

<b>COMPLAINTS HANDLING POLICY</b>	<b>Type: Policy</b> <b>Register No: 04082</b> <b>Status: Public</b>
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## **1.0 Purpose**

- 1.1 This document describes the systems and processes Mid Essex Hospital Services NHS Trust has in place to proactively consider and handle all formal and informal complaints raised by patients or their families. It outlines the responsibilities of staff involved and provides guidance of good practice at each stage of the process.
- 1.2 This policy promotes a culture of putting the patient and their families first at all times. How the Trust responds and learns from complaints provides an insight into how effective the Trust is as an organisation in upholding fundamental standards of care and ensuring a visible culture of caring and compassion for all patients.
- 1.3 This policy provides the framework for Trust staff to follow to ensure that concerns and complaints raised are valued, listened to, actions are taken where required to demonstrate that lessons have been learnt. A robust process is in place to monitor the progress of recommended changes.
- 1.4 This policy covers all complaints made about services provided by Mid Essex Hospital Services NHS Trust to our patients. This includes services at the main hospital site (Broomfield Hospital) but also includes any Trust services provided on other sites (including Braintree Community Hospital, Braintree, and St Peter's Hospital, Maldon)

## **2.0 Introduction**

2.1 This policy has been developed in accordance with the:

2.2 **National Health Service Complaints Regulations (England) 2009**; the Trust will:

- Acknowledge all complaints verbally or in writing within 3 working days.
- Offer all complainants the opportunity to discuss how their complaint will be handled.
- Agree the timeframe of an investigation and the likely timeframe for sending the written response with the complainant.
- Take all complaints seriously and will deal with them efficiently and investigate them thoroughly.
- Treat all complainants with respect and courtesy at all times.
- Provide all complainants with assistance to enable them to understand the Trust process of how to complain and ensure they are given advice of how further support can be given if required.
- Ensure all complainants receive a timely and an appropriate response, they will be told the outcome of any investigation undertaken and what action has been or will be taken in light of the outcome of the complaint.

2.3 **NHS Constitution (2013)**

- The Trust is accountable to our patients, the local community and the public
- It aspires to provide the highest standards of excellence and professionalism 'in the provision of a high-quality of care that is safe, effective and is focused upon the patient experience'.

2.4 By law our patients and their families have:

- The right to have any complaint they make about the NHS dealt with efficiently and for it to be properly investigated.
- The right to know the outcome of any investigation undertaken.
- The right to take a complaint to the Independent Health Service Ombudsman if they are not satisfied with the way it has been dealt with.

## 2.5 **The Parliamentary and Health Service Ombudsman Principles of Good Complaint Handling (2012)**

In line with this document the Trust will:

- Aim to get it right first time and reach an early resolution
- Be patient/customer focused
- Be open, honest and accountable
- Act fairly and proportionately
- Strive to put things right
- Continuously improve the care we provide to our patients.

2.6 The Trust and its staff are committed to providing the highest standard of care to our patients. The Trust takes all comments, feedback and complaints very seriously. They are viewed as learning opportunities. The organisation will be open, transparent and accountable at all times for the care provided.

2.7 The Trust is committed to ensuring that patient and their families have easy access to information of how to raise a concern or make a complaint which reassures them that their issues will always be responded to promptly, fairly and justly without prejudice to their existing or future care and treatment.

## 3.0 **Scope**

3.1 This policy is applicable to all staff who work for the Trust.

3.2 This policy refers to the management of all complaints except those that relate to the following which should be referred to the Information Governance Manager:

- Data Protection Act or alleged breach of confidentiality or a data security issue
- Freedom of Information Act
- Access to Health Records Act

## 3.3 **Anonymous Complaints**

3.3.1 If a complaint is made anonymously then clearly a response cannot be given either verbally or written. Details of these concerns received are then passed to the relevant Clinical Director/Deputy Director of Nursing and Associate Directors of Nursing for information and action as appropriate.

3.3.2 The Trust proactively monitors and responds to Patient Opinion and NHS Choices websites which are anonymous. Complainants are actively encouraged to make

contact with the Patient Experience team so that their concerns can be acted upon. All feedback received is shared with the relevant clinical team.

## **4.0 Roles and Responsibilities**

### **4.1 All Trust Staff**

- All staff are expected to take any concern raised by a patient or their family seriously, to act compassionately, to listen and to view it as an opportunity to learn and improve the care that can be given to future patients.
- All Trust staff are expected to make every effort to resolve concerns and complaints when they are raised within their ward/department, and know who to escalate the issue to if they are unable to resolve the concerns personally and where appropriate do this via the Trust's Whistleblowing Policy (Register no 04034).
- All Trust staff are expected to be aware and follow of the Trust's Complaints Policy. All staff need to know how and where to find the information about the PALS and Complaints Team for patients and relatives should they request it.
- All staff must forward any written complaints received immediately to the PALS and Complaints Team for action.
- No member of staff should respond directly to a formal complaint, even if the complaint is addressed to them personally.
- All staff have a duty to ensure that no patient is discriminated against or their care adversely affected following a complaint.

### **4.2 Chief Executive**

- Is the accountable and responsible person who will ensure the Trust's complaints handling processes comply with the National Regulations
- Will ensure action is taken where necessary in the light of the outcome of complaints.
- Will ensure that no patient is discriminated against or their care adversely affected following a complaint.
- Will ensure there are systems in place to provide support for staff involved in complaints.
- Will personally (or his/her designated representative) respond to all formal complaints

### **4.3 Managing Director**

- Accountable to the Chief Executive.
- Delegated responsibility for the overall performance and handling of the complaint processes within the Trust.
- Responsible for the active promotion of a customer service culture that always puts patients first.
- Will ensure that no patient is discriminated against or their care is adversely affected following a complaint.
- Will ensure that there are systems in place to provide support for staff involved in complaints.

