint.
- Be offered support.
- Have a chance to share their account of events to the investigating officer.
- Be told the outcome of the investigation as relevant to them.

It is also important to appreciate that staff involved with a complaint are stakeholders in that complaint and as such the principles in the Being Open Policy (see above), such as openness and honesty should apply equally to them.

## **Continuous Improvement**

The Trust regards the concept of continuous improvement as central to its philosophy of growing and developing as a caring organisation. Concerns, complaints and MP queries form an invaluable resource for identifying and improving the quality of care. Because of the inherent link between incidents, complaints and claims, a common set of procedures have been developed to ensure continuous improvement. These are to be found in the Policy for Reporting and Learning from Incidents and Deaths, Including Serious Incidents (RMHS1).

## **Responsibilities**

The main responsibilities of the Trust when handling complaints are:

- To consider and handle complaints in accordance with the Regulations as set out in Statutory Instrument 2009 No 309.
- To seek to resolve complaints and communicate clearly and timely with complainants.
- To provide support and training to assist staff in resolving complaints.
- To cooperate with any investigation carried out by the Parliamentary and Health Service Ombudsman (PHSO).

To this end, the Trust has allotted specific responsibilities and accountabilities to individuals and groups of people. These are detailed in Appendix 1.

## **Training Requirements**

Members of staff who may be required to handle complaints are required to attend the training session - Investigating and Responding to Complaints. Staff who handle complaints and undertake investigations are required to complete a refresher of this training 3 yearly. A register of who has received the training is held by the Complaints and PALS Team.

Concerns and complaints awareness training is delivered as part of the Trust's Induction Training to ensure that all staff are aware of how to assist in the process of dealing with issues and concerns before they become a complaint.

The Complaints Manager should receive appropriate training. For example, a Diploma in Risk Management or the Institute of Healthcare Management's "Managing Complaints for Service Improvement" programme.

## **Other relevant policies**

Other relevant policies include;

- Policy for reporting and learning from incidents and deaths, including serious incidents (RMHS1)
- Being Open Policy (CORP 24)



- Integrated Information Governance Policy (CORP 19)
- Workplace Stress Prevention and Response (HR31)
- Safeguarding Children (CP14)
- Safeguarding Vulnerable Adults (CP25)
- Reducing Restrictive Interventions (formerly the Prevention & Management of Violence and Aggression Policy, CP29)
- Legal Proceedings Policy and Procedures (CORP 17)
- Managing Allegations (against staff) (HR 33)

## Monitoring Arrangements

Criteria	Measurable	Lead person/group	Frequency	Reported to	Monitored by	Frequency
Systems in place to monitor the progress of active complaints.	Allocation and status of Complaints and MP queries; percentage responded within timescales, outcomes.	Complaints & PALS Manager	Weekly	Weekly Clinical Review Meeting  Service Directors	Executive Team	Weekly
System in place to monitor adherence to and effectiveness of policy.	Performance against standards; identification of themes; lessons learnt; referrals to Parliamentary Health Service Ombudsman.	Complaints & PALS Manager	Quarterly	Trust-wide Quality and Clinical Governance Meeting or equivalent	Quality Committee	Six-monthly
Staff response to concerns raised and quality of complaint investigations.	Number of Investigating Officers who have received training/ refresher in the last 3 years.	Complaints & PALS Manager	Six-monthly	Trust-wide Quality and Clinical Governance Meeting or equivalent	Quality Committee	Six-monthly

An Annual Report of complaints handling, including performance, themes, trends and learning must be prepared and presented to the Quality Committee. This report must meet the requirements set out in SI 2009 309 paragraph 18 and is published. A copy of this report is sent to the Clinical Commissioning Groups.

For monitoring of Being Open, refer to the Being Open Policy.

For monitoring of support for staff, investigations, analysis and improvement, refer to the Policy for Reporting and Learning from Incidents and Deaths, Including Serious Incidents (RMHS1).

## **Appendices/Procedure notes**

1. Responsibilities and accountabilities of individuals
2. Procedures for Staff
3. Patient Advice & Liaison Service (PALS) Operating Procedures
4. Formal complaints process Flowchart
5. MP concerns process Flowchart
6. Matrix for Grading Concerns and Complaints
7. Dealing with habitually demanding, repetitive and vexatious complainants
8. Concerns Recording Form
9. Equality Impact Assessment

## **Responsibilities and accountabilities of individuals**

### **Responsible person**

The Chief Executive is required to act as the “responsible person” under SI 2009 309. The responsible person is required to ensure compliance with the arrangements made under SI 2009 309 ensuring that action is taken, if necessary, in the light of the outcome of a complaint.

### **“Complaints Manager”**

Each Trust must have a designated person to manage the procedures for handling and considering complaints and to perform the functions of the “Complaints Manager” as set out in the Regulations (2009 309). The functions of the “Complaints Manager” may be performed by him/her or by any person authorised by the Trust to act on his/her behalf.

The designated “Complaints Manager” is the Complaints & PALS Manager. Specific responsibilities of the “Complaints Manager” (some of which may be delegated to the Deputy Manager, Complaints Service Lead, PALS Officers or Assistants in the Trust) are to:

- Ensure that appropriate and relevant information about how to raise concerns and complaints is widely available and accessible for patients, relatives, carers and members of the public.
- Ensure all complaints and MP queries are dealt with appropriately in accordance with national and local policy and procedures and within required timescales.
- Acknowledge receipt of a person’s complaint either orally or in writing.
- Advise any person raising a formal complaint of their right to receive independent complaints advocacy support from SEAP and other advocacy services.
- Support complainants during the complaints process and ensure they understand the rationale and procedure for investigating complaints.
- Oversee the management of complaints.
- Maintain a database of complaints.
- Monitor the complaints handling process and timescales, alerting senior management including the Chief Executive of complaints that are “at risk” of breaching response time limits.
- Report complaints to the Executive Team and to the Board of Directors.
- Record and monitor action plans.
- Identify and regularly report common trends or patterns arising from complaints. Facilitate shared learning across the Trust for overall quality improvement, including publishing the outcome of a sample of complaints and the Trust’s learning each quarter.
- Refer the complaint to the relevant Directorate or individual for investigation.

- Support Investigating Officers in the handling and investigation of complaints.
- Ensure that the agreed method of resolution is appropriate to the severity of the complaint.
- Review all investigation reports, supporting documentation and draft responses to ensure that these are appropriate and cover all areas of complaint before submitting to the authorised signatory.
- Respond to all requests for information from the Parliamentary and Health Service Ombudsman (PHSO).
- Coordinate the Trust's action plans arising from recommendations from the PHSO.
- Facilitate the Complaints Review Panels within the Trust and ensure Directorates involvement within the sessions.
- Provide training for staff on the complaint's procedure and handling complaints.
- Review complaints procedure, policy and development within the Trust as necessary.