#### 4.4 **Chief Operating Officer**

- Accountable to the Managing Director
  - Provide strong professional leadership to all staff to ensure a culture of care and compassion is embedded throughout the organisation in the handling of complaints.
  - Will ensure all Assistant Directors of Operations, Service Managers and Departmental Heads comply with the Trust Complaints and Handling Policy.
  - Will ensure all Assistant Directors of Operations, Service Managers and Departmental Heads learn from the outcome of complaints and take remedial action where necessary to improve the future experiences of all patients
  - Will ensure that no patient is discriminated against or their care adversely affected following a complaint.

#### 4.5 **Director of Nursing**

- Accountable to the Chief Executive.
- Provide strong professional leadership to all staff to ensure a culture of care and compassion is embedded throughout the organisation in the handling of complaints.
- Will ensure all nurses and Allied Health Professional comply with the Trust Complaints and Handling Policy.
- Will ensure all Ward Sisters, Matrons and Associate Directors of Nursing and Midwifery learn from the outcome of complaints and take remedial action where necessary to improve the future experiences of all patients
- Will ensure that no patient is discriminated against or their care adversely affected following a complaint.

#### 4.6 **Chief Medical Director**

- Accountable to the Chief Executive.
- Provide strong professional leadership to all staff to ensure a culture of care and compassion is embedded throughout the organisation in the handling of complaints.
- Will ensure all medical staff comply with the Trust Complaints and Handling Policy.
- Through the process of validation will ensure all medical staff learn from the outcome of complaints and take remedial action where necessary to improve the future experiences of all patients.
- Will ensure that no patient is discriminated against or their care adversely affected following a complaint.

#### 4.7 **Head of Patient Experience, Public Engagement and Culture Lead**

- Accountable to Director of Nursing.
- Will actively promote a culture of care and compassion across the organisation of handling complaints.
- Acts as the Trust's senior manager and lead for the management and handling of complaints.
- Will provide advocacy and support to patients and their families to pursue and reach a satisfactory resolution to very complex complaints or concerns.

- Will act on behalf of the Chief Executive and Executive Team in the management of very complex complaints.
- Will ensure the findings from concerns and complaints are triangulated with all other forms of patient feedback to ensure it informs the ongoing work of programme staff to improve the patient experience.

#### 4.8 **PALS and Complaints Manager**

- Accountable to the Head of Patient Experience, Public Engagement and Head of Culture.
- Has delegated responsibility from Chief Executive to ensure the Trust fulfils the full responsibilities of the NHS Complaints Regulations and the NHS Constitution.
- Ensures best practice is followed by all line managers and other staff in the handling and management of complaints.
- Leads the management of all Ombudsman reviews and concerns raised by parliamentary MPs.
- Will provide appropriate administration support to the Directorates for the handling of all Ombudsman and MP complaints.
- Is responsible for the provision of complaint and learning reports as required by:
  - Department of Health
  - Trust Board
  - Executive Team
  - Directorates
  - Patient Safety & Quality Committee
- Will provide complaint training for investigating officer and all other staff.
- Work in partnership with all relevant NHS organisations in the provision of a seamless complaints handling process for patients and their families.
- Will network with other Complaints Managers within Essex and the Eastern Region to share information and policies, learn from the experience of other Trusts.
- Will provide learning reports for each Directorate to enable them to recognize and act upon recurrent themes and trends from complaints to enable learning and changes to practice.
- Will work in partnership with the Patient Experience Team to ensure the feedback from complaints informs the overall plan to improve the patient experience.
- Will ensure the PALS & Complaints Team provide an effective administrative support to the clinical directorates.

#### 4.9 **All other members of the Executive Team**

- Accountable to the Chief Executive
- Provide strong leadership to all staff to ensure a culture of care and compassion is embedded throughout the organisation in the handling of all complaints
- Will ensure all staff within their remit comply with the Trust Complaints and Handling Policy
- Will ensure all staff within their remit learn from the outcome of complaints and take remedial action where necessary to improve the future experiences of all patients

- Will ensure that no patient is discriminated against or their care adversely affected following a complaint.

#### 4.10 **Divisional Director/Clinical Directors/Associate Director of Nursing/ Matrons/Heads of Departments**

- Professionally accountable to Director of Nursing and Medical Director  
Managerially accountable to the Managing Director.
- Will appoint investigating officers for all complaints regarding their Directorate
- Will provide support to staff involved in complaints to engender a no blame, open and transparent culture for complaints handling.
- Will ensure all PALS concerns and Formal complaints are responded to within the agreed timescales.
- Will quality assure and approve all investigation reports to ensure they address all issues raised and are open and honest prior to the report being sent to the PALS and Complaints Team.
- Will ensure where applicable lessons are learnt and the subsequent changes are made to practice or policy are documented.
- Will ensure all recommendations for changes to be made are monitored and implemented in the agreed time frames and that the provided audit forms are completed and sent back to PALS and Complaints Team within the agreed timescales.

#### 4.11 **Ward Sisters/Department Leads/Consultants/Managers**

- Accountable to Matrons/Clinical Director/Departmental Manager.
- Are responsible for ensuring that all staff in their ward or department are appropriately trained in the handling of complaints.
- Will provide support to staff involved in complaints to engender a no blame, open and transparent culture for complaints handling.
- Are expected to take action to resolve a complaint or an issue of a patient or relative from their ward or department.
- Are expected to escalate to the line manager or Site Co-ordinator or Manager On Call to resolve if it cannot be resolved at that their level.
- Will act upon a PALS Concern or investigate a formal complaint within the agreed time scales.
- Will ensure complaints are viewed by the ward/department team as an opportunity to learn and improve the patient experience.
- Will ensure complaint responses reflect the learning through the recommendations made for change.
- Will ensure all recommendations for changes made are monitored and implemented within the agreed time frames.
- Will ensure all direct reporting staff comply with the Trust Complaints Policy.

#### 4.12 **Investigating Officers (Clinical/Non-clinical)**

- Will be appointed by the Directorate from a pool of trained Investigating Officers.
- Are responsible for remaining up to date in the handling of complaints.
- Will conduct a thorough investigation into all the concerns raised by the complainant through staff interviews and documentation examination. Will



draw conclusions from the facts, will then identify what the possible root cause was for the issues raised

- Will complete an Investigation Report using the approved format which answers all of the concerns raised, to ensure a satisfactory resolution is reached
- Will identify the learning made from the outcome and as a result make recommendations/changes to practice.

#### **4.13 Service Manager/Senior Manager On Call**

Outside normal working hours, complaints that require immediate attention will be reported to the Service Manager and or /Senior Manager On-Call for action. If an issue remains unresolved it should then be reported to the PALS and Complaints Department during normal working hours when the department is open.

#### **4.14 Occupational Health Department**

Will provide support to any member of Trust staff involved in a complaint that have been referred to them.

### **5.0 Who can Complain**

- 5.1 Anyone can complain who may be affected or is likely to be affected by the actions or decisions of the Trust. A patient must give their written consent for someone to act on their behalf. In the event that the patient has died, the Trust will investigate the concerns of relatives, but it has a duty of confidentiality to the patient (even after death) and there may be limits to the information that can be shared with them.
- 5.2 A complaint can be raised through a number of routes but they must be immediately forwarded to the PALS and Complaints Department where they will be acted upon.
- 5.3 In accordance with National NHS Guidance a complaint can be lodged within 12 months of the date the matter of concern occurred or if later, the date on which the matter which is the subject of the complaint came to the notice of the complainant

### **6.0 How to Complain**

- 6.1 The Trust is keen to seek feedback from our patients and their families. Proactive publicity is used to raise awareness and help patients to know how to give feedback and know how to make a complaint. This is achieved by using:
- Posters and Leaflets which are displayed in all clinical areas
  - Provision of specific leaflets for children and adults with learning difficulties
  - The Trust's web site provides email and telephone contact details of the complaints team. It provides a simple step by step guide of how to complain, the process that will be followed and how the Trust utilises feedback from complaints to improve the patient experience.

## **7.0 Levels of Investigation**

### **7.1 Concerns raised locally at ward/department level – we aim to get it right first time.**

7.1.1 If a patient or visitor approaches a member of staff with a concern, the staff member is expected to resolve these immediately with the assistance of a more senior member of staff when necessary. If the concern cannot be resolved it should be escalated to the appropriate line manager for resolution. A proactive response conveys a positive message to our patients that we are listening and will usually result in a speedy resolution so avoiding unnecessary escalation to a formal complaint.

7.1.2 When handling a complaint all staff should reassure the complainant that their concern is being taken seriously, that it will be dealt with confidentially and that it will not adversely affect their care or treatment.

7.1.3 If front line staff cannot resolve a concern they should contact a member of the PALS and Complaints team who will attend the ward or department or will make contact with the complainant to try and resolve the issue.

7.1.4 Where concerns remain, patients must be made aware of the complaints procedure, and how to contact the PALS & Complaints Team. Leaflets are available throughout the Trust informing patients of the complaints procedure that includes the relevant contact details.

### **7.2 PALS Concerns - Informal Complaints Process we aim to get it right first time.**

7.2.1 PALS aims to provide signposting to appropriate services, advice and support to service users and carers and to provide speedy, on the spot resolution for those service users, carers and relatives who seek an explanation regarding an issue or concern.

7.2.2 PALS concerns cover a large number of issues that can often be resolved up to 5 working days of receipt. These are often communicated verbally or via email. The majority of these will be resolved by the PALS and Complaints Team within 5 working days of receipt. Occasionally a PALS concern needs to be escalated to the clinical team or department to assist resolution. Where possible escalation will occur via personal contact not via email to ensure a rapid response. These concerns usually need a rapid investigation; a response can often be given verbally. If a written response is required, this can be sent from an appropriate member of the clinical team. A copy of all investigation information and any response needs to be forwarded to the PALS & Complaints Team. All PALS concerns must be resolved within 5 and no later than 10-working days.

7.2.3 The PALS and Complaints Team will log all PALS concerns and enquiries onto the Datix Database. The PALS and Complaints Team will monitor progress and escalate where necessary to the Directorates to ensure it is acted upon within the 10 day as specified in the National Guidelines.