Further responsibilities of the "Complaints Manager" have been delegated to those staff identified as Investigating Officers:

### **Investigating Officers**

*Responsibilities are to:*

- Undertake an open, fair and thorough investigation into the concerns raised by the complainant.
- Contact the complainant at the beginning to ensure they understand the concerns, try to resolve these if possible and to agree an approach to address the complaint including a timescale to respond.
- It is an expectation that the IO will offer a meeting with the complainant.
- Take responsibility for resolving the complaint in the manner agreed with the complainant e.g. resolution meeting, investigation, review of care. Ensure that all relevant people are involved and consulted with as part of the investigation.
- Communicate with the complainant throughout the complaints handling process and ensure that at the onset of the investigation they try to contact the complainant to discuss the concerns they raised in more detail.
- Inform those staff (and their line manager) who have been complained about named in the complaint and of the complaint, explaining the process for handling the complaint. and giving them information about the complaint as it relates to them.
- Ensure that arrangements are in place for staff named in complaints to be appropriately supported.
- Share a summary of the relevant findings from the investigation with staff who are named in the complaint, those involved in the investigation or other relevant people e.g. the Team or Service Manager of the service.

- Consult with senior clinicians i.e. Clinical Director where the complaint involves medical staff or professionals allied to medicine.
- Keep accurate records, meeting notes, interview notes throughout the complaints handling process and ensure these are submitted to the Complaints & PALS Department, along with a full complaint's investigation report.
- Draft the letter of response to the complainant alongside an investigation report.
- Share the investigation findings and draft letter of response with those named in the complaint, those involved in the investigation or other relevant people e.g. the Team or Service Manager of the service.
- Make recommendations for learning. The Service Manager is responsible for writing the complaint improvement plan (action plan).
- Ensure all those involved and named in the complaint have a copy of the final letter of response, this is likely to be via the team/ ward manager or equivalent.

### **Service Managers, Unit Managers, Ward Managers, Line Managers**

*Responsibilities are to:*

- Ensure that complaints and MP queries are dealt with and appropriately handled within required timescales. This includes timely allocation of new complaints within a week.
- Ensure that a copy of any written complaint is immediately forwarded to the Complaints & PALS Department.
- Identify lessons to be learned. Service Managers are responsible for writing the complaint improvement plan (action plan).
- Facilitate shared learning at a local level and across services and teams.
- Ensure that actions identified as a result of a complaint are implemented within required timescales.
- Ensure that members of staff are aware of and follow the policy and procedures.
- Ensure that appropriate support is provided to staff who are investigating complaints, acting as a witness or who have been complained about (see Staff Support Section below).
- Ensure that the relevant information leaflets and posters are made available within all patient/public areas.
- Ensure that members of staff have the necessary skills to manage and/or investigate complaints and have access to relevant training.

### **Clinical Directors/ Service Directors**

*Responsibilities are to:*

- Review, approve and sign all complaint and MP responses which fall within their delegated authority. Ensure that the complaints handling process and all documentation, including investigation reports and responses are appropriate, open and of a high quality.

- Ensure that those required to handle complaints are appropriately trained and can access relevant training.
- Ensure that lessons are learned, and action plans are implemented within agreed timescales.

### **Front-line Staff**

*Responsibilities are to:*

- Understand and adhere to the complaint's procedure.
- Listen to the complaint/concern and check that they have understood it.
- Take responsibility for resolving a concern/complaint or (if more appropriate) for referring the complaint to a more senior colleague.
- Resolve (where appropriate) the concern/complaint immediately in a way which is acceptable to the person raising the concern/complaint.
- Record and report oral complaints to the Complaints & PALS Department.
- Involve a senior colleague and/or the Complaints & PALS Department at the appropriate time.
- Remain polite, courteous and professional always.
- Offer an apology in recognition of a person's unsatisfactory experience.
- Share any written MP concerns with the Complaints & PALS Department to manage.

## PROCEDURES FOR STAFF

### Communication

Staff handling concerns or complaints should adopt an open and honest approach when communicating with the complainant or person raising the concern. Members of staff who are participating in an investigation into a concern or complaint should respond in an honest and open manner to enable a full and thorough investigation.

Where appropriate apologies should be made to the complainant. When it has been recognised that errors have occurred then this should be acknowledged to the complainant and an explanation of the reasons for this error given.

Different forms of communication will take place including telephone contact, e-mails, letters and meetings.

### HANDLING CONCERNS AT A TEAM LEVEL

#### Handling concerns at a team level

Many matters that cause concern to patients, relatives and carers can be dealt with immediately. Wherever possible, members of staff should seek to resolve a person's concern promptly. This may involve the member of staff dealing with the problem themselves or finding someone more appropriate to help. A face to face conversation is often the most useful way of resolving such concerns. The Patient Advice and Liaison Service (PALS) can provide help and advice with the resolution of concerns. The PALS operating procedures are attached as an appendix to this document.

All concerns should be recorded on the Trust's Concerns Recording Form and available on the Trust's intranet and attached as appendix 7. The completed form should be kept in a confidential place and must not be filed on the patient's health records.

### Oral Concerns

If possible, deal with the concern immediately. If this is not possible, advise the person when you will be able to resolve their concern. If it is unclear, clarify with the person whether they are raising a concern or making a complaint. Explain to them what this means so that they may make an informed choice. If the person is making a complaint, then this should be immediately referred to the Complaints & PALS Department.

If you are not the most appropriate person to resolve the concern, then you should pass the matter on to the relevant person (i.e. Ward Manager or Team Manager) as quickly as possible.



Ensure that any actions relating to the concern or any improvements in service are made.

### **Written Concerns**

These should usually be dealt with by a senior member of the team i.e. Ward Manager or Team Manager.

On receipt of the letter of concern contact the person (preferably by telephone) as quickly as possible to ascertain that they are not making a complaint and are therefore happy for you to deal with the matter. If the person indicates that they do wish to make a formal complaint or if the matter is a formal complaint, then the letter should be immediately passed onto the Complaints & PALS Department.

Offer the person the opportunity to discuss their concern either by telephone or at a face to face meeting. (This is often the most useful way of resolving concerns).

Undertake any enquiries necessary to resolve the matter. Give a clear explanation to the person about what has happened and what action you will be taking. This can either be done orally or in writing.

### **Implement any identified actions.**

Any written communication received from or on behalf of a service user that indicates a wish for compensation to be paid by the Trust to the service user should be shared with the Inquest & Claims Manager as soon as reasonably practicable.

## **HANDLING CONCERNS AND COMPLAINTS THROUGH THE COMPLAINTS & PALS DEPARTMENT**

Concerns, MP queries and Complaints handled centrally by the Complaints & PALS Department

All concerns, MP queries and complaints received or forwarded on to the Complaints & PALS Department and handled through that department will be subject to the following procedures.

### **Grading of Concerns and Complaints**

Upon receipt, each concern or complaint will be graded in accordance with the Trust's complaints grading matrix which is attached as an appendix to this document. Concerns and complaints fall into the following categories:

Green	(low)
Yellow	(medium)
Orange	(high)
Red	(extreme)

For concerns raised orally, the issue will initially be triaged and graded by a member of staff from within the Complaints & PALS Department. This grading will be reviewed by the Complaints & PALS Manager.

### **Resolution – Method and Lead**

The way the concern or complaint will be approached will be agreed between the complainant and the investigator at the outset. If this is not possible, it is best practice to fully investigate the complaint and respond to the complainant.

Methods of resolution may include or involve one or several of the following:

- Telephone conversation.
- Email correspondence.
- Initial, resolution and feedback meetings.
- Review of care.
- Investigation: mini or full investigation by manager/clinician related to service, or internal services.
- Independent manager/clinician, or by investigation team.
- Panel review.
- Independent external advisor or investigator.
- Mediation.
- Compensation/ex-gratia payment.