7.2.4 A PALS concern may be upgraded to a formal complaint at any stage of the process as required.

### 7.3 Formal Complaint Process

- 7.3.1 A formal complaint is dealt with by the hospital's complaints department through a procedure known as 'local resolution'. This procedure requires the complaint to be investigated and responded to by the Chief Executive within a minimum of 25 working days.
- 7.3.2 The majority of formal complaints are received in writing by post or email. If a formal complaint is made verbally in person or over the phone a written record of the concerns reported must be made by the member of staff the complaint is reported to. This should then be forwarded to the Complaints Manager to be acted upon.
- 7.3.3 All complaints received are triaged by the Complaints Manager on the day of receipt. They are triaged into PALS concerns and formal complaints.
- 7.3.4 Formal complaints are RAG rated as follows:
- Red
  - Amber
  - Green

**Red complaints** are triaged as having a direct or potential serious impact on patient care or upon the reputation of the Trust and are deemed to be the most serious and require a formal investigation and response. If an incident is not already logged for the concerns raised in a red rag rated complaint, the Complaints Team will log an incident. This then enables the complaint to be discussed at the Executive Review Group (ERG) where a decision will be made as to whether this complaint will follow the complaints process or the incident process. The PALS and Complaints Manager will attend the ERG to ascertain the decision made.

**Amber complaints** are complaints that have a direct impact on patient care and require a formal investigation and response.

**Green complaints** are triaged as green because they do not have a direct impact on patient care but do require a formal investigation and response.

- 7.3.5 The PALS and Complaints Team will log the concerns onto the Datix Database and acknowledge the complaint by telephone, email or letter within three working days, clarifying the details of the points to be investigated and responded to. In the acknowledgement there will also be confirmation of the timescale for responding to the complaint which must be agreed with the complainant. The complaints and PALS team will communicate with the complainant as required to ensure they are kept up to date.
- 7.3.6 Staff working at any of the Trust's sites other than Broomfield (including Braintree Community Hospital in Braintree, and St Peter's Hospital in Maldon) should ensure that any complaint received directly at the hospital is immediately scanned on receipt. They should then send the scanned complaint by email to the [Complaints.MEHT@nhs.net](mailto:Complaints.MEHT@nhs.net) email account to inform Complaints Staff at Broomfield Hospital who will ensure that the complaint is logged onto the Datix Database. From this point, the complaint will follow the Trust's usual complaints process for investigating and responding.

- 7.3.7 The PALS and Complaints Team log the main subject of all formal complaints in line with the subjects defined by the Department of Health KO41(a) report. The information obtained from the K041(a) collection monitors written Hospital and Community Health Service complaints (by service area and type) received by the NHS each year. This information is submitted quarterly.
- 7.3.8 The PALS and Complaints Team will forward the complaint to the relevant Directorate Complaints Lead who then personally appoints an investigating officer to investigate the concerns fully as soon as possible. The complainant will be contacted by an appropriate senior clinical lead to provide reassurance to the complainant that the complaint is being taken seriously. Formal complaints will be investigated by the appointed Investigating officer. The Investigating Officer will complete the Investigation Report that answers all concerns raised. It will contain the lessons learnt and actions/recommendations made to prevent a reoccurrence before returning it to the Directorate Complaints Lead for approval. This is then returned to the PALS and Complaints Team at least 10 working days before the Chief Executive response due date.
- 7.3.9 The PALS and Complaints Team will use the approved completed investigation report to prepare a suitable response letter from the Chief Executive. This response letter should:
- Confirm the findings of the investigation.
  - Be factual open and honest.
  - Be as concise as possible usually no longer than 3 pages.
  - Provide an apology and give an explanation as required.
  - Outline the lessons learnt and any actions taken and the recommendations for change that have been made as a result of the findings.
- 7.3.10 The letter will ask the complainant to confirm if they are satisfied with the response within a specified timescale.

#### **7.4 Learning from Complaints**

- 7.4.1 The Investigating Officer will identify lessons learnt and actions/recommendations as part of their investigation. These are entered onto the Investigation Report and sent to the Directorate Complaints Lead for approval. The approved Investigation Report is then sent to the PALS and Complaints Team.
- 7.4.2 Learning and recommendations identified within the Investigation Report are entered by the PALS & Complaints staff onto the Datix Web database, and a new “action” is created. The 'action' gives a brief summary of the issue with a summary of the learning/action to be taken (for instance new policy to be written and implemented/staff training etc). A timeframe of 6 weeks is given for all recommendations to be implemented.
- 7.4.3 A Lead for the action is identified (this is normally the Senior Ward Sister/Department Lead or Department Manager/Matron etc). This is the person responsible and accountable for ensuring that the recommendation is implemented and completed.

- 7.4.4 An automatic e-mail is sent from the database to the identified “lead”. The action remains active on the database until the lead completes and closes the relevant sections on the live record. The lead can update the action at any time.
- 7.4.5 At the time of closing the action, the lead must include details of any evidence that has been collated for proof of implementation.
- 7.4.6 A record of all complaint recommendations is kept on the Datix web database and can be accessed to review active/closed recommendations, recommendations which have breached the due date, recommendations per ward/department/directorate etc.

## **7.5 The Parliamentary and Health Services Ombudsman (PHSO)**

- 7.5.1 If the complainant remains dissatisfied with how their complaint has been responded to and it is felt that the Trust’s exhaustive complainants process has reached an end, then on agreement with the service Executive lead for the Directorate the complainant will be advised in writing that the Trust has no further comment to make on this matter and it will inform them of their right to seek an independent review of their outstanding concerns by the PHSO.
- 7.5.2 The PHSO will ask the Trust to confirm that every effort has been made to reach a local resolution and that all investigations are complete. The PHSO will then review the complaint and decide whether to take any further action. This process is led by the complaints manager who will communicate with the relevant senior staff within the Directorate and the Lead Executive throughout the process.