Staff primarily involved in achieving resolution may include:

Concerns:	PALS Lead PALS Officers Complaints & PALS Officer Ward or Unit staff/manager Consultant or lead Director
Complaints/ MP queries:	Complaints & PALS Officer Complaints Service Lead Complaints & PALS Manager Ward, Unit, Department Manager Service Manager Clinical Director Directors Chief Executive External independent clinical advisors

Where an SI investigation is required, the procedures outlined in the Policy for Reporting and Learning from Incidents and Deaths, Including Serious Incidents (RMHS1) should be followed.

## **Complaints Resolution Letter**

The regulations SI 2009 309 set out a requirement that as soon as reasonably practicable after completing the investigation, the “responsible person” must send the complainant a written response which includes:

- An explanation of how the complaint has been considered.
- The conclusions reached in relation to the complaint, including details of any remedial action.
- Confirmation as to whether the responsible body is satisfied that any action needed to resolve the complaint has been taken or is proposed to be taken.
- Details of the person’s right to take their complaint to the Parliamentary and Health Service Ombudsman (PHSO).

## **Conciliation**

Conciliation and mediation can be a valuable method of resolving complaints. An impartial mediator can help both parties to reach an acceptable conclusion. It can also help to re-establish a good relationship with a person who is unhappy. Mediation is particularly useful when there is a risk of communication breaking down. The mediator can help both parties express their frustration or anger without affecting progress towards an effective solution.

The Trust will consider the appropriateness of independent conciliation or mediation as a possible way of resolving a complaint. The complainant and member(s) of staff involved must both agree to this process. The Trust will decide to use independent conciliators/mediators when needed.

## **Complaints Procedure**

All complaints should be handled in accordance with the SI 2009 309 regulations. A written response must be given to the person raising the complaint unless an alternative approach i.e. a meeting, has been agreed with the complainant. Any member of staff in receipt of a complaint should contact/share the complaint with the Complaints & PALS Department immediately.

The content of all new complaints is reviewed for immediate issues or concerns by the Complaints and PALS Department. All new complaints are reported to the Weekly Clinical Review Meeting.

All complaints must be responded to by the relevant authorised signatory in writing within the timescale agreed with the complainant.

On receipt of a complaint the procedure set out below, which is shown diagrammatically in appendix 4, should be adhered to:

Acknowledge receipt of the complaint within 3 working days. This will usually be done by the Complaints & PALS Department either by telephone or in

writing. Complainant to be advised of the free services provided by advocacy services i.e. the Independent Complaints Advocacy Service (SEAP) and given contact details.

Complaint to be emailed to the Directorate to start the process of identifying a suitable "Investigating Officer".

The Investigating Officer should try to contact the complainant within 3 working days to confirm the details of the concerns, the approach to be taken and to agree a timescale for response.

Where a complaint has been made on behalf of a patient, the Complaints & PALS Department will seek to obtain consent from the patient/service user regarding the disclosure of any confidential information, if agreed by the complainant.

The Investigating Officer will seek to address the complaint in the manner that has been agreed. Where an investigation is to take place, they will ensure that all those involved are appropriately consulted. The Investigating Officer should ensure that staff who are involved in the complaint are appropriately supported. Such support might be provided by the staff member's line manager/supervisor, the Complaints Manager, another Trust manager or where a complaint is particularly stressful, the Staff Support Service.

In undertaking an investigation, the Investigating Officer will consult with all those who are named in the complaint or who the complaint relates to. Comments from these individuals should be sought in writing or through telephone or face to face contact. They should be advised of the details of the complaint that relate to them. This may or may not involve giving them a full copy of the complaint letter. The Investigating Officer should make a formal note of any telephone conversation or meeting and should ensure that this record is approved by all parties involved in the discussion.

The Investigating Officer should submit all their records and the relevant documentation within the agreed timescales. Where an investigation has been undertaken a formal written report, which details the process of the investigation, their findings, conclusions and recommendations must be submitted. All documents must be submitted using the Trust's templates (available on the intranet or from the Complaints & PALS Department). The Investigating Officer will prepare a draft letter of response to the complainant on behalf of the authorised signatory.

Where the Investigating Officer is unable to meet the original timescale, they should discuss the progress and any issues with the Complaints & PALS Manager before contacting the complainant to agree a revised timescale

The Complaints & PALS Manager will review the complaints papers ensuring that the complaint has been appropriately handled in accordance with the agreed complaints plan. The Complaints & PALS Manager will review and edit the draft letter of response, as necessary, and forward to the authorised signatory for comment and signing.

The letter of response will advise complainants of their right to refer their complaint to the PHSO.

The response letter will be sent to the complainant by first class post or via email. The correspondence will be marked "private and confidential" or "personal". The response should be sent within the timescale agreed with the complainant. Where it is not possible to respond to the complainant within this timescale, the Complaints & PALS Manager will ensure that the complainant is kept up to date as to progress with the investigation and that a new timescale is agreed.

The Investigating Officer will make recommendations and the Service Manager/Team Manager will be responsible for creating an action plan and sharing this with those allocated to complete the actions, including providing details of timescales. The Complaints & PALS Department will circulate a copy of the final action plan to all those named within it.

The Complaints & PALS Department will monitor the completion of actions alongside Directorates.

The Complaints & PALS Department can be consulted throughout this process for further advice and guidance. Written guidance is also available on the intranet.

### **Out of Hours Procedures**

When a complaint is received out of hours the member of staff receiving the complaint should listen to the complainant and ascertain whether immediate action needs to be taken or whether it would be appropriate to hold the complaint until the next working day.

If the complaint requires immediate action and the member of staff is unable to carry out the necessary action themselves, they should refer the complaint to a senior colleague e.g. Ward Manager, Senior Nurse on-call, Service Manager on-call, Director on-call.

If the complaint does not require immediate action the member of staff should ensure that their line manager and/or the Complaints & PALS Department are informed of the complaint on the next working day.

Recording and reporting of the complaint should be carried out in the usual way.

### **The Parliamentary Health Service Ombudsman (PHSO)**

Any complainant has the right to refer their complaint to the Parliamentary and Health Service Ombudsman once they have exhausted the Trust's complaints procedures. The Complaints & PALS Manager is responsible for responding to all requests for information and action from the PHSO.

#### *Requests from the Ombudsman for information:*

1. The letter from the Ombudsman should be passed to the Complaints & PALS Department as soon as possible.
2. Complaints & PALS Manager to acknowledge receipt of the letter to the Ombudsman's Office, which should be done within two working days.
3. Complaints & PALS Manager to advise the relevant Clinical Director of the request. The Clinical Director is responsible for informing relevant staff about the request.
4. Complaints & PALS Manager to prepare all relevant documents (this may include a photocopy of the health records and the complaints file). The documentation will be checked by the Complaints & PALS Manager. The Complaints & PALS Manager will send a covering letter with the documentation.
5. The Complaints & PALS Department will email or post the letter and documentation to the Ombudsman by Royal Mail Recorded Delivery or secure email. These papers should be posted within the deadline set by the Ombudsman. If this is not achievable the Complaints & PALS Department will negotiate an extension to the deadline after prior discussion with the Complaints & PALS Manager.

#### *Outcome of the Ombudsman's Review:*

1. The letter notifying the Trust of the outcome of the Ombudsman's review should be sent to the Complaints & PALS Department by the Chief Executive's Office as soon as possible.
2. The Complaints & PALS Department will circulate the letter and any accompanying report to the relevant Director for onward distribution. The letter (and report) will also be circulated to any other relevant person as appropriate.
3. Any further requests from the Ombudsman for information will be managed by the Complaints & PALS Department.

#### *Request from the PHSO for further action by the Trust*

Where the PHSO has made recommendations to the Trust for further action an appropriate action plan will need to be prepared:

1. The Complaints & PALS Department will liaise with the relevant Director to agree who will take responsibility for preparing the action plan.
2. The action plan will be submitted to the Complaints & PALS Department within an agreed timescale (this must be within the timescales identified by the Ombudsman).
3. The Complaints & PALS Department will prepare a letter to the Ombudsman to accompany the action plan. This letter may be signed by the Clinical Director or the Complaints & PALS Manager.
4. The person who prepared the action plan will be responsible for ensuring its implementation.
5. The Complaints & PALS Department will monitor implementation of the action plan and will request regular updates on progress as appropriate.

### **Continuous improvement**

It is important to learn from the experiences gained from complaints. The methods of analysis of complaints, incidents and claims to identify lessons learned, along with the mechanisms to ensure continuous improvement is given in the Policy for Reporting and Learning from Incidents and Deaths, Including Serious Incidents (RMHS1).

### **Further Guidance**

Further guidance for staff on how to manage concerns and complaints is included in the attached appendices. Staff are encouraged to seek additional advice or support from the Complaints & PALS Department telephone 01865 901257

The Complaints & PALS Manager is Claire Price

Tel: 01865 901257

Email: [claire.price@oxfordhealth.nhs.uk](mailto:claire.price@oxfordhealth.nhs.uk)

## **Patient Advice and Liaison Service (PALS) Operational Procedures**

### **Introduction**

Chapter 10 of the NHS Plan, 2000, sets out the Government's aim to create a patient centred NHS to ensure that patients/service users have a greater say in their care and how the NHS works.

Within the NHS Plan, 2000, was a commitment from the Government to establish Patient Advice and Liaison Services within each Trust by April 2002.

The Department of Health 2002 document "Supporting the Implementation of the Patient Advice & Liaison Service: A resource pack" set out the aims and objectives of PALS and how services should be provided.

This document should be read in conjunction with the Concerns, Complaints & Compliments Policy.

### **Aim**

The Patient Advice and Liaison Service is a free and confidential service which aims to:

- Provide information and advice.
- Help in resolving a concern.
- Listen to comments, compliments and suggestions.
- Provide support in making a complaint.
- Assist people in contacting voluntary organisations, support groups and advocacy services.

### **Availability and Accessibility**

PALS can be accessed by:

- Patients
- Relatives, carers and friends of patients
- Members of the public
- Staff
- Students

The service can be accessed by the following means:

- Telephone (including a Freephone service)
- Letter and email
- Attending a PALS Surgery
- A pre-arranged meeting at a Trust site



The service is available by telephone Monday to Friday between 9.30am and 4.30pm. An answerphone service is in operation when the service is closed or if PALS members of staff are unavailable during office opening hours.

PALS surgeries are available at various locations across Buckinghamshire, Oxfordshire & BaNES, Swindon and Wiltshire. Further details are available from the Complaints & PALS Department.

### **Duties and Responsibilities**

Complaints & PALS Manager: Is the senior manager responsible for service provision and development. Also responsible for:

- Ensuring that appropriate and relevant information about how to raise concerns and access PALS is widely available and accessible for patients, relatives, carers and members of the public.
- Ensuring that the service is available at the advertised times.
- Ensuring all contacts to PALS are dealt with confidentially and in a timely manner.
- Ensuring that a database of all PALS contacts is kept.
- Ensuring that learning occurs as a result of PALS contacts and appropriate actions taken.
- Identifying common trends or patterns arising from complaints. Facilitate shared learning across the Trust for overall quality improvement.
- Reviewing PALS procedures and service documents as required.
- Ensuring that PALS staff receive appropriate line-management supervision and support
- Ensuring the health and safety of PALS staff.

PALS Lead and PALS Officers and responsible for:

- Dealing with enquiries made to the PALS Offices, liaising with staff, external agencies and other identified persons as appropriate.
- Providing a timely response to enquiries.
- Ensuring confidentiality is maintained in accordance with Trust Policy.
- Undertaking their duties in a way which ensures their health and safety and that of others, carrying out risk assessments as required.
- Keeping accurate and up-to-date records of all enquiries and actions taken.
- Reporting cases to the Complaints & PALS Manager as required.
- Providing written reports to the Complaint & PALS Manager when requested.
- Identifying learning and appropriate actions as a result of issues raised with PALS.

All Trust staff are responsible for:

- Resolving concerns and responding to enquiries as they arise in a timely and sensitive manner.
- Referring persons to PALS where necessary.
- Responding to requests from PALS for assistance in resolving an enquiry.
- Taking action to improve services where appropriate.

### **Core Functions of PALS**

- To be an identifiable and accessible service to patients, their relatives, carers, friends and to members of the public.
- To provide on the spot help whenever possible, negotiating immediate solutions and ensuring speedy resolution of concerns and problems.
- To listen and provide relevant information, advice and support to help resolve concerns quickly and efficiently.
- To liaise with staff, other professionals, external organisations, other PALS staff to facilitate a resolution. To refer clients of PALS, where appropriate, to independent advice and advocacy support from local and national agencies, including the Independent Complaints Advocacy Service (SEAP) or Powher.
- To provide accurate information to patients, their relatives, carers and friends and to members of the public.
- To submit regular anonymised reports to identified Committees within the Trust as directed by the Committees.
- To identify learning from PALS contacts and to share this information with Directorates to ensure Trust-wide learning.
- To operate within a local PALS network to ensure a seamless service for PALS clients.

### **Core Standards**

- PALS is identifiable and accessible to the community served by the Trust.
- PALS is a free and confidential service.
- All clients of PALS will be given information about the options available to them for the resolution of their issue, concern or complaint.
- PALS will enable people to access information about the Trust's services, local and national health and social care services, external voluntary agencies and other services as required.
- PALS will acknowledge receipt of an enquiry within two working days (Monday to Friday). PALS will aim to achieve resolution of an enquiry within 10 working days. Where this is not possible, PALS will keep the client informed of progress.
- PALS plays a key role in bringing about service improvements across the Trust as a result of people's experiences.
- PALS staff are appropriately trained and competent to provide the services specified.

## **Confidentiality**

PALS is a confidential service. All PALS staff are required to maintain a person's confidentiality in accordance with the Trust's Confidentiality Policy. PALS staff must actively seek the consent of the client before sharing information about the enquiry with any person outside of the service. Consent should always be sought from the patient/service user before sharing any personal and confidential information.

## **Sharing information with clinical staff**

PALS staff must ensure that they always share concerns raised about patients care or members of staffs practice in a timely manner, to ensure that these concerns can be addressed quickly. In some instances, initially you may feel it appropriate to approach the member of staff's line manager directly. It is important to ensure that all cases are carefully followed-up and that local resolution has been completed. If the enquirer remains unhappy, further advice must be provided about the next steps which can be taken. For complex cases, further advice should be sought from the Complaints Manager.