## **8.0 Being Open and Transparent**

- 8.1 The Trust is committed to being open and honest at all times and especially if any harm is caused whilst receiving care or treatment.
- 8.2 Being open means apologising and explaining what has happened to patients and or their next of kin. A clear explanation should be given of what has been put in place as a result of the complaint to give reassurance that the Trust has learnt from it and has now reduced the risk of it happening again to someone else. A sincere apology should be given by the most appropriate senior member of the clinical team as soon as is possible after the event. Where required a Datix Incident Form must be completed.
- 8.3 Where harm has resulted from a patient safety incident, staff should proceed in line with the Risk Management Strategy and Policy and the Being Open Policy. Further information on the management Patients Safety Incidents is provided in the Incident Policy.

## **9.0 Claims for Compensation or Clinical Negligence**

- 9.1 Compensation will only be considered if a complaint is upheld and the complainant has requested financial redress. If this is the case, then the agreed internal procedure for compensation/reimbursement should be followed.
- 9.2 The amount of the “good will” payment will be agreed by the Executive Team and communicated with the complainant.

- 9.3 If a complainant explicitly requests compensation in relation to clinical negligence (rather than reimbursement e.g. bus fares), this will be referred to the Claims Manager for handling through the Claims Process and the complainant will be informed of the process for making a clinical negligence claim.
- 9.4 If a complaint is not obviously a claim for clinical negligence from the outset, but becomes so at any stage thereafter, the PALS and Complaints Team will advise the Clinical Director, Associate Director of Nursing and Assistant Director of Operations and Claims and Legal Manager; however the complaint investigation will continue. The investigation report and/or Chief Executive's response will be reviewed by the Claims Manager prior to being sent.
- 9.5 More information on claims can be obtained from the Trust's Claims Handling Policy and Procedure (Register no: 04081); or by contacting the Claims and Legal Manager. This procedure does not apply to losses and special payments.
- 9.6 All decisions in relation to losses and special payments will be made by the Executive team in line with the Standing Financial Instructions s14 (04049) and the DH Manual for accounts.
- 9.7 The Complaints Manager will complete a 'losses and special payments' form and attach a brief cover note for approval in line with the Scheme of Responsibility, Authority and Decision.  
(Refer to Appendix 3 and 4)
- 9.8 The Executive Team will review each request for compensation, reimbursement, request for ex-gratia payment case following completion of the investigation. If a decision is taken by the Executive Team to award such a payment a cheque request form will be completed by the Complaints Manager (Appendix 5) which will be signed off in line with the Scheme of Responsibility, Authority and Decision.
- 9.9 Once a decision has been made the decision will be communicated directly to the PALS and Complaints Department, who can ensure that the cheque requisition is completed and the Complainant is fully informed, with explanations where necessary.
- 10.0 Vexatious Complainants**
- 10.1 If a complainant is considered to be vexatious then the Trust's internal agreed procedure for vexatious complainants should be followed.  
(Refer to Appendix 6)
- 11.0 Disciplinary Procedures**
- 11.1 If a disciplinary issue is identified during a complaints investigation the appropriate line manager will address this. In the meantime the process for the complaint will not be delayed and will continue as per the complaints policy.
- 12.0 Performance Monitoring and Audit**
- 12.1 A quarterly Board paper is also produced which includes performance for responding to complaints and learning from complaints.

### **13.0 Complaints Handling Compliance Monitoring**

- 13.1 The PALS and Complaints Team maintains a central Datix Database to log compliments, comments and complaints received by the Trust. This system enables a direct link with incident reporting and claims/litigation and enables the entire complaints handling process to be monitored.
- 13.2 80% of all complaints will be responded to within the agreed timescale. Any potential delays to an investigation must be communicated to the complaints and PALS and Complaints Team. Extensions to the agreed date for a response must be discussed and agreed with the complainant by PALS and Complaints team.
- 13.3 The PALS and Complaints Manager will provide performance and monitoring reports as required the standard reports are:
- Senior Management Group Report is compiled monthly which reports on themes of complaints.
  - Quarterly Learning from Complaints Report, which is an integral part of the Patient Experience Report, sent to the Trust Board meeting. This report is also shared with the Clinical Quality Review Group (CQRG) a joint meeting with commissioners.
  - Total number of complaints received per month reported in the Ward Dashboard.
  - The Quarterly Patient Experience Report and Annual Complaints Report are published on the Trust web site which details key trends and key learning for the Trust from complaints.
  - Annual Complaints Report which is published on the Trust Website and is shared with the Clinical Commissioning Group (CCG)
  - KO41A – Annual Report to Department of Health.

### **14.0 Training**

- 14.1 All new staff will receive complaints handling awareness training on induction.
- 14.2 Investigating Complaints Training is available for staff identified on an individual basis by the Directorate leads in accordance with the Mandatory Training policy (Training Needs Analysis).

### **15.0 Discrimination Against a Patient**

- 15.1 Patients, their relatives and carers must not be treated differently as a result of raising a concern or complaint
- 15.2 No patient's treatment will be adversely affected because a complaint has been made, the PALS and Complaints Team carries out bi-annual complaints handling audits. The PALS and Complaints Team will send a questionnaire to a random snapshot of complainants during a designated timeframe to gain feedback from complainants as to their experience of the Trusts complaints policy.

## **16.0 Filing and Storage of Complaints Paperwork**

- 16.1 Under no circumstances should any complaint material be filed in the patient's clinical notes. Medical secretaries, the Patient Records staff and their line managers, are responsible for compliance with this aspect of the Policy. All investigation notes and other complaint correspondence must always be forwarded to the PALS and Complaints Team to be filed centrally.