## **Record keeping and storage of information**

PALS staff will keep an electronic record of all PALS contacts. These records will only be made available to staff working within PALS unless advised to the contrary by the Complaints & PALS Manager. All records will be held in a secure place to ensure confidentiality is maintained.

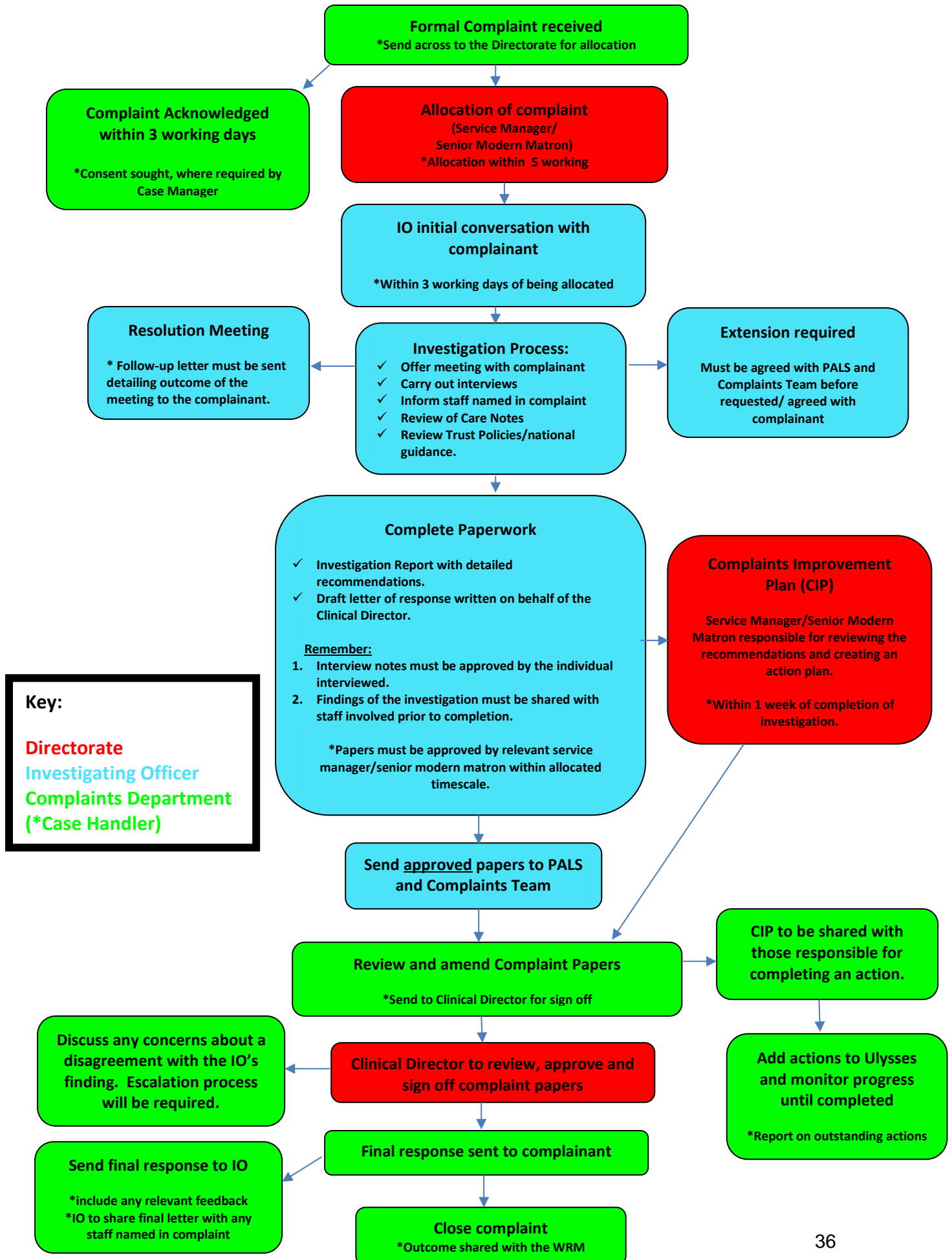
## **Discrimination**

The Complaint & PALS Manager will seek to ensure that any person accessing PALS is not discriminated against as a result of their enquiry. Clients of PALS will be encouraged to report any discrimination to the Complaints & PALS Manager. The Complaints & PALS Manager will take immediate action upon notification of any act of discrimination.

## **Further Guidance**

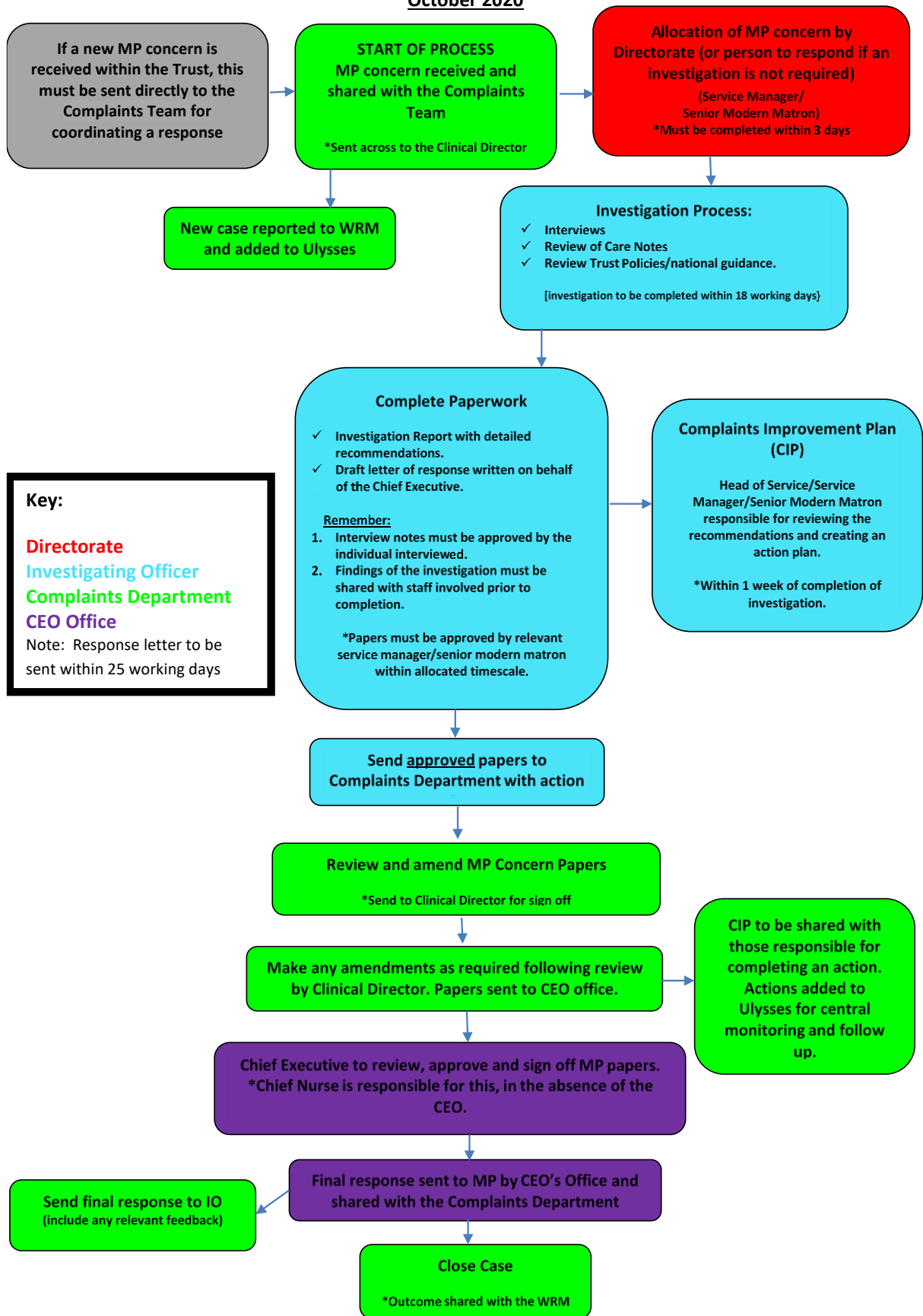
Further information and guidance in relation to PALS can be obtained from the PALS Offices, PALS Lead or the Complaints & PALS Manager.

## Formal Complaints Process



**MP Concern Process Overseen by the PALS and Complaints Team**

October 2020



**Key:**

**Directorate**

**Investigating Officer**

**Complaints Department**

**CEO Office**

Note: Response letter to be sent within 25 working days

### Matrix for grading of complaints

#### Step One: Assess the severity of the issue

Severity	Description
1 Negligible	Minor dissatisfaction, no impact or risk to care
2 Minor	Unsatisfactory experience or service not directly related to care or unsatisfactory experience related to care but usually a single resolvable issue. Minimal impact and relative minimal risk to provision of care or the service. No potential for litigation or media involvement.
3 Moderate	Service or experience below reasonable expectations in several ways but not causing lasting problems. Has potential to impact on service provision. Some potential for litigation or media involvement.
4 Major	Significant issues regarding standards of care, quality of care and safeguarding or denial of rights. Issues with clear quality management or risk management issues that may cause lasting problems and so require investigation. Possibility of adverse publicity or litigation.
5 Catastrophic	Serious issues that may cause long-term damage, such as grossly substandard care, serious injury or death. Will require immediate and detailed investigation. May involve serious safety issues. A high probability of litigation and adverse publicity.

#### Step Two: Decide how likely the issue is to recur

Likelihood	Description
1 Rare	Isolated one-off issue, slight or vague connection to service provision.
2 Unlikely	Unusual but may have happened before.
3 Possible	Happens from time to time but not frequently or regularly.
4 Likely	Will probably occur several times a year.
5 Almost certain	Recurring and frequent, predictable.

**Step Three: Categorise the risk and grade the complaint**

	Likelihood				
Likelihood score	1	2	3	4	5
	Rare	Unlikely	Possible	Likely	Almost certain
<b>5 Catastrophic</b>	5	10	15	20	25
<b>4 Major</b>	4	8	12	16	20
<b>3 Moderate</b>	3	6	9	12	15
<b>2 Minor</b>	2	4	6	8	10
<b>1 Negligible</b>	1	2	3	4	5

For grading risk, the scores obtained from the risk matrix are assigned grades as follows

	1 - 3	Low risk
	4 - 6	Moderate risk
	8 - 12	High risk
	15 - 25	Extreme risk

## **Procedure for dealing with habitually demanding, repetitive or vexatious complainants and/or habitually demanding, repetitive or vexatious behaviour**

Habitually demanding, repetitive or vexatious complainants, and/or people who exhibit habitually demanding, repetitive or vexatious behaviours represent a particular challenge in the resolution of complaints. Handling such people or complainants could place a strain on time and resources and cause unacceptable stress for staff, who may need support in difficult situations. The majority of people who come into contact with staff employed by the Trust do not display such behaviour. This procedure is for the minority who do.

In certain circumstances (for example as per points 6 and 7 below), it may also be appropriate for staff to involve the police (as per the procedure set out in the appendices to the Policy For Reporting And Learning From Incidents And Deaths, Including Serious Incidents at RMHS1) or for staff to summon assistance in accordance with the Policy on Reducing Restrictive Interventions (formerly the Prevention & Management of Violence and Aggression) at CP29 which applies to incidents originating from members of the public as well as from patients or service users.

The procedure outlined in this document will be used after reasonable measures have been taken to try to resolve issues locally including through the NHS complaints procedure. Judgement and discretion must be used in applying the criteria to identify such behaviour and in deciding on the action to take in each individual case.

The procedure will be implemented following careful consideration by the Complaints & PALS Manager with the authorisation of the Chief Executive and any relevant Director (or their deputies).

### **Purpose of procedure**

To identify situations where someone might be considered to fall into these categories and establish a procedure to protect staff from the nuisance, abuse and threatened or actual harm, which may be caused by such behaviour.

### **Definition**

A complainant, or others coming into contact with the Trust, may act out of character. They may show signs of vexatious behaviour for several reasons and may be unaware that their attitude/behaviour is causing unnecessary distress to others. Unacceptable behaviour that continues through several contacts however should be considered against this procedure.

One definition of vexatious behaviour is to harass, distress, annoy, tease, cause trouble, agitate, disturb or pursue issues excessively. Behaviour exhibited by a person



(**and/or anyone acting on their behalf**) may be deemed to be habitually demanding, repetitive or vexatious where previous or current contact with them shows that they meet any of the following criteria:

*Theme: no reasonable end in sight*

1. **Persisting in pursuing a complaint** where the NHS complaints procedure has been fully and properly implemented and exhausted, but no appeal has been made to the Parliamentary Health Service Ombudsman.
2. **Seeking to prolong contact** by continually raising further concerns or questions upon receipt of a response or changing the substance of a complaint whilst it is being dealt with. Please note that care must be taken not to discard new issues which are significantly different from the original issues. These might need to be addressed as separate issues.
3. **Unwilling to accept documented evidence** by denying receipt of an adequate response, in spite of correspondence specifically answering their questions.

*Theme: focus (can be shifting or the opposite - unwavering)*

4. **Does not clearly identify the precise problem** despite reasonable efforts of Trust staff and, where appropriate, SEAP or Powher advocacy, to help them specify their concerns, and/or where the concerns are not within the remit of the Trust to investigate.
5. **Focuses on a matter to an extent which is out of proportion to its significance** and continues to focus on this point.

*Theme: threatening behaviour*

6. **Has threatened or used actual physical violence towards staff or their families or associates.** This will, of itself, cause personal contact with the person and/or their representatives to be discontinued and the issue will, thereafter, only be pursued through written communication. Such incidents should also be documented and reported, as appropriate, to the police.
7. **Has harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their issue or their families or associates.** Staff should recognise that people may sometimes act out of character at times of stress, anxiety or illness and should make reasonable allowances for this. However, such incidents should also be documented and may be reported, as appropriate, to the police; if the police and the Crown Prosecution Service decide not to prosecute then the Trust may, at its discretion, offer its staff the option to consider commencement of a private prosecution or other appropriate civil action, such as an injunction, and the Trust may, at its discretion, provide its staff with appropriate support in taking such action.
8. **Has threatened to or made defamatory comments** about staff to the press or on social media.