## **17.0 Equality and Diversity**

- 17.1 Mid Essex Hospital Services NHS Trust is committed to the provision of a service that is fair, accessible and meets the needs of all individuals. An Equality Impact Assessment has been undertaken.  
(Refer to Appendix 2)

## **18.0 Safeguarding Young People and Vulnerable Adults**

- 18.1 When managing a complaint from a child, young person or vulnerable adult, the Safeguarding Team must be informed immediately and they will decide if there is a need to share information in the public interest and what course of action will be in the vulnerable child or adult's best interests. You can obtain further information on safeguarding by referring to the Trust's policies: Safeguarding Vulnerable Adults policy (Register no 08034) and Safeguarding Children and Young People (Register no 04064)

## **19.0 Staff Specifically Named in Complaints**

- 19.1 Any member of staff cited in a complaint must be informed of the details of the complaint. It is the responsibility of the Investigating Officer to ensure this happens. A copy of the complaint should be given to them and they should be given a copy of the draft response before the Chief Executive sends it to the complainant. They cannot respond to the complaint directly and they cannot veto the content or style of the Chief Executive's final reply. Staff should also be informed if a complainant requests a review by the Ombudsman.  
(Refer to the Trust's policy Supporting Staff involved in a Traumatic Incident, Complaints or Claim (Register no 08070))

## **20.0 Support for Staff Involved in Traumatic/Stressful Complaints**

- 20.1 Any member of staff involved in a complaint or claim can obtain immediate advice and support from their line manager or the PALS and Complaints Team. All staff involved in a complaint should have the opportunity to provide information and statements about the incident, and have feedback on the outcome of the investigation.
- 20.2 The investigating officer will confirm on the investigation sheet whether support for the staff involved in the complaint was considered.
- 20.3 Further information on support available to staff can be obtained from the Supporting Staff involved in a Traumatic Incident, Complaints or Claim Policy (Register no 08070).



## **21.0 Staff Grievances**

21.1 As with all Trust management procedures, all staff have the right to be treated fairly and sensitively in complaint handling. They can use the formal Trust Grievance Procedure should they feel the complaint handling was unjust.

## **22.0 Communication and Implementation**

22.1 This policy will be launched in the Trust's "Staff Focus" news letter. The PALS and Complaints Manager will also ensure that all Directorate complaints leads are informed about the policy, and will be asked to disseminate to all the trained investigating officers within their Directorate.

22.2 The policy will be promoted in the Integrated Governance session at Corporate Induction and at any complaints training sessions carried out within the Trust.

22.3 The policy will be available to staff and the public on the Trust's intranet site and website.

## **23.0 Review**

This policy will be reviewed on an annual basis or sooner in response to issues identified through monitoring or as a result other local or national initiatives.

## **24.0 References**

NHS Constitution 2015 Department of Health

Principles of Good Complaints Handling 2012 Parliamentary and Health Service Ombudsman

National Health Service Complaints Regulations (England) 2009

## Complaints Investigation Report

Complaint reference:	CR
Directorate:	
Complainant name:	
Patient name (if different from above):	
PAS/NHS Number:	
Lead PALS & Complaints Co-ordinator for this complaint:	
Date Investigation to be completed & date approved Investigation Report due back in PALS & Complaints Dept	

Name & Title of Investigating Officer	Date completed

### Approval

All investigation reports must be approved by the Head of Nursing/Clinical Director/Head of Department (or deputy) confirming the information in the report is an open and honest account of the issues. It is accurate and the lessons learnt and the recommendation(s) made have been approved by the senior clinical/management team

Name & Title of approving officer	Date approved

### Investigation Section

**\*\*All sections to be completed\*\*** - form will be returned if incomplete

Additional papers can be attached to this form for statements/additional investigation notes.

#### What needs to change to prevent this complaint from recurring?

##### Lessons learned and Complaint Recommendations

- all recommendations should be SMART – **S**pecific ; **M**easurable ; **A**chievable ; **R**ealistic ; **T**imely

*In most cases any learning/recommendations should be put in place prior to responding to the complaint so that we can confirm the action that has already been taken in relation to the complaint.*

**\*\*All recommendations will need to be approved by/agreed with the appropriate manager before inclusion in this report\*\***

##### Lessons Learned

Recommendation(s)	Lead person	Completion date

**Any other investigations required?**

As part of your investigation, please consider whether any other investigation is required or confirm if any other type of investigation is already underway or completed. Examples are listed below:

- If a criminal investigation is required (is there a possible or actual criminal offence taken place?)
- Is a Serious Incident (SI) Investigation required/already underway/completed?
- Is an HR investigation required? (has the member[s] of staff acted inappropriately or outside of their competency/professional capacity?)

**Please give details below**

**Investigation notes and information:**

Use the box below to detail the information and findings from the investigation

**Guidance notes**

Take each issue in the order it has been raised and provide....