*Theme: unreasonable behaviour*

9. Has had, in the course of addressing an issue, an **excessive number of contacts with the Trust**, placing unreasonable demands on staff time or resources (a contact may be in person, or by telephone, letter or e-mail). Judgement must be used in determining what is an “excessive number” of contacts and this will be based on or the specific circumstances of each individual case.
10. **Does not adhere to previously agreed communication plans**, codes of behaviour or other contact agreements with the Trust.
11. **Displays unreasonable demands or expectations** and fails to accept that these may be unreasonable (i.e. insists on responses being provided more urgently than is reasonable or normally recognised practice).

The context and history of the complaint or behaviour should be taken into account when considering the above criteria. An individual complaint or behaviour may not be habitually demanding, repetitive or vexatious in isolation but in context may form part of a wider pattern of habitually demanding, repetitive or vexatious behaviour.

This context may extend to others/third parties acting on behalf of a person or, if the person has not been named, in relation to circumstances and issues which can be associated with a person where they have behaved in accordance with the above criteria. A person/third parties acting on behalf of another or their issues is/are not exempted from this procedure.

### **Decision-making, involvement and information sharing**

Where people have been identified as exhibiting habitually demanding, repetitive or vexatious behaviour in accordance with the above criteria, the Chief Executive, the relevant Director and the Complaints & PALS Manager (or their deputies), will decide what action to take. The Chief Executive (or deputy) will then implement the action and will notify such individuals, in writing, of the action that has been taken and the reasons for it.

Names of individuals who have been classified as habitually demanding, repetitive or vexatious will also be communicated by the Complaints & PALS team to the office of the Director of Corporate Affairs & Company Secretary as this may affect the suitability of the individual(s) to become or remain a Member or a Governor of the Trust under the terms of the Constitution.

If appropriate, notifications under this procedure may be copied for the information of others involved e.g. General Practitioner, an advocacy service and Members of Parliament. A record will be kept of the reasons why someone has been classified as habitually demanding, repetitive or vexatious.

Sharing of information will be appropriate and in accordance with the Integrated Information Governance Policy at CORP 09 and the terms of legislation such as the

General Data Protection Regulation, as may be in force from time to time. The Trust will process personal data in accordance with a valid lawful basis (or bases, if applicable and appropriate) including, but not limited to relevant legal obligations; a task in the public interest or for the Trust's official functions; or for other legitimate interests.

**Options for dealing with habitually demanding, repetitive or vexatious complainants and/or habitually demanding, repetitive or vexatious behaviour**

Depending upon the circumstances, some, all or a combination of options may be explored with an individual but in each case the Trust will communicate to the individual the action which is being taken and the reason(s) why. In certain circumstances, depending upon the context or history of the complaint or behaviour (for example if an individual continues to exhibit threatening, abusive or unreasonable behaviour), then the Trust may proceed directly to a final written notice.

*Written warning*

Once it has been determined that an individual meets the criteria above, it may be appropriate to inform them in writing that if such conduct continues then they **may be** classified as habitually demanding, repetitive or vexatious. The letter should state which elements of their behaviour this relates to and be accompanied by a copy of this procedure. If people are using the NHS complaints procedure, they should also be advised to seek advice e.g. from their local advocacy provider in presenting their complaint.

*Agreed communication plan, contact agreement or code of behaviour*

It may sometimes be appropriate to try to manage or resolve matters by drawing up a signed agreement with the person, which sets out a code of behaviour for the parties involved, if the Trust is to continue communication or to process a complaint, for example:

- restricting contact to one or two individuals within the Trust and/or through a third party such as a local advocacy provider; or
- restricting the method of communication i.e. in writing only.

*Final written notice*

However, where the Trust has responded fully to the points raised by the person, or by the person whose issues they are representing, and has tried to resolve the issues, without success, and continuing contact on the matter would serve no useful purpose then the individual will be notified by the Chief Executive (or deputy) that: they have been classified as habitually demanding, repetitive or vexatious, in accordance with this procedure; contact with them is at an end; and further contact will not be answered.

Depending upon the circumstances, which may be unique in each case, ending contact in this way or trying to manage contact by one of the means set out above (such as an agreed communication plan) does not necessarily mean that an individual

is being, or would be, denied medical treatment. However, the Trust may arrange for medical treatment to be through an alternative provider or may suggest an alternative provider, liaising, as may be appropriate, with an individual's referring GP or other primary care services or other services.

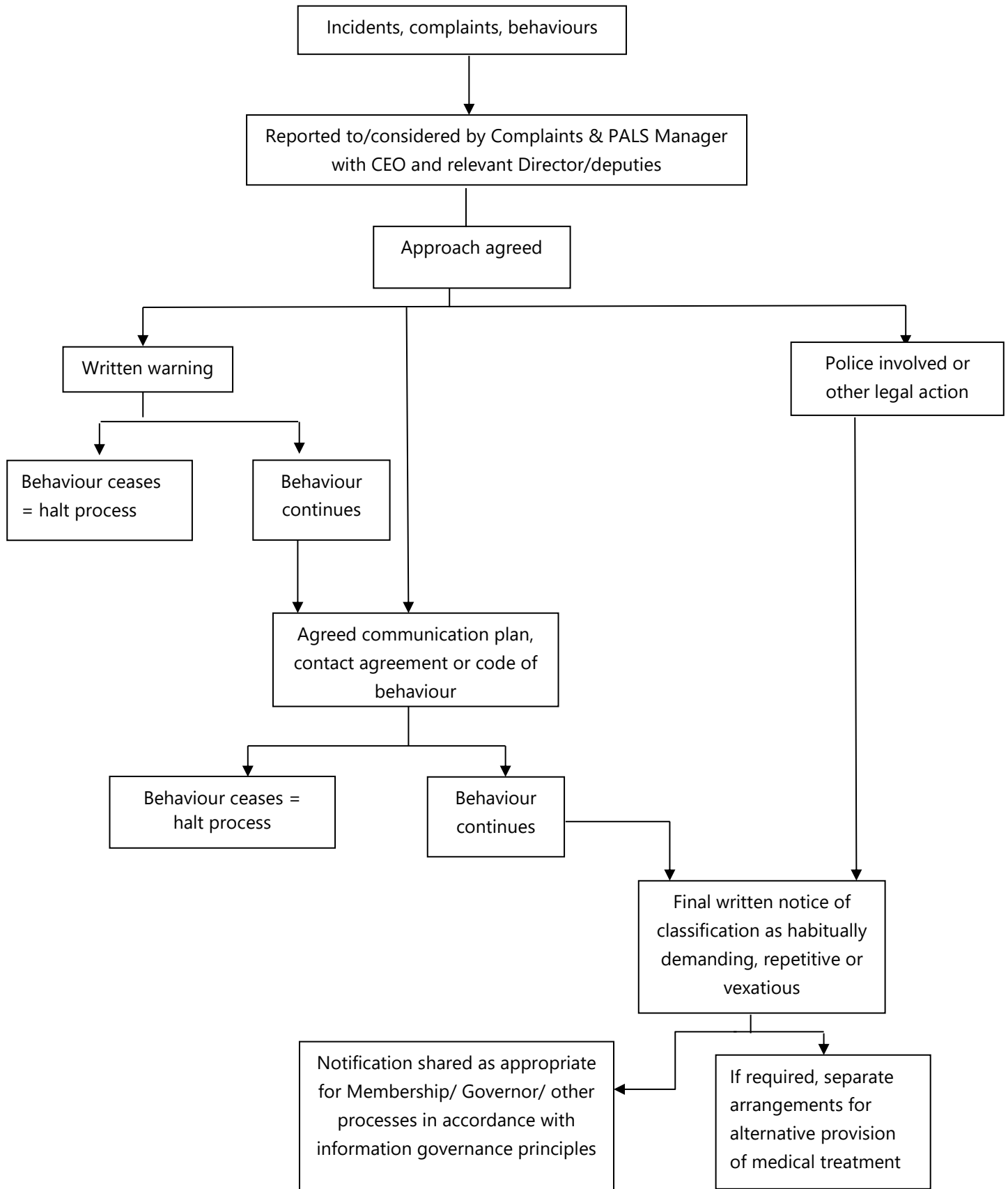
### **Withdrawing habitual or vexatious status**