- the facts of the issue (any clinical information in layman's terms and do not use abbreviations)
- if appropriate an explanation of what happened and why
- the lessons learnt
- the action that is being taken to prevent a reoccurrence and improve future patient experience

***Please remember we have a duty to be open, honest and transparent at all times.***

***\* NB the contents of this report will be shared with the complainant***

*Box expands when typing*

**Involvement and support provided for complainant/patient**

**Please consider whether contact with the complainant/patient is required.**

It may be helpful to get further information from the complainant or offer support. See list below for examples of when this might be helpful:

- If the complainant's account or recollection of events appears to differ from what you have found during your investigation, or if you require further information from them about dates/staff members involved etc
- If it would appear helpful to go through the patient's medical records with the complainant/patient to explain information/decisions etc
- If it is a particularly serious or sensitive case and you feel a meeting would be helpful to discuss findings

**Remember** – swift contact with a complainant can help to resolve a concern more promptly and can also give reassurance to the complainant that their concerns are being taken seriously

**Is contact with complainant/patient necessary as part of this investigation?**

Yes/No

**If yes**, please detail below what contact was made/information obtained etc

**Involvement and support provided for staff involved**

*see further details in the Supporting staff involved in a traumatic incident, complaint and claim policy*

**Do any of the staff involved in or affected by this complaint require support?**

Yes/No

**If yes**, please detail below whether a "support for staff Checklist" should be commenced and also list any other notes regarding support required/offered

### Equality Impact Assessment (EIA)

**Title of document being impact-assessed: Complaints Handling Policy**

Equality or human rights concern. (see <i>guidance notes below</i> )	Does this item have any differential impact on the equality groups listed? Brief description of impact.	How is this impact being addressed?
<b>Gender</b>	N/A	N/A
<b>Race and ethnicity</b>	Foreign nationals may have difficulty communicating concerns	Ensures access to interpreters services, providing PALS & Complaints information in languages other than English
<b>Disability</b>	May have difficulty communicating concerns to staff	Enables a complaint to be brought on individual's behalf with their consent i.e. relatives, access to SEAP advocacy etc. PALS & Complaints Department is fully wheelchair accessible and close to Disabled car parking.
<b>Religion, faith and belief</b>	N/A	N/A
<b>Sexual orientation</b>	N/A	N/A
<b>Age</b>	N/A	N/A
<b>Transgender people</b>	N/A	N/A
<b>Social class</b>	N/A	N/A
<b>Carers</b>	N/A	N/A

**Date of assessment:** 3 November 2017

**Names of Assessor (s)** Lynn Thomas

Cover letter for Losses and Special payments

The Executive team are requested to review the following request for compensation.

Please note that Ex-Gratia Payments are those which the Trust is not obliged to make or for which there is no statutory or legal liability. An example is a payment to compensate for financial loss resulting from an act or failure of the Trust which does not give rise to a legal liability or the payment of compensation claims or damages.

Reason for request:
(Please circle/delete as appropriate)

Ombudsman YES/NO

Complainant/relative YES/NO

Details of request:

Dotted lines for details of request

Approved YES/NO

Not approved YES/NO
(If not approved please provide a reason why below)

Dotted lines for reasons if not approved

IF APPROVED PLEASE SIGN SECTION 16 OF THE LOSSES AND SPECIAL PAYMENTS FORM

**LOSSES & SPECIAL PAYMENTS**

**Category : Ex Gratia Payments – Category 7**

Type of case: \_\_\_\_\_

Register Ref: \_\_\_\_\_

1. Explain the amount involved and the reason why the case has arisen.	
2. Have other options been considered? If not, why not? If advice sought, what recommendations were made and have these been followed? If not, why not?	
3. Has appropriate legal advice been sought? If not, why not? If advice has been sought, what recommendations were made and have these been followed? If not, why not?	
4. Confirm that the proposed payment does not place the claimant in a better position than if they had not occurred? In cases of hardship record what evidence exists on this?	
5. Provide detailed calculations to support the proposed payment.	
6. For settlements on termination of employment, has relevant guidance on such payments been followed in all respects? If not, why not?	

<p>7. For clinical negligence and personal injury cases has relevant guidance for such cases been followed in all respects? If not, why not?</p>	
<p>8. Identify any failings in action of employers, including supervisors. Is there need for disciplinary action? Record action taken or proposed, or if no action taken, explain why. Include names of individuals and positions and dates.</p>	
<p>9. Any breakdown of procedures? Detail weakness or fault in system of control or supervision.</p>	
<p>10. What proposed improvements have been put forward to correct defects in the existing systems or procedures? Include timetable for implementation and monitoring measures introduced to ensure improvements are effective.</p>	
<p>11. Is it necessary to inform Trust Board / Chief Executive? If not, why not?</p>	
<p>12. Is a Board Report required? If so attach report.</p>	



13. Are there any general lessons which can be learned?	
14. Details of name and position of person completing checklist.	<b>Name:</b> <b>Position:</b> <b>Date:</b>
15. I have considered fully each point on this checklist and my findings are recorded in the attached case summary and/or in the spaces above. I confirm that the details recorded above and on the attached case summary are complete and accurate, and that all aspects of the checklist have been properly considered and actioned.	<b>Signed by:</b>
16. I confirm that the above details are complete and accurate and all aspects of the checklist have been properly considered and actioned. I agree that write off of this loss offers the best value for money for this case.  * <i>Note: Delete as appropriate.</i>  * This case is not novel, contentious or repercussive. I therefore agree to write off of the loss.  * This case is novel, contentious or repercussive and I therefore request formal approval from the Department of Health.	<b>General Manager / Head of Department</b>  <b>Name:</b> <b>Signed:</b> <b>Date:</b>  <b>Director of Finance</b>  <b>Name:</b> <b>Signed:</b> <b>Date:</b>  <b>Chief Executive</b>  <b>Name:</b> <b>Signature:</b> <b>Date:</b>

**Completed forms to be returned, with completed Losses and Compensations payment requisition, to the Complaints Manager who will then send to the Financial Controls Team, MEHT, Finance Department.**

**Registration  
Number:**

*(Finance System Generated Number)*

Organisation  
Payee

Payee Reference

**MID ESSEX HOSPITAL SERVICES NHS TRUST**

Date

Amount £

Payment Address


Postcode

Reason for  
Payment

**Cheque Request (Losses & Compensation)**

Financial Code														£	p
Cost Centre				Expense Type				Analysis Code (if required)							
				Y	C	1	1	0	0	0	0	0	0		

CR	

<b>Total</b>			
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**Authorised by** \_\_\_\_\_ **Name** \_\_\_\_\_  
(Block Capitals)

**Authorised by** \_\_\_\_\_ **Name** \_\_\_\_\_  
(2<sup>nd</sup> Signature required for charitable funds) (Block Capitals)

**Designation** \_\_\_\_\_

**Department** \_\_\_\_\_

**Date** \_\_\_\_\_

Support documentation should be attached

## Guidance on Vexatious Complainants

### 1. Definition of vexatious complainant

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious complainants where previous or current contact with them shows that they meet one or more of the following criteria:

- 1.1 Insist in pursuing a complaint where the NHS Complaints procedure has been fully and properly implemented and exhausted.
- 1.2 Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. ( Due care must be taken not to disregard any new issues that have been raised which are significantly different from the original complaint and these may need to be addressed as separate complaints).
- 1.3 Are unwilling to accept documented evidence of treatment given as being factual (for example drug records, clinician records or nursing records) or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- 1.4 Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts of Trust staff to help them specify their concerns, and/or where the concerns identified are not within the remit of the Trust.
- 1.5 In the course of addressing a logged complaint, have had an excessive number of contacts with the Trust, placing unreasonable demands on staff. (A contact may be in person, by telephone, e-mail or fax). Reasonable discretion must be applied when determining the precise number of “excessive contacts” applicable under this section, using judgement on an individual case by case basis.
- 1.6 If behaviour is unreasonable/harassing/bullying/abusive or aggressive (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this. They should however ensure that they do document all incidents or harassment on the datix system).
- 1.7 Are known to have recorded face to face meetings or telephone conversations without the prior knowledge and /or consent of other parties involved.
- 1.8 Focus on a matter that is out of proportion to its significance and continuing to focus on this point. (It is recognised that determining what is justified can be subjective and careful judgement must be used in applying this criterion).
- 1.9 Display unreasonable demands and fail to accept that these may be unreasonable (for example, insisting on responses to complaints or PALS concerns being provided more urgently than is reasonable and recognised normal practice).

## **2. Process for managing prolific or vexatious complaints**

- 2.1 Where it would appear that a complainant is prolific or vexatious in accordance with the above criteria, a member of the PALS or Complaints Team will escalate this to the PALS and Complaints Manager.
- 2.2 The PALS and Complaints Manager will then review if the criteria as been met. If the criteria have been met, the case will be presented to the Head of Patient Experience and the appropriate Director (or appropriate deputies in his/her absence). They will then determine what action to take.
- 2.3 The Head of Patient Experience and the appropriate Director will then advise the PALS and Complaints Manager accordingly of their decision.
- 2.4 The PALS and Complaints Manager will then implement such action and will notify complainants in writing of the reasons why they have been classified as prolific or vexatious complainants and the action to be taken. This notification may be copied for the information of others already involved in the complaint. A record must be kept for future reference of the reasons why a complainant has been classified as prolific or vexatious.
- 2.5 Once it is has been established that the complainant meets any one of the criteria above, it may be appropriate to inform them in writing that they may be classified as habitual or vexatious complainants moving forward. They will then need to receive a copy of this procedure and be advised to take into account this procedure in any further dealings with the Trust.

## **3. Options for dealing with prolific or vexatious complainants.**

Each of these options must be considered on an individual case by case basis to ensure that the approach being applied is appropriate, reasonable and proportionate. The Head of Patient Experience and appropriate Director (or deputies) may decide to deal with complaints in one or more of the following ways:

- 3.1. Try to resolve matters by drawing up a signed "agreement" with the complainant (if appropriate, involving all parties involved) which sets out a code of conduct/ process for the parties involved to follow if the Trust will continue to process the complaint. If these terms were to be contravened at any point then consideration would be given to implement other options listed below.
- 3.2 Decline contact with the complainant either in person, by telephone, e-mail, fax or letter or any combination of these, provided that one form of contact is maintained or alternatively to restrict contact liaison through a third party, such as an advocate or person acting on the complainant's behalf. (If staff are to withdraw from a telephone conversation with such a complainant, it may be useful for them to have a written script to follow on these occasions).
- 3.3 Notify the complainant in writing that the Chief Executive has fully responded to the points that they have raised and has tried to resolve the complaint but that there is nothing more to add and that continuing contact on the matter will serve no useful purpose. The

complainant should also be notified that the correspondence is at an end and that further letters received by the Trust will be acknowledged but not answered.

- 3.4 Inform the complainant that in extreme circumstances, the Trust reserves the right to pass unreasonable or vexatious complaints to the Trust Secretary.
- 3.5 Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or relevant guidance on the matter.

#### **4.0 Withdrawing prolific status or vexatious status**

- 4.1 Once complainants have been determined as prolific or vexatious, there must also be a process for withdrawing that status. This will be necessary for example if a complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which the normal complaints procedure would appear appropriate.
- 4.2 Staff should previously have used their discretion in recommending habitual or vexatious status at the outset and so discretion should similarly be used in recommending that the status be withdrawn when deemed appropriate.
- 4.3 The ultimate decision to withdraw this status rests with the Head of Patient Experience and the appropriate Director. Subject to such approval, normal contact with the complainant will be resumed.