Where people have been classified as habitually demanding, repetitive or vexatious, there needs to be a mechanism for withdrawing this status if, for example, they submit a further complaint for which the normal complaints procedures would be appropriate. Where it appears to be appropriate to withdraw "habitually demanding, repetitive or vexatious" behaviour status, even if only for a specific duration or consideration of a specific matter, then the approval of the Chief Executive and relevant Director (or their deputies) will be required. Subject to this approval and any relevant terms, contact with the person will be resumed.

### **Freedom of Information Act 2000**

Where a Freedom of Information Act request is made by a complainant or person who has been designated as habitually demanding, repetitive or vexatious, the Trust may, in assessing whether that individual request is a vexatious request, take into account the habitually demanding, repetitive or vexatious complainants/behaviour if it considers this to be relevant. In doing so, the Trust will also follow the Information Commissioner's guidance on vexatious requests.

**Example process flow chart for dealing with habitually demanding, repetitive or vexatious behaviour**  
(individual cases may vary)



<b>CONCERNS RECORDING FORM</b>	
<b>SECTION A: CLIENT'S DETAILS</b>	
Name (including title: Mr/Mrs/Miss/Ms/Dr/Rev)	
Address:	
Post code:	Telephone:
<b>IS THE CLIENT A PATIENT?</b>	<b>YES/NO</b>
<i>If no and the concern involves/relates to a patient/service user in any way, please complete Section B below</i>	
<b>SECTION B: PATIENT'S DETAILS</b>	
Name (including title: Mr/Mrs/Miss/Ms/Dr/Rev)	
Address:	
Post code:	Telephone:
<b>Client's relationship with patient</b> (relative, carer, friend, advocate):	
<b>Has the patient/service user given permission for information to be passed to the client?</b> YES/NO	
<i>(Please ensure that you actively approach the patient/service user to obtain permission). Please indicate below the date when you did this:</i>	
<b>Date:</b>	
<b>Status</b> (informal/formal Inpatient/outpatient):	
<b>Patient Hospital Number:</b>	
<b>Ward/Unit (if relevant):</b>	
<b>Directorate:</b>	

<b>SECTION C: CONCERN DETAILS</b>	
<b>Date Received:</b>	
<b>Ward/Team concerns relate to:</b>	
<b>Concern received by:</b>	
<b>Designation:</b>	
<b>Telephone Number:</b>	
<b>Summary of Concern:</b>	
<b>Action Taken:</b>	
<b>Service Improvement:</b>	
Name:	Sign:
Date:	

**A COPY OF THIS FORM MUST BE KEPT IN A CONFIDENTIAL PLACE AND  
MUST NOT BE FILED ON THE PATIENT'S HEALTH RECORDS**

<b>Equality Impact Assessment</b>	
<b>Service Area: Complaints &amp; PALS</b>	<b>Date: 29 July 2020</b>
<b>Title of policy, strategy or service:</b> <b>Concerns, Complaints, Compliments Policy and Procedure</b>	
<b>Short description of policy, strategy or service:</b>	
<p>Oxford Health NHS Foundation Trust aims to provide the highest possible quality of health care. However, there will be times when people using the Trust's services and their relatives and carers, may at times be dissatisfied with the treatment of services which they have received. The policy sets out how people may raise concerns and complaints and how staff should seek to resolve these. The policy also sets out how Trust records compliments and praise.</p> <p>The Patient/service user Advice &amp; Liaison Service (PALS) provides an opportunity for the early resolution of concerns as they occur. This informal resolution helps to reduce the need for patients, relatives and carers to seek resolution through the Trust's formal complaints procedure. The key objective of this policy is for staff to promptly and fully resolve concerns at an appropriate level. Wherever possible, and where the "complainant" is agreeable, resolution should initially be sought at team level.</p> <p>The Complaints &amp; PALS Department should provide patients, relatives, carers and members of the public with clear options about how they may raise concerns and complaints. To ensure that all staff are aware of the options available to patients, their relatives and carers for raising concerns and complaints. Additionally, to ensure that all staff are appropriately trained to respond to concerns and complaints. To ensure sure that concerns and complaints are dealt with openly and as promptly as possible. To ensure that the Trust learns from concerns and complaints and that improvement plans are implemented and to ensure that concerns and complaints play a key role in informing service and quality improvements.</p>	
<b>What is the likely positive or negative impact on people in the following groups?</b>	
<i>Older or younger people:</i> This policy covers services across the Trust. Therefore, there should not be a negative impact.	
<i>People with disabilities:</i> This policy covers services across the Trust. Therefore, there should not be a negative impact.	
<i>People from different ethnic/cultural backgrounds (including those who do not speak English as a first language):</i> Initially people from ethnic backgrounds with possible language barriers may experience negative impact, although the Complaints & PALS team have links with translators and advocates able to assist in using the service.	
<i>Men, women or transgender people:</i> This policy covers services across the Trust and is accessible to all service users, carers, relatives and members of the public. Therefore, there should not be a negative impact.	
<i>People with different religious beliefs or no religious beliefs:</i> This policy covers services across the Trust and is accessible to all service users, carers, relatives and members of the public. Therefore, there should not be a negative impact.	
<i>Gay, lesbian, bisexual or heterosexual people:</i> This policy covers services across the Trust and is accessible to all service users, carers, relatives and members of the public. Therefore, there should not be a negative impact.	
<i>People from a different socio-economic background:</i>	



<p>This policy covers services across the Trust and is accessible to all service users, carers, relatives and members of the public. Therefore, there should not be a negative impact.</p>
<p><i>People from a different socio-economic background:</i>  This policy covers services across the Trust and is accessible to all service users, carers, relatives and members of the public. Therefore, there should not be a negative impact.</p>
<p><b>Evidence</b></p>
<p><i>What is the evidence for your answers above?</i>  The policy is accessible to all service users and their relatives/carers which is evidenced through the previous concerns and complaints we have received.</p>
<p><i>What does available research say?</i> N/A</p>
<p><i>What further research would be needed to fill the gaps in understanding the potential difficulties or known effects of the policy?</i> N/A</p>
<p><i>Have you thought about consulting/researching this gap? What would you need?</i> N/A</p>
<p><i>Does the policy need a Full Equality Impact Assessment?</i> No  Considering the anticipated neutral impact of this policy, it is not felt necessary to pursue a further, more detailed assessment. Impact of the policy will be monitored over time through the Caring Committee and Complaint Review Panels.</p>